

For use in connection with an equity offering involving a prospectus – currently drafted for use with a pathfinder/preliminary prospectus in the context of an IPO; but with minor edits it can be adapted for use on rights issues or add-on offerings, whether with a final prospectus only or with both a pathfinder/preliminary plus final prospectus

THIS AGREEMENT is dated [] 20[]

BETWEEN:

- (1) [GLOBAL CO-ORDINATOR] of [] (*Global Co-ordinator One*);
- (2) [GLOBAL CO-ORDINATOR] of [] (*Global Co-ordinator Two* and, together with Global Co-ordinator One, the *Joint Global Co-ordinators*);
- (3) [UNDERWRITER ONE] of [] (*Underwriter One* and, together with the Joint Global Co-ordinators, the *Joint Bookrunners*);
- (4) [UNDERWRITER TWO] of [] (*Underwriter Two*); and
- (5) [UNDERWRITER THREE] of [] (*Underwriter Three* and, together with Underwriter Two, the *Co-Lead Managers*, and the Co-Lead Managers together with the Joint Bookrunners, the *Underwriters*).

WHEREAS:

(A) In connection with the proposed offering of Shares (the *Offer*) in [] plc (the *Company*), the Company has issued a pathfinder prospectus dated [] 20[] (the *Pathfinder Prospectus*) and is proposing to issue a final prospectus (the *Prospectus*, and together with the Pathfinder Prospectus and any supplementary prospectus published by the Company pursuant to [section 87G of the FSMA]¹, the *Offering Circulars*) dated the same date as this Agreement stating, amongst other things, the price at which Shares are being offered pursuant to the Offer.

(B) The Company, [the Directors,] [the Selling Shareholders,] [the Sponsor] and the Underwriters have entered into an underwriting [and sponsor's] agreement dated [] 20[] (the *Underwriting Agreement*) pursuant to which:

- (a) each of the Underwriters has agreed, severally and not jointly or jointly and severally, that the Joint Bookrunners² will seek to procure:
 - (i) as agents for the Company, subscribers for the number of New Shares shown opposite its name in column [] of the table in Part [] of schedule [] to the Underwriting Agreement, [and

¹ UK-centric elements of the agreement are highlighted in yellow.

² Include reference to the Underwriter(s) with the primary decision-making function. Whether it is the bookrunners or the global co-ordinators that drive the syndicate is likely to differ according to the transaction in question. In particular, where the bookrunners and the global co-ordinators are not the same entities, the division of responsibilities and the decision-making split between the two roles will need to be agreed and reflected in the Agreement. This standard form Agreement has been drafted on the assumption that the Joint Bookrunners have the primary decision-making function and references to the Joint Bookrunners are, therefore, included throughout. If this is not the case, the Agreement will need to be amended accordingly.

- (ii) as agents for the Selling Shareholders, purchasers for the number of Sale Shares shown opposite its name in column [] of the table in Part [] of Schedule [] to the Underwriting Agreement; and
- (b) each of the Underwriters has agreed, severally and not jointly or jointly and severally, that:
 - (i) to the extent that subscribers fail to be procured for or to subscribe for all of the New Shares (such number of New Shares which are not so subscribed being the *Unplaced New Shares*), it will subscribe for its Agreed Proportion of the Unplaced New Shares; [and
 - (ii) to the extent that purchasers fail to be procured for or to purchase all of the Sale Shares (such number of Sale Shares which are not so purchased being the *Unplaced Sale Shares* and, together with the Unplaced New Shares, the *Unplaced Shares*), it will purchase its Agreed Proportion of the Unplaced Sale Shares,

in each case,] at the Offer Price on the Closing Date and on the terms and subject to the conditions set out, or referred to, in the Underwriting Agreement.

(C) In addition, pursuant to the Underwriting Agreement, [], in its capacity as Stabilising Manager, has [entered into an agreement for the sale and purchase of the Over-allotment Shares with the Over-allotment Shareholders pursuant to which the Stabilising Manager may purchase, or procure purchasers for, up to a maximum of [] Shares], on the terms and subject to the conditions set out, or referred to, in the Underwriting Agreement.

(D) Each of the Company[, the Selling Shareholders] [and the Directors] has appointed [] and [] as joint global co-ordinators for the purposes of co-ordinating the Offer.

(E) [Each of the Company[, the Selling Shareholders] [and the Directors] has appointed [], [] and [] as joint bookrunners for the purposes of the Offer.]³

(F) [The Shares will be made available in the United States to qualified institutional buyers in accordance with Rule 144A under the Securities Act, or pursuant to another available exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, and to institutional and certain other investors outside the United States in reliance on Regulation S under the Securities Act.]

IT IS AGREED as follows:

1. INTERPRETATION

1.1 The Recitals and the Schedule to this Agreement have effect as parts of this Agreement.

1.2 This Agreement (and the Recitals and the Schedule) is to be construed and interpreted in accordance with Schedule 1.

³ See footnote 2 above

1.3 Each word and expression used in this Agreement (including in the Recitals and the Schedule) has, except insofar as the context requires otherwise or unless defined elsewhere in this Agreement, the meaning (if any) given to it in Schedule 1 or in the Underwriting Agreement. Insofar as there is any conflict between a meaning given to a word or expression by both this Agreement and the Underwriting Agreement, the meaning given by this Agreement shall prevail.

2. AUTHORITIES

2.1 Each of [Underwriter Two] and [Underwriter Three] (together, the **Non-JBR Underwriters** and each a **Non-JBR Underwriter**)⁴ hereby irrevocably appoints each of the Joint Bookrunners as its agent to take on its behalf separately or together such actions as the Joint Bookrunners may consider necessary (acting in good faith) to give effect to the transactions contemplated by the Underwriting Agreement, this Agreement and any ancillary agreements or arrangements, including (without limitation):

- (a) determining the allocation of the Offer Shares among investors pursuant to the Offer;
- (b) agreeing any addition or amendment to, or waiver or modification of, any provision of the Underwriting Agreement (except such Non-JBR Underwriter's Underwriting Commitment (other than pursuant to Clause 4)) to the extent not materially prejudicial to the Non-JBR Underwriters in the good faith opinion of the Joint Bookrunners⁵;
- (c) appointing any appropriately regulated bank, broker or dealer to procure or to assist in procuring subscribers [and/or purchasers] for such number of the Offer Shares as the Joint Bookrunners may determine;
- (d) waiving (in whole or part) compliance with, or satisfaction of, any of the conditions or obligations referred to in the Underwriting Agreement (including, for the avoidance of doubt, any of the Conditions set out in clause [] of the Underwriting Agreement), granting any extension of any time limit or period fixed under the Underwriting Agreement (provided that the Joint Bookrunners will not agree to any amendment to the definition of Long Stop Date without the agreement of all of the Non-JBR Underwriters) and/or making any determination falling to be made by the Underwriters (or any one or more of them) under the Underwriting Agreement or in connection with it;
- (e) following any default by an Underwriter in its obligation to pay or procure payment for the number of Shares required by Clause 3.4 and Clause 6, determining the proportions in Clause 4 on the basis determined by the Joint Bookrunners;

⁴ See footnote 2 above. If, in any particular case, the Underwriter(s) with the primary decision making function are the global co-ordinators, change the initial part of this paragraph to read, "Each of [Underwriter One], [Underwriter Two] and [Underwriter Three] (together, **the Non-GC Underwriters** and each a **Non-GC Underwriter**)..." and change all references to "Non-JBR Underwriters"/"Non-JBR Underwriter" to "Non-GC Underwriters"/"Non-GC Underwriter" respectively.

⁵ To be amended as necessary if different entities are acting as bookrunners and global co-ordinators.

- (f) in the case of the Stabilising Manager [(with the consent of the other Joint Bookrunners)]⁶, giving any notice for which the Underwriting Agreement provides in relation to the Over-allotment Shares;
- (g) entering into any arrangements that the Joint Bookrunners consider appropriate to effect payment for, and delivery of, the Offer Shares in connection with the Offer; [and]
- (h) executing and delivering, on the basis determined by the Joint Bookrunners, the Underwriting Agreement on behalf of themselves and each of the Non-JBR Underwriters⁷; [and]
- (i) [*include a reference to any other authorities, if any, that need to be specifically mentioned.*]

2.2 Each Underwriter agrees to ratify and confirm all and any action taken lawfully and in good faith on its behalf by the Joint Bookrunners or any of them in the exercise of the powers granted by Clause 2.1 and/or the other clauses of this Agreement and shall be bound by the terms of the Underwriting Agreement as executed or amended in accordance herewith.

2.3 None of the Joint Bookrunners shall have any responsibility or liability to any of the other Underwriters in relation to any exercise or failure to exercise a power granted by Clause 2.1 or in relation to any other exercise of its discretion under the Underwriting Agreement or this Agreement or in relation to its role as a Joint Bookrunner so long as it has acted in good faith. No obligations not expressly assumed by the Joint Bookrunners in this Agreement or the Underwriting Agreement shall be implied herefrom or therefrom.

2.4 Each Underwriter confirms that it has examined the Offer Documents published on or prior to the date of this Agreement, each as amended to date, and is familiar with the rights and restrictions attaching to the Shares and the terms of the Offer, including the over-allotment arrangements as described in the Prospectus. Each Underwriter confirms that the information relating to it in those documents is correct⁸. The Joint Bookrunners are authorised to consent, at their discretion on behalf of themselves and each of the other Underwriters, to any further amendments or supplements to the Offer Documents or any of them as may be agreed with the Company, provided that, in the opinion of the Joint Bookrunners, acting in good faith, any such further amendments or supplements are not materially prejudicial to the Non-JBR Underwriters.

3. BOOKBUILDING AND OFFERING

3.1 Each Underwriter agrees that:

- (a) the Offer Price has been/will be agreed between the Company and the Joint Bookrunners (who, for the avoidance of doubt, are acting for themselves and on

⁶ To be consistent with the approach agreed between the Stabilising Manager and the Joint Bookrunners. See also Clause 8.2.

⁷ The extent to which powers of attorney will be executed by syndicate members (and, therefore, the documents that will be executed by the Joint Bookrunners pursuant to those powers of attorney) to be determined on a case-by-case basis.

⁸ In most circumstances, this information will be limited to the Underwriter's name and address although the scope of the information covered may vary from transaction to transaction.

behalf of each of the other Underwriters), having regard to the outcome of the bookbuilding process;

- (b) allocations among investors pursuant to the Offer will be established by the Joint Bookrunners in their absolute discretion, subject to any contractual requirement pursuant to the Underwriting Agreement to agree those matters with the Company [and the Selling Shareholders];
- (c) subject to its obligations under Clause 6 and without prejudice to the underwriting obligations of the Underwriters pursuant to the Underwriting Agreement and this Agreement, [insert name of Joint Bookrunner which is acting as settlement bank] will, subject to Clause 3.1(d) below, be solely responsible for effecting payment for, and delivery of, the Offer Shares in connection with the Offer on behalf of the Underwriters; and
- (d) if agreed with the Joint Bookrunners with respect to such Underwriter, such Underwriter will effect payment to [insert name of Joint Bookrunner which is acting as settlement bank] for and, following receipt of the relevant number of Offer Shares from [insert name of Joint Bookrunner which is acting as settlement bank], will effect delivery of, such number of Offer Shares as may be agreed with the Joint Bookrunners (such number of Offer Shares being **Underwriter Settlement Shares**) and that such number of Underwriter Settlement Shares may be less than or (with the relevant Underwriter's agreement) greater than the number of Shares in its Underwriting Commitment. Any agreement with an Underwriter pursuant to this Clause 3.1(d) will be reached at, or as soon as convenient after, the time at which the Offer Price is set.

3.2 The number of Shares to be over-allocated by the Stabilising Manager will be determined by the Joint Bookrunners, on behalf of themselves and each of the other Underwriters. The Stabilising Manager agrees that at no time will the cumulative aggregate number of Shares which it has, on or before the Stabilisation Period End Date, acquired or agreed to acquire in Stabilisation Transactions less the cumulative aggregate number of Shares which it has disposed of or agreed to dispose of in Stabilisation Transactions exceed [15]⁹ per cent. of the aggregate Underwriting Commitments of all of the Underwriters.

3.3 Subject to the next following sentence, no Underwriter (other than [insert name of Joint Bookrunner which is acting as settlement bank]) will assert any right against the Company [or any Selling Shareholder] or the Joint Bookrunners to require the issue [or transfer] of any Shares to it. If an Underwriter has agreed with the Joint Bookrunners to effect payment for, and delivery of, Offer Shares pursuant to Clause 3.1(d), it will not assert any right against the Company [or any Selling Shareholder] or the Joint Bookrunners to require the issue [or transfer] of more than the number of its Underwriter Settlement Shares.

3.4 None of the matters provided for in this Clause 3 will relieve any Underwriter of any of its obligations to the Company [or any of the Selling Shareholders] under clause [] of the Underwriting Agreement, but insofar as:

⁹ This percentage will be determined on a case-by-case basis but it is anticipated that it will be the same percentage that the number of Shares the subject of the over-allotment option bears to the total number of Shares in the Offer. To the extent that it is not and a "naked short" is to be permitted, this will need to be agreed by the Stabilising Manager with the Joint Bookrunners. The ability to have a "naked short" may also be affected by the jurisdiction in which the transaction is taking place.

- (a) there are any Unplaced [New/Sale] Shares, subject to Clause 3.4(b), including as a result of the Joint Bookrunners allocating Shares to the same subscriber or purchaser more than once (or to two or more subscribers or purchasers who have the same investment manager and who intended to make only one order) or, pursuant to Clause 3.1(d), as a result of two or more Underwriters seeking to deliver Underwriter Settlement Shares to the same subscriber or purchaser (or to two or more subscribers or purchasers who have the same investment manager and who intended to make only one order), each Underwriter will be obliged under this Agreement to pay or procure payment for its Agreed Proportion of such Unplaced [New/Sale] Shares; and
- (b) there are Unplaced [New/Sale] Shares which are Underwriter Settlement Shares, any Underwriter which agreed with the Joint Bookrunners to effect payment for, and delivery of, any of such Underwriter Settlement Shares pursuant to Clause 3.1(d) will be obliged under this Agreement to pay or procure payment for such number of those Underwriter Settlement Shares which are Unplaced [New/Sale] Shares to the extent that they are Unplaced [New/Sale] Shares by reason of that Underwriter's neglect or default,

in each case, in accordance with Clause 6.

4. UNDERWRITING

The Joint Bookrunners will promptly inform each Underwriter of the aggregate number of Unplaced [New/Sale] Shares, if any, and of the number of Unplaced [New/Sale] Shares that that Underwriter is required to subscribe for [and purchase] pursuant to the terms of the Underwriting Agreement and this Agreement. Each Unplaced [New/Sale] Share will be subscribed for [or purchased, as the case may be,] by the relevant Underwriter at the Offer Price on the Closing Date (or as soon after the Closing Date as they are so notified by the Joint Bookrunners, as the case may be) and on the terms and subject to the conditions set out, or referred to, in the Underwriting Agreement.

5. DEFAULTS

5.1 If any Underwriter defaults in its obligation to pay or procure payment for the number of Shares required by Clause 3.4 and Clause 6, the Non-defaulting Underwriter(s) will pay or procure payment for the Defaulted Shares in such proportions as the Joint Bookrunners (or, if one of the Joint Bookrunners is a Defaulting Underwriter, the Joint Bookrunner which is the Non-defaulting Underwriter) may specify **PROVIDED THAT** no Non-defaulting Underwriter will be required as a consequence of the operation of this Clause 5.1, except with its agreement or pursuant to Clause 5.2, to pay or procure payment for more Offer Shares, in aggregate, than the number of Firm Shares in its Underwriting Commitment.

5.2 To the extent that, following the operation of Clause 5.1 but prior to the operation of this Clause 5.2, there would remain, by virtue of the proviso to that Clause, Defaulted Shares for which no Non-defaulting Underwriter would be required to, or has agreed to, pay or procure payment (*Remaining Defaulted Shares*), the Non-defaulting Underwriters will be severally liable to pay or procure payment for such Remaining Defaulted Shares, by 8.00 a.m. on the day following the Closing Date, in such proportions as the Joint Bookrunners may specify **PROVIDED THAT** no Non-defaulting Underwriter will be required as a consequence of the operation of this Clause 5.2, except with its agreement, to pay or procure payment for a number of Offer Shares which is greater than the sum of:

- (a) the number of Firm Shares in its Underwriting Commitment; and

(b) the number of Offer Shares that is equal to its Step-up Proportion of the Remaining Defaulted Shares **PROVIDED THAT** in no event shall this number be greater than []¹⁰ per cent. of the aggregate number of Firm Shares for such Non-defaulting Underwriter.

