



**Sunborn (Gibraltar) Limited**

relating to the listing of

up to EUR 60,000,000

Senior Secured Floating Rate Bonds due 2022

ISIN: SE0010296632

**Issuing Agent and Sole Bookrunner**



Prospectus dated 20 August 2018

**IMPORTANT NOTICE:**

This prospectus (the "**Prospectus**") has been prepared by Sunborn (Gibraltar) Limited (the "**Issuer**" or together with its direct and indirect subsidiaries unless otherwise indicated by the context, the "**Group**"), a limited liability company incorporated in Gibraltar, having its headquarters located at the address, 57/63 Line Wall Road, Gibraltar, with reg. no. 109414, in relation to the application for the listing of the senior secured floating rate bonds denominated in EUR (the "**Bonds**") on the corporate bond list on Nasdaq Stockholm Aktiebolag, reg. no. 556420-8394 ("**Nasdaq Stockholm**"). DNB Bank ASA, Sweden Branch has acted as the issuing agent and sole bookrunner in connection with the issue of the Bonds (the "**Sole Bookrunner**"). This Prospectus has been prepared in accordance with the standards and requirements of the Swedish Financial Instruments Trading Act (Sw. *lag (1991:980) om handel med finansiella instrument*) (the "**Trading Act**") and the Commission Regulation (EC) No. 809/2004 of 29 April 2004 implementing Directive 2003/71/EC as amended by the Directive 2010/73/EC of the European Parliament and of the Council (the "**Prospectus Regulation**"). The Prospectus has been approved and registered by the Swedish Financial Supervisory Authority (Sw. *Finansinspektionen*) (the "**SFSA**") pursuant to the provisions of Chapter 2, Sections 25 and 26 of the Trading Act. Approval and registration by the SFSA does not imply that the SFSA guarantees that the factual information provided in this Prospectus is correct and complete. This Prospectus has been prepared in English only and is governed by Swedish law and the courts of Sweden have exclusive jurisdiction to settle any dispute arising out of or in connection with this Prospectus. This Prospectus is available at the SFSA's website (fi.se) and the Issuer's website (sunborn.com).

Unless otherwise stated or required by context, terms defined in the terms and conditions for the Bonds beginning on page 44 (the "**Terms and Conditions**") shall have the same meaning when used in this Prospectus.

Except where expressly stated otherwise, no information in this Prospectus has been reviewed or audited by the Issuer's auditor. Certain financial and other numerical information set forth in this Prospectus has been subject to rounding and, as a result, the numerical figures shown as totals in this Prospectus may vary slightly from the exact arithmetic aggregation of the figures that precede them. This Prospectus shall be read together with all documents incorporated by reference in, and any supplements to, this Prospectus. In this Prospectus, references to "**EUR**" refer to the single currency introduced at the start of the third stage of European Economic and Monetary Union pursuant to the Treaty establishing the European Community, as amended, references to "**GBP**" refer to British Pound.

Investing in bonds is not appropriate for all investors. Each investor should therefore evaluate the suitability of an investment in the Bonds in light of its own circumstances. In particular, each investor should:

- (a) have sufficient knowledge and experience to carry out an effective evaluation of (i) the Bonds, (ii) the merits and risks of investing in the Bonds, and (iii) the information contained or incorporated by reference in the Prospectus or any supplements;
- (b) have access to, and knowledge of, appropriate analytical tools to evaluate in the context of its particular financial situation the investment in the Bonds and the impact that such investment will have on the investor's overall investment portfolio;
- (c) have sufficient financial resources and liquidity to bear all of the risks resulting from an investment in the Bonds, including where principal or interest is payable in one or more currencies, or where the currency for principal or interest payments is different from the investor's own currency;
- (d) understand thoroughly the Terms and Conditions and the other Finance Documents and be familiar with the behaviour of any relevant indices and financial markets; and
- (e) be able to evaluate (either alone or with the assistance of a financial adviser) possible scenarios relating to the economy, interest rates and other factors that may affect the investment and the investor's ability to bear the risks.

This Prospectus is not an offer for sale or a solicitation of an offer to purchase the Bonds in any jurisdiction. It has been prepared solely for the purpose of listing the Bonds on the corporate bond list on Nasdaq Stockholm. This Prospectus may not be distributed in or into any country where such distribution or disposal would require any additional prospectus, registration or additional measures or contrary to the rules and regulations of such jurisdiction. Persons into whose possession this Prospectus comes or persons who acquire the Bonds are therefore required to inform themselves about, and to observe, such restrictions. The Bonds have not been and will not be registered under the US Securities Act of 1933, as amended (the "**Securities Act**"), and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act. The Bonds are being offered and sold outside the United States to purchasers who are not, or are not purchasing for the account of, U.S. persons in reliance upon Regulation S under the Securities Act. In addition, until 40 days after the later of the commencement of the offering and the closing date, an offer or sale of the Bonds within the United States by a dealer may violate the registration requirements of the Securities Act if such offer or sale of the Bonds within the United States by a dealer may violate the registration requirements of the Securities Act if such offer or sale is made otherwise than pursuant to an exemption from registration under the Securities Act.

The offering is not made to individuals domiciled in Australia, Japan, Canada, Hong Kong, the Italian Republic, New Zealand, the Republic of Cyprus, the Republic of South Africa, the United Kingdom, the United States (or to any U.S. person), or in any other country where the offering, sale and delivery of the Bonds may be restricted by law.

This Prospectus may contain forward-looking statements and assumptions regarding future market conditions, operations and results. Such forward-looking statements and information are based on the beliefs of the Issuer's management or are assumptions based on information available to the Group. The words "considers", "intends", "deems", "expects", "anticipates", "plans" and similar expressions indicate some of these forward-looking statements. Other such statements may be identified from the context. Any forward-looking statements in this Prospectus involve known and unknown risks, uncertainties and other factors which may cause the actual results, performances or achievements of the Group to be materially different from any future results, performances or achievements expressed or implied by such forward-looking statements. Further, such forward-looking statements are based on numerous assumptions regarding the Group's present and future business strategies and the environment in which the Group will operate in the future. Although the Issuer believes that the forecasts of, or indications of future results, performances and achievements are based on reasonable assumptions and expectations, they involve uncertainties and are subject to certain risks, the occurrence of which could cause actual results to differ materially from those predicted in the forward-looking statements and from past results, performances or achievements. Further, actual events and financial outcomes may differ significantly from what is described in such statements as a result of the materialisation of risks and other factors affecting the Group's operations. Such factors of a significant nature are mentioned in the section "**Risk factors**" below.

Interest payable on the Bonds will be calculated by reference to EURIBOR. As at the date of this Prospectus, the administrator of EURIBOR is not included in ESMA's register of administrators under Article 36 of the Regulation (EU) No. 2016/1011.

This Prospectus shall be read together with all documents that are incorporated by reference, see subsection "**Documents incorporated by reference**" under section "**Other information**" below, and possible supplements to this Prospectus.

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## RISK FACTORS

**For the purpose of these Risk Factors the term "Group" means Sunborn (Gibraltar) Limited and Sunborn (Gibraltar) Resort Limited.**

### **Market and business related risks**

#### ***Uncertain global economic and financial market conditions***

Uncertainty remains in the global market and it cannot be ruled out that the global economy could fall back into a recession, or even a depression, that could be deeper and longer lasting than the recession experienced in the past years. An economic slowdown or recession, regardless of its depth, may affect the Issuer's business in a number of ways, including, *inter alia*, income, wealth, liquidity, business and/or financial condition of the Issuer, any of which developments could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

#### ***The hospitality industry is subject to certain global macroeconomic factors and other factors beyond the Issuer's control***

The Sunborn Gibraltar yacht hotel is located in Gibraltar. However, the Issuer's guests are global and, consequently, the Issuer is subject to a number of global macroeconomic factors and other factors that could adversely affect the Issuer's business, many of which are common to the hospitality industry and beyond the Issuer's control. Negative developments in the economic, political and market conditions may lead to a decline in consumer confidence, increased levels of unemployment and decreased travel, any of which factors could adversely impact the demand for leisure and business travel, as well as for food and beverage and meetings. Impediments to means of transportation (including airline strikes and road closures), extreme weather conditions, natural disasters, rising fuel costs, impact of acts of war or terrorism, outbreaks of pandemic or contagious diseases and health concerns or other factors may diminish the demand or ability for leisure and business travel. Increases in operating expenses due to inflation, increased personnel costs, currency exchange movements, higher utility costs, increased taxes and insurance costs and other factors may not be offset by increased room rates or other revenue. Changes in governmental laws and regulations, including health and liquor license laws, VAT changes, employment regulations, environmental regulations and building requirements, may raise costs of compliance. A negative development with regard to any of the aforementioned factors could have a direct or indirect adverse effect on the Issuer's and Sunborn Gibraltar Resort Ltd.'s (the "**Operator**") business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

#### ***Geographic concentration***

The Issuer has its operations in Gibraltar. The Issuer is therefore highly dependent upon the development of, and would be affected to a greater extent by changes affecting, tourism and local business in Gibraltar. A negative development in the Gibraltar area may have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

#### ***The hospitality industry is competitive***

Increased competition and periodic oversupply of hotel accommodation could adversely affect occupancy levels and room rates. Seasonal and cyclical nature of the demand for hotel rooms, meeting spaces and conference venues may contribute to fluctuations in the Issuer's financial condition and results of operations. Growth of online travel agencies, internet reservation channels and other travel intermediaries may increase competition for customers and reduce profitability. Increased use of videoconferencing and further emergence of long-stay apartment hotels or "sharing economy" platforms (such as Airbnb) may reduce the demand for hotel and meeting services. Increased

competition, or the inability of the Issuer to adapt to new trends and developments in the tourism industry, could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

***Dependency on Ocean village marina mooring agreement***

The Issuer is dependent on its right to berth and operate the Sunborn Gibraltar yacht hotel at its current location in the Ocean village marina, Gibraltar. If this right were to terminate, due to either party's breach of its contractual obligations under the relevant mooring agreement, changes to laws or regulations, actions by authorities or any other reason, this could lead to interruptions in the business of the Issuer. If the Issuer is not able to find an alternative location for the vessel in Gibraltar, the Issuer may be forced to cease its operations. Any such development could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

***Dependency on suppliers being able to provide services and products at the Sunborn Gibraltar yacht hotel's current location***

The Issuer and the Operator are dependent on suppliers being able and willing to provide, including but not limited to, energy, water, telephone and IT to the vessel at its current location at the Ocean village marina. Should any supplier be unwilling or unable to, due to logistical, infrastructural or any other reason, provide services or products to the Sunborn Gibraltar yacht hotel, this could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

***Failure of performance in the operations***

The Issuer is the owner of the Sunborn Gibraltar yacht hotel, which is subject to a bareboat lease agreement by and between the Issuer and the Operator. Under the bareboat lease agreement, the Operator makes rental payments to the Issuer. Along with payments from the operator of a restaurant and bar area at the hotel, the payments under the bareboat lease agreement constitute a key source of income for the Issuer. It is the current intention of the Operator and the operator of the restaurant and bar area to transfer the operation of the restaurant and bar area (including a license to operate under the "La Sala" trademark) to the Operator. In the event that, for whatever reason, the operation of the restaurant and bar area is unsuccessful, this could, among other things, lead to decreased level of income for the Operator and indirectly affect the ability of the Issuer to make payments and meet its contractual obligations. Any such development could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

***Damages to the vessel or reparations***

The Sunborn Gibraltar yacht hotel is moored and operated at the Ocean village marina, Gibraltar. There is a risk that the vessel is damaged, either by human force or by nature, which may require the Issuer to repair the vessel. If any such event were to occur that would necessitate reparations, this could lead to interruptions in the business or, in the case of serious damages to the vessel, the business operations being stopped. In addition, normal wear and tear may require reparations and renovations, which in turn may cause temporary interruptions in the operations. Any such development could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

***Environmental risks***

In the event that the Issuer or the Operator, by accident or any other reason, should pollute the marina waters with, for example, contaminated bilge water or refuse from the Sunborn Gibraltar yacht hotel, this could lead to legal actions being initiated against the Issuer or the Operator, and potentially affecting the right of Sunborn Gibraltar yacht hotel to berth and operate at the Ocean village marina. Should

pollution of the marina water occur, this could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

### **Employees**

The Issuer's and the Operator's future development depends largely on the skills, experience and commitment of their employees. Therefore it is important for the Issuer's and the Operator's business activities and development that they are able to retain and, where necessary, also recruit suitable employees. If the Issuer or the Operator should become unable to retain or recruit suitable employees, this could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

### **Negative publicity**

The Issuer and the Operator rely on their brands (among other things) to retain and attract new customers and employees. Any negative publicity or announcement relating to the Issuer or the Operator may, whether or not justifiable, impair the value of the brands of the Issuer and/or the Operator, which could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

### **Insufficient insurance cover**

The Issuer may incur costs due to inadequate insurance cover for, *inter alia*, property, business interruption, liability, life and pensions. The Issuer or the Operator may not be able to maintain adequate insurance coverage on terms acceptable to the Issuer or the Operator, respectively. Furthermore, the insurance coverage obtained may not prove to be sufficient. If the level of insurance coverage is not sufficient in relation to a significant claim or loss, this could have a negative impact on the Issuer's operations, financial position and earnings, as well as the performance of the Issuer under the Bonds.

### **Political and legislative risks**

The Issuer is located in Gibraltar. The political status of Gibraltar has been subject to referenda in the past and it cannot be ruled out that Gibraltar's status as a British Overseas Territory may change in the future. Political and legislative changes may also arise from the process and outcome pertaining to the U.K. development of its EU Member State status ("Brexit"). Unfavorable political and legislative changes may affect the Issuer's business and may, *inter alia*, impair the Issuer's ownership and leasing of the Sunborn Gibraltar yacht hotel. Brexit may also make travelling to Gibraltar more cumbersome and expensive, thereby potentially decreasing the number of tourists visiting Gibraltar. Aforementioned political and legislative risks as well as the Issuer's failure to protect against such risks could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

### **Regulatory risks**

The Issuer and the Operator are limited liability companies incorporated under the laws of Gibraltar and thus subject to the laws of Gibraltar, including but not limited to, in matters relating to governance and insolvency. Further, most contracts involving the Issuer or the Operator are subject to the laws of Gibraltar. The Sunborn Gibraltar yacht hotel is a Finnish registered barge located in Gibraltar, and thus in certain respects subject to both the laws of Finland and Gibraltar, and also, to some extent, subject to special regulations applicable to marine vessels. Amended or new legislation and administrative practices in any of the relevant jurisdictions could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

The Issuer has to comply with a wide variety of laws and regulations, as applicable to Sunborn Gibraltar yacht hotel or otherwise, such as health and safety regulations, environmental regulations, competition regulations and corporate and tax laws. Further, the Issuer and the Operator are dependent on permits

and licenses, *inter alia*, in respect of fire safety, entertainment and serving of alcohol. Also, the right to operate a casino at the Sunborn Gibraltar yacht hotel is subject to a permit, which may be revoked should the relevant regulations not be complied with. Failure to comply with laws and regulations and/or failure to obtain or retain permits could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

#### ***Governmental, legal and arbitration proceedings***

Neither the Issuer or the Operator are currently involved in governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer or the Operator are aware), which may have, or may have had in the recent past, significant effects on the Issuer's business operations and/or its financial position or profitability. However, the Issuer and the Operator are exposed to different types of legal risks in its business and therefore, it is possible that the Issuer or the Operator will in the future be a party to governmental, legal or arbitration proceedings or administrative procedure. The risks and costs relating to any of the above proceedings or procedures could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

#### ***Changes in tax legislation and other taxation risks***

Tax risks relate to, among others, the changes in the tax rate and/or tax and customs legislation and processes or thereto related false interpretations or the acceptability of the Issuer's business transactions. It is possible that the Issuer's business decisions are reassessed by the tax authorities, which can result in an obligation to pay additional taxes and related payments. The realisation of tax risks could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

### **Financial Risks**

#### ***Fluctuations in currency exchange rates***

A large portion of the Issuer's income is denominated in GBP. The Issuer is exposed to foreign currency risk, *inter alia*, through the Bonds, which are denominated in EUR. The exchange rates between GBP and EUR have fluctuated significantly and may in the future fluctuate significantly. To the extent that foreign exchange rate exposures are not hedged, any fluctuations in currencies may adversely affect the Issuer's financial results in ways unrelated to its operations. These developments could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

#### ***Fluctuations in interest rates***

Since the current Bond Issue carries a floating interest rate, the Issuer is subject to an interest rate risk. If the Issuer were to obtain additional financing based on a floating interest rate in the future, this would also affect the interest rate risk for the Issuer. Interest rates are affected by a number of factors that are beyond the Issuer's control, including the interest rate policy of governments and central banks. An increase in interest rates would increase the Issuer's interest commitments, which may have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on Issuer's ability to fulfil its obligations under the Bonds.

#### ***Credit risk***

Credit risk refers to the risk that the Issuer's counterparties cannot meet their payment obligations and thereby create a loss for the Issuer. If the Issuer's measures to manage credit risk are inadequate or become more expensive, this may have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

***Ability to service debt***

The Issuer's ability to service its outstanding debts will depend upon, among other things, the Issuer's and the Operator's future financial and operating performance, which will be affected by prevailing economic conditions and financial, business, regulatory and other factors, some of which are beyond the Issuer's and the Operator's control. If the Issuer's operating income is not sufficient to service its current or future indebtedness, the Issuer will be forced to take actions such as reducing or delaying its business activities, acquisitions, investments or capital expenditures, selling assets, restructuring or refinancing its debt or seeking additional equity capital. The Issuer may not be able to affect any of these remedies on satisfactory terms, or at all. If any of these risks would materialise, it could have an adverse effect on the Issuer's business, financial position, results of operations and future prospects and thereby, on the Issuer's ability to fulfil its obligations under the Bonds.

***The Issuer may not be able to obtain financing at a commercially reasonable cost, or at all***

The Issuer may not be able to obtain financing or may only be able to obtain financing at a greatly increased cost. Furthermore, the Issuer may in the future have difficulty obtaining additional financing and/or refinancing its existing debt when it matures. The availability of additional financing depends on factors such as market conditions, the general availability of credit and the Issuer's credit capacity. Furthermore, the availability of additional financing depends on the Issuer's lenders or rating agencies (if and when the Issuer's securities are rated) maintaining a positive perception of the Issuer's long- or short-term financial prospects. Disruptions and uncertainty in the capital and credit markets may also limit access to capital.

The Issuer cannot make any assurances that it, in the future, will be able to obtain financing at a commercially reasonable cost or on acceptable terms and, should the Issuer not be able to obtain financing, that could have a material adverse effect on the Issuer's operations, financial position and earnings, and the performance of the Issuer under the Bonds.

**Risks relating to the Bonds*****Credit risks***

Investors in the Bonds carry a credit risk relating to the Group. The investors' ability to receive payment under the Terms and Conditions will be dependent on the Issuer's ability to meet its payment obligations, which in turn is largely dependent upon the performance of the Group's operations and its financial position. The Group's financial position is affected by several factors of which some are mentioned on the preceding pages. An increased credit risk may cause the market to charge the Bonds a higher risk premium, which would affect the Bonds' value negatively. Another aspect of the credit risk is that a deteriorating financial position of the Group may reduce the Group's possibility to receive debt financing at the time of the maturity of the Bonds.

***Refinancing risk***

The Group will eventually be required to refinance all of its outstanding debt, including the Bonds. The Group's ability to successfully refinance its debt is dependent on the conditions of the capital markets and its financial condition at such time. The Group's access to financing sources may not be available on favorable terms, or at all.

The Group's inability to refinance its debt obligations on favorable terms, or at all, could have a material adverse effect on the Group's business, financial condition and results of operations and on the bondholders' recovery under the Bonds.

***Interest rate risks***

The Bonds' value depends on several factors, one of the most significant over time being the level of market interest. Investments in the Bonds involve a risk that the market value of the Bonds may be adversely affected by changes in market interest rates.



***Liquidity risks and secondary market***

Even if the Bonds are admitted to trading on Nasdaq Stockholm, active trading in the Bonds does not always occur and a liquid market for trading in the Bonds might not occur even though the Bonds are listed. This may result in the Bondholders not being able to sell their Bonds when desired or at a price level which allows for a profit comparable to similar investments with an active and functioning secondary market. Lack of liquidity in the market may have a negative impact on the market value of the Bonds. Furthermore, the nominal value of the Bonds may not be indicative compared to the market price of the Bonds. It should also be noted that during a given time period it may be difficult or impossible to sell the Bonds (at all or at reasonable terms) due to, for example, severe price fluctuations, close down of the relevant market or trade restrictions imposed on the market.

***The market price of the Bonds may be volatile***

The market price of the Bonds could be subject to significant fluctuations in response to actual or anticipated variations in the Group's operating results and those of its competitors, adverse business developments, changes to the regulatory environment in which the Group operates, changes in financial estimates by Bonds analysts and the actual or expected sale of a large number of Bonds, as well as other factors. In addition, in recent years the global financial markets have experienced significant price and volume fluctuations, which, if repeated in the future, could adversely affect the market price of the Bonds without regard to the Group's business, financial position, earnings and ability to make payments under the Bonds.

***Ability to comply with the Terms and Conditions for the Bonds***

The Issuer is required to comply with the Terms and Conditions for the Bonds. Events beyond the Group's control, including changes in the economic and business conditions in which the Group operates, may affect the Issuer's ability to comply with, among other things, the undertakings set out in the Terms and Conditions for the Bonds. A breach of the Terms and Conditions for the Bonds could result in a default under the Terms and Conditions for the Bonds, which would have a negative effect on the Group's operations, results and financial position.

***Dependency on other companies within the Group***

A significant part of the Group's assets and revenues relate to other Group companies. The Issuer is thus dependent upon receipt of sufficient income and cash flow related to the operations of other Group companies. Consequently, the Issuer is dependent on the Group companies' availability of cash and their legal ability to make payments under any agreements entered into for operational services. Should the Issuer not receive sufficient income from such Group companies, the investor's ability to receive payment under the Terms and Conditions may be adversely affected.

***Majority owner***

Following any potential change of control in the Issuer, the Issuer may be controlled by a majority shareholder whose interest may conflict with those of the Bondholders, particularly if the Group encounters difficulties or is unable to pay its debts as they fall due. A majority shareholder has legal power to control many of the matters to be decided by vote at a shareholder's meeting. For example, a majority shareholder will have the ability to elect the Board of Directors of the Issuer. Furthermore, a majority shareholder may also have an interest in pursuing acquisitions, divestitures, financings or other transactions that, in their judgment, could enhance their equity investments but might involve risks to the Bondholders. There is nothing that prevents a shareholder or any of its affiliates from acquiring businesses that directly compete with the Group. If such an event were to arise, it could have a material negative impact on the Group's operations, earnings and financial position. If a change of control event occurs, the bondholders will have a right of prepayment of the Bonds (put option). There is a risk that the Issuer lacks liquidity to repurchase the Bonds if the bondholders were to exercise their right of prepayment. Please see the risk factor "Early redemption and put options" below for further information.

### ***Risks relating to the transaction security***

Although the Issuer's obligations towards the investors under the Bonds are secured by first priority security over the shares in certain Group companies, the Barge, certain insurances, business mortgages and certain accounts, it is not certain that the proceeds of any enforcement sale of the security assets would be sufficient to satisfy all amounts then owed to the investors.

Sunborn International Oy (the "**Shareholder**") has been granted a second priority interest in the Barge. The relation between the bondholders and the Shareholder, as second ranking pledgee, is governed by a subordination agreement and the rights of the Shareholder, as second ranking pledgee, is fully subordinated to the rights of the bondholders. However, the security trustee, acting on behalf of the bondholders, may, pursuant to applicable law, have fiduciary duties to the Shareholder, as second ranking pledgee, when enforcing the security over the Barge. This duty may restrict the bondholders from enforcing the security in any manner they see fit (including with respect to method, type, timing and purchase price).

