

2 October 2023

PENDRAGON PLC
(Pendragon)

PENDRAGON GROUP HOLDINGS LIMITED
(PGHL)
and

LITHIA UK HOLDING LIMITED
(Lithia UK)

SUPPLEMENTAL DEED

related to

**THE SALE OF THE PENDRAGON UK MOTOR
AND LEASING BUSINESS**

LATHAM & WATKINS

99 Bishopsgate
London EC2M 3XF
United Kingdom
Tel: +44.20.7710.1000
www.lw.com

THIS SUPPLEMENTAL DEED (this “**Agreement**”) is made and delivered on 2 October 2023

BETWEEN

- (1) **PENDRAGON PLC**, a company incorporated in England and Wales with registered number 02304195 and having its registered office at Loxley House 2 Oakwood Court, Little Oak Drive, Annesley Nottingham, Nottinghamshire, NG15 0DR (“**Pendragon**”);
- (2) **PENDRAGON GROUP HOLDINGS LIMITED**, a company incorporated in England and Wales with registered number 14776858 and having its registered office at Loxley House 2 Oakwood Court, Little Oak Drive, Annesley, Nottingham, Nottinghamshire, England, NG15 0DR (“**PGHL**”); and
- (3) **LITHIA UK HOLDING LIMITED** a company incorporated in England and Wales with registered number 14523998 and having its registered office at C/O Porsche Centre Colchester Auto Way, Ipswich Road, Colchester, Essex, United Kingdom, CO4 9HA (the “**Lithia UK**”).

WHEREAS

- (A) Pendragon, PGHL and Lithia UK entered into a share purchase deed on 18 September 2023 relating to the sale and purchase of the Pendragon UK motor and leasing business (the “**SPA**”). Capitalised terms used in this Agreement shall, unless otherwise defined herein, bear the meaning ascribed to them in the SPA.
- (B) Subsequent to signing and exchange of the SPA, Pendragon received two unsolicited proposals from (i) Hedin Mobility Group AB (publ) and PAG International Ltd and (ii) AutoNation Inc. Each proposes to acquire the entire issued and to be issued share capital of Pendragon at 32 pence per ordinary share (the “**Potential Competing Offers**”).
- (C) Following the announcement of the Potential Competing Offers, Lithia UK offered to amend certain terms of the SPA, including an increase to the Consideration payable to PGHL under the SPA. The parties to the SPA therefore wish to enter into this Agreement to: (i) increase the Consideration due to PGHL; (ii) remove the Competition Condition and the OEM Condition as Conditions to Completion; and (iii) amend and/or waive certain other terms of the SPA (the “**Transaction Amendments**”). Lithia UK, whilst waiving the OEM Condition as a condition to Completion, wishes for the OEM protocol (as referred to in the SPA) to apply to Pendragon in the period prior to Completion and, as such, the terms of such OEM protocol will be as set out in this Agreement.
- (D) In addition, and in light of the Potential Competing Offers, the Takeover Panel considers that the amendments contemplated by this Agreement constitute potential “frustrating action” under Rule 21.1 of the City Code on Takeovers and Mergers. As such, the parties wish to amend the SPA to provide for the requirement (under Rule 21.1) that the Pendragon shareholders must approve the Transaction Amendments.
- (E) Following the execution and delivery of this Agreement, Pendragon will release a regulatory announcement (in the Agreed Form) and a further circular or a supplementary circular to Pendragon shareholders in connection with this Agreement (and the Transaction Amendments contemplated by it) (the “**Supplementary Circular**”).
- (F) The amendments to the SPA as set out in this Agreement are made in accordance with Clause 25.4 (*Waiver and Variation*) of the SPA. This Agreement is supplemental to, and should be read in conjunction with, the SPA.

IT IS AGREED THAT

1. SPA AMENDMENTS AND WAIVERS

1.1 Each of Pendragon, PGHL and Lithia UK (being the original parties to the SPA) hereby agree that with effect from the date of this Agreement:

- (a) the SPA shall be amended by deleting the definition of “**Transaction**” in Clause 1.1 of the SPA and replacing it as follows:

*“**Transaction**” means the transactions contemplated by this Deed and/or the other Transaction Documents or any part thereof, together with any subsequent amendment to the terms of the Transaction as agreed by the parties in writing;”*

- (b) the SPA shall be amended so that the definition of “**Transaction Documents**” in Clause 1.1 of the SPA shall be deemed to include this Agreement;

- (c) the SPA shall be amended by deleting the definition of “**Base Consideration**” in Clause 1.1 of the SPA and replacing it as follows:

*“**Base Consideration**” means £397,000,000;”*

- (d) the Competition Condition is waived (in its entirety by Pendragon and Lithia UK), and the SPA shall be amended by deleting Clause 4.1 (a) of the SPA (and the heading thereto), and Clauses 5.2 to 5.6 (inclusive) of the SPA (and the heading thereto), in each case in their entirety;

- (e) the OEM Condition is waived (in its entirety by Lithia UK), and the SPA shall be amended by deleting Clause 4.1(h) of the SPA, Clauses 5.15 to 5.21 (inclusive) of the SPA (and the heading thereto), in each case in their entirety;

- (f) the SPA shall be amended such that the wording in Clause 4.1(a), Clauses 5.2 to 5.6 (inclusive), Clause 4.1(h) and Clauses 5.15 to 5.21 (inclusive) of the SPA that has been deleted pursuant to clause 1.1(d) and 1.1(e) of this Agreement shall, for each such Clause, be substituted with the wording “[*Intentionally left blank*]” (to the intent that the numbering of all other Clauses in the SPA remains unchanged);

- (g) the SPA shall be amended by deleting Clause 5.14 (a) of the SPA and replacing it as follows:

“use all reasonable endeavours to procure that the Reorganisation Condition is satisfied prior to the last to be satisfied (or waived, if permitted) of the Shareholder Condition, the FCA Transaction Condition or the Pensions Condition;”

- (h) the SPA shall be amended by deleting the definitions of “**Competition Condition**” and “**OEM Condition**” in Clause 1.1 of the SPA;

- (i) the definitions of “**OEM Consents**” and “**OEM Working Group**” in Clause 1.1 of the SPA shall be deemed amended so as to have the meanings given to them in clause 2 of this Agreement;

- (j) the SPA shall be amended so a new definition in Clause 1.1 of the SPA is inserted as follows:

*“**Original Consideration**” means:*

a. £280,000,000; minus

- b. *the Subscription Price;*
- c. *plus (if the Bank Debt Amount exceeds the Cash Balances) an amount by which the Bank Debt Amount exceeds the Cash Balances, or minus (if the Cash Balances exceed the Bank Debt Amount) the amount by which the Cash Balances exceed the Bank Debt Amount; plus*
- d. *the Inter-Group Receivables; minus*
- e. *the Inter-Group Payables; minus*
- f. *the Working Capital Adjustment (and, for the avoidance of doubt, where the Working Capital Adjustment amount is a negative number, this amount shall be added to the Consideration).”;*
- (k) the SPA shall be amended by deleting paragraph 1.2 of Schedule 4 to the SPA and replacing its as follows: *“Without prejudice to paragraph 1.1, the total aggregate liability of Pendragon in respect of all other claims under this Deed (including for interest and legal, professional and other costs and expenses reasonably and properly incurred relating to the claims) shall not exceed an amount equal to 25% of the Original Consideration”;*
- (l) the SPA shall be amended by deleting the definition of **“Pendragon General Meeting”** in Clause 1.1 of the SPA and replacing it as follows:
- ““Pendragon General Meeting” means (i) the general meeting to be held by Pendragon (including any adjournment or postponement thereof) duly convened for the shareholders of Pendragon to consider and vote on the Resolution; and (ii) any other general meeting to be held by Pendragon for the purposes of approving the Resolution (including any adjournment or postponement thereof).”;*
- (m) the SPA shall be amended by deleting the definition of **“Resolution”** in Clause 1.1 of the SPA and replacing it as follows:
- ““Resolution” means (collectively): (i) the ordinary resolution of Pendragon’s shareholders to approve the relevant arrangements described in the Transaction Documents, inter alia, as a class 1 transaction for the purposes of the Listing Rules made by the FCA under Part VI of the Financial Services and Markets Act 2000, as included in the notice of general meeting issued by Pendragon to its shareholders on 20 September 2023; (ii) any new or amended resolution of Pendragon’s shareholders to approve the terms of the Transaction for the purposes of Rule 21.1 of the City Code on Takeovers and Mergers; and (iii) any other resolution, as agreed between Pendragon and the Buyer in writing, to be proposed at the Pendragon General Meeting which is required to be passed for the purposes of giving effect to the Transaction.”;*
- (n) the SPA shall be amended so that, immediately after the words *“include ensuring that”* in Clause 5.7(b) of the SPA, the following wording shall be inserted:
- “(unless the Buyer otherwise agrees in writing)”;*
- (o) the SPA shall be amended by deleting the following wording from Clause 5.26 of the SPA: *“Clause 4.1(a) (Competition Condition),”;*
- (p) the SPA shall be amended by deleting Clause 5.27 of the SPA in its entirety; and
- (q) the SPA shall be amended so that in, Clause 6.24, immediately after the wording *“and, for the purposes of this Clause 6.24, the “Buyer NIC CAP” shall be an amount equal*

to” the wording that immediately follows it (being “£2.5m less: (i) the amount of the EBT Windfall; and (ii) any amounts for employer’s National Insurance contributions (including the UK apprenticeship levy) or equivalent in other jurisdictions arising as a result of, or in connection with, the vesting, release, exercise or settlement of the Pendragon Share Incentives that are reflected as a liability in the Completion Accounts”) shall be deleted and replaced with the following wording:

“£3,000,000 less: (i) the amount of the EBT Windfall; and (ii) any amounts for employer’s National Insurance contributions (including the UK apprenticeship levy) or equivalent in other jurisdictions arising as a result of, or in connection with, the vesting, release, exercise or settlement of the Pendragon Share Incentives that are reflected as a liability in the Completion Accounts.”.

2. OEM PROTOCOL

- 2.1 For the purposes of this clause 2, “**OEM Target**” means consent to the Transaction having been received from such number of OEMs as represent, in aggregate, not less than 70% of the Target Group’s PBT. In addition, “**Buyer Group**” means Lithia UK and any Affiliate of Lithia UK from time to time.
- 2.2 Pendragon and Lithia UK each undertake and agree with the other that they shall, and shall procure that each member of the Buyer Group or the Pendragon Group (as the case may be, and in relation to Lithia UK and the Buyer Group, only so far as within their respective powers) shall, use all reasonable endeavours to obtain consents from OEMs such that the OEM Target is achieved prior to Completion. For the avoidance of doubt, nothing in clause 2.2 of this Agreement shall require any member of the Buyer Group or any Target Group Company to agree to any amendments to an OEM Agreement which would make the rights or obligations of any member of the Buyer Group or any Target Group Company materially less favourable (in the case of rights) or materially more onerous (in the case of obligations) than those rights or obligations contained in the relevant OEM Agreement(s) at the date of the SPA.
- 2.3 Pendragon confirms that, in accordance with original Clause 5.16 of the SPA, it has commenced the process for requesting the consent to the Reorganisation and the Transaction from the counterparties to the relevant dealer agreement with each OEM (the “**OEM Consents**”).
- 2.4 Pendragon shall keep Lithia UK regularly updated of the progress towards satisfaction of the OEM Target and, as soon as reasonably practicable, notify Lithia UK in writing as soon as it is aware that the OEM Target has been reached.
- 2.5 As soon as reasonably practicable (and no later than 5 Business Days) after the date of this Agreement, Pendragon and Lithia UK shall establish and operate an OEM working group (the “**OEM Working Group**”). Each of Pendragon and Lithia UK may appoint and remove, by notice in writing to the other party, up to two (2) members of the OEM Working Group, each with appropriate skills and experience and knowledge relevant for the purposes of obtaining the OEM Consents.
- 2.6 The quorum for meetings of the OEM Working Group shall be one member appointed by each of Pendragon and Lithia UK and all decisions of the OEM Working Group shall be made by simple majority of those present, provided that such simple majority shall include at least one member appointed by each of Pendragon and Lithia UK.
- 2.7 The OEM Working Group shall meet (which may be by telephone / teleconference) as often as is reasonably necessary for the purpose of considering, discussing, negotiating and agreeing all possible steps and actions that may be required by the Pendragon Group and the Buyer Group to obtain the OEM Consents and achieve the OEM Target prior to Completion.

- 2.8 The provisions of clauses 2.2 through to 2.7 of this Agreement, and the extent to which Pendragon and Lithia UK share information pursuant thereto, shall be subject to applicable Law.
- 2.9 The obligations set out in clause 2 of this Agreement shall cease at Completion, regardless of whether or not the OEM Consents have been obtained or the OEM Target has been achieved.
- 2.10 For the avoidance of doubt, the provision in Paragraph 1.2(h) in Schedule 1 of the SPA shall continue to apply as between the parties.

