

ACQUISITION BY CD&R FIREFLY BIDCO LIMITED OF LSF9 ROBIN TOPCO LIMITED

Variation Order made by the Competition and Markets Authority pursuant to section 72(4)(b) of the Enterprise Act 2002 (the Act)

Whereas:

- (a) the Competition and Markets Authority (CMA) has made an initial enforcement order pursuant to section 72(2) of the Act in relation to the acquisition by CD&R Firefly Bidco Limited of LSF9 Robin Topco Limited (**LSF9 Robin**) (the **Initial Enforcement Order**);
- (b) the CMA is continuing to consider whether to make a reference under section 22 or 33 of the Act;
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under section 22 or 33 of the Act, as the case may be, which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference;
- (d) the CMA considers that a separate compliance statement should be required from MRH (GB) Limited, a subsidiary of LSF9 Robin;

Now for the purposes of varying the Initial Enforcement Order the CMA makes the following order pursuant to section 72(4)(b) of the Act, addressed to CD&R Firefly Holdco Limited, Clayton Dubilier & Rice, LLC and CD&R Associates IX, L.P. (together, **CD&R**) and CD&R Firefly Bidco Limited (**CD&R Firefly Bidco**) and MRH (GB) Limited (**Variation Order**):

With effect from the date of this Variation Order the Initial Enforcement Order shall have effect in the form set out in Annex A to this order.

Signature:

Emma Budge

Assistant Director, Mergers, 24 July 2018

ANNEX A

ACQUISITION BY CD&R FIREFLY BIDCO LIMITED OF LSF9 ROBIN TOPCO LIMITED

Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72(2) of the Enterprise Act 2002 (the Act)

Whereas:

- (a) the Competition and Markets Authority (CMA) has reasonable grounds for suspecting that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in CD&R Firefly Bidco Limited and LSF9 Robin Topco Limited (**LSF9 Robin**) ceasing to be distinct (the **Merger**);
- (b) the CMA is considering whether to make a reference under section 22 or 33 of the Enterprise Act 2002 (the **Act**);
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under section 22 or 33 of the Act, as the case may be, which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference; and
- (d) the circumstances set out in section 72(6) of the Act do not apply and the reference has not been finally determined in accordance with section 79(1) of the Act.

Now for the purposes of preventing pre-emptive action in accordance with section 72(2) of the Act the CMA makes the following order addressed to CD&R Firefly Holdco Limited, Clayton Dubilier & Rice, LLC and CD&R Associates IX, L.P. (together, **CD&R**) and CD&R Firefly Bidco Limited (**CD&R Firefly Bidco**) (**Order**).

Commencement, application and scope

1. This Order commences on the commencement date: being the date of completion of the Merger.
2. This Order applies to CD&R and CD&R Firefly Bidco.

3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige CD&R or CD&R Firefly Bidco to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.
4. This Order does not prohibit the completion of the Merger provided that CD&R and CD&R Firefly Bidco observe the restrictions set out below.

Management of the CD&R and LSF9 Robin businesses until determination of proceedings

5. Except with the prior written consent of the CMA, CD&R and CD&R Firefly Bidco shall not, during the specified period, take any action which might prejudice a reference of the transaction under sections 22 or 33 of the Act, as the case may be, or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on such a reference, including any action which might:
 - (a) lead to the integration of the LSF9 Robin business with the CD&R business;
 - (b) transfer the ownership or control of the relevant CD&R business or the LSF9 Robin business or any of their subsidiaries; or
 - (c) otherwise impair the ability of the LSF9 Robin business or the CD&R business to compete independently in any of the markets affected by the transaction.
6. Further and without prejudice to the generality of paragraph 5 and subject to paragraphs 3 and 4, CD&R and CD&R Firefly Bidco shall at all times during the specified period procure that, except with the prior written consent of the CMA:
 - (a) the LSF9 Robin business is carried on separately from the CD&R business and the LSF9 Robin business's separate sales or brand identity is maintained;
 - (b) the LSF9 Robin business and the relevant CD&R business are maintained as a going concern and sufficient resources are made available for the development of the LSF9 Robin business and the relevant CD&R business, on the basis of their respective pre-merger business plans;