The bondholders are represented by Nordic Trustee & Agency AB (publ) as security agent (the "**Security Agent**") in all matters relating to the transaction security. There is a risk that the Security Agent, or anyone appointed by it, does not properly fulfil its obligations in terms of perfecting, maintaining, enforcing or taking other necessary actions in relation to the transaction security. Further, the transaction security is subject to certain hardening periods during which times the bondholders do not fully, or at all, benefit from the transaction security.

The Security Agent is entitled to enter into agreements with members of the Group or third parties or to take any other action necessary for the purpose of maintaining, releasing or enforcing the transaction security or for the purpose of settling, among other things, the bondholders' rights to the security.

### ***Risks relating to enforcement of the transaction security***

If a Group Company, which shares have been pledged in favor of the bondholders, is subject to any foreclosure, dissolution, winding-up, liquidation, recapitalization, administrative or other bankruptcy or insolvency proceedings, the shares that are subject to such pledge may then have limited value because all of the subsidiary's obligations must first be satisfied, potentially leaving little or no remaining assets in the subsidiary for the bondholders. As a result, the bondholders may not recover the full value (or any value in the case of an enforcement sale) of the shares. In addition, the value of the shares subject to pledges may decline over time.

The value of any intragroup loans and insurances that are subject to security in favour of the Secured Creditors is largely dependent on the relevant debtor's ability to repay such intragroup loan. Should the relevant debtor be unable to repay debt obligations upon enforcement of pledge over the intragroup loans, the Secured Creditors may not recover the full value of the security granted under such intragroup loans.

If the proceeds of an enforcement are not sufficient to repay all amounts due under or in respect of the Bonds, then the bondholders will only have an unsecured claim against the Issuer and its remaining assets (if any) for the amounts which remain outstanding under or in respect of the Bonds.

### ***Security granted to secure the Bonds may be unenforceable or enforcement of the security may be delayed***

The insolvency laws of applicable jurisdictions may not be as favourable to the bondholders as bankruptcy laws of other jurisdictions and may preclude or limit the right of the bondholders from recovering payments under the Bonds. The enforceability of the transaction security may be subject to uncertainty. The transaction security may be unenforceable if (or to the extent), for example, the granting of the security were considered to be economically unjustified for such security providers (corporate benefit requirement). Furthermore, the transaction security may be limited in value, *inter alia*, to avoid a breach of the corporate benefit requirement.

The transaction security may not be perfected, *inter alia*, if the security agent or the relevant security provider is not able to or does not take the actions necessary to perfect or maintain the perfection of any such security. Such failure may result in the invalidity of the relevant transaction security or adversely affect the priority of such security interest, including a trustee in bankruptcy and other creditors who claim a security interest in the same transaction security.

If the Issuer is unable to make repayment under the Bonds and a court renders a judgment that the security granted in respect of the Bonds is unenforceable, the bondholders may find it difficult or impossible to recover the amounts owed to them under the Bonds. Therefore, there is a risk that the security granted in respect of the Bonds might be void or ineffective. In addition, any enforcement may be delayed due to any inability to sell the security assets.

### ***Subsidiaries, structural subordination and insolvency of Group***

A significant part of the Group's assets and revenues relate to other companies within the Group. The various Group companies are legally separated from the Issuer and the Group companies' ability to make payments to the Issuer is restricted by, among other things, the availability of funds, corporate restrictions and law. Furthermore, in the event of insolvency, liquidation or a similar event relating to one of the Group companies, all creditors of such subsidiary would be entitled to payment in full out of the assets of such Group company before any entity within the Group, as a shareholder, would be entitled to any payments. Thus, the Bonds are structurally subordinated to the liabilities of the Group companies. The Group and its assets may not be protected from any actions by the creditors of any Group company, whether under bankruptcy law, by contract or otherwise. In addition, defaults by, or the insolvency of, certain Group companies could result in the obligation of the Group to make payments under parent Group financial or performance guarantees in respect of such Group company's obligations or the occurrence of cross defaults on certain borrowings of the Group.

### ***Security over assets granted to third parties***

Subject to certain limitations from time to time, the Issuer may incur additional financial indebtedness and provide additional security for such indebtedness. If security is granted in favor of a third party debt provider, the bondholders will, in the event of bankruptcy, re-organization or winding-up of the Issuer, be subordinated in right of payment out of the assets being subject to security provided to such third party debt provider. In addition, if any such third party debt provider holding security provided by the Group were to enforce such security due to a default by any company within the Group under the relevant finance documents, such enforcement could have a material adverse effect on the Group's assets, operations and, ultimately, the financial position of the bondholders.

### ***Currency risks***

The Bonds are denominated and payable in EUR. If bondholders holding Bonds measure their investment return by reference to a currency other than EUR, an investment in the Bonds will entail foreign exchange-related risks due to, among other factors, possible significant changes in the value of the EUR relative to the currency by reference to which investors measure the return on their investments. This could decrease the effective yield of the Bonds to below their stated coupon rates and could result in a loss to investors when the return on the Bonds is translated into the currency by reference to which the investors measure the return on their investments. Government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable exchange rate or the ability of the Issuer to make payments in respect of the Bonds. As a result, there is a risk that investors receive less interest or principal than expected, or no interest or principal at all.

### ***Early redemption and put options***

The Issuer has reserved the possibility to, under certain circumstances as described in the terms and conditions, redeem all outstanding Bonds. There is a risk that the market value of the Bonds is higher

than the early redemption amount and that it may not be possible for bondholders to reinvest such proceeds at an effective interest rate as high as the interest rate on the Bonds and may only be able to do so at a significantly lower rate. The Bonds will be subject to prepayment at the option of each bondholder (put options) if (i) Sunborn Oy ceases to be the direct or indirect owner of all the shares in each Obligor, or (ii) Ritva Niemi or Pekka Niemi or any of their heirs cease directly or indirectly to (A) have the power to cast, or control the casting of, at least 50 per cent. of the votes attaching to the shares of Sunborn Oy, and (B) hold at least 50 per cent. of the issued share capital of Sunborn Oy.

There is a risk that the Issuer will not have sufficient funds at the time of such prepayment to make the required prepayment of the Bonds which could adversely affect the Issuer, e.g. by causing insolvency or an event of default under the terms and conditions, and thus adversely affect all bondholders and not only those that choose to exercise the option.

#### ***No action against the Issuer and bondholders' representation***

In accordance with the terms and conditions, a bondholders' agent (the "**Agent**") (being on the Issue Date Nordic Trustee & Agency AB (publ)) represents all bondholders in all matters relating to the Bonds and the bondholders are prevented from taking actions on their own against the Issuer. Consequently, individual bondholders do not have the right to take legal actions to declare any default by claiming any payment from or enforcing any security granted by the Issuer and may therefore lack effective remedies unless and until a requisite majority of the bondholders agree to take such action. However, there is a risk that an individual bondholder, in certain situations, could bring its own action against the Issuer (in breach of the terms and conditions) which could negatively impact an acceleration of the Bonds or other action against the Issuer. To enable the Agent to represent bondholders in court, the bondholders and/or their nominees may have to submit a written power of attorney for legal proceedings. The failure of all bondholders to submit such a power of attorney could negatively affect the legal proceedings. Under the terms and conditions, the Agent will in some cases have the right to make decisions and take measures that bind all bondholders. Consequently, the actions of the Agent in such matters could impact a bondholder's rights under the terms and conditions in a manner that would be undesirable for some of the bondholders.

A failure by a trustee to perform its duties and obligations properly or at all may adversely affect the enforcement of the rights of the bondholders due to, for example, inability to receive any or all amounts payable from the transaction security in a timely and efficient manner.

#### ***Bondholders' meetings***

The terms and conditions include certain provisions regarding bondholders' meetings. Such meetings may be held in order to resolve on matters relating to the bondholders' interests. The terms and conditions allow for stated majorities to bind all bondholders, including bondholders who have not taken part in the meeting and those who have voted differently to the required majority at a duly convened and conducted bondholders' meeting. Consequently, the actions of the majority in such matters could impact a bondholder's rights in a manner that would be undesirable for some of the bondholders.

#### ***Restrictions on the transferability of the Bonds***

The Bonds have not been and will not be registered under the U.S. Securities Act of 1933, as amended, or any U.S. state securities laws. Subject to certain exemptions, a holder of the Bonds may not offer or sell the Bonds in the United States. The Issuer has not undertaken to register the Bonds under the U.S. Securities Act or any U.S. state securities laws or to effect any exchange offer for the Bonds in the future. Furthermore, the Issuer has not registered the Bonds under any other country's securities laws. It is each potential investor's obligation to ensure that the offers and sales of Bonds comply with all applicable securities laws. Due to these restrictions, there is a risk that a Bondholder cannot sell their Bonds as desired.

#### ***Amendment to the Bonds in the bondholders' meetings bind all bondholders***

The terms and conditions include certain provisions regarding bondholders' meetings. Such meetings may be held in order to resolve on matters relating to the bondholders' interests. The terms and conditions allow for stated majorities to bind all bondholders, including bondholders who have not taken part in the meeting and those who have voted differently to the required majority at a duly convened and conducted bondholders' meeting. Consequently, the actions of the majority in such matters could impact a bondholder's rights in a manner that would be undesirable for some of the bondholders.

#### ***Change of law***

The terms and conditions of the Bonds are governed by Swedish law in effect as at the date of issue of the Bonds. No assurance can be given as to the impact of any possible judicial decision or change to Swedish law or administrative practice after the date of issue of the Bonds.

#### ***Risks relating to the clearing and settlement in Euroclear's book-entry system***

The Bonds are affiliated to Euroclear's account-based system, and no physical notes will be issued. Clearing and settlement relating to the Bonds will be carried out within Euroclear's book-entry system as well as payment of interest and repayment of the principal. Investors are therefore dependent on the functionality of Euroclear's account-based system.

#### ***Amended or new legislation***

This document is and the terms and conditions are based on Swedish law in force at the date of issuance of the Bonds. There is a risk that amended or new legislation and administrative practices may adversely affect the investor's ability to receive payment under the terms and conditions.

#### ***Conflict of interests***

The Sole Bookrunner may in the future engage in investment banking and/or commercial banking or other services for the Group in the ordinary course of business. Accordingly, conflicts of interest may exist or may arise as a result of the Sole Bookrunner having previously engaged, or engaging in the future, in transactions with other parties, having multiple roles or carrying out other transactions for third parties with conflicting interests.

#### ***The rights of bondholders depend on the Agent's actions and financial standing***

By subscribing for, or purchasing, or accepting the assignment of, any Bond, each holder of a Bond will accept the appointment of the Agent to act on its behalf and to perform administrative functions relating to the Bonds. The Agent shall have, among other things, the right to represent the holders of the Bonds in all court and administrative proceedings in respect of the Bonds. However, the rights, duties and obligations of the Agent as the representative of the holders of the Bonds are subject to the provisions of the terms and conditions for the Bonds and the agency agreement, and there is no specific legislation or market practice in Sweden (under which laws the terms and conditions for the Bonds are governed) which would govern the Agent's performance of its duties and obligations relating to the Bonds. A failure by the Agent to perform its duties and obligations properly or at all may adversely affect the enforcement of the rights of the holders of the Bonds. Under the terms and conditions for the Bonds, the funds collected by the Agent as the representative of the holders of the Bonds must be held separately from the funds of the Agent and be treated as escrow funds to ensure that in the event of the Agent's bankruptcy, such funds can be separated for the benefit of the holders of the Bonds. However, there is a risk that such segregation of funds will not be respected by a bankruptcy administrator in case of the Agent's bankruptcy. Also, in the event the Agent would fail to separate the funds in an appropriate manner, the funds could be included in the Agent's bankruptcy estate. The Agent may be replaced by a successor bondholders' agent in accordance with the terms and conditions for the Bonds.

## THE BONDS IN BRIEF

The following summary contains basic information about the Bonds. It is not intended to be complete and it is subject to important limitations and exceptions. Potential investors should therefore carefully consider this Prospectus as a whole, including documents incorporated by reference, before a decision is made to invest in the Bonds. For a more complete understanding of the Bonds, including certain definitions of terms used in this summary, see the terms and conditions.

<b>Issuer</b> .....	Sunborn (Gibraltar) Limited.
<b>Bonds Offered</b> .....	The aggregate amount of the bond loan will be an amount of up to a maximum of EUR 60,000,000. The Issuer may choose not to issue the full amount of Bonds on the First Issue Date and may choose to issue the remaining amount of Bonds at one or more subsequent dates. At the date of this Prospectus, an aggregate amount of Bonds of EUR 58,000,000 had been issued on the First Issue Date.
<b>Number of Bonds</b> .....	Maximum 600.
<b>ISIN</b> .....	SE0010296632.
<b>First Issue Date</b> .....	5 September 2017.
<b>Issue Price</b> .....	All bonds issued on the First Issue Date have been issued on a fully paid basis at an issue price of 99 per cent. of the Nominal Amount. The issue price of the Subsequent Bonds may be at a discount or at a premium compared to the Nominal Amount.
<b>Interest Rates</b> .....	Interest on the Bonds will be paid at a floating rate of three-month EURIBOR plus 5.00 per cent. per annum.
<b>Use of Benchmark</b> .....	Interest payable on the Bonds will be calculated by reference to EURIBOR. As at the date of this Prospectus, the administrator of EURIBOR is not included in ESMA's register of administrators under Article 36 of the Regulation (EU) No. 2016/1011.
<b>Interest Payment Dates</b> .....	5 March, 5 June, 5 September and 5 December of each year commencing on 5 December 2017. Interest will accrue from (but excluding) the First Issue Date.
<b>Nominal Amount</b> .....	The Bonds will have a nominal amount of EUR 100,000 and the minimum permissible investment in the Bonds is EUR 100,000.
<b>Status of the Bonds</b> .....	The Bonds are denominated in EUR and each Bond is constituted by the terms and conditions. The Issuer undertakes to make payments in relation to the Bonds and to comply with the terms and conditions.

The Bonds constitute direct, general, unconditional, unsubordinated and secured obligations of the Issuer, and:

- will at all times rank at least *pari passu* with all direct, unconditional, unsubordinated and unsecured obligations of the Issuer without any preference among them, except those obligations which are mandatorily preferred by law; and
- are guaranteed by the Guarantors (as defined below).

**Guarantees**..... The Issuer's obligations under the Bonds are jointly and severally guaranteed (the "**Guarantee**") by each of:

- Sunborn International Oy, a limited liability company incorporated under the laws of Finland with Reg. No. 2726816-2;
- Sunborn (Gibraltar) Holdings Limited, a limited liability company incorporated under the laws of Gibraltar with Reg. No. 109486; and
- Sunborn (Gibraltar) Resort Limited, a limited liability company incorporated under the laws of Gibraltar with Reg. No. 109487.

each a "**Guarantor**" and jointly the "**Guarantors**".

See "*Description of Material Agreements – Guarantee and Adherence Agreement*" for further details.

**Ranking of the Guarantees** The Guarantee of each Guarantor is a general obligation of such Guarantor and ranks *pari passu* in right of payment with any existing and future indebtedness of such Guarantor that is not subordinated in right of payment to such Guarantee.

The Guarantees are subject to certain limitations under local law. See "*Description of Material Agreements – Guarantee and Adherence Agreement*" for further details.

**Security** ..... The Bonds are secured by security interests granted on an equal and rateable first-priority basis over the share capital of certain Group Companies and other assets of the Group. See the definition of "**Security Documents**" in Clause 1.1 (*Definitions*) of the terms and conditions.

**Call Option**..... The Issuer has the right to redeem outstanding Bonds in full at any time at the applicable Make Whole Amount in

accordance with Clause 9.3 (*Voluntary Total Redemption (call option)*) of the terms and conditions.

**Make Whole Amount .....** Make Whole Amount means the sum of:

- (a) the Nominal Amount; and
- (b) the present value on the relevant record date of the remaining coupon payments (assuming that the interest rate for the period from the relevant redemption date to the Final Maturity Date will be equal to the interpolated EUR mid-swap rate for the remaining term from the redemption date until the Final Redemption Date plus the applicable Floating Rate Margin), less any accrued but unpaid interest, through and including the Final Maturity Date,  
  
calculated by using a discount rate of 50 basis points over the comparable German government bond rate (i.e. comparable to the remaining duration of the Bonds until the mentioned date falling on the Final Maturity Date) and where "relevant record date" shall mean a date agreed upon between the Agent, the CSD and the Issuer in connection with such repayment.

**Mandatory total redemption upon a Mandatory Prepayment Event .....**

Upon the occurrence of a Mandatory Prepayment Event, the Issuer shall within 30 days repay the Bonds at a price equal to:

- (a) 102.50 per cent. of the Nominal Amount, together with accrued but unpaid interest on the redeemed amount, if the Mandatory Prepayment Event occurs on or after the First Issue Date to, but not including, the date falling 36 months after the First Issue Date;
- (b) 101.25 per cent. of the Nominal Amount together with accrued but unpaid interest on the redeemed amount, if the Mandatory Prepayment Event occurs on or after the date falling 36 months after the First Issue Date to, but not including, the date falling 48 months after the First Issue Date; and



- (c) 100.625 per cent. of the Nominal Amount together with accrued but unpaid interest on the redeemed amount, if the Mandatory Prepayment Event occurs on or after the date falling 48 months after the First Issue Date to, but not including, the Final Maturity Date.

**Mandatory Prepayment Event .....**

Mandatory Prepayment Event means:

- (a) the Issuer ceases to be the sole owner of the Barge; and/or
- (b) any Restricted Obligor sells, transfers or otherwise disposes of all or substantially all of its assets (including shares or other securities in any person) or operations; and/or
- (c) any Material Document is terminated, cancelled or otherwise cease to be effective; and/or
- (d) the payments under the Bareboat Agreement are adversely amended or interrupted.

**Mandatory Prepayment upon a Total Loss Event .....**

Upon a Total Loss Event, the Issuer shall promptly once insurance proceeds are available, but in any event no later than 180 days following the Total Loss Event, redeem all outstanding Bonds at 100 per cent. of the Nominal Amount together with accrued but unpaid interest on the redeemed amount.

**Total Loss Event .....**

Means an actual or constructive total loss of the Barge.

**First Call Date.....**

Means 5 September 2021.

**Final Maturity Date .....**

Means 5 September 2022.

**Change of Control.....**

Upon a Change of Control Event occurring, each Bondholder shall have the right to request that all, or some only, of its Bonds be repurchased at a price per Bond equal to 101.00 per cent. of the Nominal Amount together with accrued but unpaid Interest, during a period of sixty (60) days following a notice from the Issuer of the Change of Control Event pursuant to Clause 11.1(b) of the terms and conditions (after which time period such right shall lapse).

**Change of Control Event.....**

Change of Control Event means the occurrence of an event or series of events whereby:

- (a) Sunborn Oy ceases to be the direct or indirect owner of all the shares in the Issuer, Sunborn International Oy, Sunborn (Gibraltar) Holdings Limited and/or Sunborn (Gibraltar) Resort Limited; or
- (b) Ritva Niemi or Pekka Niemi or any of their heirs cease directly or indirectly to:
  - (i) have the power to cast, or control the casting of, at least 50 per cent. of the votes attaching to the shares of Sunborn Oy; and
  - (ii) hold at least 50 per cent. of the issued share capital of Sunborn Oy.

**Certain Covenants.....** The terms and conditions contain a number of covenants which restrict the ability of the Issuer and other Group Companies, including, *inter alia*:

- restrictions on making any changes to the nature of their business;
- a negative pledge, restricting the granting of security on Financial Indebtedness (as defined in the terms and conditions);
- restrictions on the incurrence of Financial Indebtedness (as defined in the terms and conditions); and
- limitations on the making of distributions and disposal of assets.

The terms and conditions contain incurrence covenants which govern the ability of the Issuer and the other Group Companies to incur additional debt.

Each of these covenants is subject to significant exceptions and qualifications, see the terms and conditions.

The terms and conditions contain a maintenance test pursuant to which the following financial covenants shall be met:

- (a) the Asset Cover Ratio shall not be less than 140 per cent. at any time;

- (b) the minimum amount of Cash in the Issuer shall not be less than the Interest payable under the Bonds for the next three (3) calendar months; and
- (c) the Interest Coverage Ratio shall exceed 1.10 at all times.

<b>Use of Proceeds .....</b>	The Issuer shall use the proceeds from the issue of the Bonds, less the costs and expenses incurred by the Issuer in connection with the issue of the Bonds, for refinancing the Refinancing Debt and for general corporate purposes, including distributions up to a maximum aggregate amount of EUR 1,250,000.
<b>Transfer Restrictions .....</b>	The Bonds are freely transferable but the Bondholders may be subject to purchase or transfer restrictions with regard to the Bonds, as applicable, under local laws to which a Bondholder may be subject. Each Bondholder must ensure compliance with such restrictions at its own cost and expense.
<b>Listing.....</b>	Application has been made to list the Bonds on Nasdaq Stockholm.
<b>Agent.....</b>	Nordic Trustee & Agency AB (publ).
<b>Security Agent .....</b>	Nordic Trustee & Agency AB (publ).
<b>Issuing Agent .....</b>	DNB Bank ASA, Sweden Branch.
<b>Governing Law of the Bonds</b>	Swedish law.
<b>Governing Law of the Subordination Agreement</b>	Swedish law.
<b>Governing Law of the Guarantee and Adherence Agreement.....</b>	Swedish law.
<b>Risk Factors.....</b>	Investing in the Bonds involves substantial risks and prospective investors should refer to the section " <i>Risk Factors</i> " for a description of certain factors that they should carefully consider before deciding to invest in the Bonds.

## STATEMENT OF RESPONSIBILITY

The issuance of the Bonds was authorised by resolutions taken by the board of directors of the Issuer on 18 August 2017, and the Initial Bonds were subsequently issued by the Issuer on 5 September 2017. This Prospectus has been prepared in connection with the Issuer's application to list the Bonds on the corporate bond list of Nasdaq Stockholm, in accordance with the Commission Regulation (EC) No. 809/2004 of 29 April 2004 implementing Directive 2003/71/EC as amended by the Directive 2010/73/EC of the European Parliament and of the Council and Chapter 2 of the Trading Act.

The Issuer is responsible for the information given in this Prospectus. The Issuer is the source of all company specific data contained in this Prospectus and the Sole Bookrunner has conducted no efforts to confirm or verify the information supplied by the Issuer. The Issuer confirms that, having taken all reasonable care to ensure that such is the case, the information contained in this Prospectus is, to the best of the Issuer's knowledge, in accordance with the facts and contains no omissions likely to affect its import. Any information in this Prospectus and in the documents incorporated by reference which derive from third parties has, as far as the Issuer is aware and can be judged on the basis of other information made public by that third party, been correctly represented and no information has been omitted which may serve to render the information misleading or incorrect. The board of directors confirms that, having taken all reasonable care to ensure that such is the case, the information in this Prospectus is, to the best of the board of directors' knowledge, in accordance with the facts and contains no omission likely to affect its import.

20 August 2018

Sunborn (Gibraltar) Limited

*The board of directors*

## DESCRIPTION OF MATERIAL AGREEMENTS

The following is a summary of the material terms of material agreements to which the Issuer is a party and considered as outside of the ordinary course of business. The following summaries do not purport to describe all of the applicable terms and conditions of such arrangements.