5.3 For the avoidance of doubt, the obligations contained in Clause 5.1 and Clause 5.2 are in addition to each Underwriter's payment obligations under Clause 6.1.

5.4 Any Underwriter which fails to pay or procure payment as required by Clauses 3.4, 5.1 or 5.2 hereby authorises the Joint Bookrunners to borrow for its account such sums as may be necessary to permit payment to the Company [and/or the Selling Shareholders (or any of them)] to be effected as required by the Underwriting Agreement and this Agreement, and to pay interest thereon at then current market rates or, as an alternative to borrowing, to lend as principal such sums to, or for the account of, the Defaulting Underwriter, and charge interest thereon at then current market rates. Any amounts (including interest) due from the Defaulting Underwriter as a result of any borrowing or lending pursuant to this Clause 5.4 will be payable to the relevant Non-defaulting Underwriter(s) on demand. Any amounts borrowed pursuant to this Clause 5.4 may be applied by the relevant Non-defaulting Underwriter(s) on behalf of the Defaulting Underwriter for the purposes for which it was borrowed.

5.5 If an Underwriter fails to pay or procure payment as required by Clauses 3.4, 5.1 or 5.2, it shall indemnify each Non-defaulting Underwriter against any [additional stamp duty or SDRT or any other similar] tax, charge or duty and any related costs, fines, penalties or interest (*transfer duties*) which becomes payable as a consequence of its default and which is not recoverable under the Underwriting Agreement and against all other losses which each Non-defaulting Underwriter may incur as a direct or indirect result of such failure.

5.6 Any Underwriter which defaults in its obligations to pay or procure payment for Offer Shares in accordance with this Agreement will cease to be entitled to any commissions in respect of those Offer Shares to which the failure relates.

5.7 The implementation of Clauses 5.1 to 5.6 will not affect the liability of a Defaulting Underwriter in respect of its default, nor relieve it of any of its obligations under this Agreement or the Underwriting Agreement.

5.8 Without prejudice to Clause 5.5 or Clause 5.6, if the Underwriting Agreement is terminated in accordance with clause [] or [] of that Agreement, no Underwriter shall have any additional obligations under Clause 5.1 or Clause 5.2.

6. PAYMENT AND USE OF PROCEEDS

6.1 Each Underwriter will:

(a) pay, or procure payment, to [*insert name of Joint Bookrunner which is acting as settlement bank*] for value by such time on or after the Closing Date as requested by the [*insert name of Joint Bookrunner which is acting as settlement bank*] in [pounds sterling] an amount equal to the product of:

(i) the Offer Price; and

¹⁰ This percentage will be the maximum percentage step-up on default that is agreed in the default provisions in the underwriting agreement (usually 10%).

- (ii) its Agreed Proportion of any Unplaced [New] Shares [that are not Underwriter Settlement Shares which it or another Underwriter is obliged to pay or procure payment for pursuant to Clause 3.4(b)]; plus
- (b) where it has agreed with the Joint Bookrunners to effect payment for, and delivery of, Underwriter Settlement Shares pursuant to Clause 3.1(d), pay, or procure payment, to [insert name of Joint Bookrunner which is acting as settlement bank] for value by such time on or after the Closing Date as requested by the [insert name of Joint Bookrunner which is acting as settlement bank] in [pounds sterling] an amount equal to the product of:
 - (i) the Offer Price; and
 - (ii) the number of Underwriter Settlement Shares that it is obliged to pay or procure payment for pursuant to Clause [3.4(b)].

6.2 [It is acknowledged by the Underwriters and [insert name of Joint Bookrunners which are not acting as settlement bank] that [insert name of Joint Bookrunner which is acting as settlement bank] will receive amounts under Clause 6.1 as agent for and on behalf of the Company [and, where relevant, the Selling Shareholders] and not for its own account.]

6.3 [Insert name of Joint Bookrunner which is acting as settlement bank] will apply the amounts received by it under Clause 6.1 together with an amount equal to:

- (a) the product of:
 - (i) the Offer Price; and
 - (ii) the number of Offer Shares; **less**
- (b) the aggregate amount received by it under Clause 6.1,

in accordance with the provisions of the Underwriting Agreement and otherwise, without prejudice to any of [insert name of Joint Bookrunner which is acting as settlement bank]'s obligations pursuant to this Agreement, in such manner as it may determine (including, without limitation, in or towards funding Stabilisation Transactions, if any, entered into in accordance with Clause 8).

7. SALES OF SHARES

7.1 No Underwriter other than the Stabilising Manager (and any lawful agent appointed by it) will effect any transactions (whether in the open market or otherwise) with a view to stabilising or maintaining the market price of any Security at levels other than those that might otherwise prevail.

7.2 Each Underwriter undertakes to each of the Joint Bookrunners that, prior to notification by or on behalf of the Joint Bookrunners that the distribution of the Shares being sold in the Offer has been completed or, if later, the Stabilisation End Date, it will not sell any Offer Shares at less than the Offer Price without the prior consent of the Joint Bookrunners
PROVIDED THAT:

- (a) [if an Underwriter is a member of the London Stock Exchange, nothing in this Clause 7.2 shall prevent that Underwriter from trading in Shares on the London Stock Exchange's [Automated Quotation System/Electronic Trading System] in the ordinary course of its business or from facilitating trades (including any associated

hedging) on behalf of its clients or from trading in Shares that is otherwise unconnected with the Offer]¹¹; and

- (b) nothing in this Clause 7.2 will restrict the ability of the Stabilising Manager to effect Stabilisation Transactions in accordance with Clause 8.

7.3 Except as otherwise provided in this Agreement, no Underwriter will have any duties or obligations of the kind owed to each of their respective clients to any other Underwriter, any affiliate of such Underwriter or any person who acquires Shares in connection with the Offer, by virtue of any communication or the placing of Shares or otherwise.

7.4 Except as otherwise provided in this Agreement and in respect of fraud or wilful misconduct, none of the Joint Bookrunners owe any duties or responsibilities nor have any liability to any Non-JBR Underwriter, any affiliate of any Non-JBR Underwriter or any person acquiring Shares in connection with or concerning the allocation of Shares, the establishment of the Offer Price or the suitability of the Shares for a Non-JBR Underwriter, any affiliate of a Non-JBR Underwriter or any person acquiring Shares or otherwise.

7.5 Except as expressly provided in this Agreement or in the Underwriting Agreement, but without prejudice to any power of attorney or other authority granted by a Non-JBR Underwriter, none of the Joint Bookrunners will be the agent of any Non-JBR Underwriter, any affiliate of any Non-JBR Underwriter or of any person acquiring Shares in connection with the Offer and no Non-JBR Underwriter will be the agent of any of the Joint Bookrunners or of any associate of any of the Joint Bookrunners or any other Underwriter or of any placee of Shares. The denial of agency by, respectively, the Joint Bookrunners and the Non-JBR Underwriters in this Clause 7.5 includes a denial of authority by any Underwriter to any other Underwriter to make statements or representations on its behalf.

8. STABILISATION AND OVER-ALLOTMENT

8.1 On or before the Stabilisation Period End Date, and to the extent permitted by applicable laws and regulations, the Stabilising Manager, or its agents, will be entitled (but will not be obliged) to engage in stabilising activities [including, without limitation, any activity contemplated by the Buy-back and Stabilisation Regulation and/or the price stabilising rules made under section 144 of the FSMA] (any such transactions being referred to in this Agreement as *Stabilisation Transactions*). Stabilisation Transactions, if commenced, may be discontinued at any time

8.2 In carrying out Stabilisation Transactions, the Stabilising Manager will act as principal and neither the Stabilising Manager nor any of its agents shall act as agent of any of the other Underwriters. Subject to this Agreement, the exercise of the powers of the Stabilising Manager pursuant to Clause 8.1 (including, without limitation, the decision whether or not to exercise such powers) will be at the absolute discretion of the Stabilising Manager and its agents and neither the Stabilising Manager nor any of its respective employees or agents shall, except in respect of fraud or wilful misconduct or gross negligence, be responsible or liable to, or have any duties to, any of the other Underwriters or any other person in respect thereof including, without limitation, with respect to the timing or terms of any Stabilisation Transaction or the amount of any Stabilisation Profit or Stabilisation Loss (including as a result of any currency exchange or any interest earned on any amount for the account of the other Underwriters). [Notwithstanding the above, the Stabilisation Manager acknowledges and agrees that it will follow any stabilisation strategy

¹¹ Alternative clause to be included if the Shares are not to be traded in London.

that has been or, prior to the Stabilisation Period End Date, is agreed with the Joint Bookrunners.]

8.3 The Stabilising Manager will be entitled to use Stabilisation Assets, where necessary after liquidating them, in order to fund Stabilisation Transactions and to meet any costs, expenses or losses it may incur in connection therewith and/or in paying on the Over-allotment Closing Date for any Over-allotment Shares in accordance with paragraph [] of schedule [] to the Underwriting Agreement.

8.4 The Stabilising Manager may advance its own funds or securities for the purpose of Stabilisation Transactions. If the Stabilising Manager advances cash, [acting reasonably,] it may charge interest at then current interest rates and if it lends securities it may charge reasonable fees at market rates, and such interest and fees will be taken into account in establishing the amount of the Stabilisation Profit or Stabilisation Loss.

8.5 The Underwriters agree that, to the extent that the Stabilising Manager acquires Shares under stock lending arrangements in order to ensure that a sufficient number of Shares is available to deliver to investors in connection with the Offer (being a number of Shares equal to the number of Offer Shares), such Shares will be:

- (a) acquired by the Stabilising Manager as principal in accordance with this Clause 8; and
- (b) transferred by the Stabilising Manager to or for the benefit of purchasers procured by the Stabilising Manager in order to satisfy its obligations to deliver Shares to investors in connection with the Offer.

9. COMMISSIONS

The Underwriters will be entitled, subject to Clause 5.6 and to Clause 10, to the Offer Commission (together with the applicable VAT thereon), being the aggregate amount payable pursuant to clause [] of the Underwriting Agreement, in the Underwriters' Agreed Proportions¹² [and, by way of discretionary fee, to the aggregate amount payable (if any) pursuant to clause [] of the Underwriting Agreement, in such proportions as the Company [or the Selling Shareholders], as the case may be, may stipulate]¹³.

¹² Underwriting, management and selling commissions to be split out as necessary.

¹³ If in any particular case it is desirable to split out the underwriting, management and selling commissions consider using the following as a new Clause 9:

“9.1 The Underwriters will be entitled, subject to Clauses [5.6, 9.2 and 9.3] and to Clause [10], to the Offer Commission (together with the applicable VAT thereon) on the following basis:

- (a) [by way of **Underwriting Commission**, an amount equal to [] per cent. of the aggregate commissions payable pursuant to clauses [] and [] of the Underwriting Agreement (equivalent to [] pence per Share), in the Underwriters' Agreed Proportions;
- (b) by way of **Management Commission**, an amount equal to [] per cent. of the aggregate commissions payable pursuant to clauses [] and [] of the Underwriting Agreement [less [] per cent., which shall be paid as a praecipium to the Joint Global Co-ordinators alone] (equivalent to [] pence per Share), in the Underwriters' Agreed Proportions;
- (c) by way of **Selling Commission**, an amount equal to [] per cent. of the aggregate commissions payable pursuant to clauses [] and [] of the Underwriting Agreement (equivalent to [] pence per Share), in the Underwriters' Agreed Proportions;] and

10. SETTLEMENT OF THE SYNDICATE ACCOUNT

10.1 As soon as practicable after the date on which the Stabilising Manager determines that no further Stabilisation Transactions will be entered into and in any event not later than [90] days after the Closing Date, the Syndicate Account will be settled and, subject to Clause 5.6, applied in accordance with the following provisions of this Clause 10. All settlements of the Syndicate Account will be made in [pounds sterling].

10.2 Any Stabilisation Profit or Loss will be applied by the Stabilising Manager for the account of each Underwriter subject, in relation to both any Stabilisation Profit and any Stabilisation Loss, to a maximum that is an amount equal to [one times] the amount of Offer Commission that the Underwriter is entitled to pursuant to clause [] of the Underwriting Agreement and Clause 9 of this Agreement (the **Stabilisation Limit**) and, to the extent that the amount of any Stabilisation Profit or Stabilisation Loss is less than the Stabilisation Limit, such Stabilisation Profit or Stabilisation Loss will be applied by the Stabilising Manager for the account of each Underwriter in its Agreed Proportion. For the avoidance of doubt, any Stabilisation Profit or Stabilisation Loss in excess of the Stabilisation Limit shall be for the account of the Stabilisation Manager.

10.3 [The Joint Bookrunners] may charge each Underwriter's account with any taxes on transfers of Shares made for such Underwriter's account and with such Underwriter's Agreed Proportion of all expenses, liabilities and other obligations howsoever incurred by the Joint Bookrunners on behalf of, or for the accounts of, or for the benefit of, the Underwriters, and with its agreed percentage of any Stabilisation Loss incurred by the Stabilisation Manager, as determined in accordance with Clause 10.2 (the **Agreed Percentage**). The respective accounts of the Underwriters will be settled as set out in this Clause 10, provided that any expenses, liabilities or other obligations not reimbursed or allowed by the Company [or any of the Selling Shareholders] by the time of settlement of the Syndicate Account will be deducted from any Offer Commission payable to the Underwriters. [The Joint Bookrunners] may also reserve and retain such amounts as they may reasonably and in good faith deem necessary or advisable for additional reasonable expenses, liabilities or other obligations not so reimbursed or allowed for by the Company. The Non-JBR Underwriters will not be reimbursed for any of their expenses incurred in connection with the Offer.

10.4 Notwithstanding any settlement by [*insert name of Joint Bookrunner which is acting as settlement bank*], each Underwriter will remain liable for any taxes on transfers of Shares made for such Underwriter's account and its Agreed Proportion of all expenses, liabilities and other obligations which may be incurred by the Joint Bookrunners on behalf of or for the accounts of themselves and the other Underwriters, as well as its Agreed Percentage.

(d) [by way of discretionary fee, the aggregate amounts payable (if any) pursuant to clauses [] and [] of the Underwriting Agreement, in such proportions as the Company or the Selling Shareholders, as the case may be, may stipulate.]

9.2 [In relation to Clause [9.1(c)], the Joint Global Co-ordinators agree that their aggregate entitlement to Selling Commissions under that Clause will not exceed [] per cent. of the aggregate of all of the Underwriters' entitlements to Selling Commissions under that Clause. If the Joint Global Co-ordinators' entitlement to Selling Commissions is reduced in accordance with this Clause [9.2], the entitlement of the other Underwriters will increase rateably in proportion to their entitlements as established under Clause [9.1(c)] by the amount of the reduction.]

9.3 Each of the Underwriters agrees that it will not, without the prior approval of the Joint Global Co-ordinators, pay or re allow to any person any part of any Selling Commission referred to in Clause [9.1(c)] to which it is entitled."

10.5 In the event of default by any Underwriter in respect of its obligations under this Clause 10, each Non-defaulting Underwriter will assume its Step-up Proportion of the obligations of such Defaulting Underwriter pursuant to Clause 5.2 without relieving such Defaulting Underwriter of its liability under this Clause 10.

10.6 Insofar as any provision made by the Stabilising Manager in settling the Syndicate Account subsequently proves unnecessary, the amounts reserved will be released to the Underwriters, in the proportions to which they would have been entitled if the provision had not initially been made.

10.7 The determination of the Joint Bookrunners, acting in good faith, of any amounts to be paid to or by the Underwriters pursuant to this Clause 10 shall be conclusive and binding on the Underwriters. Any of the Underwriters' funds in the hands of [the Joint Bookrunners] may be held with its general funds without accountability for interest.

10.8 [The Joint Bookrunners] shall be entitled to deduct from any monies payable to an Underwriter in accordance with this Clause, or otherwise in connection with the Offer, any amounts payable by that Underwriter pursuant to the Underwriting Agreement or this Agreement to the extent not otherwise already paid.

10.9 To the extent that the amounts paid by the Company [and/or the Selling Shareholders] to the Joint Bookrunners in respect of any costs, charges, fees and expenses [(or in respect of any associated VAT)] are insufficient to reimburse the Joint Bookrunners in full in respect of the costs, charges, fees and expenses [(or in respect of any associated VAT)] paid or incurred by the Joint Bookrunners in connection with the Offer, each of the Non-JBR Underwriters will pay to, or procure that the same is paid to, the Joint Bookrunners an amount equal to its Agreed Proportion of such un-reimbursed costs, charges, fees and expenses[, together with any associated irrecoverable VAT,] promptly upon receipt of any commissions payable pursuant to this Agreement or, following the settlement of the Syndicate Account, promptly on demand by the Joint Bookrunners.

