

**DATED 19 OCTOBER 2022**

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**FACILITY AGREEMENT**

between

**Hart Capital Partners (UK) Limited**

and

**Eight Oaks Capital Limited**

# CONTENTS

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## CLAUSE

1. Definitions and interpretation.....	2
2. The facility.....	6
3. Purpose .....	6
4. Drawing .....	6
5. Interest.....	6
6. Costs .....	7
7. Repayment .....	7
8. Payments.....	7
9. Representations and warranties.....	7
10. Calculations and certificates .....	8
11. Amendments, waivers, consents and remedies.....	9
12. Assignment .....	9
13. Notices .....	9
14. Counterparts .....	10
15. Third party rights .....	10
16. Governing law and jurisdiction.....	11

## SCHEDULE

Schedule 1     Drawdown Request.....	12
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This agreement is dated 19 October 2022

## **Parties**

- (1) Hart Capital Partners (UK) Limited incorporated and registered in England and Wales with company number 13528148 whose registered office is at 47a Broadgates, Market Place, Henley-On-Thames, England, RG9 2AD (**Borrower**)
- (2) Eight Oaks Capital Limited in Malta with company registration number C 78738 whose registered office is at 55D, Birbal Street, Balzan, BZN 9017, Malta; (**Lender**)

## **Agreed terms**

### **1. Definitions and interpretation**

#### **1.1 Definitions**

The following definitions apply in this agreement.

**Availability Period:** the period from and including the date of this agreement to and including 14 November 2022.

**Borrowed Money:** any indebtedness the Borrower owes as a result of:

- a) borrowing or raising money (with or without security), including any premium and any capitalised interest on that money;
- b) any bond, note, loan stock, debenture, commercial paper or similar instrument;
- c) any acceptance credit facility or dematerialised equivalent, bill-discounting, note purchase or documentary credit facilities;
- d) monies raised by selling, assigning or discounting receivables or other financial assets on terms that recourse may be had to the Borrower in the event of non-payment of those receivables or financial assets when due;
- e) any deferred payments for assets or services acquired, other than trade credit that is given in the ordinary course of trading and that does not involve any deferred payment of any amount for more than 60 days;
- f) any rental or hire charges under finance leases (whether for land, machinery, equipment or otherwise);

- g) any counter-indemnity obligation in respect of any guarantees, bonds, indemnities, standby letters of credit or other instruments issued by a third party in connection with the Borrower's performance of contracts;
- h) any other transaction that has the commercial effect of borrowing (including any forward sale or purchase agreement and any liabilities that are not shown as borrowed money on the Borrower's balance sheet because they are contingent, conditional or otherwise);
- i) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and when calculating the value of any derivative transaction, only the mark to market value shall be taken into account); and
- j) any guarantee, counter-indemnity or other assurances against financial loss that the Borrower has given for any of the items referred to in paragraphs (a) to (i) of this definition incurred by any person.

When calculating Borrowed Money, no liability shall be taken into account more than once.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Company Admission Document:** the company admission document to be published by the Issuer, pursuant to which the Issuer shall issue €3,000,000 (or up to €5,000,000 if the Over-Allotment Option is exercised in full) 7.25% secured callable bonds 2025 – 2027.

**Drawdown Date:** the date on which the Loan is to be made.

**Drawdown Request:** a drawdown request, substantially in the form set out in Schedule Schedule 1.

**Euro and €** the lawful currency of the Eurozone, being the region comprised of Member States of the European Union that have and continue to adopt the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union and by the Treaty of Amsterdam.

**Facility:** the term loan facility made available under this agreement.

**Issuer:** Hart Capital Partners (Europe) p.l.c., a public limited liability company registered under the laws of Malta with company registration number C100619 and with its registered office at 55D, Birbal Street, Balzan, BZN 9017, Malta;

**Issuer Loan:** a Maltese law governed loan facility agreement to be entered into on or around the date of the Company Admission Document, pursuant to which the Issuer has agreed to grant a loan of an amount equal to the net proceeds of the issue of the 7.25% secured callable bonds pursuant to the Company Admission Document, and up to a maximum of €5 million, to the Borrower

**Loan:** the principal amount of the loan made or to be made by the Lender to the Borrower under this agreement or (as the context requires) the principal amount outstanding for the time being of that loan.