3 WARRANTIES

- 3.1 Pendragon and PGHL warrant (in respect of themselves only) to Lithia UK, as at the date of this Agreement and as at Completion as if repeated immediately prior to Completion that:
 - (a) each of Pendragon and PGHL are validly incorporated, in existence and duly registered under the laws of their country of incorporation;
 - (b) each of Pendragon and PGHL have taken all necessary action and have all requisite power and authority to enter into and perform this Agreement in accordance with its terms;
 - (c) this Agreement constitutes (or shall constitute when executed) valid, legal and binding obligations on each of Pendragon and PGHL in accordance with its terms;
 - (d) the execution and delivery of this Agreement by Pendragon and PGHL and the performance of and compliance with its terms and provisions will not conflict with or result in a breach of, or constitute a default under, the constitutional documents of Pendragon or PGHL, any agreement or instrument to which Pendragon or PGHL is a party or by which it is bound, or any Law, order or judgment that applies to or binds Pendragon or PGHL or any of their property and does not require the consent of any third party; and
 - (e) no formal insolvency proceedings, whether in or out of court, leading to any form of bankruptcy, liquidation, administration, receivership, arrangement or scheme with creditors, moratorium, stay or limitation of creditors' rights, interim or provisional supervision by a court or court appointee, winding-up or striking-off, or any event analogous to any such events in any jurisdiction outside England and Wales, have been commenced in relation to Pendragon or PGHL or any part of their assets or undertakings.
- 3.2 Lithia UK warrants to Pendragon and PGHL, as at the date of this Agreement and as if repeated immediately prior to Completion that:
 - (a) Lithia UK is validly incorporated, in existence and duly registered under the laws of its country of incorporation;
 - (b) Lithia UK has taken all necessary action and has all requisite power and authority to enter into and perform this Agreement in accordance with its terms;
 - (c) this Agreement constitutes (or shall constitute when executed) valid, legal and binding obligations on Lithia UK in accordance with its terms;
 - (d) the execution and delivery of this Agreement by Lithia UK and the performance of and compliance with its terms and provisions will not conflict with or result in a breach of, or constitute a default under, the constitutional documents of Lithia UK, any agreement or instrument to which Lithia UK is a party or by which it is bound, or any Law, order or judgment that applies to Lithia UK or any of its property and does not require the consent of any third party;

- (e) no formal insolvency proceedings, whether in or out of court, leading to any form of bankruptcy, liquidation, administration, receivership, arrangement or scheme with creditors, moratorium, stay or limitation of creditors' rights, interim or provisional supervision by a court or court appointee, winding-up or striking-off, or any event analogous to any such events in any jurisdiction outside England and Wales, have been commenced in relation to Lithia UK or any part of its assets or undertakings; and
- (f) Lithia UK has sufficient resources available to it to satisfy in full the Consideration (as amended pursuant to clause 1.1(c) of this Agreement) payable by Lithia UK to PGHL under the SPA (as amended by this Agreement).

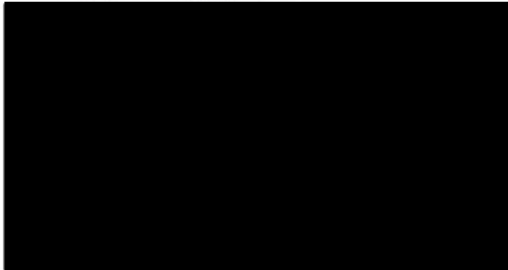
4 MISCELLANEOUS

- 4.1 Reference to a "Clause" is a reference to a clause in the SPA and a reference to a "clause" is a reference to a clause in this Agreement.
- 4.2 For the avoidance of doubt, the reference in the definition of "**Circular**" in the SPA at Clause 1.1 to "*any subsequent or supplementary circular*" includes the Supplementary Circular.
- 4.3 The terms of Clauses 1, 16 and 23 to 33 of the SPA (as amended by the terms of this Agreement) shall be deemed to be incorporated into this Agreement *mutatis mutandis*, as if the same were set out herein in full.
- 4.4 The parties do not intend any person who is not a party to this Agreement to have the right to enforce any provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

This Agreement has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**EXECUTED and delivered as a DEED by
PENDRAGON PLC**

Acting by a director:



In the presence of:

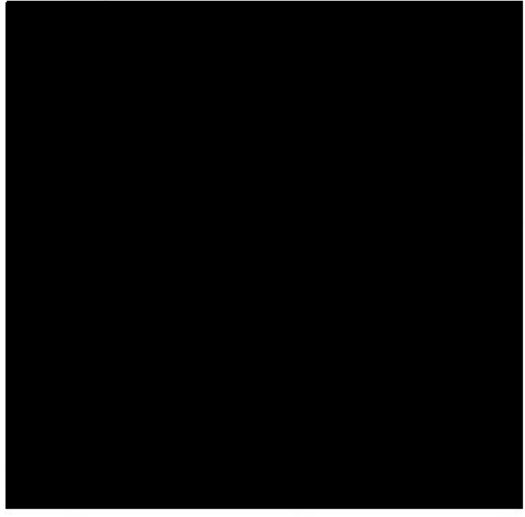


**EXECUTED and delivered as a DEED by
PENDRAGON GROUP HOLDINGS
LIMITED**

Acting by a director:



In the presence of:



**EXECUTED and delivered as a DEED by
LITHIA UK HOLDING LIMITED**

Acting by two directors:

