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15th November 2021

The Chairperson Budget Committee of Parliament
Parliament of Uganda
KAMPALA

RESPONSES TO ISSUES RAISED BY THE BUDGET COMMITTEE ON SUPPLEMENTARY EXPENDITURE FOR FY 2021/22

1. Hon. Chairperson, on Tuesday, 9th November, 2021 I appeared before Budget Committee of Parliament to present the details of Supplementary Schedule 1 for FY 2021/22.
2. In the meeting, a number of issues were raised and additional information was requested for as follows:
3. **Issue:** Details of the suppression on the Budget for FY 2021/22 to meet shortfalls on revenue and already authorized supplementary under Schedule 1 FY 2021/22.

Response: Following the onset of the second lockdown due to COVID-19, Cabinet approved the following measures in order to cater for the shortfall in revenue and meet Supplementary expenditure as follows:

- i. A general budget suppression across all MDAs, except the following institutions because of their direct impact on COVID-19 and the economy: Health Institutions, Security, Judiciary, Parliament, URA, Internal Affairs, National Citizenship and Immigration Control, Presidency, East African Community Affairs, Foreign Affairs and Missions Abroad, Agriculture and Industry, Science, Technology and Innovation, Public Service, Social Protection and Local Government Grants; and
- ii. Freezing travel abroad as well as workshops and seminars across all MDAs.

Annex 1 attached provides the details of the proposed suppression on the Budget. Note that these measures were to be reviewed periodically by Cabinet.

4. **Issue:** What is the Status on progress of implementation of the Parish Model.

Response: Attached as Annex 2 is the status of recruitment of Parish Chiefs for FY 2021/22.

Mission

"To formulate sound economic policies, maximize revenue mobilization, ensure efficient allocation and accountability for public resources so as to achieve the most rapid and sustainable economic growth and development"

5. **Issue:** Government should provide information on the shareholding agreement with Atiak Sugar.

Response: Government owns 8,000,897 shares in Horyal Investments Holding company limited, with each share valued at \$2.6. This translates to \$20,802,332. Attached are copies of the Share Certificates.

6. **Issue:** Government should provide details of the financing agreement with for Namanve Industrial Park.

Response: Attached is a copy of the financing agreement for Namanve Industrial Park.

7. **Issue:** Government should provide details of the borrowing to fund the Supplementary Schedule FY 2021/22.

Response: As noted in the meeting, the borrowing will be both from external and domestic borrowing. Accordingly, this Ministry is preparing a detailed request for additional borrowing, which we shall present to the committee on the National Economy.

8. **Issue:** Classification of Supplementary under the right Vote and categories:

Response: I wish to clarify on the following Supplementary Expenditure:

- i. **Ushs 4.0 billion** under Vote 002 - State House for classified expenditure should be transferred to Vote 004 - Ministry of Defense and Veteran Affairs. The expenditure is towards Military intelligence;
- ii. **Ushs 21.25 billion** under Vote 012 - Ministry of Lands, Housing and Urban Development for compensation to Church of Uganda for the land in Entebbe should be transferred to Vote 156 - Uganda Land Commission where the payments have hitherto been made.
- iii. **Ushs 30 billion** for Vote 312 - Petroleum Authority of Uganda which was all categorized as recurrent should be re-categorized to reflect **Ushs 3.2 billion** for wage, **Ushs 9.0 billion** for non-wage and **Ushs 17.8 billion** for development expenditure.
- iv. **Ushs 60.180 billion** for Vote 144 - Uganda Police Force which was all categorized as recurrent should be re-categorized to reflect **Ushs 22.66 billion** for recurrent expenditure and **Ushs 37.52 billion** for development expenditure.

Mission

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The purpose of this letter therefore, is to provide responses to the above issues which were raised by the Hon. Members of the Budget Committee on Supplementary Schedule 1 FY 2021/22.



Henry Musasizi (MP)

MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES)

Copy to: Hon. Minister of Finance, Planning and Economic Development
All Hon. Ministers of State for Finance, Planning and Economic Development
Permanent Secretary/Secretary to the Treasury

Mission

"To formulate sound economic policies, maximize revenue mobilization, ensure efficient allocation and accountability for public resources so as to achieve the most rapid and sustainable economic growth and development"

Dated 4 December 2019

THE GOVERNMENT OF THE REPUBLIC OF UGANDA
represented by
**THE MINISTRY OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT OF
THE REPUBLIC OF UGANDA**

as Borrower

and

STANDARD CHARTERED BANK

as Agent

and

STANDARD CHARTERED BANK

as Mandated Lead Arranger

and

HER BRITANNIC MAJESTY'S SECRETARY OF STATE
acting through
THE EXPORT CREDITS GUARANTEE DEPARTMENT
(operating as UK EXPORT FINANCE)

as Direct Lender

and

CERTAIN OTHER FINANCIAL INSTITUTIONS

as Original Covered Lenders benefitting from the UKEF Guarantee

FACILITY AGREEMENT NO. CIE/BC-DL/Uganda/0020008166

relating to a €219,482,727.15 facility in respect of
the development of infrastructure
(design and build) at
Kampala Industrial and Business Park Namanve

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THIS AGREEMENT is dated 4 December 2019 and made between:

- (1) **THE GOVERNMENT OF THE REPUBLIC OF UGANDA** represented by **THE MINISTRY OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT OF THE REPUBLIC OF UGANDA** as borrower (the "**Borrower**");
- (2) **STANDARD CHARTERED BANK** incorporated in England by Royal Charter 1853 of One Basinghall Avenue, London EC2V 5DD, United Kingdom as agent for and on behalf of the other Finance Parties (the "**Agent**");
- (3) **STANDARD CHARTERED BANK** incorporated in England by Royal Charter 1853 of One Basinghall Avenue, London EC2V 5DD, United Kingdom as Mandated Lead Arranger (the "**Mandated Lead Arranger**");
- (4) **THE FINANCIAL INSTITUTIONS** listed in part (a) of Schedule 1 (*The Original Lenders*) as covered lenders (the "**Original Covered Lenders**"); and
- (5) **HER BRITANNIC MAJESTY'S SECRETARY OF STATE**, acting through the Export Credits Guarantee Department (operating as **UK Export Finance**) as direct lender (the "**Direct Lender**").

Whereas:

- (A) The Government of the Republic of Uganda, represented by the Ugandan Investment Authority whose address is at The Investment Centre, Plot 22B, Twed Plaza, Lumumba Avenue, Nakasero, P.O.BOX 7418, Kampala (the "**Employer**") has entered into a contract dated 24 September 2018 with Lagan Dott Namanve Ltd, a company incorporated in England & Wales with company number 11679776 whose registered office is at Finance House, Beaumont Road, Banbury, England, OX16 1RH (the "**Exporter**") for the development of infrastructure (design and build) at Kampala Industrial and Business Park Namanve (the "**Commercial Contract**");
- (B) the Covered Lenders have agreed, on the terms and conditions of this Agreement, to advance to the Borrower the sum of €131,689,636.29 to assist the financing of the Commercial Contract;
- (C) the Direct Lender has agreed, on the terms and conditions of this Agreement, to advance to the Borrower the sum of €87,793,090.86 to assist the financing of the Commercial Contract; and
- (D) Her Britannic Majesty's Secretary of State acting through the Export Credits Guarantee Department (operating as UK Export Finance) ("**UK Export Finance**" or in such capacity described herein referred to as the "**Covered Lenders' Guarantor**") has agreed to give a guarantee to the Covered Lenders relating to certain obligations of the Borrower to the Covered Lenders under this Agreement.

IT IS AGREED as follows:

SECTION 1 INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"Accounting Principles" means generally accepted accounting principles in Uganda, including IFRS;

"Advance Payment" means an amount equal to fifteen per cent (15%) of Exported Element Value;

"Affiliate" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company;

"Agent's Bank Account" means the account of the Agent as specified in the relevant Fee Document;

"Applicable Law" means:

- (a) any law, statute, decree, constitution, regulation, rule, by-law, order, authorisation, judgment, injunction or other directive of any Government Entity or otherwise which is applicable in Uganda;
- (b) any treaty, pact or other binding agreement to which any Government Entity is a signatory or party; or
- (c) any judicial or administrative interpretation with binding characteristics or application of those described in paragraph (a) or (b) above,

and in each case, which is applicable to the Borrower, the Employer, the Borrower's assets or the Finance Documents;

"Assignment Agreement" means an agreement substantially in the form set out in Schedule 5 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee in form and substance satisfactory to the Agent;

"Authorisation" means an authorisation, consent, permit, approval, resolution, licence, exemption, filing, notarisation or registration;

"Availability Period" means the period from and including the date of this Agreement to and including the earlier of:

- (a) forty-five (45) Months from the date of this Agreement; and
- (b) the date on which the Facility has been fully utilised or cancelled;

"Available Commitment" means a Lender's Commitment minus:

- (a) the amount of its participation in any outstanding Loans;

- (b) in relation to any proposed Utilisation, the amount of its participation in any Loans that are due to be made on or before the proposed Utilisation Date; and
- (c) the amount of any repayments received to date;

"Available Facility" means the aggregate for the time being of the Covered Lenders Available Tranche and the Direct Lender Available Tranche;

"Borrower's Signatory" means the person(s) authorised to sign on behalf of the Borrower regarding whom evidence has been provided to the Agent in respect of the Borrower in accordance with paragraph 1 of Schedule 2 (*Conditions Precedent to Initial Utilisation*), or, subject to the prior written approval of the Agent, such other person whose name and specimen of whose signature have been supplied to the Agent and certified by an authorised representative of the Borrower in a form acceptable to the Agent;

"Break Costs" means the amount (if any) by which:

- (a) the interest, excluding the Margin, which a Covered Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

- (b) the amount which that Covered Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period;

"Business Day" means:

- (a) a day (other than a Saturday or Sunday) on which banks are open for general interbank business in London and Kampala, and:
 - (i) in relation to a payment, purchase or rate fixing in or other matter relating to a currency other than euro, the principal financial centre of the country of that currency; and
 - (ii) in relation to a payment or rate fixing in euro, a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer payment system (TARGET) is operating;

"Calculation Rate" means, in relation to a prepayment, the CIRR Calculation Rate applicable on the Business Day which is five (5) Business Days prior to the date that the prepayment is due to occur for a repayment period equal to the applicable repayment term;

"Central Government Body" means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics in the UK:

- (a) Government Department;

- (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
- (c) Non-Ministerial Department; or
- (d) Executive Agency;

"**CIRR**" means, subject to paragraph (e) of Clause 4.1 (*Initial conditions precedent*), zero point four five per cent (0.45%);

"**CIRR Calculation Rate**" means the "Commercial Interest Reference Rate" relating to euro published by Organisation for Economic Co-operation and Development (OECD) from time to time, or, to the extent that such reference rate is not ascertainable pursuant to the foregoing, the rate would be determined and calculated by the Direct Lender on the same basis as the OECD, that being the euro area yield curve spot rate as published by the European Central Bank plus one hundred (100) basis points;

"**Combined Majority Lenders**" means:

- (a) the Direct Lenders; and
- (b) a Covered Lender or Covered Lenders whose Covered Lender Commitments aggregate more than 66 2/3% of the Covered Lenders Total Commitments (or, if the Covered Lenders Total Commitments have been reduced to zero, aggregated more than 66 2/3% of the Covered Lenders Total Commitments immediately prior to the reduction);

"**Commercial Contract**" has the meaning given in Recital (A);

"**Commercial Contract Value**" means €215,065,211.71;

"**Commercial Facility**" means the unsecured commercial facility agreement dated on or about the date hereof between, amongst others, the Borrower and the Agent relating to, amongst other things, financing of the Advance Payment;

"**Commitment**" means a Covered Lender Commitment and/or a Direct Lender Commitment;

"**Confidential Information**" means all information relating to the Borrower, the Finance Documents or the Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facility from either:

- (a) the Borrower or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from the Borrower or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (i) information that:

- (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 32 (*Confidential Information*); or
- (B) is identified in writing at the time of delivery as non-confidential by the Borrower or any of its advisers; or
- (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraph (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Borrower and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and

(ii) any Funding Rate;

"Confidentiality Undertaking" means a confidentiality undertaking substantially in the form published by the LMA for the secondary trading of loans or in any other form agreed between the Borrower and the Agent;

"Construction Phase" means the period from the commencement of design, development, pre-construction, construction and commissioning of the Project until the commencement of the Operations Phase;

"Construction Phase E&S Management Plan" means the document(s) comprising the environmental and social management procedures for the Construction Phase as amended from time to time with the consent of UK Export Finance and shall include any documents provided to UK Export Finance pursuant to paragraph 9 (*Environmental and social*) of Schedule 2 (*Conditions Precedent to Initial Utilisation*);

"Corrective Action Plan" means a plan produced by the Borrower pursuant to Clause 18.4(d)(i)(B) (*E&S Trigger Events*) specifying in detail the corrective action (including the timings and responsibility for such action(s)) being taken or proposed to be taken in order to, remedy or mitigate all damage and adverse consequences caused by an E&S Trigger Event, as may be amended or updated from time to time with the consent of UK Export Finance;

"Corrupt Practices" means directly or indirectly in connection with the Project, the Commercial Contract or any transaction contemplated by the Finance Documents:

- (a) the offering, promising or giving of any undue pecuniary or other advantage, whether directly or through intermediaries, to an official in the public or private sectors, for that official or for a third party, to influence the official to act or refrain from acting in relation to the performance of official duties, with the purpose of obtaining or retaining business or other improper advantage in the conduct of business;
- (b) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would or might constitute bribery within the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 17 December 1997;

- (c) the payment or receipt (or entry into any agreement under which it may be paid or receive) any unlawful commission, bribe, pay-off or kickback; or
- (d) any act or practice of whatsoever nature which would or might constitute bribery or corrupt practice within the criminal code of Uganda.

"Covered Lender" means:

- (a) any Original Covered Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a Covered Lender in accordance with Clause 20 (*Changes to the Lenders*),

which in each case has not ceased to be a Party, in its capacity as a Covered Lender, in accordance with the terms of this Agreement;

"Covered Lender Available Commitment" means in relation to a Covered Lender, its Covered Lender Commitment minus:

- (a) the amount of its participation in any outstanding Covered Loans; and
- (b) in relation to any proposed Utilisation, the amount of its participation in any Covered Loans that are due to be made on or before the proposed Utilisation Date;

"Covered Lender Commitment" means:

- (a) in relation to an Original Covered Lender, the amount set opposite its name under the heading "Commitment" in part (a) of Schedule 1 (*The Original Lenders*) and the amount of any other Covered Lender Commitment transferred to it under this Agreement; and
- (b) in relation to any other Covered Lender, the amount of any Covered Lender Commitment transferred to it under this Agreement;

"Covered Lenders Available Tranche" means the aggregate, for the time being, of the Covered Lender Available Commitment of each Covered Lender;

"Covered Lenders' Guarantor" has the meaning given in Recital (D);

"Covered Lenders' Percentage" means the percentage of the outstanding Covered Loans to the outstanding Loans;

"Covered Lenders Total Commitments" means the aggregate of the Covered Lender Commitment for each Covered Lender being €131,689,636.29 at the date of this Agreement;

"Covered Loan" means a loan made or to be made under the Covered Tranche or the principal amount outstanding for the time being of that loan;

"Covered Tranche" has the meaning given to it in paragraph (b)(i) of Clause 2.1 (*The tranches*);

"CP Satisfaction Notice" has the meaning given in paragraph (a)(ii) of Clause 4.1 (*Initial conditions precedent*);

"Default" means an Event of Default or any event or circumstance specified in Clause 19 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the

making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default;

"Default Interest Rate" means the rate of interest payable by the Borrower in accordance with paragraph (a) of Clause 8.3 (*Default interest*);

"Direct Lender Available Commitment" means, in relation to a Direct Lender, its Direct Lender Commitment minus:

- (a) the amount of its participation in any outstanding Direct Loans; and
- (b) in relation to any proposed Utilisation, the amount of its participation in any Direct Loans that are due to be made on or before the proposed Utilisation Date;

"Direct Lender Available Tranche" means the aggregate, for the time being, of the Direct Lender Available Commitment of each Direct Lender;

"Direct Lender Break Costs" means an amount equal to any costs and losses that will be or has been (directly or indirectly) suffered by the Direct Lender as a result of, or in connection with, any prepayment as determined in accordance with Clause 7.7 (*Direct Lender Break Costs*);

"Direct Lender Commitment" means:

- (a) in relation to a Direct Lender, the amount set opposite its name under the heading "Commitment" in part (b) of Schedule 1 (*The Original Lenders*) to the extent not cancelled or reduced by it under this Agreement; and
- (b) in relation to any other Direct Lender, the amount of any Direct Lender Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement;

"Direct Lenders Total Commitments" means the aggregate of the Direct Lender Commitment for each Direct Lender being €87,793,090.86 at the date of this Agreement;

"Direct Lender's Percentage" means the percentage of the outstanding Direct Loans to the outstanding Loans;

"Direct Loan" means a loan made or to be made under the Direct Tranche or the principal amount outstanding for the time being of that loan;

"Direct Tranche" has the meaning given to it in paragraph (b)(ii) of Clause 2.1 (*The tranches*);

"Disruption Event" means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:

- (i) from performing its payment obligations under the Finance Documents, or
- (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted;

"Employer" has the meaning given in Recital (A);

"Employer's Signatory" means the person(s) authorised to sign on behalf of the Employer regarding whom evidence has been provided by the Borrower to the Agent further to paragraph 1(c) of Schedule 2 (*Conditions Precedent to Initial Utilisation*), or, subject to the prior written approval of the Agent, such other person whose name and specimens of whose signature have been supplied to the Agent and certified by a director or officer of the Employer in a form acceptable to the Agent;

"Environment" means the Natural Environment and the Social Environment;

"Environmental and Social Action Plan" or **"ESAP"** means the action plan dated 21 August 2019, as amended from time to time by or with the consent of UK Export Finance;

"Environmental Contaminant" means any substance (whether a solid, liquid, gas or vapour and whether or not combined with any one or more other substances), activity or other phenomenon that is capable of causing significant harm to humans or any other living organisms supported by the Environment or significantly damaging the Environment or public health or welfare;

"Environmental Information Regulations" mean the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in the UK in relation to such regulations;

"Environmental Permit" means any permit and other Authorisation and the filing of any notification, report or assessment required under any E&S Law for the operation of the business of the Borrower or the Employer conducted on or from the properties owned or used by the Borrower or the Employer;

"EURIBOR" means, in relation to any Loan:

- (a) the applicable Screen Rate as of the Specified Time for euro and for a period equal in length to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 9.1 (*Unavailability of Screen Rate*),

and if, in either case, that rate is less than zero, EURIBOR shall be deemed to be zero;

"Event of Default" means any event or circumstance specified as such in Clause 19 (*Events of Default*);

"Exported Element Value" means the Commercial Contract Value less the cost to the Exporter of procuring any Local Supplies;

"Exporter" has the meaning given in Recital (A);

"Exporter's Signatory" means the person(s) authorised to sign on behalf of the Exporter regarding whom evidence has been provided to the Agent in respect of the Exporter further to paragraph 1(b) of Schedule 2 (*Conditions Precedent to Initial Utilisation*), or, subject to the prior written approval of the Agent, such other person whose name and specimens of whose signature have been supplied to the Agent and certified by a director or officer of the Exporter in a form acceptable to the Agent;

"External Financial Indebtedness" means any Financial Indebtedness:

- (a) expressed or denominated or payable or which, at the option of the relevant creditor may be payable, in any currency other than Ugandan Shilling; and
- (b) which is or may become payable to a person which is resident outside Uganda or has its registered office or principal place of business outside Uganda, or is payable under an instrument which could be negotiated to such person;

"E&S Actions" means the actions identified:

- (a) in the ESAP;
- (b) in any E&S Self-Monitoring Report; and
- (c) by UK Export Finance or its nominated representative or the IESC following a site visit pursuant to paragraph (e) (*Site visits*) of Clause 18.4 (*Environmental undertakings*),

to be undertaken by or on behalf of the Borrower and/or the Employer in order to ensure all the E&S Obligations are fulfilled, in each case as updated or amended with the prior consent of UK Export Finance;

"E&S Claim" means any pending or existing claim, dispute, arbitration, administrative or legal proceedings relating to the E&S Requirements in respect of the Project, or the assets, business and operations of the Borrower and/or Employer relating to the Project;

"E&S Incident" means:

- (a) any incident or accident relating to the Project which directly or indirectly, has, or could reasonably be expected to have an adverse impact on the Environment (including the release of any Environmental Contaminant in sufficient quantity or concentration to have an adverse impact);
- (b) an accident resulting in death or serious or multiple injury; or
- (c) a significant community or worker related grievance or protest directed at the Project;

"E&S Investigation" means any investigation by any governmental, state or other public person arising out of or in relation to the Project or the assets, business and operations of the Borrower and/or the Employer relating to the Project with respect to the E&S Requirements;

"E&S Law" means any legislation, rule, decree, judgment, regulation, directive, by-law, order or any other executive or legislative measure or act having the force of law at the relevant time, including any Authorisations required by any of the above, which directly or indirectly relates to the protection of or the prevention of harm or damage to the Environment in respect of (i) the

Project or (ii) the assets, business and operations of the Borrower and/or the Employer relating to the Project;

"E&S Management Plans" means, together, the Construction Phase E&S Management Plan and the Operations Phase E&S Management Plan, and **"E&S Management Plan"** means either of them;

"E&S Obligations" means the obligations of any person (including the Borrower and/or the Employer) to:

- (a) comply with any applicable E&S Law;
- (b) align with the E&S Standards;
- (c) undertake the E&S Actions;
- (d) comply with the requirements of the E&S Management Plans; or
- (e) comply with the requirements of any Corrective Action Plan,

in each case in relation to the Project;

"E&S Obligations Breach" means a breach of any E&S Obligation (including by the Borrower and/or the Employer) other than any such breach that has been disclosed to the Agent and where such breach has resulted in corrective action under the ESAP, any Corrective Action Plan, or other corrective action otherwise agreed with the Agent;

"E&S Requirements" means, together, E&S Law and E&S Standards;

"E&S Self-Monitoring Reports" means the reports required pursuant to paragraph (a) (*E&S Self-Monitoring Reports*) of Clause 18.4 (*Environmental undertakings*);

"E&S Standards" means the policies, guidance and standards set out, or referred to, in:

- (a) the following performance standards on social and environmental sustainability published by the International Financial Corporation (IFC) on 1 January 2012:
 - (i) Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts;
 - (ii) Performance Standard 2: Labour and Working Conditions;
 - (iii) Performance Standard 3: Resource Efficiency and Pollution Prevention;
 - (iv) Performance Standard 4: Community health, Safety and Security;
 - (v) Performance Standard 5: Land Acquisition and Involuntary Resettlement;
 - (vi) Performance Standard 6: Biodiversity, Conservation and Sustainable Management of Living Natural Resources;
 - (vii) Performance Standard 7: Indigenous People;
 - (viii) Performance Standard 8: Cultural Heritage;
- (b) World Bank Group Environmental, Health and Safety (EHS) General Guidelines (2007);
and

(c) World Bank Group sector specific guidelines as applicable;

"E&S Trigger Event" means:

(a) an E&S Incident; and/or

(b) an E&S Obligations Breach;

"Facility" means the term loan facility made available under this Agreement as described in Clause 2 (*The Facility*);

"Facility Currency" means euro;

"Facility Office" means the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement;

"Fee Document" means any letter or letters dated on or about the date of this Agreement between the Mandated Lead Arranger and the Borrower (or the Agent and the Borrower) setting out any of the fees referred to in Clause 10 (*Fees*) and disclosed in writing to UK Export Finance prior to their execution;

"Final Maturity Date" means the earlier to occur of:

(a) the date falling one hundred and sixty-two (162) Months from the date of this Agreement; or

(b) the date that the Loans have been repaid in full;

"Finance Document" means this Agreement, any Fee Document, any Utilisation Request, any Assignment Agreement, any Transfer Certificate and any other document designated as such by the Agent and the Borrower;

"Finance Party" means the Agent, the Mandated Lead Arranger or a Lender;

"Financial Indebtedness" means any indebtedness for or in respect of:

(a) moneys borrowed and debit balances at banks or other financial institutions;

(b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;

(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a balance sheet liability;

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meeting any requirement for de-recognition under the Accounting Principles);

(f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the

commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles;

- (g) 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 marked to market value (or, if any actual amount is due as a result of the termination or close out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution or credit insurer;
- (i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than sixty (60) days after the date of supply;
- (j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; or
- (k) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above;

"First Repayment Date" means 1 December 2023;

"FOIA" means the Freedom of Information Act 2000 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in the UK in relation to such legislation;

"Foreign Public Official" means an individual who:

- (a) holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (or any subdivision of such a country or territory); or
- (b) exercises a public function:
 - (i) for or on behalf of a country or territory outside the United Kingdom (or any subdivision of such a country or territory); or
 - (ii) for any public agency or public enterprise of that country or territory (or subdivision); or
- (c) is an official or agent of a public international organisation.

"Funding Rate" means any individual rate notified by a Covered Lender to the Agent pursuant to paragraph (a)(ii) of Clause 9.3 (*Cost of funds*);

"Government Entity" means:

- (a) any national government or political subdivision of a national government;
- (b) any banking or monetary authority of a national government or of a political subdivision of a national government;
- (c) any local jurisdiction of a national government or of a political subdivision of a national government;
- (d) the European Central Bank or the Council of Ministers of the European Union;
- (e) any instrumentality, commission, board commission, authority, department, division, organ, court or agency of any of the foregoing, however constituted; or
- (f) any association, organisation or institution of which any of the entities listed in the preceding paragraphs is a member (including, without limitation, any European supranational body) or to whose jurisdiction any of them is subject or in whose activities any of them is a participant;

"Holding Company" means, in relation to a person, any other person in respect of which it is a Subsidiary;

"IESC" means a person acceptable to UK Export Finance appointed as the independent environmental and social consultant pursuant to the IESC Contract;

"IESC Contract" means the contract or engagement letter for the environmental and social monitoring of the Project, entered into or, as the context may require, to be entered into between the Agent and the IESC;

"IFRS" means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable;

"IMF" means the International Monetary Fund;

"Increased Costs" has the meaning given in paragraph (b) of Clause 12.1 (*Increased costs*);

"Information" has the meaning given under section 84 of the Freedom of Information Act 2000;

"Information Legislation" means the FOIA, the Environmental Information Regulations and any other legislation from time to time governing the disclosure of information held by public bodies in the UK;

"Integrated Goods" means:

- (a) in the case of Local Supplies, Local Supplies that are or will be integrated with other goods in the UK to produce goods that are or will be eligible for a certificate of UK origin from a British Chamber of Commerce; and
- (b) in the case of Third Country Supplies, Third Country Supplies that are or will be integrated with other goods in the UK to produce goods that are or will be eligible for a certificate of UK origin from a British Chamber of Commerce;

"Interest Payment Date" means the last day of an Interest Period;

"Interest Period" means, in relation to a Loan, each period determined in accordance with Clause 8.5 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*);

"Interpolated Screen Rate" means, in relation to any Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period for which that Screen Rate is available which is less than the Interest Period of that Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time for the Facility Currency;

"Lender" means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 20 (*Changes to the Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement;

"LMA" means the Loan Market Association;

"Loan" means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan;

"Local Supplies" means goods and/or services procured by the Exporter from persons ordinarily resident in and/or carrying on business in the Employer's country but excluding Integrated Goods;

"Margin" means one point two zero per cent (1.2%) per annum;

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

- (a) the economic condition of the Borrower;
- (b) the ability of the Borrower to perform any of its obligations under the Finance Documents;
- (c) the validity or enforceability of the Finance Documents or the rights and remedies of any Finance Party under any of the Finance Documents;
- (d) the international or any relevant domestic loan or capital markets (including availability and the cost of funding in the international interbank market) which has affected or could affect the successful implementation or performance of this Agreement or the Commercial Facility Agreement; or
- (e) the political, financial or economic climate in Uganda, including, but not limited to, changes resulting directly or indirectly from any existing or outbreak of war or other armed conflicts, state of national emergency, civil unrest, disturbance or other similar

events in each case whether such event may occur in Uganda or in any other state or country;

"Material Commercial Contract Change" means any:

- (a) assignment, novation or other disposal of any rights and/or obligations under the Commercial Contract; or
- (b) amendment, acquiescence, departure from or waiver of the terms of the Commercial Contract which:
 - (i) on its own, or when aggregated with any previous amendments, acquiescence, departures from or waivers, increases or decreases the amount payable by the Borrower under the Commercial Contract by more than ten per cent. (10%); or
 - (ii) involves a material change in nature of the supply made under the Commercial Contract;

"Month" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one or, if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end;

The above rules (a) to (c) will only apply to the last Month of any period;

"Natural Environment" means elements of the natural environment including all, or any, of the following:

- (a) the air (including the air within buildings and the air within other natural or man-made structures above or below ground);
- (b) water (including territorial, coastal and inland waters, ground and surface water, and water in drains and sewers);
- (c) land (including reclaimed land, surface and sub-surface soil);
- (d) living organisms including human life, animals and plants; and
- (e) natural habitats (including land which has been altered by humans to form natural habitats);

"New Lender" has the meaning given to that term in Clause 20 (*Changes to the Lenders*);

"Non-UK Supplies" means Local Supplies and Third Country Supplies, together;

"Operations Phase" means the period commencing on the date the operator takes over responsibility for the Project until the Facility is repaid in full and all the obligations of the Borrower under the Finance Documents have been paid or discharged in full;

"Operations Phase E&S Management Plan" means an environmental plan in respect of the Operations Phase produced in accordance with paragraph (f) (*Operations Phase E&S Management Plan*) of Clause 18.4 (*Environmental undertakings*), as may be amended or updated from time to time with the consent of UK Export Finance;

"Original Lender" means an Original Covered Lender and/or the Direct Lender;

"Participating Member State" means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union;

"Party" means a party to this Agreement;

"Project" means the development of infrastructure (design and build) at Kampala Industrial and Business Park Namanve;

"Protected Party" has the meaning given in paragraph (a) of Clause 11.1 (*Tax definitions*);

"Protected Ugandan Assets" means the following state-owned assets, with respect to which sovereign immunity may not be waived under the laws of Uganda:

- (a) security and national defence assets;
- (b) assets which are precluded from being pledged by an Act of Parliament of Uganda (in existence at the date of this Agreement); and
- (c) assets which are generally protected under UK and US standard immunity legislation.

"Public Assets" means the assets and international monetary reserves (including gold, special drawing rights and foreign currency) held by the Borrower or its agencies;

"Quotation Day" means, in relation to any period for which an interest rate is to be determined, two (2) TARGET Days before the first day of that period unless market practice differs in the Relevant Market, in which case the Quotation Day will be determined by the Agent in accordance with market practice in the Relevant Market (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days);

"Recipient" has the meaning given in paragraph (b) of Clause 11.5 (*VAT*);

"Related Fund" in relation to a fund (the **"first fund"**), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund;

"Relevant Market" means the European interbank market;

"Relevant Nominating Body" means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board;

"Relevant Party" has the meaning given in paragraph (b) of Clause 11.5 (*VAT*);

"Repayment Date" means

- (a) the First Repayment Date;
- (b) and each date falling at six Monthly intervals after the First Repayment Date; and
- (c) the Final Maturity Date;

"Repeating Representations" means each of the representations set out in Clauses 16.1 (*Status*) to 16.15 (*Sanctions*) and Clause 16.17 (*Anti-corruption law*) to 16.31 (*Immunity*);

"Replacement Benchmark" means a benchmark rate that is:

- (a) formally designated, nominated or recommended as the replacement for the Screen Rate by:
 - (i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
 - (ii) any Relevant Nominating Body,and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Benchmark" will be the replacement under paragraph (ii) above;
- (b) in the opinion of the Combined Majority Lenders and the Borrower, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to the Screen Rate; or
- (c) in the opinion of the Combined Majority Lenders and the Borrower, an appropriate successor to the Screen Rate;

"Representative" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;

"Required Documents" means the documents described in paragraphs 7 and 8 of Schedule 3 (*Utilisation Requests*);

"Reserves" of a state means the official external reserves of that state, by whoever and in whatever form owned, held, administered or controlled (including any not owned or not held or not administered or not controlled by that state but customarily regarded and held out as its official external reserves);

"Restricted Party" means a person that is:

- (a) listed on, or owned or controlled by a person listed on, or acting on behalf of a person listed on, any Sanctions List;
- (b) located in, incorporated under the laws of, or owned or (directly or indirectly) controlled by, or acting on behalf of, a person located in or organised under the laws of a country or territory that is the target of country-wide or territory-wide Sanctions Laws and Regulations; or

- (c) otherwise a target of Sanctions Laws and Regulations ("target of Sanctions Laws and Regulations" signifying a person with whom a US person or other national of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities);

"Sanctions Authority" means:

- (a) the United States Government;
- (b) the United Nations;
- (c) the European Union;
- (d) any member state of the European Union;
- (e) the United Kingdom;
- (f) Uganda; or
- (g) the respective governmental institutions and agencies of any of the foregoing, including, without limitation, the Office of Foreign Assets Control of the US Department of Treasury ("**OFAC**"), the United States Department of State, and Her Majesty's Treasury ("**HMT**") (together the "Sanctions Authorities");

"Sanctions Laws and Regulations" means any economic, financial or trade sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by any Sanctions Authority from time to time;

"Sanctions List" means the "Specially Designated Nationals and Blocked Persons" list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by HMT, or any similar list maintained by, or public announcement of Sanctions designation made by, any of the Sanctions Authorities;

"Screen Rate" means the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrower;

"Screen Rate Replacement Event" means, in relation to a Screen Rate:

- (a) the methodology, formula or other means of determining that Screen Rate has, in the opinion of the Combined Majority Lenders materially changed;
- (b)
 - (i)
 - (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or

(B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent,

provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;

- (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;
 - (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or
 - (iv) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or
- (c) the administrator of that Screen Rate determines that that Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
- (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Combined Majority Lenders) temporary; or
 - (ii) that Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than fifteen (15) Business Days; or
- (d) in the opinion of the Combined Majority Lenders, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement;

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

"Social Environment" means elements of the social environment including all, or any, of the following:

- (a) human rights, including without limitation community, labour and workers' rights and conditions;
- (b) human health, safety and security, including without limitation health, safety and security relating to the community, public and workforce;
- (c) rights and interests and empowerment of indigenous peoples, ethnic minorities and vulnerable groups;
- (d) cultural heritage (whether tangible or intangible) and archaeological artefacts;
- (e) continued physical settlement, economic placement and/or livelihood of persons (including in relation to involuntary physical resettlement or economic displacement); and
- (f) public participation and stakeholder engagement;

"**Specified Time**" means a day or time determined in accordance with Schedule 6 (*Timetables*);

"**Subsidiary**" means a company or corporation:

- (a) which is controlled, directly or indirectly, by a company or corporation or a Ugandan government agency (a "**holding corporation**");
- (b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the holding corporation; or
- (c) which is a Subsidiary of another Subsidiary of the holding corporation;

"**Supplier**" has the meaning given in paragraph (b) of Clause 11.5 (*VAT*);

"**TARGET2**" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007;

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payments in euro;

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

"**Tax Deduction**" has the meaning given in paragraph (a) of Clause 11.1 (*Tax definitions*);

"**Tax Payment**" has the meaning given in paragraph (a) of Clause 11.1 (*Tax definitions*);

"**Third Country Supplies**" means goods and/or services that are not Local Supplies and that are procured by the Exporter from persons ordinarily resident in and/or carrying on business in a country other than the UK but excluding Integrated Goods;

"**Third Parties Act**" means the Contracts (Rights of Third Parties) Act 1999;

"**Total Commitments**" means the aggregate of the Commitments being €219,482,727.15 at the date of this Agreement;

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrower;

"**Transfer Date**" means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate;

"**UK**" means the United Kingdom of Great Britain and Northern Ireland;

"**UKEF Application Form**" means the application form relating to the Commercial Contract provided by the Exporter to UK Export Finance dated 26 July 2019, as amended from time to time;

"**UKEF Guarantee**" means the guarantee given or to be given by UK Export Finance to the Lenders relating to this Agreement as referred to in Recital (D);

"**UKEF Support Fee**" means the sum of €29,388,737.17, being the fee payable to UK Export Finance in relation to:

- (a) the issue of its UKEF Guarantee; and
- (b) the Direct Tranche;

"**UK Export Finance**" has the meaning given in Recital (D);

"**Unpaid Sum**" means any sum due and payable but unpaid by the Borrower under the Finance Documents;

"**US**" means the United States of America;

"**Utilisation**" means a utilisation of the Facility;

"**Utilisation Date**" means the date of a Utilisation, being the date on which the relevant Loan is to be made;

"**Utilisation Request**" means a notice substantially in the form set out in Part 1 or Part 2 of Schedule 3 (*Utilisation Requests*), as applicable;

"**VAT**" means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112), and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere; and

"**World Bank**" means the World Bank Group, including the International Bank for Reconstruction and Development, The International Development Association (IDA), The International Finance Corporation (IFC) and The Multilateral Investment Guarantee Agency (MIGA).

1.2 **Construction**

(a) Unless a contrary indication appears, any reference in this Agreement to:

- (i) the "**Agent**", the "**Mandated Lead Arranger**", "**UK Export Finance**", the "**Borrower**", any "**Finance Party**", any "**Lender**", or any "**Party**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
- (ii) an "**agency**" shall be construed so as to include any governmental, intergovernmental or supranational agency, authority, body, central bank, commission, department, ministry, organisation, statutory corporation or tribunal (including any political sub-division, national, regional or municipal government and any administrative, fiscal, judicial, regulatory or self-regulatory body or person);

- (iii) a document in "**agreed form**" is a document which is previously agreed in writing by or on behalf of the Borrower and the Agent or, if not so agreed, is in the form specified by the Agent;
- (iv) "**assets**" includes present and future properties, revenues and rights of every description;
- (v) for the purposes of the definition of "Subsidiary", "**control**" means:
 - (A) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (1) cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the company; or
 - (2) appoint or remove all, or the majority, of the directors or other equivalent officers of the company; or
 - (3) give directions with respect of the operating and financial policies of the company or the Borrower, as applicable, which the directors or other equivalent officers of the company are obliged to comply with; or
 - (B) the holding of more than one-half of the issued share capital of the company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital);
- (vi) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
- (vii) a "**group of Lenders**" includes all the Lenders;
- (viii) "**guarantee**" means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- (ix) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (x) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (xi) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any agency;
- (xii) a provision of law is a reference to that provision as amended or re-enacted; and
- (xiii) a time of day is a reference to London time.

- (b) The determination of the extent to which a rate is "**for a period equal in length**" to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- (c) Section, Clause and Schedule headings are for ease of reference only.
- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (e) A Default (other than an Event of Default) is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been waived.
- (f) An E&S Trigger Event is "**continuing**" unless UK Export Finance has determined that it has been remedied.

1.3 **Currency symbols and definitions**

- (a) "\$", "USD", and "dollars" denote the lawful currency of the United States of America;
- (b) "€", "EUR" and "euro" denote the single currency of the Participating Member States; and
- (c) "**Ugandan Shilling**" and "**UGX**" denote the lawful currency of Uganda.

1.4 **Third party rights**

- (a) The provisions of the following Clauses:
 - (i) Clause 2.4 (*UKEF Guarantee*);
 - (ii) Clause 4.1 (*Initial conditions precedent*);
 - (iii) Clause 15 (*Costs and expenses*);
 - (iv) Clause 17.4 (*"Know your customer" checks*);
 - (v) Clause 20.1 (*Assignments and transfers by the Lenders*);
 - (vi) Clause 20.2 (*Conditions of assignment or transfer*);
 - (vii) Clause 20.10 (*Register*);
 - (viii) Clause 22.13 (*Replacement of the Agent*);
 - (ix) Clause 25.3 (*Distributions in respect of Utilisations*);
 - (x) Clause 26 (*Set-off*);
 - (xi) Clause 32 (*Confidential Information*); and
 - (xii) any other provision of any Finance Document which expressly confers rights on UK Export Finance,

confer benefits on the Covered Lenders' Guarantor and are intended to be enforceable by the Covered Lenders' Guarantor by virtue of the Third Parties Act.

- (b) Subject to paragraph (a) above and Clause 31.2 (*All Lender matters*), a person who is not a Party to this Agreement has no right under the Third Parties Act to enforce or to enjoy the benefit

of any term of this Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

SECTION 2
THE FACILITY

2. THE FACILITY

2.1 The tranches

- (a) Subject to the terms of this Agreement, the Lenders make available to the Borrower a term loan facility in the Facility Currency in an aggregate amount equal to the Total Commitments (the "**Facility**").
- (b) The Facility shall comprise:
 - (i) a tranche provided by the Covered Lenders in an aggregate amount equal to the Covered Lenders Total Commitments (the "**Covered Tranche**"); and
 - (ii) a tranche provided by the Direct Lenders in an aggregate amount equal to the Direct Lenders Total Commitments (the "**Direct Tranche**").

2.2 Finance Parties' rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from the Borrower shall be a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by the Borrower which relates to a Finance Party's participation in the Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by the Borrower.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

2.3 Obligations of the Borrower

- (a) The obligations of the Borrower under this Agreement shall constitute absolute, unconditional and irrevocable financial obligations to the Finance Parties. Such obligations are independent and separate obligations regardless of any matter affecting the Employer, the Exporter or the Commercial Contract including the performance, non-performance, frustration or invalidity of the Commercial Contract, or the destruction, non-completion, or non-functioning of any of the goods and/or services to be supplied under the Commercial Contract or the liquidation or bankruptcy of the Employer, the Exporter or any other person.
- (b) Without prejudice to the generality of paragraph (a) above, the Borrower acknowledges that its liability to pay in full any sum payable by it under this Agreement and any other Finance Document on the due date for payment:

- (i) is separate from the performance by the Employer, the Exporter or any other person of their obligations under the Commercial Contract and any other agreement relating thereto; and
- (ii) shall not be affected in any way by reason of any claim, dispute or defence which the Borrower or the Employer may have or may consider that it has against the Exporter or any other person.

2.4 **UKEF Guarantee**

Notwithstanding any other provision of this Agreement, the Borrower acknowledges and agrees that each Finance Party:

- (a) shall exercise or refrain from exercising its rights, powers, authorities and discretions (including the giving of notices and instructions and the granting of consents, waivers and permissions) under the Finance Documents only in accordance with the written direction of UK Export Finance given to the Agent and/or the Lenders; and
- (b) is under no obligation to the Borrower to act otherwise.

3. **PURPOSE**

3.1 **Purpose**

The Borrower shall apply all amounts borrowed by it under the Facility towards one or more of the following:

- (a) making payments to the Exporter in respect of the Employer's obligations under the Commercial Contract, comprising in aggregate:
 - (i) €140,504,253.47 in respect of eighty-five per cent (85%) of the Exported Element Value;
 - (ii) €49,589,736.52 in respect of Local Supplies up to an amount equal to (and not exceeding) thirty per cent (30%) of the Exported Element Value; or
- (b) making payments in respect of the UKEF Support Fee.

3.2 **Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. **CONDITIONS OF UTILISATION**

4.1 **Initial conditions precedent**

(a) The Agent shall not give effect to any Utilisation Request unless:

- (i) the Agent has received all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent to Initial Utilisation*) in a form and substance satisfactory to the Agent within ninety (90) days of the date of this Agreement or by such later date as the Agent may notify the Borrower; and
- (ii) the Agent has notified the Borrower and the Lenders that the conditions precedent referred to in paragraph (i) above have been satisfied (the "**CP Satisfaction Notice**").