10.10 [Each of the Joint Bookrunners] undertakes to each of the other Underwriters, subject to compliance by each of the other Underwriters with its obligations under Clauses 3 to 6, to account to [HM Revenue & Customs and/or to CRESTCo] for any amounts deducted in respect of transfer duties by [the Joint Bookrunners] from the payments made under the Underwriting Agreement to the Company [and/or the Selling Shareholders] and/or paid by the Company [and/or the Selling Shareholders] to [the Joint Bookrunners] under the Underwriting Agreement in respect of transfer duties (except to the extent that any such transfer duties shall have been discharged prior to such deduction or payment or shall not be properly due).

11. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

11.1 Each of the Underwriters severally, and not jointly and severally, represents and agrees with each of the other Underwriters that:

- (a) it will, in all material respects, comply with such applicable laws in each jurisdiction in which it acquires, offers, sells or delivers any Shares as are customarily complied with by investment banks of international reputation; and
- (b) it will comply with the selling restrictions set out in the Prospectus and Schedule [] of the Underwriting Agreement.

11.2 Each Underwriter agrees that, in acquiring, offering, selling or delivering any Shares, it will not rely upon any statement or representation, whether written or oral, express or implied, by any other Underwriter. Each Underwriter understands and agrees that it is not authorised to give any information or to make any representation not contained in the Prospectus in connection with the acquisition, offer, sale or delivery of Shares.

11.3 The undertakings and agreements of each party set out in this Clause 11 shall terminate, upon the earlier of:

- (a) the unanimous agreement of the Underwriters;
- (b) notice being given by or on behalf of the Joint Bookrunners to such effect; and
- (c) 40 days after the Closing Date, unless the Joint Bookrunners have given prior notice that the distribution of the Shares has not yet been completed, in which case the undertakings and agreements shall continue in force until notice to the Non-JBR Underwriters is given by the Joint Bookrunners that the distribution of the Shares has been so completed.

12. TERMINATION

12.1 Each party undertakes to each of the other parties to notify the Joint Bookrunners as soon as reasonably practicable if it becomes aware that any of the representations, warranties or undertakings set out in the Underwriting Agreement was, is or has become, or is likely to become, untrue, inaccurate or misleading in any respect or of any other matter or event of the sort referred to in clause [] of the Underwriting Agreement and which, subject to the opinion of such other parties in respect thereof, may give rise to the right to terminate the Underwriting Agreement.

12.2 The Joint Bookrunners may, in their absolute discretion, exercise their rights to terminate the Underwriting Agreement.

12.3 None of the Joint Bookrunners shall be responsible or liable to any other Underwriter, any affiliate of any party to this Agreement, or any placee of Shares or any other person whatsoever for any consequences resulting from the exercise of any discretion referred to in Clause 12.2 (including, without limitation, any termination of, or decision not to terminate, the Underwriting Agreement) or the timing thereof.

12.4 Without prejudice to Clause 11.3, upon termination of the Underwriting Agreement for any reason, and in any event on the fortieth day following the Closing Date, the provisions of this Agreement shall terminate, except for this Clause 12 and Clauses 5.5, 7.4, 7.5 and Clauses 14 to 24 without prejudice to any claim relating to any breach of the Underwriting Agreement or this Agreement prior to termination.

13. EXPENSES

All amounts paid by the Company [or the Selling Shareholders] to the Joint Bookrunners under the Underwriting Agreement (or deducted by the Joint Bookrunners from the payments made by the Joint Bookrunners to the Company [and the Selling Shareholders], in accordance with clause [] of the Underwriting Agreement) in respect of any costs, charges, fees and expenses payable by the Company [and/or the Selling Shareholders] under clauses [] and [] of the Underwriting Agreement [or in respect of VAT under clause [] of the Underwriting Agreement] which the Joint Bookrunners may have paid or incurred, shall be retained by the Joint Bookrunners for their own account. To the extent that the Joint Bookrunners receive

monies from the Company [or the Selling Shareholders] in respect of the costs of one or more of the Underwriters, the Joint Bookrunners shall account to the relevant Underwriter(s) for the relevant proportion thereof. Subject thereto, and save as otherwise provided herein, each of the Underwriters shall bear its own costs and expenses in connection with the Offer, including the negotiation of this Agreement.

14. INDEMNITY

14.1 Each party to this Agreement (an *Indemnifying Person*) severally and not jointly or jointly and severally agrees to indemnify and hold harmless each other party and any person who controls such party within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act and such party's and any such person's respective affiliates and subsidiary undertakings and each such person's ultimate parent undertaking and any subsidiary undertaking of such parent undertaking and each of such person's respective directors, officers and employees (each of the foregoing, an *Indemnified Person*) from and against all or any Claims asserted or established against that Indemnified Person in any jurisdiction and against all Expenses which that Indemnified Person may suffer or incur, in each case as incurred, (including, without limitation, all Expenses suffered or incurred in investigating, preparing for or disputing or defending any Claim and/or establishing its right to be indemnified pursuant to this Clause and/or seeking advice regarding any Claim or in any way related to or in connection with this indemnity), if the Claim or Expense arises, directly or indirectly, out of or is attributable to or connected with:

- (a) any of the Offer Documents (or any amendments or supplements thereto) or any other selling or advertising material used by the Underwriters in connection with the Offer, not containing all information required to be contained therein, but, in each case, only with respect to written information furnished by such Indemnifying Person expressly for use in the Offer Documents (or any amendments or supplements thereto) or such other selling or advertising material (such information to be limited to the information set out in Schedule [] to the Underwriting Agreement);
- (b) any untrue statement of a material fact contained in any of the Offer Documents (or any amendments or supplements thereto) or any other selling or advertising material used by the Underwriters in connection with the Offer, or the omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, but only with respect to untrue statements or omissions made in the Offer Documents (or any amendments or supplements thereto), or any other selling or advertising material used by the Underwriters in connection with the Offer, in reliance upon and in conformity with written information furnished by such Indemnifying Person expressly for use in the Offer Documents (or any amendments or supplements thereto) or such other selling or advertising material (such information to be limited to the information set out in Schedule [] to the Underwriting Agreement); or
- (c) any breach by such Indemnifying Person of any of the provisions of this Agreement or of the Underwriting Agreement.

14.2 Each Indemnified Person will have the right under the Contracts (Rights of Third Parties) Act 1999, to enforce its rights against any Indemnifying Person under this Clause 14 as amended from time to time **PROVIDED THAT** the relevant Underwriter will have sole conduct of any action on behalf of each Indemnified Person connected to it and no enforcement shall be permitted by any Indemnified Person without such Underwriter's

consent. The parties to this Agreement may terminate or vary the Agreement in any way and at any time without the consent of any Indemnified Person not a party to this Agreement.

14.3 The indemnities contained in this Clause 14 shall remain in full force and effect regardless of any investigations made by or on behalf of any party to this Agreement.

14.4 The obligations or liabilities of any Underwriter pursuant to this Clause 14 shall be in addition to any other obligations or liabilities which such Underwriter may have.

15. CLAIMS AGAINST UNDERWRITERS

15.1 If any person other than an Underwriter asserts a Claim against one or more of the Underwriters arising out of an untrue statement or omission or alleged untrue statement or omission in the Offer Documents or any of them, each of the Underwriters authorises the Joint Bookrunners, at their election and after such consultation with the other Underwriters as is reasonably practicable in the circumstances, to make such investigation, to retain such counsel for it and to take such action in the defence of such Claim as the Joint Bookrunners may deem necessary or advisable. Whenever any Underwriter receives notice of the assertion of any Claim to which the provisions of this Clause 15.1 would be applicable, such Underwriter will give prompt notice thereof to the Joint Bookrunners. Whenever the Joint Bookrunners receive notice of the assertion of any such Claim, they will give prompt notice thereof to each Underwriter. The Joint Bookrunners will also furnish each Underwriter with periodic reports, at such times as they deem appropriate, as to the status of any such Claim and the action taken by the Joint Bookrunners in connection therewith.