### Bareboat agreement

The Issuer as owner and the Operator as charterer have entered into an bareboat charter lease agreement, dated 1 June 2017, regarding the non-propelled barge yacht hotel "Sunborn Gibraltar" with IMO no. 9475272, including all relevant equipment being legally part of the barge under the relevant law. The charter period is 10 years, but the Issuer may terminate the agreement subject to 3 months' notice in writing if (i) the Operator breaches the agreement materially, (ii) the Issuer's control has changed as a result of the sale of shares in the Issuer, or (iii) the yacht hotel will be divested, the Operator goes into liquidation, seeks a debt restructuring or otherwise becomes or may become insolvent. The Operator has no right to assign the agreement to a third party, either totally or partially including hotel services, without prior written consent from the Issuer. The agreement prescribes that the Issuer shall undertake to insure the yacht hotel hull and that the Operator shall undertake that there in all circumstances shall be a third party insurance covering all kinds of third party liabilities to customers and that the insurance shall be in force for the duration of the agreement. The lease fee is GBP 250,000 per month (from 2017) plus VAT, payable monthly by the 5th day of each month (for the avoidance of doubt, the Gibraltar VAT is currently zero per cent.). The governing law of the agreement is Gibraltar law.

### Mooring agreement

Ocean Village Investments Limited as grantor and the Issuer as grantee have entered into a mooring licence agreement, dated 15 August 2013. The agreement governs the berthing of the Barge or other such vessel (of similar size and fitted out to a similar standard to the Barge). From 15 August 2013 to the day before the date the Barge was delivered to Gibraltar's Ocean Village Marina, the Issuer had an obligation to pay Ocean Village Investments Limited a reduced fee of GBP 120,000 *per annum*. From effect when the Barge was delivered to the Gibraltar's Ocean Village Marina, the standard berthing fee is GBP 480,000 *per annum* (the "**Base Fee**"). Ocean Village Investments Limited's obligations pursuant to the mooring agreement are to provide the Issuer with reasonable and unimpeded passage from the Gibraltar's Ocean Village Marina, allow the Issuer to operate its business activities without interference, ensure that Ocean Village Investments Limited and external contractors employed by Ocean Village Investments Limited do not disturb the business activities of the Issuer and allow reasonable access to the Barge for pedestrians and vehicles on Ocean Village Investments Limited's property, while the Issuer undertakes not to move the vessel from the Gibraltar's Ocean Village Marina to any other location in Gibraltar, other than (a) for repairs / routine service, (b) if the Barge is replaced with another vessel of similar size and fitted out to a similar standard. The Issuer is also obliged to maintain, provide and keep adequate insurance in relation to the Barge, its fixtures and fittings and owned infrastructure on the permanent dock. The Issuer must comply with all requirements of the insurers. The tenor is 15 years. Both parties have, however, a right to terminate the licence if any material breach has been committed by either party, the Issuer fails to pay any payments due within 30 days, if the berth becomes unsuitable or unsafe for the mooring of the Barge or if there is a change to laws or regulation which prevents the Issuer from operating the hotel on the Barge. The Issuer may also terminate the agreement under the following circumstances; (a) by giving Ocean Village Investments Limited a 60 days notice and paying a berth cancellation and leaving fee of GBP 1,200,000, together with any other outstanding debts, fees and costs due, and (b) by giving 6 months notice and paying Ocean Village Investments Limited a sum equivalent to twice the annual Base Fee, together with any other outstanding debts, fees and costs due. Third party services and facilitating removal

works will be the responsibility of the Issuer. In the event either party finds a replacement vessel for the Gibraltar's Ocean Village Marina, the compensation payments pursuant to (a) and (b) will be reduced by 50 per cent. The governing law of the agreement is Gibraltar law.

### **Service provider agreement**

Sunborn Gibraltar as licensor and Ocean Village Health Club as licensee have entered into a license agreement, dated 1 August 2014, regarding the right for Ocean Village Health Club to operate the gym and spa facilities on the Barge. According to the agreement, the licensee agrees to fully fit out the gym and spa, purchase and maintain all equipment and cover all gym and spa related operating costs. The licensee shall pay the licensor (a) a monthly fee of the greater of GBP 3,000 or the total of 15 per cent. of revenue generated from spa treatments and 5 per cent. of revenue from product sales per month; (b) 10 per cent. of revenue from gym membership sales and personal training above the first GBP 100,000 of net revenue annually; (c) GBP 720 monthly utilities contribution. The licensee will receive 15 per cent. of revenue from Sunborn products sold in the health club.

### **Guarantee and Adherence Agreement**

The Guarantors have entered into a guarantee and adherence agreement with the Agent dated 5 September 2017 (the "**Guarantee and Adherence Agreement**"), pursuant to which the Guarantors have agreed to jointly and severally guarantee the Group's obligations as follows:

- the full and punctual payment and performance within applicable grace periods of all payment obligations of the Issuer under the Finance Documents when due, whether at maturity, by acceleration, by redemption or otherwise, and interest on any such obligation which is overdue, and of all other monetary obligations of the Issuer to the Secured Parties under the Finance Documents;
- the full and punctual performance within applicable grace periods of all other obligations and liabilities of the Guarantors under the Finance Documents; and
- the full and punctual performance of all obligations and liabilities of the Guarantors under any Security Document (as defined in the terms and conditions) to which it is a party.

The Guarantees are subject to certain limitations imposed by local law requirements in certain jurisdictions.

### **Subordination Agreement**

The Guarantors and the Issuer have entered into a subordination agreement with the Agent dated 5 September 2017 (the "**Subordination Agreement**"). Sunborn International Oy had, as per 31 December 2017, granted shareholder loans to the Issuer in an amount of GBP 40,996,911. In addition Sunborn International Oy may grant further shareholder loans to the Issuer in the future.

In accordance with the Subordination Agreement, the parties to the Subordination Agreement agree that their respective claims against the Issuer shall rank in the following order of priority:

(a) first, the bond loan; and

(b) secondly, the shareholder debt and the intra-group debt.

## **DESCRIPTION OF THE GROUP**

### **History and development of the Issuer**

The Issuer's (incorporated on 20 March 2013 under the laws of Gibraltar) legal and commercial name is Sunborn (Gibraltar) Limited and it is a limited liability company operating under the laws of Gibraltar with company registration number 109414. The registered office of the Issuer is 57/63 Line Wall Road Gibraltar and the Issuer's headquarters is located at 35 Ocean Village Promenade, Gibraltar, GX 11 1AA, Gibraltar, United Kingdom, with telephone number +350 2001 6000.

In accordance with the articles of association of the Issuer, adopted on 12 March 2013, the principal objects of the Issuer are to, inter alia, conduct hotel and leisure business and thereto compatible activities.

### **History and development of Sunborn International Oy**

Sunborn International Oy (registered on 30 April 2016 under the laws of Finland) is a limited liability company operating under the laws of Finland with company registration number 2726816-2. The registered office of Sunborn International Oy is Juhana Herttuan puistokatu 23 FI-20100 Turku Finland and the Issuer's headquarters is located at the same address, with telephone number +358 2445 4517.

In accordance with the articles of association of Sunborn International Oy, adopted on 30 April 2016, the objects of Sunborn International Oy are to conduct administration, planning and consulting of vessels. Further, Sunborn International Oy may engage in hotel, meeting, conference and restaurant services and in trading, design, agency, brokerage and letting of related products and services. Furthermore, Sunborn International Oy's field of activity includes ownership, financing, management, trade, exchange and letting of real estate property and securities.

### **History and development of Sunborn (Gibraltar) Holdings Limited**

Sunborn (Gibraltar) Holdings Limited (incorporated on 20 March 2013 under the laws of Gibraltar) is a limited liability company operating under the laws of Gibraltar with company registration number 109486. The registered office of Sunborn (Gibraltar) Holding Limited is 35 Ocean Village Promenade, Gibraltar, GX 11 1AA, Gibraltar, United Kingdom and Sunborn (Gibraltar) Holding Ltd 's headquarters is located at 35 Ocean Village Promenade, Gibraltar, GX 11 1AA, Gibraltar, United Kingdom, with telephone number +350 2001 6000.

In accordance with the articles of association of Sunborn (Gibraltar) Holdings Limited, adopted on 20 March 2013, the principal objects of Sunborn (Gibraltar) Holdings Limited are to, inter alia, conduct hotel and leisure business and thereto compatible activities.

### **History and development of Sunborn (Gibraltar) Resort Limited**

Sunborn (Gibraltar) Resort Limited (incorporated on 20 March 2013 under the laws of Gibraltar) is a limited liability company operating under the laws of Gibraltar with company registration number 109487 The registered office of Sunborn (Gibraltar) Resort Limited is 35 Ocean Village Promenade, Gibraltar, GX 11 1AA, Gibraltar, United Kingdom and Sunborn (Gibraltar) Resort Ltd's headquarters is located at 35 Ocean Village Promenade, Gibraltar, GX 11 1AA, Gibraltar, United Kingdom, with telephone number +350 2001 6000.

In accordance with the articles of association of Sunborn (Gibraltar) Resort Limited, adopted on 20 March 2013, the principal objects of Sunborn (Gibraltar) Resort Limited are to, inter alia, conduct hotel and leisure business and thereto compatible activities.

## Business and operations

The Issuer is a wholly owned subsidiary of Sunborn (Gibraltar) Holdings Ltd, and a part of a group of companies privately owned by the Niemi family. The Issuer is a special purpose vehicle with the sole purpose of owning the Sunborn Gibraltar yacht hotel. The Sunborn Gibraltar yacht hotel is, as of the date of this Prospectus, the only 5 star Grand Luxe classification hotel in Gibraltar and the only major conference venue in Gibraltar. The yacht hotel was built in 2013 and launched in 2014. The Sunborn Gibraltar yacht hotel has 189 rooms, including 22 suites. Additionally, there is ballroom and conference facilities for up to 400 delegates, numerous restaurants including a 7th deck Sky Restaurant with panoramic views, 3 bars, a fitness centre and spa as well as a casino licence which expires 2030. Since the inception in 2014 the operations have steadily grown.

## Brands and concepts

The Group operates under the brand "Sunborn Gibraltar".



## Business model and market overview

The Group's business model is to own and operate a luxury class destination resort hotel, Sunborn Gibraltar, in Gibraltar offering luxury upscale accommodation, high end casino, various food & beverage services and meetings and incentives services all combining to be a substantial offering of services.

Sunborn Gibraltar is a luxury class destination resort hotel in Gibraltar offering luxury upscale accommodation, high end casino, various food & beverage services and meetings and incentives services all combining to be a substantial offering of services. The hotel is positioned to be the leading hotel in terms of rating and quality of services and targets both leisure and corporate clients seeking upper upscale or luxury class services for hotel or meetings, as opposed to price orientated or budget travellers. Sunborn Gibraltar is the only AA rated five star hotel in Gibraltar and the main restaurant has been awarded two Rosettes. The predominant part of the hotel clients are British and originate from the UK.

The Group has created a bespoke luxury travel market in Gibraltar quite additional to the market and dynamics that existed prior to the opening of Sunborn Gibraltar in 2014. Previously, the hotel market consisted of 1 to 4 star rated and non-branded hotels offering services predominantly towards the budget or medium level leisure package or tour travellers. In addition to the leisure traveller, the general corporate users seeking quality or high end accommodation and/or large scale meeting facilities also provide a substantial business to the Group, but is a segment more evenly spread amongst the overall hotel inventory and across all rated hotels in Gibraltar based on budgets and quality of service desired.

## Share capital and ownership structure the Issuer

The shares of the Issuer are denominated in GBP. Each share carries one vote and has equal rights on distribution of income and capital. As of the date of this Prospectus, the Issuer had an issued share capital of GBP 2,000 divided into 2,000 of shares.



The following table sets forth the ownership structure in the Issuer as per the date of this Prospectus.

<i>Shareholder</i>	<i>No. of shares</i>	<i>Share capital</i>	<i>Voting Rights</i>
Sunborn (Gibraltar) Holding Ltd	2,000	100 %	100 %
<b>Total</b>	<b>2,000</b>	<b>100.00 %</b>	<b>100.00 %</b>

### **Share capital and ownership structure of Sunborn International Oy**

The shares of Sunborn International Oy are denominated in EUR. Each share carries one vote and has equal rights on distribution of income and capital. As of the date of this Prospectus, Sunborn International Oy had an issued share capital of EUR 2,500 divided into 200 of shares.

The following table sets forth the ownership structure in Sunborn International Oy as per the date of this Prospectus.

<i>Shareholder</i>	<i>No. of shares</i>	<i>Share capital</i>	<i>Voting Rights</i>
Sunborn Oy	200	2,500	100.00 %
<b>Total</b>	<b>200</b>	<b>100.00 %</b>	<b>100.00 %</b>

### **Share capital and ownership structure of Sunborn (Gibraltar) Holdings Limited**

The shares of Sunborn (Gibraltar) Holdings Limited are denominated in GBP. Each share carries one vote and has equal rights on distribution of income and capital. As of the date of this Prospectus, Sunborn (Gibraltar) Holdings Limited had an issued share capital of GBP 2,000 divided into 2,000 of shares.

The following table sets forth the ownership structure in Sunborn (Gibraltar) Holdings Limited as per the date of this Prospectus.

<i>Shareholder</i>	<i>No. of shares</i>	<i>Share capital</i>	<i>Voting Rights</i>
Sunborn International Oy	2,000	100.00 %	100.00 %
<b>Total</b>	<b>2,000</b>	<b>100.00 %</b>	<b>100.00 %</b>

### **Share capital and ownership structure of Sunborn (Gibraltar) Resort Limited**

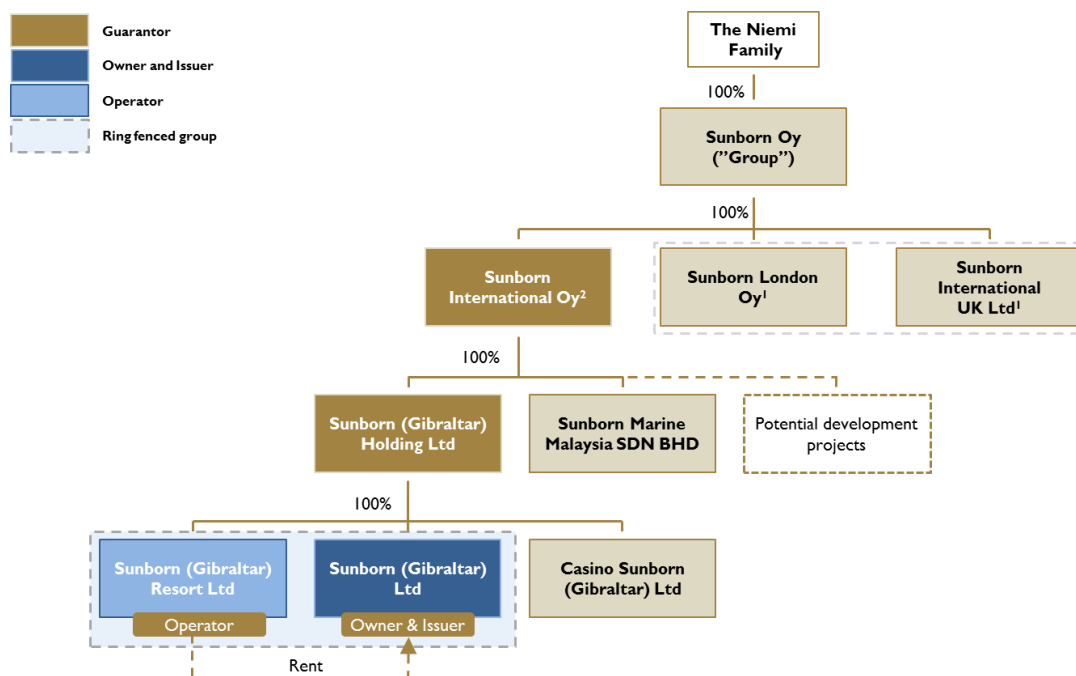
The shares of Sunborn (Gibraltar) Resort Limited are denominated in GBP. Each share carries one vote and has equal rights on distribution of income and capital. As of the date of this Prospectus, Sunborn (Gibraltar) Resort Limited had an issued share capital of GBP 2,000 divided into 2,000 of shares.

The following table sets forth the ownership structure in Sunborn (Gibraltar) Resort Limited as per the date of this Prospectus.

<i>Shareholder</i>	<i>No. of shares</i>	<i>Share capital</i>	<i>Voting Rights</i>
Sunborn (Gibraltar) Holdings Limited	2,000	100.00 %	100.00 %
<b>Total</b>	<b>2,000</b>	<b>100.00 %</b>	<b>100.00 %</b>

## Overview of Group structure

Operations are conducted by the Operator and the Issuer is dependent on the Operator to generate revenues and profit in order to be able to fulfil its payment obligations under the Bonds. The structure of the Group, including its subsidiaries, is set out below.



## Recent events

There has been no recent event particular to the Group or any of the Guarantors which is to a material extent relevant to the evaluation of the Issuer's or any Guarantor's solvency.

## Significant change and trend information

There has been no material adverse change in the prospects of the Group or the Guarantor since the date of publication of its last audited annual accounts and no significant change in the financial or trading position of the Group or any of the Guarantors since the end of the last financial period for which audited financial information has been published.

## Legal and arbitration proceedings

Neither the Issuer, the Group nor any Guarantor is, or has been over the past twelve months, party to any legal, governmental or arbitration proceedings that have had, or would have, a significant effect on the Group's or any of the Guarantor's financial position or profitability. Nor is the Issuer or any of the Guarantors aware of any such proceedings which are pending or threatening and which could lead to any Guarantor, the Issuer or any member of the Group becoming a party to such proceedings.

## Credit rating

No credit rating has been assigned to the Issuer or any of the Guarantors, or any of their debt securities.

## MANAGEMENT

### **Sunborn (Gibraltar) Limited**

The board of directors of the Issuer currently consists of one (1) member which has been elected by the general meeting. The board of directors and the senior management can be contacted through the Issuer at its headquarters at 57/63 Line Wall Road, Gibraltar. Further information on the members of the board of directors and the senior management is set forth below.

#### **Board of directors of the Issuer**

##### ***Hans Niemi, director of the board since 2013.***

Education: Bsc in Economics, Ba finance, BBA Business Administration

Current commitments: Director of the board of the Issuer since 2013, member of the board of each Guarantor, honorary consul of Germany, member of the board of Sunborn Oy, Sunborn Saga Oy, Saga Palvelut Oy, Pramedia Oy, Pinella Oy, Sunborn London PLC, Gilleleje Resort Development and Sunborn Catering Oy, CEO of the Issuer, each Guarantor and Sunborn Oy and COO of the Issuer and each Guarantor

#### **Management of the Issuer**

##### ***Hans Niemi, CEO, COO***

Education: See "*Board of directors of the Issuer*" for further details

Current commitments: See "*Board of directors of the Issuer*" for further details

##### ***Niina Stade, CFO***

Education: Master of Science, Economics, 1999

Current commitments: CFO of the Issuer, each Guarantor and Sunborn Oy

##### ***Xavier Valero, CLO (Chief Legal Officer)***

Education: Master of Laws, University of Barcelona, 1999

Current commitments: CLO of the Issuer, each Guarantor and Sunborn Oy

##### ***Tomi Rimpi, Financial Advisor***

Education: Master of Laws, 1995

Current commitments: Financial Advisor of the Issuer, each Guarantor and Sunborn Oy

## **Sunborn International Oy**

The board of directors of Sunborn International Oy currently consists of four (4) members which have been elected by the general meeting. The board of directors and the senior management can be contacted through Sunborn International Oy at its headquarters at Juhana Herttuan puistokatu 23 FI-20100 Turku Finland. Further information on the members of the board of directors and the senior management is set forth below.

### **Board of directors of Sunborn International Oy**

#### ***Ritva Niemi, chairman of the board since 2016.***

Education: MBA  
Current commitments: Chairman of the board of Sunborn International Oy

#### ***Hans Niemi, member of the board since 2016.***

Education: See "Board of directors of the Issuer" for further details.  
Current commitments: See "Board of directors of the Issuer" for further details.

#### ***Pekka Niemi, member of the board since 2016.***

Education: Master of Science, Economics  
Current commitments: Member of the board of Sunborn International Oy since 2016, Managing Director of Sunborn International Oy

#### ***Jari Niemi, member of the board since 2016.***

Education: Ba Business  
Current commitments: Member of the board of Sunborn International Oy since 2016 and Development Director for Serviced Senior Citizen Housing development for Ruissalo Foundation

### **Management of Sunborn International Oy**

#### ***Hans Niemi, CEO, COO***

Education: See "Board of directors of the Issuer" for further details  
Current commitments: See "Board of directors of the Issuer" for further details

#### ***Pekka Niemi, Managing Director***

Education: See "Board of directors of Sunborn International Oy" for further details  
Current commitments: See "Board of directors of Sunborn International Oy" for further details

#### ***Niina Stade, CFO***

Education: See "Management of the Issuer" for further details  
Current commitments: See "Management of the Issuer" for further details

#### ***Xavier Valero, CLO (Chief Legal Officer)***

Education: See "Management of the Issuer" for further details  
Current commitments: See "Management of the Issuer" for further details

#### ***Tomi Rimpi, Financial Advisor***

Education: See "Management of the Issuer" for further details

Current commitments: See "*Management of the Issuer*" for further details

### **Sunborn (Gibraltar) Holdings Limited**

The board of directors of Sunborn (Gibraltar) Holdings Limited currently consists of one (1) member which has been elected by the general meeting. The board of directors and the senior management can be contacted through Sunborn (Gibraltar) Holdings Limited at its headquarters at 57/63 Line Wall Road, Gibraltar. Further information on the members of the board of directors and the senior management is set forth below.

#### **Board of directors of Sunborn (Gibraltar) Holdings Limited**

##### ***Hans Niemi, director of the board since 2013.***

Education: See "*Board of directors of the Issuer*" for further details.

Current commitments: See "*Board of directors of the Issuer*" for further details.

#### **Management of Sunborn (Gibraltar) Holdings Limited**

##### ***Hans Niemi, CEO, COO***

Education: See "*Board of directors of the Issuer*" for further details

Current commitments: See "*Board of directors of the Issuer*" for further details

##### ***Niina Stade, CFO***

Education: See "*Management of the Issuer*" for further details

Current commitments: See "*Management of the Issuer*" for further details

##### ***Xavier Valero, CLO (Chief Legal Officer)***

Education: See "*Management of the Issuer*" for further details

Current commitments: See "*Management of the Issuer*" for further details

##### ***Tomi Rimpi, Financial Advisor***

Education: See "*Management of the Issuer*" for further details

Current commitments: See "*Management of the Issuer*" for further details

### **Sunborn (Gibraltar) Resort Limited**

The board of directors of Sunborn (Gibraltar) Resort Limited currently consists of one (1) member which has been elected by the general meeting. The board of directors and the senior management can be contacted through Sunborn (Gibraltar) Resort Limited at its headquarters at 57/63 Line Wall Road, Gibraltar. Further information on the members of the board of directors and the senior management is set forth below.

#### **Board of directors of Sunborn (Gibraltar) Resort Limited**

##### ***Hans Niemi, director of the board since 2013.***

Education: See "*Board of directors of the Issuer*" for further details.  
 Current commitments: See "*Board of directors of the Issuer*" for further details.

#### **Management of Sunborn (Gibraltar) Resort Limited**

##### ***Hans Niemi, CEO, COO***

Education: See "*Board of directors of the Issuer*" for further details  
 Current commitments: See "*Board of directors of the Issuer*" for further details

##### ***Niina Stade, CFO***

Education: See "*Management of the Issuer*" for further details  
 Current commitments: See "*Management of the Issuer*" for further details

##### ***Xavier Valero, CLO (Chief Legal Officer)***

Education: See "*Management of the Issuer*" for further details  
 Current commitments: See "*Management of the Issuer*" for further details

##### ***Tomi Rimpi, Financial Advisor***

Education: See "*Management of the Issuer*" for further details  
 Current commitments: See "*Management of the Issuer*" for further details

**Conflicts of interest within administrative, management and control bodies**

Hans Niemi, Niina Stade, Xavier Valero and Tomi Rimpi, all being part of the senior management of the Issuer, are also part of the senior management of each Guarantor as-well as the Issuer's and the Guarantors' ultimate parent company Sunborn Oy.