- (b) Other than to the extent that the Combined Majority Lenders notify the Agent in writing to the contrary before the Agent serves a CP Satisfaction Notice, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
- (c) The conditions precedent described in Schedule 2 (*Conditions Precedent to Initial Utilisation*) are for the benefit of the Agent and the Lenders and the Agent (acting on the instructions of all the Lenders) may waive any or all of those conditions precedent in whole or in part and decide when and if each of those conditions precedent has been fulfilled to its satisfaction.
- (d) If the conditions precedent referred to in paragraph (a) above are not met within ninety (90) days of the date of this Agreement, or such later date as the Agent may agree (acting on the instructions of UK Export Finance and the Lenders), the Agent may notify the Borrower that the Commitments of the Lenders shall be cancellable on notice.
- (e) Where the Agent notifies the Borrower of a later date for meeting the conditions precedent referred to in paragraph (a)(i) above, it may also notify the Borrower in writing at or around the same time of such change to the CIRR.
- (f) Without prejudice to the generality of Clause 2.4 (*UKEF Guarantee*), the obligation of the Agent to deliver a CP Satisfaction Notice as set out in this Clause 4.1 shall be subject to the overriding right of UK Export Finance in the UKEF Guarantee to determine whether the initial conditions precedent have been fulfilled or waived to the satisfaction of UK Export Finance.

4.2 Further conditions precedent

- (a) Subject to paragraph (b) below, the Lenders shall only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request (if applicable) and on the proposed Utilisation Date:
 - (i) no Default is continuing or would result from the proposed Loan;
 - (ii) the Repeating Representations to be made by the Borrower are true;
 - (iii) no event described in Clause 7.1 (*Illegality*), 7.2 (*Material Commercial Contract Change*) or Clause 7.4 (*E&S Incident*) has occurred;
 - (iv) the UKEF Guarantee is in full force and effect (or, in respect of the first Utilisation, will be in full force and effect immediately upon disbursement of that Utilisation, if all or part of the UKEF Support Fee is being financed by that Utilisation);
 - (v) no Sanctions Laws and Regulations would apply to or otherwise affect the receipt by the Borrower or any Exporter (as the case may be) of proceeds from a proposed Loan and or the incurring of debt in relation to a proposed Loan;
 - (vi) it would not be unlawful or contrary to any Sanctions Laws and Regulations applicable to the Lender for the proposed Loan to be made;
 - (vii) other than in respect of a Utilisation under paragraph (a) of Clause 5.3 (*Payment of the UKEF Support Fee from the Facility*) UK Export Finance has received the full amount of the UKEF Support Fee;

- (viii) other than in respect of a Utilisation under paragraph (a) of Clause 5.3 (*Payment of the UKEF Support Fee from the Facility*), the representations made by the Exporter in the Utilisation Request are true; and
 - (ix) the Borrower and/or the Employer are in compliance with all applicable E&S Obligations within the relevant timeframes;
- (b) Each Lender may, acting at its discretion, decide to make its participation in each Loan available in accordance with Clause 5.4 (*Lenders' participation*) regardless of:
- (i) whether the conditions set out in paragraph (a) above have been met; or
 - (ii) the delivery of notice to the Borrower under paragraph (c) of Clause 19.17 (*Acceleration*).
- (c) If any Loans are made when one or more of the conditions referred to in paragraph (a) above have not been met or after delivery of notice to the Borrower under paragraph (c) of Clause 19.17 (*Acceleration*), such Loans shall be repayable by the Borrower on demand by the Agent on the instructions of the Combined Majority Lenders.

**SECTION 3
UTILISATION**

5. UTILISATION

5.1 Utilisation of the Facility

- (a) The Borrower shall request a Utilisation of the Facility following the delivery to the Agent by:
- (i) the Borrower of the Utilisation Request in respect of the UKEF Support Fee duly completed to the Agent's satisfaction, prior to the date of the CP Satisfaction Notice; and
 - (ii) the Exporter of a Utilisation Request duly completed to the Agent's satisfaction, by no later than the Specified Time. The amount of each Utilisation shall be pro rata across the Direct Tranche and the Covered Tranche.
- (b) A Utilisation Request (other than the Utilisation Request in respect of the UKEF Support Fee) may not be delivered to the Agent unless and until the proceeds of the UKEF Support Fee have been paid by the Agent to UKEF.

5.2 Utilisation Request

- (a) Each Utilisation Request is irrevocable.
- (b) Each Utilisation Request (other than the Utilisation Request in respect of the UKEF Support Fee) must be delivered to the Agent not less than fourteen (14) Business Days before the last day of the Availability Period.
- (c) A Utilisation Request shall not be regarded as having been duly completed unless:
- (i) it has been signed by two Borrower's Signatories and the Exporter's Signatory; and
 - (ii) it has attached true copies of each of the Required Documents (other than the Utilisation Request in respect of the UKEF Support Fee).
- (d) Upon delivery to the Agent of a Utilisation Request (other than the Utilisation Request in respect of the UKEF Support Fee) duly completed to the Agent's satisfaction, the Borrower shall have requested a Utilisation of the Facility on the following terms:
- (i) the amount of the Loan shall be:
 - (i) the total amount certified in the Utilisation Request as being due to the Exporter under the Commercial Contract; or
 - (ii) if less, the Available Facility; and
 - (ii) the Utilisation Date shall be the date falling fourteen (14) Business Days after the date of receipt by the Agent of the Utilisation Request duly completed to the Agent's satisfaction.
- (e) Upon the Agent dating the Utilisation Request in respect of the UKEF Support Fee in accordance with Clause 5.3 (*Payment of the UKEF Support Fee from the Facility*) below, the Borrower shall have requested a Utilisation of the Facility on the following terms:
- (i) the amount of the Loan shall be the UKEF Support Fee; and
 - (ii) the Utilisation Date shall be the date falling three (3) Business Days after the date of the CP Satisfaction Notice.

- (f) Only one (1) Loan may be requested in each Utilisation Request.

5.3 **Payment of the UKEF Support Fee from the Facility**

- (a) The Borrower irrevocably authorises and instructs the Agent to date the Utilisation Request in respect of the UKEF Support Fee on the date of the CP Satisfaction Notice and, once so dated, the Utilisation Request in respect of the UKEF Support Fee shall be considered properly delivered to the Agent. All parties acknowledge that any Utilisation Request in respect of the UKEF Support Fee delivered to the Agent pursuant to paragraph 8(c) of Schedule 2 (*Conditions Precedent to Initial Utilisation*) shall not have any effect until dated by the Agent on the date of the CP Satisfaction Notice in accordance with this Clause 5.3.
- (b) To the extent that the Direct Lender is required by this Clause 5.3 to put the Agent in funds in respect of a disbursement to UK Export Finance in relation to the UKEF Support Fee, those obligations shall be netted off against each other and treated as satisfied on their respective due dates.

5.4 **Lenders' participation**

- (a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (b) The amount of each Covered Lender's participation in each Loan shall be equal to the proportion borne by its Covered Lender Available Commitment to the Covered Lenders Available Tranche immediately prior to making such Loan.
- (c) Save for the Loan made pursuant to Clause 5.3 (*Payment of the UKEF Support Fee from the Facility*), the Agent shall notify each Lender of the amount of each Loan and the amount of its participation in that Loan by the Specified Time.

5.5 **Examination and reliance on documents**

- (a) The Agent shall be entitled (but not obliged) to rely and act upon any documentation or information provided under this Clause 5 (*Utilisation*), which appears on its face to have been duly completed.
- (b) The Agent agrees to notify the Borrower as soon as practicable that any such further information or documents are necessary for making the Utilisation.

5.6 **Loans paid directly to the Exporter or to the Covered Lenders' Guarantor**

The Borrower acknowledges and agrees that the payment of the proceeds of any Utilisation directly to the Exporter, the Direct Lender or the Covered Lenders' Guarantor shall constitute a Loan for the purposes of this Agreement as if the proceeds of that Loan had been paid to the Borrower.

5.7 **Frequency of Utilisations**

- (a) Neither the Borrower nor the Exporter may deliver a Utilisation Request if:
 - (i) it would result in more than two (2) Utilisation Requests being delivered in any calendar month; or
 - (ii) such Utilisation Request is delivered within a period of five (5) Business Days from any other Utilisation Request.

- (b) For the purposes of Clause 5.7(a) above, the Utilisation Request in respect of the UKEF Support Fee shall not be deemed a Utilisation Request.

5.8 Public Fund

The Borrower hereby acknowledges that:

- (a) the Agent's Bank Account constitutes a Public Fund for the purposes of Article 159(3) of the Constitution of Uganda 1995;
- (b) in accordance with Clause 5.4 (*Lenders' participation*), each Lender upon receipt of a Utilisation Request from the Borrower duly executed by the authorised signatories will make its participation in a Loan available by paying such participation into the Agent's Bank Account;
- (c) the amount of each Loan will subsequently be paid directly from the Agent's Bank Account by the Agent to UK Export Finance, the Exporter or other third party, in each case, as contemplated by this Agreement and directed by the Borrower in the relevant Utilisation Request; and
- (d) by complying with paragraph (c) above, such payment will be in compliance with the laws of Uganda.

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

6. REPAYMENT

6.1 Repayment of Loans

- (a) Subject to paragraph (b) below, the Borrower shall repay outstanding Loans made during the Availability Period in equal six-Monthly instalments of €10,974,136.36 (being 1/20th of the amount that would be outstanding on the last day of the Availability Period if the entire Total Commitments were utilised during the Availability Period).
- (b) The instalments referred to in paragraphs (a) above shall be payable as follows:
- (i) the first such instalment shall become due and payable on the First Repayment Date; and
 - (ii) the Borrower shall continue to pay further such instalments (or if less, the remainder of all outstanding Loans) on each succeeding Repayment Date until it has repaid all outstanding Loans.
- (c) The Agent shall apply the instalments received under this Clause 6 (*Repayment*) in repayment of the Covered Tranche until such tranche is repaid in full. Once the Covered Tranche has been repaid in full, the Agent shall apply the remaining instalments in repayment of the Direct Tranche.

6.2 Reborrowing

The Borrower may not reborrow any part of the Facility which is repaid.

7. PREPAYMENT AND CANCELLATION

7.1 Illegality

If, in any applicable jurisdiction, it is or becomes unlawful for any Lender (including, without limitation, as a result of Sanctions Laws and Regulations applicable to that Lender) to perform any of its obligations as contemplated by this Agreement or to fund or to maintain its participation in any Loan or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Borrower of that event the Available Commitment of that Lender will be immediately cancelled; and
- (c) to the extent that the Lender's participation has not been transferred pursuant to paragraph (c) of Clause 7.8 (*Right of replacement in relation to a single Covered Lender*), the Borrower shall repay that Lender's participation in the Loans on the first Interest Payment Date occurring after the Agent has so notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent pursuant to paragraph (a) above (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment shall be cancelled in the amount of the participations repaid.

7.2 Material Commercial Contract Change

If a Material Commercial Contract Change is made without the prior written consent of the Agent:

- (a) the Lenders shall not be obliged to fund a Utilisation; and
- (b) if the Combined Majority Lenders so require, the Agent shall, by not less than ten (10) Business Days' notice to the Borrower, cancel the Total Commitments and declare all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Total Commitments will be cancelled and all such outstanding amounts will become immediately due and payable.

7.3 **Loss of UKEF Guarantee**

If the UKEF Guarantee ceases to provide the full benefit of cover to a Covered Lender or it becomes unlawful for the Covered Lenders' Guarantor to perform any of its obligations under the UKEF Guarantee in respect of a Covered Lender or any obligation or obligations of UK Export Finance under the UKEF Guarantee are not or cease to be legal, valid, binding or enforceable or the UKEF Guarantee is not or ceases to be in full force and effect (including any suspension) other than as a direct result of the gross negligence or wilful misconduct of the relevant Lender:

- (a) the relevant Covered Lender shall not be obliged to fund a Utilisation; and
- (b) if the relevant Covered Lender so requires, the Agent shall, by not less than ten (10) days' notice to the Borrower, cancel that Covered Lender's Commitment and declare the participation of that Covered Lender in all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents in favour of that Covered Lender immediately due and payable, whereupon that Covered Lender's Commitment will be cancelled and all such outstanding amounts will become immediately due and payable.

7.4 **E&S Incident**

If an E&S Incident under paragraph (d)(i)(D) (*E&S Trigger Events*) of Clause 18.4 (*Environmental undertakings*) occurs or any E&S Incident is deemed to be incapable of remedy pursuant to paragraph (d)(ii) (*E&S Trigger Events*) of Clause 18.3(a)18.4 (*Environmental undertakings*):

- (a) the Lenders shall not be obliged to fund a Utilisation; and
- (b) the Agent shall, by not fewer than five (5) Business Days' notice to the Borrower, cancel the Total Commitments and declare all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Total Commitments will be cancelled and all such outstanding amounts will become immediately due and payable.

7.5 **Voluntary cancellation**

The Borrower may not cancel the whole or any part of the Available Facility, unless otherwise agreed by the Agent.

7.6 **Voluntary prepayment of Loans**

- (a) Subject to paragraph (b) below and Clause 7.7 (*Direct Lender Break Costs*), the Borrower may, if it gives the Agent not less than thirty (30) Business Days' (or such shorter period as the Combined Majority Lenders may agree) prior notice, prepay the whole or any part of any Loan

(but, if in part, being an amount that reduces the amount of the Loan by a minimum amount of €10,000,000 and in integral multiples of €10,000,000).

- (b) A Loan may only be prepaid on a Repayment Date falling after the last day of the Availability Period.
- (c) Subject to Clause 6.1(c), any prepayments made under this Clause 7.6 (*Voluntary prepayment of Loans*) shall satisfy the Borrower's obligations under Clause 6 (*Repayment*) in inverse chronological order of the Repayment Dates.

7.7 **Direct Lender Break Costs**

- (a) If, and on each occasion that, a prepayment occurs or is to occur, the Direct Lender shall, using a discount rate at the Calculation Rate:
 - (i) calculate the aggregate of the net present values in the Facility Currency of each amount of interest which would have been payable by the Borrower on each of the Interest Payment Dates occurring after the date of that prepayment, had (i) that prepayment not occurred and (ii) all amounts payable pursuant to Clause 6.1 (*Repayment of Loans*) on each Interest Payment Date been paid in full and on time; and
 - (ii) calculate the aggregate of the net present values in the Facility Currency of each amount of interest which would have been payable by the Borrower on each of the Interest Payment Dates occurring after the date of that prepayment, had (i) that prepayment not occurred and (ii) all amounts payable pursuant to Clause 6.1 (*Repayment of Loans*) and on each Interest Payment Date been paid in full and on time and (iii) interest with respect to Direct Loans made by the Direct Lender under this Agreement accrued at the Calculation Rate instead of the CIRRR Calculation Rate.
- (b) If the aggregate amount calculated in accordance with paragraph (a)(ii) above exceeds that calculated in accordance with paragraph (a)(i) above, no further action shall be taken.
- (c) If the aggregate amount calculated in accordance with paragraph (a)(i) above exceeds that calculated in accordance with paragraph (a)(ii) above (the amount of the excess being the "**Excess**"), then the Borrower shall pay the Direct Lender an amount equal to the Excess in accordance with paragraph (a) above.

7.8 **Right of replacement in relation to a single Covered Lender**

- (a) If:
 - (i) any sum payable to any Covered Lender by the Borrower is required to be increased under paragraph (c) of Clause 11.2 (*Tax gross up*); or
 - (ii) any Covered Lender claims indemnification from the Borrower under Clause 11.3 (*Tax indemnity*) or Clause 12.1 (*Increased costs*),

the Borrower may, with the prior written consent of the Agent, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice of its intention to replace that Covered Lender in accordance with paragraph (c) below.

- (b) Clause 7.8(a) shall only apply to a Covered Lender to the extent that any increased payment required to be made to such Covered Lender pursuant to paragraph (c) of Clause 11.2 (*Tax*

gross up) is materially increased (i) in respect of an Original Covered Lender, after the date of this Agreement or (ii) in respect of a New Lender pursuant to Clause 20 (*Changes to the Lenders*), after the date such New Lender became a Party.

- (c) Subject to Clause 7.8(b) above, if:
 - (i) any of the circumstances set out in paragraph (a) above apply to a Covered Lender; or
 - (ii) the Borrower becomes obliged to pay any amount in accordance with Clause 7.1 (*Illegality*) to any Covered Lender,

the Borrower may, on not less than seven (7) Business Days' prior notice to the Agent and that Covered Lender, replace that Covered Lender by requiring that Covered Lender to (and, to the extent permitted by law, that Covered Lender shall) transfer pursuant to Clause 20 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity selected by the Borrower which confirms its willingness to assume and does assume all the obligations of the transferring Covered Lender in accordance with Clause 20 (*Changes to the Lenders*) for a purchase price in cash payable at the time of the transfer in an amount equal to the outstanding principal amount of such Covered Lender's participation in the outstanding Covered Loans and all accrued interest (to the extent that the Agent has not given a notification under Clause 20.9 (*Pro rata interest settlement*)), Break Costs and other amounts payable in relation to such participation under the Finance Documents.

- (d) The replacement of a Covered Lender pursuant to paragraph (c) above shall be subject to the following conditions:
 - (i) the Borrower shall have no right to replace the Agent;
 - (ii) neither the Agent nor any Lender shall have any obligation to find a replacement Covered Lender;
 - (iii) in no event shall the Covered Lender replaced under paragraph (c) above be required to pay or surrender any of the fees received by such Covered Lender pursuant to the Finance Documents; and
 - (iv) the Covered Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (c) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws in relation to that transfer.
- (e) A Covered Lender shall perform the checks described in paragraph (d)(iv) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (c) above and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.
- (f) The Borrower shall have no right to replace the Direct Lender.

7.9 **Restrictions**

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or

dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

(b) Any prepayment under this Agreement shall be made together with:

(i) accrued interest on the amount prepaid; and

(ii) an amount equal to all costs and losses that will be or have been suffered by the relevant Finance Party or the Covered Lenders' Guarantor (which shall include any Break Costs and any Excess as defined in paragraph 7.7(c) above) as a result of, or in connection with, that prepayment,

without premium or penalty.

(c) The Borrower may not reborrow any part of the Facility which is prepaid.

(d) The Borrower shall not repay or prepay all or any part of the Loans except at the times and in the manner expressly provided for in this Agreement.

(e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

(f) If the Agent receives a notice under this Clause 7 it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate.

(g) If all or part of any Lender's participation in a Loan is repaid or prepaid an amount of that Lender's Commitment (equal to the amount of the participation which is repaid or prepaid) shall be deemed to be cancelled on the date of such repayment or prepayment.

7.10 Application of prepayments

Any prepayment of a Loan pursuant to Clause 7.2 (*Material Commercial Contract Change*), Clause 7.4 (*E&S Incident*) or Clause 7.6 (*Voluntary prepayment of Loans*) shall be applied pro rata to each Lender's participation in that Loan.

SECTION 5
COSTS OF UTILISATION

8. INTEREST

8.1 Calculation of interest

- (a) The rate of interest on each Covered Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:
- (i) Margin; and
 - (ii) EURIBOR.
- (b) The rate of interest on each Direct Loan for each Interest Period shall be the percentage rate per annum of the CIRR.

8.2 Payment of interest

The Borrower shall pay accrued interest on each Loan on each Interest Payment Date.

8.3 Default interest

- (a) If the Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below:

- (i) with respect to the Covered Lenders' Percentage of such amount, is two per cent (2%) per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Covered Loan in the currency of the overdue amount for successive Interest Periods; and
- (ii) with respect to the Direct Lender's Percentage of such amount, is one per cent (1%) per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Direct Loan in the currency of the overdue amount for successive Interest Periods,

each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 8.3 shall be immediately payable by the Borrower on demand by the Agent.

- (b) If any overdue amount consists of all or part of a Loan which became due on a day which was not an Interest Payment Date:
- (i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
 - (ii) the rate of interest applying to the overdue amount during that first Interest Period shall be:
 - (i) with respect to the Covered Lenders' Percentage of such amount, two per cent (2%) per annum higher than the rate which would have applied if the overdue amount had not become due; and
 - (ii) with respect to the Direct Lender's Percentage of such amount, one per cent (1%) per annum higher than the rate which would have applied if the overdue amount had not become due.

- (c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

8.4 **Notification of rates of interest**

- (a) The Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.
- (b) If applicable pursuant to Clause 9 (*Changes to the Calculation of Interest*), the Agent shall promptly notify the Borrower of each Funding Rate relating to a Covered Loan.

8.5 **Interest Periods**

- (a) The period for which each Loan is outstanding shall be divided into successive Interest Periods.
- (b) The first day of an Interest Period for each Loan shall begin on:
 - (i) for the first Interest Period for that Loan, its Utilisation Date; and
 - (ii) for each subsequent Interest Period, the preceding Interest Payment Date.
- (c) The last day of an Interest Period for each Loan shall (subject to paragraph (e) below) be the earlier of:
 - (i) the date falling six (6) Months after the first day of that Interest Period;
 - (ii) the Interest Payment Date of any other Loan; and
 - (iii) the first Repayment Date falling after the first day of that Interest Period.
- (d) An Interest Period for a Loan shall not extend beyond the Final Maturity Date.
- (e) If the Utilisation Date of any Loan is less than fifteen (15) days prior to an Interest Payment Date, the first Interest Period for that Loan shall end on the Interest Payment Date that next follows the Interest Payment Date immediately succeeding the Utilisation Date.

8.6 **Non-Business Days**

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

8.7 **Amalgamation of Loans**

- (a) If two or more Covered Loans have Interest Periods that end on the same Interest Payment Date, the Agent may consolidate those Covered Loans into, and treat them as, a single Covered Loan on the Interest Payment Date.
- (b) If two or more Direct Loans have Interest Periods that end on the same date, the Agent may consolidate those Direct Loans into, and treat them as, a single Direct Loan on the last day of such Interest Period.

9. CHANGES TO THE CALCULATION OF INTEREST

9.1 Unavailability of Screen Rate

- (a) If no Screen Rate is available for EURIBOR for the Interest Period of a Covered Loan, the applicable EURIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Covered Loan.
- (b) If paragraph (a) above applies but there is no reasonably applicable EURIBOR for that Covered Loan, then Clause 9.3 (*Cost of funds*) shall apply to that Covered Loan for that Interest Period.

9.2 Market disruption

If before close of business in London on the Quotation Day for the relevant Interest Period the Agent receives notifications from a Covered Lender or Covered Lenders (whose participations in a Covered Loan exceed thirty-five per cent. (35%) of that Loan) that the cost to it of funding its participation in that Covered Loan from whatever source it may reasonably select would be in excess of EURIBOR then Clause 9.3 (*Cost of funds*) shall apply to that Covered Loan for the relevant Interest Period.

9.3 Cost of funds

- (a) If this Clause 9.3 applies, the rate of interest on the relevant Covered Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
 - (i) the Margin; and
 - (ii) the rate notified to the Agent by that Covered Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to the relevant Covered Lender of funding its participation in that Covered Loan from whatever source it may reasonably select.
- (b) If this Clause 9.3 applies and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than thirty (30) days) with a view to agreeing a substitute basis for determining the rate of interest.
- (c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior written consent of all the Covered Lenders and the Borrower, be binding on all Parties.

9.4 Break Costs

- (a) The Borrower shall, within three (3) Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Covered Loan or Unpaid Sum being paid by the Borrower on a day other than an Interest Payment Date for that Covered Loan or Unpaid Sum.
- (b) Each Covered Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

10. FEES

10.1 Commitment fee

- (a) The Borrower shall pay to the Agent (for the account of each Covered Lender) a fee computed at the rate of zero point three six per cent. (0.36%) per annum on that Covered Lender's Covered Lender Available Commitment for the Availability Period.
- (b) The accrued commitment fee under paragraph (a) above is payable in arrears on the last day of each successive period of six (6) Months which ends during the Availability Period, on the last day of the Availability Period, and if cancelled in full, on the cancelled amount of the relevant Covered Lender's Covered Lender Commitment at the time the cancellation is effective (unless an Interest Payment Date occurs during the Availability Period, in which case, such fee will be payable on the first Interest Payment Date and each successive six (6) Month period until the end of the Availability Period).

10.2 Administration fee

The Borrower shall pay to the Mandated Lead Arranger (for its own account) an administration fee in the amount and at the times agreed in a Fee Document.

10.3 Agency fee

The Borrower shall pay to the Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Document.

10.4 UKEF Support Fee

The Borrower shall pay to the Agent (for the account of UK Export Finance and pursuant to the Covered Lenders' obligations under the UKEF Guarantee) an amount equal to the UKEF Support Fee, on or before the first Utilisation Date. Such obligation shall be satisfied in accordance with Clause 5.3 (*Payment of the UKEF Support Fee from the Facility*).

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

11. TAX GROSS UP AND INDEMNITIES

11.1 Tax definitions

(a) In this Agreement:

"**Protected Party**" means a Finance Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document;

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document; and

"**Tax Payment**" means either the increase in a payment made by the Borrower to a Finance Party under Clause 11.2 (*Tax gross up*) or a payment under Clause 11.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 11 a reference to "determines" or "determined" means a determination made in the absolute discretion of the person making the determination.

11.2 Tax gross up

(a) The Borrower shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

(b) The Borrower shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrower.

(c) If a Tax Deduction is required by law to be made by the Borrower, the amount of the payment due from the Borrower shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(d) If the Borrower is required to make a Tax Deduction, the Borrower shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

11.3 Tax indemnity

(a) The Borrower shall (within three (3) Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

- (b) Paragraph (a) above shall not apply:
- (i) with respect to any Tax assessed on a Finance Party:
 - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party;

or
 - (ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 11.2 (*Tax gross up*).
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.
- (d) A Protected Party shall, on receiving a payment from the Borrower under this Clause 11.3, notify the Agent.

11.4 **Stamp taxes**

The Borrower shall pay and, within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

11.5 **VAT**

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
- (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must

(where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and

- (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 11.5 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term "representative member" to have the same meaning as in the Value Added Tax Act 1994).
- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

12. INCREASED COSTS

12.1 Increased costs

- (a) Subject to Clause 12.3 (Exceptions), if a Finance Party incurs Increased Costs (an "**Affected Finance Party**") as a result of:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation;
 - (ii) compliance with any law or regulation made after the date of this Agreement; or
 - (iii) compliance with CRD IV or any law or regulation implementing it or Basel III,the Borrower shall, within three (3) Business Days of demand by the Agent, pay to the account of the Affected Finance Party the amount of any Increased Costs incurred by that Affected Finance Party or any of its Affiliates.
- (b) In this Agreement:
 - "**Basel III**" means:
 - (i) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity, risk measurement,

standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;

- (ii) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
- (iii) the agreements contained in "Basel III: Finalising post-crisis reforms" published by the Basel Committee on Banking Supervision in December 2017 as amended, supplemented or restated; and
- (iv) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

"**CRDIV**" means:

- (i) "Regulation (EU) No 575/2013 of the European Parliament and of the Council dated 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012" as amended from time to time; and
- (ii) "Directive 2013/36/EU of the European Parliament and of the Council dated 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC", as amended from time to time."

"**Increased Costs**" means:

- (i) a reduction in the rate of return from the Facility or on an Affected Finance Party's (or its Affiliate's) overall capital;
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document, which is incurred or suffered by an Affected Finance Party or any of its Affiliates to the extent that it is attributable to that Affected Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

12.2 **Increased cost claims**

- (a) An Affected Finance Party intending to make a claim pursuant to Clause 12.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.
- (b) Each Affected Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

12.3 **Exceptions**

Clause 12.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

- (a) attributable to a Tax Deduction required by law to be made by the Borrower;

- (b) compensated for by Clause 11.3 (*Tax indemnity*) (or would have been compensated for under Clause 11.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 11.3 (*Tax indemnity*) applied); or
- (c) attributable to the wilful breach by the relevant Affected Finance Party or its Affiliates of any law or regulation.

13. OTHER INDEMNITIES

13.1 Currency indemnity

- (a) If any sum due from the Borrower under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:
 - (i) making or filing a claim or proof against the Borrower; or
 - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower shall as an independent obligation, within fourteen (14) Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) The Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

13.2 Other indemnities

The Borrower shall, within fourteen (14) Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by the Borrower to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 24 (*Sharing among the Finance Parties*);
- (c) funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request or pursuant to Clause 5.3 (*Payment of the UKEF Support Fee from the Facility*) but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
- (d) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

13.3 Indemnity to the Agent and the Lenders

- (a) The Borrower shall promptly indemnify the Agent and the Lenders against any cost, loss or liability incurred by the Agent (acting reasonably) and the Lenders as a result of:

- (i) investigating any event which it reasonably believes is a Default;
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement.
- (b) The Borrower shall promptly indemnify the Agent against any cost, loss or liability incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) in acting as Agent under the Finance Documents.

14. MITIGATION BY THE LENDERS

14.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (*Illegality*), Clause 11 (*Tax Gross Up and Indemnities*) or Clause 12.1 (*Increased costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of the Borrower under the Finance Documents.

14.2 Limitation of liability

- (a) The Borrower shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 14.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 14.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it or adversely affect the Finance Party's rights under the UKEF Guarantee.

15. COSTS AND EXPENSES

15.1 Transaction expenses

The Borrower shall promptly on demand pay the Agent (for the account of each Finance Party) the amount of all costs and expenses (including legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution and syndication of:

- (a) the Finance Documents and any other documents referred to in the Finance Documents; and
- (b) any other Finance Documents executed after the date of this Agreement.

15.2 Amendment costs

If the Borrower requests an amendment, waiver or consent in respect of a Finance Document or an amendment is required pursuant to Clause 25.10 (*Change of currency*) or any amendment or waiver is contemplated or agreed pursuant to Clause 31.4 (*Replacement of Screen Rate*), the Borrower shall, within fourteen (14) Business Days of demand reimburse the Agent (for the account of the Agent or UK Export Finance, as the case may be) for the amount of all costs and

expenses (including legal fees) reasonably incurred (with the prior written consent of the Borrower, such consent not to be unreasonably withheld or delayed) by the Agent or UK Export Finance, as applicable, in responding to, evaluating, negotiating, complying with or implementing that request, requirement or actual or contemplated agreement.

15.3 Enforcement costs

The Borrower shall, within fourteen (14) Business Days of demand, pay to the Agent the amount of all costs and expenses (including legal fees) incurred by a Finance Party or the Covered Lenders' Guarantor (for the account of the relevant Finance Party or the Covered Lenders' Guarantor, as appropriate), in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

SECTION 7
REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

16. REPRESENTATIONS

The Borrower makes the representations and warranties set out in this Clause 16 to each Finance Party on the date of this Agreement.

16.1 Status

- (a) The Borrower is a sovereign state and has the power to sue and be sued in its own name and is not subject to any insolvency procedure.
- (b) It is not entitled to claim immunity from suit, or other legal process in any proceedings taken in Uganda in relation to the Finance Documents.
- (c) It has the power to own its own assets and to enter into and to perform its obligations under the Finance Documents
- (d) The Ministry of Finance, Planning and Economic Development of Uganda is legally authorised and competent to enter into transactions contemplated by the Finance Documents in the name and on behalf of the Borrower.

16.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are legal, valid, binding and enforceable obligations.

16.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

- (a) any Applicable Law (including any Sanctions Laws and Regulations applicable to the Borrower);
- (b) the constitution of Uganda or the constitutional documents of any of it, its Ugandan government agencies or the Employer; or
- (c) any agreement, mortgage, bond, judgment, arbitral award or other instrument international agreement or treaty, including with the IMF or any other international institution, to which it, its Ugandan government agencies or the Employer are party or which is binding upon them or any of their assets or constitute a default or termination event (howsoever described) under any such agreement or instrument.

16.4 Power and authority

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents, for and on behalf of Uganda.
- (b) No limit on its powers will be exceeded as a result of the borrowing or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party, for and on behalf of Uganda.

- (c) It has the capacity to sue and be sued before any court and/or arbitration tribunal which may be competent pursuant to the Finance Documents.

16.5 Validity and admissibility in evidence

All Authorisations and other acts, conditions and things required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;
- (b) to ensure that the obligations expressed to be assumed by the Borrower in the Finance Documents are legal valid, binding and enforceable; and
- (c) to make the Finance Documents to which it is a party admissible in evidence in Uganda, have been obtained, done, fulfilled, performed or effected and are in full force and effect.

16.6 Governing law and enforcement

- (a) The choice of the law stated to be the governing law of each Finance Document and all non-contractual obligations arising from or connected with them will be recognised and enforced in Uganda.
- (b) The agreement not to claim immunity in relation to a Finance Document to which the Borrower or its assets may be entitled will be recognised and enforced in Uganda.
- (c) The submission to arbitration as specified in the Finance Documents will be recognised and enforced in Uganda.
- (d) The submission by it to the jurisdiction of the arbitral tribunal contemplated under Clause 37 (*Arbitration*) is a valid submission.
- (e) Any arbitral award obtained in relation to a Finance Document from the tribunal specified to hear that arbitration in that Finance Document will be recognised and enforced in Uganda.

16.7 Deduction of Tax

Except in relation to a withholding of tax levied in respect of any interest payment pursuant to the Income Tax Act of Uganda (being the rate of fifteen per cent (15%) as at the date of this Agreement), it is not required to make any Tax Deduction in Uganda.

16.8 No filing or stamp taxes

Under the law of Uganda, it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except any filing, recording or enrolling or any tax or fee payable in relation to the Finance Documents which is referred to in any legal opinion delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*) and which will be made promptly after the date of the relevant Finance Document..

16.9 No Default

- (a) No Default is continuing or might reasonably be expected to result from the making of any Utilisation or the entry into, the performance of, or any transaction contemplated by, any Finance Document.

- (b) 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 of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or to which its assets are subject which has or might have a Material Adverse Effect.
- (c) The execution of the Finance Documents by the Borrower will not result in a breach of, or constitute a default under, any treaty, obligation, agreement or other instrument to which Uganda is a party.

16.10 No misleading information

- (a) All factual information provided by or on behalf of the Borrower (including by its advisers) to a Finance Party in relation to the Facility was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.
- (b) Nothing has occurred or been omitted and no information has been given or withheld that results in the information provided by or on behalf of the Borrower, any of its Ugandan government agencies or the Employer (including by their advisers) being untrue or misleading in any material respect.

16.11 Financial position

- (a) All information (oral and written) supplied by the Borrower to the Agent or the Lender in connection with or in relation to the Finance Documents or the Project is true, complete and accurate in all material respects and the Borrower is not aware of any material facts or circumstances that have not been disclosed to the Agent and which might, if disclosed, adversely affect the decision of a person considering whether or not to provide finance to the Borrower.
- (b) There has been no material adverse change in the Borrower's economic condition since the date of this Agreement.
- (c) Any budgets and forecasts supplied to the Agent were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.

16.12 Pari passu ranking

Its payment obligations under the Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors in respect of External Financial Indebtedness, save for such obligations as may be preferred by provisions of law that are of mandatory application at the date hereof and will be payable out of the public revenues and other assets of the Borrower.

16.13 No proceedings pending or threatened

- (a) No litigation, arbitration or administrative proceedings or investigations of, or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it, any of its Ugandan government agencies or the Employer.

- (b) No judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental or other regulatory body which is reasonably likely to have a Material Adverse Effect has (to the best of its knowledge and belief (having made due and careful enquiry)) been made against it, any of its Ugandan government agencies or the Employer.

16.14 No breach of laws

It has not breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

16.15 Sanctions

Neither the Borrower nor the Employer nor any of its or their Subsidiaries or joint ventures, nor any of their respective directors, officers or employees nor, to the knowledge of the Borrower or the Employer, any persons acting on any of their behalf:

- (i) is a Restricted Party; or
- (ii) has received notice of or is aware of any claim, action, suit, proceeding or investigation against it with respect to Sanctions Laws and Regulations by any Sanctions Authority.

16.16 Environmental laws and standards

- (a) No E&S Trigger Events have occurred and are continuing.
- (b) As far as it is aware (having made all reasonable enquiries), it has not omitted to provide UK Export Finance with any information in its possession relating to the Environment which, had it been provided, would have resulted in any environmental and/or social report investigation, audit or assessment being materially inaccurate or incomplete, and all information provided to UK Export Finance is, to the best of its knowledge (having made all reasonable enquiries), correct and up-to-date.
- (c) No E&S Claims have been commenced and are continuing, and having made all reasonable enquiries, it is not aware of the threat of any E&S Claims with the exception, in either case, of any which are frivolous or vexatious and which it reasonably believes will be discharged, stayed or dismissed within sixty (60) of commencement.
- (d) No E&S Investigations are being conducted or are pending.

16.17 Anti-corruption law

The Borrower has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws. The Borrower has not, nor, to the knowledge of the Borrower, have (A) the Employer or (B) its or the Employer's ministers, officials officers, agents or representatives, for the purpose of gaining or maintaining unlawful or improper benefits for the Borrower or the Employer, directly or indirectly: (i) violated applicable anti-corruption laws or made, undertaken, offered to make, promised to make or authorised the payment or giving of a prohibited payment; (ii) used funds or other assets, or made any promise or undertaking in such regard, for the establishment or maintenance of a secret or unrecorded fund; or (iii) made any false or fictitious entries in any books or records of the Borrower or the Employer relating to any prohibited payment.

16.18 **Corrupt Practices**

- (a) No Corrupt Practices have been engaged in, directly or indirectly, by it or any of its respective officers or any other person acting on its behalf, to or for the benefit of any agency (or any official, officer, agent or key employee of, or other person with management responsibilities in any agency), or any other person.
- (b) Neither it nor any of its directors, officers, agents, employees or Affiliates or the Employer has engaged in any activity or conduct which would violate any applicable anti-bribery, anti-corruption or anti-money laundering laws or regulations in any applicable jurisdiction.
- (c) It has the means and the internal procedures in place to detect and to intercept money-laundering channels or chains involving the proceeds of terrorist activities, drug-trafficking or organised crime.

16.19 **Commercial Contract**

- (a) To the best of the Borrower's knowledge and belief (after making due and reasonable enquiry):
 - (i) the Commercial Contract has been duly executed and delivered by authorised officers of the Employer and all necessary Authorisations and actions required for the valid and binding execution and performance of the Commercial Contract by the Employer have been obtained and are in full force and effect.
 - (ii) the Commercial Contract is legal, valid and enforceable;
 - (iii) there are no contracts, agreements or other arrangements in existence that materially amend, modify or vary the Commercial Contract provided to the Agent in accordance with Clause 4.1 (*Initial conditions precedent*);
 - (iv) all Authorisations in connection with the Commercial Contract have been obtained or effected and are in full force and effect;
 - (v) no party to the Commercial Contract is in breach of any of its obligations under it (other than any breach that is technical or otherwise immaterial);
 - (vi) no event of circumstance has occurred that give rise to a right to terminate early, suspend performance under or cancel the Commercial Contract;
 - (vii) the Commercial Contract is not the subject of any pending proceedings which proceedings, if adversely determined, would have a Material Adverse Effect; and
 - (viii) no payments made by the Employer in respect of amounts due under or in relation to the Commercial Contract, the Facility or any relevant Finance Document have been funded out of funds of any Corrupt Practice and none of the source of funds to be used by the Employer in connection with their business is of any Corrupt Practice.
 - (ix) The terms of, and the transactions contemplated by, the Commercial Contract, and the entry by the Government of the Republic of Uganda, represented by the Ugandan Investment Authority, into the Commercial Contract, are cleared by the Solicitor General of Uganda, and, in each case, such clearance and/or approval has not been revoked, terminated or expired.

16.20 External Financial Indebtedness

None of its External Financial Indebtedness is secured by any Security on or with respect to the Public Assets other than as permitted by this Agreement.

16.21 Financial Indebtedness

There is no:

- (a) Financial Indebtedness of the Borrower which has not been paid when due or within any applicable grace period;
- (b) Financial Indebtedness of the Borrower which has been declared to be or otherwise has become due and payable prior on or to its specified maturity as a result of an event of default (however described); or
- (c) payment obligation in relation to any guarantee given by the Borrower in respect of any Financial Indebtedness of any other person which has not been met when due or within any applicable grace period,
- (d) for an aggregate amount of indebtedness or commitment for Financial Indebtedness under paragraphs (a), (b) or (c) above which is equal to or higher than EUR 5,000,000 (or its equivalent in any other currency or currencies).

16.22 Rescheduling of debt; suspension of payments; moratorium

- (a) The Borrower has not commenced negotiations with any, all or any particular class of its creditors, by reason of actual or anticipated financial difficulties, with a view to the general readjustment or rescheduling of any External Financial Indebtedness.
- (b) The Borrower is able to pay all External Financial Indebtedness as and when it falls due and has not suspended or evidenced any intention to suspend payment of any External Financial Indebtedness.
- (c) No moratorium has come into effect or been declared or may come into effect or be declared, in the reasonably foreseeable future, with respect to payment of any External Financial Indebtedness.

16.23 Good title to assets

It has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

16.24 Licences

- (a) It is not necessary under the laws of Uganda:
 - (i) in order to enable any Finance Party to enforce its rights under any Finance Document; or
 - (ii) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,that any Finance Party or UK Export Finance should be licensed, qualified or otherwise entitled to carry on business in Uganda.

- (b) No Finance Party is or will be deemed to be resident, domiciled or carrying on business in Uganda by reason only of the execution, performance and/or enforcement of any Finance Document.

16.25 **Sovereign Debts**

Its payment obligations under the Finance Documents shall be treated as sovereign debts of Uganda. The full faith and credit of Uganda has been pledged for the due and punctual payment by it of the principal of, and interest on, and any additional amount with respect to, the Loans, owing under this Facility and the performance by it of any obligations thereunder.

16.26 **Budget and Borrowing Limits**

- (a) The Project is within the scope of the Borrower's approved budget for the current financial year of the Borrower.
- (b) Its borrowing limits under any relevant Ugandan law or Authorisation and any limits set by the IMF have not been exceeded and will not be exceeded by borrowing the full amount of this Facility and the Commercial Facility Agreement.

16.27 **Reserves**

The Borrower has full power and authority to use any available Reserves of Uganda for the satisfaction and discharge of its obligations under the Finance Documents and does not require any licence or any other Authorisation of any person or Government Entity or other agency to use the same.

16.28 **Purpose**

The proceeds of each Loan have been (and will be) used exclusively and solely for the purposes set out in Clause 3 (*Purpose*).

16.29 **Public procurement rules**

- (a) All public procurement rules in Uganda which are applicable to its entry into and the exercise of its rights and performance of its obligations under the Finance Documents to which it is a party have been complied with.
- (b) To the best of its knowledge and belief (having made due and careful enquiry), all public procurement rules in Uganda which are applicable to the Employer's entry into and the exercise of the Employer's rights and performance of the Employer's obligations under the Commercial Contract have been complied with.

16.30 **Exchange controls**

- (a) Under the laws of Uganda, all payments to be made under the Finance Documents may be freely transferred out of the Borrower and may be paid in, or freely converted into, the Facility Currency.
- (b) The Borrower has obtained all foreign exchange control approvals or such other Authorisations as are required to assure the availability of the Facility Currency to enable the Borrower to perform all of its obligations under the Finance Document to which it is a party.
- (c) There are no restrictions or requirements currently in effect that limit the availability or transfer of foreign exchange which would restrict the ability of the Borrower to perform its obligations under any Finance Document.

16.31 Immunity

- (a) In any proceedings taken Uganda in relation to the Finance Documents to which it is a party, it will not be entitled to claim for itself or any of its assets immunity from:
- (i) from suit, execution, attachment or other legal process;
 - (ii) in respect of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; or
 - (iii) in respect of the issue of any process against its assets of revenues for the enforcement of a judgement or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues,

except for immunity from execution or attachment or like process in respect of Protected Ugandan Assets.

- (b) Its execution of the Finance Documents to which it is a party constitutes, and the exercise of its rights and performance of its obligations thereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

16.32 Repetition

The Repeating Representations are deemed to be made by the Borrower by reference to the facts and circumstances then existing on the date of each Utilisation Request and each Interest Payment Date.

17. INFORMATION UNDERTAKINGS

The undertakings in this Clause 17 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

17.1 Financial information

The Borrower shall, on request by the Agent, furnish the Agent with such financial, statistical, economic and general information (including such information as may be supplied by the Borrower to international financial institutions) as the Agent or the Lender may require.

