

EXECUTION VERSION

AMENDED AND RESTATED FACILITY AGREEMENT

**US\$811,500,000 TERM AND REVOLVING FACILITIES ORIGINALLY DATED 22 FEBRUARY
2021 AS AMENDED BY A WAIVER AND AMENDMENT LETTER DATED 30 SEPTEMBER
2021 AND FURTHER AMENDED AND RESTATED BY AN AMENDMENT AND
RESTATEMENT DEED DATED _____ 2023**

for

**PT HALMAHERA PERSADA LYGEND
as Borrower**

arranged by

**BNP PARIBAS and DBS BANK LTD.
as Joint Lead Coordinators
with**

**PT BANK DBS INDONESIA
acting as Agent**

**BNP PARIBAS
acting as Technical Bank**

and

**PT BANK MANDIRI (PERSERO) TBK
acting as Security Agent**

ALLEN & OVERY

Allen & Overy LLP

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CONTENTS

Clause	Page
1. Definitions and Interpretation.....	1
2. The Facilities	55
3. Purpose.....	58
4. Conditions of Utilisation	59
5. Utilisation – Loans	60
6. Utilisation – Letters of Credit.....	62
7. Letters of Credit.....	63
8. Repayment.....	64
9. Prepayment and Cancellation	66
10. Interest	71
11. Interest Periods	73
12. Changes to the Calculation of Interest.....	74
13. Fees	75
14. Tax Gross-Up and Indemnities	76
15. Increased Costs.....	79
16. Mitigation by the Lenders.....	81
17. Other Indemnities.....	81
18. Costs and Expenses	83
19. Representations.....	84
20. Information Undertakings.....	91
21. Banking Case	100
22. Financial Covenants	104
23. General Covenants	106
24. Project Insurance.....	117
25. Hedging.....	117
26. Events of Default	123
27. Enforcement of Transaction Security.....	128
28. Effect of Insolvency Event.....	129
29. Information	130
30. Changes to the Lenders	131
31. Role of the Administrative Parties.....	137
32. The Security Agent.....	145
33. Change of Security Agent and Delegation	151
34. Application of Proceeds	152
35. Sharing among the Finance Parties.....	155
36. Payment Mechanics.....	156
37. Set-Off	159
38. Notices	160
39. Calculations and Certificates.....	162
40. Partial Invalidity	163
41. Remedies and Waivers.....	163
42. Amendments and Waivers	163
43. Confidential Information	169
44. Confidentiality of Funding Rates	174
45. Counterparts.....	175
46. Governing Law.....	175
47. Enforcement.....	175

Schedule

1.	The Original Parties.....	177
	Part 1 The Original Obligors	177
	Part 2 The Arranger	178
	Part 3 The Original Initial Lenders	179
	Part 4 The Original Expansion Lenders.....	181
	Part 5 The Original Hedge Counterparties	182
2.	Conditions Precedent and Subsequent.....	183
	Part 1 Conditions Precedent to Financial Close.....	183
	Part 2 Conditions Precedent to Initial Utilisation of Facility B	192
	Part 3 Conditions Subsequent.....	193
3.	Utilisation Requests.....	195
4.	Repayment Schedule.....	196
	Part 1 Facility A Repayment Schedule	196
	Part 2 Facility B Repayment Schedule	197
	Part 3 Facility D Repayment Schedule	198
5.	Form of Transfer Certificate.....	199
6.	Form of Assignment Agreement	202
7.	Form of Compliance Certificate.....	205
8.	Equity True Up Compliance Certificate	206
9.	Form of Hedging Accession Letter.....	207
10.	Form of Cost to Complete Certificate	209
11.	Timetables	210
12.	Hedging Policy	211
13.	Project Insurances	214
	Part 1 Insurance Obligations.....	214
	Part 2 Construction Insurances.....	219
	Part 3 Operational Insurances	234
	Part 4 Endorsements and Acknowledgements under Direct Insurances.....	239
	Part 5 Endorsements and Acknowledgements under Reinsurances.....	243
	Part 6 Form of Broker's Letter of Undertaking	248
14.	Banking Case Timetable.....	252
15.	Form of Ratio Calculation Statement.....	253
16.	Form of Increase Confirmation.....	254
17.	Material Authorisations	257
	Part 1 Material Authorisations to be Delivered as Conditions Precedent.....	257
	Part 2 Material Authorisations to be Delivered as Conditions Subsequent.....	259
18.	Material EPC Contracts.....	260
19.	Reference Rate Terms.....	262
20.	[Not used].....	266
21.	Cumulative Compounded RFR Rate.....	267

THIS AGREEMENT is dated 22 February 2021, amended by an waiver and amendment letter dated 30 September 2021 and amended and restated by the Amendment and Restatement Deed (as defined below) and made

BETWEEN:

- (1) **PT HALMAHERA PERSADA LYGEN**D (the **Borrower**), a limited liability company established under the laws of Indonesia, domiciled at Gedung Panin Bank 5th Floor, Jl. Jenderal Sudirman, Senayan, Tanah Abang, Kelurahan Gelora, Kecamatan Tanah Abang Kota, Central Jakarta, Indonesia as borrower;
- (2) **THE FINANCIAL INSTITUTIONS** listed in Part 2 (The Arranger) of Schedule 1 (The Original Parties) as mandated lead arrangers (whether acting individually or together the **Arranger**);
- (3) **THE FINANCIAL INSTITUTIONS** listed in Part 3 (The Original Initial Lenders) of Schedule 1 (The Original Parties) as lenders (the **Original Initial Lenders**);
- (4) **THE FINANCIAL INSTITUTIONS** listed in Part 4 (The Original Expansion Lenders) of Schedule 1 (The Original Parties) as lenders (the **Original Expansion Lenders**, and together with the Original Initial Lenders, the **Original Lenders**);
- (5) **THE FINANCIAL INSTITUTIONS** listed in Part 5 (The Original Hedge Counterparties) of Schedule 1 (The Original Parties) as hedge counterparties (the **Original Hedge Counterparties**);
- (6) **PT BANK DBS INDONESIA** as agent of the Finance Parties (other than itself) (the **Agent**);
- (7) **BNP PARIBAS**, a *société anonyme* incorporated in France and acting through its Singapore branch at 20 Collyer Quay #01-01, Singapore 049319 as technical and modelling bank (in this capacity, the **Technical Bank**); and
- (8) **PT BANK MANDIRI (PERSERO) TBK** as security trustee for the Secured Parties (the **Security Agent**).

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

Abandonment shall occur if construction or operation of all or substantially all of the Processing Facilities ceases and:

- (a) the Borrower expressly gives notice in writing to the Agent of the intention that such activities are permanently not to be resumed; or

- (b) such cessation continues without interruption for sixty (60) days (or, if such cessation is due to Force Majeure (Project), one hundred and eighty (180) days), no notice is given in accordance with paragraph (a) of this definition and:
- (i) the Agent delivers to the Borrower a notice requesting a certificate to the effect that the Borrower shall cause such construction or operation to resume as soon as is commercially reasonable; and
 - (ii) within thirty (30) days following delivery of such notice, the certificate requested is not delivered or if the certificate is delivered but the Borrower does not resume such activities within sixty (60) days (or three hundred and sixty-five (365) days if the cessation is caused by Force Majeure (Project)) of the date the Borrower receives the notice from the Agent.

Acceleration Event means the Agent exercising any of its rights under Clause 26.21 (Acceleration).

Acceptable Hedge Counterparty means any Lender or its Affiliate that:

- (a) at the time of entering into any Hedging Agreement or any Hedging Transaction has a long-term debt securities or issuer credit rating of at least Baa1 by Moody's or BBB+ by S&P or Fitch; and
- (b) at any time thereafter has a long-term debt securities or issuer credit rating of at least Baa1 by Moody's or BBB+ by S&P or Fitch.

Account Bank means each of the Onshore Account Bank and the Offshore Account Bank.

Accrued Amounts has the meaning given to that term in Clause 30.12(a) (Pro-rata interest settlement).

Additional Business Day means any day specified as such in the Reference Rate Terms.

Additional Offtaker has the meaning given to that term in the Amendment and Restatement Deed.

Administrative Party means each of the Agent, the Technical Bank, the Arranger and the Security 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 and **Affiliated** shall be construed accordingly.

AMDAL means environmental impact assessment or *analisis dampak lingkungan* as referred to in Government Regulation No. 27 of 2012 on Environmental Permit and its implementing regulations as approved by the North Maluku Governor pursuant to Decree No. 502/1/DPMPSTP/I/2020 dated 13 January 2020 .

Amended and Restated Conditional Assignment over Project Documents means the Indonesian-law governed amended and restated agreement in respect of the Conditional Assignment over Project Documents to be entered into on or after the Amendment and Restatement Date between the Borrower and the Security Agent.

Amended and Restated Facility Letter means the amended and restated agreement in respect of the Facility Letter to be entered into on or after the Amendment and Restatement Date between the Borrower, each other Obligor, the Agent and the Security Agent.

Amended and Restated Fiducia Security of Building means an amended and restated agreement in respect of the Fiducia Security of Building to be entered on or after the Amendment and Restatement Date.

Amended and Restated Fiducia Security of Inventories means an amended and restated agreement in respect of the Fiducia Security of Inventories to be entered on or after the Amendment and Restatement Date.

Amended and Restated Fiducia Security of Machinery and Equipment means an amended and restated agreement in respect of the Fiducia Security of Machinery and Equipment to be entered on or after the Amendment and Restatement Date.

Amended and Restated Fiducia Security of Receivables, Insurance Claim Proceeds and Intellectual Property Rights means an amended and restated amendment agreement in respect of the Fiducia Security of Receivables, Insurance Claim Proceeds and Intellectual Property Rights to be entered on or after the Amendment and Restatement Date.

Amended and Restated Indonesian Law Completion Guarantee means an amended and restated agreement in respect of the Indonesian Law Completion Guarantee to be entered on or after the Amendment and Restatement Date.