Hans Niemi, being a board member of the Issuer, is also a board member of each Guarantor and the ultimate parent company Sunborn Oy.

Hans Niemi, who are actively involved in managing the business of the Issuer and the Guarantors, owns shares in the ultimate parent company Sunborn Oy.

While the Issuer recognises the potential conflicts described above, the Issuer does not believe that such potential conflicts constitute an actual conflict of interest between such individuals' duties to the Issuer and their private interests or other commitments.

**Interest of natural and legal persons involved in the issue**

The Sole Bookrunner and/or its affiliates have engaged in, and may in future engage in, investment banking and/or commercial banking or other services for the Issuer and the Group in the ordinary course of business. Accordingly, conflicts of interest may exist or may arise as a result of the Sole Bookrunner and/or its affiliates having previously engaged, or engaging in future, in transactions with other parties, having multiple roles or carrying out other transactions for third parties with conflicting interests.



## HISTORICAL FINANCIAL INFORMATION

### Sunborn (Gibraltar) Limited

The Issuer's annual report for the financial year ended 31 December 2017 and the figures for the financial year ended 31 December 2016 as set out below are incorporated into this Prospectus by reference (please see section "*Other Information*"). The information incorporated by reference is to be read as part of this Prospectus.

The Issuer's annual report for the financial year ended 31 December 2017 has been prepared in accordance with International Financial Reporting Standards ("**IFRS**") as adopted by the EU. The Issuer's annual report for the financial year ended 31 December 2016 has been prepared in accordance with the Gibraltar Financial Reporting Standards ("**GFRS**").

Other than the auditing of the Issuer's annual report for the financial year ended 31 December 2017 and for the financial year ended 31 December 2016, the Issuer's auditor has not audited or reviewed any part of this Prospectus.

The Issuer's annual report for the financial year ended 31 December 2017 is incorporated into this Prospectus by reference. For particular financial figures, please refer to the pages set out below:

- the audit report, page 2-4;
- income statement, page 5;
- balance sheet, page 6;
- statement of changes in equity, page 7;
- statement of cash flow, page 8; and
- notes, pages 9-26.

The specific information set out below (as also stated in section "*Other information*" subheading "Documents incorporated by reference" in this Prospectus) from the Issuer's annual report for the financial year ended 31 December 2016 is incorporated into this Prospectus by reference. The other information set out in the annual report for the financial year ended 31 December 2016 is deemed to not be relevant for the purpose of the Prospectus Regulation as corresponding up to date information is included in the annual report for the financial year ended 31 December 2017:

- the audit report, page 4-6;
- income statement, page 7;
- balance sheet, page 8;
- statement of changes in equity, page 9; and
- notes, page 10-18.

The specific information set out below (as also stated in section "*Other information*" subheading "Documents incorporated by reference" in this Prospectus) from the Issuer's unaudited quarterly statements for the period 1 January 2018 to 31 March 2018 are incorporated into this Prospectus by reference. The other information set out in the Issuer's unaudited quarterly statements for the period 1 January to 31 March 2018 is deemed to not be relevant for the purpose of the Prospectus Regulation:

- income statement, page 5;
- balance sheet, page 6; and
- statement of cashflow, page 7.

**Factors affecting comparability of the historical financial information**

The financial information of the Issuer for the financial year ended 31 December 2016 was prepared in accordance with GFRS. The Issuer has since then changed its accounting principles and the annual report for the financial year ended 31 December 2017 was prepared in accordance with IFRS. The comparative historical financial information for the financial year ended 31 December 2017 has been retrospectively presented and prepared in accordance with IFRS and is presented together with the financial information for the financial year ended 31 December 2016 to ensure the historical comparability between the financial periods.

**Auditing of the annual historical financial information**

The Issuer's annual reports as at present and for the years 2017 and 2016 have been audited, as applicable, by AMS Group, Suite 16, Water Gardens 5, Waterport Wharf P.O. Box 417 Gibraltar. AMS Group has been the Issuer's auditor since 2015, and was re-elected for an additional year on the latest annual general meeting. Adrian Stevenson is the auditor who is responsible for the Issuer. Adrian Stevenson is an authorized auditor and is a member of the professional body Association of Chartered Certified Accountants and is authorised in Gibraltar by the Gibraltar Financial Services Commission (GFSC) as a statutory auditor.

The auditing of the annual reports was conducted in accordance with international standards on auditing and the audit reports were submitted without comment.

**Age of the most recent financial information**

The most recent financial information has been taken from the annual reports for the financial year ended 31 December 2017, which was published on 16 August 2018 on the Issuer's website [www.sunborn.com/press](http://www.sunborn.com/press).

### **Sunborn International Oy**

Sunborn International Oy's annual report for the financial year ended 31 December 2017 and the figures for the financial year ended 31 December 2016 as set out below are incorporated into this Prospectus by reference (please see section "*Other Information*"). The information incorporated by reference is to be read as part of this Prospectus.

Sunborn International Oy's annual report for the financial year ended 31 December 2017 and for the financial year ended 31 December 2016 have been prepared in accordance with the Finnish Generally Accepted Accounting Principles.

Other than the auditing of Sunborn International Oy's annual report for the financial year ended 31 December 2017 and for the financial year ended 31 December 2016, Sunborn International Oy's auditor has not audited or reviewed any part of this Prospectus.

Sunborn International Oy's annual report for the financial year ended 31 December 2017 is incorporated into this Prospectus by reference. For particular financial figures, please refer to the pages set out below:

- the audit report, page 11-12;
- income statement, page 14;
- balance sheet, page 15; and
- notes, page 16-18.

The specific information set out below (as also stated in section "*Other information*" subheading "Documents incorporated by reference" in this Prospectus) from Sunborn International Oy's annual report for the financial year ended 31 December 2016 is incorporated into this Prospectus by reference. The other information set out in the annual report for the financial year ended 31 December 2016 is deemed to not be relevant for the purpose of the Prospectus Regulation as corresponding up to date information is included in the annual report for the financial year ended 31 December 2017:

- the audit report, page 13-15;
- income statement, page 17;
- balance sheet, page 18; and
- notes, page 19-21.

### **Auditing of the annual historical financial information**

Sunborn International Oy's annual report as at present and for the years 2017 to 2016 have been audited, as applicable, by PricewaterhouseCoopers Oy, Itämerentori 2, 00180 Helsinki, Finland. PricewaterhouseCoopers Oy has been Sunborn International Oy's auditor since 2007, and was re-elected for an additional year on the latest annual general meeting. Jari Pekka Olavi Meisaari (2016) and Kalle Laaksonen (2017) are the auditor who is responsible for Sunborn International Oy. Both are authorized auditors KHT/APA and are both members of the professional body Suomen Tilintarkastajayhdistys, the professional institute for the accountancy sector in Finland.

The auditing of the annual reports was conducted in accordance with international standards on auditing and the audit reports were submitted without comment.

**Age of the most recent financial information**

The most recent financial information has been taken from the annual report for the financial year ended 31 December 2017, which was published on 16 August 2018 on the Issuer's website [www.sunborn.com/press](http://www.sunborn.com/press).

**Sunborn (Gibraltar) Holdings Limited**

Sunborn (Gibraltar) Holdings Limited's annual report for the financial year ended 31 December 2017 as set out below are incorporated into this Prospectus by reference (please see section "*Other Information*"). The information incorporated by reference is to be read as part of this Prospectus.

Sunborn (Gibraltar) Holdings Limited's annual report for the financial year ended 31 December 2017 has been prepared in accordance with GFRS.

Other than the auditing of Sunborn (Gibraltar) Holdings Limited's annual report for the financial year ended 31 December 2017, Sunborn (Gibraltar) Holdings Limited's auditor has not audited or reviewed any part of this Prospectus.

Sunborn (Gibraltar) Holdings Limited's annual report for the financial year ended 31 December 2017 is incorporated into this Prospectus by reference. For particular financial figures, please refer to the pages set out below:

- the audit report, page 4-6;
- balance sheet, page 7; and
- notes, page 8-11.

Sunborn (Gibraltar) Holdings Limited has been dormant since its incorporation and there is no audited statements for the financial year 2016.

**Auditing of the annual historical financial information**

Sunborn (Gibraltar) Holdings Limited's annual report as at present and for the years 2017 to 2016 have been audited, as applicable, by Adrian Stevenson FCCA, AMS Group, Suite 16, Water Gardens 5, Waterport Wharf P.O. Box 417 Gibraltar. Adrian Stevenson FCCA has been Sunborn (Gibraltar) Holdings Limited's auditor since 2015, and was re-elected for an additional year on the latest annual general meeting. Adrian Stevenson is the auditor who is responsible for Sunborn (Gibraltar) Holdings Limited. Adrian Stevenson is an authorized auditor and is a member of the professional body Association of Chartered Certified Accountants and is authorised in Gibraltar by the Gibraltar Financial Services Commission (GFSC) as a statutory auditor.

The auditing of the annual reports was conducted in accordance with international standards on auditing and the audit reports were submitted without comment.

**Age of the most recent financial information**

The most recent financial information has been taken from the annual report for the financial year ended 31 December 2017, which was published on 16 August 2018 on the Issuer's website [www.sunborn.com/press](http://www.sunborn.com/press).

### **Sunborn (Gibraltar) Resort Limited**

Sunborn (Gibraltar) Resort Limited's annual report for the financial year ended 31 December 2017 and the figures for the financial year ended 31 December 2016 as set out below are incorporated into this Prospectus by reference (please see section "*Other Information*"). The information incorporated by reference is to be read as part of this Prospectus.

Sunborn (Gibraltar) Resort Limited's annual report for the financial year ended 31 December 2017 and for the financial year ended 31 December 2016 have been prepared in accordance with GFRS.

Other than the auditing of Sunborn (Gibraltar) Resort Limited's annual report for the financial year ended 31 December 2017 and for the financial year ended 31 December 2016, Sunborn (Gibraltar) Resort Limited's auditor has not audited or reviewed any part of this Prospectus.

Sunborn (Gibraltar) Resort Limited's annual report for the financial year ended 31 December 2017 is incorporated into this Prospectus by reference. For particular financial figures, please refer to the pages set out below:

- the audit report, page 4-6;
- income statement, page 7;
- balance sheet, page 8;
- statement of changes in equity, page 9;
- statement of cash flow, page 10; and
- notes, page 11-18.

The specific information set out below (as also stated in section "*Other information*" subheading "Documents incorporated by reference" in this Prospectus) from Sunborn (Gibraltar) Resort Limited's annual report for the financial year ended 31 December 2016 is incorporated into this Prospectus by reference. The other information set out in the annual report for the financial year ended 31 December 2016 is deemed to not be relevant for the purpose of the Prospectus Regulation as corresponding up to date information is included in the annual report for the financial year ended 31 December 2017:

- the audit report, page 4-6;
- income statement, page 7;
- balance sheet, page 8;
- statement of changes in equity, page 9; and
- notes, page 10-19.

The specific information set out below (as also stated in section "*Other information*" subheading "Documents incorporated by reference" in this Prospectus) from Sunborn (Gibraltar) Resort Limited's unaudited quarterly statements for the period 1 January 2018 to 31 March 2018 are incorporated into this Prospectus by reference. The other information set out in Sunborn (Resort) Limited's unaudited quarterly statements for the period 1 January to 31 March 2018 is deemed to not be relevant for the purpose of the Prospectus Regulation:

- income statement for twelve months to March 2018, page 8;
- balance sheet, page 9; and
- statement of cash flow page 10.

**Auditing of the annual historical financial information**

Sunborn (Gibraltar) Resort Limited's annual report as at present and for the years 2017 to 2016 have been audited, as applicable, by Adrian Stevenson FCCA, AMS Group, Suite 16, Water Gardens 5, Waterport Wharf P.O. Box 417 Gibraltar. Adrian Stevenson FCCA has been Sunborn (Gibraltar) Resort Limited's auditor since 2015, and was re-elected for an additional year on the latest annual general meeting. Adrian Stevenson is the auditor who is responsible for Sunborn (Gibraltar) Resort Limited. Adrian Stevenson is an authorized auditor and is a member of the professional body Association of Chartered Certified Accountants and is authorised in Gibraltar by the Gibraltar Financial Services Commission (GFSC) as a statutory auditor.

The auditing of the annual reports was conducted in accordance with international standards on auditing and the audit reports were submitted without comment.

**Age of the most recent financial information**

The most recent financial information has been taken from the annual report for the financial year ended 31 December 2017, which was published on 16 August 2018 on the Issuer's website [www.sunborn.com/press](http://www.sunborn.com/press).

## OTHER INFORMATION

### Assurance regarding the Prospectus

Sunboard (Gibraltar) Limited is responsible for the content of the Prospectus and has taken all reasonable precautions to ensure that, as far as the Issuer is aware, the information in the Prospectus accords with the facts and contains no omission likely to affect its import. To the extent prescribed by law, the board of directors of the Issuer is also responsible for the content of the Prospectus. The board of directors has taken all reasonable care to ensure that the information in the Prospectus is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

### Clearing and settlement

As of the date of this Prospectus, Bonds have been issued in an amount of EUR 58,000,000 and the Issuer may, subject to certain conditions set out in the terms and conditions, issue additional Bonds. The maximum total nominal amount of the Bonds (the initial Bonds and all Subsequent Bonds) may not exceed EUR 60,000,000. Each Bond has a nominal amount of EUR 100,000. The ISIN for the Bonds is SE0010296632.

The Bonds have been issued in accordance with Swedish law. The Bonds are connected to the account-based system of Euroclear Sweden AB. No physical notes have been or will be issued. Payment of principal, interest and, if applicable, withholding tax will be made through Euroclear Sweden AB's book-entry system.

### Representation of the Bondholders

The terms and conditions stipulates the provisions for the Agent's representation of the Bondholders.

### The Guarantors

Information with respect to each Guarantor is set out below. Each Guarantor may be contacted through the address of the Issuer.

- Sunborn International Oy is a limited liability company incorporated under the laws of Finland. Its company registration number is 2726816-2. Its registered address is Juhana Herttuan puistokatu 23, FI-20100 Turku, Finland.
- Sunborn (Gibraltar) Holdings Limited is a limited liability company incorporated under the laws of Gibraltar. Its company registration number is 109486. Its registered address is 57/63 Line Wall Road, Gibraltar.
- Sunborn (Gibraltar) Resort Limited is a limited liability company incorporated under the laws of Gibraltar. Its company registration number is 109487. Its registered address is 57/63 Line Wall Road, Gibraltar.

### Material contracts

Other than as described under the section entitled "*Description of Material Agreements*" herein, neither the Group nor any Guarantor has not entered into any material contracts not in the ordinary course of its business and which may affect the Group's ability to fulfil its obligations under the Bonds.



### **Documents incorporated by reference**

This Prospectus is, in addition to this document, comprised of information from the following documents which are incorporated by reference and available in electronic format on the Issuer's website at [www.sunborn.com/press](http://www.sunborn.com/press):

- the Issuer's annual report and audit report for the financial year ended 31 December 2017 (page 2-26);
- the Issuer's annual report and audit report for the financial year ended 31 December 2016 (page 4-18);
- the Issuer's unaudited quarterly statements for the period 1 January 2018 to 31 March 2018 (page 5-7);
- Sunborn International Oy's annual report and audit report for the financial year ended 31 December 2017 (page 11-12, 14-18);
- Sunborn International Oy's annual report and audit report for the financial year ended 31 December 2016 (page 13-21);
- Sunborn (Gibraltar) Holdings Limited's annual report and audit report for the financial year ended 31 December 2017 (page 4-11);
- Sunborn (Gibraltar) Resort Limited's annual report and audit report for the financial year ended 31 December 2017 (page 4-18);
- Sunborn (Gibraltar) Resort Limited's annual report and audit report for the financial year ended 31 December 2016 (page 4-19); and
- Sunborn (Gibraltar) Resort Limited's unaudited quarterly statements for the period 1 January 2018 to 31 March 2018 (page 8-10).

### **Documents available for inspection**

The following documents are available at the Issuer's headquarters at 57/63 Line Wall Road, Gibraltar, on weekdays during the Issuer's regular office hours throughout the period of validity of this Prospectus.

- the Issuer's articles of association;
- the Issuer's certificate of registration;
- the Issuer's annual report and audit report for the financial year ended 31 December 2017;
- the Issuer's annual report and audit report for the financial year ended 31 December 2016;
- the Issuer's unaudited quarterly statements for the period 1 January 2018 to 31 March 2018;
- Sunborn International Oy's articles of association;
- Sunborn International Oy's certificate of registration;

- Sunborn International Oy's annual report and audit report for the financial year ended 31 December 2017;
- Sunborn International Oy's annual report and audit report for the financial year ended 31 December 2016;
- Sunborn (Gibraltar) Holdings Limited's articles of association;
- Sunborn (Gibraltar) Holdings Limited's certificate of registration;
- Sunborn (Gibraltar) Holdings Limited's annual report and audit report for the financial year ended 31 December 2017;
- Sunborn (Gibraltar) Resort Limited's articles of association;
- Sunborn (Gibraltar) Resort Limited's certificate of registration;
- Sunborn (Gibraltar) Resort Limited's annual report and audit report for the financial year ended 31 December 2017;
- Sunborn (Gibraltar) Resort Limited's annual report and audit report for the financial year ended 31 December 2016;
- Sunborn (Gibraltar) Resort Limited's unaudited quarterly statements for the period 1 January 2018 to 31 March 2018.
- Sunborn Marine Malaysia SDN BHD annual report and audit report for the financial year ended 31 December 2017;
- Sunborn Marine Malaysia SDN BHD annual report and audit report for the financial year ended 31 December 2016;
- Casino Sunborn (Gibraltar) Ltd annual report and audit report for the financial year ended 31 December 2017;
- Casino Sunborn (Gibraltar) Ltd annual report and audit report for the financial year ended 31 December 2016;
- OÜ Sunborn Marine annual report and audit report for the financial year ended 31 December 2017;
- OÜ Sunborn Marine annual report and audit report for the financial year ended 31 December 2016;
- this Prospectus;
- the Subordination Agreement; and
- the Guarantee and Adherence Agreement.

The following documents are also available in electronic form on the Issuer's website [sunborn.com/press](http://sunborn.com/press):

- the Issuer's annual report and audit report for the financial year ended 31 December 2017;
- the Issuer's annual report and audit report for the financial year ended 31 December 2016;
- the Issuer's unaudited quarterly statements for the period 1 January 2018 to 31 March 2018;
- Sunborn International Oy's annual report and audit report for the financial year ended 31 December 2017;
- Sunborn International Oy's annual report and audit report for the financial year ended 31 December 2016;
- Sunborn (Gibraltar) Holdings Limited's annual report and audit report for the financial year ended 31 December 2017;
- Sunborn (Gibraltar) Resort Limited's annual report and audit report for the financial year ended 31 December 2017;
- Sunborn (Gibraltar) Resort Limited's annual report and audit report for the financial year ended 31 December 2016;
- Sunborn (Gibraltar) Resort Limited's unaudited quarterly statements for the period 1 January 2018 to 31 March 2018; and
- this Prospectus.

**Listing costs**

The aggregate cost for the Bonds' admission to trading is estimated not to exceed EUR 23,500.

## TERMS AND CONDITIONS OF THE BONDS

### 1. Definitions and Construction

#### 1.1 Definitions

In these terms and conditions (the "**Terms and Conditions**"):

"**Account Operator**" means a bank or other party duly authorised to operate as an account operator pursuant to the Financial Instruments Accounts Act and through which a Bondholder has opened a Securities Account in respect of its Bonds.

"**Acceptable Bank**" means a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of A- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or A3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency.

"**Account Operator**" means a bank or other party duly authorised to operate as an account operator pursuant to the Financial Instruments Accounts Act and through which a Bondholder has opened a Securities Account in respect of its Bonds.

"**Accounting Principles**" means international financial reporting standards (IFRS) within the meaning of Regulation 1606/2002/EC (or as otherwise adopted or amended from time to time).

"**Additional Amount**" has the meaning set forth in Clause 7(e).

"**Adjusted Financial Indebtedness**" means the aggregated Financial Indebtedness of the Issuer Group less the amount of any Cash.

"**Adjusted Nominal Amount**" means the Total Nominal Amount less the Nominal Amount of all Bonds owned by a Group Company or an Affiliate, irrespective of whether such person is directly registered as owner of such Bonds.

"**Advance Purchase Agreement**" means:

- (a) an advance or deferred purchase agreement if the agreement is in respect of the supply of assets or services and payment in the normal course of business with credit periods which are normal for the relevant type of project contracts; or
- (b) any other trade credit incurred in the ordinary course of business.

"**Affiliate**" means (i) an entity controlling or under common control with the Issuer, other than a Group Company, and (ii) any other person or entity owning any Bonds (irrespective of whether such person is directly registered as owner of such Bonds) that has undertaken towards a Group Company or an entity referred to in item (i) to vote for such Bonds in accordance with the instructions given by a Group Company or an entity referred to in item (i). For the purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an entity, whether through ownership of voting securities, by agreement or otherwise.

**"Agency Agreement"** means the agency agreement entered into on or before the First Issue Date, between the Issuer and the Agent, or any replacement agency agreement entered into after the First Issue Date between the Issuer and an Agent.

**"Agent"** means Nordic Trustee & Agency AB (publ), Swedish reg. no. 556882-1879, or another party replacing it, as Agent, in accordance with these Terms and Conditions, in its capacity as agent for the Bondholders and as security agent holding the Transaction Security on behalf of the Secured Parties.

**"Approved Shipbroker"** means ALTUM Ingenieria y Servicios, S.L.

**"Asset Coverage Ratio"** means the ratio of Market Value to Adjusted Financial Indebtedness.

**"Bareboat Agreement"** means the bareboat charter lease agreement originally dated 1 June 2017 (as amended from time to time) and made between the Issuer (as owner) and the Operator (as charterer) for the bare charter of the Barge.

**"Barge"** means the non-propelled barge yacht hotel "Sunborn Gibraltar" with IMO no. 9475272, including all relevant equipment being legally part of the barge under the relevant law.

**"Bondholder"** means the person who is registered on a Securities Account as direct registered owner (*ägare*) or nominee (*förvaltare*) with respect to a Bond.

**"Bondholders' Meeting"** means a meeting among the Bondholders held in accordance with Clause 17 (*Bondholders' Meeting*).

**"Bond"** means a debt instrument (*skuldförbindelse*) for the Nominal Amount and of the type set forth in Chapter 1 Section 3 of the Financial Instruments Accounts Act and which are governed by and issued under these Terms and Conditions, including the Initial Bonds and any Subsequent Bonds.

**"Bonds Buy Back Account"** shall have the meaning given to such term in Clause 13.12.3 (*The Bonds Buy Back Account*).

**"Business Day"** means a day in Sweden other than a Sunday or other public holiday. Saturdays, Midsummer Eve (*midsommarafton*), Christmas Eve (*julafton*) and New Year's Eve (*nyårsafton*) shall for the purpose of this definition be deemed to be public holidays.

**"Business Day Convention"** means the first following day that is a Business Day unless that day falls in the next calendar month, in which case that date will be the first preceding day that is a Business Day.

**"Capital Expenditure"** means any expenditure or obligation in respect of expenditure (which, in accordance with the Accounting Principles, is treated as capital expenditure including the capital element of any expenditure or obligation incurred in connection with a finance lease).

**"Cash"** means, at any time, cash denominated in EUR in hand or at bank and (in the latter case) credited to an account in the name of a member of the Issuer Group with an Acceptable Bank and to which a member of the Issuer Group is alone (or together with another member of the Issuer Group) entitled and for so long as:

- (a) that cash is repayable within 30 days after the relevant date of calculation;
- (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of any member of the Issuer Group or of any other person whatsoever or on the satisfaction of any other condition;
- (c) there is no security over that cash except for any Permitted Security constituted by a netting or set-off arrangement entered into by members of the Issuer Group in the ordinary course of their banking arrangements; and
- (d) the cash is freely and (except as mentioned in paragraph (a) above) immediately available to be applied in redemption of the Bonds.