- (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within, the LSF9 Robin business or the relevant CD&R business;
- (d) the nature, description, range and quality of goods and/or services supplied in the UK by the LSF9 Robin business and the relevant CD&R business are maintained and preserved;
- (e) except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the LSF9 Robin business and the relevant CD&R business are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the LSF9 Robin business or the relevant CD&R business are disposed of; and
 - (iii) no interest in the assets of the LSF9 Robin business or the relevant CD&R business is created or disposed of;
- (f) there is no integration of the information technology of the LSF9 Robin or CD&R businesses, and the software and hardware platforms of the LSF9 Robin business shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the two businesses shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the LSF9 Robin business will be carried out by the LSF9 Robin business alone and for the avoidance of doubt the CD&R business will not negotiate on behalf of the LSF9 Robin business (and vice versa) or enter into any joint agreements with the LSF9 Robin business (and vice versa);
- (h) all existing contracts of the LSF9 Robin business and the relevant CD&R business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the LSF9 Robin business or relevant CD&R business;
- (j) no key staff are transferred between the LSF9 Robin business and the CD&R business;

- (k) all reasonable steps are taken to encourage all key staff to remain with the LSF9 Robin business and the relevant CD&R business; and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses shall pass, directly or indirectly, from the LSF9 Robin business (or any of its employees, directors, agents or affiliates) to the CD&R business (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (including, for example, where required for compliance with external regulatory and/or accounting obligations or for due diligence, integration planning or the completion of any merger control proceedings relating to the transaction) and on the basis that, should the transaction be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

Compliance

- 7. CD&R and CD&R Firefly Bidco shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
- 8. CD&R, CD&R Firefly Bidco and MRH (GB) Limited shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by CD&R, CD&R Firefly Bidco, MRH (GB) Limited and their subsidiaries with this Order. In particular, two weeks after the commencement date and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officer of each of CD&R, CD&R Firefly Bidco, and MRH (GB) Limited, or other persons of each of CD&R, CD&R Firefly Bidco and MRH (GB) Limited as agreed with the CMA shall, on behalf of each of CD&R, CD&R Firefly Bidco and MRH (GB) Limited, provide a statement to the CMA in the form set out in the Annex to this Order confirming compliance with this Order.
- 9. At all times, CD&R and CD&R Firefly Bidco shall, or shall procure that LSF9 Robin shall, actively keep the CMA informed of any material developments relating to the LSF9 Robin business or the relevant CD&R business, which includes but is not limited to:
 - (a) details of key staff who leave or join the LSF9 Robin business or the relevant CD&R business;

- (b) any interruption of the LSF9 Robin or relevant CD&R business (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
 - (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the LSF9 Robin or relevant CD&R business including any substantial changes in customers' demand; and
 - (d) substantial changes in the LSF9 Robin or relevant CD&R business's contractual arrangements or relationships with key suppliers.
10. If CD&R or CD&R Firefly Bidco has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that CD&R and/or CD&R Firefly Bidco may be directed to appoint under paragraph 11.
 11. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke any directions so given.
 12. CD&R and CD&R Firefly Bidco shall comply in so far as they are able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.

Interpretation

13. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.
14. For the purposes of this Order:

'the Act' means the Enterprise Act 2002;

'an affiliate' of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

'business' has the meaning given by section 129(1) and (3) of the Act;

'CD&R' means CD&R Firefly Holdco Limited registered Number 09548683, Clayton Dubilier & Rice, LLC and CD&R Associates IX, L.P.;

'the CD&R business' means the business of Clayton Dubilier & Rice, LLC, CD&R Associates IX, L.P. and CD&R Firefly Holdco Limited and its subsidiaries carried on as at the commencement date;

'the relevant CD&R business' means the CD&R business active in the affected market(s), being all the markets that the LSF9 Robin business is active in (or are vertically related to the markets that the LSF9 Robin business is active in).