Amended and Restated Lygend Share Pledge means an amended and restated agreement in respect of the Lygend Share Pledge to be entered on or after the Amendment and Restatement Date.

Amended and Restated Pledge of Onshore Project Accounts means an amended and restated agreement in respect of the Pledge of Onshore Project Accounts to be entered on or after the Amendment and Restatement Date.

Amended and Restated TBP Share Pledge means an amended and restated agreement in respect of the TBP Share Pledge to be entered on or after the Amendment and Restatement Date.

Amendment Document has the meaning given to that term in the Amendment and Restatement Deed.

Amendment and Restatement Date means the date of the Amendment and Restatement Deed.

Amendment and Restatement Deed means the amendment and restatement deed relating to this Agreement, the Cash and Accounts Management Agreement and the Equity Support and Retention Deed dated _____ 2023 and made between, among others, the Borrower and the Agent.

Amendment and Restatement Effective Date means the Effective Date as defined in the Amendment and Restatement Deed.

Annual Operating Budget has the meaning given to that term in Clause 20.10(a)(ii) (Operating Budget).

Anti-Bribery and Corruption Laws means the FCPA, the UK Bribery Act of 2010 or any similar laws, rules or regulations issued, administered or enforced by the United States, United Kingdom, Singapore, the European Union or any of its member states, or any other country or Governmental Authority having jurisdiction over any Obligor.

Anti-Money Laundering Laws means applicable laws or regulations in any jurisdiction in which the Obligors are located or doing business that relate to money laundering, any predicate crime to money laundering or any financial record keeping, and reporting requirements related thereto.

APLMA means the Asia Pacific Loan Market Association Limited.

Applicable Laws means any law, constitutional law, statute, regulation, resolution, rule, treaty (having the force of law), ordinance, order, decree, directive, guidelines, governmental restrictions, policy (written or unwritten) and any official determinations by, or interpretations of any of the foregoing (whether or not having the force of law but, if not having the force of law, being such that compliance therewith would customarily be required) by any relevant Governmental Authority, now or at any time in effect, and which is applicable to the relevant matter, including without limitation Law No. 4 of 2009 on Mineral and Coal Mining as amended by Law No. 3 of 2020 and its implementing regulations.

Assignment Agreement means an agreement substantially in the form set out in Schedule 6 (Form of Assignment Agreement) or any other form agreed between the relevant assignor, assignee and the Agent.

Assumption means each Economic Assumption and Technical Assumption.

Auditor means Teramihardja, Prahono & Chandra, member firm of Rodl & Partner or any other firm appointed by the Borrower to act as its statutory auditor in accordance with Clause 20.6 (Auditors) and as replaced from time to time in accordance with Clause 23.9 (Replacement of Auditors).

Authorisation means:

- (a) an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, lodgement or registration; or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law or regulation if a Governmental Authority intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Automatic Early Termination means the termination or close-out of any hedging transaction prior to the maturity of that hedging transaction which is brought about automatically by the terms of the relevant Hedging Agreement and without any party to the relevant Hedging Agreement taking any action to terminate that hedging transaction.

Availability Period means:

- (a) in respect of Facility A, the period commencing on the Original Agreement Date to and including the earlier of:
 - (i) the Module Commercial Operation Date in respect of the MHP Module;
 - (ii) the date on which the Available Facility in relation to Facility A has been fully drawn or reduced to zero; and
 - (iii) the date falling twelve (12) Months from the Original Agreement Date;
- (b) in respect of Facility B, the period commencing on the Original Agreement Date to and including the earlier of:
 - (i) the Project Commercial Operation Date;

- (ii) the date on which the Available Facility in relation to Facility A and Facility B has been fully drawn or reduced to zero; and
- (iii) 30 September 2022; and
- (c) in respect of Facility C, the period commencing on the Original Agreement Date to and including the date falling sixty (60) Months from the Original Agreement Date;
- (d) in respect of Facility D, the period commencing on the Amendment and Restatement Date to and include the earlier of:
 - (i) the Project Commercial Operation Date;
 - (ii) the date on which the Available Facility in relation to Facility D has been fully drawn or reduced to zero; and
 - (iii) the date falling twelve (12) Months from the Amendment and Restatement Date.

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

other than, in relation to any proposed Utilisation under Facility C only, that Lender's participation in any Facility C Utilisations that are due to be repaid or prepaid 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.

Available Funds means, the aggregate (without double-counting) of:

- (a) amounts standing to the credit of the Equity Account, Early Generation Equity Account, Retention Sum Account, Revenue Account, Operating Account, Disbursement Account and the Local Accounts;
- (b) the Available Commitments of each Facility;
- (c) the Base Equity Commitment to the extent not already contributed to the Borrower; and
- (d) the Early Generation Revenues projected to still be received pursuant to the most recently approved Banking Case,

in each case, at the time available (or in the case of paragraph (d) above, will be available) to the Project for the payment of Project Costs.

Banking Act means the Banking Act 1970 of Singapore.

Banking Case means the financial model which generates:

- (a) the Original Initial Banking Case;

- (b) the Original Expansion Banking Case; and
- (c) each new Banking Case as updated from time to time in accordance with Clause 21 (Banking Case), including each Interim Banking Case,

in each case, as approved or determined by the Technical Bank or the Majority Lenders (as the case may be) in accordance with Clause 21 (Banking Case).

Base Equity Commitment has the meaning given to such term in the Equity Support and Retention Deed.

Break Costs means any amount specified as such in the Reference Rate Terms.

Bridge Facilities means the facilities made available to the Borrower pursuant to the Bridge Facilities Agreement.

Bridge Facilities Agreement means the facility agreement dated 31 July 2019 between the Borrower as borrower, the financial institutions named therein as mandated lead arrangers and lenders, PT Bank OCBC NISP TBK as agent and PT Bank Mandiri (Persero) TBK as security agent, and as amended and restated on 19 June 2020, as amended on 27 October 2020 and as may be further amended from time to time.

Bridge Facilities Discharge Document means the Indonesian law termination and release agreement to discharge the Existing Indonesian Law Security and Guarantee and the Singapore law termination and release agreement to discharge the Existing Singapore Law Security and Guarantee under which secures or guarantees the Bridge Facilities Liabilities.

Bridge Facilities Finance Document means each document identified as a “Finance Document” under the Bridge Facilities Agreement.

Bridge Facilities Finance Party means each financial institution named under the Bridge Facilities Agreement as “Finance Party”.

Bridge Facilities Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) owed to any Bridge Facilities Finance Party under or in connection with the Bridge Facilities Finance Documents.

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in Jakarta, Singapore and New York and in relation to:

- (a) any date for payment or purchase of an amount relating to a Loan or Unpaid Sum; or
- (b) the determination of the first day or the last day of an Interest Period for a Loan or Unpaid Sum, or otherwise in relation to the determination of the length of such an Interest Period,

which is an Additional Business Day relating to that Loan or Unpaid Sum.

Calculation Date means:

- (a) in respect of the first Calculation Date, the date falling six (6) Months after the Facility A First Repayment Date or, if earlier, the last day of the financial year in which the Facility A First Repayment Date falls; and
- (b) thereafter, the last day of each financial half year falling after the first Calculation Date.

Calculation Period means a Historic Period or a Projected Period.

Captive Power Plant means any captive coal-fired power plant constructed or to be constructed by the Borrower in connection with the Project.

Captive Power Plant Project Costs means all costs, expenses and liabilities of a capital (but not an operating) nature in relation to the development, construction, engineering, procurement, manufacturing, completion, testing, commissioning, ownership, insuring, and obtaining permits for, the Captive Power Plant.

Cash and Accounts Management Agreement means the cash and accounts management agreement dated 23 March 2021 between the Borrower, each Account Bank, the Agent and the Security Agent, as amended and restated by the Amendment and Restatement Deed.

Cash Flow Available for Debt Service or CFADS means, for any Calculation Period:

- (a) Gross Revenues received (or, in relation to a projection, forecast to be received and taking into account any net changes in working capital over such Calculation Period) by the Borrower during that Calculation Period; *less*
- (b) Operating Costs paid (or, in relation to a projection, forecast to be paid) by the Borrower during such Calculation Period.

Cash Sweep Payment means any payment made in accordance with Clause 9.1(d)(ii) (Early Generation Cash Sharing and Cash Sweep) and clause 7 (Cash Sweep) of the Cash and Accounts Management Agreement.

Central Bank Rate has the meaning given to that term in the Reference Rate Terms.

Central Bank Rate Adjustment has the meaning given to that term in the Reference Rate Terms.

Charged Property means all of the assets which from time to time are, or are expressed to be, the subject of Transaction Security.

Close-Out Netting means any step involved in determining an Early Termination Amount (as defined in the ISDA Master Agreement) under section 6(e) (Payments on Early Termination) of the ISDA Master Agreement.

Code means the US Internal Revenue Code of 1986.

Commissioning and Ramp-up Plan means the commissioning and ramp-up plan delivered and updated quarterly by the Borrower pursuant to Clause 20.9 (Commissioning and Ramp-up Plan).

Commitment means a Facility A Commitment, a Facility B Commitment, a Facility C Commitment or a Facility D Commitment.

Compensation means any amounts paid or payable to or for the account of the Borrower:

- (a) as compensation by an Offtaker or Nickel Ore Supplier under and in accordance with an Offtake Agreement or Nickel Ore Supply Agreement with respect to the termination of such agreement;
- (b) as Performance Liquidated Damages;

- (c) as compensation for any seizure, compulsory acquisition, expropriation or nationalisation of any of the assets or shares of the Borrower or any material part of the Project;
- (d) as compensation otherwise payable under any EPC Contract or any Nickel Ore Supply Agreement to the Borrower, excluding any Delay Liquidated Damages; or
- (e) under any guarantee, letter of credit or bond relating to any of the forgoing.