**"Casino Company"** means Casino Sunborn (Gibraltar) Limited, a limited liability company incorporated under the laws of Gibraltar with Reg. No. 112352.

**"Cashflow"** means, in respect of any Reference Period, EBITDA of the Issuer Group for that Reference Period after:

- (a) adding the amount of any decrease (and deducting the amount of any increase) in Working Capital for that Reference Period;
- (b) adding the amount of any cash receipts (and deducting the amount of any cash payments) during that Reference Period in respect of any exceptional, one off, non-recurring or extraordinary items not already taken account of in calculating EBITDA for any Reference Period;
- (c) adding the amount of any cash receipts during that Reference Period in respect of any tax rebates or credits and deducting the amount actually paid or due and payable in respect of taxes during that Reference Period by the Issuer;
- (d) adding any increase or minus any decrease of provisions (to the extent affecting EBITDA);
- (e) adding/deducting unusual/extraordinary write up/down of fixed assets and/or current assets (to the extent affecting EBITDA); and
- (f) deducting the amount of any Capital Expenditure actually made (or due to be made) in cash during that Reference Period by the Issuer except to the extent funded from a sale of assets,

and so that no amount shall be added (or deducted) more than once.

**"Change of Control Event"** means the occurrence of an event or series of events whereby:

- (a) the Parent ceases to be the direct or indirect owner of all the shares in each Obligor; or
- (b) Ritva Niemi or Pekka Niemi or any of their heirs cease directly or indirectly to:
  - (i) have the power to cast, or control the casting of, at least 50 per cent. of the votes attaching to the shares of the Parent; and

- (ii) hold at least 50 per cent. of the issued share capital of the Parent.

"**Compliance Certificate**" means a certificate, in form and substance satisfactory to the Agent, signed by the Issuer including:

- (a) calculations and figures in respect of the Maintenance Test, if provided in connection with a Financial Report; and
- (b) calculations and figures in respect of the Incurrence Test, if provided in connection with an Incurrence Test;

in each case certifying that so far as it is aware no Event of Default is continuing or, if it is aware that such event is continuing, specifying the event and steps, if any, being taken to remedy it.

"**CSD**" means the Issuer's central securities depository and registrar in respect of the Bonds, from time to time, initially Euroclear Sweden AB, Swedish Reg. No. 556112-8074, P.O. Box 191, 101 23 Stockholm, Sweden.

"**Cure Account**" shall have the meaning given to such term in Clause 12.1.2(a).

"**Cure Amount**" shall have the meaning given to such term in Clause 12.1.2(a).

"**Debt Instruments**" means bonds, notes or other debt securities (however defined), which are or are intended to be quoted, listed, traded or otherwise admitted to trading on a Regulated Market or an MTF.

"**Debt Service**" means, in respect of any Reference Period, the aggregate of:

- (a) Net Finance Charges for that Reference Period;
- (b) any redemptions under the Finance Documents falling due during that Reference Period;
- (c) any repurchases of Bonds during that Reference Period; and
- (d) the amount of the capital element of any payments in respect of that Reference Period payable under any financial leasing arrangement entered into by any member of the Issuer Group,

and so that no amount shall be included more than once.

"**EBITDA**" means, in respect of the Reference Period, the consolidated profit of the Issuer Group from ordinary activities according to the latest Financial Report(s):

- (a) before deducting any amount of tax on profits, gains or income paid or payable by any member of the Issuer Group;
- (b) before deducting any Net Finance Charges;

- (c) before taking into account any extraordinary items which are not in line with the ordinary course of business;
- (d) before taking into account any transaction costs and any transaction costs relating to any acquisition of any additional target company;
- (e) not including any accrued interest owing to any member of the Issuer Group;
- (f) before taking into account any unrealised gains or losses on any derivative instrument (other than any derivative instruments which is accounted for on a hedge account basis);
- (g) after adding back or deducting, as the case may be, the amount of any loss or gain against book value arising on a disposal of any asset (other than in the ordinary course of trading) and any loss or gain arising from an upward or downward revaluation of any asset;
- (h) after deducting the amount of any profit (or adding back the amount of any loss) of any member of the Issuer Group which is attributable to minority interests;
- (i) plus or minus the Issuer Group's share of the profits or losses of entities which are not part of the Group; and
- (j) after adding back any amount attributable to the amortisation, depreciation or depletion of assets of members of the Issuer Group.

"Euro" and "EUR" means the single currency of the participating member states in accordance with the legislation of the European Community relating to Economic and Monetary Union.

"EURIBOR" means:

- (a) the applicable percentage rate per annum displayed on Reuters screen EURIBOR01 (or through another system or website replacing it) as of or around 11.00 a.m. (Brussels time) on the Quotation Day for the offering of deposits in Euro and for a period comparable to the relevant Interest Period; or
- (b) if no screen rate is available for the relevant Interest Period, the arithmetic mean of the rates (rounded upwards to four decimal places), as supplied to the Issuing Agent at its request quoted by banks reasonably selected by the Issuing Agent, for deposits of EUR 10,000,000 for the relevant period; or
- (c) if no quotation is available pursuant to paragraph (b), the interest rate which according to the reasonable assessment of the Issuing Agent best reflects the interest rate for deposits in Euro offered for the relevant period; and

if any such rate is below zero, EURIBOR will be deemed to be zero.

"Event of Default" means an event or circumstance specified in any of the Clauses 14.1 (*Non-Payment*) to 14.9 (*Continuation of the Business*).



**"Excess Cashflow"** means, for any period for which it is being calculated, Cashflow for that period less (except to the extent already deducted in calculating Cashflow) Debt Service for that period.

**"Excess Proceeds Account"** shall have the meaning given to such term in Clause 13.12.4 (*The Excess Proceeds Account*).

**"Final Maturity Date"** means 5 September 2022.

**"Finance Charges"** means, for the Reference Period, the aggregate amount of the accrued interest, commission, fees, discounts, payment fees, premiums or charges and other finance payments in respect of Financial Indebtedness whether paid, payable or capitalised by any member of the Issuer Group according to the latest Financial Report(s) (calculated on a consolidated basis) other than Transaction Costs, capitalised interest in respect of any loan owing to any member of the Issuer Group or any Shareholder Loan provided to a member of the Issuer Group and taking no account of any unrealised gains or losses on any derivative instruments other than any derivative instrument which are accounted for on a hedge accounting basis.

**"Finance Documents"** means these Terms and Conditions, the Security Documents, the Guarantee and Adherence Agreement, the Subordination Agreement, the Agency Agreement and any other document designated by the Issuer and the Agent as a Finance Document.

**"Financial Indebtedness"** means:

- (a) moneys borrowed or raised (including under any bank financing or Market Loans);
- (b) the amount of any liability under any finance leases (a lease which in accordance with the Accounting Principles applicable on the First Issue Date is treated as an asset and a corresponding liability) and for the avoidance of doubt, any leases treated as operating leases under the Accounting Principles applicable to the Issuer as of the First Issue Date shall not, regardless of any subsequent changes or amendments of the accounting principles, be considered as finance or capital leases;
- (c) receivables sold or discounted (other than on a non-recourse basis, provided that the requirements for de-recognition under the Accounting Principles are met);
- (d) any amount raised pursuant to any note purchase facility or the issue of any bond or note or similar instrument;
- (e) any other transaction (including the obligation to pay deferred purchase price) having the commercial effect of a borrowing or otherwise being classified as borrowing under the Accounting Principles;
- (f) the marked-to-market value of derivative transactions entered into in connection with protection against or benefit from fluctuation in any rate or price (if any actual amount is due as a result of a termination or a close-out, such amount shall be used instead);
- (g) counter-indemnity obligations in respect of guarantees or other instruments issued by a bank or financial institution; and

(h) liabilities under guarantees or indemnities for any of the obligations referred to in paragraphs (a) to (g) above.

"**Financial Instruments Accounts Act**" means the Swedish Financial Instruments Accounts Act (lag (1998:1479) om värdepapperscentraler och kontoföring av finansiella instrument).

"**Financial Report**" means the Issuer's and the Group's annual audited consolidated financial statements or quarterly interim unaudited reports of the Issuer and the Group, which shall be prepared and made available in accordance with Clause 11.1(a)(i) and Clause 11.1(a)(ii).

"**First Call Date**" means 5 September 2021.

"**First Issue Date**" means 5 September 2017.

"**Floating Rate Margin**" means 5.00 per cent.

"**Force Majeure Event**" has the meaning set forth in Clause 25(a).

"**GBP**" means the lawful currency of the United Kingdom.

"**Group**" means Holdings and all wholly-owned Subsidiaries from time to time (excluding for the avoidance of doubt the Casino Company) (each a "**Group Company**").

"**Guarantee and Adherence Agreement**" means the guarantee and adherence agreement entered into by the Guarantors and the Agent, whereby the Guarantors, subject to applicable laws, irrevocably and unconditionally jointly and severally, as principal obligors guarantee to the Bondholders and the Agent, the punctual performance of all obligors' obligations under the Finance Documents.

"**Guarantors**" means (i) the Unrestricted Guarantor, (ii) Holdings, (iii) the Operator, and (iv) any other present and future wholly-owned Subsidiaries of the Issuer which are established or acquired, provided that granting of a guarantee is permitted under the laws applicable to such subsidiary.

"**Holdings**" means Sunborn (Gibraltar) Holdings Limited, a limited liability company incorporated under the laws of Gibraltar with Reg. No. 109486.

"**Incurrence Test**" means the test as set out in Clause 12.2 (*Incurrence Test*).

"**Initial Bonds**" means the Bonds issued on the First Issue Date.

"**Insolvent**" means, in respect of a relevant person, that it is deemed to be insolvent, or admits inability to pay its debts as they fall due, in each case within the meaning of Chapter 2, Sections 7-9 of the Swedish Bankruptcy Act (*konkurslagen (1987:672)*) (or its equivalent in any other jurisdiction), suspends making payments on any of its debts or by reason of actual financial difficulties commences negotiations with its creditors (other than the Bondholders) with a view to rescheduling any of its indebtedness (including company reorganisation under the Swedish Company Reorganisation Act (*lag (1996:764) om företagsrekonstruktion*) (or its equivalent in any other jurisdiction)) or is subject to involuntary winding-up, dissolution or liquidation.

"**Interest**" means the interest on the Bonds calculated in accordance with Clauses 8(a) to 8(c).

**"Interest Coverage Ratio"** means the ratio of EBITDA to Net Finance Charges.

**"Interest Payment Date"** means 5 March, 5 June, 5 September and 5 December of each year or, to the extent such day is not a Business Day, the Business Day following from an application of the Business Day Convention. The first Interest Payment Date for the Bonds shall be 5 December 2017 and the last Interest Payment Date shall be the relevant Redemption Date.

**"Interest Period"** means (i) in respect of the first Interest Period, the period from (but excluding) the First Issue Date to (and including) the first Interest Payment Date, and (ii) in respect of subsequent Interest Periods, the period from (but excluding) an Interest Payment Date to (and including) the next succeeding Interest Payment Date (or a shorter period if relevant).

**"Interest Rate"** means EURIBOR plus the Floating Rate Margin.

**"Issuer"** means Sunborn (Gibraltar) Limited, a limited liability company incorporated under the laws of Gibraltar with Reg. No. 109414.

**"Issuer Group"** means the Issuer and all its Subsidiaries from time to time and **"Issuer Group Company"** means any of them.

**"Issuing Agent"** means DNB Bank ASA, Sweden Branch, or another party replacing it, as Issuing Agent, in accordance with these Terms and Conditions.

**"Maintenance Test"** means the test as set out in Clause 12.1 (*Maintenance Test*).

**"Make Whole Amount"** means the sum of:

- (a) the Nominal Amount; and
- (b) the present value on the relevant record date of the remaining coupon payments (assuming that the interest rate for the period from the relevant redemption date to the Final Redemption Date will be equal to the interpolated EUR mid-swap rate for the remaining term from the redemption date until the Final Redemption Date plus the applicable Floating Rate Margin), less any accrued but unpaid interest, through and including the Final Redemption Date,

calculated by using a discount rate of 50 basis points over the comparable German government bond rate (i.e. comparable to the remaining duration of the Bonds until the mentioned date falling on the Final Redemption Date) and where "relevant record date" shall mean a date agreed upon between the Agent, the CSD and the Issuer in connection with such repayment.

**"Mandatory Prepayment Event"** means:

- (a) the Issuer ceases to be the sole owner of the Barge; and/or
- (b) any Restricted Obligor sells, transfers or otherwise disposes of all or substantially all of its assets (including shares or other securities in any person) or operations; and/or

- (c) any Material Document is terminated, cancelled or otherwise cease to be effective; and/or
- (d) the payments under the Bareboat Agreement are adversely amended or interrupted.

**"Market Loan"** means any loan or other indebtedness where an entity issues commercial paper, certificates, subordinated debentures, bonds or any other debt securities (including, for the avoidance of doubt, medium term note programmes and other market funding programmes), provided in each case that such instruments and securities are or can be subject to trade on Nasdaq Stockholm or any other regulated or unregulated recognised market place.

**"Market Value"** means the value of the Barge as determined by a valuations of the Barge provided annually by an Approved Shipbroker on a sale for prompt delivery for cash at arm's length on normal commercial terms as between a willing seller and a willing buyer, on an "as is, where is" basis, including any existing charter or other contract of employment.

**"Material Adverse Effect"** means a material adverse effect on:

- (a) the business, financial condition or operations of the Group taken as a whole;
- (b) the Issuer's ability to perform and comply with any payment obligations under the Finance Documents and/or the undertakings set out in Clause 11 (*Information to Bondholders*) or Clause 13 (*General Undertakings*); or
- (c) the validity or enforceability of the Finance Documents.

**"Material Documents"** means the Bareboat Agreement and the Mooring Licence Agreement.

**"Mooring Licence Agreement"** means the licence agreement originally entered into in January 2014 (as amended from time to time) between Ocean Village Investments Limited as the grantor and the Issuer as the grantee, whereby the grantor licenses a berth to the grantee for the purpose of berthing the Barge.

**"MTF"** means any multilateral trading facility (as defined in Directive 2004/39/EC on markets in financial instruments).

**"Net Finance Charges"** means, for the Reference Period, the Finance Charges according to the latest Financial Report(s), after deducting any interest payable for that Reference Period to any member of the Issuer Group and any interest income relating to cash or cash equivalent investment (and excluding any interest capitalised on Shareholder Loans provided to a member of the Issuer Group).

**"Net Proceeds"** means the proceeds from the issuance of the Initial Bonds after deduction has been made for the transaction costs payable by the Issuer to the Sole Bookrunner (if the Sole Bookrunner has requested that their respective fees and costs shall be deducted) and the Issuing and Paying Agent for the services provided in relation to the placement and issuance of the Initial Bonds.

**"Nominal Amount"** has the meaning set forth in Clause 2(c).

**"Obligors"** means the Issuer and each Guarantor.

"**Operating Account**" shall have the meaning given to such term in Clause 13.12.1 (*The Operating Account*).

"**Operator**" means Sunborn (Gibraltar) Resort Limited, a limited liability company incorporated under the laws of Gibraltar with Reg. No. 109487.

"**Parent**" means Sunborn Oy, a limited liability company incorporated under the laws of Finland with Reg. No. 0140466-4.

"**Permitted Debt**" means any Financial Indebtedness:

- (a) incurred under the Finance Documents (other than Subsequent Bonds);
- (b) Financial Indebtedness under the Refinancing Debt pending redemption thereof;
- (c) of the Group incurred pursuant to any financial leasing arrangements incurred in the ordinary course of the Group's business in a maximum amount of EUR 250,000;
- (d) related to any Subordinated Intra-Group Loans;
- (e) arising under any interest rate hedging transactions, but not any transaction for investment or speculative purposes;
- (f) related to any Shareholder Loans;
- (g) incurred under Advance Purchase Agreements;
- (h) pension liabilities of the Group, in an outstanding amount not exceeding EUR 500,000; and
- (i) incurred by an Obligor if such Financial Indebtedness meets the Incurrence Test tested pro forma including such incurrence, and
  - (i) is incurred as a result of a Subsequent Bond issue by the Issuer under the Terms and Conditions; or
  - (ii) ranks *pari passu* or is subordinated to the obligations of the Issuer under the Finance Documents, and has a final maturity date or a final redemption date or, when applicable, early redemption dates or instalment dates which occur after the Final Redemption Date; or
- (j) is not covered under (a)-(i) above and does not at any time exceed an aggregate maximum amount of EUR 250,000.

"**Permitted Security**" means any security:

- (a) provided under the Finance Documents;
- (b) arising by operation of law or in the ordinary course of business (including collateral or retention of title arrangements in connection with Advance Purchase Agreements but, for the avoidance of doubt, not including guarantees or security in respect of any monies borrowed or raised);

- (c) provided over any assets being subject to a financial lease, permitted pursuant to (c) of the definition of Permitted Debt above;
- (d) arising under any netting or set off arrangements under financial derivatives transactions or bank account arrangements, including group cash pool arrangements;
- (e) any guarantee or security provided by or over a Group Company (other than an Obligor) to secure any Permitted Debt;
- (f) provided for any guarantees issued by a Group Company in the ordinary course of business;
- (g) granted over the Barge in the maximum amount of EUR 60,000,000 (within priority EUR 71,250,001 to EUR 131,250,000) as security for the debt owed by the Issuer to the Second Priority Mortgage Holder under the GBP 41,996,910.89 loan agreement dated on or about the date of these Terms and Conditions, which shall be fully subordinated to the security over the Barge provided under the Security Documents in accordance with the Subordination Agreement; or
- (h) any other security not covered under (a)-(g) above securing an aggregate maximum amount of EUR 60,000.

**"Proceeds Account"** means a bank account of the Issuer held with a reputable bank, into which the Net Proceeds will be transferred and which has been pledged in favour of the Agent and the Bondholders (represented by the Agent) under the Proceeds Account Pledge Agreement.

**"Proceeds Account Pledge Agreement"** means the pledge agreement entered into between the Issuer and the Agent on or about the First Issue Date in respect of a first priority pledge over the Proceeds Account and all funds held on the Proceeds Account from time to time, granted in favour of the Agent and the Bondholders (represented by the Agent).

**"Quotation Day"** means, in relation to any period for which an interest rate is to be determined, two (2) Business Days before the first day of that period.

**"Record Date"** means the fifth (5) Business Day prior to (i) an Interest Payment Date, (ii) a Redemption Date, (iii) a date on which a payment to the Bondholders is to be made under Clause 15 (*Distribution of Proceeds*), (iv) the date of a Bondholders' Meeting, or (v) another relevant date, or in each case such other Business Day falling prior to a relevant date if generally applicable on the Swedish bond market.

**"Redemption Date"** means the date on which the relevant Bonds are to be redeemed or repurchased in accordance with Clause 9 (*Redemption and Repurchase of the Bonds*).

**"Reference Date"** means 31 March, 30 June, 30 September and 31 December in each year for as long as any Bonds are outstanding.

**"Reference Period"** means each period of 12 consecutive calendar months.

**"Refinancing Debt"** means the debt incurred pursuant to the facility agreement originally entered into on 26 March 2013, as amended and restated from time to time, between the Issuer as borrower and Credit Finance Company Ltd as lender.

**"Regulated Market"** means any regulated market (as defined in Directive 2004/39/EC on markets in financial instruments).

**"Reserve Account"** shall have the meaning given to such term in Clause 13.12.2 (*The Reserve Account*).

**"Restricted Obligors"** means the Issuer and each Guarantor other than the Unrestricted Guarantor.

**"Restricted Payment"** have the meaning given to such term in Clause 13.2(a).

**"Second Priority Mortgage Holder"** shall have the meaning ascribed to the term Unrestricted Guarantor.

**"Secured Obligations"** means all present and future obligations and liabilities of the Issuer to the Secured Parties under the Finance Documents and the Agency Agreement.

**"Secured Parties"** means the Bondholders and the Agent (including in its capacity as Agent under the Agency Agreement).

**"Securities Account"** means the account for dematerialised securities maintained by the CSD pursuant to the Financial Instruments Accounts Act in which (i) an owner of such security is directly registered or (ii) an owner's holding of securities is registered in the name of a nominee.

**"Security"** means a mortgage, charge, pledge, lien, security assignment or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

**"Security Documents"** means:

- (a) pledge agreements over all the shares issued by each of:
  - (i) Holdings;
  - (ii) the Issuer; and
  - (iii) the Operator;
- (b) a first priority mortgage granted by the Issuer over the Barge in an initial amount of GBP 48,500,000 and EUR 71,250,000 (within priority EUR 1 to EUR 71,250,000) to be reduced by GBP 48,500,000 upon cancellation of all issued mortgage certificates denominated in GBP;
- (c) a floating charge agreement over the assets, rights, intellectual property and revenues of each Restricted Obligor (including any relevant insurances related to the Barge, manuals and other operational documentation being the property of the Issuer); and
- (d) a pledge agreement over all funds standing to the credit of the Reserve Account, the Bonds Buy Back Account, the Excess Proceeds Account and the Operating Accounts.

**"Shareholder Loans"** means any shareholder loan from the Unrestricted Guarantor, where a Restricted Obligor is a debtor, if such shareholder loan:

- (a) according to its terms and the Subordination Agreement is subordinated to the obligations of the Issuer under the Finance Documents,
- (b) according to its terms has a final redemption date or, when applicable, early redemption dates or instalment dates which occur after the Final Redemption Date;
- (c) is not evidenced by a negotiable promissory note and no other bearer form document has been issued in respect of such Shareholder Loan; and
- (d) according to its terms yield only payment-in-kind interest unless cash interest payments are permitted under paragraph (b)(i) of Clause 13.2 (*Distributions*).

**"Sole Bookrunner"** means DNB Bank ASA, Sweden Branch.

**"Subordinated Intra-Group Loans"** means any loan incurred by a member of the Group from another member of the Group if such loan:

- (a) according to its terms and the Subordination Agreement, is subordinated to the obligations of the Issuer under the Finance Documents;
- (b) according to its terms has a final redemption date or, when applicable, early redemption dates or instalment dates which occur after the Final Redemption Date;
- (c) the creditor of such loan is or accedes to the Subordination Agreement as an Intra-Group Lender;
- (d) the debtor of such loan is or accedes to the Subordination Agreement as a Debtor;
- (e) such loan is not evidenced by a negotiable promissory note and no other bearer form document has been issued in respect of such Shareholder Loan; and
- (f) according to its terms yield payment-in-kind interest.

**"Subordination Agreement"** means the subordination agreement entered into on or about the First Issue Date, initially between, among others, the Issuer, the Agent, Holdings and the Unrestricted Guarantor.

**"Subsequent Bonds"** means any Bonds issued after the First Issue Date on one or more occasions.

**"Subsidiary"** means, in relation to any person, any Swedish or foreign legal entity (whether incorporated or not), in respect of which such person, directly or indirectly, (i) owns shares or ownership rights representing more than fifty (50) per cent. of the total number of votes held by the owners, (ii) otherwise controls more than fifty (50) per cent. of the total number of votes held by the owners, (iii) has the power to appoint and remove all, or the majority of, the members of the board of directors or other governing body, or (iv) exercises control as determined in accordance with the international financial reporting standards (IFRS) within the meaning of Regulation 1606/2002/EC (or as otherwise adopted or amended from time to time).



**"Total Loss Event"** means an actual or constructive total loss of the Barge.

**"Total Nominal Amount"** means the total aggregate Nominal Amount of the Bonds outstanding at the relevant time.

**"Transaction Costs"** means all fees, costs and expenses, stamp, registration and other taxes incurred by the Issuer or any other member of the Group in connection with (i) the Bond issue, and (ii) the listing of the Bonds.