15.2 The Joint Bookrunners will not settle or compromise any Claim:

- (a) in the case of a Claim that is being asserted against only one or some of the Underwriters, without the prior written consent of the relevant Underwriter(s); or
- (b) in the case of a Claim that is being asserted against all of the Underwriters, without the prior written consent of Underwriters holding a majority of the aggregate Underwriting Commitments of all of the Underwriters; or
- (c) unless such settlement or compromise:
 - (i) includes an unconditional release of the Non-JBR Underwriter(s) and/or any other relevant Indemnified Person(s) from all liability arising out of such Claim; and
 - (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any relevant Indemnified Person,

in which case, no Non-JBR Underwriter or an Indemnified Person of such Non-JBR Underwriter shall have any right, action or claim against the Joint Bookrunners in respect thereof.

15.3 Each of the Underwriters will pay its Agreed Proportion of all expenses incurred by the Joint Bookrunners (including the fees and expenses of counsel so retained) in investigating and defending against such Claim and its Agreed Proportion of the aggregate liability incurred by all Underwriters in respect of such Claim (after deducting any contribution or indemnification obtained pursuant to the Underwriting Agreement, or otherwise from persons other than the Underwriters), whether such liability is the result of a judgement against one or more of the Underwriters or the result of any such settlement. A

Claim against, or liability incurred by, a person who controls an Underwriter shall be deemed to have been made against or incurred by such Underwriter. In the event of default by an Underwriter in respect of its obligations under this Clause 15.3, each Non-defaulting Underwriter shall assume its share of the obligations of such Defaulting Underwriter in its Step-up Proportion without relieving such Defaulting Underwriter of any liability under this Clause 15 or Clause 14.

15.4 Notwithstanding Clause 15.1, any Non-JBR Underwriter may retain separate counsel at its own expense.

16. NO PARTNERSHIP

16.1 None of the provisions of this Agreement, the Underwriting Agreement or any other agreement relating to the Offer or the Shares shall constitute or be deemed to constitute a partnership or joint venture between the parties or any of them, or between them (or any of them) and anyone else and, except as specifically provided herein or in the Underwriting Agreement, or as otherwise expressly agreed between the parties in writing, none of the parties shall have any authority to bind any other party in any way. Except as specifically provided herein or in the Underwriting Agreement, no Underwriter shall have any right to contribution or account against any other Underwriter and each Underwriter shall bear all losses and expenses incurred by it and shall be entitled to retain all profits earned by it in connection with the Offer and the issue and sale of Shares.

16.2 If for United States federal income tax purposes this Agreement shall be deemed to create a partnership among two or more of the parties hereto, then each Underwriter hereby elects to be completely excluded from the application of Sub-chapter K, Chapter 1, Subtitle A, of the United States Internal Revenue Code of 1986, as amended, beginning with the first date any such partnership is deemed to have been formed. Each of the Underwriters hereby authorises the Joint Bookrunners, in their absolute unanimous discretion on its behalf, to execute and file with the United States Internal Revenue Service such forms as may be necessary or appropriate to evidence such election.

17. WITHHOLDING AND GROSSING-UP

17.1 Save as otherwise provided herein, all sums payable to any of the Underwriters or any other Indemnified Person (for the purposes of this Clause 17 only, each a *payee*) under this Agreement shall be paid free and clear of all deductions or withholdings unless the deduction or withholding is required by law, in which event (and except in the case of interest) the person making the payment (for the purposes of this Clause 17 only the *payer*) shall pay such additional amount as shall be required to ensure that the net amount received by the payee will equal the full amount which would have been received by it had no such deduction or withholding been made.

17.2 If the payer makes such an increased payment and the payee subsequently obtains a refund of tax or credit against tax by reason of the payer making such a deduction or withholding, the payee shall reimburse the payer as soon as reasonably practicable with such amount as the payee shall determine to be such proportion of the said refund or credit as shall leave the payee after such reimbursement in no better or worse position (having regard to the time value of money) than it would have been in had no deduction or withholding been required. Nothing in this Clause 17.2 shall oblige the payee to disclose to the payer, nor shall the payer be entitled to inspect, any of the books and other records of the payee nor shall anything herein prevent the payee from arranging its tax and commercial affairs in whatever manner it thinks fit and, in particular, the payee shall not be under any obligation to claim credit or relief from or against its corporate profits or similar liability to tax in respect of the

amount of such deduction or withholding as aforesaid in priority to any other reliefs available to it.

17.3 If [HM Revenue & Customs or] any [other] tax authority brings into charge to tax (or into any computation of income, profit or gains for the purposes of any charge to tax) any sum payable to a payee under this Agreement or any sum withheld in accordance with this Agreement from any payment made to a payee (other than in respect of payments made under Clause 10, the Offer Commission referred to in Clause 9 and payments of interest[, in each case which are subject to corporation tax on the payee's actual net income, profits or gains]) the person liable under this Agreement to make such payment shall pay such additional amount as shall be required to ensure that the total amount received by the payee, less the tax chargeable thereon (or that would be so chargeable but for the availability of relief in respect of that charge to tax), is equal to the amount that would otherwise be so received (additional payments being made on demand of the payee).

17.4 In calculating the liability of any person to any payee pursuant to the indemnities contained in Clause 14, there shall be taken into account, having regard to the time value of money, the amount by which any liability to tax of the payee (or any person affiliated with the payee) is actually reduced or extinguished as a result of the matter giving rise to the indemnity claim.

18. INFORMATION PROCEDURES

18.1 Each of the Non-JBR Underwriters undertakes to each of the Joint Bookrunners to provide to the Joint Bookrunners, in such form and at such times as it may reasonably request, any other information which it may reasonably request in connection with the Offer.

18.2 Each of the Non-JBR Underwriters undertakes to each of the Joint Bookrunners to notify it as soon as practicable if it becomes aware that it has breached this Agreement or that the provisions of Clause 4 have become relevant.

19. ADVERTISING

19.1 Each of the Underwriters is authorised to send such ordinary course Bloomberg messages or "external use" e-mails or such other ordinary course communications, targeted at permitted professional investors, as are necessary or appropriate in relation to marketing the Offer on behalf of the Company [and the Selling Shareholders] on such dates and in such countries as it shall determine, in its absolute discretion, **PROVIDED THAT** any such Bloomberg message, "external use" e-mail or other ordinary course communication complies with applicable laws and regulations and the terms of this Agreement and the Underwriting Agreement. Each Underwriter consents to any necessary or appropriate use of its name in any such Bloomberg message, "external use" e-mail or other ordinary course communication provided that the name appears in the form and context previously notified to each of the other Underwriters.

19.2 Save to the extent contemplated in Clause 19.1, each of the Non-JBR Underwriters represents and warrants to each of the other Underwriters that it has not released any advertisement, announcement or other similar communication to the public (including, without limitation, press releases, general advertising or any "tombstone" advertisements) of, or in relation to, the Offer, its role in the Offer, the Group or the Shares in any jurisdiction (other than, for the avoidance of doubt, case studies that are targeted at such Underwriter's investment banking clients only), and undertakes to each of the other Underwriters that it will not do so prior to the Stabilisation Period End Date or, if earlier, the date on which all the New Shares [and Sale Shares] have been taken up or placed or, failing which, all the

Unplaced New Shares [and Unplaced Sale Shares] have been subscribed for [or purchased] by the Underwriters pursuant to the terms of the Underwriting Agreement and this Agreement, without the prior consent of the Joint Bookrunners.

19.3 Without prejudice to Clause 19.2, each party undertakes that any such advertisement, announcement or other similar communication to the public (as referred to in Clause 19.2) that it may make, and any case studies that it may issue, will comply with applicable laws and regulations and will be made in all respects on its own behalf and at its own expense and that no other party shall have any liability therefor or arising therefrom.

20. MISCELLANEOUS

20.1 The obligations of each of the parties under this Agreement are separate, not joint or joint and several and, accordingly, each party shall (save as otherwise agreed among them) have the right to protect and enforce its rights without joining the other parties in any proceedings.

20.2 Except as expressly otherwise provided in this Agreement [and/or the Underwriting Agreement], the taking of any action, making of any decision or exercise of any discretion pursuant to this Agreement by, and any determination made by, the Joint Bookrunners shall be on a joint and unanimous basis.

20.3 Each party to this Agreement agrees that it has not relied on any, and has acted independently of each other party to this Agreement in determining to execute and be a party to this Agreement and/or the Underwriting Agreement.

20.4 [Save as set out in Clause 14.2, a person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.]