Completion Guarantee means

- (a) the English Law Completion Guarantee (HJR);
- (b) the English Law Completion Guarantee (Lygend); or
- (c) the Indonesian Law Completion Guarantee.

Completion Support Release Date means the earlier of:

- (a) the Project Commercial Operation Date; and
- (b) the date on which all Secured Liabilities have been discharged in full.

Compliance Certificate means a certificate delivered pursuant to Clause 20.2 (Compliance Certificate) and signed by a director of the Borrower substantially in the form set out in Schedule 7 (Form of Compliance Certificate).

Compounded Reference Rate means, the percentage rate per annum which is the aggregate of:

- (a) the Cumulative Compounded RFR Rate; and
- (b) the applicable Credit Adjustment Spread.

Compounding Methodology Supplement means, in relation to the Cumulative Compounded RFR Rate, a document which:

- (a) is agreed in writing by the Borrower, the Agent (in its own capacity) and the Agent (acting on the instructions of the Majority Lenders);
- (b) specifies a calculation methodology for that rate; and
- (c) has been made available to the Borrower and each Finance Party.

Conditional Assignment means:

- (a) the Amended and Restated Conditional Assignment over Project Documents; or
- (b) the Conditional Assignment over Project Documents.

Conditional Assignment over Project Documents means the Deed of Assignment for Security Purposes over Contracts No. 106, dated 17 March 2021, drawn up by Jimmy Tanal, S.H., M.Kn., Notary in Jakarta, made between the Borrower as assignor and the Security Agent as assignee as amended and restated by the Amended and Restated Conditional Assignment over Project Documents.

Confidential Information means all information relating to the Borrower, any other Obligor, the Finance Documents or any 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 any Facility from either:

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

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 43 (Confidential Information);
 - (B) is identified in writing at the time of delivery as non-confidential by any Obligor or any of its advisors; 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 Obligors 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 a recommended form of the APLMA or in any other form agreed between the Borrower and the Agent.

Construction Report means the monthly construction progress report delivered by the Borrower pursuant to Clause 20.8 (Construction Report).

Cost to Complete Certificate means the certificate substantially in the form set out in Schedule 10 (Form of Cost to Complete Certificate), or such other form as agreed between the Borrower and the Agent, to be delivered by the Borrower and updated from time to time in accordance with Clause 4.2(c) (Further conditions precedent).

Credit Adjustment Spread means, in respect of any Loan, any rate which is either:

- (a) specified as such in the Reference Rate Terms; or
- (b) determined by the Agent (or by any other Finance Party which agrees to determine that rate in place of the Agent) in accordance with the methodology specified in the Reference Rate Terms.

Credit Participation means, in relation to a Lender or a Hedge Counterparty the aggregate of:

- (a) its aggregate Commitments, if any;
- (b) in respect of any hedging transaction of that Hedge Counterparty under any Hedging Agreement that has, as of the date the calculation is made, been terminated or closed out in accordance with the terms of this Agreement, the amount, if any, payable to it under any

Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent that amount is unpaid (that amount to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement); and

- (c) after the date on which all Secured Liabilities payable or owing to a Finance Party have been fully and finally discharged to the satisfaction of the Security Agent and no Finance Party is under any further obligation to provide financial accommodation to any Obligor under any of the Finance Documents only, in respect of any hedging transaction of that Hedge Counterparty under any Hedging Agreement that has, as of the date the calculation is made, not been terminated or closed out, the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the ISDA Master Agreement) for which the Borrower is the Defaulting Party (as defined in the ISDA Master Agreement), that amount to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement,

as calculated by the Security Agent.

Credit Related Close-Out means any Permitted Hedge Close-Out which is not a Non-Credit Related Close-Out.

Cumulative Compounded RFR Rate means, in relation to an Interest Period for a Loan, the percentage rate per annum determined by the Agent (or by any other Finance Party which agrees to determine that rate in place of the Agent) in accordance with the methodology set out in Schedule 21 (Cumulative Compounded RFR Rate) or in any relevant Compounding Methodology Supplement.

Daily Rate means the rate specified as such in the Reference Rate Terms.

Debt Service Coverage Ratio or DSCR means a Historic DSCR, a Projected DSCR or the Minimum DSCR, as applicable.

Debt Service Reserve Account has the meaning given to that term in the Cash and Accounts Management Agreement.

Default means an Event of Default or any event or circumstance specified in Clause 26 (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.

Defaulting Lender means any Lender:

- (a) which has failed to make its participation in a Loan available by the Utilisation Date of that Loan in accordance with Clause 5.5 (Lenders' participation);
- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing,

unless, in the case of paragraphs (a) and (c) above:

- (i) its failure to pay is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event, andpayment is made within three (3) Business Days of its due date; or
- (ii) the Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

Delay Liquidated Damages means any delay liquidated damages or similar delay damages or penalties paid or payable to the Borrower under an EPC Contract or under any other Project Document or any other contract or agreement to which the Borrower is party.

Delegate means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

Delivery Date has the meaning given to that term in Clause 21.6(a) (Consideration by Lenders).

Direct Agreement means:

- (a) each NOSA Direct Agreement;
- (b) each Offtake Agreement Direct Agreement; or
- (c) any other contract, agreement or document designated as such in writing by the Agent and the Borrower.

Disbursement Account has the meaning given to that term in the Cash and Accounts Management Agreement.

Disposal means a sale, transfer, novation, assignment, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and **Dispose** shall be construed accordingly.

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 a 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; and
- (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.

Distress Event means any of:

- (a) an Acceleration Event; or
- (b) any Hedge Counterparty ceasing to have the benefit of the Transaction Security, where such Hedge Counterparty has not consented to the same.

Distribution means any of the following:

- (a) payment of any dividend (whether provisional or definitive) in cash, property or obligations on, redemption of, or distribution with respect to, or any setting apart of money for a sinking or other analogous fund for, or any purchase, redemption, return, retirement or other acquisition of, or any option or warranty in respect thereof, the share capital in the Borrower;
- (b) payment by the Borrower of any amount in respect of:
 - (i) any Subordinated Advances; or
 - (ii) any other Financial Indebtedness payable by the Borrower to an Equity Party or any Affiliate of any Equity Party;
- (c) payment of any other distribution in respect of, or payment on account of, Equity; or
- (d) payment of any development, management or other fee, or any other payment by the Borrower to or on behalf of an Equity Party or any Affiliate of any Equity Party of whatever nature, whether under any Transaction Document or otherwise:

but excluding:

- (i) Permitted Equity Party Payments; and
- (ii) other payments approved in writing by the Agent.

Distribution Account has the meaning given to that term in the Cash and Accounts Management Agreement.

DSRA Reserve Requirement has the meaning given to that term in the Cash and Accounts Management Agreement.

E&S Report means the independent monitoring report with respect to the Project's compliance with Equator Principles IV (2019) and EHSMS implementation (including actions plans) prepared and updated annually by the Lenders' E&S Advisor and delivered to the Agent and the Technical Bank in accordance with Clause 20.12 (EHSMS Report).

Early Generation Debt Account has the meaning given to that term in the Cash and Accounts Management Agreement.

Early Generation Equity Account has the meaning given to that term in the Cash and Accounts Management Agreement.

Early Generation Revenues means, the amounts of Gross Revenues generated and received prior to the Project Commercial Operation Date and which stand to the credit of the Revenue Account after all sums referred to in clause 6.2(a)(i) to 6.2(a)(vi) of the Cash and Accounts Management Agreement have been paid.

Easpring Offtake Agreement means the offtake agreement dated 20 August 2020 and entered into between the Borrower and Jiangsu Easpring Material Technology Co., Ltd;

Economic Assumptions means the assumptions as to economic or financial matters set out in the Banking Case as may be updated and amended from time to time in accordance with Clause 21 (Banking Case).

EHSMS means the Environment, Health and Safety Management System implemented by the Borrower from time to time in respect of the Project.

EHSMS Report means the annual report with respect to its EHSMS prepared and delivered by the Borrower to the Agent and the Technical Bank in accordance with Clause 20.12 (EHSMS Report).

Electricity Operations Permit means Operating Licence or *Izin Operasi* under the name of Borrower pursuant to Decree of Head of Investment and North Maluku One Stop Service No. 502/DPMPSTSP/IOPTL/III/2020 dated 10 March 2020.

Eligible Institution means any Lender or other bank, financial institution, trust, fund or other entity selected by the Borrower.

Emergency means a condition or situation which in the reasonable opinion of the Borrower:

- (a) materially and adversely affects, or is reasonably likely to materially and adversely affect, the ability of the Borrower to operate the Processing Facilities safely and in accordance with Good Industry Practice; or
- (b) presents, or is reasonably likely to present, a physical threat to persons or property or the security, integrity or reliability of the Processing Facilities.