'CD&R Firefly Bidco' means CD&R Firefly Bidco Limited registered number 09580601;

'the CD&R Firefly Bidco business' means the business of CD&R Firefly Bidco and its subsidiaries but excluding the LSF9 Robin business, carried on as at the commencement date;

'commencement date' means the date of completion of the Merger;

'control' includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

'the decisions' means the decisions of the CMA on the questions which it is required to answer by virtue of sections 35 or 36 of the Act;

'key staff' means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business;

'LSF9 Robin' means LSF9 Robin Topco Limited registered number 09770836;

'MRH (GB) Limited' means MRH (GB) Limited registered number 06360543, a subsidiary of LSF9 Robin;

'the LSF9 Robin business' means the business of LSF9 Robin and its subsidiaries carried on as at the commencement date;

'the ordinary course of business' means matters connected to the day-to-day supply of goods and/or services by LSF9 Robin or CD&R / CD&R Firefly Bidco and does not include matters involving significant changes to the

organisational structure or related to the post-merger integration of LSF9 Robin and CD&R / CD&R Firefly Bidco;

'specified period' means the period beginning on the commencement date and terminating in accordance with section 72(6) of the Act;

'subsidiary', unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

'the transaction' means the transaction by which CD&R Firefly Bidco and LSF9 Robin have ceased to be distinct within the meaning of section 23 of the Act;

'the two businesses' means the CD&R business and the LSF9 Robin business;

unless the context requires otherwise, the singular shall include the plural and vice versa.

Signature:

Emma Budge

Assistant Director, Mergers

Compliance statement for CD&R /CD&R Firefly Bidco

I [insert name] confirm on behalf of CD&R /CD&R Firefly Bidco that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) CD&R /CD&R Firefly Bidco has complied with the Order made by the CMA in relation to the transaction on [insert date of this Order] (the Order).
 - (b) CD&R /CD&R Firefly Bidco 's subsidiaries have also complied with this Order.
2. Subject to paragraphs 3 and 4 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by CD&R /CD&R Firefly Bidco that might prejudice a reference of the transaction under section 22 or 33 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
 - (i) lead to the integration of the LSF9 Robin business with the CD&R business;
 - (ii) transfer the ownership or control of the relevant CD&R business or the LSF9 Robin business or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the LSF9 Robin business or the CD&R business to compete independently in any of the markets affected by the transaction.
 - (b) The LSF9 Robin business has been carried on separately from the CD&R business and the LSF9 Robin business's separate sales or brand identity has been maintained.
 - (c) The LSF9 Robin business and the relevant CD&R business have been maintained as a going concern and sufficient resources have been made available for the development of the LSF9 Robin business and the relevant CD&R business, on the basis of their respective pre-merger business plans.

- (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the LSF9 Robin business or the relevant CD&R business, except in the ordinary course of business.
- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the LSF9 Robin business and the relevant CD&R business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the LSF9 Robin business and the relevant CD&R business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the LSF9 Robin business or the relevant CD&R business have been disposed of; and
 - (iii) no interest in the assets of the LSF9 Robin business or the relevant CD&R business has been created or disposed of.
- (g) There has been no integration of the information technology of the LSF9 Robin or CD&R businesses, and the software and hardware platforms of the LSF9 Robin business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the LSF9 Robin business have been carried out by the LSF9 Robin business alone and, for the avoidance of doubt, the CD&R business has not negotiated on behalf of the LSF9 Robin business (and vice versa) or entered into any joint agreements with the LSF9 Robin business (and vice versa).
- (i) All existing contracts of the LSF9 Robin business and the relevant CD&R business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the LSF9 Robin business or the relevant CD&R business.
- (k) No key staff have been transferred between the LSF9 Robin business and the CD&R business.