17.2 Information: miscellaneous

The Borrower shall supply to the Agent:

- (a) promptly upon becoming aware of them, the details (including any remedial actions or defences) of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it or the Employer, and which might, if adversely determined, have a Material Adverse Effect;
- (b) promptly, such further information regarding the assets and operations of the Borrower (including any requested amplification or explanation of any material provided by the Borrower under this Agreement) as any Finance Party (through the Agent) may reasonably request;
- (c) promptly, any information relating to this transaction or in relation to the Project (including any budget or budget report of projection) as any Finance Party (through the Agent) may reasonably request;

- (d) promptly, details of any material breach by it and/or the Employer of any Sanctions Laws and Regulations and/or any applicable anti-bribery, anti-corruption or anti-money laundering laws and regulations in any applicable jurisdiction, to the extent that such breach:
 - (i) relates to any Finance Document or the Commercial Contract (or, in each case, the transactions contemplated thereunder); or
 - (ii) could have a Material Adverse Effect;
- (e) promptly, written notice of any change in any authorised signatory(ies) signed by a current authorised signatory of the relevant person and accompanied by a specimen of signatures of any such new authorised signatory(ies);
- (f) promptly, such further information regarding the financial condition and operations of the Borrower or Employer as the Agent or a Lender (through the Agent) may request (including, but not limited to, information relating to any lending by the Borrower to any person to the extent that the disclosure of such information is permitted under applicable law);
- (g) the imposition of any Applicable Law or regulation affecting the Borrower, the Employer, the Exporter or the Project which has or is reasonably likely to have a Material Adverse Effect; and
- (h) any other information as the Agent or the Lender (acting through the Agent) may reasonably require from time to time.

17.3 **Notification of default**

- (a) The Borrower shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by the Borrower's Signatory on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

17.4 **"Know your customer" checks**

- (a) If:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) a change in UK Export Finance's internal practices and procedures relating to "know your customer" checks;
 - (iii) any change in the status of the Borrower after the date of this Agreement; or
 - (iv) a proposed assignment or transfer by a Lender of any of its rights or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,
 obliges the Agent or any Lender (or, in the case of paragraph (iv) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall

promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iv) above, on behalf of any prospective new Lender) in order for the Agent, such existing Lender or, in the case of the event described in paragraph (iv) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable law and/or as required under UK Export Finance's internal practices and procedures pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent in order for the Agent or UK Export Finance to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable law pursuant to the transactions contemplated in the Finance Documents.

17.5 **Notifications relating to the Commercial Contract**

The Borrower shall (and shall procure that the Employer will) promptly notify the Agent if it becomes aware that:

- (a) a Material Commercial Contract Change has been made without the prior written consent of the Agent or is proposed to be made;
- (b) a termination or suspension lasting fifteen (15) Business Days or more has occurred under the Commercial Contract; or
- (c) any disputes or the commencement of arbitration or other legal proceedings in connection with the Commercial Contract have occurred.

18. **GENERAL UNDERTAKINGS**

The undertakings in this Clause 18 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

18.1 **Authorisations**

The Borrower shall promptly obtain all Authorisations and comply with and perform all other acts, conditions and things required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;
- (b) to ensure that the obligations expressed to be assumed by the Borrower in the Finance Documents are legal valid, binding and enforceable; and
- (c) to make the Finance Documents to which it is a party admissible in evidence in Uganda, and shall supply certified copies to the Agent of any such Authorisations (including, but not limited to, the resolution of the Parliament of Uganda and the legal opinion of the Attorney General of Uganda).

18.2 Compliance with laws

The Borrower shall comply in all respects with the Applicable Law (including Sanctions Laws and Regulations applicable to the Borrower), if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

18.3 Sanctions

- (a) The Borrower shall not, and shall not permit or authorise (and shall ensure that the Employer will not and will not permit or authorise) any person acting on its or their behalf, or any of its or their officials or officers, to (directly or indirectly) use all or any part of the proceeds of this Agreement or other transactions contemplated by this Agreement (or lend, make payments of, contribute or otherwise make available all or any part of such proceeds to any person) to fund any trade, business or other activities:
- (i) involving or for the benefit of any Restricted Party; or
 - (ii) in any other manner that would reasonably be expected to result in the Borrower, the Employer or any Finance Party being in breach of any Sanctions Laws and Regulations (if and to the extent applicable to any of them) or becoming a Restricted Party.
- (b) The Borrower shall not, and shall not permit or authorise (and shall ensure that the Employer will not and will not permit or authorise) any other person to (directly or indirectly) use, lend, make payments of, contribute or otherwise make available all or any part of funds which have been made available to it under any Finance Document to any person, or fund any activities of or business with any person or provide any person with assets acquired with funds which have been made available to it under any Finance Document, that, at the time of such funding, is the subject of, or is controlled by a Restricted Person or any person who is currently subject to, Sanctions Laws and Regulations.

18.4 Environmental undertakings

(a) E&S Self-Monitoring Reports

- (i) The Borrower shall, or shall procure that Employer or the Exporter will, provide a report to UK Export Finance in a form and substance acceptable to UK Export Finance at the times set out in paragraph (ii) or (iii) below, containing the following:
- (A) a statement that (and details of how):
- (1) (in respect of the first E&S Self-Monitoring Report) all E&S Obligations (including obligations of the Borrower and/or the Employer) have been fulfilled since the date of this Agreement; and
 - (2) (in respect of each subsequent E&S Self-Monitoring Report) all E&S Obligations (including obligations of the Borrower and/or the Employer) in the period since the most recent E&S Self-Monitoring Report have been fulfilled,

or, if it is not able to make such a statement, a disclosure of the E&S Obligations that have not been fulfilled providing full details of such occurrence and any planned mitigation;

- (B) details of any E&S Investigations or E&S Claims subsisting at that time; and
 - (C) any other matter pertaining to the Environment in respect of the Project.
- (ii) Unless an E&S Trigger Event has occurred and is continuing, the Borrower shall, or shall procure that the Employer will, provide an E&S Self-Monitoring Report within thirty (30) Business Days of the end of:
- (A) each three (3) Month period during the first nine (9) months of the Construction Phase and each six (6) Month period thereafter; and
 - (B) each twelve (12) Month period from the commencement of the Operations Phase.
- (iii) If an E&S Trigger Event has occurred and is continuing, UK Export Finance may require the Borrower to, or to procure that the Employer provide E&S Self-Monitoring Reports on the corrective actions being taken in respect of that E&S Trigger Event upon request or at such intervals as it may require.

(b) Information regarding E&S Investigations or E&S Claims

- (i) The Borrower shall, and shall procure that the Employer will, as soon as practicable and in any case no later than ten (10) Business Days after the (i) receipt by or on behalf of the Borrower or the Employer of any notice of or (ii) becoming aware of:
- (A) any E&S Investigation; or
 - (B) any E&S Claim,

notify UK Export Finance of such notice or of becoming so aware and provide full written details of such E&S Investigation or E&S Claim to UK Export Finance.

(c) E&S Incidents

- (i) If an E&S Incident occurs, the Borrower shall, or shall procure that the Employer will:
- (A) take, or procure the taking of, all such actions and measures required to immediately address the adverse impacts of that E&S Incident; and
 - (B) as soon as possible, but in any event no later than:
 - (1) five (5) Business Days, where the E&S Incident relates to an incident described in paragraph (c) of the definition of "E&S Incident" in Clause 1.1 (*Definitions*); or
 - (2) ten (10) Business Days in respect of any other paragraph of the definition of "E&S Incident" in Clause 1.1 (*Definitions*),

notify UK Export Finance of its occurrence and provide full written details of it to UK Export Finance.

(d) **E&S Trigger Events**

- (i) Upon UK Export Finance being notified of the occurrence of an E&S Trigger Event or determining that an E&S Trigger Event has occurred, in consultation with the Borrower, it may:
 - (A) determine that the E&S Trigger Event can be remedied by the Borrower and/or the Employer pursuant to the relevant E&S Management Plan and that the Borrower and/or the Employer shall provide progress reports to UK Export Finance in the E&S Self-Monitoring Reports in accordance with paragraph (a) above;
 - (B) require the Borrower and/or Employer to produce a Corrective Action Plan, in which case the Borrower and/or the Employer (as applicable) shall, as soon as practicable following such request but in any event within fifteen (15) Business Days of such request, provide a draft Corrective Action Plan for that E&S Trigger Event to UK Export Finance for its acceptance;
 - (C) agree with the Borrower any other course of action to remedy the E&S Trigger Event; or
 - (D) declare that such E&S Trigger Event is incapable of remedy.
- (ii) An E&S Trigger Event will be deemed incapable of remedy to the extent that UK Export Finance notifies the Borrower that: (i) the E&S Trigger Event is incapable of remedy in accordance with paragraph (i)(D) above; or (ii) the draft Corrective Action Plan has not been accepted within six (6) Months of the request in accordance with the provisions of this paragraph (d).
- (iii) Following a request by UK Export Finance to provide a draft Corrective Action Plan in accordance with paragraph (i)(B) above and pending acceptance by UK Export Finance of any draft Corrective Action Plan, the Borrower shall, or shall procure that the Employer will, take or procure the taking of all such actions and measures to immediately address the adverse impacts of the relevant E&S Trigger Event, including such actions or measures as are required by any draft Corrective Action Plan in accordance with the timescales set out in that draft Corrective Action Plan.
- (iv) If UK Export Finance does not accept the draft Corrective Action Plan pursuant to paragraph (i)(B) above:
 - (A) UK Export Finance shall indicate to the Borrower in which areas the draft plan is deficient and the time period within which a revised draft Corrective Action Plan shall be re-submitted to UK Export Finance for its acceptance; and
 - (B) the Borrower or the Employer (as the case may be) shall submit a revised draft Corrective Action Plan after consulting with and taking any views of UK Export Finance fully into account.
- (v) If UK Export Finance does not accept the revised draft Corrective Action Plan submitted pursuant to paragraph (iv)(B) above, UK Export Finance and the Borrower or the

Employer (as the case may be) shall repeat the process set out in paragraph (iv) above until such time as a revised draft Corrective Action Plan is accepted by UK Export Finance.

- (vi) A draft Corrective Action Plan shall be deemed to have been accepted by UK Export Finance thirty (30) Business Days after its submission unless UK Export Finance advises the Borrower otherwise.
 - (vii) After acceptance of the Corrective Action Plan, the Borrower shall, or shall procure that the Employer will, take or procure the taking of all such actions and measures as are required by the Corrective Action Plan in accordance with the timescales set out therein.
 - (viii) Every three (3) Months from the date on which a Corrective Action Plan is accepted, the Borrower shall, or shall procure that the Employer will, provide UK Export Finance with a supplemental E&S Self-Monitoring Report on the implementation of that Corrective Action Plan, and shall provide a final report to UK Export Finance on completion of the Corrective Action Plan, each such report to be in a form and substance acceptable to UK Export Finance.
 - (ix) To the extent that an E&S Trigger Event is not remedied within the timescales set out in the relevant Corrective Action Plan or in line with the E&S Management Plan, UK Export Finance may require the Borrower to produce a new Corrective Action Plan or take any other corrective measure in accordance with the procedures set out in paragraph (d)(i) above.
- (e) **Site visits**
- (i) The Borrower shall, or shall procure that the Employer will, at the request of UK Export Finance, ensure access to the Project sites and arrange for a site visit by UK Export Finance or its nominated representative or the IESC:
 - (A) at any time while a Corrective Action Plan is in place or when a Default has occurred and is continuing; and
 - (B) for the purpose of monitoring the performance of the E&S Obligations (other than compliance with a Corrective Action Plan),
 - (1) in the case of UK Export Finance or its nominated representative at least once in each twelve (12) Month period; and
 - (2) and in the case of the IESC, at least every six (6) Months during the Construction Phase and twelve (12) Months during the Operations Phase.
 - (ii) The Borrower shall ensure that UK Export Finance or its nominated representative and the IESC is promptly and duly informed regarding, and has the right to attend, any multi-stakeholder meeting or focus groups or other meetings which form any part of the Borrower and/or Employer's public consultation process in relation to the Project.
 - (iii) The agenda, scope and (subject to paragraph (i) above) timing of any site visits shall be determined by UK Export Finance or its nominated representative or the IESC following consultation with the Borrower.

- (iv) The Borrower shall pay all reasonable costs and expenses of UK Export Finance and/or its nominated representatives in relation to each site visit. To the extent that UK Export Finance or its nominated representative itself was required directly to pay any costs or expenses then the Borrower shall, within ten (10) Business Days of written demand, reimburse UK Export Finance and/or its nominated representative any such amounts incurred.
 - (v) To the extent reasonably practicable, in advance of any visit to be made by UK Export Finance or its nominated representative or the IESC:
 - (A) UK Export Finance, its nominated representative or the IESC shall provide the Borrower with written details of those matters that UK Export Finance, its nominated representative or the IESC wishes to address during the proposed visit in order to assist the Borrower in arranging the visit; and
 - (B) the Borrower shall provide UK Export Finance or its nominated representative or the IESC with such up to date information relating to those matters as UK Export Finance or its nominated representative or the IESC may request.
 - (vi) Following any visit made by UK Export Finance or its nominated representative or the IESC the Borrower shall provide such follow up reports or information as UK Export Finance shall request.
- (f) **Operations Phase E&S Management Plan**
- (i) The Borrower shall, or shall procure that the Employer will, at least six (6) Months before the start of the Operations Phase, provide UK Export Finance with a draft Operations Phase E&S Management Plan comprising of the environmental and social management procedures to ensure that all E&S Obligations are complied and/or aligned with (as applicable) in relation to the Operations Phase of the Project.
 - (ii) UK Export Finance shall notify the Borrower within one (1) Month of receipt whether the draft Operations Phase E&S Management Plan is accepted.
 - (iii) If UK Export Finance does not accept the draft Operations Phase E&S Management Plan submitted pursuant to paragraph (ii) above:
 - (A) UK Export Finance shall indicate to the Borrower in which areas the draft Operations Phase E&S Management Plan is deficient and the period within which a revised draft Operations Phase E&S Management Plan shall be resubmitted to UK Export Finance; and
 - (B) the Borrower or the Employer (as the case may be) shall submit a revised draft Operations Phase E&S Management Plan after consulting with and taking any views of UK Export Finance fully into account.
 - (iv) If UK Export Finance does not accept the revised draft Operations Phase E&S Management Plan submitted pursuant to paragraph (iii)(B) above UK Export Finance and the Borrower or the Employer (as the case may be) shall repeat the process set out

in paragraph (iii) above until such time as a revised draft Operations Phase E&S Management Plan is accepted.

- (v) A draft Operations Phase E&S Management Plan shall be deemed to have been accepted by UK Export Finance thirty (30) Business Days after its submission unless UK Export Finance advises the Borrower otherwise.

(g) **IESC**

- (i) To the extent that the Borrower has failed to pay any amounts due and payable by it to the IESC and any such amounts are then paid on behalf of the Borrower by UK Export Finance, the Borrower shall reimburse UK Export Finance an amount equal to the amounts paid by UK Export Finance within ten (10) days of being notified by UK Export Finance that it has made such payment.

18.5 Anti-corruption law

- (a) The Borrower shall not (and shall ensure that the Employer will not) directly or indirectly use the proceeds of the Facility for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) The Borrower shall not, for the purpose of gaining or maintaining unlawful or improper benefits for itself or the Employer, directly or indirectly: (i) make, undertake, offer to make, promise to make, encourage, solicit, receive or authorize the payment or giving of a prohibited payment; or otherwise engaged in acts of bribery corruption; (ii) use funds or other assets, or make any promise or undertaking in such regard, for the establishment or maintenance of a secret or unrecorded fund; or (iii) make any false or fictitious entries in its books or records relating to any prohibited payment with respect to the transactions contemplated by the Finance Documents.
- (c) The Borrower shall (and shall ensure that the Employer will):
 - (i) conduct its businesses in compliance with the Anti Corruption Act of 2009 of Uganda and any other applicable anti-corruption laws; and
 - (ii) maintain policies and procedures designed to promote and achieve compliance with such laws.
- (d) The Borrower shall not (and shall ensure that the Employer will not) directly or indirectly, authorise, offer, promise, or make payments of anything of value, including but not limited to cash, cheques, wire transfers, tangible and intangible gifts, favours, services, and those entertainment and travel expenses that go beyond what is reasonable and customary and of modest value to: (i) an executive, official, employee or agent of a governmental department, agency or instrumentality; (ii) a director, officer, employee or agent of a wholly or partially government-owned or controlled company or business; (iii) a political party or official thereof, or candidate for political office; (iv) a Foreign Public Official; or (v) any other person; while knowing or having a reasonable belief that all or some portion will be used for any the purpose of: (A) influencing any act, decision or failure to act by any such person in his or her official capacity; (B) inducing any such

person to use his or her influence with a government or instrumentality to affect any act or decision of such government or entity; or (C) securing an unlawful advantage; in order to obtain, retain or direct business.

18.6 Exchange controls

- (i) Under the laws of Uganda, all payments to be made under the Finance Documents may be freely transferred out of the Borrower and may be paid in, or freely converted into, the Facility Currency.
- (ii) The Borrower has obtained all foreign exchange control approvals or such other Authorisations as are required to assure the availability of the Facility Currency to enable the Borrower to perform all of its obligations under the Finance Document to which it is a party.
- (iii) There are no restrictions or requirements currently in effect that limit the availability or transfer of foreign exchange which would restrict the ability of the Borrower to perform any of its obligations under any Finance Document.

18.7 Preservation of assets

The Borrower shall maintain in good working order and condition (ordinary wear and tear excepted) all of its assets necessary or desirable in the conduct of its activities.

18.8 Purpose

The Borrower must ensure that the proceeds of any Loan are used exclusively and solely for the purposes set out in Clause 3 (*Purpose*).

18.9 Compliance with the Commercial Contract

The Borrower shall (and shall ensure that the Employer will):

- (a) comply in all material respects with its obligations under, and in the manner and at the times provided in the Commercial Contract;
- (b) not repudiate or evidence an intention to repudiate the Commercial Contract nor take nor omit to take any action that might result in any default on any of its payment or other material obligations under the Commercial Contract;
- (c) promptly obtain, comply with and do all that is necessary to maintain in full force and effect any Authorisation required under any law or regulation of Uganda to enable it to perform its obligations under the Commercial Contract or required for the legality, validity, enforceability or admissibility in evidence in Uganda of the Commercial Contract; and
- (d) comply in all material respects with all laws to which it may be subject, if failure to so comply would materially impair the ability of it to perform any of its obligations under the Commercial Contract.

18.10 Insurance

The Borrower shall:

- (a) procure that any goods and/or services to be supplied under the Commercial Contract will be insured to the satisfaction of the Agent against the risk of loss or damage in

accordance with normal commercial practice for similar contracts until final acceptance of those goods and/or services under the Commercial Contract; and

- (b) produce to the Agent (from time to time at the Agent's request) evidence that such insurance has been effected and maintained.

18.11 **Pari passu ranking**

The Borrower shall ensure that at all times all its unsecured and unsubordinated obligations to the Finance Parties (or any of them) against it under the Finance Documents rank at least pari passu with its obligations to all of its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by law.

18.12 **Budget and limits**

- (a) The Borrower shall include all amounts due and payable or that will fall due and payable to the Finance Parties under the Finance Documents during a calendar year in its yearly finance law and its budget statements or other financial plans for that calendar year and shall ensure that there will at no time be any restriction on the ability of the Borrower to meet its obligations under the Finance Documents.
- (b) The Borrower shall maintain the funds necessary for the repayment of all under the Finance Documents that have been provided for under the Borrower's approved budget for the current financial year of the Borrower.
- (c) The Borrower shall ensure that, at all times, its borrowings and guarantees remain within any limit set by the IMF, the World Bank and the applicable international treaties.

18.13 **Further assurance**

The Borrower shall (at its costs and expense) promptly do all such acts or execute all such documents as the Agent or any Lender consider to be reasonably or commercially necessary or desirable to ensure that the Finance Parties obtain all the rights and benefits intended to be conferred on them under the Finance Documents.

19. **EVENTS OF DEFAULT**

Each of the events or circumstances set out in this Clause 19 is an Event of Default (save for Clause 19.17 (*Acceleration*)).

19.1 **Non-payment**

The Borrower does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by:
 - (i) administrative or technical error; or
 - (ii) a Disruption Event; and
- (b) payment is made within five (5) Business Days of its due date.

19.2 **Other obligations**

- (a) The Borrower does not comply with any provision of the Finance Documents (other than those referred to in Clause 19.1 (*Non-payment*) and Clause 19.16 (*Environmental*)).

- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within ten (10) Business Days of the earlier of:
- (i) the Agent giving notice to the Borrower; and
 - (ii) the Borrower becoming aware of the failure to comply.

19.3 **Misrepresentation**

Any representation or statement made or deemed to be made by the Borrower in the Finance Documents or any other document delivered by or on behalf of the Borrower under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

19.4 **Cross default**

- (a) Any External Financial Indebtedness of the Borrower is not paid when due or within any originally applicable grace period for such payment.
- (b) As a result of an event of default (however described), any Financial Indebtedness of the Borrower, its Ugandan government agencies or the Employer is:
- (i) declared to be or otherwise becomes due and payable prior to its specified maturity; or
 - (ii) placed on demand.
- (c) Any commitment for any External Financial Indebtedness of the Borrower is cancelled or suspended by a creditor of the Borrower as a result of an event of default (however described).
- (d) A default (howsoever described) has occurred and is continuing under the Commercial Facility Agreement.
- (e) Other than in respect of the Commercial Facility Agreement, no Event of Default will occur under this Clause 19.4 if the aggregate amount of the External Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (c) above is less than €5,000,000 (or its equivalent in any other currency or currencies as determined by the Agent).

19.5 **Moratorium**

A moratorium is declared or de facto comes into effect on the payment of any External Financial Indebtedness of the Borrower or the Borrower commences negotiations with any one or more of its External Financial Indebtedness creditors with a view to the general readjustment or rescheduling of its indebtedness.

19.6 **Creditors' process**

Any expropriation, attachment, sequestration, distress or execution (or any analogous process in any jurisdiction) affects any asset or assets of the Borrower, the Employer or any Ugandan government agencies having an aggregate value of EUR 5,000,000 (or its equivalent in any other currency or currencies as determined by the Agent) and is not discharged within thirty (30) days.

19.7 **Unlawfulness**

- (a) It is or becomes unlawful for the Borrower to perform any of its obligations under the Finance Documents.
- (b) Any obligation or obligations of the Borrower under any Finance Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents.
- (c) At any time any act, condition or thing required to be done, fulfilled or performed in order to:
 - (i) enable the Borrower to lawfully enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in a Finance Document;
 - (ii) ensure that the obligations expressed to be assumed by the Borrower in the Finance Documents are legal, valid, binding and enforceable; or
 - (iii) make the Finance Documents admissible in evidence in Uganda,is not done, fulfilled or performed, or any Authorisation required for paragraphs (i) to (iii) above is withdrawn or modified or otherwise ceases to be in full force and effect.

19.8 **Litigation and judgment**

Any litigation, arbitration, administration, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened in relation to the Finance Documents or commenced in relation to the transactions contemplated in the Finance Documents or against the Borrower or the Employer or any of their assets which have or are reasonably likely to have a Material Adverse Effect.

19.9 **Exchange controls**

Any event or series of events occurs which limits the acquisition or the transfer of foreign exchange by the Borrower and such event or events has or is reasonably likely to affect the ability of the Borrower to perform its obligations under any Finance Document.

19.10 **Convertibility/Transferability**

Any foreign exchange law is amended, enacted or introduced or is reasonably likely to be amended, enacted or introduced in Uganda that (in the opinion of the Agent (acting on the instructions of the Combined Majority Lenders)):

- (i) has or is reasonably likely to have the effect of prohibiting, restricting or delaying any payment by the Borrower under any of the Finance Documents; or
- (ii) is materially prejudicial to the interests of the Finance Parties under or in connection with the Finance Documents.

19.11 **Immunity**

The Borrower at any time claims or threatens to claim immunity from process, execution, attachment or other legal process, whether in Uganda or in any other jurisdiction.

19.12 **IMF**

At any time Uganda ceases to be a member in good standing or becomes ineligible to use the resources of the IMF or is unable for any reason to draw or make use of funds available to it under any IMF funding programme or any such programme is cancelled or suspended.

19.13 **Political and economic risk**

A deterioration occurs in the political or economic situation generally in Uganda, or an act of war or hostilities, invasion, armed conflict or act of foreign enemy, revolution insurrection, insurgency of threat thereof occurs in or involving Uganda, unless (in any such case) this does not and will not have a Material Adverse Effect.

19.14 **Repudiation**

The Borrower rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or evidences an intention to rescind or repudiate a Finance Document.

19.15 **Material adverse change**

Any circumstances arise which give reasonable grounds in the opinion of the Lender for belief that there has been a material adverse change in:

- (a) the economic condition of the Borrower; or
- (b) the ability of the Borrower to comply with any of its obligations under the Finance Documents.

19.16 **Environmental**

- (a) An E&S Obligations Breach under paragraph (d)(i)(D) (*E&S Trigger Events*) of Clause 18.4 (*Environmental undertakings*) occurs and is either incapable of remedy or any E&S Obligations Breach is deemed to be incapable of remedy pursuant to paragraph (d)(ii) (*E&S Trigger Events*) of Clause 18.4 (*Environmental undertakings*).
- (b) Any Operations Phase E&S Management Plan is not accepted by UK Export Finance within six (6) Months of its first submission pursuant to paragraph (f) (*Operations Phase E&S Management Plan*) of Clause 18.4 (*Environmental undertakings*).

19.17 **Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Combined Majority Lenders, by notice to the Borrower:

- (a) cancel the Total Commitments whereupon they shall immediately be cancelled;
- (b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Combined Majority Lenders.

SECTION 8
CHANGES TO PARTIES

20. CHANGES TO THE LENDERS

20.1 Assignments and transfers by the Lenders

Subject to the consent of UK Export Finance and this Clause 20, a Lender (the "**Existing Lender**") may:

- (i) assign any of its rights; and/or
- (ii) transfer by novation any of its rights and obligations under the Finance Documents, to another bank or financial institution or to a trust, fund or other entity regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets or to the Covered Lenders' Guarantor (the "**New Lender**").

20.2 Conditions of assignment or transfer

- (a) The Direct Lender shall provide the Borrower fourteen (14) Business Days prior notice of its intention to assign or transfer under this Clause 20 (*Changes to the Lenders*) above before affecting the assignment or transfer. Following receipt of such notice, the Borrower may elect to prepay the Commitments intended to be assigned or transferred by submitting a prepayment notice in accordance with Clause 7.6 (*Voluntary prepayment of Loans*).
- (b) The Direct Lender shall notify the Borrower as soon as practicable following the assignment or transfer of any of the Direct Lender's rights or obligations under the Finance Documents and confirm that the terms, conditions and other parties to this Agreement remain unchanged.
- (c) An assignment will only be effective on:
 - (i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Covered Lender or a Direct Lender, as applicable; and
 - (ii) performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.
- (d) A transfer will only be effective if the procedure set out in Clause 20.5 (*Procedure for transfer*) is complied with.
- (e) If:
 - (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
 - (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, the Borrower would be obliged to make a payment to the New Lender or Lender

acting through its new Facility Office under Clause 11 (*Tax Gross Up and Indemnities*) or Clause 12.1 (*Increased costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred. This paragraph (e) shall not apply in respect of an assignment or a transfer made in the ordinary course of the primary syndication of the Facility.

- (f) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

20.3 Assignment or transfer fee

The New Lender shall, on or before the date upon which an assignment or a transfer takes effect (other than if the New Lender is UK Export Finance or an Affiliate of a Lender), pay to the Agent (for its own account) a fee of €2,000.

20.4 Limitation of responsibility of Existing Lenders

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

- (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
- (ii) the financial condition of the Borrower;
- (iii) the performance and observance by the Borrower of its obligations under the Finance Documents or any other documents; or
- (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law are excluded.

- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:

- (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of the Borrower and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and
- (ii) will continue to make its own independent appraisal of the creditworthiness of the Borrower and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

- (c) Nothing in any Finance Document obliges an Existing Lender to:
 - (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 20; or
 - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by the Borrower of its obligations under the Finance Documents or otherwise.

20.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 20.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below, when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender.
- (b) The Agent shall, subject to paragraph (c) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate. The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable law in relation to the transfer to such New Lender.
- (c) Subject to Clause 20.9 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents, the Borrower and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the "**Discharged Rights and Obligations**");
 - (ii) the Borrower and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the Borrower and the New Lender have assumed and/or acquired the same in place of the Borrower and the Existing Lender;
 - (iii) the Agent, the Mandated Lead Arranger, the New Lender and the other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Mandated Lead Arranger and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
 - (iv) unless already a Lender, the New Lender shall become a Party as a "**Covered Lender**" or a "**Direct Lender**" (as the case may be).

20.6 Procedure for assignment

- (a) Subject to the conditions set out in Clause 20.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably

practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.

- (b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) Subject to Clause 20.9 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) the Existing Lender will assign absolutely to the New Lender the rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;
 - (ii) the Existing Lender will be released by the Borrower and the other Finance Parties from the obligations owed by it (the "**Relevant Obligations**") and expressed to be the subject of the release in the Assignment Agreement; and
 - (iii) the New Lender shall become a Party as **Covered Lender**" or a "**Direct Lender**" (as the case may be) and will be bound by obligations equivalent to the Relevant Obligations.
- (d) Lenders may utilise procedures other than those set out in this Clause 20.6 to assign their rights under the Finance Documents (but not, without the consent of the Borrower or unless in accordance with Clause 20.5 (*Procedure for transfer*), to obtain a release by the Borrower from the obligations owed to the Borrower by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in Clause 20.2 (*Conditions of assignment or transfer*).

20.7 **Copy of Transfer Certificate or Assignment Agreement to the Borrower**

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrower a copy of that Transfer Certificate or Assignment Agreement.

20.8 **Security over Lenders' rights**

In addition to the other rights provided to Lenders under this Clause 20, each Lender may without consulting with or obtaining consent from the Borrower, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (c) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
- (d) require any payments to be made by the Borrower other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

20.9 **Pro rata interest settlement**

If the Agent has notified the Lenders that it is able to distribute interest payments on a "pro rata basis" to Existing Lenders and New Lenders that have become Lenders then (in respect of any transfer pursuant to Clause 20.5 (*Procedure for transfer*) or any assignment pursuant to Clause 20.6 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of such notification and is not an Interest Payment Date):

- (a) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date (the "**Accrued Amounts**") and shall become due and payable to the Existing Lender (without further interest accruing on them) on the next succeeding Interest Payment Date; and
- (b) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts, so that, for the avoidance of doubt:
 - (i) when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and
 - (ii) the amount payable to the New Lender that has become a Covered Lender on that date will be the amount which would, but for the application of this Clause 20.9, have been payable to it on that date, but after deduction of the Accrued Amounts.
- (c) In this Clause 20.9 references to "Interest Period" shall be construed to include a reference to any other period for accrual of fees.

20.10 **Register**

The Agent shall keep an up-to-date register of all the Finance Parties and shall supply the Borrower, each Finance Party and the Covered Lenders' Guarantor with a copy of the register on request. The register will include each Lender's Facility Office and contact details for the purposes of this Agreement.

21. **CHANGES TO THE BORROWER**

The Borrower may not assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

SECTION 9
THE FINANCE PARTIES

22. ROLE OF THE AGENT AND THE MANDATED LEAD ARRANGER

22.1 Appointment of the Agent

- (a) Each of the Mandated Lead Arranger and the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) The Mandated Lead Arranger and the Lenders authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

22.2 Instructions

- (a) Notwithstanding any other provision of this Agreement, the Agent shall:
 - (i) exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
 - (A) the Direct Lender in relation to:
 - (1) Clause 6.1 (*Repayment of Loans*); and
 - (2) Clause 8.1(b) (*Calculation of interest*),
 - (B) subject to paragraph (A) above, the Combined Majority Lenders; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Agent shall be entitled to request instructions, or clarification of any instruction, from the Direct Lender or the Combined Majority Lenders (or, if appropriate, the Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion. The Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) The Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss (excluding any management time and any direct or indirect loss of profit) or liability which it may incur in complying with those instructions.
- (d) In the absence of instructions, the Agent may, acting reasonably, act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (e) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

22.3 Duties of the Agent

- (a) Subject to paragraph (d) of Clause 22.2 (*Instructions*), the Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- (c) Without prejudice to Clause 20.7 (*Copy of Transfer Certificate or Assignment Agreement to the Borrower*), paragraph (b) above shall not apply to any Transfer Certificate or Assignment Agreement.
- (d) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document which is delivered to the Agent that it forwards to another Party.
- (e) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent or the Mandated Lead Arranger) under this Agreement, it shall promptly notify the other Finance Parties.
- (g) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

22.4 Role of the Mandated Lead Arranger

Except as specifically provided in the Finance Documents, the Mandated Lead Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

22.5 No fiduciary duties

- (a) Nothing in any Finance Document constitutes the Agent (in its capacity as agent under the Finance Documents) or the Mandated Lead Arranger (in its capacity as Mandated Lead Arranger under the Finance Documents) as a trustee or fiduciary of any other person.
- (b) Neither the Agent nor the Mandated Lead Arranger shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

22.6 Business with the Borrower

The Agent and the Mandated Lead Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower.

22.7 Rights and discretions

- (a) The Agent may:
 - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
 - (ii) assume that:

- (A) any instructions or directions received by it from the Combined Majority Lenders, any Lender or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
- (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing, as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
 - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 19.1 (*Non-payment*)); and
 - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised.
- (c) The Agent may, pursuant to the instructions of the Combined Majority Lenders, engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts for the benefit of the Lenders.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Agent may at any time (at its own expense) engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be necessary.
- (e) The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts obtained by the Agent, pursuant to the instructions of the Combined Majority Lenders and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Agent may act in relation to the Finance Documents through its officers, employees and agents.
- (g) Unless a Finance Document expressly provides otherwise, the Agent may disclose to any other Party any information it reasonably believes it has received as Agent under this Agreement.
- (h) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Mandated Lead Arranger is 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 or a breach of a fiduciary duty or duty of confidentiality.

- (i) Notwithstanding any provision of any Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

22.8 Responsibility for documentation

Neither the Agent nor the Mandated Lead Arranger is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Mandated Lead Arranger, the Borrower or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document other than information generated by itself; or
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

22.9 No duty to monitor

The Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

22.10 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent), the Agent will not be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.
 - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of,

under or in connection with, any Finance Document, other than by reason of its gross negligence or wilful misconduct; or

(iii) without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including for negligence but not including any claim based on the fraud of the Agent) arising as a result of:

(A) any act, event or circumstance not reasonably within its control; or

(B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

(b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent may rely on this Clause subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

(c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if 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) Nothing in this Agreement shall oblige the Agent or the Mandated Lead Arranger to carry out:

(i) any "know your customer" or other checks in relation to any person; or

(ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for the Lender,

on behalf of any Lender and each Lender confirms to the Agent and the Mandated Lead Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Mandated Lead Arranger.

(e) Without prejudice to any provision of any Finance Document excluding or limiting the Agent's liability, any liability of the Agent arising under or in connection with any Finance

Document shall be limited to the amount of actual loss which has been suffered (as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default). In no event shall the Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent has been advised of the possibility of such loss or damages.

22.11 Lender's indemnity to the Agent

- (a) Subject to paragraph (d) of Clause 22.7 (*Rights and discretions*), each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three (3) Business Days of demand, against any cost, loss or liability incurred by the Agent (otherwise than by reason of the Agent's gross negligence, wilful misconduct or fraud) (or, in the case of any cost, loss or liability pursuant to Clause 25.11 (*Disruption to payment systems etc.*), notwithstanding the Agent's negligence or gross negligence but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by the Borrower pursuant to a Finance Document).
- (b) Paragraph (a) above shall not apply to any cost, loss or liability incurred by the Agent in respect of:
 - (i) any failure by the Borrower to make payment pursuant to Clause 10.3 (*Agency fee*);
 - (ii) any payment made by the Agent described in Clause 22.7(e) (*Rights and discretions*) without the consent of the Combined Majority Lenders; and
 - (iii) its management time.
- (c) The Borrower shall immediately on demand reimburse the Lenders for any payment that the Lenders make to the Agent pursuant to paragraph (a) above.

22.12 Resignation of the Agent

- (a) The Agent may, with the prior written consent of UK Export Finance, resign and appoint one of its Affiliates as successor by giving notice to the Lenders and the Borrower.
- (b) Alternatively the Agent may, with the prior written consent of UK Export Finance, resign by giving thirty (30) days' notice to the Lenders and the Borrower, in which case the Combined Majority Lenders (after consultation with the Borrower) may appoint a successor Agent. If the Agent is removed by the Combined Majority Lenders, then it shall be at the cost of the Lenders, unless the Agent is removed by reason of its gross negligence, wilful misconduct or fraud, in which case it shall be at the cost of the Agent.
- (c) 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.

- (d) The Agent's resignation notice shall only take effect upon the appointment of a successor.
- (e) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (c) above) but shall remain entitled to the benefit of Clause 13.3 (*Indemnity to the Agent and the Lenders*) and this Clause 22 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (f) After consultation with the Borrower, the Combined Majority Lenders may, by notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above.

22.13 Replacement of the Agent

- (a) After consultation with the Borrower and with the consent of the Covered Lenders' Guarantor, the Combined Majority Lenders may, by giving thirty (30) days' notice to the Agent (or, at any time the Agent is removed by reason of its gross negligence, wilful misconduct or fraud, by giving any shorter notice determined by the Combined Majority Lenders) replace the Agent by appointing a successor Agent.
- (b) The retiring Agent shall (at its own cost if it is removed by reason of its gross negligence, wilful misconduct or fraud, and otherwise at the expense of the Lenders) 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.
- (c) The appointment of the successor Agent shall take effect on the date specified in the notice from the Combined Majority Lenders to the retiring Agent, subject to the execution by that successor of such documentation as may reasonably be required by the Covered Lenders' Guarantor in order to reflect the substitution of the successor as the beneficiary for all purposes under the UKEF Guarantee. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b) above) but shall remain entitled to the benefit of Clause 13.3 (*Indemnity to the Agent and the Lenders*) and this Clause 22 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).
- (d) Any successor Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

22.14 Confidentiality

- (a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

- (b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

22.15 Relationship with the Lenders

- (a) Subject to Clause 20.9 (*Pro rata interest settlement*), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
 - (i) entitled to or liable for any payment due under any Finance Document on that day; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five (5) Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

- (b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 27.5 (*Electronic communication*)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 27.2 (*Contact details*) and paragraph (a)(i) of Clause 27.5 (*Electronic communication*) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

22.16 Credit appraisal by the Lenders

Without affecting the responsibility of the Borrower for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Agent and the Mandated Lead Arranger that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of the Borrower, each of the its Ugandan government agencies and the Employer;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (d) the adequacy, accuracy and/or completeness of any information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

22.17 Deduction from amounts payable by the Agent

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

23. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

24. SHARING AMONG THE FINANCE PARTIES

24.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from the Borrower other than in accordance with Clause 25 (*Payment Mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Agent;
- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 25 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three (3) Business Days of demand by the Agent, pay to the Agent an amount (the "**Sharing Payment**") equal to such receipt or

recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 25.6 (*Partial payments*).

24.2 **Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the Borrower and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 25.6 (*Partial payments*) towards the obligations of the Borrower to the Sharing Finance Parties.

24.3 **Recovering Finance Party's rights**

On a distribution by the Agent under Clause 24.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from the Borrower, as between the Borrower and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by the Borrower.

24.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**"); and
- (b) as between the Borrower and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by the Borrower.

24.5 **Exceptions**

- (a) This Clause 24 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the Borrower.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
 - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

SECTION 10
ADMINISTRATION

25. PAYMENT MECHANICS

25.1 Payments to the Agent

- (a) On each date on which the Borrower or a Lender is required to make a payment under a Finance Document, the Borrower or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Agent) and with such bank as the Agent, in each case, specifies.

25.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 25.4 (*Distributions to the Borrower*) and Clause 25.5 (*Clawback and pre-funding*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five (5) Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London), as specified by that Party.

25.3 Distributions in respect of Utilisations

- (a) The Borrower irrevocably and unconditionally authorises and directs the Agent to pay the proceeds of any Loans to be made to the Borrower pursuant to a Utilisation Request to the Exporter.
- (b) The Borrower and the Lenders agree that the first Utilisation for 100 per cent (100%) of the UKEF Support Fee, shall be paid to the Agent, for the account of the Direct Lender, pursuant to the Lenders' obligations under the UKEF Guarantee.
- (c) Each payment under paragraphs (a) and (b) above, shall be to such bank account with a bank in the principal financial centre of the currency for which the relevant Utilisation was made (or, in relation to euro, in the principal financial centre of a Participating Member State or London) as notified to the Agent by the Borrower, Exporter or UK Export Finance (as relevant).

25.4 Distributions to the Borrower

The Agent may, with the consent of the Borrower (so long as there is no Default continuing) or in accordance with Clause 26 (*Set-off*), apply any amount received by it for the Borrower in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Borrower under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

25.5 Clawback and pre- funding

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) Unless paragraph (c) below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.
- (c) If the Agent is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:
 - (i) the Borrower shall on demand refund it to the Agent; and
 - (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower, shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

25.6 Partial payments

- (a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents then the Agent shall apply that payment towards the obligations of the Borrower under the Finance Documents in the following order:
 - (i) first, any sum due but unpaid under Clause 15.3 (*Enforcement costs*);
 - (ii) secondly, any sum due but unpaid under Clause 8.3 (*Default interest*) in respect of the sums described in paragraphs (iii), (iv) and (v) below in that order, but only up to the amount that would be due if that sum were calculated by reference to the rate of interest instead of the Default Interest Rate;
 - (iii) thirdly, any sum due but unpaid under Clause 8.2 (*Payment of interest*) and any unpaid sum which would have been due under Clause 8.2 (*Payment of interest*) but which instead has become due under Clause 19.17 (*Acceleration*), Clause 7.1 (*Illegality*), Clause 7.2 (*Material Commercial Contract Change*) or Clause 7.4 (*E&S Incident*);
 - (iv) fourthly, any sum due but unpaid under Clause 12.1 (*Increased costs*);
 - (v) fifthly, in respect of the Covered Tranche, any sum due to the Covered Lenders but unpaid under Clause 6 (*Repayment*) and any unpaid sum which would have been due under Clause 6 (*Repayment*) but which instead has become due under Clause 19.17 (*Acceleration*), Clause 7.1 (*Illegality*), Clause 7.2 (*Material Commercial Contract Change*) or Clause 7.4 (*E&S Incident*);

- (vi) sixthly, in respect of the Direct Tranche, any sum due to the Direct Lender but unpaid under Clause 6 (*Repayment*) but which instead has become due under Clause 19.17 (*Acceleration*), Clause 7.1 (*Illegality*), Clause 7.2 (*Material Commercial Contract Change*) or Clause 7.4 (*E&S Incident*);
 - (vii) sixthly, the remainder of the sums due but unpaid under Clause 8.3 (*Default interest*) in respect of the sums described in paragraphs (iii), (iv) and (v) above that were not applied further to paragraph (ii) above;
 - (viii) seventhly, any sum due but unpaid under Clause 7.7 (*Direct Lender Break Costs*) and Clause 9.4 (*Break Costs*); and
 - (ix) eighthly, any other sum due but unpaid under this Agreement.
- (b) The Agent shall, if so directed by the Lender, vary the order set out in paragraph (a) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by the Borrower.

25.7 **No set-off by the Borrower**

All payments to be made by the Borrower under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

25.8 **Business Days**

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

25.9 **Currency of account**

- (a) Subject to paragraphs (b) and (c) below, the Facility Currency is the currency of account and payment for any sum due from the Borrower under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than the Facility Currency shall be paid in that other currency.