20.5 Time shall be of the essence of this Agreement, both as regards the times, dates and periods mentioned herein and as regards any times, dates and periods which may, by agreement in writing between the parties hereto, be substituted for them.

20.6 Interest shall run (before and after judgement) on any sums due and payable hereunder from the due date for payment thereof until the date of actual payment at the Agreed Rate.

20.7 To the extent that the operation of any provision of this Agreement results in a number of Shares which includes a fraction of a Share, such fraction shall be rounded either up or down to the nearest whole number, or dealt with in such manner as the Joint Bookrunners shall determine.

20.8 [Notwithstanding the terms of the Underwriting Agreement, in relation to any discretion in the Underwriting Agreement that requires the unanimous consent of [the Joint Bookrunners], in the event that there is not unanimous consent, the agreement of [a majority in number of [the Joint Bookrunners / Non-defaulting Underwriters holding a majority of the aggregate Underwriting Commitments of all of the Non-defaulting Underwriters]] shall be deemed to be unanimous consent and, accordingly, the unanimous consent of [the Joint

Bookrunners] shall then be notified in accordance with the procedures set out in the Underwriting Agreement for the exercise of the relevant discretion.]¹⁴

20.9 For the avoidance of doubt, the provisions of this Agreement apply in place of the IPMA limits on stabilisation losses and unreimbursed expenses as set out in the IPMA Handbook, and such limits are hereby expressly disapplied. In addition, unless otherwise agreed in writing by the Banks, none of the other IPMA recommendations as set out in the IPMA Handbook shall apply to the Offer

21. PARTIAL INVALIDITY OR UNENFORCEABILITY

The invalidity or unenforceability for any reason whatsoever of any provision of this Agreement or the Underwriting Agreement will in no way affect the validity or enforceability of any of the other provisions of this Agreement or the Underwriting Agreement or of any other agreements or arrangements of which this Agreement or the Underwriting Agreement forms part, which provisions will remain valid and enforceable in all respects.

22. EXECUTION AND ADHERENCE

22.1 This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute the same instrument. Delivery of a counterpart of this Agreement by e-mail attachment or fax shall be an effective mode of delivery.

22.2 Execution of this Agreement by or on behalf of any party to this Agreement will constitute a warranty and undertaking to each other party to this Agreement that such party's affiliates have complied, and that each party to this Agreement will procure that its affiliates will comply, in all respects with the provisions of this Agreement as if they were a party to this Agreement.

23. NOTICES

23.1 Save as otherwise provided in this Agreement, any notice, demand or other communication to be served under this Agreement shall be in writing and shall be served upon any party hereto only by posting by first class post (if to an address in the same country) or air mail (if to an address in a different country) or delivering the same to its or his address given or referred to in this Clause 23 or sending the same by facsimile transmission to the number given in this Clause 23 for the addressee or at such other address or number as it or he may from time to time notify in writing in accordance with this Clause 23 to the other parties hereto.

23.2 A notice or demand served by first class post shall be deemed duly served on an addressee in the same country forty-eight hours (disregarding days which are not Business Days) after posting, a notice or demand served by air mail shall be deemed duly served on an addressee in a different country seven days (disregarding days which are not Business Days) after posting and a notice or demand delivered personally or sent by facsimile transmission shall be deemed duly served at the time of delivery or transmission (save that if the delivery

¹⁴ This wording is only likely to be used in limited circumstances and where agreed to, on a case-by-case basis, by the Joint Bookrunners. Care should be taken to consider any risks that might arise (and the advisability of including the clause or a similar clause) if it was deemed with hindsight to be inconsistent with the terms of the Underwriting Agreement as agreed with the Company [and the Selling Shareholders]. Alternative decision-making procedures may be agreed by the Joint Bookrunners.

or transmission occurs after 6.00 p.m. on a Business Day or on a day which is not a Business Day the notice or demand shall be deemed duly served at 8.30 a.m. on the next Business Day following delivery or transmission) and in proving service of the same it will be sufficient to prove, in the case of a letter, that such letter was left at or delivered to the correct address of the party to be served as provided in this Agreement or in the case of properly stamped or franked first class post or air mail, addressed to the address of the party to be served given in this Clause 23 and placed in the post and, in the case of a facsimile transmission, that such facsimile was duly transmitted to the number of the party to be served given in this Clause 23 and an electronic acknowledgement was received.

23.3 All notices, demands or other communications given under this Agreement, shall be given to the following addresses and numbers:

If to *[insert name of Global Co-ordinator One]*:

[]
[]
[]
[]

For the attention of: []

Fax Number: []

Telephone Number: []

If to *[insert name of Global Co-ordinator Two]*:

[]
[]
[]
[]

For the attention of: []

Fax Number: []

Telephone Number: []

If to *[insert name of Underwriter One]*:

[]
[]
[]
[]

For the attention of: []

Fax number: []

Telephone number: []

If to *[insert name of Underwriter Two]*:

[]
[]
[]
[]

For the attention of: []

Fax number: []

Telephone number: []

If to *[insert name of Underwriter Three]*:

[]

[]

[]

[]

For the attention of: []

Fax number: []

Telephone number: []

24. GOVERNING LAW AND JURISDICTION

24.1 This Agreement and the relationship among the parties to it and any non-contractual obligations which may arise out of or in connection with this Agreement shall be governed by and interpreted in accordance with English law.

24.2 All the parties agree that the courts of England are to have non-exclusive jurisdiction to settle any dispute (including claims for set-off and counter claims) which may arise out of or in connection with (i) the creation, validity, effect, interpretation, or performance of, or of legal relationships established by, this Agreement or otherwise arising out of or in connection with this Agreement, and (ii) any non-contractual obligations which may arise out of or in connection with this Agreement, and for such purposes irrevocably submit to the non-exclusive jurisdiction of the English courts¹⁵.

24.3 The parties irrevocably agree that a judgement and/or order of any court referred to in this Clause based on any matter arising out of or in connection with this Agreement is to be conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction, whether or not (subject to due process having been served on it) it participates in the relevant proceedings.

24.4 [Each of the parties with an address outside England shall at all times maintain an agent for service of process and any other documents and proceedings in England or any other proceedings in connection with this Agreement. For each of the Non-JBR Underwriters with an address outside England, such agent shall be the person identified in Schedule 2. Any writ, judgment or other notice of legal process shall be sufficiently served on the relevant party if delivered to such agent at its address for the time being. Each of the parties with an address outside England irrevocably undertakes not to revoke the authority of the above agent and if, for any reason, the Joint Bookrunners (for themselves or on behalf of the Indemnified Persons) request such party to do so it shall promptly appoint another such agent with an address in England and advise each of them. If, following such request, the relevant party fails to appoint another agent, the Joint Bookrunners shall be entitled to appoint one on the relevant party's behalf and at such party's expense.]

¹⁵ As an alternative, standard LCIA arbitration clause with an option to litigate may be agreed by the parties, especially in agreements involving banks located in jurisdictions where arbitration may be more appropriate.

IN WITNESS WHEREOF this Agreement has been duly executed under hand by the parties hereto.

SCHEDULE 1 DEFINITIONS AND INTERPRETATION

1. In this Agreement the following words and expressions shall have the meanings set out below:

Agreed Percentage has the meaning given in Clause 10.3;

Agreed Proportion means, in relation to Global Co-ordinator One, [] per cent., in relation to Global Co-ordinator Two, [] per cent., in relation to Underwriter One, [] per cent., in relation to Underwriter Two, [] per cent., and in relation to Underwriter Three, [] per cent.;

Agreed Rate means [LIBOR];

[affiliate means *[if there is no definition of “affiliate” in the Underwriting Agreement, appropriate definition to be included]*];

Claim means any and all claims, actions, liabilities, demands, proceedings, investigations, judgments or awards whatsoever and including any commenced or threatened investigation or proceeding by any governmental agency or body (in each case whether or not successful, comprised or settled and whether joint or several);

Closing Date means [] or such other date (not later than [] (the **Long Stop Date**)) for settlement of subscriptions and sales, as the case may be, under the Offer as the Company and the Joint Bookrunners (for themselves and on behalf of the other Underwriters) may agree; *[To track definition in the Underwriting Agreement]*

Co-Lead Managers means Underwriter Two and Underwriter Three;

Company has the meaning given in Recital (A);

Defaulted Shares means Offer Shares in respect of which an Underwriter has failed to pay or procure payment for as required by Clause 3.4 and Clause 6;