- (l) All reasonable steps have been taken to encourage all key staff to remain with the LSF9 Robin business and the relevant CD&R business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the LSF9 Robin business (or any of its employees, directors, agents or affiliates) to the CD&R business (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except as listed in paragraph (o) below, there have been no:
 - (i) key staff that have left or joined the LSF9 Robin business or the relevant CD&R business;
 - (ii) interruptions of the LSF9 Robin business or the relevant CD&R business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the LSF9 Robin business or the relevant CD&R business; or
 - (iv) substantial changes in the LSF9 Robin or relevant CD&R business's contractual arrangements or relationships with key suppliers.
- (o) *[list of material developments]*

3. CD&R /CD&R Firefly Bidco and its subsidiaries remain in full compliance with the Order and will, or will procure that LSF9 Robin, continue actively to keep the CMA informed of any material developments relating to the LSF9 Robin or the relevant CD&R business in accordance with paragraph 9 of the Order.

Interpretation

4. Terms defined in the Order have the same meaning in this compliance statement.

I understand that:

5. it is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **finest, imprisonment for a term not exceeding two years, or both.** (Section 117 of the Enterprise Act 2002.)

6. Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF CD&R /CD&R Firefly Bidco

Signature

Name

Title

Date

Compliance statement for MRH (GB) Limited

I [insert name] confirm on behalf of MRH (GB) Limited that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) MRH (GB) Limited has complied with the Order made by the CMA in relation to the transaction on 21 June 2018 (the Order) (as varied by the Variation Order).
 - (b) MRH (GB) Limited's subsidiaries have also complied with this Order.
2. Subject to paragraphs 3 and 4 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by MRH (GB) Limited that might prejudice a reference of the transaction under section 22 or 33 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
 - (i) lead to the integration of the LSF9 Robin business with the CD&R business;
 - (ii) transfer the ownership or control of the LSF9 Robin business or any of its subsidiaries; or
 - (iii) otherwise impair the ability of the LSF9 Robin business to compete independently in any of the markets affected by the transaction.
 - (b) The LSF9 Robin business has been carried on separately from the CD&R business and the LSF9 Robin business's separate sales or brand identity has been maintained.
 - (c) The LSF9 Robin business has been maintained as a going concern and sufficient resources have been made available for the development of the LSF9 Robin business, on the basis of its pre-merger business plans.
 - (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the LSF9 Robin business, except in the ordinary course of business.

- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the LSF9 Robin business has been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the LSF9 Robin business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the LSF9 Robin business have been disposed of; and
 - (iii) no interest in the assets of the LSF9 Robin business has been created or disposed of.
- (g) There has been no integration of the information technology of the LSF9 Robin and CD&R businesses, and the software and hardware platforms of the LSF9 Robin business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the LSF9 Robin business have been carried out by the LSF9 Robin business alone and, for the avoidance of doubt, the CD&R business has not negotiated on behalf of the LSF9 Robin business (and vice versa) or entered into any joint agreements with the LSF9 Robin business (and vice versa).
- (i) All existing contracts of the LSF9 Robin business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the LSF9 Robin business.
- (k) No key staff have been transferred between the LSF9 Robin business and the CD&R business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the LSF9 Robin business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other

information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the LSF9 Robin business (or any of its employees, directors, agents or affiliates) to the CD&R business (or any of its employees, directors, agents or affiliates), or vice versa.

- (n) Except as listed in paragraph (o) below, there have been no:
- (i) key staff that have left or joined the LSF9 Robin business;
 - (ii) interruptions of the LSF9 Robin business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the LSF9 Robin business; or
 - (iv) substantial changes in the LSF9 Robin business's contractual arrangements or relationships with key suppliers.
- (o) There have been no material developments to bring to the attention of the CMA.
3. MRH (GB) Limited and its subsidiaries remain in full compliance with the Order and will continue actively to keep the CMA informed of any material developments relating to the LSF9 Robin business in accordance with paragraph 9 of the Order.

Interpretation

4. Terms defined in the Order have the same meaning in this compliance statement.

I understand that:

5. It is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **fines, imprisonment for a term not exceeding two years, or both.** (Section 117 of the Enterprise Act 2002.)
6. Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover**

(both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF MRH (GB) Limited

Signature

Name

Title

Date