25.10 **Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and

- (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

25.11 Disruption to payment systems etc.

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Borrower that a Disruption Event has occurred:

- (a) the Agent may, and shall if requested to do so by the Borrower, consult with the Borrower—with a view to agreeing with the Borrower such changes to the operation or administration of the Facility as the Agent may deem necessary in the circumstances;
- (b) the Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Agent and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 31 (*Amendments and Waivers*);
- (e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 25.11; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

26. SET-OFF

A Finance Party may set off any matured obligation due from the Borrower under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

27. NOTICES

27.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

27.2 Contact details

The address and/or fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Borrower, the Original Lenders and the Agent, those identified with its name on the signatories pages; and
- (b) in the case of each Lender or the Borrower, that notified in writing to the Agent on or prior to the date on which it becomes a Party,

or any substitute address or fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change to its own contact details is made by the Agent) by not less than five (5) Business Days' notice.

27.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

- (i) if by way of fax, when received in legible form; or
- (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid or, if to another country, after being delivered to an internationally recognised air carrier in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 27.2 (*Contact details*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature on the Agent's signature page (or any substitute department or officer as the Agent shall specify for this purpose).
- (c) All notices from or to the Borrower shall be sent through the Agent.
- (d) Any communication or document which becomes effective, in accordance with paragraphs (a) to (c) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the next Business Day.

27.4 Notification of contact details

Promptly upon changing its own address or fax number, the Agent shall notify the other Parties.

27.5 **Electronic communication**

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including without limitation, by way of posting to a secure website) if those two Parties:
 - (i) notify each other in writing of their electronic communication address and/or any other information required to enable the transmission of information by that means; and
 - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five (5) Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between the Borrower and a Finance Party may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and, in the case of any electronic communication, made by a Party to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following Business Day.
- (e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 27.5.

27.6 **English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document or the Commercial Contract must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation (with such costs of translation to be paid by the Borrower) and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

28. **CALCULATIONS AND CERTIFICATES**

28.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are prima facie evidence of the matters to which they relate.

28.2 **Certificates and determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

28.3 **Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of three hundred and sixty (360) days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

29. **PARTIAL INVALIDITY**

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

30. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any of the Finance Documents on the part of any Finance Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

31. **AMENDMENTS AND WAIVERS**

31.1 **Required consents**

- (a) Subject to Clause 2.4 (*UKEF Guarantee*), Clause 31.2 (*All Lender matters*) and Clause 31.3 (*Other exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Combined Majority Lenders and the Borrower and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 31.
- (c) Without prejudice to the generality of paragraphs (c), (d) and (e) of Clause 22.7 (*Rights and discretions*), the Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.

31.2 **All Lender matters**

- (a) Subject to Clause 31.4 (*Replacement of Screen Rate*) an amendment or waiver of any term of any Finance Document that has the effect of changing or which relates to:
 - (b) the definition of "Combined Majority Lenders" in Clause 1.1 (*Definitions*);
 - (c) an extension to the date of payment of any amount under the Finance Documents;

- (d) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (e) a change in currency of payment of any amount under the Finance Documents;
- (f) an increase in or an extension of any Covered Lender Commitment or any requirement that a cancellation of Covered Lender Commitments reduces the Covered Lenders Total Commitments of the Covered Lenders rateably under the Covered Lenders Total Commitments;
- (g) a change to the Borrower;
- (h) an extension of the Availability Period;
- (i) a change to any Event of Default;
- (j) an extension of the ninety (90) day period for satisfaction of the conditions precedent pursuant to Clause 4.1(d) (*Initial conditions precedent*);
- (k) any provision which expressly requires the consent of all the Lenders; or
- (l) Clause 2.2 (*Finance Parties' rights and obligations*), Clause 5.1 (*Utilisation of the Facility*), Clause 6 (*Repayment*), Clause 7 (*Prepayment and Cancellation*), Clause 20 (*Changes to the Lenders*), Clause 24 (*Sharing among the Finance Parties*), this Clause 31, Clause 36 (*Governing Law*), the governing law of any Finance Document, or Clause 37 (*Arbitration*), shall not be made without the prior consent of all the Lenders.

31.3 Other exceptions

An amendment or waiver which relates to the rights or obligations of the Agent or the Mandated Lead Arranger (each in their capacity as such) may not be effected without the consent of the Agent, the Mandated Lead Arranger as the case may be.

31.4 Replacement of Screen Rate

If a Screen Rate Replacement Event has occurred in relation to the Screen Rate, any amendment or waiver which relates to:

- (a) providing for the use of a Replacement Benchmark in relation to euro in place of the Screen Rate; and
- (b)
 - (i) aligning any provision of any Finance Document to the use of that Replacement Benchmark;
 - (ii) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
 - (iii) implementing market conventions applicable to that Replacement Benchmark;
 - (iv) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or

- (v) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Combined Majority Lenders) and the Borrower.

32. CONFIDENTIAL INFORMATION

32.1 Confidential Information

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 32.2 (*Disclosure of Confidential Information*) and Clause 32.3 (*Disclosure to numbering service providers*), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

32.2 Disclosure of Confidential Information

Any Finance Party may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, environmental auditors, partners, delegates, service providers, insurers, reinsurers, insurance brokers, credit insurers, consultants, contractors, agents, managers, administrators, nominees, trusts, custodians and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or the Borrower and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;

- (iii) appointed by any Finance Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of Clause 22.15 (*Relationship with the Lenders*));
- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (i) or (ii) above;
- (v) to whom information is required or requested to be disclosed by any court or tribunal of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (vii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 20.8 (*Security over Lenders' rights*);
- (viii) who is a Party; or
- (ix) with the consent of the Borrower,

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to paragraphs (i), (ii) and (iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
- (B) in relation to paragraph (iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information; and
- (C) in relation to paragraphs (v), (vi) and (vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances; or

- (c) to the Covered Lenders' Guarantor;
- (d) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (d) if the service provider to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking;
- (e) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Borrower if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

32.3 Disclosure to numbering service providers

(a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facility and/or the Borrower the following information:

- (i) name of the Borrower;
- (ii) country of domicile of the Borrower;
- (iii) date of this Agreement;
- (iv) Clause 36 (*Governing Law*);
- (v) the names of the Agent and the Mandated Lead Arranger;
- (vi) date of each amendment and restatement of this Agreement;
- (vii) amount of the Facility;
- (viii) amount of Total Commitments;
- (ix) currency of the Facility;
- (x) type of the Facility;
- (xi) ranking of the Facility;
- (xii) Final Maturity Date of the Facility;
- (xiii) changes to any of the information previously supplied pursuant to paragraphs (i) to (xii) above; and
- (xiv) such other information agreed between such Finance Party and the Borrower,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facility and/or the Borrower by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
- (c) The Borrower represents that none of the information set out in paragraphs (a)(i) to (xiv) above is, nor will at any time be, unpublished price-sensitive information.
- (d) The Agent shall notify the Borrower and the other Finance Parties of:
 - (i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facility and/or the Borrower; and
 - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facility and/or the Borrower by such numbering service provider.

32.4 **Disclosure by UK Export Finance**

The Parties acknowledge and agree that nothing in this Agreement shall prevent UK Export Finance from disclosing Confidential Information:

- (a) on a confidential basis to the employees, agents, consultants, advisers and contractors of UK Export Finance;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which UK Export Finance transfers or proposes to transfer all or any part of its business;
- (c) to any other government department and any successor body or company to which UK Export Finance transfers or proposes to transfer all or any part of its business;
- (d) to the extent that UK Export Finance deems disclosure to be necessary or appropriate in connection with carrying out its public functions;
- (e) on a confidential basis to any of UK Export Finance's insurers and/or reinsurers, or parties that UK Export Finance may potentially enter into insurance or reinsurance arrangements with (including their agents, brokers and consultants);
- (f) to any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
- (g) to any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes, or upon request by an international organization of which UK Export Finance or the United Kingdom is a member;
- (h) for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which it has used its resources;
- (i) to the Serious Fraud Office, the National Crime Agency or any other governmental authority in accordance with its financial crimes compliance policies, where UK Export

Finance has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010; and

- (j) any person with the consent of the Borrower (such consent not to be unreasonably withheld or delayed).

32.5 Freedom of Information

- (a) Each Party acknowledges that UK Export Finance is subject to the requirements of the Information Legislation and will provide all necessary assistance and cooperation as requested by UK Export Finance to enable UK Export Finance to comply with its obligations under the Information Legislation.
- (b) Each Party acknowledges that UK Export Finance may be required under the Information Legislation to disclose Information concerning any Party (including Confidential Information and commercially sensitive information) without consulting or obtaining consent from that Party. Notwithstanding this, if UK Export Finance receives a request under the Information Legislation to disclose Information concerning any Party, UK Export Finance will endeavour, in accordance with any relevant guidance issued under the Information Legislation and to the extent that it is lawful for UK Export Finance to do so, to:
 - (i) prior to the making of a disclosure pursuant to the Information Legislation provide the relevant Party with details of the request received and give that Party an opportunity to make representations on the applicability of any exemption in the Information Legislation in relation to the Information which has been requested;
 - (ii) consider any such representations received from that Party; and
 - (iii) if UK Export Finance determines that disclosure pursuant to the Information Legislation is required, advise that Party of the scope and content of any disclosure in advance of disclosing that information.
- (c) UK Export Finance will be responsible for determining in its absolute discretion whether any Information relating to any Party is exempt from disclosure in accordance with the Information Legislation.

32.6 Disclosure to the Exporter

Subject to Clause 32.2 (*Disclosure of Confidential Information*), each Party agrees that the Agent may disclose any terms of this Agreement for the sole purpose of enabling the Exporter to request a payment and for such payment to be made to the Exporter.

32.7 Entire agreement

This Clause 32 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

32.8 Inside information

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market

abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

32.9 **Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 32.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory functions; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 32.

32.10 **Continuing obligations**

The obligations in this Clause 32 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve (12) Months from the earlier of:

- (a) the date on which all amounts payable by the Borrower under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

33. **CONFIDENTIALITY OF FUNDING RATES**

33.1 **Confidentiality and disclosure**

- (a) The Agent and the Borrower agree to keep each Funding Rate confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.
- (b) The Agent may disclose:
 - (i) any Funding Rate to the Borrower pursuant to Clause 8.4 (*Notification of rates of interest*); and
 - (ii) any Funding Rate to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a Confidentiality Undertaking.
- (c) The Agent may disclose any Funding Rate, and the Borrower may disclose any Funding Rate, to:
 - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or is otherwise bound by requirements of confidentiality in relation to it;

- (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;
- (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and
- (iv) any person with the consent of the relevant Covered Lender.

33.2 **Related obligations**

- (a) The Agent and the Borrower acknowledge that each Funding Rate is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and the Borrower undertake not to use any Funding Rate for any unlawful purpose.
- (b) The Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Covered Lender:
 - (i) of the circumstances of any disclosure made pursuant to paragraph (c)(ii) of Clause 33.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
 - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 33.

33.3 **No Event of Default**

No Event of Default will occur under Clause 19.2 (*Other obligations*) by reason only of the Borrower's failure to comply with this Clause 33.

34. **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

35. **GOVERNING LANGUAGE**

Although this Agreement may be translated into any other language than English, such non-English version of this Agreement is for information purposes only. In the event of any conflict or inconsistency between the English language version and such non-English version of this Agreement or any dispute regarding the interpretation of any provision in the English language version or non-English version of this Agreement, the English language version of this

Agreement shall prevail and questions of interpretation shall be addressed solely by reference to the English language version.

SECTION 11
GOVERNING LAW AND ENFORCEMENT

36. GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

37. ARBITRATION

37.1 Arbitration

Any dispute, controversy or claim arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of in connection with this Agreement) shall be referred to and finally resolved by arbitration under the Arbitration Rules of the London Court of International Arbitration (LCIA) (the "**Rules**") for the time being in force, which Rules are deemed to be incorporated by reference into this Clause.

37.2 Formation of arbitral tribunal, seat and language of arbitration

- (a) The arbitral tribunal shall consist of three arbitrators. The claimant(s), irrespective of number, shall nominate jointly one arbitrator; the respondent(s), irrespective of number, shall nominate jointly the second arbitrator; a third arbitrator (who shall act as Chair), shall be chosen by the two arbitrators appointed on behalf of the parties. If the Chair is not chosen and nominated to the LCIA Court for appointment within thirty (30) days of the date of appointment by the LCIA Court of the later of the two party-nominated arbitrators to be confirmed, he shall be appointed by the LCIA Court.
- (b) The seat of arbitration shall be London, England.
- (c) The language of the arbitration shall be English.
- (d) This arbitration agreement shall be governed and construed under the law identified in Clause 36 (*Governing Law*).

37.3 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, the Borrower:
 - (i) irrevocably appoints the Uganda High Commission at Uganda House, 58-59 Trafalgar Square, St. James's, London WC2N 5DX as its agent for service of process in relation to any proceedings (arbitral or court (as the case may be)) in connection with any Finance Document; and
 - (ii) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower must immediately (and in any event within 10 Business Days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may, at the Borrower's cost, appoint another agent for this purpose.

- (c) The Borrower expressly agrees and consents to the provisions of this Clause and Clause 36 (*Governing Law*).

37.4 Waiver of Immunity

- (a) Subject to paragraph (c), the Borrower hereby consents generally, in respect of any legal action or proceeding arising out of or in connection with any Finance Document, to the giving of any relief or the issue of any process in connection with such action or proceeding, including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such action or proceeding.
- (b) To the extent that the Borrower may in Uganda, England or any other jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether before the issue of an award or judgment or otherwise), enforcement or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets or revenues such immunity (whether or not claimed), the Borrower hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction and in accordance with the State Immunity Act 1978 and, without limitation, the Borrower waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:
 - (i) the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; and
 - (ii) the issue of any process against its assets or revenues for the enforcement of a judgment or award or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues,

and the Borrower agrees that in any proceedings taken in England (the "Proceedings") in accordance with the terms of the Finance Documents, this waiver shall have the fullest scope permitted by the State Immunity Act 1978 and that this waiver is irrevocable for the purposes of such Act and the Borrower consents generally for the purposes of the State Immunity Act 1978 to the giving of any relief or the issue of any process in connection with any Proceedings.

- (c) The waiver of immunity in paragraphs (a) and (b) above shall not apply in respect of any enforcement or execution against Protected Ugandan Assets (under the laws of Uganda as at the date of this Agreement).

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
THE ORIGINAL LENDERS

(a) Original Covered Lenders

Name of Original Covered Lender	Commitment	Jurisdiction
Standard Chartered Bank	€43,689,636.29	United Kingdom
Lloyds Bank plc	€88,000,000	United Kingdom

(b) Direct Lender

Name of Direct Lender	Commitment
Her Britannic Majesty's Secretary of State acting by the Export Credits Guarantee Department (operating as UK Export Finance)	€87,793,090.86

SCHEDULE 2
CONDITIONS PRECEDENT TO INITIAL UTILISATION

1. Corporate documentation

(a) In respect of the Borrower:

- (i) a copy of the resolution from the Parliament of Uganda approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party;
- (ii) the legal opinion under which the Attorney General of Uganda clears each of the Finance Documents to which the Borrower is a party for execution;
- (iii) the legal opinion under which the Attorney General of Uganda confirms that the Minister of Finance, Planning and Economic Development of Uganda is authorised to execute the Finance Documents (and all other documents and notices to be signed or despatched by it under or in connection with the Finance Documents) on its behalf;
- (iv) a specimen of the signature of each person confirmed as being authorised to execute the Finance Documents in the legal opinion referred to in paragraph (iii) above;
- (v) a letter from the Minister of Finance, Planning and Economic Development of Uganda confirming that the Borrower borrowing the Total Commitments would not cause any borrowing or similar limit binding on it to be exceeded or breached; and
- (vi) a letter from the Minister of Finance, Planning and Economic Development of Uganda certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

(b) In respect of the Exporter:

- (i) evidence that the signatory who signed the Commercial Contract on behalf of the Exporter was duly authorised to sign it;
- (ii) the name of a specified person or persons who are duly authorised on its behalf to sign and/or despatch documents related to this Agreement including any Utilisation Request together with evidence of their authority; and
- (iii) a specimen signature of each person authorised in the manner described in paragraph (ii) above.

(c) In respect of the Employer evidence that the signatory who signed the Commercial Contract on behalf of the Employer was duly authorised to sign it.

2. Consents and Authorisations

(a) In respect of the Borrower, evidence it has obtained all Authorisations required in Uganda for:

- (i) it to enter into this Agreement and any other Finance Documents to which it is a party, to fulfil its obligations under such Finance Documents and for the enforcement of such Finance Documents; and
 - (ii) the payment of all sums in the Facility Currency in England which become due from the Borrower to any Finance Party in relation to any Finance Document to which it is a party, and that each such Authorisation remains in full force and effect.
- (b) In respect of the Employer, evidence that the Employer has obtained all Authorisations in Uganda necessary for the purchase and import of the goods and services to be supplied under the Commercial Contract and payment in the Facility Currency in England and that such Authorisations remain in full force and effect.
- (c) Confirmation and/or evidence that all Authorisations and Environmental Permits required in connection with, or with respect to, the Facility, the Borrower, the Employer and the Project have been obtained and are in full force and effect.

3. **Finance Documents**

An original of each Finance Document duly entered into by the parties to it.

4. **Commercial Contract**

- (a) Evidence that the terms of, and the transactions contemplated by, the Commercial Contract, and the entry by the Government of the Republic of Uganda, represented by the Ugandan Investment Authority, are cleared by the Solicitor General of Uganda.
- (b) A copy of the Commercial Contract duly executed by the parties to it, certified as a true, complete and accurate copy by the Employer's Signatory.

5. **Exporter confirmations**

The Exporter shall have provided to the Agent:

- (a) written confirmation that it has received the Advance Payment;
- (b) evidence that any performance security referred to in clause 4.2 of the Commercial Contract has been duly executed in accordance with the terms of the Commercial Contract;
- (c) written confirmation that all Authorisations (if any), including export licences (if required), in respect of the goods and/or services to be supplied in accordance with the Commercial Contract have been obtained and remain in full force and effect; and
- (d) a copy of any relevant export licences.

6. **Legal opinions**

- (a) A legal opinion of the legal advisers to the Finance Parties in England, in the form and substance acceptable to UK Export Finance and the Agent and distributed to, and capable of being relied on by, the Original Lenders and UK Export Finance prior to signing this Agreement.

- (b) A legal opinion of the legal advisers to the Finance Parties in Uganda in the form and substance acceptable to the Finance Parties.
- (c) A legal opinion of the Attorney General of Uganda in the form and substance acceptable to the Finance Parties (including, but not limited to, the opinion in respect of paragraphs 1(a)(ii) and (iii) above).

7. UK Export Finance documents

- (a) A copy of the UKEF Guarantee duly executed by the parties to it; and
- (b) Receipt by UK Export Finance, in a form satisfactory to it:
 - (i) letters of undertaking duly executed by each Finance Party other than UK Export Finance; and
 - (ii) the exporter agreement entered into between the Exporter and UK Export Finance.

8. Other documents and evidence

- (a) The Commercial Facility Agreement duly entered into by the parties to it.
- (b) Evidence that any process agent referred to in Clause 37.3 (*Service of process*), has accepted its appointment.
- (c) The Utilisation Request in respect of the UKEF Support Fee, duly completed.
- (d) A copy of any other Authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by the Finance Documents or for the validity and enforceability of any Finance Document.
- (e) Evidence that the fees, costs and expenses due from the Borrower pursuant to Clause 10 (*Fees*) and Clause 15 (*Costs and Expenses*) have been paid or will be paid on or before the first Utilisation Date.
- (f) Evidence that each Original Lender's "know your customer" and client adoption requirements have been completed.

9. Environmental and social

A certified copy of the duly executed IESC Contract in form and substance acceptable to UK Export Finance together with confirmation from the IESC entitling UK Export Finance to rely on its reports and plans.

SCHEDULE 3

PART 1 - UTILISATION REQUESTS

From: The Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development, of the Republic of Uganda

Lagan Dott Namanve Ltd (the **Exporter**)

To: Standard Chartered Bank as agent (the **Agent**)

CC: UK Export Finance by email at: DirectLendingDivisionOperations@ukexportfinance.gov.uk giving the reference CIE/BC-DL/Uganda/0020008166

Dated: [•]

Dear Sirs,

Utilisation Request No. [•]

1. We refer to:

(a) the contract for the development of infrastructure (design and build) at Kampala Industrial and Business Park Namanve dated 24 September 2018 and made between Lagan Dott Namanve Ltd (the "**Exporter**") and the Republic of Uganda represented by the Ugandan Investment Authority (the "**Employer**"), as amended from time to time (the "**Commercial Contract**"); and

(b) the facility agreement dated [•] and made between, inter alia, the Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development of the Republic of Uganda (the "**Borrower**"), UK Export Finance as direct lender, the financial institutions listed therein as original covered lenders and Standard Chartered Bank (the "**Agent**") as amended from time to time (the "**Facility Agreement**").

2. This is a "Utilisation Request" as defined in the Facility Agreement.

3. In this Utilisation Request:

"Exported Element Value" means the total amount of the price payable under the Commercial Contract by or on behalf of the Employer to the Exporter, excluding Local Supplies;

"Finance Document" means the Facility Agreement, each fee document relating to or in connection with the Facility Agreement and any other document designated as such by the Agent and the Borrower;

"Integrated Goods" means:

(a) in the case of Local Supplies, Local Supplies that are or will be integrated with other goods in the UK to produce goods that are or will be eligible for a certificate of UK origin from a British Chamber of Commerce; and

(b) in the case of Third Country Supplies, Third Country Supplies that are or will be integrated with other goods in the UK to produce goods that are or will be eligible for a certificate of UK origin from a British Chamber of Commerce;

"Local Supplies" means goods and/or services procured by the Exporter from persons ordinarily resident in and/or carrying on business in the Employer's country but excluding Integrated Goods;

"Non-UK Supplies" means Local Supplies and Third Country Supplies, together;

"Project" means the development of infrastructure (design and build) at Kampala Industrial and Business Park Namanve.

"Third Country Supplies" means goods and/or services that are not Local Supplies and that are procured by the Exporter from persons ordinarily resident in and/or carrying on business in a country other than the UK but excluding Integrated Goods;

"UK" means the United Kingdom of Great Britain and Northern Ireland;

"UKEF Application Form" means the application form relating to the Commercial Contract provided by the Exporter to the Agent dated 26 July 2019, as amended from time to time; and

"Works" has the meaning given to that term in the Commercial Contract.

4. This Utilisation Request is irrevocable.
5. We represent and warrant that:
 - (a) each of the payments set out in the appendix to this Utilisation Request (the "**Appendix**"), the total amount of which is [*total amount*], is now due to us from the Employer under the Commercial Contract;
 - (b) the payments set out in the Appendix do not include any payment for which we have previously submitted any Utilisation Request;
 - (c) the goods and/or services identified in the Appendix have been supplied in accordance with the Commercial Contract and are consistent with the description given by us to the Lender in the UKEF Application Form;
 - (d) the cost to us of procuring any Local Supplies in respect of which this Utilisation Request is being submitted does not, when added to the cost to us of procuring any Local Supplies in respect of which previous Utilisation Requests have been submitted, exceed 30% of the Exported Element Value;
 - (e) the cost to us of procuring any Non-UK Supplies in respect of which this Utilisation Request is being submitted does not, when added to the cost to us of procuring any Non-UK Supplies in respect of which previous Utilisation Requests have been submitted, exceed 70% of the value of the Commercial Contract;
 - (f) the obligations expressed to be assumed by us under the Commercial Contract are legal, valid, binding and enforceable obligations;
 - (g) all Authorisations (if any), including export licences required at the date of this Utilisation Request, in respect of the goods and/or services to be supplied in accordance with the Commercial Contract have been obtained and remain in full force and effect;
 - (h) the Commercial Contract has not been terminated;
 - (i) neither the Commercial Contract nor any part of the Commercial Contract is subject to any litigation or arbitration currently in progress or any arbitration award;
 - (j) to the best of our knowledge and belief, neither the Commercial Contract nor any part of the Commercial Contract is the subject of any threatened litigation or arbitration; and
 - (k) the copies of the documents attached to this Utilisation Request are true copies of the original documents.
6. The payment of the total amount due to us, set out in paragraph 5(a) above, should be made into the following bank account:

Account Name LAGAN DOTT NAMANVE LIMITED
Beneficiary Bank Standard Chartered Bank , London
Beneficiary Bank SWIFT Code SCBLGB2L
Account Number / IBAN 01273011196 / GB93SCBL60910412730111
Correspondent Bank Standard Chartered Bank Frankfurt
Correspondent Bank SWIFT Code SCBLDEFX

7. We attach copies of our invoice(s) to the Employer in respect of the payments set out in the Appendix.
8. We undertake to provide any other documentation reasonably requested by the Agent from time to time in connection with this Utilisation Request.
9. [We confirm that we have not submitted a Utilisation Request in this calendar month.]
10. This Utilisation Request and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

Yours faithfully

For and on behalf of **Lagan Dott Namanve Ltd**

Signature:

Name:

Position:

Date:

Borrower / MOFPED Authorised Signatory

Borrower / MOFPED Authorised Signatory

APPENDIX TO UTILISATION REQUEST

PAYMENTS

Date of Interim Payment Certificate (IPC)	Amount Due for Payment (EUR)	Interim Payment Certificate (IPC) Number
[•]	[•]	[•]
[•]	[•]	[•]
Total Amount Due (EUR)	[•]	

- The cost to us of procuring any Local Supplies within the Total Amount Due (EUR) above, when added to the cost to us of procuring any Local Supplies in respect of which previous Utilisation Requests have been submitted, does not exceed 30% of the Exported Element Value.
- The cost to us of procuring any Non-UK Supplies within the Total Amount Due (EUR) above, when added to the cost to us of procuring any Non-UK Supplies in respect of which previous Utilisation Requests have been submitted, does not exceed 70% of the value of the Commercial Contract.
- Note: The targeted cost levels of Local Supplies and Non-UK supplies as indicated above will be achieved over time and in accordance with the progress of the Works and the planned cash flow.

PART 2 - UKEF SUPPORT FEE UTILISATION REQUEST

From: The Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development, of the Republic of Uganda

To: Standard Chartered Bank as agent (the **Agent**)

CC: UK Export Finance by email at: DirectLendingDivisionOperations@ukexportfinance.gov.uk giving the reference CIE/BC-DL/Uganda/0020008166

Dated: [●]

Dear Sirs,

Utilisation Request – UKEF Support Fee

1. We refer to the facility agreement dated [●] and made between, inter alia, the Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development of the Republic of Uganda (the "**Borrower**"), UK Export Finance as direct lender, the financial institutions listed therein as original covered lenders and Standard Chartered Bank (the "**Agent**") as amended from time to time (the "**Facility Agreement**").
2. This is a "Utilisation Request" as defined in the Facility Agreement.
3. Terms defined in the Facility Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
4. We wish to make a Utilisation pro rata across the Direct Tranche and the Covered Tranche (such that we borrow a Loan in accordance with clause 5.1(a)(i) of the Facility Agreement) in the following amount and on the following date in respect of the UKEF Support Fee:
 - (a) Proposed Utilisation Date: _____
 - (b) Utilisation Amount: €29,388,737.17
5. This Utilisation Request is irrevocable.
6. The payment of the total amount due to UK Export Finance, set out in paragraph 4(b) above, should be made into the following bank account:

Account with Institution / Correspondent Bank name /SWIFT/ Sort Code:	HSBC Bank London (MIDLGB22)
Intermediary (if applicable) /: SWIFT/ Sort Code	N/A
Beneficiary name (Institution) / SWIFT/ Sort Code	GB88 MIDL 4005 1568 8240 69
Account Number or IBAN (if applicable):	Export Credits Guarantee Department
Sender to Receiver / Remittance Information:	Langan Dott / Namanve Industrial & Business Park / MOFPED Uganda

7. This Utilisation Request and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

Yours faithfully

For and on behalf of **The Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development, of the Republic of Uganda**

Signature:

Name:

Position:

Date:

Signature:

Name:

Position:

Date:

SCHEDULE 4
FORM OF TRANSFER CERTIFICATE

To: [●] as Agent

From: [The Existing Lender] (the "**Existing Lender**") and [*The New Lender*] (the "**New Lender**")

Dated:

Facility agreement dated [●] and made between, *inter alia*, [*Borrower*] as borrower, the financial institutions listed therein as original lenders and [*Agent*] as agent, as amended from time to time (the "**Facility Agreement**")

1. We refer to the Facility Agreement. This is a Transfer Certificate. Terms defined in the Facility Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
2. We refer to Clause 20.5 (*Procedure for transfer*) of the Facility Agreement:
 - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with Clause 20.5 (*Procedure for transfer*) of the Facility Agreement, all of the Existing Lender's rights and obligations under the Facility Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment and participations in Loans under the Facility Agreement as specified in the schedule to this Transfer Certificate (the "**Schedule**").
 - (b) The proposed Transfer Date is [●].
 - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 27.2 (*Contact details*) of the Facility Agreement are set out in the Schedule.
3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 20.4 (*Limitation of responsibility of Existing Lenders*) of the Facility Agreement.
4. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
5. This Transfer Certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.
6. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments,]

[Existing Lender]

[New Lender]

By:

By:

This Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed as [●].

[Agent]

By:

SCHEDULE 5
FORM OF ASSIGNMENT AGREEMENT

To: [●] as Agent and [●] as Borrower, for and on behalf of the Borrower

From: [*the Existing Lender*] (the "**Existing Lender**") and [the New Lender] (the "**New Lender**")

Dated:

Facility agreement dated [●] and made between, *inter alia*, [*Borrower*] as borrower, the financial institutions listed therein as original lenders and [*Agent*] as agent, as amended from time to time (the "**Facility Agreement**")

1. We refer to the Facility Agreement. This is an Assignment Agreement. Terms defined in the Facility Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
2. We refer to Clause 20.6 (*Procedure for assignment*) of the Facility Agreement:
 - (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Facility Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment and participations in Loans under the Facility Agreement as specified in the schedule to this Assignment Agreement (the "**Schedule**").
 - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitment and participations in Loans under the Facility Agreement specified in the Schedule.
 - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
3. The proposed Transfer Date is [●].
4. On the Transfer Date the New Lender becomes Party to the Finance Documents as a Lender.
5. The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 27.2 (*Contact details*) of the Facility Agreement are set out in the Schedule.
6. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 20.4 (*Limitation of responsibility of Existing Lenders*) of the Facility Agreement.
7. This Assignment Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 20.6 (*Procedure for assignment*) of the Facility Agreement, to the Borrower (on behalf of the Borrower) of the assignment referred to in this Assignment Agreement.

8. This Assignment Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment Agreement.
9. This Assignment Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
10. This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

THE SCHEDULE

Rights to be assigned and obligations to be released and undertaken

[insert relevant details]

[Facility office address, fax number and attention details for notices and account details for payments]

[Existing Lender]

[New Lender]

By:

By:

This Assignment Agreement is accepted by the Agent and the Transfer Date is confirmed as [●].

Signature of this Assignment Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, which notice the Agent receives on behalf of each Finance Party.

[Agent]

By:

SCHEDULE 6**TIMETABLES**

Clause	Description	Specified Time
Clause 5.1 (<i>Utilisation of the Facility</i>).	Delivery of a Utilisation Request duly completed to the Agent's satisfaction	10.00 am on the day that is fourteen (14) Business Days prior to the proposed Utilisation Date
Clause 5.4 (<i>Lenders' participation</i>)	Agent notifies the Lenders of the Loan	3:00 pm on the day that is eight (8) Business Days prior to the proposed Utilisation Date
Definition of "EURIBOR"	Fixing of EURIBOR or Interpolated Screen Rate	Quotation Day as of 11.00 a.m. Brussels time
Definition of "Interpolated Screen Rate"	Fixing of Interpolated Screen Rate	Quotation Day as of 11.00 a.m. Brussels time

SIGNATORIES

THE BORROWER

Signed for and on behalf of:

JAF
The Government of the Republic of Uganda)

represented by)

The Ministry of Finance, Planning)

and Economic Development)

of the Republic of Uganda)

by the Minister of Finance)

Planning and Economic Development)

Signature:

Name:

M. K. Muhallaw
KEITH MUHALLAW

In the Presence of

The Permanent Secretary, Ministry of Finance, Planning
and Economic Development

CONTACT DETAILS


Address: Ministry of Finance, Planning and Economic Development, Plot 2-12 Apollo Kaggwa
Road, P.O Box 8147, Kampala, Uganda


Email: finance@finance.go.ug

Telephone: +256 414 707 000

Attention: Permanent Secretary/Secretary to the Treasury

For and on behalf of
Standard Chartered Bank
as Original Covered Lender

Signature: 
Name: RICHARD COULSON
Position: COUNTRY HEAD, CRC UK

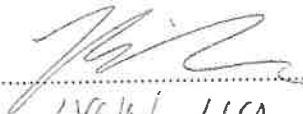

GRAHAME SMITH
DIRECTOR, OBL

CONTACT DETAILS

Standard Chartered Bank
1 Basinghall Avenue
London
EC2V 5DD
United Kingdom

Attention: Yoshi Ichikawa / Farooq Muhammad
Fax: +442078850634
Email: Yoshi.Ichikawa@sc.com

For and on behalf of)
Lloyds Bank plc)
as Original Covered Lender)

Signature: 
Name: LYNN LIU
Position: Associate Director

CONTACT DETAILS

Lloyds Bank
10 Gresham Street
London
EC2V 7AE
United Kingdom

Attention: Lynn Liu
Telephone: +44 (0)20 7158 8599
Email: Lynn.Liu@lloydsbanking.com

For and on behalf of)
Her Britannic Majesty's Secretary of)
State acting by the Export Credits)
Guarantee Department)
(operating as UK Export Finance))
as Direct Lender)

Signature:



Name:

LOUIS TAYLOR

Position:

CFO

CONTACT DETAILS

1 Horse Guards Road
London SW1A 2HQ
United Kingdom

For administrative matters:

Email: DirectLendingDivisionOperations@ukexportfinance.gov.uk
Attention: Direct Lending Division Operations – CIE/BC-DL/Uganda/0020008166

For general liaison in relation to all other matters:

Email: cie.pim@ukexportfinance.gov.uk
Attention: Post-Issue Management

For and on behalf of)
Standard Chartered Bank as Agent)

Signature: 

Name: Scott Masfen.....
Transaction Manager

Position: Standard Chartered Bank

CONTACT DETAILS

Standard Chartered Bank
1 Basinghall Avenue
London
EC2V 5DD
United Kingdom

Attention: Asset Servicing – Manager
Fax: +44 (0)20 7885 9728
Email: Loans.AgencyUK@sc.com

For and on behalf of)
Standard Chartered Bank as Mandated Lead Arranger)

Signature: Sujith Saran
Name: SUJITHAV SARANU
Position: EXECUTIVE DIRECTOR

CONTACT DETAILS

Standard Chartered Bank
1 Basinghall Avenue
London
EC2V 5DD
United Kingdom

Attention: Farooq Muhammad
Fax: +44 (0)20 7885 0947
Email: Faruq.Muhammad@sc.com

EUR 30,384,976.00 COMMERCIAL FACILITY AGREEMENT
relating to
the financing of the development of infrastructure (design and build)
at Kampala Industrial and Business Park Namanve, Republic of
Uganda

dated

4 December 2019

by

THE GOVERNMENT OF THE REPUBLIC OF UGANDA
represented by
**THE MINISTRY OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT OF
THE REPUBLIC OF UGANDA**
as Borrower

and

STANDARD CHARTERED BANK
as Initial Mandated Lead Arranger

and

STANDARD CHARTERED BANK
as Agent

and

CERTAIN OTHER FINANCIAL INSTITUTIONS
as Original Lenders

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COMMERCIAL TERM LOAN FACILITY AGREEMENT

This Agreement is dated 4 December 2019

Between

- (1) **THE GOVERNMENT OF THE REPUBLIC OF UGANDA** represented by **THE MINISTRY OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT OF THE REPUBLIC OF UGANDA** as borrower (the "**Borrower**");
- (2) **STANDARD CHARTERED BANK**, incorporated in England by Royal Charter 1853 of One Basinghall Avenue, London, EC2V 5DD, as initial mandated lead arranger and bookrunner (the "**Initial Mandated Lead Arranger**");
- (3) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 Part 1 (*The Original Lenders*) as Facility A lenders (the "**Original Facility A Lenders**");
- (4) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 Part 2 (*The Original Lenders*) as Facility B lenders (the "**Original Facility B Lenders**"); and
- (5) **STANDARD CHARTERED BANK**, incorporated in England by Royal Charter 1853 of One Basinghall Avenue, London, EC2V 5DD, as agent of the other Finance Parties (the "**Agent**").

RECITALS

- (A) The Government of the Republic of Uganda, represented by the Ugandan Investment Authority whose address is at The Investment Centre, Plot 22B, Twed Plaza, Lumumba Avenue, Nakasero, P.O.BOX 7418, Kampala (the "**Employer**") has entered into a contract dated 24 September 2018 with Lagan Dott Namanve Ltd, a company incorporated in England & Wales with company number 11679776 whose registered office is at Finance House, Beaumont Road, Banbury, England, OX16 1RH (the "**Exporter**") for the development of infrastructure (design and build) at Kampala Industrial and Business Park Namanve (the "**Commercial Contract**");
- (B) The Lenders have agreed, on the terms and conditions of this Agreement, to advance to the Borrower the sum of EUR 30,384,976.00 to assist with the financing of amounts payable in connection with the Project.

IT IS AGREED as follows:

SECTION 1

INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Accounting Principles**" means generally accepted accounting principles in Uganda, including IFRS.

"**Advance Payment**" means the advance payment of at least fifteen (15) per cent of the Exported Element Value, being an amount of EUR 24,794,868.26, and which is not financed under the UKEF Facility.

"**Advance Payment Certificate**" means a certificate substantially in the form set out in Schedule 8 (*Form of Advance Payment Certificate*) or any other form agreed by the Agent.

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"**Agent's Bank Account**" means the account of the Agent as specified in the relevant Fee Letter.

"**Applicable Law**" means:

- (a) any law, statute, decree, constitution, regulation, rule, by-law, order, authorisation, judgment, injunction or other directive of any Government Entity or otherwise which is applicable in Uganda;
- (b) any treaty, pact or other binding agreement to which any Government Entity is a signatory or party; or
- (c) any judicial or administrative interpretation with binding characteristics or application of those described in paragraphs (a) or (b) above,

and in each case, which is applicable to the Borrower, the Employer, the Borrower's assets or the Finance Documents.

"**Assignment Agreement**" means an agreement substantially in the form set out in Schedule 5 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee in form and substance satisfactory to the Agent.

"**Authorisation**" means an authorisation, consent, permit, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Authority**" means any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation.

"**Availability Period**" means:

- (a) in relation to any proposed Utilisation made in respect of Clauses 3.1(b)(iii) and 3.1(b)(iv) (*Purpose*), twenty four (24) Months from the date of this Agreement; and
- (b) in relation to any other proposed Utilisation, the period from and including the date of this Agreement to and including the earlier of:
 - (i) the date falling twelve (12) Months from the date of this Agreement; and
 - (ii) the date on which the applicable Facility has been fully utilised or cancelled.

"**Available Commitment**" means, in relation to a Facility, a Lender's Commitment under that Facility minus:

- (a) the amount of its participation in any outstanding Loans under that Facility; and
- (b) in relation to any proposed Utilisation, the amount of its participation in any Loans that are due to be made under that Facility on or before the proposed Utilisation Date.

"**Available Facility**" means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

"**Break Costs**" means the amount (if any) by which:

- (a) the interest which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of

the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London and Kampala, and:

- (a) for the purpose of determining EURIBOR, a day (other than a Saturday or Sunday) on which banks are open for the transaction of domestic and foreign exchange business in Brussels;
- (b) in relation to a payment, purchase or rate fixing in or other matter relating to a currency other than the Facility Currency, the principal financial centre of the country of that currency; and
- (c) in relation to a payment, a day which is a TARGET Day.

"Commercial Contract" has the meaning given to that term in Recital A.

"Commercial Contract Value" means €215,065,211.71.

"Commitment" means a Facility A Commitment or a Facility B Commitment.

"Confidential Information" means all information relating to the Borrower, the Finance Documents or a Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or a Facility from either:

- (a) the Borrower or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from the Borrower or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (i) information that:
 - (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 33 (*Confidential Information*);
 - (B) is identified in writing at the time of delivery as non-confidential by the Borrower or any of its advisers; or
 - (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Borrower and which, in either case, as far as that Finance Party is

aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and

- (ii) any Funding Rate or Reference Bank Quotation.

"Construction Phase" means the period from the commencement of design, development, pre-construction, construction and commissioning of the Project until the commencement of the Operations Phase;

"Construction Phase E&S Management Plan" means the document(s) comprising the environmental and social management procedures for the Construction Phase as amended from time to time with the consent of the Agent and shall include any documents provided to the Agent pursuant to paragraph 2 (*Other Documents and Evidence*) of Part B of Schedule 2 (*Conditions Precedent to Initial Facility B Utilisation*);

"Corrective Action Plan" means a plan produced by the Borrower pursuant to Clause 19.3(d)(i)(B) (*E&S Trigger Events*) specifying in detail the corrective action (including the timings and responsibility for such action(s)) being taken or proposed to be taken in order to, remedy or mitigate all damage and adverse consequences caused by an E&S Trigger Event, as may be amended or updated from time to time with the consent of the Agent;

"Corrupt Practices" means directly or indirectly in connection with the Project, the Commercial Contract or any transaction contemplated by the Finance Documents:

- (a) the offering, promising or giving of any undue pecuniary or other advantage, whether directly or through intermediaries, to an official in the public or private sectors, for that official or for a third party, to influence the official to act or refrain from acting in relation to the performance of official duties, with the purpose of obtaining or retaining business or other improper advantage in the conduct of business;
- (b) any offer, gift, payment, promise to pay, commission, fee, loan or other consideration which would or might constitute bribery within the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 17 December 1997;
- (c) the payment or receipt (or entry into any agreement under which it may be paid or receive) any unlawful commission, bribe, pay-off or kickback; or
- (d) any act or practice of whatsoever nature which would or might constitute bribery or corrupt practice within the criminal code of Uganda.

"CP Satisfaction Notice" means the Facility A CP Satisfaction Notice or the Facility B CP Satisfaction Notice, as the context may require.

"Default" means an Event of Default or any event or circumstance specified in Clause 20 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"Design Works" means any works under the Commercial Contract in relation to the Project including, but not limited to, designing, surveying and site investigations but excluding any construction related activities at the site of the Namanve Industrial and Business Park in Kampala, Uganda.

"Disruption Event" means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments

to be made in connection with the Facilities (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or

- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
 - (i) from performing its payment obligations under the Finance Documents; or
 - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

"Employer" has the meaning given to that term in Recital A.

"Environment" means the Natural Environment and the Social Environment;

"Environmental and Social Action Plan" or **"ESAP"** means the action plan dated 21 August 2019, as amended from time to time by or with the consent of the Agent;

"Environmental Contaminant" means any substance (whether a solid, liquid, gas or vapour and whether or not combined with any one or more other substances), activity or other phenomenon that is capable of causing significant harm to humans or any other living organisms supported by the Environment or significantly damaging the Environment or public health or welfare;

"Environmental Information Regulations" mean the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in the UK in relation to such regulations;

"Environmental Permit" means any permit and other Authorisation and the filing of any notification, report or assessment required under any E&S Law for the operation of the business of the Borrower or the Employer conducted on or from the properties owned or used by the Borrower or the Employer;

"EURIBOR" means, in relation to any Loan:

- (a) the applicable Screen Rate as of the Specified Time for euro and for a period equal in length to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 10.1 (*Unavailability of Screen Rate*),

and if, in either case, that rate is less than zero, EURIBOR shall be deemed to be zero.