Defaulting Underwriter means an Underwriter which fails to pay or procure payment in accordance with this Agreement;

Expense means any and all losses, damages, costs, demands, charges or expenses (including legal fees) and Taxes (other than corporation tax incurred by the relevant Indemnified Person on its actual net income, profits or gains);

Firm Shares means the aggregate number of Shares in respect of which the Underwriters are obliged, pursuant to clause [] of the Underwriting Agreement, to procure subscribers [or purchasers] for, or failing which, themselves to subscribe for [or purchase];

Indemnified Person has the meaning given in Clause 14.1;

Indemnifying Person has the meaning given in Clause 14.1;

IPMA means the International Primary Market Association which merged with the International Securities Market Association in July 2005 to create the International Capital Market Association;

IPMA Handbook means the Handbook published by IPMA;

Joint Bookrunners means the Joint Global Co-ordinators [and []];

Joint Global Co-ordinators means Global Co-ordinator One and Global Co-ordinator Two;

[**LIBOR** means the one-month London Inter Bank Offered Rate as quoted on a reputable information service;]

Long Stop Date has the meaning given to it in the definition of Closing Date in this Schedule 1;

[**Management Commission** has the meaning given in Clause 9.1(b);]¹⁶

Non-defaulting Underwriter means an Underwriter which is not a Defaulting Underwriter;

Non-JBR Underwriters means Underwriter Two and Underwriter Three;

Offer has the meaning given in Recital (A);

Offer Commission means the aggregate commissions payable pursuant to clause [] of the Underwriting Agreement;

Offering Circulars has the meaning given in Recital (A);

Offer Shares means the aggregate number of Firm Shares plus any Shares over-allotted in connection with the Offer;

party means a party to this Agreement and **parties** shall be construed accordingly;

Pathfinder Prospectus has the meaning given in Recital (A);

Prospectus has the meaning given in Recital (A);

Remaining Defaulted Shares has the meaning given in Clause 5.2;

Securities means any Shares, any securities or other instruments convertible into or exchangeable for or representing rights to acquire or dispose of Shares and any securities convertible into or exchangeable for Shares, and includes any contract for differences or other derivative relating to any securities or any arrangement which otherwise comprises Securities and **Security** shall be construed accordingly;

[**Selling Commission** has the meaning given in Clause 9.1(c);]¹⁷

Shares means ordinary shares of [] pence each in the capital of the Company;

Stabilisation Assets shall comprise such amounts as are determined by the Stabilising Manager but shall include (without limitation):

¹⁶ See footnote 13. Only include this definition if in any particular case it is desirable to split out the underwriting, management and selling commissions and the alternative Clauses set out in footnote 13 are included in the Agreement.

¹⁷ See footnote 13. Only include this definition if in any particular case it is desirable to split out the underwriting, management and selling commissions and the alternative Clauses set out in footnote 13 are included in the Agreement.

- (a) the sums received or receivable by the Stabilising Manager under Clause 6.1 insofar as they exceed the sum of the amounts payable by it under Clause 6.2 (otherwise than in respect of Over-allotment Shares);
- (b) any Securities held or acquired as a result of any Stabilisation Transaction;
- (c) all income received or earned in respect of such Securities; and
- (d) any cash proceeds arising out of Stabilisation Transactions;

Stabilisation Liabilities shall comprise such amounts as are determined by the Stabilising Manager but shall include (without limitation):

- (a) all sums payable to lenders (including, if applicable, the Stabilising Manager or any other Underwriter) in respect of interest, fees or otherwise, on any funds or securities advanced to or borrowed by the Stabilising Manager for the purposes of Stabilisation Transactions (including in order to settle over-allotments in the Offer);
- (b) all other payments, costs and expenses (including tax and transfer duty liabilities, costs and expenses) made or incurred in connection with Stabilisation Transactions (including in respect of the cost of acquiring any Securities or rights arising as a result of Stabilisation Transactions) and any loans or other temporary acquisitions of any Securities (together, **Stabilisation Expenses**); and
- (c) all provisions made by the Stabilising Manager, when establishing the Syndicate Account, for any of the amounts referred to in sub-paragraph (a) or (b) above,

and [excluding], for the avoidance of doubt, any amounts payable to the Over-allotment Shareholders in respect of Over-allotment Shares pursuant to paragraph [] of schedule [] to the Underwriting Agreement.

Stabilisation Limit has the meaning given in Clause 10.2;

Stabilisation Loss means, where the Stabilisation Assets are less than the Stabilisation Liabilities, the amount of such deficit;

Stabilisation Profit means, where the Stabilisation Assets exceed the Stabilisation Liabilities, the amount of such excess;

Stabilisation Transaction has the meaning given in Clause 8.1;

Step-up Proportion means, in respect of a Non-defaulting Underwriter, the proportion which its Underwriting Commitment bears to the aggregate Underwriting Commitments of all Non-defaulting Underwriters;

Syndicate Account means such account or accounts designated as such by [the Joint Bookrunners];

underwrite means an obligation of an Underwriter arising under the Underwriting Agreement to subscribe for New Shares [and/or to purchase, Sale Shares] in the event that the Underwriters fail to procure subscribers and purchasers for all of the New Shares [and Sale Shares];

Underwriters means the Joint Global Co-ordinators, Underwriter One and the Co-Lead Managers;

Underwriter Settlement Shares has the meaning ascribed to it in Clause 3.1(d);

Underwriting Agreement has the meaning given in Recital (B);

[**Underwriting Commission** has the meaning given in Clause 9.1(a);]¹⁸

Underwriting Commitment means, in respect of a particular Underwriter, the number of Firm Shares calculated by applying the percentage set opposite its name in column [] of the table in Part [] of schedule [] to the Underwriting Agreement to the maximum number of Firm Shares;

Unplaced New Shares has the meaning ascribed to it in Recital (B); [and]

[**Unplaced Sale Shares** has the meaning ascribed to it in Recital (B); [and]]

[**Unplaced Shares** has the meaning ascribed to it in Recital (B).]

2. References in this Agreement to any Recital, Clause or Schedule are to recitals of, clauses of, and schedules to, this Agreement (except where the context otherwise requires).

3. Headings in this Agreement shall not affect its interpretation.

4. In this Agreement, words incorporating the singular only shall include the plural and vice versa and references to **persons** shall include individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships (including limited partnerships) and wherever any such associations or partnerships are formed or organised.

5. References to any statute, regulation or part thereof in this Agreement shall be construed as references thereto as amended or re-enacted (whether before or after the date of this Agreement) or as the application thereof is modified by other provisions prior to the date hereof or subsequently (provided that no modification subsequent to the date of this Agreement shall increase or extend the liability of the Underwriters under this Agreement), shall be construed as including references to any provision of which they are re-enactments (whether with or without modification) and shall be construed as including references to any order, instrument, regulation or other subordinate legislation made pursuant thereto.

6. References in this Agreement to times and dates are to London times and dates.

7. Each reference in this Agreement to a breach of any of its provisions includes a reference to any of the representations or warranties given in this Agreement being inaccurate or misleading.

8. Each reference to the terms and conditions of the Offer are to those terms and conditions as set out in the relevant Offer Document and as implied by law, regulation and any applicable market usage.

¹⁸ See footnote 13. Only include this definition if in any particular case it is desirable to split out the underwriting, management and selling commissions and the alternative Clauses set out in footnote 13 are included in the Agreement.

9. Unless the context otherwise requires, each reference in this Agreement to each of the Joint Bookrunners or any Non-JBR Underwriter by any description or in any capacity includes a reference to it in each other capacity in which it may act pursuant to this Agreement or the Underwriting Agreement.

SCHEDULE 2
[AGENT FOR SERVICE OF PROCESS]

[Insert details where relevant.]

SIGNED by)
for and on behalf of [GLOBAL)
CO-ORDINATOR ONE])

SIGNED by)
for and on behalf of [GLOBAL)
CO-ORDINATOR TWO])

SIGNED by)
as attorney for and on behalf of)
[**UNDERWRITER ONE**])

SIGNED by)
as attorney for and on behalf of)
[**UNDERWRITER TWO**])

SIGNED by)
as attorney for and on behalf of)
[**UNDERWRITER THREE**])

[] 20[]

[] PLC

AGREEMENT AMONG MANAGERS



Freshfields Bruckhaus Deringer

Freshfields Bruckhaus Deringer LLP
65 Fleet Street
London EC4Y 1HS

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