**"Transaction Security"** means the Security provided for the Secured Obligations pursuant to the Security Documents.

**"Unrestricted Guarantor"** means Sunborn International Oy, a limited liability company incorporated under the laws of Finland with Reg. No. 2726816-2.

**"Working Capital"** means, on any date, the aggregate of the Issuer's non-interest-bearing current assets (excluding cash in hand, immediately available funds, and any other liquid and marketable instruments, securities and investments equivalent to cash) minus the Issuer's non-interest-bearing current liabilities.

**"Written Procedure"** means the written or electronic procedure for decision making among the Bondholders in accordance with Clause 18 (*Written Procedure*).

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in these Terms and Conditions to:
- (i) "assets" includes present and future properties, revenues and rights of every description;
  - (ii) any agreement or instrument is a reference to that agreement or instrument as supplemented, amended, novated, extended, restated or replaced from time to time;
  - (iii) a "regulation" includes any regulation, rule or official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
  - (iv) an Event of Default is continuing if it has not been remedied or waived;
  - (v) a provision of law is a reference to that provision as amended or re-enacted; and
  - (vi) a time of day is a reference to Stockholm time.
- (b) When ascertaining whether a limit or threshold specified in EUR has been attained or broken, an amount in another currency shall be counted on the basis of the rate of exchange for such currency against EUR for the previous Business Day, as published by the European Central Bank on its website ([ecb.europa.eu](http://ecb.europa.eu)). If no such rate is available, the most recently published rate shall be used instead.

- (c) A notice shall be deemed to be sent by way of press release if it is made available to the public within the European Economic Area promptly and in a non-discriminatory manner.
- (d) No delay or omission of the Agent or of any Bondholder to exercise any right or remedy under the Finance Documents shall impair or operate as a waiver of any such right or remedy.

## 2. Status of the Bonds

- (a) The Bonds are denominated in Euro and each Bond is constituted by these Terms and Conditions. The Issuer undertakes to make payments in relation to the Bonds and to comply with these Terms and Conditions.
- (b) By subscribing for Bonds, each initial Bondholder agrees that the Bonds shall benefit from and be subject to the Finance Documents and by acquiring Bonds, each subsequent Bondholder confirms such agreement.
- (c) The nominal amount of each Initial Bond is EUR 100,000 (the "**Nominal Amount**"). The total nominal amount of the Initial Bonds is EUR 58,000,000. All Initial Bonds are issued on a fully paid basis at an issue price of 99 per cent. of the Nominal Amount.
- (d) Provided that (i) no Event of Default is continuing or would result from such issue and (ii) the Incurrence Test is met, the Issuer may, at one or several occasions, issue Subsequent Bonds. Subsequent Bonds shall benefit from and be subject to the Finance Documents, and, for the avoidance of doubt, the ISIN, the interest rate, the nominal amount and the final maturity applicable to the Initial Bonds shall apply to Subsequent Bonds. The price of the Subsequent Bonds may be set at a discount or at a premium compared to the Nominal Amount. The maximum total nominal amount of the Bonds (the Initial Bonds and all Subsequent Bonds) may not exceed EUR 60,000,000 unless a consent from the Bondholders is obtained in accordance with Clause 16(e)(i). Each Subsequent Bond shall entitle its holder to Interest in accordance with Clause 8(a), and otherwise have the same rights as the Initial Bonds.
- (e) The Bonds constitute direct, general, unconditional unsubordinated and secured obligations of the Issuer and shall at all times rank *pari passu* and without any preference among them.
- (f) The Bonds are freely transferable but the Bondholders may be subject to purchase or transfer restrictions with regard to the Bonds, as applicable, under local laws to which a Bondholder may be subject. Each Bondholder must ensure compliance with such restrictions at its own cost and expense.
- (g) No action is being taken in any jurisdiction that would or is intended to permit a public offering of the Bonds or the possession, circulation or distribution of any document or other material relating to the Issuer or the Bonds in any jurisdiction other than Sweden, where action for that purpose is required. Each Bondholder must inform itself about, and observe, any applicable restrictions to the transfer of material relating to the Issuer or the Bonds.

### 3. Use of Proceeds

The Issuer shall use the proceeds from the issue of the Bonds, less the costs and expenses incurred by the Issuer in connection with the issue of the Bonds, for refinancing the Refinancing Debt and for general corporate purposes, including distributions up to a maximum aggregate amount of EUR 1,250,000.

### 4. Conditions Precedent

- (a) The payment of the Net Proceeds to the Proceeds Account is subject to the Agent having received documents and evidence of the Proceeds Account Pledge Agreement being duly executed and perfected.
- (b) The Issuer shall provide, or procure the provision of, to the Agent:
  - (i) constitutional documents and corporate resolutions of the Issuer and each company providing Transaction Security regarding the entering into of the Finance Documents;
  - (ii) the Finance Documents duly executed;
  - (iii) evidence that the security existing in favour of the Refinancing Debt will be released and discharged upon repayment of the Refinancing Debt;
  - (iv) evidence that the Transaction Security has been duly provided and either has been or will be perfected in accordance with the terms of the Finance Documents;
  - (v) evidence of the nomination of the Agent as a loss payee (re: insurance);
  - (vi) an agreed form compliance certificate; and
  - (vii) legal opinions on the capacity, validity and enforceability of the Finance Documents relating to any non-Swedish entity being part to any Finance Document, issued by reputable law firms.
- (c) The Agent is not responsible for reviewing the documents and evidence referred to in Clause 4(b) from a legal or commercial perspective on behalf of the Bondholders. The Agent may assume that the documentation and evidence delivered to it pursuant to Clause 4(b) is accurate, legally valid, enforceable, correct, true and complete and the Agent does not have to verify or assess the contents of any such documentation.
- (d) When the conditions precedent for disbursement set out in Clause 4(b) have been fulfilled to the satisfaction of the Agent (acting reasonably), the Agent shall instruct the bank (with which the Issuer holds the Proceeds Account) to transfer the funds from the Proceeds Account for the purpose of repayment of the Refinancing Debt and in accordance with Clause 3 (*Use of Proceeds*), and the Agent shall thereafter or in connection therewith release the pledge over the Proceeds Account.
- (e) If the conditions precedent for disbursement set out in Clause 4(b) have not been fulfilled to the satisfaction of the Agent (acting reasonably) or waived by the Agent within thirty (30) Business Days from the First Issue Date, the Issuer shall repurchase

all Bonds at a price equal to 101 per cent. of the Nominal Amount together with any accrued Interest. Any funds distributed by the Agent to the Bondholders in accordance with the Proceeds Account Pledge Agreement shall be deemed to be paid by the Issuer for the redemption under this Clause 4(e). The repurchase date shall fall no later than thirty (30) Business Days after the ending of the thirty (30) Business Days period referred to above.

## 5. Bonds in Book-Entry Form

- (a) The Bonds will be registered for the Bondholders on their respective Securities Accounts and no physical notes will be issued. Accordingly, the Bonds will be registered in accordance with the Financial Instruments Accounts Act. Registration requests relating to the Bonds shall be directed to an Account Operator.
- (b) Those who according to assignment, Security, the provisions of the Swedish Children and Parents Code (*föräldrabalken (1949:381)*), conditions of will or deed of gift or otherwise have acquired a right to receive payments in respect of a Bond shall register their entitlements to receive payment in accordance with the Financial Instruments Accounts Act.
- (c) The Issuer (and the Agent when permitted under the CSD's applicable regulations) shall be entitled to obtain information from the debt register (*skuldbok*) kept by the CSD in respect of the Bonds. At the request of the Agent, the Issuer shall promptly obtain such information and provide it to the Agent.
- (d) For the purpose of or in connection with any Bondholders' Meeting or any Written Procedure, the Issuing Agent shall be entitled to obtain information from the debt register kept by the CSD in respect of the Bonds.
- (e) The Issuer shall issue any necessary power of attorney to such persons employed by the Agent, as notified by the Agent, in order for such individuals to independently obtain information directly from the debt register kept by the CSD in respect of the Bonds. The Issuer may not revoke any such power of attorney given to the Agent unless directed by the Agent or unless consent thereto is given by the Bondholders.

## 6. Right to Act on Behalf of a Bondholder

- (a) If any person other than a Bondholder wishes to exercise any rights under the Finance Documents, it must obtain a power of attorney or other proof of authorisation from the Bondholder or a successive, coherent chain of powers of attorney or proofs of authorisation starting with the Bondholder and authorising such person.
- (b) A Bondholder may issue one or several powers of attorney to third parties to represent it in relation to some or all of the Bonds held by it. Any such representative may act independently under the Finance Documents in relation to the Bonds for which such representative is entitled to represent the Bondholder and may further delegate its right to represent the Bondholder by way of a further power of attorney.
- (c) The Agent shall only have to examine the face of a power of attorney or other proof of authorisation that has been provided to it pursuant to Clause 6(b) and may assume that it has been duly authorised, is valid, has not been revoked or superseded and that it is in full force and effect, unless otherwise is apparent from its face.

## 7. Payments in Respect of the Bonds

- (a) Any payment or repayment under the Finance Documents, or any amount due in respect of a repurchase of any Bonds, shall be made to such person who is registered as a Bondholder on the Record Date prior to an Interest Payment Date or other relevant due date, or to such other person who is registered with the CSD on such date as being entitled to receive the relevant payment, repayment or repurchase amount.
- (b) If a Bondholder has registered, through an Account Operator, that principal and interest shall be deposited in a certain bank account, such deposits will be effected by the CSD on the relevant payment date. In other cases, payments will be transferred by the CSD to the Bondholder at the address registered with the CSD on the Record Date. Should the CSD, due to a delay on behalf of the Issuer or some other obstacle, not be able to effect payments as aforesaid, the Issuer shall procure that such amounts are paid to the persons who are registered as Bondholders on the relevant Record Date as soon as possible after such obstacle has been removed.
- (c) If, due to any obstacle for the CSD, the Issuer cannot make a payment or repayment, such payment or repayment may be postponed until the obstacle has been removed. Interest shall accrue in accordance with Clause 8(d) during such postponement.
- (d) If payment or repayment is made in accordance with this Clause 7, the Issuer and the CSD shall be deemed to have fulfilled their obligation to pay, irrespective of whether such payment was made to a person not entitled to receive such amount.
- (e) All amounts payable by the Issuer to the Bondholders shall be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by or on behalf of Sweden or any authority thereof or therein unless such withholding or deduction is required by law or regulation or the interpretation or application of such laws or regulations. If such withholding or deduction is required, the Issuer will at the request of the relevant Bondholder pay such additional amounts (the "**Additional Amounts**") as are necessary in order that the net amount received by the relevant Bondholder, after such withholding or deduction, shall be equal to the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction.
- (f) Notwithstanding Clause 7(e), no Additional Amounts shall be payable on account of any taxes or duties which:
  - (i) are payable by reason of any relevant person having, or having had, some connection with Sweden other than the mere holding of the Bond(s);
  - (ii) would not be payable if a relevant person made a declaration of non-residence or similar claim for exemption to the relevant tax authority;
  - (iii) would not be payable if a relevant person could claim an exemption under a tax treaty;
  - (iv) are withheld or deducted pursuant to any European Union Directive or Regulation concerning the taxation of interest income or any provision of law implementing or complying with such Directive or Regulation; or

- (v) gives rise to a tax credit that may be effectively used by a relevant person.

## **8. Interest**

- (a) Each Initial Bond carries Interest at the Interest Rate from (but excluding) the First Issue Date up to (and including) the relevant Redemption Date. Any Subsequent Bond will carry Interest at the Interest Rate from (but excluding) the Interest Payment Date falling immediately prior to its issuance up to (and including) the relevant Redemption Date.
- (b) Interest accrues during an Interest Period. Payment of Interest in respect of the Bonds shall be made to the Bondholders on each Interest Payment Date for the preceding Interest Period.
- (c) Interest shall be calculated on the basis of the actual number of days in the Interest Period in respect of which payment is being made divided by 360 (actual/360-days basis).
- (d) If the Issuer fails to pay any amount payable by it on its due date, default interest shall accrue on the overdue amount from (but excluding) the due date up to (and including) the date of actual payment at a rate which is two (2) per cent. higher than the Interest Rate. Accrued default interest shall not be capitalised. No default interest shall accrue where the failure to pay was solely attributable to the Agent or the CSD, in which case the Interest Rate shall apply instead.

## **9. Redemption and Repurchase of the Bonds**

### **9.1 Redemption at maturity**

The Issuer shall redeem all, but not only some, of the outstanding Bonds in full on the Final Maturity Date with an amount per Bond equal to the Nominal Amount together with accrued but unpaid Interest. If the Final Maturity Date is not a Business Day, then the redemption shall occur on the first following Business Day.

### **9.2 Issuer's purchase of Bonds**

The Issuer may, subject to applicable law, at any time and at any price purchase Bonds on the market or in any other way. The Bonds held by the Issuer may at the Issuer's discretion be retained or sold by the Issuer.

### **9.3 Voluntary total redemption (call option)**

- (a) The Issuer may redeem all, but not some only, of the outstanding Bonds in full from the First Call Date to, but not including, the Final Redemption date at an amount equal to the Make Whole Amount, together with accrued but unpaid interest.
- (b) Redemption in accordance with Clause 9.3(a) shall be made by the Issuer giving not less than fifteen (15) Business Days' notice to the Bondholders and the Agent. Any such notice is irrevocable but may, at the Issuer's discretion, contain one or more conditions precedent. Upon expiry of such notice and the fulfillment of the conditions precedent (if any), the Issuer is bound to redeem the Bonds in full at the applicable amounts.

#### **9.4 Mandatory total redemption**

- (a) Upon the occurrence of a Mandatory Prepayment Event (excluding, for the avoidance of doubt, a Total Loss Event), the Issuer shall no later than thirty (30) days following the relevant Mandatory Prepayment Event (unless there is an Event of Default in which case it shall be promptly), redeem all the outstanding Bonds as follows:
  - (i) at price equal to 102.50 per cent. of the Nominal Amount together with accrued but unpaid interest on the redeemed amount, if the Mandatory Prepayment Event occurs on or after the First Issue Date to, but not including, the date falling 36 months after the First Issue Date;
  - (ii) at a price equal to 101.25 per cent. of the Nominal Amount together with accrued but unpaid interest on the redeemed amount, if the Mandatory Prepayment Event occurs on or after the date falling 36 months after the First Issue Date to, but not including, the date falling 48 months after the First Issue Date; and
  - (iii) at a price equal to 100.625 per cent. of the Nominal Amount together with accrued but unpaid interest on the redeemed amount, if the Mandatory Prepayment Event occurs on or after the date falling 48 months after the First Issue Date to, but not including, the Final Redemption Date.
- (b) Upon a Total Loss Event, the Issuer shall promptly once insurance proceeds are available, but in any event no later than 180 days following the Total Loss Event, redeem all outstanding Bonds at 100 per cent. of the Nominal Amount together with accrued but unpaid interest on the redeemed amount.
- (c) Total redemption in accordance with Clause 9.4(a) or 9.4(b) shall be made by the Issuer giving not less than fifteen (15) Business Days' notice to the Bondholders and the Agent. Any such notice is irrevocable and, upon expiry of such notice, the Issuer is bound to redeem the Bonds in whole on the immediately following Interest Payment Date at the applicable amounts. The applicable amount shall be an even amount in Euro and paid to the person who is registered as a Bondholder on the Record Date prior to the relevant Redemption Date.

#### **9.5 Early redemption due to tax event (call option)**

- (a) The Issuer may redeem the relevant Bonds on a date determined by the Issuer if the Issuer has or will become required to pay Additional Amounts in relation to any Bonds and this obligation cannot be avoided by reasonable measures available to the Issuer. The Bonds shall up to, but excluding, the Final Redemption Date be redeemed at an amount per Bond together with a premium on the due and payable amount at the Make Whole Amount (plus accrued and unpaid interest).
- (b) The Issuer shall give notice of any redemption pursuant to Clause 9.5(a) no later than twenty (20) Business Days after having received actual knowledge of any event specified therein (after which time period such right shall lapse).
- (c) A notice of redemption in accordance with Clause 9.5(a) is irrevocable and, on the date specified in such notice, the Issuer is bound to redeem the Bonds in full at the applicable amounts.

## 9.6 Mandatory repurchase due to a Change of Control Event (put option)

- (a) Upon a Change of Control Event occurring, each Bondholder shall have the right to request that all, or some only, of its Bonds be repurchased at a price per Bond equal to 101.00 per cent. of the Nominal Amount together with accrued but unpaid Interest, during a period of sixty (60) days following a notice from the Issuer of the Change of Control Event pursuant to Clause 11.1(b) (after which time period such right shall lapse). However, such period may not start earlier than upon the occurrence of the Change of Control Event.
- (b) The notice from the Issuer pursuant to Clause 11.1(b) shall specify the repurchase date and include instructions about the actions that a Bondholder needs to take if it wants Bonds held by it to be repurchased. If a Bondholder has so requested, and acted in accordance with the instructions in the notice from the Issuer, the Issuer, or a person designated by the Issuer, shall repurchase the relevant Bonds and the repurchase amount shall fall due on the repurchase date specified in the notice given by the Issuer pursuant to Clause 11.1(b). The repurchase date must fall no later than twenty (20) Business Days after the end of the period referred to in Clause 9.6(a).

## 9.7 General

- (a) The Issuer shall comply with the requirements of any applicable securities laws or regulations in connection with the repurchase of Bonds. To the extent that the provisions of such laws and regulations conflict with the provisions in this Clause 9, the Issuer shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Clause 9 by virtue of the conflict.
- (b) Any Bonds repurchased by the Issuer may at the Issuer's discretion be retained or sold, but not cancelled.

## 10. Transaction Security

- (a) As continuing Security for the due and punctual fulfilment of the Secured Obligations, the Issuer grants on the date of the relevant Security Document the Transaction Security to the Secured Parties as represented by the Agent.
- (b) The Agent shall hold the Transaction Security on behalf of the Secured Parties in accordance with the Security Documents. As a condition precedent to the disbursement from the Proceeds Account, the Issuer shall enter into the Security Documents. The Transaction Security shall be perfected in accordance with the Security Documents.
- (c) Unless and until the Agent has received instructions from the Bondholders in accordance with Clause 16 (*Decisions by Bondholders*), the Agent shall (without first having to obtain the Bondholders' consent) be entitled to enter into agreements with the Issuer or a third party or take any other actions, if it is, in the Agent's opinion, necessary for the purpose of maintaining, altering, releasing or enforcing the Transaction Security, creating further Security for the benefit of the Secured Parties or for the purpose of settling the Bondholders' or the Issuer's rights to the Transaction Security, in each case in accordance with the terms of the Finance Documents.



## 11. Information to Bondholders

### 11.1 Information from the Issuer

- (a) The Issuer will make the following information available to the Bondholders by way of press release and by publication on the website of the Group:
  - (i) as soon as the same become available, but in any event within four (4) months after the end of each financial year, the audited consolidated financial statements of the Issuer Group and the annual audited unconsolidated financial statements of the Issuer, for that financial year;
  - (ii) as soon as the same become available, but in any event within two (2) months after the end of each quarter of its financial year, the Issuer Group's quarterly interim unaudited consolidated financial statements and the quarterly interim unaudited unconsolidated reports of the Issuer, or the year-end report (as applicable) for such period;
  - (iii) as soon as practicable following an acquisition or disposal of Bonds by a Group Company, the aggregate Nominal Amount held by Group Companies, or the amount of Bonds cancelled by the Issuer; and
  - (iv) any other information required by the Swedish Securities Markets Act (*lag 2007:582 om värdepappersmarkanden*) and the rules and regulations of the Regulated Market on which the Bonds are listed.
- (b) When the Bonds have been listed, the reports referred to in Clause 11.1(a)(ii) shall be prepared in accordance with IFRS and be made available in accordance with the rules and regulations of Nasdaq Stockholm (as amended from time to time) and the Swedish Securities Market Act (*lag (2007:582) om värdepappersmarknaden*).
- (c) The Issuer shall promptly notify the Bondholders and the Agent upon becoming aware of the occurrence of a Change of Control Event. Such notice may be given in advance of the occurrence of a Change of Control Event, conditioned upon the occurrence of such Change of Control Event, if a definitive agreement is in place providing for a Change of Control Event.
- (d) When the financial statements and other information are made available to the Bondholders pursuant to Clause 11.1(a), the Issuer shall send copies of such financial statements and other information to the Agent.
- (e) The Issuer shall submit a duly executed Compliance Certificate to the Agent:
  - (i) in connection with the incurrance of Financial Indebtedness or the making of any Restricted Payment;
  - (ii) together with a Financial Report; and
  - (iii) at the Agent's request, within twenty (20) days from such request.
- (f) The Issuer shall promptly notify the Agent (with full particulars) upon becoming aware of the occurrence of any event or circumstance which constitutes:

- (i) an Event of Default, or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing) constitute an Event of Default;
- (ii) a Mandatory Prepayment Event; or
- (iii) a Total Loss Event, or any event that, by the passing of time or otherwise, is likely to result in a Total Loss Event,

and shall provide the Agent with such further information as it may reasonably request in writing following receipt of such notice. Should the Agent not receive such information, the Agent is entitled to assume that no such event or circumstance exists or can be expected to occur, provided that the Agent does not have actual knowledge of such event or circumstance.

- (g) The Issuer is only obliged to inform the Agent according to this Clause 11.1 if informing the Agent would not conflict with any applicable laws or, when the Bonds are listed, the Issuer's registration contract with the Regulated Market. If such a conflict would exist pursuant to the listing contract with the Regulated Market or otherwise, the Issuer shall however be obliged to either seek approval from the Regulated Market or undertake other reasonable measures, including entering into a non-disclosure agreement with the Agent, in order to be able to timely inform the Agent according to this Clause 11.1.

## **11.2 Information from the Operator**

The Operator shall make the following information available to the Bondholders and the Agent by way of publication on the Issuer's website:

- (a) as soon as the same become available, but in any event within four (4) months after the end of each financial year, the annual audited unconsolidated financial statements of the Operator, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from its board of directors, for that financial year; and
- (b) as soon as the same become available, but in any event within two (2) months after the end of each quarter of its financial year, the quarterly interim unaudited unconsolidated reports of the Operator, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from its board of directors, for such period.

## **11.3 Information from the Agent**

Subject to the restrictions of any applicable law or regulation, the Agent is entitled to disclose to the Bondholders any event or circumstance directly or indirectly relating to the Issuer or the Bonds. Notwithstanding the foregoing, the Agent may if it considers it to be beneficial to the interests of the Bondholders delay disclosure or refrain from disclosing certain information other than in respect of an Event of Default that has occurred and is continuing.

## 11.4 Publication of Finance Documents

- (a) The latest version of these Terms and Conditions (including any document amending these Terms and Conditions) shall be available on the websites of the Group and the Agent.
- (b) The latest versions of the Finance Documents shall be available to the Bondholders at the office of the Agent during normal business hours.

## 12. Financial Undertakings

### 12.1 Maintenance Test

#### 12.1.1 The Maintenance Test and testing date

- (a) The Maintenance Test is met if:
  - (i) the Asset Cover Ratio is not less than 140 per cent. at any time;
  - (ii) the minimum amount of Cash in the Issuer is not less than the interest payable under the Bonds for the next three (3) calendar months; and
  - (iii) the Interest Coverage Ratio exceeds 1.10 at all times.
- (b) The Maintenance Test shall be tested on each Reference Date with respect to the Reference Period ending on such Reference Date. The first test date shall be 31 March 2018.