"Event of Default" means any event or circumstance specified as such in Clause 20 (*Events of Default*).

"Exported Element Value" means the Commercial Contract Value less the cost to the Exporter of procuring any Local Supplies.

"Exporter" has the meaning given to that term in Recital A.

"Exporter's Signatory" means the person(s) authorised to sign on behalf of the Exporter regarding whom evidence has been provided by the Borrower to the Agent in accordance with paragraph (1)(b) of Part A of Schedule 2 (*Conditions Precedent to Initial Facility A Utilisation*), or, subject to the prior written approval of the Agent, such other person whose name and

specimens of whose signature have been supplied to the Agent and certified by a director or officer of the Exporter in a form acceptable to the Agent.

"E&S Actions" means the actions identified:

- (a) in the ESAP;
- (b) in any E&S Self-Monitoring Report; and
- (c) by the Agent or its nominated representative or the IESC following a site visit pursuant to paragraph (e) (Site visits) of Clause 19.3 (*Environmental undertakings*),

to be undertaken by or on behalf of the Borrower and/or the Employer in order to ensure all the E&S Obligations are fulfilled, in each case as updated or amended with the prior consent of the Agent;

"E&S Claim" means any pending or existing claim, dispute, arbitration, administrative or legal proceedings relating to the E&S Requirements in respect of the Project, or the assets, business and operations of the Borrower and/or Employer relating to the Project;

"E&S Incident" means:

- (a) any incident or accident relating to the Project which directly or indirectly, has, or could reasonably be expected to have an adverse impact on the Environment (including the release of any Environmental Contaminant in sufficient quantity or concentration to have an adverse impact);
- (b) an accident resulting in death or serious or multiple injury; or
- (c) a significant community or worker related grievance or protest directed at the Project;

"E&S Investigation" means any investigation by any governmental, state or other public person arising out of or in relation to the Project or the assets, business and operations of the Borrower and/or the Employer relating to the Project with respect to the E&S Requirements;

"E&S Law" means any legislation, rule, decree, judgment, regulation, directive, by-law, order or any other executive or legislative measure or act having the force of law at the relevant time, including any Authorisations required by any of the above, which directly or indirectly relates to the protection of or the prevention of harm or damage to the Environment in respect of (i) the Project or (ii) the assets, business and operations of the Borrower and/or the Employer relating to the Project;

"E&S Management Plans" means, together, the Construction Phase E&S Management Plan and the Operations Phase E&S Management Plan, and **"E&S Management Plan"** means either of them;

"E&S Obligations" means the obligations of any person (including the Borrower and/or the Employer) to:

- (a) comply with any applicable E&S Law;
- (b) align with the E&S Standards;
- (c) undertake the E&S Actions;
- (d) comply with the requirements of the E&S Management Plans; or
- (e) comply with the requirements of any Corrective Action Plan,

in each case in relation to the Project;

"E&S Obligations Breach" means a breach of any E&S Obligation (including by the Borrower and/or the Employer) other than any such breach that has been disclosed to the Agent and where such breach has resulted in corrective action under the ESAP, any Corrective Action Plan, or other corrective action otherwise agreed with the Agent;

"E&S Requirements" means, together, E&S Law and E&S Standards;

"E&S Self-Monitoring Reports" means the reports required pursuant to paragraph (a) (E&S Self-Monitoring Reports) of Clause 19.3 (*Environmental undertakings*);

"E&S Standards" means the policies, guidance and standards set out, or referred to, in:

- (a) the following performance standards on social and environmental sustainability published by the International Financial Corporation (IFC) on 1 January 2012:
 - (i) Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts;
 - (ii) Performance Standard 2: Labour and Working Conditions;
 - (iii) Performance Standard 3: Resource Efficiency and Pollution Prevention;
 - (iv) Performance Standard 4: Community health, Safety and Security;
 - (v) Performance Standard 5: Land Acquisition and Involuntary Resettlement;
 - (vi) Performance Standard 6: Biodiversity, Conservation and Sustainable Management of Living Natural Resources;
 - (vii) Performance Standard 7: Indigenous People;
 - (viii) Performance Standard 8: Cultural Heritage;
- (b) World Bank Group Environmental, Health and Safety (EHS) General Guidelines (2007); and
- (c) World Bank Group sector specific guidelines as applicable;

"E&S Trigger Event" means:

- (a) an E&S Incident; and/or
- (b) an E&S Obligations Breach;

"Facility" means Facility A or Facility B and **"Facilities"** means Facility A and Facility B together.

"Facility A" means the term loan facility made available under this Agreement as described in Clause 2.1(a) (*The Facilities*).

"Facility A Commitment" means:

- (a) in relation to an Original Facility A Lender, the amount set opposite its name under the heading "Facility A Commitment" in Schedule 1 (*The Original Lenders*) and the amount of any other Facility A Commitment transferred to it under this Agreement; and

- (b) in relation to any other Facility A Lender, the amount of any Facility A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"Facility A CP Satisfaction Notice" has the meaning given to that term in Clause 4.1(a)(i)(B) (*Initial conditions precedent*).

"Facility A Lender" means:

- (a) the Original Facility A Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party, as a Facility A Lender, in accordance with Clause 21 (*Changes to the Lenders*),

which in each case has not ceased to be a Party, in its capacity as a Facility A Lender, in accordance with the terms of this Agreement.

"Facility A Loan" means a loan made or to be made under Facility A by the Facility A Lenders or the principal amount outstanding for the time being of that loan.

"Facility B" means the term loan facility made available under this Agreement as described in Clause 2.1(b) (*The Facilities*).

"Facility B Commitment" means:

- (a) in relation to an Original Facility B Lender, the amount set opposite its name under the heading "Facility B Commitment" in Schedule 1 (*The Original Lenders*) and the amount of any other Facility B Commitment transferred to it under this Agreement; and
- (b) in relation to any other Facility B Lender, the amount of any Facility B Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"Facility B CP Satisfaction Notice" has the meaning given to that term in Clause 4.1(b)(i)(B) (*Initial conditions precedent*).

"Facility B Lender" means:

- (a) the Original Facility B Lenders; and
- (b) any bank, financial institution, trust, fund or other entity, which has become a Party as a Facility B Lender, in accordance with Clause 21 (*Changes to the Lenders*),

which in each case has not ceased to be a Party, in its capacity as a Facility B Lender, in accordance with the terms of this Agreement.

"Facility B Loan" means a loan made or to be made under Facility B by the Facility B Lenders or the principal amount outstanding for the time being of that loan.

"Facility Currency" means euro.

"Facility Office" means:

- (a) in respect of a Lender, the office or offices notified by that Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement; or

- (b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

"**Fee Letter**" means any letter or letters dated on or about the date of this Agreement between the Mandated Lead Arranger and the Borrower (or the Agent and the Borrower) setting out any of the fees referred to in Clause 11 (*Fees*).

"**Final Maturity Date**" means the earlier of:

- (a) the date falling seventy two (72) Months from the date of this Agreement; or
- (b) the date that the Loans have been repaid in full.

"**Finance Document**" means this Agreement, any Fee Letter, any Utilisation Request, any Transfer Certificate, any Assignment Agreement and any other document designated as such by the Agent and the Borrower.

"**Finance Party**" means the Agent, the Mandated Lead Arranger or a Lender.

"**Financial Indebtedness**" means any indebtedness for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a balance sheet liability;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meeting any requirement for de-recognition under the Accounting Principles);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles;
- (g) 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 marked to market value (or, if any actual amount is due as a result of the termination or close out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution or credit insurer;
- (i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than sixty (60) days after the date of supply;

- (j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles; or
- (k) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above;.

"First Repayment Date" means the date falling eighteen (18) Months after the date of this Agreement.

"Foreign Public Official" means an individual who:

- (a) holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (or any subdivision of such a country or territory);
- (b) exercises a public function:
 - (i) for or on behalf of a country or territory outside the United Kingdom (or any subdivision of such a country or territory); or
 - (ii) for any public agency or public enterprise of that country or territory (or subdivision); or
- (c) is an official or agent of a public international organisation.

"Funding Rate" means any individual rate notified by a Lender to the Agent pursuant to Clause 10.4(a)(ii) (*Cost of funds*).

"Government Entity" means:

- (a) any national government or political subdivision of a national government;
- (b) any banking or monetary authority of a national government or of a political subdivision of a national government;
- (c) any local jurisdiction of a national government or of a political subdivision of a national government;
- (d) the European Central Bank or the Council of Ministers of the European Union;
- (e) any instrumentality, commission, board commission, authority, department, division, organ, court or agency of any of the foregoing, however constituted; or
- (f) any association, organisation or institution of which any of the entities listed in the preceding paragraphs is a member (including, without limitation, any European supranational body) or to whose jurisdiction any of them is subject or in whose activities any of them is a participant.

"Holding Company" means, in relation to a person, any other person in respect of which it is a Subsidiary.

"IESC" means a person acceptable to UK Export Finance appointed as the independent environmental and social consultant pursuant to the IESC Contract.

"IESC Contract" means the contract or engagement letter for the environmental and social monitoring of the Project, entered into or, as the context may require, to be entered into between the Agent and the IESC.

"IFRS" means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable.

"Integrated Goods" means Local Supplies that are or will be integrated with other goods in the UK to produce goods that are or will be eligible for a certificate of UK origin from a British Chamber of Commerce.

"Interest Payment Date" means the last day of an Interest Period.

"Interest Period" means, in relation to a Loan, each period determined in accordance with Clause 9 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*).

"Interest Rate" means the rate of interest on each Loan determined pursuant to Clause 8.1 (*Calculation of interest*).

"Interpolated Screen Rate" means, in relation to any Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time on the Quotation Day for the Facility Currency.

"Lender" means a Facility A Lender or a Facility B Lender and "Lenders" means the Facility A Lenders and the Facility B Lenders together.

"LMA" means the Loan Market Association.

"Loan" means a Facility A Loan or a Facility B Loan.

"Local Supplies" means goods and/or services procured by the Exporter from persons ordinarily resident in and/or carrying on business in the Employer's country but excluding Integrated Goods.

"Majority Lenders" means a Lender or Lenders whose Commitments aggregate more than 66²/₃% of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66²/₃% of the Total Commitments immediately prior to the reduction).

"Mandated Lead Arranger" means:

- (a) the Initial Mandated Lead Arranger; and
- (b) any bank, financial institution, trust, fund or other entity to which becomes a mandated lead arranger in accordance with this Agreement.

"Margin" means four per cent (4%) per annum.

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

- (a) the economic condition of the Borrower;
- (b) the ability of the Borrower to perform any of its obligations under the Finance Documents;

- (c) the validity or enforceability of the Finance Documents or the rights and remedies of any Finance Party under any of the Finance Documents;
- (d) the international or any relevant domestic loan or capital markets (including availability and the cost of funding in the international interbank market) which has affected or could affect the successful implementation or performance of this Agreement or the UKEF Facility Agreement; or
- (e) the political, financial or economic climate in Uganda, including, but not limited to, changes resulting directly or indirectly from any existing or outbreak of war or other armed conflicts, state of national emergency, civil unrest, disturbance or other similar events in each case whether such event may occur in Uganda or in any other state or country.

"Material Commercial Contract Change" means any:

- (a) assignment, novation or other disposal of any rights and/or obligations under the Commercial Contract; or
- (b) amendment, acquiescence, departure from or waiver of the terms of the Commercial Contract, which:
 - (i) on its own, or when aggregated with any previous amendments, acquiescence, departures from or waivers, increases or decreases the amount payable by the Borrower under the Commercial Contract by more than ten per cent (10%); or
 - (ii) involves a material change in nature of the supply made under the Commercial Contract.

"Month" means a period starting on one (1) day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

"Natural Environment" means elements of the natural environment including all, or any, of the following:

- (a) the air (including the air within buildings and the air within other natural or man-made structures above or below ground);
- (b) water (including territorial, coastal and inland waters, ground and surface water, and water in drains and sewers);
- (c) land (including reclaimed land, surface and sub-surface soil);

- (d) living organisms including human life, animals and plants; and
- (e) natural habitats (including land which has been altered by humans to form natural habitats);

"**New Lender**" has the meaning given to that term in Clause 21 (*Changes to the Lenders*).

"**Operations Phase**" means the period commencing on the date the operator takes over responsibility for the Project until the Facilities are repaid in full and all the obligations of the Borrower under the Finance Documents have been paid or discharged in full;

"**Operations Phase E&S Management Plan**" means an environmental plan in respect of the Operations Phase produced in accordance with paragraph (f) (*Operations Phase E&S Management Plan*) of Clause 19.3 (*Environmental undertakings*), as may be amended or updated from time to time with the consent of the Agent;

"**Original Lender**" means an Original Facility A Lender or an Original Facility B Lender and "**Original Lenders**" means the Original Facility A Lenders and the Original Facility B Lenders together.

"**Participating Member State**" means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement.

"**Project**" means the development of infrastructure (design and build) at Kampala Industrial and Business Park Namanve;

"**Project Commissioning Date**" means the commissioning date of the Project, which is the date on which the taking-over certificate is issued under the Commercial Contract, as notified by the Borrower to the Agent pursuant to Clause 18.5 (*Notifications relating to the Commercial Contract and the Project*).

"**Protected Party**" has the meaning given to that term in paragraph (a) of Clause 12.1 (*Tax Definitions*).

"**Protected Ugandan Assets**" means the following state-owned assets, with respect to which sovereign immunity may not be waived under the laws of Uganda:

- (a) security and national defence assets;
- (b) assets which are precluded from being pledged by an Act of Parliament of Uganda (in existence at the date of this Agreement); and
- (c) assets which are generally protected under UK and US standard immunity legislation.

"**Recipient**" has the meaning given in paragraph (b) of Clause 12.5 (*VAT*).

"**Quotation Day**" means, in relation to any period for which an interest rate is to be determined, two (2) TARGET Days before the first day of that period unless market practice differs in the Relevant Market, in which case the Quotation Day for euro will be determined by the Agent in accordance with market practice in the Relevant Market (and if quotations would normally be given by leading banks in the Relevant Market on more than one day, the Quotation Day will be the last of those days).

"**Reference Bank Quotation**" means any quotation supplied to the Agent by a Reference Bank.

"Reference Bank Rate" means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks in relation to EURIBOR as either:

- (a) if:
 - (i) the Reference Bank is a contributor to the applicable Screen Rate; and
 - (ii) it consists of a single figure,
the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator; or
- (b) in any other case, the rate at which the relevant Reference Bank could find itself in the relevant currency for the relevant period with reference to the unsecured wholesale funding market.

"Reference Banks" means the principal office in London of any bank(s) appointed by the Agent in consultation with the Borrower.

"Related Fund" in relation to a fund (the "**first fund**"), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

"Relevant Market" means the European interbank market.

"Relevant Nominating Body" means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

"Relevant Party" has the meaning given to that term in paragraph (b) of Clause 12.5 (VAT).

"Repayment Date" means:

- (a) the First Repayment Date; and
- (b) each date falling at intervals of six (6) Months after the First Repayment Date up to and including the Final Maturity Date.

"Repayment Instalment" has the meaning given to that term in Clause 6.1 (*Repayment of Loans*).

"Repeating Representations" means each of the representations set out in Clauses 17.1 (*Status*) to 17.28 (*Financial Indebtedness*).

"Replacement Benchmark" means a benchmark rate that is:

- (i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
- (ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Benchmark" will be the replacement under paragraph (ii) above; in the opinion of the Majority Lenders and

the Borrower, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to the Screen Rate; or

- (c) in the opinion of the Majority Lenders and the Borrower, an appropriate successor to the Screen Rate;

"Representative" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

"Restricted Party" means a person that is: (i) listed on, or owned or controlled by a person listed on, or acting on behalf of a person listed on, any Sanctions List; (ii) located in, incorporated under the laws of, or owned or (directly or indirectly) controlled by, or acting on behalf of, a person located in or organised under the laws of a country or territory that is the target of country-wide or territory-wide Sanctions Laws and Regulations; or (iii) otherwise a target of Sanctions Laws and Regulations ("target of Sanctions Laws and Regulations" signifying a person with whom a US person or other national of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities).

"Sanctions Authority" means:

- (a) the United States of America;
- (b) the United Nations;
- (c) the European Union;
- (d) any member state of the European Union;
- (e) the United Kingdom; and
- (f) the respective governmental institutions and agencies of any of the foregoing, including, without limitation, the Office of Foreign Assets Control of the US Department of Treasury ("**OFAC**"), the United States Department of State, the United Nations Security Council and Her Majesty's Treasury ("**HMT**").

"Sanctions Laws and Regulations" means any economic, financial or trade sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by any Sanctions Authority from time to time.

"Sanctions List" means the "Specially Designated Nationals and Blocked Persons" list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by HMT, or any similar list maintained by, or public announcement of any Sanctions Laws and Regulations designation made by, any of the Sanctions Authorities.

"Screen Rate" means the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant currency or period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Borrower.

"Screen Rate Replacement Event" means, in relation to a Screen Rate:

- (a) the methodology, formula or other means of determining that Screen Rate has, in the opinion of the Majority Lenders materially changed;

- (b)
 - (i)
 - (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
 - (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent,

provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;
 - (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;
 - (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or
 - (iv) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or
- (c) the administrator of that Screen Rate determines that that Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
 - (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders) temporary; or
 - (ii) that Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than fifteen (15) Business Days; or
- (d) in the opinion of the Majority Lenders, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement;

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

"Semi-Annual Date" means 15 February and 15 August of each year.

"Social Environment" means elements of the social environment including all, or any, of the following:

- (a) human rights, including without limitation community, labour and workers' rights and conditions;
- (b) human health, safety and security, including without limitation health, safety and security relating to the community, public and workforce;
- (c) rights and interests and empowerment of indigenous peoples, ethnic minorities and vulnerable groups;
- (d) cultural heritage (whether tangible or intangible) and archaeological artefacts;

(e) continued physical settlement, economic placement and/or livelihood of persons (including in relation to involuntary physical resettlement or economic displacement); and

(f) public participation and stakeholder engagement;

"**Specified Time**" means a day or time determined in accordance with Schedule 6 (*Timetables*).

"**Subsidiary**" means, in relation to a person, any other person:

(a) which is controlled, directly or indirectly, by a company or corporation or a Ugandan government agency (a "**holding corporation**");

(b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the holding corporation; or

(c) which is a Subsidiary of another Subsidiary of the holding corporation.

"**Supervising Engineer**" means the supervising engineer engaged by the Employer in relation to the Commercial Contract.

"**Supplier**" has the meaning given to that term in paragraph (b) of Clause 12.5 (*VAT*).

"**TARGET2**" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payments in euro.

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Tax Deduction**" has the meaning given to that term in paragraph (a) of Clause 12.1 (*Tax Definitions*).

"**Tax Payment**" has the meaning given to that term in paragraph (a) of Clause 12.1 (*Tax Definitions*).

"**Third Parties Act**" has the meaning given to that term in Clause 1.4 (*Third party rights*).

"**Total Commitments**" means the aggregate of:

(a) the Total Facility A Commitments; and

(b) the Total Facility B Commitments,

being EUR 30,384,976.00 at the date of this Agreement.

"**Total Facility A Commitments**" means the aggregate of the Facility A Commitments, being EUR 6,000,000 at the date of this Agreement.

"**Total Facility B Commitments**" means the aggregate of the Facility B Commitments, being EUR 24,384,976 at the date of this Agreement.

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrower.

"**Transfer Date**" means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

"**Uganda**" means the Republic of Uganda.

"**UK**" means the United Kingdom of Great Britain and Northern Ireland.

"**UKEF**" means Her Britannic Majesty's Secretary Of State acting through the Export Credits Guarantee Department (operating as UK Export Finance).

"**UKEF Facility**" means the term loan facility made available by UKEF to the Borrower pursuant to the terms of the UKEF Facility Agreement.

"**UKEF Facility Agent**" means Standard Chartered Bank as agent on behalf of UKEF under the UKEF Facility Agreement.

"**UKEF Facility Agreement**" means the export credit agency supported term loan facility agreement to be entered into between, among others, the Borrower, UKEF and the UKEF Facility Agent in relation to *inter alia*, the financing of payments due by the Borrower to the Exporter under the Commercial Contract.

"**Unpaid Sum**" means any sum due and payable but unpaid by the Borrower under the Finance Documents.

"**US**" means the United States of America.

"**Utilisation**" means a utilisation of, or the act or process of drawing under, a Facility.

"**Utilisation Date**" means the date of a Utilisation, being the date on which the relevant Loan is to be made.

"**Utilisation Request**" means a notice substantially in the form set out in Schedule 3 (*Form of Utilisation Request*).

"**VAT**" means value added tax or sales tax and any other tax of a similar nature imposed in any jurisdiction.

"**World Bank**" means the World Bank Group, including the International Bank for Reconstruction and Development, The International Development Association (IDA), The International Finance Corporation (IFC) and The Multilateral Investment Guarantee Agency (MIGA).

1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
 - (i) the "Agent", the "Mandated Lead Arranger", the "Borrower", any "Finance Party", the "Employer", the "Exporter", any "Lender" or any "Party" shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
 - (ii) "**assets**" includes present and future properties, revenues and rights of every description;

- (iii) for the purposes of the definition of "Subsidiary", "**control**" means:
 - (A) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (1) cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the company; or
 - (2) appoint or remove all, or the majority, of the directors or other equivalent officers of the company; or
 - (3) give directions with respect of the operating and financial policies of the company or the Borrower, as applicable, which the directors or other equivalent officers of the company are obliged to comply with; or
 - (B) the holding of more than one-half of the issued share capital of the company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital);
- (iv) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
- (v) a "**group of Lenders**" includes all the Lenders;
- (vi) "**guarantee**" means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- (vii) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (viii) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (ix) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (x) a provision of law is a reference to that provision as amended or re-enacted;
- (xi) a time of day is a reference to London time;
- (xii) the singular includes the plural and vice versa;
- (xiii) a gender includes the other gender and the neuter; and

- (xiv) the words "including", "other", "in particular", "for example" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation".
- (b) The determination of the extent to which a rate is "**for a period equal in length**" to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- (c) Section, Clause and Schedule headings are for ease of reference only.
- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (e) A Default (other than an Event of Default) is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been waived in writing.
- (f) An E&S Trigger Event is "continuing" unless the Agent has determined that it has been remedied.

1.3 Currency symbols and definitions

"€", "EUR" and "euro" denote the single currency of the Participating Member States.

1.4 Third party rights

Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Agreement.

SECTION 2
THE FACILITY

2. THE FACILITIES

2.1 The Facilities

Subject to the terms of this Agreement, the Lenders make available to the Borrower:

- (a) a term loan facility in the Facility Currency in an aggregate amount equal to the Total Facility A Commitments; and
- (b) a term loan facility in the Facility Currency in an aggregate amount equal to the Total Facility B Commitments,

which together shall be in a maximum aggregate amount equal to the Total Commitments.

2.2 Finance Parties' rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from the Borrower shall be a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by the Borrower which relates to a Finance Party's participation in a Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by the Borrower.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

2.3 Obligations of the Borrower

- (a) The obligations of the Borrower under this Agreement shall constitute absolute, unconditional and irrevocable financial obligations to the Finance Parties. Such obligations are independent and separate obligations regardless of any matter affecting the Exporter, the Employer or the Commercial Contract including the performance, non-performance, frustration or invalidity of the Commercial Contract, or the destruction, non-completion, or non-functioning of any of the goods and/or services to be supplied under the Commercial Contract or the liquidation or bankruptcy of the Exporter, the Employer or any other person.
- (b) Without prejudice to the generality of paragraph (a) above, the Borrower acknowledges that its liability to pay in full any sum payable by it under this Agreement or any other Finance Document on the due date for payment:
 - (i) is separate from the performance by the Exporter, the Employer or any other person of their obligations under the Commercial Contract and any other agreement relating thereto; and

- (ii) shall not be affected in any way by reason of any claim, dispute or defence which the Borrower or the Employer may have or may consider that it has against the Exporter or any other person.
- (c) The Parties hereby expressly agree that no Finance Party shall have: (i) any liability or responsibility whatsoever regarding any performance or non-performance by any party to the Commercial Contract of the obligations thereunder; nor (ii) any obligation to intervene in any dispute in connection with or arising out of such performance or non-performance. Any dispute shall not affect the Borrower's performance hereunder nor entitle the Borrower to any suspension or other claim towards the Finance Parties.

3. PURPOSE

3.1 Purpose

- (a) The Borrower shall apply all amounts borrowed by it under Facility A towards one or more of the following:
 - (i) financing the payment(s) due and payable by the Employer in connection with the Design Works, in an amount equal to EUR 5,900,000 which forms part of the Advance Payment; or
 - (ii) financing the payment by the Borrower of:
 - (A) any fees payable pursuant to Clause 11.2 (*Administration fee*); and
 - (B) a portion of the legal fees incurred by Finance Parties' legal advisers, in an aggregate amount of EUR 100,000;
- (b) The Borrower shall apply all amounts borrowed by it under Facility B towards one or more of the following:
 - (i) financing the payment due and payable by the Employer of the remainder of the Advance Payment which is not financed pursuant to Facility A, in an amount equal to EUR 18,894,868.26;
 - (ii) financing the payment by the Borrower of:
 - (A) any fees payable pursuant to clauses 9.1 (*Administration fee*) and 9.2 (*Agency fee*) of the UKEF Facility Agreement; and
 - (B) any fees, costs and expenses payable in connection with the Finance Documents (including the remainder of the legal fees incurred by the Finance Parties' legal advisers which are not financed pursuant to Facility A), in an aggregate amount of EUR 3,900,964.69;
 - (iii) financing the payment(s) due and payable by the Employer to the Supervising Engineer in respect of engineering services in relation to the Commercial Contract, in an aggregate amount not exceeding EUR 1,272,957.55;
 - (iv) financing the payment(s) due and payable by the Agent to the IESC in respect of the environmental consultancy services in relation to the IESC Contract, in an amount not exceeding EUR 139,832.03; or

- (v) financing the payment any amounts not eligible for financing under the UKEF Facility, but due and payable by the Employer to the Exporter under the Commercial Contract, in an amount not exceeding EUR 176,353.47.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

- (a) Initial Facility A Conditions Precedent
 - (i) The Borrower may not deliver, nor shall the Agent give effect to, a Utilisation Request in respect of Facility A unless:
 - (A) the Agent has received all of the documents and other evidence listed in Part A of Schedule 2 (*Conditions precedent to Initial Facility A Utilisation*) in a form and substance satisfactory to the Agent; and
 - (B) the Agent has notified the Borrower and the Facility A Lenders that the conditions precedent referred to in paragraph (a)(i)(A) above have been satisfied (the "**Facility A CP Satisfaction Notice**").
 - (ii) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (a)(i)(B) above, the Facility A Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving such notification.
- (b) Initial Facility B Conditions Precedent
 - (i) The Borrower may not deliver, nor shall the Agent give effect to, a Utilisation Request in respect of Facility B unless:
 - (A) the Agent has received all of the documents and other evidence listed in Part B of Schedule 2 (*Conditions precedent to Initial Facility B Utilisation*) in a form and substance satisfactory to the Agent; and
 - (B) the Agent has notified the Borrower and the Facility B Lenders that the conditions precedent referred to in paragraph (b)(i)(A) above have been satisfied (the "**Facility B CP Satisfaction Notice**").
 - (ii) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (b)(i)(B) above, the Facility B Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving such notification.
 - (iii) For the avoidance of doubt, no Facility B Lender is committed to lend any funds under Facility B, and Facility B shall not be in effect, until all the relevant conditions set out in Part B of Schedule 2 (*Conditions precedent to Initial Facility B Utilisation*) have been satisfied in their absolute discretion.
- (c) If the conditions precedent referred to in paragraph (b) above are not met within two hundred and seventy (270) days of the date of the first Utilisation under Facility A, or

such later date as the Agent may have notified the Borrower (acting on the instructions of all Facility B Lenders), the Agent may (and shall if instructed by any one or more Facility B Lenders) notify the Borrower that the Facility B Commitments of the Facility B Lenders, to the extent not already cancelled pursuant to Clause 5.7 (*Cancellation of Commitment*), shall be immediately cancellable on notice.

4.2 Further conditions precedent

- (a) The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of a Utilisation Request (if applicable) and on the proposed Utilisation Date:
- (i) no Default is continuing or would result from the proposed Loan;
 - (ii) the Repeating Representations are true;
 - (iii) no event described in Clause 7.1 (*Illegality*), Clause 7.2 (*Material Commercial Contract Change*) or Clause 7.3 (*E&S Incident*) has occurred;
 - (iv) no Sanctions Laws and Regulations would apply to or otherwise affect the receipt by the Borrower or the Exporter (as applicable) of proceeds from a proposed Loan and or the incurring of debt in relation to a proposed Loan;
 - (v) it would not be unlawful or contrary to any Sanctions Laws and Regulations applicable to the Lender for the proposed Loan to be made;
 - (vi) in respect of a Utilisation under Facility B only, the Borrower and/or the Employer are in compliance with all applicable E&S Obligations within the relevant timeframes;
 - (vii) in respect of a Utilisation Request relating to the financing of the Design Works, the Borrower has provided invoices and other evidence demonstrating to the satisfaction of the Agent that the proposed Loan is equal to an amount due and payable by the Employer under the Commercial Contract in respect of the Design Works and is eligible for financing in accordance with Clause 3.1(a) (*Purpose*);
 - (viii) in respect of a Utilisation Request relating to the financing of the Advance Payment, the Agent has received in form and substance satisfactory to it an Advance Payment Certificate and all representations made by the Exporter in such Advance Payment Certificate are true;
 - (ix) in respect of a Utilisation Request relating to the financing of payments due and payable by the Employer to the Exporter under the Commercial Contract, the Borrower has provided invoices and other evidence demonstrating to the satisfaction of the Agent that the proposed Loan is equal to an amount due and payable by the Employer under the Commercial Contract and is eligible for financing in accordance with Clause 3.1(b) (*Purpose*);
 - (x) in respect of a Utilisation Request relating to the financing of payments due and payable by the Employer to the Supervising Engineer, the Borrower has provided invoices and other evidence demonstrating to the satisfaction of the Agent that the proposed Loan is equal to an amount due and payable by the Employer to the Supervising Engineer and is eligible for financing in accordance with Clause 3.1(b) (*Purpose*), together with a certified up-to-date and complete copy of the engagement letter entered into between the

Supervising Engineer and the Employer with respect to engineering services to be provided by the Supervising Engineer in relation to the Project; and

- (xi) in respect of a Utilisation Request relating to the financing of payments due and payable by the Agent to the ISEC, the Borrower has attached the relevant invoice from the IESC and that the proposed Loan is equal to an amount due and payable by the Agent to the IESC and is eligible for financing in accordance with Clause 3.1(b) (*Purpose*).

4.3 Maximum number of Utilisation Requests and Loans

Not more than one (1) Utilisation Request may be delivered by the Borrower during any calendar month (excluding the first two (2) Utilisation Requests, which may be delivered by the Borrower during the same calendar month).

SECTION 3
UTILISATION

5. UTILISATION

5.1 Delivery of a Utilisation Request and Utilisation

The Borrower may utilise a Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

- (a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
 - (i) it identifies the Facility to be utilised;
 - (ii) the proposed Utilisation Date is a Business Day within the Availability Period;
 - (iii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*); and
 - (iv) it is accompanied by the relevant invoices and other evidence required to be provided pursuant to that Utilisation Request.
- (b) A Utilisation Request in respect of:
 - (i) financing the payment of the Design Works shall not be regarded as having been duly completed unless it has attached true copies of the Exporter's invoice(s) to the Employer in respect of payments to be financed by that Loan;
 - (ii) financing the payment, or part thereof, of the Advance Payment shall not be regarded as having been duly completed unless it has attached an Advance Payment Certificate duly signed by the Exporter's Signatory;
 - (iii) financing the payment of any amounts due and payable by the Employer to the Exporter under the Commercial Contract, which are eligible for financing pursuant to Clause 3.1(b)(v) (*Purpose*), shall not be regarded as having been duly completed unless it has attached true copies of the Exporter's invoice(s) to the Employer in respect of the payment(s) requested to be financed by that Loan and, if requested, any additional confirmations requested by the Agent in connection with such invoices;
 - (iv) financing the payment(s) due and payable by the Employer to the Supervising Engineer, which are eligible for financing pursuant to Clause 3.1(b)(iii) (*Purpose*), shall not be regarded as having been duly completed unless it has attached true copies of the Supervising Engineer's invoice(s) to the Employer in respect of the payment(s) requested to be financed by that Loan; and
 - (v) financing the payment(s) due and payable by the Agent to the IESC, which are eligible for financing pursuant to Clause 3.1(b)(iv) (*Purpose*), shall not be regarded as having been duly completed unless it has attached true copies of the IESC's invoice(s) to the Agent in respect of the payment(s) requested to be financed by that Loan;
- (c) A Utilisation Request has attached true copies of the necessary documentation referred to in that Utilisation Request.

- (d) Only one (1) Loan may be requested in each Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be euros.
- (b) The amount of the proposed Loan must be an amount which is not more than the relevant Available Facility and which is a minimum of EUR 100,000 or, if less, the relevant Available Facility.

5.4 Lenders' participation

- (a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the applicable Available Facility immediately prior to making that Loan.
- (c) The Agent shall notify each Lender of the amount of each Loan and the amount of its participation in that Loan by the Specified Time.

5.5 Examination and reliance on documents

- (a) The Agent shall be entitled (but not obliged) to rely and act upon any documentation or information provided under this Clause 5 (*Utilisation*), which appears on its face to have been duly completed.
- (b) The Agent agrees to notify the Borrower as soon as practicable that any such further information or documents are necessary for making the Utilisation.

5.6 Funds paid directly to the Exporter or the Supervising Engineer

The Borrower acknowledges and agrees that the payment of the proceeds of any Utilisation directly to the Exporter, the Supervising Engineer, IESC, any Finance Party, the Finance Parties' legal advisers shall constitute a Loan (or part of a Loan, as appropriate) for the purposes of this Agreement as if the proceeds of that Loan (or part of a Loan, as appropriate) had been paid to the Borrower.

5.7 Cancellation of Commitment

The Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the Availability Period.

5.8 Public Fund

The Borrower hereby acknowledges that:

- (a) the Agent's Bank Account constitutes a Public Fund for the purposes of Article 159(3) of the Constitution of Uganda 1995;
- (b) in accordance with Clause 5.4 (*Lenders' participation*), each Lender upon receipt of a Utilisation Request from the Borrower duly executed by the authorised signatories will make its participation in a Loan available by paying such participation into the Agent's Bank Account;

- (c) the amount of each Loan will subsequently be paid directly from the Agent's Bank Account by the Agent to the Exporter or other third party, in each case, as contemplated by this Agreement and directed by the Borrower in the relevant Utilisation Request; and
- (d) by complying with paragraph (c) above, such payment will be in compliance with the laws of Uganda.

SECTION 4

REPAYMENT, PREPAYMENT AND CANCELLATION

6. REPAYMENT

6.1 Repayment of Loans

- (a) The Borrower shall repay:
- (i) the aggregate Facility A Loans in full in equal semi-annual and consecutive instalments by repaying on each Repayment Date an amount equal to $\frac{1}{10}$ of the Facility A Commitments (as at the date of this Agreement) (each a "**Facility A Repayment Instalment**");
 - (ii) the aggregate Facility B Loans in full in equal semi-annual and consecutive instalments by repaying on each Repayment Date an amount equal to $\frac{1}{10}$ of the Facility B Commitments (as at the date of this Agreement) (each a "**Facility B Repayment Instalment**") together with the Facility A Repayment Instalments, the "**Repayment Instalments**");
- (b) The Repayment Instalments referred to in paragraphs (i) and (ii) above shall be payable as follows:
- (i) the first Facility A Repayment Instalment and the first Facility B Repayment Instalment shall each become due and payable on the First Repayment Date;
 - (ii) the Borrower shall continue to pay such further Facility A Repayment Instalments (or if less, the remainder of all outstanding Loans under Facility A) on each succeeding Repayment Date until it has repaid all outstanding Loans under the Facility A; and
 - (iii) the Borrower shall continue to pay such further Facility B Repayment Instalments (or if less, the remainder of all outstanding Loans under Facility B) on each succeeding Repayment Date until it has repaid all outstanding Loans under the Facility B.

6.2 Reborrowing

The Borrower may not reborrow any part of a Facility which is repaid.

7. PREPAYMENT AND CANCELLATION

7.1 Illegality

If, in any applicable jurisdiction, it is or becomes unlawful for any Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan (including, without limitation, as a result of Sanctions Laws and Regulations applicable to the Lender) or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Borrower of that event, the Available Commitment of that Lender will be immediately cancelled; and
- (c) the Borrower shall repay that Lender's participation in the Loans made to the Borrower on the first Interest Payment Date occurring after the Agent has so notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent pursuant to paragraph (b) above (being no earlier than the last day of any

applicable grace period permitted by law) and that Lender's corresponding Commitment shall be cancelled in the amount of the participations repaid.

7.2 Material Commercial Contract Change

If a Material Commercial Contract Change is made without the prior written consent of the Agent:

- (a) no Lender shall be obliged to fund a Utilisation; and
- (b) the Agent may, by not less than ten (10) Business Days' notice to the Borrower, cancel the Total Commitments and declare all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Total Commitments will be cancelled and all such outstanding amounts will become immediately due and payable.

7.3 E&S Incident

If an E&S Incident under Clause 19.3(d)(i)(D) (E&S Trigger Events) occurs or any E&S Incident is deemed to be incapable of remedy pursuant to Clause 19.3(d)(ii) (E&S Trigger Events):

- (a) the Lenders shall not be obliged to fund a Utilisation; and
- (b) the Agent shall, by not less than five (5) Business Days' notice to the Borrower, cancel the Total Commitments and declare all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Total Commitments will be cancelled and all such outstanding amounts will become immediately due and payable.

7.4 UKEF Facility Agreement

If the UKEF Facility Agreement has not been executed within one hundred and eighty (180) days of the date of the first Utilisation under Facility A:

- (a) the Facility A Lenders shall not be obliged to fund a Utilisation; and
- (b) the Agent shall, by not less than five (5) Business Days' notice to the Borrower, cancel the Total Commitments and declare all outstanding Loans under Facility A, together with accrued interest, and all other amounts accrued under the Finance Documents immediately due and payable, whereupon the Total Commitments will be cancelled and all such outstanding amounts will become due immediately and payable on the next Interest Payment Date.

7.5 Voluntary prepayment of Loans

- (a) Subject to paragraph (c) below, the Borrower may, if it gives the Agent not less than thirty (30) Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of any Loan (but, if in part, being an amount that reduces the amount of the Loan by a minimum amount of EUR 1,000,000 and in integral multiples of EUR 500,000 thereafter).
- (b) A Loan may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the applicable Available Facility is zero).
- (c) A Loan shall only be prepaid if all the Loans are:
 - (i) prepaid at the same time; and

- (ii) prepaid in amounts which reduce the aggregate amount of the Facility A Loans and the aggregate amount of the Facility B Loans by the same proportion.
- (d) Any prepayment under this Clause 7.5 shall satisfy the obligations under Clause 6.1 (*Repayment of Loans*) in inverse order of maturity.

7.6 Right of repayment and cancellation in relation to a single Lender

- (a) If:
 - (i) any sum payable to any Lender by the Borrower is required to be increased under Clause 12.2(c) (*Tax gross up*); or
 - (ii) any Lender claims indemnification from the Borrower under Clause 12.3 (*Tax indemnity*) or Clause 13.1 (*Increased costs*),

the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice of cancellation of the Commitment(s) of that Lender and its intention to procure the repayment of that Lender's participation in the Loans.

- (b) Clause 7.6(a) shall only apply to a Lender to the extent that any increased payment required to be made to such Lender pursuant to Clause 12.2(c) (*Tax gross up*) is materially increased (i) in respect of an Original Lender, after the date of this Agreement or (ii) in respect of a New Lender pursuant to Clause 21 (*Changes to the Lenders*), after the date such New Lender became a Party.
- (c) On receipt of a notice of cancellation referred to in paragraph (a) above, the Commitment(s) of that Lender shall immediately be reduced to zero.
- (d) On the last day of each Interest Period which ends after the Borrower has given notice of cancellation under paragraph (a) above (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender's participation in that Loan.

7.7 Restrictions

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- (c) Any prepayment or cancellation under this Clause 7 shall be reduce the aggregate amount of the Facility A Loans and the aggregate amount of the Facility B Loans by the same proportion.
- (d) The Borrower may not reborrow any part of a Facility which is prepaid.
- (e) The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
- (f) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

- (g) If the Agent receives a notice under this Clause 7 it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate.
- (h) If all or part of any Lender's participation in a Loan under a Facility is repaid or prepaid and is not available for redrawing, an amount of that Lender's Commitment (equal to the amount of the participation which is repaid or prepaid) in respect of that Facility will be deemed to be cancelled on the date of repayment or prepayment.

7.8 Application of prepayments

Any prepayment of a Loan pursuant to Clause 7.2 (*Material Commercial Contract Change*), Clause 7.3 (*E&S Incident*) or Clause 7.5 (*Voluntary prepayment of Loans*) shall be applied *pro rata* to each Lender's participation in that Loan.

SECTION 5
COSTS OF UTILISATION

8. INTEREST

8.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (a) Margin; and
- (b) EURIBOR.

8.2 Payment of interest

The Borrower shall pay accrued interest on each Loan to which that Interest Period relates on each Interest Payment Date.

8.3 Default interest

- (a) If the Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is two (2) per cent per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 8.3 shall be immediately payable by the Borrower on demand by the Agent.
- (b) If any overdue amount consists of all or part of a Loan which became due on a day which was not an Interest Payment Date:
 - (i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
 - (ii) the rate of interest applying to the overdue amount during that first Interest Period shall be two (2) per cent per annum higher than the rate which would have applied if the overdue amount had not become due.
- (c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

8.4 Notification of rates of interest

- (a) The Agent shall promptly notify the relevant Lenders and the Borrower of the determination of a rate of interest under this Agreement.
- (b) The Agent shall promptly notify the Borrower of each Funding Rate relating to a Loan (if applicable).

9. INTEREST PERIODS

9.1 Interest Periods

- (a) The first Interest Period relating to any Loan shall start on the Utilisation Date in respect of that Loan and, subject to paragraphs (b) to (e) (inclusive) below and Clause 9.2 (*Non-Business Days*), shall end on the immediately succeeding Semi-Annual Date or Repayment Date (as applicable, pursuant to paragraphs (b) and (c) below).
- (b) An Interest Period that starts before the First Repayment Date and that would otherwise end on a date after the First Repayment Date shall end on the First Repayment Date.
- (c) Each Interest Period starting on and after the First Repayment Date will end on the immediately succeeding Repayment Date.
- (d) If the Utilisation Date of any Loan is less than fifteen (15) days prior to a Semi-Annual Date, the first Interest Period for that Loan shall end on the Semi-Annual Date or Repayment Date (as applicable pursuant to paragraph (b) above) that next follows the Semi-Annual Date immediately succeeding the Utilisation Date.
- (e) Each Interest Period relating to a Loan other than the first Interest Period shall start on the last day of its immediately preceding Interest Period and, subject to Clause 9.2 (*Non-Business Days*), shall end on the immediately succeeding Semi-Annual Date or Repayment Date (as applicable).
- (f) An Interest Period shall not extend beyond a Repayment Date or the Final Maturity Date.

9.2 Changes to Interest Periods

- (a) Before determining the interest rate for a Loan, the Agent may (if applicable) shorten any Interest Period for such Loan to ensure that such Interest Period ends on a Repayment Date as set out in Clause 9.1 (*Interest Periods*) above.
- (b) If the Agent makes any of the changes to an Interest Period referenced to in this Clause, it shall promptly notify the Borrower and the relevant Lenders.