**Original Loan:** each loan (that meets the Loan Criteria (as defined in the Company Admission Document)) originally granted by an Original Lender (as defined in the Company Admission Document) to a third party borrower pursuant to a Facility Agreement (as defined in the Company Admission Document), and the term Original Loans shall be construed accordingly;

**Over-Allotment Option:** has the meaning given to that expression in the Company Admission Document.

**Security:** any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

**Total Facility Amount:** the maximum principal amount of the Facility referred to in clause 2.

## 1.2 Interpretation

In this agreement:

- (a) clause, Schedule and paragraph headings shall not affect the interpretation of this agreement;
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (e) references to a party shall include that party's successors, permitted assigns and permitted transferees and this agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;

- (h) a reference to a time of day is to London time;
- (i) a reference to **writing** or **written** includes fax and email;
- (j) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (k) reference to **this agreement** (or any provision of it) or to any other agreement or document referred to in this agreement is a reference to this agreement, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this agreement) from time to time;
- (l) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this agreement and a reference to a paragraph is to a paragraph of the relevant Schedule;
- (m) any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (n) a reference to a document **in agreed form** is to that document in the form agreed by the Lender and the Borrower and initialled by or on their behalf for identification;
- (o) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly);
- (p) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (q) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (r) a reference to a **certified copy** of a document means a copy certified to be a true, complete and up-to-date copy of the original document, in writing and signed by a director or the secretary of the party delivering the document;
- (s) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the discretion of the person making it;
- (t) a reference to a **disposal** of any asset, undertaking or business includes a sale, lease, licence, transfer, loan or other disposal by a person of that asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions); and
- (u) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

- 1.3 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

## **2. The facility**

The Lender grants to the Borrower an unsecured Euro on demand loan facility of a total principal amount not exceeding €1,000,000 on the terms, and subject to the conditions, of this agreement.

## **3. Purpose**

- 3.1 The Borrower shall use all money borrowed under this agreement for the purpose of purchasing an equivalent amount of Original Loans.
- 3.2 The Lender is not obliged to monitor or verify how any amount advanced under this agreement is used.

## **4. Drawing**

- 4.1 Subject to the provisions of this agreement, the Borrower may, on any Business Day during the Availability Period draw down the Loan in full in a single amount by sending to the Lender (no later than 11.00 a.m. (London time) on the Business Day before the proposed Drawdown Date) a duly completed Drawdown Request.
- 4.2 The Drawdown Request will be irrevocable and, subject to the provisions of this agreement, the Lender will draw down the Loan on the Drawdown Date specified in the relevant Drawdown Request.
- 4.3 The amount of the Loan shall not exceed the Total Facility Amount.
- 4.4 Any amount of the Facility not drawn down during the Availability Period will automatically be cancelled.

## **5. Interest**

The Loan shall not carry any interest.

## **6. Costs**

- 6.1 The Lender shall bear the amount of all costs and expenses of whatever nature (together with any value added tax on them) that the it and/or the Borrower incurs in connection with the negotiation and preparation, amendment, extension, alteration, preservation and enforcement of the Loan and/or this agreement.
- 6.2 The Borrower shall pay any stamp, documentary and other similar duties and taxes to which this agreement may be subject or give rise and shall indemnify the Lender against any losses or liabilities which it may incur as a result of any delay or omission by the Borrower in paying any such duties or taxes.

## **7. Repayment**

- 7.1 Subject to the provisions of this agreement, the Loan is repayable by the Borrower to the Lender at the discretion of the Borrower.
- 7.2 Notwithstanding any other provisions of this agreement, it is acknowledged that the Lender's right of repayment under this agreement shall be subordinated to the Issuer's right of repayment under the Issuer Loan.

## **8. Payments**

- 8.1 All payments made by the Borrower under this agreement shall be in Euro and in immediately available cleared funds to the Lender at its account number 40024990059 held with Bank of Valletta or such other account as the Lender may notify the Borrower.
- 8.2 If any payment becomes due on a day that is not a Business Day, the due date of such payment will be extended to the next succeeding Business Day, or if that Business Day falls in the following calendar month, such due date shall be the immediately preceding Business Day.

## **9. Representations and warranties**

The Borrower makes the representations and warranties set out in this clause 9 to the Lender on the date of this agreement.

- 9.1 The Borrower:



- (a) is a duly incorporated limited liability company validly existing under the law of its jurisdiction of incorporation; and
- (b) has the power to own its assets and carry on its business as it is being conducted.
- (c) The Borrower has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of this agreement and the transactions contemplated by them.
- (d) No limit on its powers will be exceeded as a result of the borrowing or grant of security contemplated by the Finance Documents.

9.2 The entry into and performance by it of, and the transactions contemplated by, this agreement do not and will not contravene or conflict with:

- (a) the Borrower's constitutional documents;
- (b) any agreement or instrument binding on the Borrower or its assets; or
- (c) any law or regulation or judicial or official order, applicable to the Borrower.

9.3 The Borrower has obtained all required authorisations to enable it to enter into, exercise its rights and comply with its obligations in this agreement.

9.4 The Borrower's obligations under this agreement are legal, valid, binding and enforceable in accordance with its terms.

9.5 No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination thereof, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on it or to which any of its assets is subject which has or is reasonably likely to have a material adverse effect on its business, assets or condition or ability to perform its obligations under this agreement.

9.6 The Borrower has disclosed to the Lender before the date of this agreement all information relating to it and the transaction that is material to be known by a lender (in the context of a loan for a similar amount and on terms similar to the Facility) and the information is accurate and complete in all material respects.

## **10. Calculations and certificates**

10.1 Any interest under this agreement shall accrue on a day-to-day basis, calculated according to the number of actual days elapsed and a year of 365 days.

- 10.2 If the Lender issues any certificate, determination or notification of a rate or any amount payable under this agreement, it shall be conclusive evidence (in the absence of manifest error) of the matter to which it relates and shall contain reasonable details of the basis of the determination.

## **11. Amendments, waivers, consents and remedies**

- 11.1 No amendment of this agreement shall be effective unless it is in writing and signed by, or on behalf of, each party to it (or its authorised representative).
- 11.2 A waiver of any right or remedy under this agreement or by law, or any consent given under this agreement, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- 11.3 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this agreement. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this agreement by the Lender shall be effective unless it is in writing.
- 11.4 The rights and remedies provided under this agreement are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

## **12. Assignment**

Neither party may assign any of its rights or transfer any of its rights and obligations under this agreement without the written consent of the other.

## **13. Notices**

- 13.1 Any notice or other communication given to a party under or in connection with, this agreement shall be:
- (a) in writing;

- (b) delivered by hand by pre-paid first-class post or other next working day delivery service; and
- (c) sent to:
  - (i) the Borrower at:  
Its registered office address  
Attention: Director
  - (ii) the Lender at:  
Its registered office address  
Attention: Director

or to any other address as is notified in writing by one party to the other from time to time.

- 13.2 Any notice or other communication given by either party shall be deemed to have been received:
- (a) if delivered by hand, at the time it is left at the relevant address; and
  - (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting.

A notice or other communication given as described in clause 13.2(a) or clause 13.2(b) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

#### **14. Counterparts**

- 14.1 This agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute one agreement.
- 14.2 No counterpart shall be effective until each party has executed at least one counterpart.

#### **15. Third party rights**

- 15.1 Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

- 15.2 The rights of the parties to rescind or agree any amendment or waiver under this agreement are not subject to the consent of any other person.

**16. Governing law and jurisdiction**

- 16.1 This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 16.2 Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) that arises out of or in connection with this agreement or its subject matter or formation. Nothing in this clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

This agreement has been entered into on the date stated at the beginning of it.

Signed by a director for and  
on behalf of Hart Capital  
Partners (UK) Limited



.....

Christon Burrows

Director

Signed by a director for and  
on behalf of Eight Oaks  
Capital Limited



.....

Christon Burrows

Director

## Schedule 1 Drawdown Request

To: The Lender

Date: [DATE]

### **€1,000,000 Facility Agreement 19 October 2022 between Hart Capital Partners (UK) Limited and Eight Oaks Capital Limited (Facility Agreement)**

We refer to the Facility Agreement. This is a Drawdown Request. Words and expressions defined in the Facility Agreement have the same meaning in this Drawdown Request.

We give you notice that we wish to draw down the [following] Loan on [DATE]:

Amount: [AMOUNT]

Drawdown Date: [DATE]

The Loan is to be made available by credit to bank account held with Citibank N.A. (London Branch), having the following details:

- Account Name: Hart Capital Partners (UK) Limited
- Account Number: 78334641
- IBAN: GB84CITI18500878334641
- SWIFT: CITIGB2LXXX
- Sort Code: 185008
- Name of Branch: CITIBANK N.A., LONDON
- Account Bank: CITIBANK N.A., LONDON, CANARY WHARF E14, 25 CANADA SQUARECITIBANK CENTRE, LONDON.

We confirm that, on today's date and the proposed Drawdown Date, the representations and warranties are true and correct in all material respects and will be true and correct in all material respects immediately after the proposed Drawing.

This Drawdown Request is irrevocable.

.....

For and on behalf of

Hart Capital Partners (UK) Limited