Enforcement Action means:

- (a) in relation to any Secured Liabilities:
 - (i) the acceleration of any Secured Liabilities or the making of any declaration that any Secured Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Lender to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Finance Documents);
 - (ii) the making of any declaration that any Secured Liabilities are payable on demand;
 - (iii) the making of a demand in relation to any Secured Liabilities that is payable on demand;
 - (iv) the making of any demand against any Obligor in relation to any liabilities and obligations under the Finance Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to any Lender, Hedge Counterparty or Obligor as a result of its being a guarantor or surety (including, without limitation, liabilities and obligations arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of the Finance Documents);

- (v) the exercise of any right of set-off, account combination or payment netting against any Obligor in respect of any Secured Liabilities, other than the exercise of any such right:
 - (A) as Close-Out Netting by a Hedge Counterparty;
 - (B) as Payment Netting by a Hedge Counterparty;
 - (C) as Inter-Hedging Agreement Netting by a Hedge Counterparty; or
 - (D) which is otherwise expressly permitted under this Agreement; and
- (vi) the suing for, commencing or joining of any legal or arbitration proceedings against any Obligor to recover any Secured Liabilities;
- (b) the premature termination or close-out of any hedging transaction under any Hedging Agreement (other than in accordance with the Finance Documents);
- (c) the taking of any steps to enforce or require the enforcement of any Transaction Security (including the crystallisation of any floating charge forming part of the Transaction Security);
- (d) the entering into of any composition, compromise, assignment or arrangement with any Obligor which owes any Secured Liabilities, or has given any Transaction Security, guarantee or indemnity or other assurance against loss in respect of the Secured Liabilities; or
- (e) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator, judicial manager or similar officer) in relation to, the winding-up, dissolution, administration or reorganisation of any Obligor which owes any Secured Liabilities, or has given any Transaction Security, guarantee, indemnity or other assurance against loss in respect of any of the Secured Liabilities, or any of such Obligor's assets or any suspension of payments or moratorium of any indebtedness of any such Obligor, or any analogous procedure or step in any jurisdiction,

except that the following shall not constitute Enforcement Action:

- (i) the taking of any action falling within paragraph (a)(vi) or (e) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Secured Liabilities, including the registration of such claims before any court or Governmental Authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods; and
- (ii) a Hedge Counterparty bringing legal proceedings against any person solely for the purpose of:
 - (A) obtaining injunctive relief (or any analogous remedy outside England and Wales) to restrain any actual or putative breach of any Finance Document to which it is party;
 - (B) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages; or
 - (C) requesting judicial interpretation of any provision of any Finance Document to which it is party with no claim for damages.

English Law Completion Guarantee (HJR) means the English law governed Completion Guarantee dated 4 March 2021 between HJR as guarantor, the Agent and the Security Agent.

English Law Completion Guarantee (Lygend) means the English law governed Completion Guarantee dated 4 March 2021 between Lygend as guarantor, the Agent and the Security Agent.

Environment means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including, without limitation, land under water).

Environmental Claim means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Laws and Standards.

Environmental Laws and Standards means:

- (a) IFC's Performance Standards on Social & Environmental Sustainability dated 1 January 2012;
- (b) the standards required to be complied with by the Borrower to ensure that the Lenders are in compliance with their obligations under that set of ten principles set out in the paper entitled "The Equator Principles a financial industry benchmark for determining, assessing and managing environmental and social risk in projects" dated July 2020 and developed in co-operation with the International Finance Corporation and adopted by various banks and financial institutions;
- (c) any law or regulation that is applicable to the Project and which relates to:
 - (i) the pollution or protection of the Environment;
 - (ii) the conditions of the workplace; or
 - (iii) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste,

in each case as amended, restated or supplemented from time to time.

Environmental Permit means any permit and other Authorisation required under any Environmental Laws and Standards for the Project or environmental impact assessment and analysis approvals (including the AMDAL).

EPC Contract means each Material EPC Contract and any other contract entered into by the Borrower in relation to the engineering, design, procurement and construction of the Project.

EPC Contractors means each construction contractor under any Material EPC Contract.

Equity means, on any date, the aggregate of:

- (a) capital contributions received by the Borrower in cash from the Shareholders; and

(b) the proceeds of any Subordinated Advance received by the Borrower,

in each case, to the extent not prepaid, repaid or otherwise reimbursed to any Equity Party with capital contributions, the proceeds of any Subordinated Advance or otherwise (other than as Distribution or any Permitted Equity Party Payments made under any Project Documents, in each case, in accordance with the Finance Documents) in accordance with the Finance Documents on or before that date.

Equity Account has the meaning given to that term in the Cash and Accounts Management Agreement.

Equity Overfunding Amount has the meaning given to that term in the Cash and Accounts Management Agreement.

Equity Party means each Shareholder, each Sponsor and each other person which the Borrower and the Agent agree shall be an Equity Party.

Equity Support and Retention Deed means the equity support and retention deed dated 4 March 2021 between the Borrower, each Equity Party, the Agent and the Security Agent, as amended by an amendment letter dated 18 May 2021, as amended by an amendment and accession deed dated 28 December 2021 and as further amended and restated by the Amendment and Restatement Deed.

Equity True Up means that all or part of the final Utilisation of Facility A, Facility B and Facility D in accordance with Clause 5.4 (Equity True Up Utilisation) to be transferred by the Borrower into the Equity Account.

Equity True Up Compliance Certificate means a compliance certificate to be delivered by the Borrower to the Agent pursuant to Clause 5.4 (Equity True Up Utilisation) substantially in the form set out in Schedule 8 (Equity True Up Compliance Certificate).

Equity True-up Utilisation has the meaning given to it in Clause 5.4 (Equity True Up Utilisation).

Event of Default means any event or circumstance specified as such in Clause 26 (Events of Default) (other than Clause 26.21 (Acceleration)).

Existing Indonesian Law Security and Guarantee means:

- (a) Deed of Corporate Guarantee and Indemnity Agreement No. 82 dated 8 August 2019, drawn up by Jose Dima Satria, S.H., M.Kn., Notary in Jakarta, made between HJR as guarantor and PT Bank Mandiri (Persero) TBK as security agent as supplemented by confirmation agreement dated 19 June 2020;
- (b) Deed of Pledge over Shares Agreement No. 81 dated 8 August 2019, drawn up by Jose Dima Satria, S.H., M.Kn., Notary in Jakarta, made between TBP as pledgor and PT Bank Mandiri (Persero) TBK as security agent as supplemented by Deed of Pledge over Amended and Restated TBP Share Pledge No. 105 dated 19 June 2020, drawn up by Humberg Lie, S.H., S.E., M.Kn., Notary in North Jakarta, Deed of Power of Attorney to Sell Shares No. 82 dated 8 August 2019, drawn up by Jose Dima Satria, S.H., M.Kn., Notary in Jakarta granted by TBP to PT Bank Mandiri (Persero) TBK, Deed of Irrevocable Power of Attorney No. 83 granted by TBP to PT Bank Mandiri (Persero) TBK and consent to transfer dated 8 August 2019; and
- (c) Deed of Pledge over Shares Agreement No. 99 dated 13 August 2019, drawn up by Jose Dima Satria, S.H., M.Kn., Notary in Jakarta, made between Lygend as pledgor and PT Bank Mandiri (Persero) TBK as security agent as supplemented by confirmation agreement dated 19 June 2020, Deed of Power of Attorney to Sell Shares No. 100 dated 13 August 2019, drawn up by

Jose Dima Satria, S.H., M.Kn., Notary in Jakarta granted by Lygend to PT Bank Mandiri (Persero) TBK, Deed of Irrevocable Power of Attorney No. 101 granted by Lygend to PT Bank Mandiri (Persero) TBK and consent to transfer dated 13 August 2019.

Existing Singapore Law Security and Guarantee means:

- (a) the Singapore governed corporate guarantee and indemnity agreement between Lygend as guarantor and PT Bank OCBC NISP TBK as agent and PT Bank Mandiri (Persero) TBK as security agent; and
- (b) the Singapore governed corporate guarantee and indemnity agreement between Zhejiang Lygend Investment Co., Ltd. as guarantor and PT Bank OCBC NISP TBK as agent and PT Bank Mandiri (Persero) TBK as security agent.

Expansion Processing Facilities means one high pressure acid leach nickel laterite ore processing facility line and associated nickel sulfate capacity equivalent to 18,630 t/y-Ni and supporting infrastructure to be developed and to be constructed or developed and constructed by the Borrower on Obi Island in Indonesia, excluding the Captive Power Plant (for the avoidance of doubt, excluding the Initial Processing Facilities).

Expansion Project means the design, engineering, financing, construction, testing and commissioning, ownership, operation, management and maintenance by the Borrower of the Expansion Processing Facilities.

Expansion Project Costs means all costs, expenses and liabilities in relation to the development, construction, ownership, engineering, procurement, manufacturing, completion, testing, commissioning, insuring, and obtaining permits for, the Expansion Project, but excluding for the avoidance of doubt any Captive Power Plant Project Costs.

Expansion Project Document has the meaning given to such term in the Amendment and Restatement Deed.

Expected MCOB means, in respect of a Module, the expected date for such Module to achieve the Module Commercial Operation Date, being:

- (a) in respect of the MHP Module, 30 September 2021;
- (b) in respect of the Sulphates Module, 1 May 2023; and
- (c) in respect of the Expansion Processing Facilities, 1 April 2023.

Facility means each Term Loan Facility or Facility C.

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 Lender, the amount set opposite its name under the heading **Facility A Commitment** in Part 3 (The Original Initial Lenders) of Schedule 1 (The Original Parties) and the amount of any other Facility A Commitment transferred to it under this Agreement; and

- (b) in relation to any other 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 First Repayment Date means the earlier of:

- (a) 31 March 2022; and
- (b) the date falling twelve (12) Months after the Module Commercial Operation Date in respect of the MHP Module.

Facility A Loan means a loan made or to be made under Facility A 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 Lender, the amount set opposite its name under the heading **Facility B Commitment** in Part 3 (The Original Initial Lenders) of Schedule 1 (The Original Parties) and the amount of any other Facility B Commitment transferred to it under this Agreement; and
- (b) in relation to any other 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 First Repayment Date means the earlier of:

- (a) 31 December 2022; and
- (b) the Repayment Date in respect of Facility A immediately to occur after the date falling twelve (12) Months after the Module Commercial Operation Date in respect of the Sulphates Module.

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

Facility C means the revolving loan and letter of credit facility made available under this Agreement as described in Clause 2.1(c) (The Facilities).

Facility C Commitment means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading **Facility C Commitment** in Part 3 (The Original Initial Lenders) of Schedule 1 (The Original Parties) and the amount of any other Facility C Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Facility C Commitment transferred to it under this Agreement,

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

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

Facility C Utilisation means a Facility C Loan or a Letter of Credit.

Facility Creditors means the Agent, each Arranger and each Lender.

Facility D means the term loan facility made available under this Agreement as described in Clause 2.1(d) (The Facilities).

Facility D Commitment means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading **Facility D Commitment** in Part 4 (The Original Expansion Lenders) of Schedule 1 (The Original Parties) and the amount of any other Facility D Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Facility D Commitment transferred to it under this Agreement,

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

Facility D First Repayment Date means 31 December 2023.

Facility D Lender means each Lender making available a Facility D Commitment to the Borrower in accordance with the terms of this Agreement.

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

Facility Letter means the letter of undertaking (in Bahasa Indonesia and English) dated 17 March 2021 between the Borrower, each other Obligor, the Agent and the Security Agent in relation to, among other things, the issuance of the Indonesian Language Law, as amended and restated by the Amended and Restated Facility Letter.

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.

FATCA means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

FATCA Application Date means:

- (a) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014; or
- (b) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraph (a) above, the first date from which such payment may become subject to a deduction or withholding required by FATCA.

FATCA Deduction means a deduction or withholding from a payment under a Finance Document required by FATCA.

FATCA Exempt Party means a Party that is entitled to receive payments free from any FATCA Deduction.

Fee Letter means:

- (a) any letter or letters referring to this Agreement, the Amendment and Restatement Deed or a Facility between one or more Administrative Parties and the Borrower setting out any of the fees referred to in Clause 13 (Fees); and
- (b) any agreement setting out fees payable to a Finance Party referred to in Clause 13.5 (Fees payable in respect of Letters of Credit).

Fiducia Security means:

- (a) the Amended and Restated Fiducia Security of Building;
- (b) the Amended and Restated Fiducia Security of Inventories;
- (c) the Amended and Restated Fiducia Security of Machinery and Equipment;
- (d) the Amended and Restated Fiducia Security of Receivables, Insurance Claims and Intellectual Property Rights;
- (e) the Fiducia Security of Building;
- (f) the Fiducia Security of Inventories;
- (g) the Fiducia Security of Machinery and Equipment;
- (h) the Fiducia Security of Receivables, Insurance Claims and Intellectual Property Rights; or
- (i) any Fiducia Security of Subordinated Advance Agreement.

Fiducia Security of Building means the Deed of Fiducia Security of Buildings No. 96, dated 17 March 2021, drawn up by Jimmy Tanal, S.H., M.Kn., Notary in Jakarta, made between the Borrower as fiducia grantor and the Security Agent as fiducia grantee as amended and restated by the Amended and Restated Fiducia Security of Building.

Fiducia Security of Inventories means the Deed of Fiducia Security of Inventories No. 98, dated 17 March 2021, drawn up by Jimmy Tanal, S.H., M.Kn., Notary in Jakarta, made between the Borrower as fiducia grantor and the Security Agent as fiducia grantee as amended and restated by the Amended and Restated Fiducia Security of Inventories.

Fiducia Security of Machinery and Equipment means the Deed of Fiducia Security of Machinery and Equipment No. 97, dated 17 March 2021, drawn up by Jimmy Tanal S.H., M.Kn., Notary in Jakarta, made between the Borrower as fiducia grantor and the Security Agent as fiducia grantee as amended and restated by the Amended and Restated Fiducia Security of Machinery and Equipment .

Fiducia Security of Receivables, Insurance Claim Proceeds and Intellectual Property Rights means the Deed of Fiducia Security of Receivables, Insurance Claims and Intellectual Property Rights No. 95, dated 17 March 2021, drawn up by Jimmy Tanal, S.H., M.Kn., Notary in Jakarta, made between the Borrower as fiducia grantor and the Security Agent as fiducia grantee as amended and restated by the Amended and Restated Fiducia Security of Receivables, Insurance Claim Proceeds and Intellectual Property Rights.

Fiducia Security of Subordinated Advance Agreement means any Indonesian law-governed fiducia security agreement to be executed from time to time in the form of a notarial deed between the Security Agent as fiducia grantee and a Subordinated Advance Lender as fiducia grantor with respect to Subordinated Advance Agreement made by such Subordinated Advance Lender.

Final Discharge Date means the first date on which all Secured Liabilities have been fully and finally discharged to the satisfaction of:

- (a) the Agent (in the case of the Secured Liabilities owed by the Obligors to the Facility Creditors); and
- (b) each Hedge Counterparty (in the case of its Hedging Liabilities),

whether or not as the result of an enforcement, and none of the Facility Creditors or Hedge Counterparties are under any further obligation to provide financial accommodation to any of the Obligors under the Finance Documents.

Final Maturity Date means the date falling on the earlier of:

- (a) 31 December 2027; and
- (b) eighty-four (84) Months after the first Utilisation Date in respect of Facility A.

Finance Document means:

- (a) this Agreement;
- (b) each Amendment Document;
- (c) the Amendment and Restatement Deed;
- (d) the Bridge Facilities Discharge Document;
- (e) the Cash and Accounts Management Agreement;
- (f) each Completion Guarantee;
- (g) each Compliance Certificate;
- (h) any Compounding Methodology Supplement;
- (i) each Direct Agreement;

- (j) the Equity Support and Retention Deed;
- (k) any Increase Confirmation;
- (l) the Facility Letter;
- (m) each Fee Letter;
- (n) any Hedging Accession Letter;
- (o) each Hedging Agreement;
- (p) each Ratio Calculation Statement;
- (q) any Reference Rate Supplement;
- (r) each Transaction Security Document;
- (s) each Utilisation Request; or
- (t) any other contract, agreement or document designated as such in writing by the Agent and the Borrower,

provided that where the term “Finance Document” is used in, and construed for the purposes of, this Agreement, a Hedging Agreement shall be a Finance Document only for the purposes of:

- (i) the definition of “Material Adverse Effect”;
- (ii) the definition of “Secured Liabilities”;
- (iii) the definition of “Transaction Security Document”;
- (iv) Clause 1.2(a)(x) (Construction);
- (v) Clause 26 (Events of Default) (other than Clause 26.21 (Acceleration)); and
- (vi) as part of the Transaction Documents referred to in Part 1 (Conditions Precedent to Financial Close) of Schedule 2 (Conditions Precedent and Subsequent).

Finance Party means:

- (a) each Administrative Party;
- (b) each Lender; and
- (c) each Hedge Counterparty,

provided that where the term “Finance Party” is used in, and construed for the purposes of, this Agreement, a Hedge Counterparty shall be a Finance Party only for the purposes of:

- (i) the definition of “Permitted Financial Indebtedness”;
- (ii) the definition of “Secured Parties”;
- (iii) paragraph (c) of the definition of “Material Adverse Effect”;

- (iv) Clause 1.2(a)(i) (Construction);
- (v) Clause 16.3 (Conduct of business by the Finance Parties);
- (vi) Clause 23.19 (Further assurance);
- (vii) Clause 32 (The Security Agent);
- (viii) Schedule 12 (Hedging Policy); and
- (ix) Schedule 13 (Project Insurances).

Financial Close means the Business Day on which the Agent notifies the Borrower and each Lender that all of the conditions precedent referred to in Part 1 (Conditions Precedent to Financial Close) of Schedule 2 (Conditions Precedent and Subsequent) have either been satisfied or waived.

Financial Indebtedness means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (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 GAAP, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (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;
- (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; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

Financing Costs means all interests, fees (including Break Costs, prepayment or cancellation fees), premium, expenses (including advisors' fees and legal costs), any payment payable by the Borrower under a Hedging Agreement and all other payments (including any payment under Clauses 15 (Increased Costs), 17 (Other Indemnities) and 18 (Costs and Expenses)) under the Finance Documents, and Taxes on in respect of them, in each case payable by the Borrower to any Finance Party under the Finance Documents, but excluding any Financing Principal and Hedging Termination Payments.

Financing Principal means, in respect of any period, the aggregate of the amounts in the nature of principal paid or payable by the Borrower in respect of the Loans during that period.

First Repayment Date means the Facility A First Repayment Date, the Facility B First Repayment Date or the Facility D First Repayment Date.

Force Majeure (Project) means:

- (a) an act of God, lightning, storm, flood, tidal wave, landslide, fire, earthquake or explosion;
- (b) strike, embargo, lockout or stoppage or ban or limitation on work or restraint of labour, affecting any of the Processing Facilities that is broad based or industry wide and not affecting related specifically to the Project;
- (c) act of public enemy, war (declared or undeclared), terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, or any other unlawful act against public order or authority;
- (d) epidemic;
- (e) any action, inaction, demand, order, restraint, restriction, requirement, prevention, frustration or hindrance by or of any Government Agency;
- (f) any other event described or defined as a force majeure event or similar in any Project Document; or
- (g) any other event whether or not specifically referred to above or otherwise which is not within the affected person's reasonable control,

which wholly or partially prevents, hinders, obstructs, delays or interferes with the construction, development, maintenance or operation of the Project.

Forestry Utilisation Agreement means Deed of Cooperation on Utilisation of Forestry Area No. 9 dated 11 August 2020, drawn by Ida Wati Salim, S.H., M.Kn., Notary in North Jakarta between TBP and the Borrower.

Funding Rate means any individual rate notified by a Lender to the Agent pursuant to Clause 12.3(a)(ii) (Cost of funds).

FX Control Event means the event where any law, regulation or action is imposed, issued or taken by the Government of the Republic of Indonesia or by any Governmental Authority in, or of, Indonesia imposing foreign exchange controls or other restrictions which have or would reasonably be expected to have the effect of prohibiting, preventing or materially delaying the remittance to any Finance Party not based in Indonesia of any amount due to that Finance Party under the Finance Documents in US dollars.

GAAP means generally accepted accounting principles in the jurisdiction of incorporation of the relevant Obligor or, as the case may be, the relevant Offtaker, including IFRS.

GEM Offtake Agreement means the offtake agreement dated 29 August 2020 and entered into between the Borrower and GEM Co., Ltd;

Good Industry Practices means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person acting in

good faith and carrying out the same type of activity under the same or equivalent circumstances and conditions and acting generally in accordance with applicable law.

Good Mining Practice means the exercise of that degree of skill, care, prudence, (operational and financial) foresight and operating practice which would reasonably and ordinarily be expected from the operator of a significant, well-established and proven nickel mine and in a manner consistent with applicable Law and industry guidelines and codes of practice.

Governmental Authority means any government or any governmental authority, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under statute) of the Republic of Indonesia or any other jurisdiction which has jurisdiction over the Borrower or all or part of the Project.

GPS means PT Gane Permai Sentosa, a limited liability company established and existing under the laws of the Republic of Indonesia with its registered office at Gedung Bank Panin Senayan, Lantai 2, Jln Jend. Sudirman Kav 1, Kel. Gelora, Kec. Tanah Abang, Kota Adm. Jakarta Pusat, Prop. DKI Jakarta.

Gross Revenues means, for any period, the income or revenue received by the Borrower in respect of:

- (a) any sales revenues arising under any Offtake Agreement and, in respect of the Historic DSCR only, from any spot sales;
- (b) any Delay Liquidated Damages;
- (c) interest accrued on the balance standing to the credit of any Project Account (other than the Distribution Account);
- (d) Insurance Proceeds in respect of delay in start-up and business interruption;
- (e) amounts received by the Borrower under any Hedging Agreement, excluding any Hedging Termination Payment;
- (f) refunds of Tax;
- (g) payments to the Borrower under any Project Document or any other contract or agreement to which the Borrower is a party not referred to above that do not constitute Compensation; and
- (h) any other amounts designated from time to time as Gross Revenues by the Agent and the Borrower.

Hedge Counterparty means:

- (a) each Original Hedge Counterparty; and
- (b) an Acceptable Hedge Counterparty which has become a Party as a “Hedge Counterparty” in accordance with Clause 30.13 (Accession of Hedge Counterparties).

Hedging Accession Letter means a document substantially in the form set out in Schedule 9 (Form of Hedging Accession Letter).

Hedging Agreement means any master agreement, confirmation, schedule, novation agreement or other agreement in form and substance acceptable to the Agent entered into or to be entered into by the Borrower and a Hedge Counterparty for the purpose of hedging the types of liabilities and/or risks

in relation to the Facility which this Agreement requires, or the Hedging Policy either requires or permits, to be hedged.

Hedging Force Majeure means an Illegality, a Force Majeure Event, a Tax Event or a Tax Event Upon Merger (each as defined in the ISDA Master Agreement).

Hedging Liabilities means the Secured Liabilities owed by the Borrower to the Hedge Counterparties under or in connection with the Hedging Agreements.

Hedging Policy means the Borrower's hedging policy as set out in Schedule 12 (Hedging Policy), as may be amended, supplemented and replaced from time to time as agreed between the Borrower and the Agent.

Hedging Termination Payment means any amount payable or receivable by the Borrower under a Hedging Agreement as a result of the termination or close out (whether partial or total) of that Hedging Agreement, excluding any interest accruing on any amount not paid when due.

Hedging Transaction means any hedging instrument entered into under and forming part of a Hedging Agreement and in accordance with the Hedging Policy.

Historic DSCR means, for any Historic Period, the ratio of:

(a) the CFADS during that Historic Period,

to:

(b) the Scheduled Debt Service during that Historic Period (excluding, for the avoidance of doubt, any Cash Sweep Payments made during that Historic Period),

as calculated in accordance with this Agreement and the Ratio Calculation Statement delivered immediately following that Calculation Date.

Historic Period means the twelve (12)-Month period ending on a Calculation Date.

HJR means PT Harita Jayaraya, a limited liability company established and existing under the laws of the Republic of Indonesia with its registered office at Bank Panin Building, Senayan, 5th Floor, Jl. Jend Sudirman, Jakarta, Indonesia.

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

IFRS means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

Impaired Agent means the Agent at any time when:

(a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;

(b) the Agent otherwise rescinds or repudiates a Finance Document; or

(c) an Insolvency Event has occurred and is continuing with respect to the Agent,

unless, in the case of paragraph (a) above:

- (i) its failure to pay is caused by:
 - (A) administrative or technical error; or
 - (B) a Disruption Event; andpayment is made within three (3) Business Days of its due date; or
- (ii) the Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

Increase Confirmation means a confirmation substantially in the form set out in Schedule 16 (Form of Increase Confirmation).

Increase Lender means any person that becomes a Lender, or otherwise agrees to increase its Commitments, in accordance with Clause 2.2 (Increase), *provided that* such person is a bank, financial institution, trust or other entity that would otherwise be entitled to become a New Lender pursuant to Clause 30 (Changes to the Lenders).

Indirect Tax means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

Indonesian Language Law means Law No. 24 of 2009 regarding National Flag, Language, Coat of Arms and National Anthem of the Republic of Indonesia as implemented by Presidential Regulation No. 63 of 2019 on the Use of Bahasa Indonesia.

Indonesian Law Completion Guarantee means the Deed of Corporate Guarantee and Indemnity Agreement No. 94 dated 17 March 2021, drawn up by Jimmy Tanal, S.H., M.Kn., Notary in Jakarta between HJR as guarantor and the Security Agent as guarantee as amended and restated by the Amended and Restated Indonesian Law Completion Guarantee.

Information Memorandum means the document in the form approved by the Borrower concerning the Obligors which, at the Borrower's request and on its behalf, was prepared in relation to this transaction and distributed by the Arranger to selected financial institutions before the Original Agreement Date.

Initial Operating Budget has the meaning given to that term in Clause 20.10(a)(i) (Operating Budget).

Initial Processing Facilities means nickel laterite ore processing facilities developed and constructed by the Borrower on Obi Island in Indonesia and comprising of the MHP Module, the Sulphates Module and any infrastructure which may be shared by the MHP Module and the Sulphates Module, including the Captive Power Plant.

Initial Project means the design, engineering, financing, construction, testing and commissioning, ownership, operation, management and maintenance by the Borrower of the Initial Processing Facilities.

Initial Term Loan Lender means each Lender making available a Facility A Commitment or a Facility B Commitment to the Borrower in accordance with the terms of this Agreement.

Insolvency Event means:

- (a) in relation to any Lender or the Agent, that entity:
 - (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
 - (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
 - (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
 - (iv) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up, judicial management, or liquidation by it or such regulator, supervisor or similar official;
 - (v) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (iv) above and:
 - (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - (B) is not dismissed, discharged, stayed or restrained in each case within thirty (30) days of the institution or presentation thereof;
 - (vi) has a resolution passed for its winding-up, judicial management official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
 - (vii) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, judicial manager, custodian or other similar official for it or for all or substantially all its assets (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (iv) above);
 - (viii) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days thereafter;
 - (ix) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (i) to (viii) above; or

- (x) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or
- (b) in relation to any Obligor:
 - (i) any resolution is passed or order made for the winding-up, dissolution, administration, judicial management or reorganisation of that Obligor, a moratorium is declared in relation to any indebtedness of that Obligor or an administrator is appointed to Obligor;
 - (ii) any composition, compromise, assignment or arrangement is made with any of its creditors;
 - (iii) the appointment of any liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that Obligor or any of its assets; or
 - (iv) any analogous procedure or step is taken in any jurisdiction.

Insurance Proceeds means all insurance proceeds received under the Project Insurances, including proceeds in respect of delay in start-up and business interruption, but excluding proceeds from third party liability, employer's liability, automobile third party liability and workers' compensation insurance to the extent that the same are not paid to or on behalf of the Borrower in accordance with the terms of such Project Insurance.

Inter-Hedging Agreement Netting means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross agreement netting agreement or otherwise) by a Hedge Counterparty against liabilities owed to the Borrower by that Hedge Counterparty under a Hedging Agreement in respect of Hedging Liabilities owed to that Hedge Counterparty by the Borrower under another Hedging Agreement.

Interest Payment means:

- (a) in relation to the payment notified by the Agent under Clause 10.4 (Notifications), the aggregate amount of interest of the Term Loans; or
- (b) in relation to the payment notified by a WCF Lender under Clause 10.4 (Notifications), the aggregate amount of interest of the Facility C Loans,

that is, or is scheduled to become, payable under any Finance Document.

Interest Payment Date means 30 June and 31 December in each calendar year occurring after the date of the first Loan up to and including the Facility A First Repayment Date, and thereafter, each Repayment Date.

Interest Period means, in relation to a Loan, each period determined in accordance with Clause 10.5 (Calculation of accrued interest) and Clause 11 (Interest Periods) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 10.3 (Default interest) and Clause 10.5 (Calculation of accrued interest).

Interim Banking Case has the meaning given to that term in Clause 21.1(c) (Adoption).

Interim Review Date has the meaning given to that term in Clause 21.1(d) (Adoption).

IPPKH means Forestry Borrow to Use Permits or *Izin Pinjam Pakai Kawasan Hutan* under the name of TBP pursuant to Decree No. SK.729/Menhut-II/2010 dated 31 December 2010 as extended by Decree of the MOEF No. SK.8/Menlhk/Setjen/PLA.0/1/2020 dated 6 January 2020 and Decree No. 43/1/IPPKH/PMDN/2016 dated 14 June 2016.

ISDA Master Agreement means an ISDA Master Agreement (2002 version).

JORC means the Joint Ore Reserves Committee of the Australasian Institute of Mining and Metallurgy.

KX means Kang Xuan Pte. Ltd., company registration no. 202120835W, a company incorporated and existing under the laws of Singapore.

KX Share Pledge means the Deed of Pledge over Shares Agreement to be entered between KX as the pledgor and the Security Agent as pledgee.

Legal Reservations means matters specifically referred to as qualifications or reservations as to matters of law of general application in any legal opinion delivered in accordance with Clause 4.1 (Initial conditions precedent) and Part 1 (Conditions Precedent to Financial Close) of Schedule 2 (Conditions Precedent and Subsequent).

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 30 (Changes to the Lenders), which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

Lenders' Advisors means each of the LLC, the Lenders' E&S Advisor, the LIA, and the LMA.

Lenders' and Hedging Banks' Legal Counsel or **LLC** means Allen & Overy LLP.

Lenders' E&S Advisor means PT Hatch.

Lenders' Insurance Advisor or **LIA** means PT Marsh Indonesia.

Lenders' Market Advisor or **LMA** means CRU International Limited.

Lenders' Technical Advisor or **LTA** means PT Hatch.

Letter of Credit means a letter of credit in the form agreed between the Borrower and the WCF Lender issuing such letter of credit.

Loan means a Facility A Loan, a Facility B Loan, a Facility C Loan or a Facility D Loan.

Loan Life Coverage Ratio or **LLCR** means, with respect to a Calculation Date, the ratio of:

- (a) the aggregate of the NPVs for each complete Calculation Period after that Calculation Date up to and including the Final Maturity Date,

to:

- (b) the aggregate of the Financing Principal outstanding under each Facility on that Calculation Date,

as calculated in accordance with this Agreement and the Ratio Calculation Statement delivered immediately following that Calculation Date.

Local Accounts has the meaning given to that term in the Cash and Accounts Management Agreement.

Lookback Period means the number of days specified as such in the Reference Rate Terms.

Lygend means Lygend Resources & Technology Co., Ltd. (formerly known as Ningbo Lygend Mining Co., Ltd.).

Lygend Share Pledge means the Deed of Pledge over Shares Agreement No. 103, dated 17 March 2021, drawn up by Jimmy Tanal, S.H., M.Kn., Notary in Jakarta between the Lygend as the pledgor and the Security Agent as pledgee as amended and restated by the Amended and Restated Lygend Share Pledge.

Major Project Party means:

- (a) each Offtaker;
- (b) each Nickel Ore Supplier;
- (c) each EPC Contractor; and
- (d) each such other person designated as such in writing by the Agent and the Borrower,

in respect of each party specified above, for as long as that party has any actual or contingent liability or obligation in such capacity under the relevant Transaction Document to which it is a party.

Majority Creditors means:

- (a) subject to paragraph (b) below, the Majority Lenders; and
- (b) in relation to instructions as to any Enforcement Action, the Lenders and the Hedge Counterparties whose Credit Participations at that time aggregate more than sixty-six and two-thirds per cent. (66⅔%) of the total Credit Participations at that time, as calculated by the Security Agent.

Majority Lenders means a Lender or Lenders whose Commitments aggregate more than sixty-six and two-thirds per cent. (66⅔%) of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than sixty-six and two-thirds per cent. (66⅔%) of the Total Commitments immediately prior to the reduction).

Margin means:

- (a) in respect of Facility A, three-point-seven-five per cent. (3.75%), per annum;
- (b) in respect of Facility B, three-point-seven-five per cent. (3.75%) per annum;
- (c) in respect of Facility C, three per cent. (3.00%) per annum; and
- (d) in respect of Facility D, three-point-seven-five per cent. (3.75%). per annum.

Market Disruption Rate means the rate (if any) specified as such in the Reference Rate Terms.

Material Adverse Effect means an event or circumstance (or any combination thereof) which has a material adverse effect on:

- (a) the business, operations or financial condition of any of the Obligors or a Major Project Party;
- (b) the ability of any of the Obligors or a Major Project Party to perform its payment obligations, or any other material obligations under any Transaction Document;
- (c) the legality, binding effect, validity or enforceability of, any provision of a Finance Document against a party other than a Finance Party; or
- (d) the validity or enforceability of, or the effectiveness or ranking of any Security Interest granted or purported to be granted pursuant to, any Finance Document.

Material Authorisation means each of the Authorisations listed in Schedule 17 (Material Authorisations).

Material EPC Contract means each of the construction contracts listed in Schedule 18 (Material EPC Contracts) and any other contract (or series of contracts entered into with the same contractual counterparty or a group of Affiliated counterparties) entered into after the Original Agreement Date in connection with the design, engineering, procurement and construction of the Project with a value of more than five million US dollars (USD5,000,000).

MHP means mixed hydroxide precipitate.

MHP MCOD Sunset Date means the earlier of:

- (a) 31 December 2021; and
- (b) the date falling six (6) Months from the Expected MCOD in respect of the MHP Module.

MHP Module means the plant producing 96ktpa of the nickel-cobalt intermediate product MHP, containing up to 37.260ktpa of Nickel and 4.577ktpa of Cobalt and any supporting infrastructure required for its operation.

MHP Module Project Costs means all costs, expenses and liabilities in relation to the development, construction, ownership, engineering, procurement, manufacturing, completion, testing, commissioning, insuring, and obtaining permits for, the MHP Module, but excluding for the avoidance of doubt any Captive Power Plant Project Costs and any Expansion Project Costs.

Minimum DSCR means, as at any Calculation Date, the lowest Projected DSCR for any Projected Period occurring during the period commencing from that Calculation Date and ending on the Final Maturity Date.

Module means the MHP Module or the Sulphates Module.

Module Commercial Operation Date or **MCOD** means, in relation to a Module or the Expansion Project, the date on which the Agent notifies the Borrower that each of the following conditions in respect of that Module have been satisfied or waived by the Agent (acting on the instructions of the

Majority Lenders (acting reasonably) and in consultation with the Lenders' Technical Advisor and the Lenders' Insurance Advisor):

- (a) the Borrower has delivered to the Agent and the Lenders' Technical Advisor an officer certificate signed by a director certifying, and the Lenders' Technical Advisor has issued a confirmation verifying, that:
 - (i) other than the punchlist items confirmed by the Lenders' Technical Advisor mentioned in paragraph (ii) below, the relevant Module has been completed in accordance with all applicable Project Documents and any design and other relevant documents delivered to the Lenders' Technical Advisor in order to enable the Lenders' Technical Advisor to make the confirmations contemplated under this definition of "Module Commercial Operation Date";
 - (ii) the Borrower has substantially accepted all works performed by the relevant contractors and subcontractors under the Project Documents, other than in respect of any punchlist items or delayed works if the Lenders' Technical Advisor has confirmed that failure to complete such punchlist items or delayed works could not reasonably be expected to have an adverse effect on the operation of the relevant Module and its ability to deliver the Nameplate Capacity;
 - (iii) the Borrower has paid all amounts due and payable by it under the Project Documents and all other amounts required to complete the construction and start-up of the relevant Module, or in the event of any unpaid amounts, the Borrower has deposited into the Retention Sum Account sufficient amounts to pay in full such unpaid sums;
 - (iv) the relevant Module has been commissioned and is being operated in accordance with key parameters of the Commissioning and Ramp-up Plan, the Operating Budget and the O&M Plan;
 - (v) in respect of a Module, if there are outstanding disputes under or in connection with any Project Document, either that:
 - (A) the aggregate potential liability of the Borrower with respect to all such disputes does not exceed US\$10,000,000; or
 - (B) the aggregate potential liability of the Borrower with respect to all such disputes exceeds US\$10,000,000 and the Borrower has deposited into the Retention Sum Account an amount equal to the portion in excess of US\$10,000,000;
- (b) the Lenders' Insurance Advisor has delivered to the Agent a certificate certifying that all Project Insurances then required to be in effect pursuant to Clause 24 (Project Insurance) and Schedule 13 (Project Insurances) of this Agreement and all relevant Project Documents are in full force and effect; and

Month means, in relation to an Interest Period (or any other period for the accrual of commission or fees), a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, subject to adjustment in accordance with the rules specified as Business Day Conventions in the Reference Rate Terms.

Nameplate Capacity means:

- (a) with respect to the MHP Module, the Project's capacity to produce up to 96 ktpa of MHP, containing up to 37.260 ktpa of nickel and 4.577 ktpa of cobalt;

- (b) with respect to the Sulphates Module, the Project's capacity to produce up to 162.162 ktpa of nickel sulphate and 21.335 ktpa of cobalt sulphate, containing 36 ktpa of nickel and 4.373 ktpa of cobalt, using the MHP from the MHP Module as feedstock; and
- (c) with respect to the Expansion Processing Facilities, the Project's capacity of at least 48 ktpa of MHP, containing up to 18.63ktpa of Nickel and 2.288ktpa of cobalt and associated sulfate capacity to produce Ni-sulfate and Co sulfate containing 18ktpa of Ni and 2.187ktpa of cobalt.

New Lender has the meaning given to that term in Clause 30.1 (Assignments and transfers by the Lenders).

New Offtake Agreement means the offtake agreement entered into between the Borrower and GEM Co., Ltd. before the first Utilisation Date of Facility D.

Nickel Ore Supplier means each of TBP and GPS.

Nickel Ore Supply Agreement means:

- (a) the supply agreement in respect of the supply and purchase of nickel ore (sapolite) dated 5 March 2021 between the Borrower and TBP;
- (b) the supply agreement in respect of the supply and purchase of nickel ore (sapolite) dated 5 March 2021 between the Borrower and GPS;
- (c) the supply agreement in respect of the supply and purchase of nickel ore (limonite) dated 5 March 2021 between the Borrower and TBP; and
- (d) the supply agreement in respect of the supply and purchase of nickel ore (limonite) dated 5 March 2021 between the Borrower and GPS.

Nickel Ore Supply Agreement (Limonite) Amendment Agreement means:

- (a) the amendment agreement to the supply agreement in respect of the supply and purchase of nickel ore (limonite) dated 5 March 2021 between the Borrower and TBP; or
- (b) the amendment agreement to the supply agreement in respect of the supply and purchase of nickel ore (limonite) dated 5 March 2021 between the Borrower and GPS.

each, in compliance with MEMR Regulation No. 7 of 2017 on Guidelines to Determine Benchmark Price for Metal Mineral and Coal lastly amended by MEMR Regulation No. 11 of 2020 and MEMR Decree No. 2946.K/30/MEM/2017 on Formula to Determine Metal Mineral Benchmark Price.