9.3 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

9.4 Consolidation of Loans

- (a) Subject to paragraph (b) below, if two or more Loans under a Facility have Interest Periods that end on the same Interest Payment Date, the Agent may consolidate those Loans into, and treat them as, a single Loan under that Facility on that Interest Payment Date.
- (b) The Interest Period for any Utilisation (other than the first) shall end on the same date as the current Interest Period in relation to the first Utilisation under that Facility.

10. CHANGES TO THE CALCULATION OF INTEREST

10.1 Unavailability of Screen Rate

- (a) *Interpolated Screen Rate*: If no Screen Rate is available for EURIBOR for the Interest Period of a Loan, the applicable EURIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.
- (b) *Reference Bank Rate*: If no Screen Rate is available for EURIBOR for:
 - (i) euro; or
 - (ii) the Interest Period of a Loan and it is not possible to calculate the Interpolated Screen Rate,

the applicable EURIBOR shall be the Reference Bank Rate as of the Specified Time for euro and for a period equal in length to the Interest Period of that Loan.

- (c) If paragraph (b) above applies but no Reference Bank Rate is available for euro or the relevant Interest Period there shall be no EURIBOR for that Loan and Clause 10.4 (*Cost of funds*) shall apply to that Loan for that Interest Period.

10.2 Calculation of Reference Bank Rate

- (a) Subject to paragraph (b) below, if EURIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.
- (b) If at or about noon on the Quotation Day, none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period and Clause 10.4 (*Cost of funds*) shall apply to that Loan for the relevant Interest Period.

10.3 Market disruption

If, before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed thirty-five per cent (35%) of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of EURIBOR then Clause 10.4 (*Cost of funds*) shall apply to that Loan for the relevant Interest Period.

10.4 Cost of funds

- (a) If this Clause 10.4 applies, the rate of interest on each applicable Lender's share of the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
 - (i) the Margin; and
 - (ii) the rate notified to the Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to the relevant Lender of funding its participation in that Loan from whatever source it may reasonably select.

- (b) If this Clause 10.4 applies and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than thirty (30) days) with a view to agreeing a substitute basis for determining the rate of interest.
- (c) Any alternative basis agreed pursuant to paragraph (b) above shall, with the prior consent of all the relevant Lenders in respect of the relevant Loan and the Borrower, be binding on all Parties.
- (d) If this Clause 10.4 applies pursuant to Clause 10.3 (*Market disruption*) and:
 - (i) a Lender's Funding Rate is less than EURIBOR; or
 - (ii) a Lender does not supply a quotation by the time specified in paragraph (a)(ii) above,

the cost to that Lender of funding its participation in that Loan for that Interest Period shall be deemed, for the purpose of paragraph (a) above, to be EURIBOR.
- (e) If this Clause 10.4 applies pursuant to Clause 10.1 (*Unavailability of Screen Rate*) but any Lender does not supply a quotation by the time specified in paragraph (a)(ii) above the rate of interest shall be calculated on the basis of the quotations of the remaining Lenders.

10.5 Notification to the Borrower

If Clause 10.4 (*Cost of funds*) applies the Agent shall, as soon as practicable, notify the Borrower.

10.6 Break Costs

- (a) The Borrower shall, within fourteen (14) Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

11. FEES

11.1 Commitment fee

- (a) In respect of Facility A, the Borrower shall pay to the Agent (for the account of each Facility A Lender) a fee computed at the rate of zero point four zero per cent (0.40%) per annum on that Facility A Lender's Available Commitment under Facility A for the period commencing on the date that the Agent delivers the Facility A CP Satisfaction Notice to the Borrower and ending on the last day of the Availability Period.
- (b) In respect of Facility B, the Borrower shall pay to the Agent (for the account of each Facility B Lender) a fee computed at the rate of zero point four zero per cent (0.40%) per annum on that Facility B Lender's Available Commitment under Facility B for the period commencing on the date that the Agent delivers the Facility B CP Satisfaction Notice to the Borrower and ending on the last day of the Availability Period.
- (c) The relevant accrued commitment fee is payable, subject to the relevant CP Satisfaction Notice having been given, on the last day of each successive period of six (6) Months which ends during the Availability Period, on the last day of the

Availability Period and, if cancelled in full, on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

11.2 Administration fee

The Borrower shall pay to the Mandated Lead Arranger (for its own account) an administration fee in the amount and at the times agreed in a Fee Letter.

SECTION 6

ADDITIONAL PAYMENT OBLIGATIONS

12. TAX GROSS UP AND INDEMNITIES

12.1 Definitions

- (a) In this Agreement:

"**Protected Party**" means a Finance Party which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document;

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document; and

"**Tax Payment**" means either the increase in a payment made by the Borrower to a Finance Party under Clause 12.2 (*Tax gross up*) or a payment under Clause 12.3 (*Tax indemnity*).

- (b) Unless a contrary indication appears, in this Clause 12 a reference to "determines" or "determined" means a determination made in the absolute discretion of the person making the determination.

12.2 Tax gross up

- (a) The Borrower shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Borrower shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrower.
- (c) If a Tax Deduction is required by law to be made by the Borrower, the amount of the payment due from the Borrower shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) If a Tax Deduction is required to be made by the Borrower by law, the Borrower shall:
- (i) pay directly to the relevant authorities the full amount of the Tax Deduction;
 - (ii) promptly forward to the Agent for each affected Finance Party an official receipt or other documentation evidencing such payment to such authority; and
 - (iii) make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

12.3 Tax indemnity

- (a) The Borrower shall (within three (3) Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected

Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Finance Party:
 - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,
 - if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or
 - (ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 12.2 (*Tax gross up*).
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.
- (d) A Protected Party shall, on receiving a payment from the Borrower under this Clause 12.3, notify the Agent.

12.4 Stamp taxes

The Borrower shall pay and, within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

12.5 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party shall pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party shall promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount

of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and

- (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 12.5 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term "representative member" to have the same meaning as in the Value Added Tax Act 1994).
- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

13. INCREASED COSTS

13.1 Increased costs

- (a) Subject to Clause 13.3 (*Exceptions*) the Borrower shall, within three (3) Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement or (iii) the implementation or application of, or compliance with, Basel III, CRD IV or CRR or any law or regulation that implements or applies Basel III, CRD IV or CRR.
- (b) In this Agreement:

"Basel III" means:
 - (i) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;

- (ii) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended supplemented or restated; and
- (iii) any further guidance or standards published by the Basel Committee on Banking Supervision relating to Basel III.

"CRD IV" means Directive 2013/36/EU of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directive 2006/48/EC and 2006/49/EC.

"CRR" means Regulation (EU) no. 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) no. 648/2012.

"Increased Costs" means:

- (i) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

13.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

13.3 Exceptions

- (a) Clause 13.1 (*Increased costs*) does not apply to the extent any Increased Cost is:
 - (i) attributable to a Tax Deduction required by law to be made by the Borrower;
 - (ii) compensated for by Clause 12.3 (*Tax indemnity*) (or would have been compensated for under Clause 12.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 12.3 (*Tax indemnity*) applied); or
 - (iii) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.
- (b) In this Clause 13.3, a reference to a "**Tax Deduction**" has the same meaning given to that term in Clause 12.1 (*Definitions*).

14. OTHER INDEMNITIES

14.1 Currency indemnity

(a) If any sum due from the Borrower under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (i) making or filing a claim or proof against the Borrower; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower shall as an independent obligation, within fourteen (14) Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) the Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

14.2 Other indemnities

The Borrower shall, within fourteen (14) Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by the Borrower to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 25 (*Sharing among the Finance Parties*);
- (c) funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone);
- (d) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower;
- (e) investigating any event which it reasonably believes is a Default;
- (f) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
- (g) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement.

15. MITIGATION BY THE LENDERS

15.1 Mitigation

(a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1

(*Illegality*), Clause 12 (*Tax Gross Up and Indemnities*) or Clause 13.1 (*Increased costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

- (b) Paragraph (a) above does not in any way limit the obligations of the Borrower under the Finance Documents.

15.2 Limitation of liability

- (a) The Borrower shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 15.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

16. COSTS AND EXPENSES

16.1 Transaction expenses

The Borrower shall promptly on demand pay the Agent (for the account of each Finance Party) the amount of all:

- (a) transaction costs and expenses (being legal fees and the IESC fees only) incurred (with the prior consent of the Borrower); and
- (b) any other costs and expenses incurred (with the prior consent of the Borrower),

in each case, by any of them in connection with the negotiation, preparation, printing, execution and perfection of:

- (i) the Finance Documents and any other documents referred to in the Finance Documents; and
- (ii) any other Finance Documents executed after the date of this Agreement.

16.2 Amendment costs

If the Borrower requests an amendment, waiver or consent or an amendment is required pursuant to Clause 26.10 (*Change of currency*) or any amendment or waiver is contemplated or agreed pursuant to Clause 32.4 (*Replacement of Screen Rate*), the Borrower shall within fourteen (14) Business Days of demand reimburse the Agent for the amount of all costs and expenses (including legal fees) reasonably incurred (with the prior consent of the Borrower, such consent not to be unreasonably withheld or delayed) by the Agent or a Lender (for the account of the Agent or that Lender, as appropriate) in responding to, evaluating, negotiating or complying with or implementing that request or requirement or actual or contemplated agreement.

16.3 Enforcement costs

The Borrower shall, within fourteen (14) Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

SECTION 7

REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

17. REPRESENTATIONS

The Borrower makes the representations and warranties set out in this Clause 17 to each Finance Party on the date of this Agreement.

17.1 Status

- (a) The Borrower is a sovereign state and has the power to sue and be sued in its own name.
- (b) It is not entitled to claim immunity from suit, or other legal process in any proceedings taken in Uganda in relation to the Finance Documents.
- (c) The Ministry of Finance, Planning and Economic Development of Uganda is legally authorised and competent to enter into transactions contemplated by the Finance Documents in the name and on behalf of the Borrower.

17.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are legal, valid, binding and enforceable obligations.

17.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

- (a) any Applicable Law;
- (b) its approvals; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (howsoever described) under any such agreement or instrument.

17.4 Power and authority

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents, for and on behalf of Uganda.
- (b) No limit on its powers will be exceeded as a result of the borrowing or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party, for and on behalf of Uganda.

17.5 Validity and admissibility in evidence

All Authorisations and other acts, conditions and things required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;
- (b) to ensure that the obligations expressed to be assumed by the Borrower in the Finance Documents are legal valid, binding and enforceable; and

- (c) to make the Finance Documents to which it is a party admissible in evidence in Uganda,

have been obtained, effected, done, fulfilled or performed and are in full force and effect.

17.6 Governing law and enforcement

- (a) The submission to arbitration as specified in the Finance Documents will be recognised and enforced in Uganda.
- (b) The submission by it to the jurisdiction of the arbitral tribunal contemplated under Clause 37 (*Arbitration*) is a valid submission.
- (c) Any arbitral award obtained in relation to a Finance Document from the tribunal specified to hear that arbitration in that Finance Document will be recognised and enforced in Uganda.

17.7 Insolvency

No action, legal proceeding or other procedure or step described in Clause 20.6 (*Insolvency proceedings*) has been taken or threatened in relation to the Borrower and none of the circumstances described in Clause 20.5 (*Insolvency and moratorium*) applies to the Borrower.

17.8 Deduction of Tax

Except in relation to a withholding of tax levied in respect of any interest payment pursuant to the Income Tax Act of Uganda (being the rate of fifteen per cent (15%) as at the date of this Agreement), it is not required to make any Tax Deduction in Uganda.

17.9 No filing or stamp taxes

Under the law of Uganda it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except any filing, recording or enrolling or any tax or fee payable in relation to the Finance Documents which is referred to in any legal opinion delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*) and which will be made promptly after the date of the relevant Finance Document.

17.10 No Default

- (a) No Default is continuing or might reasonably be expected to result from the making of any Utilisation or the entry into, the performance of, or any transaction contemplated by, any Finance Document.
- (b) 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 of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or to which its assets are subject which has or might have a Material Adverse Effect.
- (c) The execution of the Finance Documents by the Borrower will not result in a breach of, or constitute a default under, any treaty, obligation, agreement or other instrument to which Uganda is a party.

17.11 No misleading information

All factual information provided by or on behalf of the Borrower (including by its advisers) to a Finance Party in relation to the Facilities was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

17.12 Financial information

All information (oral and written) supplied by the Borrower to the Agent or any Finance Party in connection with or in relation to the Finance Documents or the Project is true, complete and accurate in all material respects and the Borrower is not aware of any material facts or circumstances that have not been disclosed to the Agent and which might, if disclosed, adversely affect the decision of a person considering whether or not to provide finance to the Borrower.

17.13 No breach of laws

- (a) It has not breached any Applicable Law which would, if breached, materially impair its ability to perform its obligations under the Finance Documents.
- (b) No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened against the Borrower or the Employer which have or are reasonably likely to have a Material Adverse Effect.

17.14 Pari passu ranking

Its payment obligations under the Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors.

17.15 No adverse consequences

- (a) It is not necessary under the laws of Uganda:
 - (i) in order to enable any Finance Party to enforce its rights under any Finance Document; or
 - (ii) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in Uganda.
- (b) No Finance Party is or will be deemed to be resident, domiciled or carrying on business in Uganda by reason only of the execution, performance and/or enforcement of any Finance Document.

17.16 Immunity

- (a) In any proceedings taken in Uganda in relation to the Finance Documents to which it is a party, it will not be entitled to claim for itself or any of its assets immunity:
 - (i) from suit, execution, attachment or other legal process;
 - (ii) in respect of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; or
 - (iii) in respect of the issue of any process against its assets or revenues for the enforcement of a judgement or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues,

except for immunity from execution or attachment or like process in respect of Protected Ugandan Assets.

- (b) Its execution of the Finance Documents to which it is a party constitutes, and the exercise of its rights and performance of its obligations thereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

17.17 No proceedings pending or threatened

No litigation, arbitration or administrative proceedings or investigations of, or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it.

17.18 Anti-corruption law

The Borrower has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws. The Borrower has not, nor, to the knowledge of the Borrower, have (A) the Employer or (B) its or the Employer's ministers, officials officers, agents or representatives, for the purpose of gaining or maintaining unlawful or improper benefits for the Borrower or the Employer, directly or indirectly: (i) violated applicable anti-corruption laws or made, undertaken, offered to make, promised to make or authorised the payment or giving of a prohibited payment; (ii) used funds or other assets, or made any promise or undertaking in such regard, for the establishment or maintenance of a secret or unrecorded fund; or (iii) made any false or fictitious entries in any books or records of the Borrower or the Employer relating to any prohibited payment.

17.19 Corrupt Practices

- (a) No Corrupt Practices have been engaged in, directly or indirectly, by it or any of its respective officers or any other person acting on its behalf, to or for the benefit of any Authority (or any official, officer, agent or key employee of, or other person with management responsibilities in any Authority), or any other person.
- (b) Neither it nor any of its directors, officers, agents, employees or Affiliates or the Employer has engaged in any activity or conduct which would violate any applicable anti-bribery, anti-corruption or anti-money laundering laws or regulations in any applicable jurisdiction.
- (c) It has the means and the internal procedures in place to detect and to intercept money-laundering channels or chains involving the proceeds of terrorist activities, drug-trafficking or organised crime.

17.20 Environmental laws and standards

- (a) No E&S Trigger Events have occurred and are continuing.
- (b) As far as it is aware (having made all reasonable enquiries), it has not omitted to provide the Agent with any information in its possession relating to the Environment which, had it been provided, would have resulted in any environmental and/or social report investigation, audit or assessment being materially inaccurate or incomplete, and all information provided to the Agent is, to the best of its knowledge (having made all reasonable enquiries), correct and up-to-date.

- (c) No E&S Claims have been commenced and are continuing, and having made all reasonable enquiries, it is not aware of the threat of any E&S Claims with the exception, in either case, of any which are frivolous or vexatious and which it reasonably believes will be discharged, stayed or dismissed within sixty (60) of commencement.
- (d) No E&S Investigations are being conducted or are pending.

17.21 Sanctions

Neither the Borrower nor the Employer nor any of its or their Subsidiaries or joint ventures, nor any of their respective directors, officers or employees nor, to the knowledge of the Borrower or the Employer, any persons acting on any of their behalf:

- (a) is a Restricted Party; or
- (b) has received notice of or is aware of any claim, action, suit, proceeding or investigation against it with respect to Sanctions Laws and Regulations by any Sanctions Authority.

17.22 Commercial Contract

- (a) To the best of the Borrower's knowledge and belief (after making due and reasonable enquiry):
 - (i) the Commercial Contract has been duly executed and delivered by authorised officers of the Employer and all necessary Authorisations and actions required for the valid and binding execution and performance of the Commercial Contract by the Employer have been obtained and are in full force and effect;
 - (ii) the Commercial Contract is legal, valid and enforceable;
 - (iii) there are no contracts, agreements or other arrangements in existence that materially amend, modify or vary the Commercial Contract provided to the Agent in accordance with Clause 4.1 (*Initial conditions precedent*);
 - (iv) all Authorisations in connection with the Commercial Contract have been obtained or effected and are in full force and effect;
 - (v) no party to the Commercial Contract is in breach of any of its obligations under it (other than any breach that is technical or otherwise immaterial);
 - (vi) no event of circumstance has occurred that give rise to a right to terminate early, suspend performance under or cancel the Commercial Contract;
 - (vii) the Commercial Contract is not the subject of any pending proceedings which proceedings, if adversely determined, would have a Material Adverse Effect; and
 - (viii) no payments made by the Employer in respect of amounts due under or in relation to the Commercial Contract, the Facilities or any relevant Finance Document have been funded out of funds of any Corrupt Practice and none of the source of funds to be used by the Employer in connection with their business is of any Corrupt Practice.
- (b) The terms of, and the transactions contemplated by, the Commercial Contract, and the entry by the Government of the Republic of Uganda, represented by the Ministry

of Works and Transport into the Commercial Contract, are cleared by the Solicitor General of Uganda, and, in each case, such clearance and/or approval has not been revoked, terminated or expired.

17.23 Good title to assets

It has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

17.24 Sovereign Debts

Its payment obligations under the Finance Documents shall be treated as sovereign debts of Uganda. The full faith and credit of Uganda has been pledged for the due and punctual payment by it of the principal of, and interest on, and any additional amount with respect to, the Loans, owing under these Facilities and the performance by it of any obligations thereunder.

17.25 Public procurement rules

- (a) All public procurement rules in Uganda which are applicable to its entry into and the exercise of its rights and performance of its obligations under the Finance Documents to which it is a party have been complied with.
- (b) To the best of its knowledge and belief (having made due and careful enquiry), all public procurement rules in Uganda which are applicable to the Employer's entry into and the exercise of the Employer's rights and performance of the Employer's obligations under the Commercial Contract have been complied with.

17.26 Budget and Borrowing Limits

- (a) The Project is within the scope of the Borrower's approved budget for the current financial year of the Borrower.
- (b) Its borrowing limits under any relevant Ugandan law or Authorisation have not been exceeded and will not be exceeded by borrowing the full amount of these Facilities and the UKEF Facility.

17.27 Purpose

The proceeds of each Loan have been (and will be) used exclusively and solely for the purposes set out in Clause 3 (*Purpose*).

17.28 Financial Indebtedness

There is no:

- (a) Financial Indebtedness of the Borrower which has not been paid when due or within any applicable grace period;
- (b) Financial Indebtedness of the Borrower which has been declared to be or otherwise has become due and payable prior on or to its specified maturity as a result of an event of default (however described); or
- (c) payment obligation in relation to any guarantee given by the Borrower in respect of any Financial Indebtedness of any other person which has not been met when due or within any applicable grace period,

for an aggregate amount of indebtedness or commitment for Financial Indebtedness under paragraphs (a), (b) or (c) above which is equal to or higher than EUR 5,000,000 (or its equivalent in any other currency or currencies).

17.29 Repetition

The Repeating Representations are deemed to be made by the Borrower by reference to the facts and circumstances then existing on the date of each Utilisation Request and each Interest Payment Date.

18. INFORMATION UNDERTAKINGS

The undertakings in this Clause 18 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

18.1 Financial information

The Borrower shall, on request by the Agent, furnish the Agent with such financial, statistical, economic and general information (including such information as may be supplied by the Borrower to international financial institutions) as the Agent or any Lender may require.

18.2 Information: miscellaneous

The Borrower shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

- (a) promptly upon becoming aware of them, the details (including any remedial actions or defences) of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it, and which might, if adversely determined, have a Material Adverse Effect;
- (b) promptly, such further information regarding the assets and operations of the Borrower (including any requested amplification or explanation of any material provided by the Borrower under this Agreement) as any Finance Party (through the Agent) may reasonably request;
- (c) promptly, any information relating to this transaction or in relation to the Project (including any budget or budget report of projection) as any Finance Party (through the Agent) may reasonably request;
- (d) promptly, details of any material breach by it and/or the Employer of any Sanctions Laws and Regulations and/or any applicable anti-bribery, anti-corruption or anti-money laundering laws and regulations in any applicable jurisdiction, to the extent that such breach:
 - (i) relates to any Finance Document or the Commercial Contract (or, in each case, the transactions contemplated thereunder); or
 - (ii) could have a Material Adverse Effect;
- (e) promptly, written notice of any change in any authorised signatory(ies) signed by a current authorised signatory of the relevant person and accompanied by a specimen of signatures of any such new authorised signatory(ies);
- (f) promptly, such further information regarding the financial condition and operations of the Borrower or Employer as the Agent or any Finance Party (through the Agent) may request (including, but not limited to, information relating to any lending by the

Borrower to any person to the extent that the disclosure of such information is permitted under applicable law);

- (g) the imposition of any Applicable Law or regulation affecting the Borrower, Employer, Exporter or the Project which has or is reasonably likely to have a Material Adverse Effect; and
- (h) any other information as the Agent or any Finance Party (acting through the Agent) may reasonably require from time to time.

18.3 Notification of default

- (a) The Borrower shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by an authorised signatory on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

18.4 "Know your customer" checks

- (a) If:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) a change in any Lender's internal practices and procedures relating to "know your customer" checks;
 - (iii) any change in the status of the Borrower after the date of this Agreement; or
 - (iv) a proposed assignment or transfer by a Lender of any of its rights or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (iv) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iv) above, on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in paragraph (iv) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable law and/or as required under the Agent's, that Lender's or, in the case of the event described in paragraph (iv) above, any prospective new Lender's internal practices and procedures pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable law pursuant to the transactions contemplated in the Finance Documents.

18.5 Notifications relating to the Commercial Contract and the Project

- (a) The Borrower shall (and will procure that the Employer will) promptly provide the Agent and any Finance Party (acting through the Agent) with such information regarding the Commercial Contract as the Finance Parties may require from time to time.
- (b) The Borrower shall (and will procure that the Employer will) promptly notify the Agent if it becomes aware that:
 - (i) a Material Commercial Contract Change has been made without the prior written consent of the Agent or is proposed to be made;
 - (ii) a termination or suspension lasting fifteen (15) Business Days or more has occurred under the Commercial Contract; or
 - (iii) any disputes or the commencement of arbitration or other legal proceedings in connection with the Commercial Contract have occurred.
- (c) The Borrower shall use commercially reasonable endeavours to procure that the Employer shall provide the Agent promptly with such financial and other information relating to the Project as the Agent may from time to time request.
- (d) The Borrower shall promptly inform the Agent of the Project Commissioning Date and provide to the Agent (in form and substance satisfactory to it) evidence confirming the Project Commissioning Date.

19. GENERAL UNDERTAKINGS

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

19.1 Authorisations

The Borrower shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Agent of,

any Authorisation required under any Applicable Law (including, but not limited to, the resolution of the Parliament of Uganda and the legal opinion of the Attorney General of Uganda) to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in Uganda of any Finance Document.

19.2 Compliance with laws

The Borrower shall comply in all respects with Applicable Laws (including Sanctions Laws and Regulations applicable to the Borrower), if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

19.3 Environmental undertakings

- (a) **E&S Self-Monitoring Reports**

- (i) The Borrower shall, or shall procure that Employer or the Exporter will, provide a report to the Agent in a form and substance acceptable to the Agent at the times set out in paragraph (ii) or (iii) below, containing the following:
 - (A) a statement that (and details of how):
 - (1) (in respect of the first E&S Self-Monitoring Report) all E&S Obligations (including obligations of the Borrower and/or the Employer) have been fulfilled since the date of this Agreement; and
 - (2) (in respect of each subsequent E&S Self-Monitoring Report) all E&S Obligations (including obligations of the Borrower and/or the Employer) in the period since the most recent E&S Self-Monitoring Report have been fulfilled,

or, if it is not able to make such a statement, a disclosure of the E&S Obligations that have not been fulfilled providing full details of such occurrence and any planned mitigation;
 - (B) details of any E&S Investigations or E&S Claims subsisting at that time; and
 - (C) any other matter pertaining to the Environment in respect of the Project.
- (ii) Unless an E&S Trigger Event has occurred and is continuing, the Borrower shall, or shall procure that the Employer will, provide an E&S Self-Monitoring Report within thirty (30) Business Days of the end of:
 - (A) each three (3) Month period during the first nine (9) months of the Construction Phase and each six (6) Month period thereafter; and
 - (B) each twelve (12) Month period from the commencement of the Operations Phase.
- (iii) If an E&S Trigger Event has occurred and is continuing, the Agent may require the Borrower to, or to procure that the Employer provide E&S Self-Monitoring Reports on the corrective actions being taken in respect of that E&S Trigger Event upon request or at such intervals as it may require.

(b) Information regarding E&S Investigations or E&S Claims

- (i) The Borrower shall, and shall procure that the Employer will, as soon as practicable and in any case no later than ten (10) Business Days after the (i) receipt by or on behalf of the Borrower or the Employer of any notice of or (ii) becoming aware of:
 - (A) any E&S Investigation; or
 - (B) any E&S Claim,

notify the Agent of such notice or of becoming so aware and provide full written details of such E&S Investigation or E&S Claim to the Agent.

(c) E&S Incidents

- (i) If an E&S Incident occurs, the Borrower shall, or shall procure that the Employer will:
 - (A) take, or procure the taking of, all such actions and measures required to immediately address the adverse impacts of that E&S Incident; and
 - (B) as soon as possible, but in any event no later than:
 - (1) five (5) Business Days, where the E&S Incident relates to an incident described in paragraph (c) of the definition of "E&S Incident" in Clause 1.1 (Definitions); or
 - (2) ten (10) Business Days in respect of any other paragraph of the definition of "E&S Incident" in Clause 1.1 (Definitions),

notify the Agent of its occurrence and provide full written details of it to the Agent.

(d) E&S Trigger Events

- (i) Upon the Agent being notified of the occurrence of an E&S Trigger Event or determining that an E&S Trigger Event has occurred, in consultation with the Borrower, it may:
 - (A) determine that the E&S Trigger Event can be remedied by the Borrower and/or the Employer pursuant to the relevant E&S Management Plan and that the Borrower and/or the Employer shall provide progress reports to the Agent in the E&S Self-Monitoring Reports in accordance with paragraph (a) above;
 - (B) require the Borrower and/or Employer to produce a Corrective Action Plan, in which case the Borrower and/or the Employer (as applicable) shall, as soon as practicable following such request but in any event within fifteen (15) Business Days of such request, provide a draft Corrective Action Plan for that E&S Trigger Event to the Agent for its acceptance;
 - (C) agree with the Borrower any other course of action to remedy the E&S Trigger Event; or
 - (D) declare that such E&S Trigger Event is incapable of remedy.
- (ii) An E&S Trigger Event will be deemed incapable of remedy to the extent that the Agent notifies the Borrower that: (i) the E&S Trigger Event is incapable of remedy in accordance with paragraph (i)(D) above; or (ii) the draft Corrective Action Plan has not been accepted within six (6) Months of the request in accordance with the provisions of this paragraph (d).
- (iii) Following a request by the Agent to provide a draft Corrective Action Plan in accordance with paragraph (i)(B) above and pending acceptance by the Agent of any draft Corrective Action Plan, the Borrower shall, or shall procure that the Employer will, take or procure the taking of all such actions and measures to immediately address the adverse impacts of the relevant E&S Trigger Event, including such actions or measures as are required by any draft Corrective Action Plan in accordance with the timescales set out in that draft Corrective Action Plan.

- (iv) If the Agent does not accept the draft Corrective Action Plan pursuant to paragraph (i)(B) above:
 - (A) The Agent shall indicate to the Borrower in which areas the draft plan is deficient and the time period within which a revised draft Corrective Action Plan shall be re-submitted to the Agent for its acceptance; and
 - (B) the Borrower or the Employer (as the case may be) shall submit a revised draft Corrective Action Plan after consulting with and taking any views of the Agent fully into account.
- (v) If the Agent does not accept the revised draft Corrective Action Plan submitted pursuant to paragraph 19.3(d)(iv)(B) above, the Agent and the Borrower or the Employer (as the case may be) shall repeat the process set out in paragraph (iv) above until such time as a revised draft Corrective Action Plan is accepted by the Agent.
- (vi) A draft Corrective Action Plan shall be deemed to have been accepted by the Agent thirty (30) Business Days after its submission unless the Agent advises the Borrower otherwise.
- (vii) After acceptance of the Corrective Action Plan, the Borrower shall, or shall procure that the Employer will, take or procure the taking of all such actions and measures as are required by the Corrective Action Plan in accordance with the timescales set out therein.
- (viii) Every three (3) Months from the date on which a Corrective Action Plan is accepted, the Borrower shall, or shall procure that the Employer will, the Agent with a supplemental E&S Self-Monitoring Report on the implementation of that Corrective Action Plan, and shall provide a final report to the Agent on completion of the Corrective Action Plan, each such report to be in a form and substance acceptable to the Agent.
- (ix) To the extent that an E&S Trigger Event is not remedied within the timescales set out in the relevant Corrective Action Plan or in line with the E&S Management Plan, the Agent may require the Borrower to produce a new Corrective Action Plan or take any other corrective measure in accordance with the procedures set out in paragraph 19.3(d)(i) above.

(e) Site visits

- (i) The Borrower shall, or shall procure that the Employer will, at the request of the Agent, ensure access to the Project sites and arrange for a site visit by the Agent or its nominated representative or the IESC:
 - (A) at any time while a Corrective Action Plan is in place or when a Default has occurred and is continuing; and
 - (B) for the purpose of monitoring the performance of the E&S Obligations (other than compliance with a Corrective Action Plan),
 - (1) in the case of the Agent or its nominated representative at least once in each twelve (12) Month period; and
 - (2) and in the case of the IESC, at least every six (6) Months during the Construction Phase and twelve (12) Months during the Operations Phase.

- (ii) The Borrower shall ensure that the Agent or its nominated representative and the IESC is promptly and duly informed regarding, and has the right to attend, any multi-stakeholder meeting or focus groups or other meetings which form any part of the Borrower and/or Employer's public consultation process in relation to the Project.
- (iii) The agenda, scope and (subject to paragraph (i) above) timing of any site visits shall be determined by the Agent or its nominated representative or the IESC following consultation with the Borrower.
- (iv) The Borrower shall pay all reasonable costs and expenses of the Agent and/or its nominated representatives in relation to each site visit. To the extent that the Agent or its nominated representative itself was required directly to pay any costs or expenses then the Borrower shall, within ten (10) Business Days of written demand, reimburse the Agent and/or its nominated representative any such amounts incurred.
- (v) To the extent reasonably practicable, in advance of any visit to be made by the Agent or its nominated representative or the IESC:
 - (A) the Agent, its nominated representative or the IESC shall provide the Borrower with written details of those matters that the Agent, its nominated representative or the IESC wishes to address during the proposed visit in order to assist the Borrower in arranging the visit; and
 - (B) the Borrower shall provide the Agent or its nominated representative or the IESC with such up to date information relating to those matters as the Agent or its nominated representative or the IESC may request.
- (vi) Following any visit made by the Agent or its nominated representative or the IESC the Borrower shall provide such follow up reports or information as the Agent shall request.

(f) Operations Phase E&S Management Plan

- (i) The Borrower shall, or shall procure that the Employer will, at least six (6) Months before the start of the Operations Phase, provide the Agent with a draft Operations Phase E&S Management Plan comprising of the environmental and social management procedures to ensure that all E&S Obligations are complied and/or aligned with (as applicable) in relation to the Operations Phase of the Project.
- (ii) the Agent shall notify the Borrower within one (1) Month of receipt whether the draft Operations Phase E&S Management Plan is accepted.
- (iii) If the Agent does not accept the draft Operations Phase E&S Management Plan submitted pursuant to paragraph (ii) above:
 - (A) the Agent shall indicate to the Borrower in which areas the draft Operations Phase E&S Management Plan is deficient and the period within which a revised draft Operations Phase E&S Management Plan shall be resubmitted to the Agent; and
 - (B) the Borrower or the Employer (as the case may be) shall submit a revised draft Operations Phase E&S Management Plan after consulting with and taking any views of the Agent fully into account.

- (iv) If the Agent does not accept the revised draft Operations Phase E&S Management Plan submitted pursuant to paragraph 19.3(f)(iii)(B) above the Agent and the Borrower or the Employer (as the case may be) shall repeat the process set out in paragraph (iii) above until such time as a revised draft Operations Phase E&S Management Plan is accepted.
- (v) A draft Operations Phase E&S Management Plan shall be deemed to have been accepted by the Agent thirty (30) Business Days after its submission unless the Agent advises the Borrower otherwise.

(g) IESC

- (i) To the extent that the Borrower has failed to pay any amounts due and payable by it to the IESC and any such amounts are then paid on behalf of the Borrower by the Agent, the Borrower shall reimburse the Agent an amount equal to the amounts paid by the Agent within ten (10) days of being notified by the Agent that it has made such payment.

19.4 Anti-corruption law

- (a) The Borrower shall not (and shall ensure that the Employer will not) directly or indirectly use the proceeds of the Facilities for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) The Borrower shall not, for the purpose of gaining or maintaining unlawful or improper benefits for itself or the Employer, directly or indirectly: (i) make, undertake, offer to make, promise to make, encourage, solicit, receive or authorize the payment or giving of a prohibited payment; or otherwise engaged in acts of bribery corruption; (ii) use funds or other assets, or make any promise or undertaking in such regard, for the establishment or maintenance of a secret or unrecorded fund; or (iii) make any false or fictitious entries in its books or records relating to any prohibited payment with respect to the transactions contemplated by the Finance Documents.
- (c) The Borrower shall (and shall ensure that the Employer will):
 - (i) conduct its businesses in compliance with the Anti Corruption Act of 2009 of Uganda and any other applicable anti-corruption laws; and
 - (ii) maintain policies and procedures designed to promote and achieve compliance with such laws.
- (d) The Borrower shall not (and shall ensure that the Employer will not) directly or indirectly, authorise, offer, promise, or make payments of anything of value, including but not limited to cash, cheques, wire transfers, tangible and intangible gifts, favours, services, and those entertainment and travel expenses that go beyond what is reasonable and customary and of modest value to: (i) an executive, official, employee or agent of a governmental department, agency or instrumentality; (ii) a director, officer, employee or agent of a wholly or partially government-owned or controlled company or business; (iii) a political party or official thereof, or candidate for political office; (iv) a Foreign Public Official; or (v) any other person; while knowing or having a reasonable belief that all or some portion will be used for any the purpose of: (A) influencing any act, decision or failure to act by any such person in his or her official capacity; (B) inducing any such person to use his or her influence with a government or instrumentality to affect any act or decision of such government or entity; or (C) securing an unlawful advantage; in order to obtain, retain or direct business.

19.5 Sanctions

- (a) The Borrower shall not, and shall not permit or authorise (and shall ensure that the Employer will not and will not permit or authorise) any person acting on its or their behalf, or any of its or their officials or officers, to (directly or indirectly) use all or any part of the proceeds of this Agreement or other transactions contemplated by this Agreement (or lend, make payments of, contribute or otherwise make available all or any part of such proceeds to any person) to fund any trade, business or other activities:
 - (i) involving or for the benefit of any Restricted Party; or
 - (ii) in any other manner that would reasonably be expected to result in the Borrower, the Employer or any Finance Party being in breach of any Sanctions Laws and Regulations (if and to the extent applicable to any of them) or becoming a Restricted Party.
- (b) The Borrower shall not, and shall not permit or authorise (and shall ensure that the Employer will not and will not permit or authorise) any other person to (directly or indirectly) use, lend, make payments of, contribute or otherwise make available all or any part of funds which have been made available to it under any Finance Document to any person, or fund any activities of or business with any person or provide any person with assets acquired with funds which have been made available to it under any Finance Document, that, at the time of such funding, is the subject of, or is controlled by a Restricted Person or any person who is currently subject to, Sanctions Laws and Regulations.

19.6 Exchange controls

- (c) Under the laws of Uganda, all payments to be made under the Finance Documents may be freely transferred out of the Borrower and may be paid in, or freely converted into, the Facility Currency.
- (d) The Borrower has obtained all foreign exchange control approvals or such other Authorisations as are required to assure the availability of the Facility Currency to enable the Borrower to perform all of its obligations under the Finance Document to which it is a party.
- (e) There are no restrictions or requirements currently in effect that limit the availability or transfer of foreign exchange which would restrict the ability of the Borrower to perform any of its obligations under any Finance Document.

19.7 Taxation

The Borrower shall pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

- (a) such payment is being contested in good faith;
- (b) adequate reserves are being maintained for those Taxes and the costs required to contest them; and
- (c) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.

19.8 Preservation of assets

The Borrower shall maintain in good working order and condition (ordinary wear and tear excepted) all of its assets necessary or desirable in the conduct of its activities.

19.9 Pari passu ranking

The Borrower shall ensure that at all times all its unsecured and unsubordinated obligations to the Finance Parties (or any of them) against it under the Finance Documents rank at least *pari passu* with its obligations to all of its other unsecured and unsubordinated creditors.

19.10 Purpose

The Borrower must ensure that the proceeds of any Loan are used exclusively and solely for the purposes set out in Clause 3 (*Purpose*).

19.11 Compliance with the Commercial Contract

The Borrower shall (and shall ensure that the Employer will):

- (a) comply in all material respects with its obligations under, and in the manner and at the times provided in the Commercial Contract;
- (b) not repudiate or evidence an intention to repudiate the Commercial Contract nor take nor omit to take any action that might result in any default on any of its payment or other material obligations under the Commercial Contract;
- (c) promptly obtain, comply with and do all that is necessary to maintain in full force and effect any Authorisation required under any law or regulation of Uganda to enable it to perform its obligations under the Commercial Contract or required for the legality, validity, enforceability or admissibility in evidence in Uganda of the Commercial Contract; and
- (d) comply in all material respects with all laws to which it may be subject, if failure to so comply would materially impair the ability of it to perform any of its obligations under the Commercial Contract.

19.12 Further assurance

The Borrower shall (at its cost and expense) promptly do all such acts or execute all such documents as the Agent considers to be reasonably or commercially necessary or desirable to ensure that the Finance Parties obtain all the rights and benefits intended to be conferred on them under the Finance Documents.

19.13 Insurance

The Borrower shall:

- (a) procure that any goods and/or services to be supplied under the Commercial Contract will be insured to the satisfaction of the Agent against the risk of loss or damage in accordance with normal commercial practice for similar contracts until final acceptance of those goods and/or services under the Commercial Contract; and
- (b) produce to the Agent (from time to time at the Agent's request) evidence that such insurance has been effected and maintained.

20. EVENTS OF DEFAULT

Each of the events or circumstances set out in Clause 20 is an Event of Default (save for Clause 20.18 (*Acceleration*)).

20.1 Non-payment

The Borrower does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by:
 - (i) administrative or technical error; or
 - (ii) a Disruption Event; and
- (b) payment is made within five (5) Business Days of its due date.

20.2 Other obligations

- (a) The Borrower does not comply with any provision of the Finance Documents (other than those referred to in Clause 20.1 (*Non-payment*) and Clause 20.18 (*Environmental*)).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within ten (10) Business Days of the earlier of:
 - (i) the Agent giving notice to the Borrower; and
 - (ii) the Borrower becoming aware of the failure to comply.

20.3 Misrepresentation

Any representation or statement made or deemed to be made by the Borrower in the Finance Documents or any other document delivered by or on behalf of the Borrower under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

20.4 Cross default

- (a) Any Financial Indebtedness of the Borrower is not paid when due or within any originally applicable grace period.
- (b) As a result of an event of default (however described), any Financial Indebtedness of the Borrower is:
 - (i) declared to be or otherwise becomes due and payable prior to its specified maturity; or
 - (ii) placed on demand.
- (c) Any commitment for any Financial Indebtedness of the Borrower is cancelled or suspended by a creditor of the Borrower as a result of an event of default (however described).
- (d) Any creditor of the Borrower becomes entitled to declare any Financial Indebtedness of the Borrower due and payable prior to its specified maturity as a result of an event of default (however described).

- (e) A default (however described) has occurred and is continuing under the UKEF Facility Agreement.
- (f) Other than in respect of the UKEF Facility Agreement, no Event of Default will occur under paragraphs (a) to (d) above if the aggregate amount of the Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than EUR 5,000,000 (or its equivalent in any other currency or currencies as determined by the Agent).

20.5 Insolvency and moratorium

- (a) The Borrower is:
 - (i) unable (or admits inability) to pay any indebtedness as it falls due;
 - (ii) suspends making payments of its indebtedness; or
 - (iii) by reason of actual or anticipated financial difficulties commences negotiations with any one or more of its creditors (or one or more of its classes of creditors) with a view to the general readjustment or rescheduling of its indebtedness.
- (b) A moratorium, standstill or similar suspension of payments or rescheduling is declared (or comes into de facto effect) in respect of any indebtedness of the Borrower or the Borrower declares (or has declared) a general moratorium on the payment of principal of, or interest on, its indebtedness.

20.6 Insolvency proceedings

Any government action or legal proceedings or other procedure or step is taken with the effect of or in relation to:

- (a) suspending payments by the Borrower under the Finance Documents;
 - (b) acting as a moratorium of any indebtedness of the Borrower;
 - (c) a composition, compromise, assignment or arrangement with any creditor of the Borrower;
 - (d) enforcement of any Security over any of the Borrower's assets,
- or any analogous procedure or step is taken in any jurisdiction.

20.7 Unlawfulness

- (a) It is or becomes unlawful for the Borrower to perform any of its obligations under the Finance Documents or any of the obligations of the Borrower under the Finance Documents are not or cease to be legal, valid, binding and enforceable.
- (b) Any obligation or obligations of the Borrower under any Finance Document cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of any Lender under the Finance Documents.

20.8 Repudiation and rescission of agreements

The Borrower rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or evidences an intention to rescind or repudiate a Finance Document.

20.9 Litigation and judgment

Any litigation, arbitration, administration, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened in relation to the Finance Documents or commenced in relation to the transactions contemplated in the Finance Documents or against the Borrower or the Employer or any of their assets which have or are reasonably likely to have a Material Adverse Effect.

20.10 Legislative acts

Any legislative authorisation or any other act necessary under the laws of Uganda to enable the Borrower to perform its obligations under the Finance Documents or any transaction contemplated thereby is withdrawn or modified or shall otherwise cease to be in full force and effect or has not been obtained.

20.11 Exchange controls

Any event or series of events occurs which limits the acquisition or the transfer of foreign exchange by the Borrower and such event or events has or is reasonably likely to affect the ability of the Borrower to perform its obligations under any Finance Document.

20.12 Convertibility/Transferability

Any foreign exchange law is amended, enacted or introduced or is reasonably likely to be amended, enacted or introduced in Uganda that (in the opinion of the Agent (acting on the instructions of the Majority Lenders)):

- (a) has or is reasonably likely to have the effect of prohibiting, restricting or delaying any payment by the Borrower under any of the Finance Documents; or
- (b) is materially prejudicial to the interests of the Finance Parties under or in connection with the Finance Documents.

20.13 Immunity

The Borrower at any time claims or threatens to claim immunity from process, execution, attachment or other legal process, whether in Uganda or in any other jurisdiction.

20.14 International Monetary Fund

At any time Uganda ceases to be a member in good standing or becomes ineligible to use the resources of the International Monetary Fund.

20.15 Political and economic risk

A deterioration occurs in the political or economic situation generally in Uganda, or an act of war or hostilities, invasion, armed conflict or act of foreign enemy, revolution insurrection, insurgency or threat thereof occurs in or involving Uganda, unless (in any such case) this does not and will not have a Material Adverse Effect.

20.16 Material adverse change

There has been a material adverse change in the assets, liabilities or financial condition of the Borrower since the date of this Agreement.

20.17 Creditors' Process

Any expropriation, attachment, sequestration, distress or execution (or any analogous process in any jurisdiction) affects any asset or assets of the Borrower, the Employer or any

Ugandan government agencies having an aggregate value of EUR 5,000,000 (or its equivalent in any other currency or currencies as determined by the Agent) and is not discharged within thirty (30) days.

20.18 Environmental

- (a) An E&S Obligations Breach under paragraph (d)(i)(D) (E&S Trigger Events) of Clause 19.3 (*Environmental undertakings*) occurs and is either incapable of remedy or any E&S Obligations Breach is deemed to be incapable of remedy pursuant to paragraph (d)(ii) (E&S Trigger Events) of Clause 19.3 (*Environmental undertakings*).
- (b) Any Operations Phase E&S Management Plan is not accepted by the Agent within six (6) Months of its first submission pursuant to paragraph (f) (Operations Phase E&S Management Plan) of Clause 19.3 (*Environmental undertakings*).

20.19 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower:

- (a) cancel the Total Commitments whereupon they shall immediately be cancelled;
- (b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent acting on the instructions of the Majority Lenders.

SECTION 8

CHANGES TO PARTIES

21. CHANGES TO THE LENDERS

21.1 Assignments and transfers by the Lenders

Subject to this Clause 21, a Lender (the "**Existing Lender**") may:

- (a) assign any of its rights;
- (b) grant any sub-participation (funded or unfunded) in respect of any of its rights or obligations; or
- (c) transfer by novation any of its rights and obligations,

to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the "**New Lender**").

21.2 Borrower consent

The consent of the Borrower is not required for an assignment or transfer by an Existing Lender, provided that there is no increase in the Borrower's liability under the Finance Documents as a result of the assignment or transfer.

21.3 Conditions of assignment or transfer

- (a) An assignment will only be effective on:
 - (i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it had been an Original Lender; and
 - (ii) performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.
- (b) A transfer will only be effective if the procedure set out in Clause 21.6 (*Procedure for transfer*) is complied with.
- (c) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

21.4 Assignment or transfer fee

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of EUR 2,000.

21.5 Limitation of responsibility of Existing Lenders

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
- (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
 - (ii) the financial condition of the Borrower;
 - (iii) the performance and observance by the Borrower of its obligations under the Finance Documents or any other documents; or
 - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,
- and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
- (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of the Borrower and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and
 - (ii) will continue to make its own independent appraisal of the creditworthiness of the Borrower and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
- (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 21; or
 - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by the Borrower of its obligations under the Finance Documents or otherwise.

21.6 Procedure for transfer

- (a) Subject to the conditions set out in Clause 21.2 (*Borrower consent*) and Clause 21.3 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
- (b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) Subject to Clause 21.10 (*Pro rata interest settlement*) on the Transfer Date:

- (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents the Borrower and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the "**Discharged Rights and Obligations**");
- (ii) the Borrower and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the Borrower and the New Lender have assumed and/or acquired the same in place of the Borrower and the Existing Lender;
- (iii) the Agent, the Mandated Lead Arranger, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Mandated Lead Arranger and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
- (iv) the New Lender shall become a Party as a "Lender".

21.7 Procedure for assignment

- (a) Subject to the conditions set out in Clause 21.2 (*Borrower consent*) and Clause 21.3 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) Subject to Clause 21.10 (*Pro rata interest settlement*) on the Transfer Date:
 - (i) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;
 - (ii) the Existing Lender will be released by the Borrower and each Finance Party from the obligations owed by it (the "**Relevant Obligations**") expressed to be the subject of the release in the Assignment Agreement; and
 - (iii) the New Lender shall become a Party as a "Lender" and will be bound by obligations equivalent to the Relevant Obligations.
- (d) Lenders may utilise procedures other than those set out in this Clause 21.7 to assign their rights under the Finance Documents (but not, without the consent of the Borrower or unless in accordance with Clause 21.6 (*Procedure for transfer*), to obtain a release by the Borrower from the obligations owed to the Borrower by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they

comply with the conditions set out in Clause 21.3 (*Conditions of assignment or transfer*).

21.8 Copy of Transfer Certificate or Assignment Agreement to Borrower

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrower a copy of that Transfer Certificate or Assignment Agreement.

21.9 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 21, each Lender may without consulting with or obtaining consent from the Borrower, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by the Borrower other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

21.10 Pro rata interest settlement

- (a) If the Agent has notified the Lenders that it is able to distribute interest payments on a "pro rata basis" to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 21.6 (*Procedure for transfer*) or any assignment pursuant to Clause 21.7 (*Procedure for assignment*) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):
 - (i) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date ("**Accrued Amounts**") and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six monthly intervals after the first day of that Interest Period); and
 - (ii) the rights assigned or transferred by the Existing Lender will not include the right to the Accrued Amounts, so that, for the avoidance of doubt:
 - (A) when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and

- (B) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 21.10, have been payable to it on that date, but after deduction of the Accrued Amounts.
- (b) In this Clause 21.10 references to "**Interest Period**" shall be construed to include a reference to any other period for accrual of fees.
- (c) An Existing Lender which retains the right to the Accrued Amounts pursuant to this Clause 21.10 but which does not have a Commitment shall be deemed not to be a Lender for the purposes of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote of Lenders under the Finance Documents.

22. CHANGES TO THE BORROWER

22.1 Assignments and transfer by the Borrower

The Borrower may not assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

SECTION 9

THE FINANCE PARTIES

23. ROLE OF THE AGENT, THE MANDATED LEAD ARRANGER AND THE REFERENCE BANKS

23.1 Appointment of the Agent

- (a) Each of the Mandated Lead Arranger and the Lenders appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Mandated Lead Arranger and the Lenders authorises the Agent to perform the duties, obligations and responsibilities and exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

23.2 Instructions

- (a) The Agent shall:
 - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
 - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
 - (B) in all other cases, the Majority Lenders; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender, group of Lenders, from that Lender, group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion. The Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Lender, group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) The Agent may refrain from acting in accordance with any instructions of any Lender, group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- (e) In the absence of instructions, the Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.

- (f) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.
- (g) The Agent shall act on the instructions of a Lender provided in connection with any split of its Commitment under Clause 32.5 (Split voting) and shall not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with such instructions.

23.3 Duties of the Agent

- (a) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (b) Subject to paragraph (c) below, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- (c) Without prejudice to Clause 21.8 (*Copy of Transfer Certificate or Assignment Agreement to Borrower*), paragraph (b) above shall not apply to any Transfer Certificate or to any Assignment Agreement.
- (d) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (e) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (f) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent or the Mandated Lead Arranger) under this Agreement it shall promptly notify the other Finance Parties.
- (g) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

23.4 Role of the Mandated Lead Arranger

Except as specifically provided in the Finance Documents, the Mandated Lead Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

23.5 No fiduciary duties

- (a) Nothing in any Finance Document constitutes the Agent or the Mandated Lead Arranger as a trustee or fiduciary of any other person.
- (b) Neither the Agent nor the Mandated Lead Arranger shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

23.6 Business with the Borrower

The Agent and the Mandated Lead Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower.

23.7 Rights and discretions

- (a) The Agent may:

- (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
 - (ii) assume that:
 - (A) any instructions received by it from the Majority Lenders, any Lender or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
 - (B) unless it has received notice of revocation, that those instructions have not been revoked;
 - (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate; and
 - (iii) rely on any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within that individual's knowledge or power to verify.
- (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
- (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 20.1 (*Non-payment*)); and
 - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised.
- (c) The Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent (and so separate from any lawyers instructed by the Lenders) if the Agent in its reasonable opinion deems this to be necessary.
- (e) The Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other person) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Agent may act in relation to the Finance Documents through its officers, employees and agents and the Agent shall not:
- (i) be liable for any error of judgment made by any such person; or
 - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,

unless such error or such loss was directly caused by the Agent's gross negligence or wilful misconduct.

- (g) Unless a Finance Document expressly provides otherwise the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (h) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Mandated Lead Arranger is 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 or a breach of a fiduciary duty or duty of confidentiality.
- (i) Notwithstanding any provision of any Finance Document to the contrary, the Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

23.8 Responsibility for documentation

Neither the Agent nor the Mandated Lead Arranger is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Mandated Lead Arranger, the Borrower or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document other than information generated by itself;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

23.9 No duty to monitor

The Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

23.10 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent), the Agent will not be liable for (including, without limitation, for negligence or any other category of liability whatsoever):
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under

or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct;

(ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document, other than by reason of its gross negligence or wilful misconduct; or

(iii) without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation, for negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of:

(A) any act, event or circumstance not reasonably within its control; or

(B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event); breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

(b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent may rely on this Clause.

(c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if 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) Nothing in this Agreement shall oblige the Agent or the Mandated Lead Arranger to carry out:

(i) any "know your customer" or other checks in relation to any person; or

(ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender,

on behalf of any Lender and each Lender confirms to the Agent and the Mandated Lead Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Mandated Lead Arranger.

(e) Without prejudice to any provision of any Finance Document excluding or limiting the Agent's liability, any liability of the Agent arising under or in connection with any

Finance Document shall be limited to the amount of actual loss which has been suffered (as determined by reference to the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at any time which increase the amount of that loss. In no event shall the Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent has been advised of the possibility of such loss or damages.

23.11 Lenders' indemnity to the Agent

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three (3) Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 26.11 (*Disruption to Payment Systems etc.*) notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by the Borrower pursuant to a Finance Document).
- (b) The Borrower shall immediately on demand reimburse any Lender for any payment that Lender makes to the Agent pursuant to paragraph (a) above.

23.12 Resignation of the Agent

- (a) The Agent may resign and appoint one of its Affiliates as successor by giving notice to the Lenders and the Borrower. If the Agent is removed by the Majority Lenders, then it shall be at the cost of the Lenders.
- (b) Alternatively the Agent may resign by giving thirty (30) days' notice to the Lenders and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Agent. During the thirty (30) days' notice period, the Agent will consult with the Borrower as to its resignation (subject to any confidentiality restrictions).
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within twenty (20) days after notice of resignation was given, the retiring Agent (after consultation with the Borrower) may appoint a successor Agent.
- (d) If the Agent wishes to resign because (acting reasonably) it has concluded that it is no longer appropriate for it to remain as agent and the Agent is entitled to appoint a successor Agent under paragraph (c) above, the Agent may (if it concludes (acting reasonably) that it is necessary to do so in order to persuade the proposed successor Agent to become a party to this Agreement as Agent) agree with the proposed successor Agent amendments to this Clause 23 and any other term of this Agreement dealing with the rights or obligations of the Agent consistent with then current market practice for the appointment and protection of corporate trustees together with any reasonable amendments to the agency fee payable under this Agreement which are consistent with the successor Agent's normal fee rates and those amendments will bind the Parties.
- (e) The retiring Agent shall 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. The Borrower shall, within three (3) Business Days of demand, reimburse the retiring Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.

- (f) The resignation notice of the Agent shall only take effect upon the appointment of a successor.
- (g) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (e) above) but shall remain entitled to the benefit of Clause 14.2 (*Other indemnities*) and this Clause 23 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

23.13 Confidentiality

- (a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

23.14 Relationship with the Lenders

- (a) Subject to Clause 21.10 (*Pro rata interest settlement*) the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
 - (i) entitled to or liable for any payment due under any Finance Document on that day; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five (5) Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

- (b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address (or such other information), department and officer by that Lender for the purposes of Clause 28.2 (*Addresses*) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

23.15 Credit appraisal by the Lenders

Without affecting the responsibility of the Borrower for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Agent and the Mandated Lead Arranger that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of the Borrower;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (d) the adequacy, accuracy or completeness of any information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

23.16 Deduction from amounts payable by the Agent

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

23.17 Role of Reference Banks

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Agent.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any Reference Bank Quotation, unless directly caused by its gross negligence or wilful misconduct.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 23.17 subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

23.18 Third party Reference Banks

A Reference Bank which is not a Party may rely on Clause 23.17 (*Role of Reference Banks*), Clause 32.3 (*Other exceptions*) and Clause 34 (*Confidentiality of Funding Rates and*

Reference Bank Quotations) subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

24. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

25. SHARING AMONG THE FINANCE PARTIES

25.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from the Borrower other than in accordance with Clause 26 (*Payment Mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Agent;
- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 26 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three (3) Business Days of demand by the Agent, pay to the Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 26.6 (*Partial payments*).

25.2 Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the Borrower and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 26.6 (*Partial payments*) towards the obligations of the Borrower to the Sharing Finance Parties.

25.3 Recovering Finance Party's rights

On a distribution by the Agent under Clause 25.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from the Borrower, as between the Borrower and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by the Borrower.

25.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**"); and
- (b) as between the Borrower and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by the Borrower.

25.5 Exceptions

- (a) This Clause 25 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the Borrower.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
 - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

SECTION 10
ADMINISTRATION

26. PAYMENT MECHANICS

26.1 Payments to the Agent

- (a) On each date on which the Borrower or a Lender is required to make a payment under a Finance Document, the Borrower or a Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Agent) and with such bank as the Agent, in each case, specifies.

26.2 Distributions by the Agent

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 26.4 (*Distributions to the Borrower*) and Clause 26.5 (*Clawback and pre-funding*) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five (5) Business Days' notice with a bank specified by that Party in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London), as specified by that Party.

26.3 Distributions in respect of Utilisations

- (a) The Borrower irrevocably and unconditionally authorises and directs the Agent to pay the proceeds of any Loans to be made to the Borrower pursuant to a Utilisation Request to the Exporter, the Supervising Engineer, IESC, any Finance Party or the Finance Parties' legal advisers (as applicable).
- (b) Each payment under paragraphs (a) above, shall be to such bank account with a bank in the principal financial centre of the currency for which the relevant Utilisation was made (or, in relation to euro, in the principal financial centre of a Participating Member State or London) as notified to the Agent by the Borrower in the relevant Utilisation Request.

26.4 Distributions to the Borrower

The Agent may (with the consent of the Borrower or in accordance with Clause 27 (*Set-Off*)) apply any amount received by it for the Borrower in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Borrower under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

26.5 Clawback and pre-funding

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

- (b) Unless paragraph (c) below applies, if the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.
- (c) If the Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but it proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:
 - (i) the Borrower shall on demand refund it to the Agent; and
 - (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

26.6 Partial payments

- (a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents, the Agent shall apply that payment towards the obligations of the Borrower under the Finance Documents in the following order:
 - (i) **first**, in or towards payment pro rata of any unpaid amounts owing to the Agent under the Finance Documents;
 - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee (including Break Costs) or commission due but unpaid under this Agreement;
 - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement; and
 - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (ii) to (iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by the Borrower.

26.7 No set-off by the Borrower

All payments to be made by the Borrower under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

26.8 Business Days

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

26.9 Currency of account

- (a) Subject to paragraphs (b) and (c) below, the Facility Currency is the currency of account and payment for any sum due from the Borrower under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than the Facility Currency shall be paid in that other currency.

26.10 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other.
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

26.11 Disruption to Payment Systems etc.

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Borrower that a Disruption Event has occurred:

- (a) the Agent may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Facilities as the Agent may deem necessary in the circumstances;
- (b) the Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Agent may consult with the Finance Parties in relation to any changes mentioned in paragraph (a) above but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Agent and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 32 (*Amendments and Waivers*);

- (e) the Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 26.11; and
- (f) the Agent shall notify the Finance Parties of all changes agreed pursuant to paragraph (d) above.

27. SET-OFF

A Finance Party may set off any matured obligation due from the Borrower under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

28. NOTICES

28.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

28.2 Addresses

The address and/or fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is those identified with its name on the signatories pages, or any substitute address or fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change to its own contact details is made by the Agent) by not less than five (5) Business Days' notice.

28.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
 - (i) if by way of fax, when received in legible form; or
 - (ii) if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,and, if a particular department or officer is specified as part of its address details provided under Clause 28.2 (*Addresses*), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).
- (c) All notices from or to the Borrower shall be sent through the Agent.

- (d) Any communication or document made or delivered to the Borrower in accordance with this Clause will be deemed to have been made or delivered to the Borrower.
- (e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the next Business Day.

28.4 Notification of contact details

Promptly upon changing its address or fax number, each Party shall notify the other Parties.

28.5 English language

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

29. CALCULATIONS AND CERTIFICATES

29.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

29.2 Certificates and determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

29.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

30. PARTIAL INVALIDITY

If, at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

31. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any of the Finance Documents on the part of any Finance Party shall be effective unless it is in

writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

32. AMENDMENTS AND WAIVERS

32.1 Required consents

- (a) Subject to Clause 32.2 (*All Lender matters*) and Clause 32.3 (*Other exceptions*), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Borrower and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 32.
- (c) Paragraph (c) of Clause 21.10 (*Pro rata interest settlement*) shall apply to this Clause 32.

32.2 All Lender matters

Subject to Clause 32.4 (*Replacement of Screen Rate*) an amendment or waiver of any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of "Majority Lenders" in Clause 1.1 (*Definitions*);
- (b) an extension to the date of payment of any amount under the Finance Documents;
- (c) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (d) a change in currency of payment of any amount under the Finance Documents;
- (e) an increase in any Commitment or the Total Commitments, an extension of the Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under a Facility;
- (f) a change to the Borrower;
- (g) a change to any Event of Default;
- (h) an extension of the two hundred and seventy (270) day period for satisfaction of the conditions precedent pursuant to Clause 4.1(c) (*Initial conditions precedent*);
- (i) any provision which expressly requires the consent of all the Lenders; or
- (j) Clause 2.2 (*Finance Parties' rights and obligations*), Clause 6 (*Repayment*), Clause 7.1 (*Illegality*), Clause 7.2 (*Material Commercial Contract Change*), Clause 7.3 (*E&S Incident*), Clause 7.8 (*Application of prepayments*), Clause 21 (*Changes to the Lenders*), Clause 22 (*Changes to the Borrower*), Clause 25 (*Sharing among the Finance Parties*) this Clause 32, the governing law of any Finance Document, Clause 36 (*Governing law*) or Clause 37 (*Arbitration*),

shall not be made without the prior consent of all the Lenders.

32.3 Other exceptions

An amendment or waiver which relates to the rights or obligations of the Agent or the Mandated Lead Arranger or a Reference Bank (each in their capacity as such) may not be effected without the consent of the Agent, the Mandated Lead Arranger or a Reference Bank, as the case may be.

32.4 Replacement of Screen Rate

If a Screen Rate Replacement Event has occurred in relation to the Screen Rate, any amendment or waiver which relates to:

- (a) providing for the use of a Replacement Benchmark in relation to euro in place of the Screen Rate; and
- (b)
 - (i) aligning any provision of any Finance Document to the use of that Replacement Benchmark;
 - (ii) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
 - (iii) implementing market conventions applicable to that Replacement Benchmark;
 - (iv) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
 - (v) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Borrower.

32.5 Split voting

- (a) For the purposes of responding (or failing to respond) to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of the Lenders under the terms of this Agreement, a Lender may split its Commitment under a Facility into any number of portions and may respond (or fail to respond) or otherwise exercise its rights in respect of each such individual portion on a several basis.
- (b) If a Lender exercises its rights under paragraph (a) above in respect of any part of its Commitment under a Facility, such Lender shall notify the Agent of the portions into which it has split its Commitment under that Facility.

33. CONFIDENTIAL INFORMATION

33.1 Confidentiality

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 33.2 (*Disclosure of Confidential Information*) and Clause 33.3 (*Disclosure to numbering service providers*), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

33.2 Disclosure of Confidential Information

Any Finance Party may disclose:

- (a) to any of its Affiliates;
- (b) to any of its Related Funds and any of its or its Affiliates' or Related Funds' officers, directors, employees, professional advisers, auditors, partners, delegates, service providers, reinsurers, consultants, contractors, agents, managers, administrators, nominees, trusts, custodians, insurers, insurance brokers, service providers and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (c) to:
 - (i) any person to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (ii) any person with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or the Borrower and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (iii) any person to appointed by any Finance Party or by a person to whom paragraph 33.2(c)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of Clause 23.14 (*Relationship with the Lenders*));
 - (iv) any person to who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph 33.2(c)(i) or (c)(ii) above;
 - (v) any person to whom information is required or requested to be disclosed by any court or tribunal of competent jurisdiction or any governmental, quasi-governmental, administrative, banking, taxation, supervisory or other

regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;

- (vi) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (vii) any person to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 21.9 (*Security over Lenders' rights*);
- (viii) the Exporter or the Employer;
- (ix) any person to who is a Party; or
- (x) any person to with the consent of the Borrower,

in each case, such Confidential Information as that Finance Party shall consider appropriate and if in relation to paragraphs 33.2(c)(i) and 33.2(c)(ii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;

- (d) to any person appointed by that Finance Party or by a person to whom paragraph 33.2(c)(i) or (c)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (d) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the relevant Finance Party; and
- (e) to any direct or indirect provider of credit protection to a Finance Party or any of its Affiliates (or their respective brokers), or to any rating agency (including its professional advisers), such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Borrower if the direct or indirect provider of credit protection or rating agency (as applicable) to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

33.3 Disclosure to numbering service providers

- (a) Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or one or the Borrower the following information:
 - (i) name of the Borrower;
 - (ii) date of this Agreement;
 - (iii) Clause 36 (*Governing law*);

- (iv) the names of the Agent and the Mandated Lead Arranger;
 - (v) date of each amendment and restatement of this Agreement;
 - (vi) amount of Total Commitments;
 - (vii) amount of, and name of, the Facilities (and any tranches);
 - (viii) currency of the Facilities;
 - (ix) type of Facilities;
 - (x) ranking of Facilities;
 - (xi) Final Maturity Date for the Facilities;
 - (xii) changes to any of the information previously supplied pursuant to paragraphs (i) to (xi) above; and
 - (xiii) such other information agreed between such Finance Party and the Borrower, to enable such numbering service provider to provide its usual syndicated loan numbering identification services.
- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and the Borrower by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
- (c) The Borrower represents that none of the information set out in paragraphs (i) to (xiii) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.

33.4 Entire agreement

This Clause 33 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

33.5 Inside information

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

33.6 Notification of disclosure

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (c)(v) of Clause 33.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 33.

33.7 Continuing obligations

The obligations in this Clause 33 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve months from the earlier of:

- (a) the date on which all amounts payable by the Borrower under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

34. CONFIDENTIALITY OF FUNDING RATES AND REFERENCE BANK QUOTATIONS

34.1 Confidentiality and disclosure

- (a) The Agent and the Borrower agree to keep each Funding Rate (and, in the case of the Agent, each Reference Bank Quotation) confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b) and (c) below.
- (b) The Agent may disclose:
 - (i) any Funding Rate to the Borrower pursuant to Clause 8.4 (*Notification of rates of interest*); and
 - (ii) any Funding Rate (but not, for the avoidance of doubt, any Reference Bank Quotation) to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Agent and the relevant Lender or Reference Bank, as the case may be.
- (c) The Agent may disclose any Funding Rate or any Reference Bank Quotation, and the Borrower may disclose any Funding Rate, to:
 - (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives if any person to whom that Funding Rate or Reference Bank Quotation is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
 - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the

opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;

- (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate or Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances; and
 - (iv) any person with the consent of the relevant Lender or Reference Bank Quotation, as the case may be.
- (d) The Agent's obligations in this Clause 34 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 8.4 (*Notification of rates of interest*) provided that (other than pursuant to paragraph (b)(i) above) the Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.

34.2 Related obligations

- (a) The Agent and the Borrower acknowledge that each Funding Rate (and, in the case of the Agent, each Reference Bank Quotation) is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Agent and the Borrower undertake not to use any Funding Rate or, in the case of the Agent, any Reference Bank Quotation for any unlawful purpose.
- (b) The Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Lender or Reference Bank, as the case may be:
 - (i) of the circumstances of any disclosure made pursuant to paragraph (c)(ii) of Clause 34.1 (*Confidentiality and disclosure*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
 - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 34.

34.3 No Event of Default

No Event of Default will occur under Clause 20.2 (*Other obligations*) by reason only of the Borrower's failure to comply with this Clause 34.

35. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

SECTION 11

GOVERNING LAW AND ENFORCEMENT

36. GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

37. ARBITRATION

37.1 Arbitration

Any dispute, controversy or claim arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of in connection with this Agreement) shall be referred to and finally resolved by arbitration under the Arbitration Rules of the London Court of International Arbitration (LCIA) (the "**Rules**") for the time being in force, which Rules are deemed to be incorporated by reference into this Clause.

37.2 Formation of arbitral tribunal, seat and language of arbitration

- (a) The arbitral tribunal shall consist of three arbitrators. The claimant(s), irrespective of number, shall nominate jointly one arbitrator; the respondent(s), irrespective of number, shall nominate jointly the second arbitrator; a third arbitrator (who shall act as Chair), shall be chosen by the two arbitrators appointed on behalf of the parties. If the Chair is not chosen and nominated to the LCIA Court for appointment within 30 days of the date of appointment by the LCIA Court of the later of the two party-nominated arbitrators to be confirmed, he shall be appointed by the LCIA Court.
- (b) The seat of arbitration shall be London, England.
- (c) The language of the arbitration shall be English.
- (d) This arbitration agreement shall be governed and construed under the law identified in Clause 36 (*Governing Law*).

37.3 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, the Borrower:
 - (i) irrevocably appoints the Uganda High Commission at Uganda House, 58-59 Trafalgar Square, St. James's, London WC2N 5DX as its agent for service of process in relation to any proceedings (arbitral or court (as the case may be)) in connection with any Finance Document; and
 - (ii) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Borrower must immediately (and in any event within ten (10) Business Days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may, at the Borrower's cost, appoint another agent for this purpose.
- (c) The Borrower expressly agrees and consents to the provisions of this Clause and Clause 36 (*Governing Law*).

37.4 Waiver of immunity

- (a) Subject to paragraph (c), the Borrower hereby consents generally, in respect of any legal action or proceeding arising out of or in connection with any Finance Document, to the giving of any relief or the issue of any process in connection with such action or proceeding, including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such action or proceeding.
- (b) To the extent that the Borrower may in Uganda, England or any other jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether before the issue of an award or judgment or otherwise), enforcement or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets or revenues such immunity (whether or not claimed), the Borrower hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction and in accordance with the State Immunity Act 1978 and, without limitation, the Borrower waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:
 - (i) the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; and
 - (ii) the issue of any process against its assets or revenues for the enforcement of a judgment or award or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues,and the Borrower agrees that in any proceedings taken in England (the "**Proceedings**") in accordance with the terms of the Finance Documents, this waiver shall have the fullest scope permitted by the State Immunity Act 1978 and that this waiver is irrevocable for the purposes of such Act and the Borrower consents generally for the purposes of the State Immunity Act 1978 to the giving of any relief or the issue of any process in connection with any Proceedings.
- (c) The waiver of immunity in paragraphs (a) and (b) above shall not apply in respect of any enforcement or execution against Protected Ugandan Assets (under the laws of Uganda as at the date of this Agreement).

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

THE ORIGINAL LENDERS

PART 1 – FACILITY A LENDERS

Name of Original Facility A Lender(s)	Facility Office	Notice Details	Facility A Commitment
Standard Chartered Bank Attention: Yoshi Ichikawa / Farooq Muhammad	London	Email: yoshi.ichikawa@sc.com Tel: +44 (0)20 7885 7133 / +44 (0)20 7885 6947 Fax: +44 207 8850 634 Ref: Ministry of Finance Uganda – Namanve	€6,000,000

PART 2 – FACILITY B LENDERS

Name of Original Facility B Lender(s)	Facility Office	Notice Details	Facility B Commitment
Standard Chartered Bank Attention: Yoshi Ichikawa / Farooq Muhammad	London	Email: yoshi.ichikawa@sc.com Tel: +44 (0)20 7885 7133 / +44 (0)20 7885 6947 Fax: +44 (0)20 7885 0634 Ref: Ministry of Finance Uganda – Namanve	€11,384,976
Lloyds Bank plc Attention: Lynn Liu	London	Email: lynn.liu@lloydsbanking.com Tel: +44 (0)20 7158 8599 Ref: Ministry of Finance Uganda – Namanve	€13,000,000

SCHEDULE 2

PART A - CONDITIONS PRECEDENT TO INITIAL FACILITY A UTILISATION

1. BORROWER AND EXPORTER

- (a) In respect of the Borrower:
- (i) a copy of the resolution from the Parliament of Uganda approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party;
 - (ii) the legal opinion under which the Attorney General of Uganda clears each of the Finance Documents to which the Borrower is a party for execution;
 - (iii) the legal opinion under which the Attorney General of Uganda confirms that the Minister of Finance, Planning and Economic Development of Uganda is authorised to execute the Finance Documents (and all other documents and notices to be signed or despatched by it under or in connection with the Finance Documents) on its behalf;
 - (iv) a specimen of the signature of each person confirmed as being authorised to execute the Finance Documents in the legal opinion referred to in paragraph (a)(iii) above;
 - (v) a letter from the Minister of Finance, Planning and Economic Development of Uganda confirming that the Borrower borrowing the Total Commitments would not cause any borrowing or similar limit binding on it to be exceeded or breached; and
 - (vi) a letter from the Minister of Finance, Planning and Economic Development of Uganda certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.
- (b) In respect of the Exporter:
- (i) evidence that the signatory who signed the Commercial Contract on behalf of the Exporter was duly authorised to sign it;
 - (ii) the name of a specified person or persons who are duly authorised on its behalf to sign and/or despatch documents related to this Agreement including the Advance Payment Certificate(s) together with evidence of their authority; and
 - (iii) a specimen signature of each person authorised in the manner described in paragraph (ii) above.
- (c) In respect of the Employer, evidence that the signatory who signed the Commercial Contract on behalf of the Employer was duly authorised to sign it.

2. CONSENTS AND AUTHORISATIONS

- (a) In respect of the Borrower, evidence that it has obtained all Authorisations required in Uganda for:

- (i) it to enter into this Agreement and any other Finance Documents to which it is a party, to fulfil its obligations under such Finance Documents and for the enforcement of such Finance Documents; and
- (ii) the payment of all sums in the Facility Currency in England which become due from the Borrower to any Finance Party in relation to any Finance Document to which it is a party,

and that each such Authorisation remains in full force and effect.

- (b) In respect of the Employer, confirmation that the Employer has obtained all Authorisations in Uganda necessary for the purchase and import of the goods and/or services to be supplied under the Commercial Contract and payment in the Facility Currency in England and that such Authorisations remain in full force and effect.
- (c) Confirmation and/or evidence that all Authorisations and Environmental Permits required in connection with, or with respect to, the Facilities, the Borrower, the Employer and the Project have been obtained and are in full force and effect.

3. FINANCE DOCUMENTS

An original of each Finance Document duly entered into by the parties to it.

4. COMMERCIAL CONTRACT

- (a) Evidence that the terms of, and the transactions contemplated by, the Commercial Contract, and the entry by the Government of the Republic of Uganda, represented by the Ugandan Investment Authority, are cleared by the Solicitor General of Uganda.
- (b) A copy of the Commercial Contract duly executed by the parties to it, certified as a true, complete and accurate copy by an authorised signatory of the Employer.

5. EXPORTER CONFIRMATIONS

The Exporter shall have provided to the Agent:

- (a) evidence that any performance security referred to in clause 4.2 of the Commercial Contract has been duly executed in accordance with the terms of the Commercial Contract;
- (b) written confirmation that all Authorisations (if any), including export licences (if required), in respect of the goods and/or services to be supplied in accordance with the Commercial Contract have been obtained and remain in full force and effect; and
- (c) a copy of any relevant export licences.

6. LEGAL OPINIONS

- (a) A legal opinion of the legal advisers to the Finance Parties in England, in the form and substance acceptable to the Finance Parties.
- (b) A legal opinion of the legal advisers to the Finance Parties in Uganda in the form and substance acceptable to the Finance Parties.
- (c) A legal opinion of the Attorney General of Uganda in the form and substance acceptable to the Finance Parties (including, but not limited to, the opinion in respect of paragraphs 1(a)(ii) and (iii) above).

7. OTHER DOCUMENTS AND EVIDENCE

- (a) Evidence that any process agent referred to in Clause 37.3 (*Service of process*) has accepted its appointment.
- (b) Evidence that the fees, costs and expenses due from the Borrower pursuant to Clause 11 (*Fees*), Clause 16 (*Costs and Expenses*) and Clause 19.3 (*Environmental undertakings*) of this Agreement (including, agency and administration fees and legal fees) have been or will be paid on or before the first Utilisation Date.
- (c) Compliance by the Borrower with, and satisfactory completion of, each Finance Party's money laundering and "*know your customer*" (including but not limited to customer due diligence) requirements.

PART B - CONDITIONS PRECEDENT TO INITIAL FACILITY B UTILISATION

1. BORROWER AND EXPORTER

- (a) In respect of the Borrower, a letter from the Minister of Finance, Planning and Economic Development of Uganda, countersigned by the Attorney General of Uganda, certifying that each copy document relating to it provided pursuant to Schedule 2 Part A remains correct, complete and in full force and effect.
- (b) In respect of the Exporter, a certificate certifying that that each copy document relating to it provided pursuant to Schedule 2 Part A remains correct, complete and in full force and effect.
- (c) In respect of the Employer, a certificate certifying that that each copy document relating to it provided pursuant to Schedule 2 Part A remains correct, complete and in full force and effect.

2. OTHER DOCUMENTS AND EVIDENCE

- (a) The UKEF Facility Agreement duly entered into by the parties to it.
- (b) Evidence that the fees, costs and expenses due from the Borrower pursuant to clause 9 (*Fees*) and clause 14 (*Costs and Expenses*) of the UKEF Facility Agreement (including, agency and administration fees, legal fees and the IESC's fees) have been or will be paid on or before the first Utilisation Date under Facility B.
- (c) A certified copy of the duly executed IESC Contract, together with confirmation from the IESC entitling the Agent and the Lender to rely on its reports and plans.

SCHEDULE 3
FORM OF UTILISATION REQUEST

From: The Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development of the Republic of Uganda as Borrower

To: *[insert name of Agent]* as Agent

Dated: *[insert date]*

Dear Sirs,

The Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development of the Republic of Uganda - Commercial Facility Agreement dated *[insert date]* 2019 (the "Agreement")

1. We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
2. We wish to borrow a Loan on the following terms:

Proposed Utilisation Date: [●] (or, if that is not a Business Day, the next Business Day)

Purpose of Loan: [Financing the payment of [the Design Works]][[a portion of/the balance of the Advance Payment] / [fees, costs and expenses payable pursuant to the UKEF Facility Agreement] / [fees, costs and expenses payable in connection with the Finance Documents] / [financing the payment due to the Supervising Engineer] / [financing the payment due to the IESC] / [amount not eligible for financing under the UKEF Facility, but due and payable by the Employer under the Commercial Contract]]

Facility: [Facility A] / [Facility B]

Amount: EUR [●] or, if less, the Available Facility for that Facility

3. The proceeds of this Loan should be credited *[insert beneficiary name]*'s account with the following details:

[Account Name	LAGAN DOTT NAMANVE LIMITED
Beneficiary Bank	Standard Chartered Bank , London
Beneficiary Bank SWIFT Code	SCBLGB2L
Account Number / IBAN	01273011196 / GB93SCBL60910412730111
Correspondent Bank	Standard Chartered Bank Frankfurt

Correspondent Bank SWIFT Code SCBLDEFX]¹

or

[Insert relevant account details]

Account holder: [insert name of account holder]

Bank Name: [insert name of bank]

SWIFT code: [insert SWIFT code]

Account Number: [insert account number]²

4. [We hereby:

- (a) confirm that the Loan will be used to finance payments due and payable by the Employer under the Commercial Contract in respect of the Design Works and is eligible for financing; and
- (b) attach true copies of the Exporter's invoice(s) to the Employer in respect of the payment(s) requested to be financed by the Loan requested in this Utilisation Request.]*

5. [We hereby confirm that the Loan will be used to finance payments due and payable by the Employer under the Commercial Contract, which is not eligible for financing under the UKEF Facility.]**

6. [We hereby confirm that the Loan will be used to [partially] finance the [balance of the] Advance Payment due and payable by the Employer under the Commercial Contract and attach to this Utilisation Request an Advance Payment Certificate duly signed by the Exporter's Signatory, together with all relevant attachments.]***

7. [We hereby confirm that:

- (a) the Loan will be used to financing the payment(s) due and payable by the Employer to the Supervising Engineer in respect of engineering services in relation to the Commercial Contract; and
- (b) the aggregate Loans requested in respect of financing payments due and payable by the Employer to the Supervising Engineer, including the Loan requested in this Utilisation Request, do not exceed EUR [●].]****

8. [We hereby confirm that:

- (a) the Loan will be used to financing the payment(s) due and payable by the Agent to the IESC in respect of the environmental consultancy services in relation to the IESC Contract; and
- (b) the aggregate Loans requested in respect of financing payments due and payable by the Agent to the IESC, including the Loan requested in this Utilisation Request, do not exceed EUR [●].]*****

¹ To be included if payment to be made to Exporter

² Account details to be provided for payments other than to Exporter

9. [We attach true copies of the Exporter's invoice(s) to the Employer in respect of the payment(s) requested to be financed by the Loan requested in this Utilisation Request.]*****
10. [We attach true copies of the Supervising Engineer invoice(s) to the Employer in respect of the payment(s) requested to be financed by the Loan requested in this Utilisation Request.]*****
11. [We attach true copies of the Employer's invoice(s) to the Agent in respect of the payment(s) requested to be financed by the Loan requested in this Utilisation Request.]*****
12. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) of the Agreement is satisfied on the date of this Utilisation Request.
13. This Utilisation Request is irrevocable.
14. This Utilisation Request and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

Yours faithfully

.....

authorised signatory for
The Government of the Republic of Uganda
represented by the
Ministry of Finance, Planning and Economic Development of the Republic of Uganda

* Include this confirmation only if the Loan is being requested to finance payments under the Commercial Contract in respect of the Design Works.

** Include this confirmation only if the Loan is being requested to finance payments under the Commercial Contract (other than the Advance Payment).

*** Include this confirmation only if the Loan is being requested to finance the Advance Payment, in addition:

- a) include the word "partially" and delete the words "balance of the" for the Loan under Facility A relating to the initial partial financing of the Advance Payment.
- b) Include the words "balance of the" and delete the word "partially" for the Loan under Facility B relating to the outstanding balance of the Advance Payment.

**** Include this confirmation only if the Loan is being requested to finance payments due and payable by the Employer to the Supervising Engineer.

***** Include this confirmation only if the Loan is being requested to finance payments due and payable by the Agent to the IESC.

***** Include this confirmation only if the Loan is being requested to finance payments under the Commercial Contract

***** Include this confirmation only if the Loan is being requested to finance payments due and payable by the Employer to the Supervising Engineer.

[Attach to this Utilisation Request, as applicable:

(a) Exporter invoices;

(b) Advance Payment Certificate (together with related invoices);

(c) Supervising Engineer invoice; or

(d) IESC invoices.]

SCHEDULE 4
FORM OF TRANSFER CERTIFICATE

To: [insert name of Agent] as Agent

From: [The Existing Lender] (the "Existing Lender") and [The New Lender] (the "New Lender")

Dated:

**The Government of the Republic of Uganda represented by the Ministry of Finance, Planning
and Economic Development of the Republic of Uganda - Commercial Facility Agreement
dated [insert date] 2019 (the "Agreement")**

1. We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
2. We refer to Clause 21.6 (*Procedure for transfer*) of the Agreement:
 - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with Clause 21.6 (*Procedure for transfer*) of the Agreement, all of the Existing Lender's rights and obligations under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender's [Facility A] / [Facility B] Commitment and participations in [Facility A] / [Facility B] Loans under the Agreement as specified in the Schedule.
 - (b) The proposed Transfer Date is [●].
 - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 28.2 (*Addresses*) of the Agreement are set out in the Schedule.
3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 21.5 (*Limitation of responsibility of Existing Lenders*) of the Agreement.
4. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
5. This Transfer Certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.
6. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments,]

[Existing Lender]

[New Lender]

By:

By:

This Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed as [●].

[Agent]

By:

SCHEDULE 5

FORM OF ASSIGNMENT AGREEMENT

To: [insert name of Agent] as Agent and The Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development of the Republic of Uganda as Borrower

From: [the Existing Lender] (the "Existing Lender") and [the New Lender] (the "New Lender")

Dated:

The Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development of the Republic of Uganda - Commercial Facility Agreement dated [insert date] 2019 (the "Agreement")

1. We refer to the Agreement. This is an Assignment Agreement. Terms defined in the Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
2. We refer to Clause 21.7 (*Procedure for assignment*) of the Agreement:
 - (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Agreement and the other Finance Documents which correspond to that portion of the Existing Lender's [Facility A] / [Facility B] Commitment and participations in [Facility A] / [Facility B] Loans under the Agreement as specified in the Schedule.
 - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's [Facility A] / [Facility B] Commitment and participations in [Facility A] / [Facility B] Loans under the Agreement specified in the Schedule.
 - (c) The New Lender becomes a Party as a [Facility A] / [Facility B] Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
3. The proposed Transfer Date is [●].
4. On the Transfer Date the New Lender becomes Party to the Finance Documents as a [Facility A] / [Facility B] Lender.
5. The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 28.2 (*Addresses*) of the Agreement are set out in the Schedule.
6. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 21.5 (*Limitation of responsibility of Existing Lenders*) of the Agreement.
7. This Assignment Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 21.8 (*Copy of Transfer Certificate or Assignment Agreement to Borrower*) of the Agreement, to the Borrower of the assignment referred to in this Assignment Agreement.
8. This Assignment Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment Agreement.

9. This Assignment Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
10. This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

THE SCHEDULE

Rights to be assigned and obligations to be released and undertaken

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments]

[Existing Lender]

[New Lender]

By:

By:

This Assignment Agreement is accepted by the Agent and the Transfer Date is confirmed as [●].

Signature of this Assignment Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, which notice the Agent receives on behalf of each Finance Party.

[Agent]

By:

SCHEDULE 6

TIMETABLES

Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request and Utilisation*) of the Agreement)

U - 8
10:00 a.m.

Agent notifies the Lenders of the Loan in accordance with Clause 5.4 (*Lenders' participation*) of the Agreement

U - 8
4:00 p.m.

EURIBOR is fixed

Quotation Day 11:00 a.m. (Brussels time)

Reference Bank Rate calculated by reference to available quotations in accordance with Clause 10.2 (*Calculation of Reference Bank rate*) of the Agreement

Quotation Date 11:30 a.m. (Brussels time)

"U" = date of utilisation or, if applicable, in the case of a Loan that has already been borrowed, the first day of the relevant Interest Period for that Loan.

"U - X" = X Business Days prior to date of Utilisation.

SCHEDULE 7

FORM OF ADVANCE PAYMENT CERTIFICATE

To: [insert name of Agent] as Agent

From: Lagan Dott Namanve Ltd

Dated:

The Government of the Republic of Uganda represented by the Ministry of Finance, Planning and Economic Development of the Republic of Uganda - Commercial Facility Agreement

dated [insert date] 2019 (the "Agreement")

1. We refer to the Agreement and to the contract for the development of infrastructure (design and build) at Kampala Industrial and Business Park Namanve, Republic of Uganda dated 24 September 2018 and made between Lagan Dott Namanve Ltd (the "**Exporter**") and the Republic of Uganda represented by the Ministry of Works and Transport (the "**Employer**"), as amended from time to time (the "**Commercial Contract**") . This is the "Advance Payment Certificate" as defined in the Agreement.