#### 12.1.2 Equity Cure

- (a) If there is a breach of the Maintenance Test, no Event of Default will occur if, within ten Business Days of a delivery of a Compliance Certificate evidencing that breach, the Issuer has deposited an amount sufficient to ensure compliance with the Maintenance Test, as at the relevant test date (the "**Cure Amount**") on a bank account (the "**Cure Account**") pledged in favour of the bondholders and the Agent.
- (b) The Agent may at any time, upon the instruction by the bondholders, apply the deposited Cure Amount towards prepayment of the Bonds. Any such repayment shall be made with a premium on the due and payable amount at the Make Whole Amount (plus accrued and unpaid interest).
- (c) Upon a repayment of a Cure Amount or as long as any Cure Amount is deposited on the Cure Account, the calculation of the Adjusted Financial Indebtedness and/or Minimum Cash (as applicable) shall be adjusted so that the Adjusted Financial Indebtedness and/or the Minimum Cash (as applicable) for the Reference Period is reduced or increased (as applicable) with an amount equal to the Cure Amount.
- (d) Upon a repayment of a Cure Amount or as long as any Cure Amount is deposited on the Cure Account, the calculation of the Interest Coverage Ratio shall be adjusted so that the Net Finance Charges for the Reference Period is reduced with an amount equal to the Cure Amount, multiplied with the average interest rate paid by the Issuer under the Bonds after taken into account payments and receipt under the hedging arrangements during the previous twelve (12) month period. Any Equity Cure shall for

the calculation of Interest Coverage Ratio be counted in any calendar quarter shall be included in the Maintenance Test calculations until such time as that calendar quarter falls outside the Reference Period.

- (e) Any Equity Cure counted in any calendar quarter shall be included in the Maintenance Test calculations until such time as that calendar quarter falls outside the Reference Period.
- (f) Any Equity Cure must be made in cash and no more than two (2) Equity Cures are to be made over the life of the Bonds. Equity Cures may not be injected in respect of any consecutive 12 month-period.

## **12.2 Incurrence test**

- (a) The Incurrence Test is met if:
  - (i) the Asset Cover Ratio is not less than 150 per cent.;
  - (ii) the Interest Coverage Ratio exceeds 1.25; and
  - (iii) no Event of Default is continuing or would occur upon the incurrence.
- (b) The calculation of the ratio of Asset Cover Ratio shall be made as per a testing date determined by the Issuer, falling no more than one month prior to the incurrence of the new Financial Indebtedness or the distribution of the Restricted Payment. The Adjusted Financial Indebtedness shall be measured on the relevant testing date so determined, but include the new Financial Indebtedness provided it is an interest bearing obligation (however, any cash balance resulting from the incurrence of the new Financial Indebtedness shall not reduce the Adjusted Financial Indebtedness).
- (c) When the Interest Coverage Ratio is measured under the Incurrence Test, as applicable, the calculation of the Interest Coverage Ratio shall be made for the Reference Period ending on the last day of the period covered by the most recent financial statements.

## **13. General Undertakings**

### **13.1 General**

The Issuer undertakes to (and shall, where applicable, procure that each other Group Company will) comply with the undertakings set out in this Clause 13 for as long as any Bonds remain outstanding.

### **13.2 Distributions**

- (a) No Restricted Obligor shall, and shall procure that none of its wholly-owned Subsidiaries will,
  - (i) pay any dividend in respect of its shares (other than to the Issuer or any of its wholly-owned Subsidiaries:
  - (ii) repurchase or redeem any of its own shares;

- (iii) redeem or reduce its share capital or other restricted or unrestricted equity with repayment to shareholders;
- (iv) repay any Shareholder Loans or pay interest thereon;
- (v) make any prepayments or repayments under any long-term debt ranking junior or *pari passu* with the Bonds;
- (vi) grant any loans except to Group Companies; or
- (vii) make any other similar distribution or transfers of value to any Restricted Obligor's, or the Subsidiaries', direct and indirect shareholders or the Affiliates of such direct and indirect shareholders (other than to the Restricted Obligors),

(items (i)-(vii) above are together and individually referred to as a "**Restricted Payment**").

- (b) Notwithstanding paragraph (a), a Restricted Payment may be made by Holdings and/or the Issuer:
  - (i) to pay management fees and interest on Shareholder Loans up to an aggregate amount not exceeding EUR 750,000 in any financial year provided that the Incurrence Test is met (calculated on a *pro forma* basis including the relevant Restricted Payment); or
  - (ii) if:
    - (A) the Incurrence Test is met (calculated on a *pro forma* basis including the relevant Restricted Payment); and
    - (B) the aggregate amount of all Restricted Payments of the Issuer does not, in any financial year, exceed 30 per cent. of an amount equal to the Excess Cashflow of the Issuer Group (for the previous financial year) less (A) any management fees and interest paid on Shareholder Loans pursuant to paragraph (a) above during the current financial year, and less (B) an amount equivalent to 0.25 x the Net Finance Charges (for the previous year).

### 13.3 Nature of Business

Each Obligor shall procure that no substantial change is made to the general nature of the business carried on by it or any other member of the Group as of the First Issue Date if such substantial change would have a Material Adverse Effect.

### 13.4 Financial Indebtedness

No Restricted Obligor shall, and shall procure that no other Group Company will, incur any Financial Indebtedness, provided however that:

- (a) the Issuer and the Operator and/or any of their respective Subsidiaries have a right to incur Financial Indebtedness that constitute Permitted Debt; and
- (b) Holdings may incur Financial Indebtedness under the Shareholder Loans.

### **13.5 Ownership of Barge**

The Issuer shall remain a 100 per cent. direct ownership and control over the Barge, provided that it may carry out a sale subject to Clause 9.4 (*Mandatory total redemption*).

### **13.6 Dealings with Related Parties**

Each Restricted Obligor shall, and shall procure that its Subsidiaries will, conduct all dealings with the direct and indirect shareholders of the Group Companies (excluding other Group Companies) and/or any Affiliates of such direct and indirect shareholders at arm's length terms and for fair market value.

### **13.7 Negative Pledge**

- (a) No Restricted Obligor shall, and shall procure that no other Group Company will, provide, prolong or renew any security over any of its/their assets (present or future) to secure any loan or other indebtedness, provided however that the Group Companies have a right to (i) provide, prolong and renew any Permitted Security, and (ii) retain, but not prolong or renew, any existing security in relation to indebtedness held by an entity acquired by a Group Company.
- (b) The Unrestricted Guarantor shall not provide, prolong or renew any security over any shares in Holdings other than under the Finance Documents.

### **13.8 Mergers and Demergers**

- (a) No Obligor shall, and shall procure that none of its Subsidiaries, enter into a merger or demerger if such merger or demerger is likely to have a Material Adverse Effect, provided that the Unrestricted Guarantor may at all times merge with Sunborn London Oy if, following such merger, the Unrestricted Guarantor is the surviving entity.
- (b) No Obligor shall enter into a merger where it is not the surviving entity and no Obligor shall enter into a demerger.

### **13.9 Admission to trading**

- (a) The Issuer shall ensure that the Initial Bonds are listed at the corporate bond list on Nasdaq Stockholm not later than twelve (12) months after the First Issue Date and shall take all measures required to ensure that the Bonds, once listed on Nasdaq Stockholm, continue being listed on Nasdaq Stockholm for as long as any Bond is outstanding (however, taking into account the rules and regulations of Nasdaq Stockholm and the CSD (as amended from time to time) preventing trading in the Bonds in close connection to the redemption of the Bonds).
- (b) Upon any Subsequent Bond issue later than twelve (12) months from the First Issue Date, the Issuer shall promptly, but not later than ten (10) Business Days after the relevant issue date, procure that the volume of Bonds listed is increased accordingly.

### **13.10 Material Documents**

- (a) Each Restricted Obligor shall and shall procure that each of its Subsidiaries will:

- (i) perform and observe in all material respects with its undertakings under the Material Documents to which it is a party; and
  - (ii) take any and all action as may be reasonably necessary promptly to enforce its rights and to collect any and all sums due to it under such Material Documents.
- (b) No Restricted Obligor shall amend or waive any term of any Material Document if such amendment or waiver would have a Material Adverse Effect.
  - (c) No Restricted Obligor shall agree to or permit the assignment of any rights or the delegation of any obligations under the Material Documents.

### 13.11 Investments

No Restricted Obligor shall make any investments or capital expenditures other than solely related to the ownership of the Barge, and only where such investments or capital expenditures are in the ordinary course of business or otherwise fully pre-funded by equity or loans subordinated under the Subordination Agreement.

### 13.12 Accounts

#### 13.12.1 The Operating Accounts

- (a) Subject to paragraph (b) below, the Issuer shall establish and maintain an operating account and procure that the Operator establishes and maintains an operating account (the "**Operating Accounts**") and shall procure that all their respective net earnings and any payments relating to the Barge shall be paid to its respective Operating Account. The Issuer and the Operator may withdraw funds standing to the credit of its Operating Account until the occurrence of an Event of Default.
- (b) If, and for as long as, the aggregate amount standing to the credit of the Operating Accounts is at least GBP 1,200,000, the Issuer shall procure that all its excess net earnings and any payments relating to the Barge shall be paid to the Bonds Buy Back Account.

#### 13.12.2 The Reserve Account

- (a) The Issuer shall establish and maintain a reserve account (the "**Reserve Account**"), into which the Issuer shall ensure that from the First Issue Date, an amount equal to 1/3 of the next Interest Payment shall be paid on a monthly basis. The Reserve Account shall be pledged and blocked in favour of the Agent, save for interest payments to be paid in accordance with the terms of the Bonds.
- (b) Five (5) Business Days prior to each Interest Payment Date, the Issuer shall request the Agent to release an amount equal to the amount payable on that Interest Payment Date by instructing the bank to transfer such amount from the Reserve Account to the Issuer's account affiliated with the CSD. The Agent shall give the bank such instructions no later than two (2) Business Days prior to the relevant Interest Payment Date.

### 13.12.3 The Bonds Buy Back Account

The Issuer shall establish and maintain a bonds buy back account (the "**Bonds Buy Back Account**") pledged in favour of the Agent. With the Agent's written consent, the Issuer may withdraw funds standing to the credit of the Bonds Buy Back Account for the purpose of repurchasing Bonds in accordance with these Terms and Conditions.

### 13.12.4 The Excess Proceeds Account

- (a) The Issuer shall establish and maintain an excess proceeds account (the "**Excess Proceeds Account**") into which all the excess proceeds from the Net Proceeds shall be transferred after refinancing of the Refinancing Debt have been made.
- (b) The Issuer may withdraw funds standing to the credit of the Excess Proceeds Account until the occurrence of an Event of Default.

### 13.13 Flag Name and Registration

Each Obligor shall ensure that the Barge remains registered in the Finnish ship registry. No Obligor shall cause the flag, name or registry of the Barge to be changed, or register the Barge simultaneously in more than one registry, without the prior written consent of the Agent.

### 13.14 Inspection

Upon request of the Agent, the Obligors shall arrange for the Agent, and/or any persons appointed by the Agent, to undertake a technical inspection of the Barge without interference of the daily operation of the Barge and at the expense of the Issuer (however limited to one yearly inspection at the expense of the Issuer unless an Event of Default has occurred and is continuing).

### 13.15 Maintenance

Each Obligor shall procure:

- (a) that the Barge is kept in a good and safe condition and state of repair consistent with first class ownership and industry standards; and
- (b) compliance with all relevant environmental laws and regulations, as well as any other laws or regulations.

### 13.16 Modifications

No Obligor shall cause any substantial modifications, refurbishment and upgrade to the Barge or its dimensions, functions, machinery and equipment if such modification is likely to have a material adverse impact on the value of the Barge.

### 13.17 Insurance

- (a) Each Obligor shall procure that the Barge is adequately insured against such risks and in such amounts as per industry standards and otherwise as reasonably required by and placed or entered with a reputable insurer, reputable broker or P&I clubs of financial standing, including without limitation:



- (i) war risk;
  - (ii) Hull & Machinery and Hull Interest (and (i) and/or (ii) to include coverage for terrorism);
  - (iii) P&I insurance (including pollution) and (to the extent relevant) any other third party liability insurance as per industry standards;
  - (iv) business interruption insurance; and
  - (v) any additional insurance required under any law.
- (b) The amounts in respect of each of (i) and (ii) in paragraph (a) shall be equal to the higher of:
- (i) the full market value of the Barge; and
  - (ii) at least 120 per cent. of the Nominal Amount,
- and each of the deductible amount in respect of claims and the loss payable amount shall in each event not exceed fair market terms for any one occurrence or such higher amount as the Agent (acting on the instructions of the bondholders) otherwise agrees.
- (c) The Agent shall be named as an additional assured and as exclusive loss payee on the relevant insurances. In addition the Issuer shall reimburse any premium for Mortgagee Interest Insurance (Mil) up to 120 per cent. of the outstanding amount under the Finance Documents. Any Mortgagee Additional Perils Insurance shall be at the discretion of the Issuer.
- (d) The insurances and loss payee clause shall be in accordance with the Nordic Marine Insurance Plan of 2013, London market terms or other insurances regulations with no less favourable terms.
- (e) Not later than seven (7) calendar days prior to the expiry date of the relevant insurances, the Issuer shall deliver to the Agent a certificate from the insurance broker(s) through whom the insurances relevant to the Barge have been placed, evidencing that all insurances referred to above have been renewed and taken out in respect of the Barge with insurance values as set out above, that such insurances are in full force and effect and that the interests of the Agent (on behalf of the Bondholders) therein have been noted by the relevant insurers.
- (f) Each Obligor shall procure that the Barge is always employed in conformity with the terms of the insurance (including any expressed or implied warranties) and shall comply with any requirements as to extra premium or otherwise as the insurers may prescribe.
- (g) If a Total Loss Event occurs, the Issuer shall, to the extent and as soon as possible obtain and present to the Agent a written confirmation from the relevant insurers that the claim relating to the Total Loss Event has been accepted in full, and the insurance proceeds shall be paid to the Agent (on behalf of the Bondholders) and applied in accordance with Clause 9.4 (*Mandatory total redemption*).

## **14. Events of Default and Acceleration of the Bonds**

Each of the events or circumstances set out in this Clause 14 (other than Clause 14.10 (*Acceleration of the Bonds*)) is an Event of Default.

### **14.1 Non-Payment**

The Issuer fails to pay an amount on the date it is due in accordance with the Finance Documents unless its failure to pay is caused by administrative or technical error and payment is made within five (5) Business Days of the due date.

### **14.2 Maintenance Test**

The Issuer has failed to comply with the Maintenance Test, provided that an Equity Cure has not remedied such failure.

### **14.3 Other Obligations**

The Issuer does not comply with the Finance Documents, in any other way than as set out under Clause 14.1 (*Non-Payment*) and Clause 14.2 (*Maintenance Test*), provided that the Agent has requested the Issuer in writing to remedy such failure and the Issuer has not remedied the failure within twenty (20) Business Days from such request. However, if the failure or violation is not capable of being remedied, the Agent may declare the Bonds payable without such prior written request.

### **14.4 Cross-Acceleration**

Any Financial Indebtedness of a Group Company is not paid when due as extended by any originally applicable grace period, or is declared to be due and payable prior to its specified maturity as a result of an event of default (however described), provided that no Event of Default will occur under this Clause 14.4 (*Cross-Acceleration*) if the aggregate amount of Financial Indebtedness that has fallen due is less than EUR 100,000 and provided that it does not apply to any Financial Indebtedness owed to a Group Company.

### **14.5 Insolvency**

If:

- (a) any Group Company is unable or admits inability to pay its debts as they fall due or is declared to be unable to pay its debts under applicable law, suspends making payments on its debts generally or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors with a view to rescheduling its Financial Indebtedness; or
- (b) a moratorium is declared in respect of the Financial Indebtedness of any Group Company.

### **14.6 Insolvency Proceedings**

Any corporate action, legal proceedings or other procedures are taken (other than (i) proceedings or petitions which are being disputed in good faith and are discharged, stayed or

dismissed within sixty (60) days of commencement or, if earlier, the date on which it is advertised and (ii), in relation to Subsidiaries, solvent liquidations) in relation to:

- (a) the suspension of payments, winding-up, dissolution, administration or reorganisation (*företagsrekonstruktion*) (by way of voluntary agreement, scheme of arrangement or otherwise) of any Group Company; and
- (b) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Group Company or any of its assets or any analogous procedure or step is taken in any jurisdiction.

#### **14.7 Creditors' Process**

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Group Company having an aggregate value of an amount equal to or exceeding EUR 100,000 and is not discharged within sixty (60) days.

#### **14.8 Impossibility or Illegality**

It is or becomes impossible or unlawful for the Issuer to fulfil or perform any of the provisions of the Finance Documents or if the obligations under the Finance Documents are not, or cease to be, legal, valid, binding and enforceable.

#### **14.9 Continuation of the Business**

The Issuer or any other Group Company ceases to carry on its business if such discontinuation is likely to have a Material Adverse Effect.

#### **14.10 Acceleration of the Bonds**

- (a) Upon the occurrence of an Event of Default which is continuing, the Agent is entitled to, and shall following an instruction given pursuant to Clause 14.10(d), on behalf of the Bondholders (i) by notice to the Issuer, declare all, but not some only, of the outstanding Bonds due and payable together with any other amounts payable under the Finance Documents, immediately or at such later date as the Agent determines, and (ii) exercise any or all of its rights, remedies, powers and discretions under the Finance Documents.
- (b) The Agent may not accelerate the Bonds in accordance with Clause 14.10(a) by reference to a specific Event of Default if it is no longer continuing or if it has been decided, on a Bondholders Meeting or by way of a Written Procedure, to waive such Event of Default (temporarily or permanently).
- (c) The Agent shall notify the Bondholders of an Event of Default within five (5) Business Days of the date on which the Agent received actual knowledge of that an Event of Default has occurred and is continuing. The Agent shall, within twenty (20) Business Days of the date on which the Agent received actual knowledge of that an Event of Default has occurred and is continuing, decide if the Bonds shall be so accelerated. If the Agent decides not to accelerate the Bonds, the Agent shall promptly seek instructions from the Bondholders in accordance with Clause 16 (*Decisions by Bondholders*). The Agent shall always be entitled to take the time necessary to consider whether an occurred event constitutes an Event of Default.

- (d) If the Bondholders instruct the Agent to accelerate the Bonds, the Agent shall promptly declare the Bonds due and payable and take such actions as may, in the opinion of the Agent, be necessary or desirable to enforce the rights of the Bondholders under the Finance Documents, unless the relevant Event of Default is no longer continuing.
- (e) If the right to accelerate the Bonds is based upon a decision of a court of law or a government authority, it is not necessary that the decision has become enforceable under law or that the period of appeal has expired in order for cause of acceleration to be deemed to exist.
- (f) In the event of an acceleration of the Bonds in accordance with this Clause 14.10, the Issuer shall redeem all Bonds at an amount per Bond together with a premium on the due and payable amount at the Make Whole Amount (plus accrued and unpaid interest).

## 15. Distribution of Proceeds

- (a) All payments by the Issuer relating to the Bonds and the Finance Documents following an acceleration of the Bonds in accordance with Clause 14 (*Events of Default and Acceleration of the Bonds*) and any proceeds received from an enforcement of the Transaction Security shall be distributed in the following order of priority, in accordance with the instructions of the Agent:
  - (i) *first*, in or towards payment *pro rata* of (i) all unpaid fees, costs, expenses and indemnities payable by the Issuer to the Agent in accordance with the Agency Agreement (other than any indemnity given for liability against the Bondholders), (ii) other costs, expenses and indemnities relating to the acceleration of the Bonds, the enforcement of the Transaction Security or the protection of the Bondholders' rights as may have been incurred by the Agent, (iii) any costs incurred by the Agent for external experts that have not been reimbursed by the Issuer in accordance with Clause 20.2(g), and (iv) any costs and expenses incurred by the Agent in relation to a Bondholders' Meeting or a Written Procedure that have not been reimbursed by the Issuer in accordance with Clause 16(c);
  - (ii) *secondly*, in or towards payment *pro rata* of accrued but unpaid Interest under the Bonds (Interest due on an earlier Interest Payment Date to be paid before any Interest due on a later Interest Payment Date);
  - (iii) *thirdly*, in or towards payment *pro rata* of any unpaid principal under the Bonds;
  - (iv) *fourthly*, in or towards payment *pro rata* of any other costs or outstanding amounts unpaid under the Finance Documents; and
  - (v) *fifthly*, but only in respect of proceeds received from an enforcement of the mortgage over the Barge, to the Second Priority Mortgage Holder.

Any excess funds after the application of proceeds in accordance with paragraphs (i) to (v) above shall be paid to the Issuer.

- (b) If a Bondholder or another party has paid any fees, costs, expenses or indemnities referred to in Clause 15(a)(i), such Bondholder or other party shall be entitled to reimbursement by way of a corresponding distribution in accordance with Clause 15(a)(i).
- (c) Funds that the Agent receives (directly or indirectly) in connection with the acceleration of the Bonds or the enforcement of the Transaction Security constitute escrow funds (*redovisningsmedel*) and must be held on a separate interest-bearing account on behalf of the Bondholders and the other interested parties. The Agent shall arrange for payments of such funds in accordance with this Clause 15 as soon as reasonably practicable.
- (d) If the Issuer or the Agent shall make any payment under this Clause 15, the Issuer or the Agent, as applicable, shall notify the Bondholders of any such payment at least fifteen (15) Business Days before the payment is made. Such notice shall specify the Record Date, the payment date and the amount to be paid. Notwithstanding the foregoing, for any Interest due but unpaid the Record Date specified in Clause 7(a) shall apply.

## 16. Decisions by Bondholders

- (a) A request by the Agent for a decision by the Bondholders on a matter relating to the Finance Documents shall (at the option of the Agent) be dealt with at a Bondholders' Meeting or by way of a Written Procedure.
- (b) Any request from the Issuer or a Bondholder (or Bondholders) representing at least ten (10) per cent. of the Adjusted Nominal Amount (such request may only be validly made by a person who is a Bondholder on the Business Day immediately following the day on which the request is received by the Agent and shall, if made by several Bondholders, be made by them jointly) for a decision by the Bondholders on a matter relating to the Finance Documents shall be directed to the Agent and dealt with at a Bondholders' Meeting or by way a Written Procedure, as determined by the Agent. The person requesting the decision may suggest the form for decision making, but if it is in the Agent's opinion more appropriate that a matter is dealt with at a Bondholders' Meeting than by way of a Written Procedure, it shall be dealt with at a Bondholders' Meeting.
- (c) The Agent may refrain from convening a Bondholders' Meeting or instigating a Written Procedure if (i) the suggested decision must be approved by any person in addition to the Bondholders and such person has informed the Agent that an approval will not be given, or (ii) the suggested decision is not in accordance with applicable laws.
- (d) Only a person who is, or who has been provided with a power of attorney pursuant to Clause 6 (*Right to Act on Behalf of a Bondholder*) from a person who is, registered as a Bondholder:
  - (i) on the Record Date prior to the date of the Bondholders' Meeting, in respect of a Bondholders' Meeting, or
  - (ii) on the Business Day specified in the communication pursuant to Clause 18(c), in respect of a Written Procedure,

may exercise voting rights as a Bondholder at such Bondholders' Meeting or in such Written Procedure, provided that the relevant Bonds are included in the definition of Adjusted Nominal Amount.