2. In this Advance Payment Certificate:

"Exported Element Value" means the Commercial Contract Value less the cost to the Exporter of procuring any Local Supplies;

"Integrated Goods" means:

(a) in the case of Local Supplies, Local Supplies that are or will be integrated with other goods in the UK to produce goods that are or will be eligible for a certificate of UK origin from a British Chamber of Commerce; and

(b) in the case of Third Country Supplies, Third Country Supplies that are or will be integrated with other goods in the UK to produce goods that are or will be eligible for a certificate of UK origin from a British Chamber of Commerce;

"Local Supplies" means goods and/or services procured by the Exporter from persons ordinarily resident in and/or carrying on business in the Employer's country but excluding Integrated Goods;

"Third Country Supplies" means goods and/or services that are not Local Supplies and that are procured by the Exporter from persons ordinarily resident in and/or carrying on business in a country other than the UK but excluding Integrated Goods; and

"UK" means the United Kingdom of Great Britain and Northern Ireland.

3. We represent and warrant that:

(a) the advance payment (the "**Advance Payment**") in the amount of EUR 24,794,868.26 is at least fifteen (15) per cent of the Exported Element Value;

(b) the obligations expressed to be assumed by us under the Commercial Contract are legal, valid, binding and enforceable obligations;

(c) the Commercial Contract has not been terminated;

- (d) neither the Commercial Contract nor any part of the Commercial Contract is subject to any litigation or arbitration currently in progress or any arbitration award;
 - (e) to the best of our knowledge and belief, neither the Commercial Contract nor any part of the Commercial Contract is the subject of any threatened litigation or arbitration; and
 - (f) the copies of the documents attached to this Advance Payment Certificate are true copies of the original documents.
4. [The payment of *[insert amount]* represents the initial payment towards the Advance Payment and should be made into the following bank account: *[insert account]*.]*
 5. [The payment of *[insert amount]* represents the balance of the outstanding Advance Payment and should be made into the following bank account: *[insert account]*.]**
 6. We attach copies of our invoice(s) to the Employer in respect of the Advance Payment.
 7. We undertake to provide any other documentation reasonably requested by the Agent from time to time in connection with this Advance Payment Certificate.
 8. This Advance Payment Certificate is irrevocable.
 9. This Advance Payment Certificate and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

Yours faithfully

For and on behalf of **Lagan Dott Namanve Ltd**

Signature:

Name:

Position:

Date:

** Include this confirmation only for the Loan under Facility A in respect of the initial payment of the Advance Payment

** Include this confirmation only for the Loan under Facility B in respect of the balance of the Advance Payment

EXECUTION

THE BORROWER

Signed for and on behalf of:

The Government of the Republic of Uganda)

represented by)

The Ministry of Finance, Planning)

and Economic Development)

of the Republic of Uganda)

by the Minister of Finance)

Planning and Economic Development)

Signature:



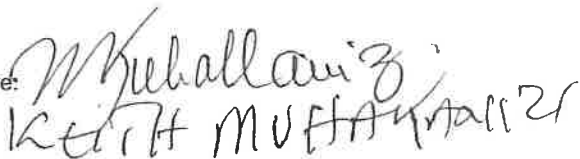
Name: MATIA KASAI SA

In the Presence of

The Permanent Secretary, Ministry of Finance, Planning

and Economic Development

Signature:



Name:

KEITH MUFHAMALI

NOTICE DETAILS

Address: Ministry of Finance, Planning and Economic Development, Plot 2-12 Apollo Kaggwa Road, P.O Box 8147, Kampala, Uganda

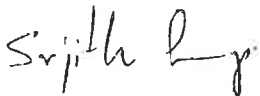
Tel: +256 4147 070 00

Attention: Permanent Secretary/Secretary to the Treasury

Email: finance@finance.go.ug

THE MANDATED LEAD ARRANGER

STANDARD CHARTERED BANK

By: 

Address: 1 Basinghall Avenue, London, EC2V 5DD, United Kingdom

Fax: +44 (0)20 7885 0634

Attention: Farooq Muhammad

Email: Farooq.Muhammad@sc.com

THE AGENT

STANDARD CHARTERED BANK

By:

Address: 5th Floor, 1 Basinghall Avenue, London, EC2V 5DD

Fax: +44 (0)20 7885 9728

Attention: Asset Servicing – Manager

Email: Loans.AgencyUK@sc.com

THE ORIGINAL FACILITY A LENDER

STANDARD CHARTERED BANK

By:

Address: 5th Floor, 1 Basinghall Avenue, London, EC2V 5DD

Fax: +44 (0)20 7885 9728

Attention: Yoshi Ichikawa / Farooq Muhammad

Email: Yoshi.Ichikawa@sc.com

**THE MANDATED LEAD ARRANGER
STANDARD CHARTERED BANK**

By:

Address: 1 Basinghall Avenue, London, EC2V 5DD, United Kingdom
Fax: +44 (0)20 7885 0634
Attention: Farooq Muhammad
Email: Farooq.Muhammad@sc.com

**THE AGENT
STANDARD CHARTERED BANK**

By:



Scott Masfen
Transaction Manager
Standard Chartered Bank

Address: 5th Floor, 1 Basinghall Avenue, London, EC2V 5DD
Fax: +44 (0)20 7885 9728
Attention: Asset Servicing – Manager
Email: Loans.AgencyUK@sc.com

**THE ORIGINAL FACILITY A LENDER
STANDARD CHARTERED BANK**

By:

Address: 5th Floor, 1 Basinghall Avenue, London, EC2V 5DD
Fax: +44 (0)20 7885 9728
Attention: Yoshi Ichikawa / Farooq Muhammad
Email: Yoshi.Ichikawa@sc.com

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Attention: Farooq Muhammad
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By:



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Fax: +44 (0)20 7885 9728
Attention: Yoshi Ichikawa / Farooq Muhammad
Email: Yoshi.Ichikawa@sc.com

THE ORIGINAL FACILITY B LENDERS

STANDARD CHARTERED BANK

By:



Address: 5th Floor, 1 Basinghall Avenue, London, EC2V 5DD

Fax: +44 (0)20 7885 9728

Attention: Yoshi Ichikawa / Farooq Muhammad

Email: Yoshi.Ichikawa@sc.com

LLOYDS BANK PLC

By:

Address: Lloyds Bank plc, 10 Gresham Street, London, EC2V 7AE

Tel: +44 (0)20 7158 8599

Attention: Lynn Liu

Email: Lynn.Liu@lloydsbanking.com

THE ORIGINAL FACILITY B LENDERS

STANDARD CHARTERED BANK

By:

Address: 5th Floor, 1 Basinghall Avenue, London, EC2V 5DD

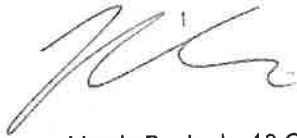
Fax: +44 (0)20 7885 9728

Attention: Yoshi Ichikawa / Farooq Muhammad

Email: Yoshi.Ichikawa@sc.com

LLOYDS BANK PLC

By:



Address: Lloyds Bank plc, 10 Gresham Street, London, EC2V 7AE

Tel: +44 (0)20 7158 8599

Attention: Lynn Liu

Email: Lynn.Liu@lloydsbanking.com

Annex 1: Proposed suppression on the GOU Budget FY 2017/18

Vote	Vote Description	Non Waive	Devt.	Budget (Non Wage and Devt)	Workshops and Travel	Other Proposed suppression	Total suppression	%
Part One-Protected Votes								
1- Health Institutions and Social Protection								
014	Ministry of Health	119,197,298,553	89,127,824,860	208,325,123,413	806,951,496	-	806,951,496	0.4%
107	Uganda AIDS Commission	7,922,246,045	1,850,000,000	9,772,246,045	412,000,000	-	412,000,000	4.2%
114	Uganda Cancer Institute	17,769,223,534	16,179,264,971	33,948,488,505	-	-	-	0.0%
115	Uganda Heart Institute	15,674,679,036	8,650,000,000	24,324,679,036	112,400,000	-	112,400,000	0.5%
116	National Medical Stores	574,961,953,054	10,078,763,609	585,040,716,663	3,192,400,000	-	3,192,400,000	0.5%
134	Health Service Commission	5,644,714,474	80,000,000	5,724,714,474	84,954,760	-	84,954,760	1.5%
151	Uganda Blood Transfusion Service (UBTS)	12,294,115,707	2,181,330,255	14,475,445,962	-	-	-	0.0%
161	Mulago Hospital Complex	31,764,122,196	7,970,000,000	39,734,122,196	40,197,000	-	40,197,000	0.1%
162	Buikika Hospital	7,804,938,184	3,808,140,579	11,613,078,763	3,080,000	-	3,080,000	0.0%
163	Referral Hospitals	100,524,533,676	30,953,722,996	131,478,256,672	314,018,536	-	314,018,536	0.2%
304	UVRI	8,270,595,604	6,100,000,000	14,370,595,604	391,295,935	-	391,295,935	2.7%
018	Ministry of Gender, Labour and Social Dev.	199,014,022,321	8,487,083,627	207,501,105,948	403,968,730	-	403,968,730	0.2%
	Sub-Total Health and Social Protection	1,100,842,442,384	185,466,130,897	1,286,308,573,281	5,761,266,477	-	5,761,266,477	0.4%
2- Security and Presidency								
001	Office of the President	108,556,122,004	15,496,193,608	124,032,315,612	1,925,144,903	-	1,925,144,903	1.6%
002	State House	379,075,172,031	12,338,411,302	391,363,583,333	8,002,000,000	-	8,002,000,000	2.0%
003	Office of the Prime Minister	89,547,185,642	24,476,921,257	114,024,106,899	4,310,400,000	-	4,310,400,000	3.8%
004	Ministry of Defence & Veteran Affairs	788,896,409,106	2,060,442,880,371	2,849,339,289,477	5,141,744,399	-	5,141,744,399	0.2%
009	Ministry of Internal Affairs	45,968,206,485	7,428,701,718	53,396,908,203	1,008,559,074	-	1,008,559,074	1.9%
144	Uganda Police Force	301,783,588,059	206,272,975,586	508,056,563,645	1,260,231,533	-	1,260,231,533	0.2%
145	Uganda Prisons	166,338,548,313	40,026,536,287	206,365,084,600	102,500,000	-	102,500,000	0.0%
158	Internal Security Organisation	66,729,653,105	5,110,710,315	71,840,363,420	300,000,000	-	300,000,000	0.4%
159	External Security Organisation	43,371,697,869	3,639,296,000	47,010,993,869	404,778,000	-	404,778,000	0.9%
305	DGAL	10,440,143,095	12,944,357,000	23,384,500,095	453,000,000	-	453,000,000	1.9%
	Sub-Total Security and Presidency	2,000,656,725,709	2,388,176,983,444	4,388,813,709,153	22,908,357,909	-	22,908,357,909	0.5%
3- Agriculture and Industry								
010	Ministry of Agriculture, Animal, Industry & Fisheries	36,696,768,498	110,889,988,614	147,586,757,112	4,774,199,664	-	4,774,199,664	3.2%
015	Ministry of Trade, Industry and Cooperatives	73,089,699,374	14,783,763,000	87,873,462,374	455,234,258	-	455,234,258	0.5%
110	Uganda Industrial Research Institute	11,597,961,202	5,496,000,000	17,093,961,202	440,000,000	-	440,000,000	2.6%
121	Dairy Development Authority	5,495,360,064	1,150,381,601	6,645,741,665	72,439,384	-	72,439,384	1.1%
125	National Animal Genetic Res. Centre and Data Bank	7,381,922,059	61,344,216,572	68,726,138,631	540,000,000	-	540,000,000	0.8%
142	National Agricultural Research Organisation	24,901,434,499	51,472,993,562	76,374,428,061	1,979,732,200	-	1,979,732,200	2.6%
152	NAAADS Secretariat	3,156,476,572	99,145,056,610	102,301,533,182	1,062,230,000	-	1,062,230,000	1.0%
160	Uganda Coffee Development Authority	73,673,920,062	3,063,055,349	76,736,975,411	1,271,995,000	-	1,271,995,000	1.7%
155	Cotton Development Organisation	1,817,709,702	4,211,000,000	6,028,709,702	24,307,478	-	24,307,478	0.4%
310	Uganda Investment Authority	12,163,240,016	4,178,328,860	16,341,568,876	302,700,000	-	302,700,000	1.9%
306	Uganda Export Promotion Board	5,226,479,716	56,280,720	5,282,760,436	780,283,844	-	780,283,844	14.8%
	Sub-Total Agriculture and Industry	255,200,971,764	355,791,064,888	610,992,036,652	11,703,121,828	-	11,703,121,828	1.9%
3- Governance, Revenue Collection and MoFPED (including UDB, Emyooga, UNOC)								
005	Ministry of Public Service	22,721,748,908	4,912,758,976	27,634,507,884	312,526,323	-	312,526,323	1.1%
008	Ministry of Finance, Planning & Economic Dev.	502,783,932,154	160,315,576,911	663,099,509,065	25,961,800,553	-	25,961,800,553	3.9%
023	Ministry of Science, Technology and Innovation	67,030,720,014	138,147,838,800	205,178,558,814	1,586,993,128	-	1,586,993,128	0.8%
119	Uganda Registration Services Bureau	13,926,708,563	405,000,000	14,331,708,563	422,260,300	-	422,260,300	2.9%
120	National Citizenship and Immigration Control	85,968,087,155	9,227,156,949	95,195,244,104	4,268,460,000	-	4,268,460,000	4.5%
141	Uganda Revenue Authority	284,421,304,646	44,243,695,827	328,665,000,473	8,832,139,956	-	8,832,139,956	2.7%
143	Uganda Bureau of Statistics	50,369,415,803	20,409,485,946	50,778,901,749	935,286,854	-	935,286,854	1.8%

Annex 1: Proposed suppression on the GOU Budget FY 2 1/22

Vote	Vote Description	Non Wage	Devt.	Budget (Non Wage and Devt)	Workshops and Travel	Other Proposed suppression	Total suppression	%
154	Uganda National Bureau of Standards	36,036,302,981	7,652,915,228	43,689,218,209	969,000,000	-	969,000,000	2.2%
	Sub-Total Revenue Collection and Standards	1,043,258,220,224	385,314,428,637	1,428,572,648,861	43,288,467,114	-	43,288,467,114	3.0%
4- Judiciary, Legislature, EC, Missions abroad								
101	Judiciary	210,180,061,139	58,009,500,000	268,189,561,139	2,029,044,000	-	2,029,044,000	0.8%
102	Electoral Commission	80,096,227,320	66,200,000,010	146,296,227,330	2,510,168,310	-	2,510,168,310	1.7%
104	Parliamentary Commission	550,994,832,489	175,691,000,000	726,685,832,489	24,567,364,636	-	24,567,364,636	3.4%
200	Missions Abroad	163,405,001,826	32,923,850,000	196,328,851,826	11,642,100,611	-	11,642,100,611	5.9%
	Sub-Total Judiciary, Legislature and EC	1,004,676,122,774	332,824,350,010	1,337,500,472,784	40,748,677,557	-	40,748,677,557	3.0%
5-KCCA and LG Grants								
122	Kampala City Council Authority	74,256,343,073	103,241,753,872	177,498,096,945	-	-	-	0.0%
500	Local Governments	1,152,773,029,838	683,794,163,443	1,836,567,193,281	-	-	-	0.0%
	Sub-Total KCCA and LG Grants	1,227,029,372,911	787,035,917,315	2,014,065,290,226	-	-	-	0.0%
	Total Protected	6,631,643,855,766	4,434,608,875,191	11,066,252,730,957	124,409,890,885	-	124,409,890,885	1.1%
Part Two-Non Protected Votes								
006	Ministry of Foreign Affairs	61,275,542,716	712,990,598	61,988,533,314	4,554,262,606	6,071,464,794	10,625,727,400.52	45.0%
007	Ministry of Justice and Constitutional Affairs	120,425,476,760	40,921,405,194	161,346,881,954	4,875,601,705	58,706,405,051	63,582,006,756.57	45.0%
011	Ministry of Local Government	13,238,761,178	22,435,158,924	35,673,920,102	1,040,514,000	10,776,841,726	11,797,355,725.54	45.0%
012	Ministry of Lands, Housing & Urban Dev.	59,625,991,618	38,920,964,458	98,546,956,076	2,560,715,364	31,221,339,202	33,782,054,566.48	45.0%
013	Ministry of Education and Sports	257,470,715,319	133,072,709,343	390,543,424,662	7,374,549,141	146,897,813,628	154,272,362,769.02	45.0%
016	Ministry of Works and Transport	116,312,783,158	458,755,457,916	575,068,241,074	1,542,868,320	240,445,624,263	241,988,492,582.53	45.0%
017	Ministry of Energy and Mineral Development	26,722,723,367	255,248,819,369	281,971,542,736	4,190,700,535	120,898,982,823	125,089,683,357.83	45.0%
019	Ministry of Water and Environment	22,910,094,680	499,882,776,964	522,792,871,644	2,583,144,432	222,441,570,535	225,024,714,966.57	45.0%
020	Ministry of Information & National Guidance	43,971,571,684	29,022,839,682	72,994,411,366	441,800,000	30,310,118,506	30,751,918,505.97	45.0%
021	East African Community Affairs	29,678,029,754	920,400,000	30,598,429,754	909,146,179	10,919,725,026	11,828,871,205.42	45.0%
022	Ministry of Tourism, Wildlife and Antiquities	141,592,627,416	16,140,968,872	157,733,596,288	752,226,364	68,633,186,229	69,385,412,592.98	45.0%
024	Ministry of Kampala Capital City and Metropolitan Affairs	4,010,000,000	13,293,212,651	32,306,391,009	27,160,000	1,303,455,986	1,788,455,985.88	45.0%
103	Inspectorate of Government (IG)-Statutory	19,013,178,358	200,020,403	7,806,374,576	502,000,000	2,309,654,159	2,811,654,159.32	45.0%
105	Law Reform Commission-Statutory	7,606,354,173	1,051,797,335	13,302,131,939	260,940,999	3,354,356,166	3,615,297,165.16	45.0%
106	Uganda Human Rights Comm-Statutory	20,242,275,054	4,414,167,988	24,656,443,042	1,644,385,630	7,445,344,464	9,089,730,094.06	45.0%
108	National Planning Authority-Statutory	17,688,500,737	9,512,771,250	27,201,271,987	650,000,000	8,601,079,657	9,251,079,656.61	45.0%
109	Law Development Centre	13,756,596,781	9,672,570,101	23,429,166,882	320,112,031	8,368,171,385	8,688,283,416.15	45.0%
111	Busitema University	6,355,461,714	650,000,000	7,005,461,714	328,694,010	1,753,456,461	2,082,150,471.49	45.0%
112	Ethics and Integrity	60,753,247,525	1,714,247,211,273	1,775,000,458,798	472,000,000	783,275,330,027	783,747,330,026.63	45.0%
113	Uganda National Road Authority	487,364,219,831	16,390,000,000	503,754,219,831	190,000,000	226,226,699,187	226,416,699,186.61	45.0%
118	Road Fund							
117	Uganda Tourism Board	15,688,055,838	155,302,512	15,843,358,350	1,312,487,569	5,169,534,549	6,482,022,117.56	45.0%
123	Rural Electrification Agency (REA)	16,880,298,395	128,139,340,875	145,019,639,270	635,973,035	61,189,091,417	61,825,884,451.95	45.0%
124	Equal Opportunities Commission	9,944,425,570	360,425,570	10,304,946,469	1,390,590,432	2,236,357,904	3,626,948,336.03	45.0%
126	National Information Technology Authority	15,747,104,742	7,442,585,563	23,189,690,305	510,596,030	7,616,832,415	8,127,428,444.65	45.0%
127	Muni University	4,907,184,651	7,200,000,000	12,107,184,651	46,626,000	4,575,452,600	4,622,078,600.15	45.0%
128	UNEPB	97,685,366,443	36,400,000,000	134,085,366,443	1,712,439,667	56,744,091,475	58,456,531,141.94	45.0%
129	Financial Intelligence Authority	12,343,431,540	215,000,000	12,558,431,540	420,400,000	4,382,969,912.61	4,382,969,912.61	45.0%
131	Auditor General- Statutory	34,682,475,704	3,050,000,000	37,732,475,704	3,989,022,555	9,222,721,257	13,211,743,812.07	45.0%
132	Education Service Commission	6,356,866,604	3,691,530,250	10,048,396,854	55,240,000	3,767,459,143	3,822,699,143.19	45.0%
133	Directorate of Public Prosecutions	30,281,249,733	13,292,766,464	43,574,016,197	228,787,000	16,946,609,102	17,175,396,102.07	45.0%

Annex 1: Proposed suppression on the GOU Budget FY 2 1/22

Vote	Vote Description	Non Wage	Devt.	Budget (Non Wage and Devt)	Workshops and Travel	Other Proposed suppression	Total suppression	%
136	Makerere University	141,752,220,775	16,716,209,712	158,468,430,487	4,322,740,421	52,118,190,494	56,440,930,914.57	45.0%
137	Mbarara University	14,646,984,665	3,685,768,714	18,332,753,379	345,090,623	5,559,665,306	5,904,755,929.31	45.0%
138	Makerere University Business School	38,755,971,674	3,220,500,000	41,976,471,674	515,374,270	14,199,908,824	14,715,283,094.34	45.0%
139	Kyambogo University	76,872,651,880	1,842,845,106	78,715,496,986	1,562,662,900	26,563,245,049	28,125,907,948.89	45.0%
140	Uganda Management Institute	18,072,385,529	1,200,000,000	19,272,385,529	1,127,327,000	5,936,365,461	7,063,692,460.66	45.0%
141	Public Service Commission	6,037,351,433	2,134,222,142	8,171,573,575	496,580,000	2,525,826,613	3,022,406,613.22	45.0%
142	Local Government Finance Comm	4,038,681,547	156,699,840	4,195,381,387	16,474,398	1,355,782,376	1,372,256,774.19	45.0%
143	Judicial Service Commission	8,178,038,389	772,796,624	8,950,835,013	68,668,700	2,910,065,173	2,978,733,872.67	45.0%
144	Gulu University	18,565,959,733	3,213,666,165	21,779,625,898	76,669,118	6,632,193,763	6,708,862,880.91	45.0%
145	National Environment Management Authority	10,167,066,830	989,999,994	11,157,066,824	1,196,000,000	2,501,748,619	3,697,748,619.15	45.0%
146	Public Procurement and Disposal of Assets	5,320,176,487	10,994,000,000	16,314,176,487	36,587,000	5,732,717,251	5,769,304,251.00	45.0%
147	Uganda Land Commission	32,691,123,690	38,809,756,122	71,500,879,812	1,730,000,000	15,641,523,499	17,371,522,167.38	45.0%
148	National Forestry Authority	15,731,437,522	12,882,993,000	28,614,430,522	407,400,000	11,612,283,499	12,019,683,499.06	45.0%
149	Lira University	7,995,730,027	5,317,211,884	13,312,941,911	89,321,000	4,717,956,549	4,807,277,548.98	45.0%
150	UNMA	4,139,424,461	14,202,330,974	18,341,745,435	453,200,000	6,368,813,990	6,822,013,990.26	45.0%
151	NCDC	29,708,370,157	3,900,000,000	33,608,370,157	1,789,000	3,885,312,838	3,887,101,838.32	45.0%
152	Kabale University	9,337,598,934	2,532,240,000	11,869,838,934	191,802,426	2,132,500,263	2,324,302,689.46	45.0%
153	Soroti University	4,779,445,123	3,956,767,848	8,736,212,971	501,914,000	15,152,895,458	15,654,809,457.73	45.0%
154	NIRA	47,322,660,101	7,366,562,779	54,689,222,880	1,452,262,643	8,547,605,941	9,999,868,583.74	45.0%
155	Petroleum Authority of Uganda	18,264,456,210	10,927,000,000	29,191,456,210	425,999,999	681,153,873	1,107,153,871.81	45.0%
156	Capital Markets Authority	3,419,249,004	-	3,419,249,004	60,000,000	1,878,695,299	1,938,695,298.55	45.0%
157	National Lotteries and Gaming Regulatory Board	5,886,000,000	820,000,000	6,706,000,000	1,977,333,200	3,464,403,735	5,441,736,934.55	45.0%
158	National Population Council	12,039,508,700	7,875,638,959	19,915,147,659	437,333,000	4,355,864,190	4,793,197,189.97	45.0%
159	Uganda Free Zones Authority	3,695,561,041	-	3,695,561,041	510,000,000	972,764,976	1,432,764,976.26	45.0%
160	Uganda Microfinance Regulatory Authority	8,296,816,928	-	8,296,816,928	979,562,000	1,789,465,762	2,769,027,761.93	45.0%
161	Uganda Retirement Benefits Regulatory Authority	4,940,463,904	-	4,940,463,904	85,000,000	1,272,232,511	1,357,232,511.39	45.0%
162	National Council for Higher Education	22,056,488,933	5,000,000,000	27,056,488,933	828,400,000	8,919,123,570	9,747,523,570.47	45.0%
163	Uganda Business and Technical Examination Board	16,759,672,104	-	16,759,672,104	256,015,000	6,975,789,219	7,231,804,218.54	45.0%
164	National Council of Sports	2,381,081,736,757	3,623,950,393,418	6,005,032,130,175	79,007,329,460	2,396,582,779,656	2,475,590,109,115	41.2%
	Sub-Total Non Protected Votes							
	Grand Total	9,012,725,592,523	8,058,559,268,609	17,071,284,861,132	203,417,220,344	2,396,582,779,656	2,600,000,000,000	17.0%

Annex 2: Status of recruitment of Parish Chiefs for FY 2021/22

No.	Vote No.	Local Government	No. of Parishes	No of Parish Chiefs in Post	No. of vacant posts	% Staffing Level	Status
1	501	Adjumani District	56	53	3	95%	Partially Filled
2	502	Apac District	54	34	20	63%	Partially Filled
3	503	Arua District	32	29	3	91%	Partially Filled
4	504	Bugiri District	98	53	45	54%	Partially Filled
5	505	Bundibugyo District	130	67	63	52%	Partially Filled
6	506	Bushenyi District	57	52	5	91%	Partially Filled
7	507	Busia District	62	32	30	52%	Partially Filled
8	508	Gulu District	48	44	4	92%	Partially Filled
9	509	Hoima District	55	28	27	51%	Partially Filled
10	510	Iganga District	42	39	3	93%	Partially Filled
11	511	Jinja District	34	34	0	100%	Filled
12	512	Kabale District	67	32	35	48%	Partially Filled
13	513	Kabarole District	52	40	12	77%	Partially Filled
14	514	Kaberamaido District	29	29	0	100%	Filled
15	515	Kalangala District	17	15	2	88%	Partially Filled
16	517	Kamuli District	81	66	15	81%	Partially Filled
17	518	Kamwenge District	62	57	5	92%	Partially Filled
18	519	Kanungu District	98	98	0	100%	Filled
19	520	Kapchorwa District	58	58	0	100%	Filled
20	521	Kasese District	212	135	77	64%	Partially Filled
21	522	Katakwi District	109	109	0	100%	Filled
22	523	Kayunga District	71	71	0	100%	Filled
23	524	Kibaale District	57	37	20	65%	Partially Filled
24	525	Kiboga District	58	27	31	47%	Partially Filled
25	526	Kisoro District	60	60	0	100%	Filled
26	527	Kitgum District	72	40	32	56%	Partially Filled
27	528	Kotido District	58	17	41	29%	Partially Filled
28	529	Kumi District	140	140	0	100%	Filled
29	530	Kyenjojo District	168	87	81	52%	Partially Filled
30	531	Lira District	58	58	0	100%	Filled
31	532	Luwero District	101	101	0	100%	Filled
32	533	Masaka District	18	18	0	100%	Filled
33	534	Masindi District	46	46	0	100%	Filled
34	535	Mayuge District	84	84	0	100%	Filled
35	536	Mbale District	90	37	53	41%	Partially Filled
36	537	Mbarara District	46	46	0	100%	Filled
37	538	Moroto District	38	27	11	71%	Partially Filled
38	539	Moyo District	57	57	0	100%	Filled
39	540	Mpigi District	56	56	0	100%	Filled
40	541	Mubende District	79	52	27	66%	Partially Filled
41	542	Mukono District	88	74	14	84%	Partially Filled
42	543	Nakapiripirit District	35	35	0	100%	Filled
43	544	Nakasongola District	68	68	0	100%	Filled
44	545	Nebbi District	63	42	21	67%	Partially Filled
45	546	Ntungamo District	129	120	9	93%	Partially Filled
46	547	Pader District	95	35	60	37%	Partially Filled
47	548	Pallisa District	90	49	41	54%	Partially Filled
48	549	Rakai District	73	73	0	100%	Filled
49	550	Rukungiri District	75	68	7	91%	Partially Filled
50	551	Sembabule District	65	65	0	100%	Filled
51	552	Sironko District	224	48	176	21%	Partially Filled
52	553	Soroti District	54	27	27	50%	Partially Filled
53	554	Tororo District	162	162	0	100%	Filled
54	555	Wakiso District	100	100	0	100%	Filled

Annex 2: Status of recruitment of Parish Chiefs for FY 2021/22

No.	Vote No.	Local Government	No. of Parishes	No of Parish Chiefs in Post	No. of vacant posts	% Staffing Level	Status
55	556	Yumbe District	197	197	0	100%	Filled
56	557	Butaleja District	76	33	43	43%	Partially Filled
57	558	Ibanda District	40	32	8	80%	Partially Filled
58	559	Kaabong District	85	32	53	38%	Partially Filled
59	560	Isingiro District	131	60	71	46%	Partially Filled
60	561	Kaliro District	87	29	58	33%	Partially Filled
61	562	Kiruhura District	56	56	0	100%	Filled
62	563	Koboko District	49	42	7	86%	Partially Filled
63	564	Amolatar District	86	51	35	59%	Partially Filled
64	565	Amuria District	99	99	0	100%	Filled
65	566	Manafwa District	157	157	0	100%	Filled
66	567	Bukwo District	109	66	43	61%	Partially Filled
67	568	Mityana District	76	76	0	100%	Filled
68	569	Nakaseke District	72	68	4	94%	Partially Filled
69	570	Amuru District	58	58	0	100%	Filled
70	571	Budaka District	76	76	0	100%	Filled
71	572	Oyam District	74	74	0	100%	Filled
72	573	Abim District	72	13	59	18%	Partially Filled
73	574	Namutumba District	111	111	0	100%	Filled
74	575	Dokolo District	71	71	0	100%	Filled
75	576	Buliisa District	37	14	23	38%	Partially Filled
76	577	Maracha District	91	25	66	27%	Partially Filled
77	578	Bukedea District	152	152	0	100%	Filled
78	579	Bududa District	160	160	0	100%	Filled
79	580	Lyantonde District	30	29	1	97%	Partially Filled
80	581	Amudat District	44	7	37	16%	Partially Filled
81	582	Buikwe District	31	31	0	100%	Filled
82	583	Buyende District	73	16	57	22%	Partially Filled
83	584	Kyegegwa District	81	35	46	43%	Partially Filled
84	585	Lamwo District	86	27	59	31%	Partially Filled
85	586	Otuke District	53	20	33	38%	Partially Filled
86	587	Zombo District	61	61	0	100%	Filled
87	588	Alebtong District	69	45	24	65%	Partially Filled
88	589	Bulambuli District	123	123	0	100%	Filled
89	590	Buvuma District	38	38	0	100%	Filled
90	591	Gomba District	49	49	0	100%	Filled
91	592	Kiryandongo District	43	43	0	100%	Filled
92	593	Luuka District	68	41	27	60%	Partially Filled
93	594	Namayingo District	50	42	8	84%	Partially Filled
94	595	Ntoroko District	48	48	0	100%	Filled
95	596	Serere District	70	70	0	100%	Filled
96	597	Kyankwanzi District	119	119	0	100%	Filled
97	598	Kalungu District	37	21	16	57%	Partially Filled
98	599	Lwengo District	45	45	0	100%	Filled
99	600	Bukomansimbi District	39	22	17	56%	Partially Filled
100	601	Mitooma District	77	54	23	70%	Partially Filled
101	602	Rubirizi District	53	46	7	87%	Partially Filled
102	603	Ngora District	73	73	0	100%	Filled
103	604	Napak District	59	57	2	97%	Partially Filled
104	605	Kibuku District	92	39	53	42%	Partially Filled
105	606	Nwoya District	44	27	17	61%	Partially Filled
106	607	Kole District	52	42	10	81%	Partially Filled
107	608	Butambala District	27	27	0	100%	Filled
108	609	Sheema District	51	47	4	92%	Partially Filled

Annex 2: Status of recruitment of Parish Chiefs for FY 2021/22

No.	Vote No.	Local Government	No. of Parishes	No of Parish Chiefs in Post	No. of vacant posts	% Staffing Level	Status
109	610	Buhweju District	72	34	38	47%	Partially Filled
110	611	Agago District	117	117	0	100%	Filled
111	612	Kween District	102	102	0	100%	Filled
112	613	Kagadi District	153	48	105	31%	Partially Filled
113	614	Kakumiro District	105	105	0	100%	Filled
114	615	Omoro District	65	28	37	43%	Partially Filled
115	616	Rubanda District	69	38	31	55%	Partially Filled
116	617	Namisindwa District	163	163	0	100%	Filled
117	618	Pakwach District	48	48	0	100%	Filled
118	619	Butebo District	61	29	32	48%	Partially Filled
119	620	Rukiga District	30	30	0	100%	Filled
120	621	Kyotera District	66	66	0	100%	Filled
121	622	Bunyangabu District	49	37	12	76%	Partially Filled
122	623	Nabilatuk District	24	15	9	63%	Partially Filled
123	624	Bugweri District	36	31	5	86%	Partially Filled
124	625	Kasanda District	92	30	62	33%	Partially Filled
125	626	Kwania District	49	42	7	86%	Partially Filled
126	627	Kapelebyong District	56	33	23	59%	Partially Filled
127	628	Kikuube District	29	23	6	79%	Partially Filled
128	629	Obongi District	28	18	10	64%	Partially Filled
129	630	Kazo District	51	43	8	84%	Partially Filled
130	631	Rwampara District	29	24	5	83%	Partially Filled
131	632	Kitagwenda District	55	37	18	67%	Partially Filled
132	633	Madi-Okollo District	46	46	0	100%	Filled
133	634	Karenga District	37	26	11	70%	Partially Filled
134	635	Kalaki District	34	19	15	56%	Partially Filled
135	636	Terego District	42	37	5	88%	Partially Filled
136	752	Entebbe Municipal Council	4	3	1	75%	Partially Filled
137	757	Kabale Municipal Council	12	9	3	75%	Partially Filled
138	762	Moroto Municipal Council	4	2	2	50%	Partially Filled
139	764	Tororo Municipal Council	8	8	0	100%	Filled
140	770	Kasese Municipal Council	18	17	1	94%	Partially Filled
141	772	Mukono Municipal Council	9	9	0	100%	Filled
142	773	Iganga Municipal Council	11	11	0	100%	Filled
143	774	Masindi Municipal Council	11	11	0	100%	Filled
144	775	Ntungamo Municipal Council	6	6	0	100%	Filled
145	776	Busia Municipal Council	8	8	0	100%	Filled
146	777	Bushenyi- Ishaka Municipal Council	16	16	0	100%	Filled
147	778	Rukungiri Municipal Council	12	9	3	75%	Partially Filled
148	779	Nansana Municipal Council	29	15	14	52%	Partially Filled
149	780	Makindye Ssabagabo Municipal Council	8	7	1	88%	Partially Filled
150	781	Kira Municipal Council	6	6	0	100%	Filled
151	782	Kisoro Municipal Council	7	7	0	100%	Filled
152	783	Mityana Municipal Council	15	12	3	80%	Partially Filled
153	784	Kitgum Municipal Council	11	11	0	100%	Filled
154	785	Koboko Municipal Council	10	10	0	100%	Filled
155	786	Mubende Municipal Council	18	16	2	89%	Partially Filled
156	787	Kumi Municipal Council	14	6	8	43%	Partially Filled
157	788	Lugazi Municipal Council	20	13	7	65%	Partially Filled
158	789	Kamuli Municipal Council	10	10	0	100%	Filled
159	790	Kapchorwa Municipal Council	27	24	3	89%	Partially Filled
160	791	Ibanda Municipal Council	21	21	0	100%	Filled
161	792	Njeru Municipal Council	16	16	0	100%	Filled
162	793	Apac Municipal Council	20	9	11	45%	Partially Filled

Annex 2: Status of recruitment of Parish Chiefs for FY 2021/22

No.	Vote No.	Local Government	No. of Parishes	No of Parish Chiefs in Post	No. of vacant posts	% Staffing Level	Status
163	794	Nebbi Municipal Council	9	9	0	100%	Filled
164	795	Bugiri Municipal Council	4	4	0	100%	Filled
165	796	Sheema Municipal Council	23	19	4	83%	Partially Filled
166	797	Kotido Municipal Council	19	16	3	84%	Partially Filled
167	851	Arua City	54	46	8	85%	Partially Filled
168	852	Mbarara City	23	17	6	74%	Partially Filled
169	853	Gulu City	32	21	11	66%	Partially Filled
170	854	Jinja City	26	19	7	73%	Partially Filled
171	855	Fort-Portal City	25	20	5	80%	Partially Filled
172	856	Mbale City	58	44	14	76%	Partially Filled
173	857	Masaka City	25	9	16	36%	Partially Filled
174	858	Lira City	49	28	21	57%	Partially Filled
175	859	Soroti City	25	18	7	72%	Partially Filled
176	860	Hoima City	16	8	8	50%	Partially Filled
TOTAL			10585	8066	2519	76%	

SUMMARY OF THE STATUS OF RECRUITMENT

NO.	Description	Status	% Staffing Level
1	Total Filled	70	40%
2	Total Partially Filled	106	60%
Total no. of LGs		176	



No: HIHC/002

REG NO.: 165336

SHARE CERTIFICATE

HORYAL INVESTMENTS HOLDING COMPANY LIMITED

Incorporated under the Companies Act No. 1/2012 of the laws of Uganda

No. of Certificate HIHC/002 No. of Shares 2,020,000 (Two Million Twenty Thousand) ordinary shares

HORYAL INVESTMENTS HOLDING COMPANY LIMITED

Capital USD \$ 5,251,291

Shares of shillings 10,000/= (Uganda Shillings Ten Thousand) each.

This is to certify that

UGANDA DEVELOPMENT COPORATION

of 5th floor, Soliz House, Plot 23 Lumumba Avenue, P.O. Box 7042, Kampala Uganda.

Is the registered Proprietor of 2,020,000 Paid up ordinary shares U.Shs 10,000/= Per share



Total issued shares of Horyal Investment Holding Company Limited is 20,000,000 ordinary shares

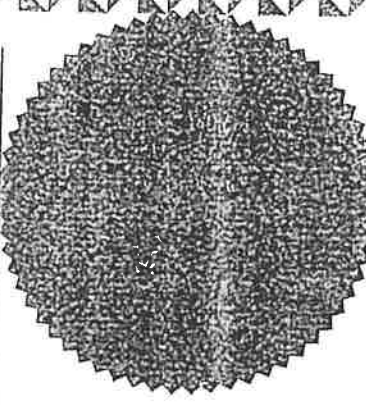
Number as in margin, in the above named Company subject to the regulations thereof

DISTICTIVE Nos.		NUMBER OF SHARES
From	To	
5,001	2,025,001	2,020,000

Given under the common seal of the Company

This 1st Day of June 2018

 Managing Director
 Director/Secretary



NOTE: 1. No Transfer of the above shares can be registered unless accompanied by this certificate and subject the company's Memorandum and Article of Association.

2. This share certificate is issued under Horyal Investment Holding Company Limited's Memorandum and Articles of Association as may be amended from time to time by the company and the Shareholders Agreement(s) the holder of this certificate shall have signed with the company and other Shareholders.



SHARE CERTIFICATE

HORYAL INVESTMENTS HOLDING COMPANY LIMITED

No: HIHC/009

ORIGINAL

REG NO.: 165336

Incorporated under the Companies Act No. 1/2012 of the laws of Uganda

No. of Certificate HIHC/009 No. of Shares 1,600,897 (One Million six hundred thousand eight hundred ninety seven) ordinary shares

HORYAL INVESTMENTS HOLDING COMPANY LIMITED

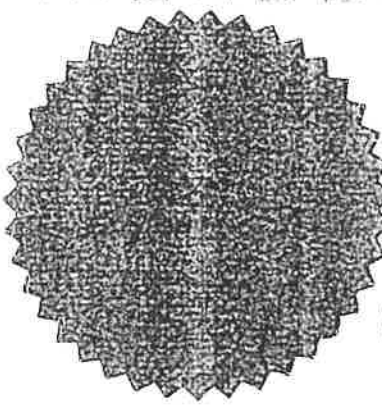
This is to certify that UGANDA DEVELOPMENT COPORATION

of 5th floor, Soliz House, Plot 23 Lumumba Avenue, P.O. Box 7042, Kampala Uganda.

Is the registered Proprietor of 1,600,897 Paid up ordinary shares



Total issued shares of Horyal Investment Holding Company Limited is 20,000,000 ordinary shares

Number as in margin, in the above named Company subject to the regulations thereof



DISTICTIVE Nos.		NUMBER OF SHARES
From	To	
18,399,103	20,000,000	1,600,897

Given under the common seal of the Company
This 1st Day of August 2019

Managing Director
Director/Secretary

NOTE: 1. No Transfer of the above shares can be registered unless accompanied by this certificate and subject the company's Memorandum and Article of Association.

2. This share certificate is issued under Horyal Investment Holding Company Limited's Memorandum and Articles of Association as may be amended from time to time by the company and the Shareholders Agreement(s) the holder of this certificate shall have signed with the company and other Shareholders.



SHARE CERTIFICATE

HORVAL INVESTMENTS HOLDING COMPANY LIMITED

No: HIHC/007

ORIGINAL

REG NO. : 165336

Incorporated under the Companies Act No. 1/2012 of the laws of Uganda

No. of Certificate HIHC/007 No. of Shares 4,380,000 (Four Million Three hundred and Eighty Thousand) ordinary shares

Capital USD \$ 11,800,000 USD

Share of shillings 10,000/= (Uganda Shillings Ten Thousand) each.

This is to certify that UGANDA DEVELOPMENT COPORATION
of 5th floor, Soliz House, Plot 23 Lumumba Avenue, P.O. Box 7042, Kampala Uganda.

Is the registered Proprietor of 4,380,000 Paid up ordinary shares U.Shs 10,000/= Per share

Total issued shares of Horyal Investment Holding Company Limited is 4,380,000 ordinary shares

Number as in margin, in the above named Company subject to the regulations thereof

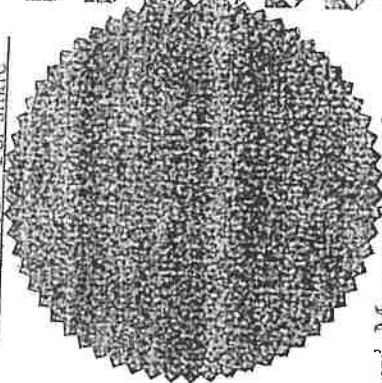
DISTICTIVE Nos.		NUMBER OF SHARES
From	To	4,380,000
13,025,001	17,405,001	

Given under the common seal of the Company

This 30th ~~Day~~ of July 2018

.....Managing Director

.....Director/Secretary



NOTE: 1. No Transfer of the above shares can be registered unless accompanied by this certificate and subject the company's Memorandum and Article of Association.

2. This share certificate is issued under Horyal Investment Holding Company Limited's Memorandum and Articles of Association as may be amended from time to time by the company and the Shareholders Agreement(s) the holder of this certificate shall have signed with the company and other Shareholders.