- (e) The following matters shall require the consent of Bondholders representing at least sixty-six and two thirds (66 2/3) per cent. of the Adjusted Nominal Amount for which Bondholders are voting at a Bondholders' Meeting or for which Bondholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 18(c):
- (i) any amendments to paragraphs (a), (e), (f) or (g) of Clause 2 (Status of the Bonds);
  - (ii) any amendments to Clauses 9.3 (Voluntary total redemption (call option)) to and including 9.5 (Early redemption due to tax event (call option));
  - (iii) waive a breach of or amend an undertaking set out in Clause 13 (*General Undertakings*);
  - (iv) release the security provided under the Security Documents;
  - (v) reduce the principal amount, interest rate or interest amount which shall be paid by the Issuer;
  - (vi) amend any payment day for principal or interest amount or waive any breach of a payment undertaking, or
  - (vii) amend the provisions regarding the majority requirements under the Terms and Conditions.
- (f) Any matter not covered by Clause 16(e) shall require the consent of Bondholders representing more than 50 per cent. of the Adjusted Nominal Amount for which Bondholders are voting at a Bondholders' Meeting or for which Bondholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 18(c). This includes, but is not limited to, any amendment to, or waiver of, the terms of any Finance Document that does not require a higher majority (other than an amendment permitted pursuant to Clause 19(a)(i) or (19(a)(ii))), an acceleration of the Bonds or the enforcement of any Transaction Security.
- (g) Quorum at a Bondholders' Meeting or in respect of a Written Procedure only exists if a Bondholder (or Bondholders) representing at least fifty (50) per cent. of the Adjusted Nominal Amount in case of a matter pursuant to Clause 16(e), and otherwise twenty (20) per cent. of the Adjusted Nominal Amount:
- (i) if at a Bondholders' Meeting, attend the meeting in person or by telephone conference (or appear through duly authorised representatives); or
  - (ii) if in respect of a Written Procedure, reply to the request.
- (h) If a quorum does not exist at a Bondholders' Meeting or in respect of a Written Procedure, the Agent or the Issuer shall convene a second Bondholders' Meeting (in accordance with Clause 17(a)) or initiate a second Written Procedure (in accordance with Clause 18(a)), as the case may be, provided that the relevant proposal has not

been withdrawn by the person(s) who initiated the procedure for Bondholders' consent. The quorum requirement in Clause 16(g) shall not apply to such second Bondholders' Meeting or Written Procedure.

- (i) Any decision which extends or increases the obligations of the Issuer or the Agent, or limits, reduces or extinguishes the rights or benefits of the Issuer or the Agent, under the Finance Documents shall be subject to the Issuer's or the Agent's consent, as appropriate.
- (j) A Bondholder holding more than one Bond need not use all its votes or cast all the votes to which it is entitled in the same way and may in its discretion use or cast some of its votes only.
- (k) The Issuer may not, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Bondholder for or as inducement to any consent under these Terms and Conditions, unless such consideration is offered to all Bondholders that consent at the relevant Bondholders' Meeting or in a Written Procedure within the time period stipulated for the consideration to be payable or the time period for replies in the Written Procedure, as the case may be.
- (l) A matter decided at a duly convened and held Bondholders' Meeting or by way of Written Procedure is binding on all Bondholders, irrespective of them being present or represented at the Bondholders' Meeting or responding in the Written Procedure. The Bondholders that have not adopted or voted for a decision shall not be liable for any damages that this may cause other Bondholders.
- (m) All costs and expenses incurred by the Issuer or the Agent for the purpose of convening a Bondholders' Meeting or for the purpose of carrying out a Written Procedure, including reasonable fees to the Agent, shall be paid by the Issuer.
- (n) If a decision shall be taken by the Bondholders on a matter relating to the Finance Documents, the Issuer shall promptly at the request of the Agent provide the Agent with a certificate specifying the number of Bonds owned by Group Companies or (to the knowledge of the Issuer) Affiliates, irrespective of whether such person is directly registered as owner of such Bonds. The Agent shall not be responsible for the accuracy of such certificate or otherwise be responsible to determine whether a Bond is owned by a Group Company or an Affiliate.
- (o) Information about decisions taken at a Bondholders' Meeting or by way of a Written Procedure shall promptly be sent by notice to the Bondholders and published on the website of the Issuer and the Agent, provided that a failure to do so shall not invalidate any decision made or voting result achieved. The minutes from the relevant Bondholders' Meeting or Written Procedure shall at the request of a Bondholder be sent to it by the Issuer or the Agent, as applicable.

## **17. Bondholders' Meeting**

- (a) The Agent shall convene a Bondholders' Meeting by sending a notice thereof to each Bondholder no later than five (5) Business Days after receipt of a request from the Issuer or the Bondholder(s) (or such later date as may be necessary for technical or administrative reasons).

- (b) Should the Issuer want to replace the Agent, it may convene a Bondholders' Meeting in accordance with Clause 17(a) with a copy to the Agent. After a request from the Bondholders pursuant to Clause 20.4(c), the Issuer shall no later than five (5) Business Days after receipt of such request (or such later date as may be necessary for technical or administrative reasons) convene a Bondholders' Meeting in accordance with Clause 17(a).
- (c) The notice pursuant to Clause 17(a) shall include (i) time for the meeting, (ii) place for the meeting, (iii) agenda for the meeting (including each request for a decision by the Bondholders) and (iv) a form of power of attorney. Only matters that have been included in the notice may be resolved upon at the Bondholders' Meeting. Should prior notification by the Bondholders be required in order to attend the Bondholders' Meeting, such requirement shall be included in the notice.
- (d) The Bondholders' Meeting shall be held no earlier than fifteen (15) Business Days and no later than thirty (30) Business Days from the notice.
- (e) Without amending or varying these Terms and Conditions, the Agent may prescribe such further regulations regarding the convening and holding of a Bondholders' Meeting as the Agent may deem appropriate. Such regulations may include a possibility for Bondholders to vote without attending the meeting in person.

## **18. Written Procedure**

- (a) The Agent shall instigate a Written Procedure (which may be conducted electronically in a manner determined by the Agent) no later than five (5) Business Days after receipt of a request from the Issuer or the Bondholder(s) (or such later date as may be necessary for technical or administrative reasons) by sending a communication to each such person who is registered as a Bondholder on the Business Day prior to the date on which the communication is sent.
- (b) Should the Issuer want to replace the Agent, it may send a communication in accordance with Clause 18(a) to each Bondholder with a copy to the Agent.
- (c) A communication pursuant to Clause 18(a) shall include (i) each request for a decision by the Bondholders, (ii) a description of the reasons for each request, (iii) a specification of the Business Day on which a person must be registered as a Bondholder in order to be entitled to exercise voting rights, (iv) instructions and directions on where to receive a form for replying to the request (such form to include an option to vote yes or no for each request) as well as a form of power of attorney, and (v) the stipulated time period within which the Bondholder must reply to the request (such time period to last at least fifteen (15) Business Days from the communication pursuant to Clause 18(a)). If the voting shall be made electronically, instructions for such voting shall be included in the communication.
- (d) When the requisite majority consents of the total Adjusted Nominal Amount pursuant to Clauses 16(e) and 16(f) have been received in a Written Procedure, the relevant decision shall be deemed to be adopted pursuant to Clause 16(e) or 16(f), as the case may be, even if the time period for replies in the Written Procedure has not yet expired.



## 19. Amendments and Waivers

- (a) The Issuer and the Agent (acting on behalf of the Bondholders) may agree to amend the Finance Documents or waive any provision in a Finance Document, provided that:
  - (i) such amendment or waiver is not detrimental to the interest of the Bondholders, or is made solely for the purpose of rectifying obvious errors and mistakes;
  - (ii) such amendment or waiver is required by applicable law, a court ruling or a decision by a relevant authority; or
  - (iii) such amendment or waiver has been duly approved by the Bondholders in accordance with Clause 16 (*Decisions by Bondholders*).
- (b) The consent of the Bondholders is not necessary to approve the particular form of any amendment to the Finance Documents. It is sufficient if such consent approves the substance of the amendment.
- (c) The Agent shall promptly notify the Bondholders of any amendments or waivers made in accordance with Clause 19(a), setting out the date from which the amendment or waiver will be effective, and ensure that any amendments to the Finance Documents are published in the manner stipulated in Clause 11.4 (*Publication of Finance Documents*). The Issuer shall ensure that any amendments to the Finance Documents are duly registered with the CSD and each other relevant organisation or authority.
- (d) An amendment to the Finance Documents shall take effect on the date determined by the Bondholders Meeting, in the Written Procedure or by the Agent, as the case may be.

## 20. Appointment and Replacement of the Agent

### 20.1 Appointment of Agent

- (a) By subscribing for Bonds, each initial Bondholder appoints the Agent to act as its agent in all matters relating to the Bonds and the Finance Documents, and authorises the Agent to act on its behalf (without first having to obtain its consent, unless such consent is specifically required by these Terms and Conditions) in any legal or arbitration proceedings relating to the Bonds held by such Bondholder including any legal or arbitration proceeding relating to the perfection, preservation, protection or enforcement of the Transaction Security.
- (b) By acquiring Bonds, each subsequent Bondholder confirms the appointment and authorisation for the Agent to act on its behalf, as set forth in Clause 20.1(a).
- (c) Each Bondholder shall immediately upon request provide the Agent with any such documents, including a written power of attorney (in form and substance satisfactory to the Agent), that the Agent deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents. The Agent is under no obligation to represent a Bondholder which does not comply with such request.

- (d) The Issuer shall promptly upon request provide the Agent with any documents and other assistance (in form and substance satisfactory to the Agent), that the Agent, deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents.
- (e) The Agent is entitled to fees for its work and to be indemnified for costs, losses and liabilities on the terms set out in the Finance Documents and the Agency Agreement and the Agent's obligations as Agent under the Finance Documents are conditioned upon the due payment of such fees and indemnifications.
- (f) The Agent may act as agent or Agent for several issues of securities issued by or relating to the Issuer and other Group Companies notwithstanding potential conflicts of interest.

## **20.2 Duties of the Agent**

- (a) The Agent shall represent the Bondholders in accordance with the Finance Documents, including, inter alia, holding the Transaction Security pursuant to the Security Documents on behalf of the Bondholders and, where relevant, enforcing the Transaction Security on behalf of the Bondholders. The Agent is not responsible for the content, valid execution, legal validity or enforceability of the Finance Documents or the perfection of the Transaction Security.
- (b) When acting in accordance with the Finance Documents, the Agent is always acting with binding effect on behalf of the Bondholders. The Agent shall carry out its duties under the Finance Documents in a reasonable, proficient and professional manner, with reasonable care and skill.
- (c) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature and the Agent only acts in accordance with the Finance Documents and upon instructions from the Bondholders, unless otherwise set out in the Finance Documents. In particular, the Agent is not acting as an advisor (whether legal, financial or otherwise) to the Bondholders or any other Person.
- (d) The Agent is not obligated to assess or monitor the financial condition of the Issuer or compliance by the Issuer of the terms of the Finance Documents unless to the extent expressly set out in the Finance Documents, or to take any steps to ascertain whether any Event of Default (or any event that may lead to an Event of Default) has occurred. Until it has actual knowledge to the contrary, the Agent is entitled to assume that no Event of Default (or any event that may lead to an Event of Default) has occurred.
- (e) The Agent is entitled to delegate its duties to other professional parties, but the Agent shall remain liable for the actions of such parties under the Finance Documents.
- (f) The Agent shall treat all Bondholders equally and, when acting pursuant to the Finance Documents, act with regard only to the interests of the Bondholders and shall not be required to have regard to the interests or to act upon or comply with any direction or request of any other person, other than as explicitly stated in the Finance Documents.
- (g) The Agent is entitled to engage external experts when carrying out its duties under the Finance Documents. The Issuer shall on demand by the Agent pay all costs for

external experts engaged after the occurrence of an Event of Default, or for the purpose of investigating or considering (i) an event which the Agent reasonably believes is or may lead to an Event of Default or (ii) a matter relating to the Issuer or the Transaction Security which the Agent reasonably believes may be detrimental to the interests of the Bondholders under the Finance Documents. Any compensation for damages or other recoveries received by the Agent from external experts engaged by it for the purpose of carrying out its duties under the Finance Documents shall be distributed in accordance with Clause 15 (*Distribution of Proceeds*).

- (h) Notwithstanding any other provision of the Finance Documents to the contrary, the Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation.
- (i) If in the Agent's reasonable opinion the cost, loss or liability which it may incur (including reasonable fees to the Agent) in complying with instructions of the Bondholders, or taking any action at its own initiative, will not be covered by the Issuer, the Agent may refrain from acting in accordance with such instructions, or taking such action, until it has received such funding or indemnities (or adequate Security has been provided therefore) as it may reasonably require.
- (j) Unless it has actual knowledge to the contrary, the Agent may assume that all information provided by or on behalf of the Issuer (including, by its advisors) is correct, true and complete in all aspects.
- (k) The Agent shall give a notice to the Bondholders (i) before it ceases to perform its obligations under the Finance Documents by reason of the non-payment by the Issuer of any fee or indemnity due to the Agent under the Finance Documents or the Agency Agreement or (ii) if it refrains from acting for any reason described in Clause 20.2(i).

### **20.3 Limited liability for the Agent**

- (a) The Agent will not be liable to the Bondholders for damage or loss caused by any action taken or omitted by it under or in connection with any Finance Document, unless directly caused by its negligence or wilful misconduct. The Agent shall never be responsible for indirect loss.
- (b) The Agent shall not be considered to have acted negligently if it has acted in accordance with advice from or opinions of reputable external experts engaged by the Agent or if the Agent has acted with reasonable care in a situation when the Agent considers that it is detrimental to the interests of the Bondholders to delay the action in order to first obtain instructions from the Bondholders.
- (c) The Agent shall not be liable for any delay (or any related consequences) in crediting an account with an amount required pursuant to the Finance Documents to be paid by the Agent to the Bondholders, provided that the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
- (d) The Agent shall have no liability to the Bondholders for damage caused by the Agent acting in accordance with instructions of the Bondholders given in accordance with

Clause 16 (*Decisions by Bondholders*) or a demand by Bondholders given pursuant to Clause 14.10.

- (e) Any liability towards the Issuer which is incurred by the Agent in acting under, or in relation to, the Finance Documents shall not be subject to set-off against the obligations of the Issuer to the Bondholders under the Finance Documents.
- (f) The Agent is not liable for information provided to the Bondholders by or on behalf of the Issuer or by any other person.

#### **20.4 Replacement of the Agent**

- (a) Subject to Clause 20.4(f), the Agent may resign by giving notice to the Issuer and the Bondholders, in which case the Bondholders shall appoint a successor Agent at a Bondholders' Meeting convened by the retiring Agent or by way of Written Procedure initiated by the retiring Agent.
- (b) Subject to Clause 20.4(f), if the Agent is Insolvent, the Agent shall be deemed to resign as Agent and the Issuer shall within ten (10) Business Days appoint a successor Agent which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- (c) A Bondholder (or Bondholders) representing at least ten (10) per cent. of the Adjusted Nominal Amount may, by notice to the Issuer (such notice may only be validly given by a person who is a Bondholder on the Business Day immediately following the day on which the notice is received by the Issuer and shall, if given by several Bondholders, be given by them jointly), require that a Bondholders' Meeting is held for the purpose of dismissing the Agent and appointing a new Agent. The Issuer may, at a Bondholders' Meeting convened by it or by way of Written Procedure initiated by it, propose to the Bondholders that the Agent be dismissed and a new Agent appointed.
- (d) If the Bondholders have not appointed a successor Agent within ninety (90) days after (i) the earlier of the notice of resignation was given or the resignation otherwise took place or (ii) the Agent was dismissed through a decision by the Bondholders, the Issuer shall appoint a successor Agent which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- (e) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (f) The Agent's resignation or dismissal shall only take effect upon the appointment of a successor Agent and acceptance by such successor Agent of such appointment and the execution of all necessary documentation to effectively substitute the retiring Agent.
- (g) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of the Finance Documents and remain liable under the Finance Documents in respect of any action which it took or failed to take whilst acting as Agent. Its successor, the Issuer and each of the Bondholders shall have the same rights and

obligations amongst themselves under the Finance Documents as they would have had if such successor had been the original Agent.

- (h) In the event that there is a change of the Agent in accordance with this Clause 20.4, the Issuer shall execute such documents and take such actions as the new Agent may reasonably require for the purpose of vesting in such new Agent the rights, powers and obligation of the Agent and releasing the retiring Agent from its further obligations under the Finance Documents and the Agency Agreement. Unless the Issuer and the new Agent agrees otherwise, the new Agent shall be entitled to the same fees and the same indemnities as the retiring Agent.

## 21. Appointment and Replacement of the Issuing Agent

- (a) The Issuer appoints the Issuing Agent to manage certain specified tasks under these Terms and Conditions and in accordance with the legislation, rules and regulations applicable to and/or issued by the CSD and relating to the Bonds.
- (b) The Issuing Agent may retire from its assignment or be dismissed by the Issuer, provided that the Issuer has approved that a commercial bank or securities institution approved by the CSD accedes as new Issuing Agent at the same time as the old Issuing Agent retires or is dismissed. If the Issuing Agent is Insolvent, the Issuer shall immediately appoint a new Issuing Agent, which shall replace the old Issuing Agent as issuing agent in accordance with these Terms and Conditions.

## 22. No Direct Actions by Bondholders

- (a) A Bondholder may not take any steps whatsoever against the Issuer or with respect to the Transaction Security or the Guarantors to enforce or recover any amount due or owing to it pursuant to the Finance Documents, or to initiate, support or procure the winding-up, dissolution, liquidation, company reorganisation (*företagsrekonstruktion*) or bankruptcy (*konkurs*) (or its equivalent in any other jurisdiction) of the Issuer in relation to any of the liabilities of the Issuer under the Finance Documents.
- (b) Clause 22(a) shall not apply if the Agent has been instructed by the Bondholders in accordance with the Finance Documents to take certain actions but fails for any reason to take, or is unable to take (for any reason other than a failure by a Bondholder to provide documents in accordance with Clause 20.1(c)), such actions within a reasonable period of time and such failure or inability is continuing. However, if the failure to take certain actions is caused by the non-payment by the Issuer of any fee or indemnity due to the Agent under the Finance Documents or the Agency Agreement or by any reason described in Clause 20.2(i), such failure must continue for at least forty (40) Business Days after notice pursuant to Clause 20.2(k) before a Bondholder may take any action referred to in Clause 22(a).
- (c) The provisions of Clause 22(a) shall not in any way limit an individual Bondholder's right to claim and enforce payments which are due to it under Clause 9.6 (*Mandatory repurchase due to a Change of Control Event (put option)*) or other payments which are due by the Issuer to some but not all Bondholders.

## 23. Prescription

- (a) The right to receive repayment of the principal of the Bonds shall be prescribed and become void ten (10) years from the Redemption Date. The right to receive payment of interest (excluding any capitalised interest) shall be prescribed and become void three (3) years from the relevant due date for payment. The Issuer is entitled to any funds set aside for payments in respect of which the Bondholders' right to receive payment has been prescribed and has become void.
- (b) If a limitation period is duly interrupted in accordance with the Swedish Act on Limitations (*preskriptionslag (1981:130)*), a new limitation period of ten (10) years with respect to the right to receive repayment of the principal of the Bonds, and of three (3) years with respect to receive payment of interest (excluding capitalised interest) will commence, in both cases calculated from the date of interruption of the limitation period, as such date is determined pursuant to the provisions of the Swedish Act on Limitations.

## 24. Notices and Press Releases

### 24.1 Notices

- (a) Any notice or other communication to be made under or in connection with the Finance Documents:
  - (i) if to the Agent, shall be given at the address registered with the Swedish Companies Registration Office (*Bolagsverket*) on the Business Day prior to dispatch or, if sent by email by the Issuer, to such email address notified by the Agent to the Issuer from time to time, initially [sweden@nordicAgent.com](mailto:sweden@nordicAgent.com);
  - (ii) if to the Issuer, shall be given at the address of the Issuer's registered office as registered with Companies House, Gibraltar on the Business Day prior to dispatch; and
  - (iii) if to the Bondholders, shall be given at their addresses as registered with the CSD, on the Business Day prior to dispatch, and by either courier delivery or letter for all Bondholders. A Notice to the Bondholders shall also be published on the websites of the Group and the Agent. Any notice to the Bondholders shall also be published on the websites of the Issuer and the Agent.
- (b) Any notice or other communication made by one person to another under or in connection with the Finance Documents shall be sent by way of courier, personal delivery or letter and will only be effective, in case of courier or personal delivery, when it has been left at the address specified in Clause 24.1(a) or, in case of letter, three (3) Business Days after being deposited postage prepaid in an envelope addressed to the address specified in Clause 24.1(a).
- (c) Failure to send a notice or other communication to a Bondholder or any defect in it shall not affect its sufficiency with respect to other Bondholders.

## 24.2 Press releases

- (a) Any notice that the Issuer or the Agent shall send to the Bondholders pursuant to Clauses 9.3 (*Voluntary total redemption (call option)*), 9.4 (*Mandatory total redemption*), 9.5 (*Early redemption due to tax event (call option)*), 9.6 (*Mandatory repurchase due to a Change of Control Event (put option)*), 11.1(b), 14.10(c), 16(o), 17(a), 18(a) and 19(c) shall also be published by way of press release by the Issuer or the Agent, as applicable.
- (b) In addition to Clause 24.2(a), if any information relating to the Bonds or the Group contained in a notice the Agent may send to the Bondholders under these Terms and Conditions has not already been made public by way of a press release, the Agent shall before it sends such information to the Bondholders give the Issuer the opportunity to issue a press release containing such information. If the Issuer does not promptly issue a press release and the Agent considers it necessary to issue a press release containing such information before it can lawfully send a notice containing such information to the Bondholders, the Agent shall be entitled to issue such press release.

## 25. Force Majeure and Limitation of Liability

- (a) Neither the Agent nor the Issuing Agent shall be held responsible for any damage arising out of any legal enactment, or any measure taken by a public authority, or war, strike, lockout, boycott, blockade or any other similar circumstance (a "**Force Majeure Event**"). The reservation in respect of strikes, lockouts, boycotts and blockades applies even if the Agent or the Issuing Agent itself takes such measures, or is subject to such measures.
- (b) The Issuing Agent shall have no liability to the Bondholders if it has observed reasonable care. The Issuing Agent shall never be responsible for indirect damage with exception of gross negligence and wilful misconduct.
- (c) Should a Force Majeure Event arise which prevents the Agent or the Issuing Agent from taking any action required to comply with these Terms and Conditions, such action may be postponed until the obstacle has been removed.
- (d) The provisions in this Clause 25 apply unless they are inconsistent with the provisions of the Financial Instruments Accounts Act which provisions shall take precedence.

## 26. Governing Law and Jurisdiction

- (a) These Terms and Conditions, and any non-contractual obligations arising out of or in connection therewith, shall be governed by and construed in accordance with the laws of Sweden.
- (b) The Issuer submits to the non-exclusive jurisdiction of the City Court of Stockholm (*Stockholms tingsrätt*).

**ADDRESSES****ISSUER**

**Sunborn (Gibraltar) Limited**  
57/63 Line Wall Road, Gibraltar  
Tel.: +350 2001 6000

**ISSUING AGENT**

**DNB Bank ASA, Sweden Branch**  
SE-105 88 Stockholm  
Sweden  
Tel.: +46 8 473 41 00

**LEGAL COUNSEL**

**Roschier Advokatbyrå AB**  
Brunkebergstorg 2  
P.O. Box 7358  
SE-103 90 Stockholm  
Sweden  
Tel.: +46 8 553 190 00  
Fax: +46 8 553 190 01

**AGENT**

**Nordic Trustee & Agency AB (publ)**  
P.O. Box 7329  
SE-103 90 Stockholm  
Sweden  
Tel.: +46 8 783 7900

**AUDITOR**

**Adrian Stevenson FCCA, AMS Group**  
Suite 16, Water Gardens 5, Waterport Wharf  
P.O. Box 417  
Gibraltar  
Tel.: +350 200 78440  
Fax: +350 200 74716

**CENTRAL SECURITIES DEPOSITORY**

**Euroclear Sweden AB**  
Box 191  
SE-101 23 Stockholm  
Sweden  
Tel.: +46 8 402 90 00