Non-Credit Related Close-Out means a Permitted Hedge Close-Out described in any of Clauses 25.8(a)(i), 25.8(a)(ii), 25.8(a)(iii) and 25.8(a)(iv) (Permitted Enforcement: Hedge Counterparties).

NOSA Direct Agreement means each direct agreement in respect of each Nickel Ore Supply Agreement between the Security Agent, the Borrower and each Nickel Ore Supplier (respectively).

NPV means, in relation to each Calculation Period, an amount equal to the net present value (calculated in accordance with the discounting formula contained in the Banking Case) of the projected CFADS for that Calculation Period produced by the Banking Case.

NW means Ningbo Lygend Wisdom Co., Ltd. (宁波力勤惠然贸易有限公司), a company incorporated and existing under the laws of the People's Republic of China, with uniform social credit code of 91330206MA291L212N.

O&M Plan means the plan for the ongoing operation and maintenance of each relevant Module, in form and substance satisfactory to the Agent and the Lenders' Technical Advisor.

Obligors means the Borrower and each Equity Party and **Obligor** means each one of them.

Obligors' Agent means the Borrower appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.4 (Obligors' Agent).

Offshore Account Bank means an offshore account bank appointed in accordance with the terms of the Cash and Accounts Management Agreement.

Offshore Assignment of Reinsurances means:

- (a) the Offshore Assignment of Reinsurances (China Taiping);
- (b) the Offshore Assignment of Reinsurances (EPG Indonesia);
- (c) the Offshore Assignment of Reinsurances (Wahana Tata); or
- (d) any other security assignment to be entered into from time to time by any direct insurer in favour of the Security Agent with respect to its rights under certain reinsurance policies constituting insurances.

Offshore Assignment of Reinsurances (China Taiping) means English law-governed Offshore Assignment of Reinsurances Deed dated 18 May 2021 and entered into between the Borrower, PT China Taiping Insurance Indonesia, the Agent and the Security Agent, as supplemented by the Offshore Supplemental Assignment of Reinsurances (China Taiping).

Offshore Assignment of Reinsurances (EPG Indonesia) means the English law-governed Offshore Assignment of Reinsurances Deed dated 18 May 2021 and entered into between the Borrower, PT Asuransi EPG Indonesia, the Agent and the Security Agent, as supplemented by the Offshore Supplemental Assignment of Reinsurances (EPG Indonesia).

Offshore Assignment of Reinsurances (Wahana Tata) means English law-governed Offshore Assignment of Reinsurances Deed dated 18 May 2021 and entered into between the Borrower, PT Asuransi Wahana Tata, the Agent and the Security Agent, as supplemented by the Offshore Supplemental Assignment of Reinsurances (Wahana Tata).

Offshore Supplemental Assignment of Reinsurances means:

- (c) the Offshore Supplemental Assignment of Insurances (China Taiping);
- (d) the Offshore Supplemental Assignment of Insurances (EPG Indonesia); or
- (e) the Offshore Supplemental Assignment of Insurances (Wahana Tata).

Offshore Supplemental Assignment of Insurances (China Taiping) means the English law-governed supplemental agreement in respect of the Offshore Assignment of Reinsurances (China Taiping) to be entered into on or about the Amendment and Restatement Date between the Borrower, PT China Taiping Insurance Indonesia, the Agent and the Security Agent.

Offshore Supplemental Assignment of Insurances (EPG Indonesia) means the English law-governed supplemental agreement in respect of the Offshore Assignment of Reinsurances (EPG Indonesia) to be entered into on or about the Amendment and Restatement Date between the Borrower, PT Asuransi EPG Indonesia, the Agent and the Security Agent;

Offshore Supplemental Assignment of Insurances (Wahana Tata) means the English law-governed supplemental agreement in respect of the Offshore Assignment of Reinsurances (Wahana Tata) to be entered into on or about the Amendment and Restatement Date between the Borrower, PT Asuransi Wahana Tata, the Agent and the Security Agent; or

Offshore Supplemental General Security Agreement means the English law-governed supplemental agreement in respect of the Offshore General Security Agreement to be entered into on or about the Amendment and Restatement Date by the Borrower and the Security Agent.

Offshore Supplemental Project Accounts Charge means the Singapore law-governed supplemental agreement in respect of the Offshore Project Accounts Charge to be entered into on or about the Amendment and Restatement Date by the Borrower and the Security Agent.

Offshore Supplemental Security Document means:

- (a) each Offshore Supplemental Assignment of Reinsurances;
- (b) the Offshore Supplemental Project Accounts Charge; or
- (c) the Offshore Supplemental General Security Agreement.

Offshore General Security Agreement means the English law-governed debenture dated 23 March 2021 and entered into by the Borrower and the Security Agent with respect to all of the present and future assets of the Borrower, including without limitation with respect to any non-Indonesian law Project Documents, as supplemented by the Offshore Supplemental General Security Agreement.

Offshore Project Account has the meaning given to that term in the Cash and Accounts Management Agreement.

Offshore Project Accounts Charge means the Singapore law-governed Security Agreement (Offshore Project Accounts Charge) dated 23 March 2021 entered into by the Borrower and the Security Agent with respect to all of the rights of the Borrower in the Offshore Project Accounts, as supplemented by the Offshore Supplemental Project Accounts Charge.

Offshore Security Document means:

- (a) each Offshore Assignment of Reinsurances;
- (b) the Offshore Project Accounts Charge;
- (c) the Offshore General Security Agreement;
- (d) any Subordinated Advance Assignment Agreement;
- (e) each Offshore Supplemental Security Document; or
- (f) any other agreement or document entered into to secure the Secured Liabilities including security interests, liens, encumbrances, charges, powers of attorney, pledges, deposit agreements or other arrangements having the commercial effect of security, which the Agent designates as a Security Document and which is not governed by Indonesian law.

Offtake Agreement means each of:

- (a) the Easpring Offtake Agreement;
- (b) the GEM Offtake Agreement;
- (c) the New Offtake Agreement; and
- (d) any other contract, agreement or document designated as such in writing by the Agent and the Borrower.

Offtake Agreement Direct Agreement means:

- (a) the Offtake Agreement Direct Agreement (Easpring Offtake Agreement);
- (b) the Offtake Agreement Direct Agreement (GEM Offtake Agreement);
- (c) the Offtake Agreement Direct Agreement (New Offtake Agreement); or
- (d) any other direct agreement in respect of an Offtake Agreement between the relevant Offtaker as party to such Offtake Agreement, the Security Agent and the Borrower.

Offtake Agreement Direct Agreement (Easpring Offtake Agreement) means the offtake agreement direct agreement dated 23 March 2021 between Borrower Jiangsu Easpring Material Technology Co., Ltd and the Security Agent.

Offtake Agreement Direct Agreement (GEM Offtake Agreement) means the notice of assignment from the Borrower and the Security Agent to GEM Co., Ltd dated 23 March 2021 and the acknowledgment entered by GEM Co., Ltd dated 23 March 2021.

Offtake Agreement Direct Agreement (New Offtake Agreement) means the notice of assignment from the Borrower and the Security Agent to GEM Co., Ltd entered before the first Utilisation Date of Facility D and the acknowledgment entered by GEM Co., Ltd before the first Utilisation Date of Facility D.

Offtaker means, in respect of an Offtake Agreement to which it is a party,

- (a) Jiangsu Easpring Material Technology Co., Ltd;
- (b) GEM Co., Ltd; or
- (c) the Additional Offtaker.

Onshore Account Bank means PT Bank OCBC NISP Tbk, or such other onshore account bank appointed in accordance with the terms of the Cash and Accounts Management Agreement.

Onshore Project Account has the meaning given to that term in the Cash and Accounts Management Agreement.

Onshore Security Document means:

- (a) each Conditional Assignment;
- (b) each Fiducia Security;

- (c) each Pledge of Accounts;
- (d) each Share Pledge;
- (e) any security supplement executed in connection with the agreements listed in paragraphs (a) to (d) (inclusive) above; or
- (f) any other agreement or document entered into to secure the Secured Liabilities which the Agent designates as a Security Document and which is governed by Indonesian law .

Operating Budget means the Initial Operating Budget or each Annual Operating Budget.

Operating Costs means, in respect of any period, all costs and expenses payable by the Borrower during that period in connection with the operation and maintenance of the Project, including with respect to the following (without double counting):

- (a) operating costs and expenses set out in the most recently approved Project Budget or the Operating Budget;
- (b) liabilities and damages payable by the Borrower under the Project Documents;
- (c) duties and Taxes incurred in the normal course of operations (including Taxes on income and other profits of the Borrower under Indonesian law but excluding withholding tax on Financing Costs);
- (d) any royalties (if applicable) or charges payable by the Borrower to any Governmental Authority of Indonesia in respect of the Project;
- (e) any premia and fees relating to any Insurances and maintained during such period;
- (f) sustaining capital expenditure in respect of the Project;
- (g) administrative, management and employee costs;
- (h) reasonable legal, accounting, consultancy, advisor and similar professional fees in connection with the implementation of the Project;
- (i) any scheduled hedging amounts payable under any nickel hedging transactions; and
- (j) any other costs and expenses agreed by the Agent and the Borrower,

but excluding:

- (i) any Project Costs;
- (ii) any Financing Principal;
- (iii) any Financing Costs;
- (iv) any amounts payable under any Hedging Agreement, other than any scheduled amounts payable under any nickel hedging transactions;
- (v) any Hedging Termination Payments;
- (vi) any Distribution; and

(vii) depreciation, non-cash charges, reserves, amortisation of intangibles and similar book-keeping entries.

Operating Report means the operating report delivered by the Borrower pursuant to Clause 20.11 (Operating Report).

Original Agreement Date means 22 February 2021.

Original Expansion Banking Case means the Banking Case financial projections and ratios prepared by the Borrower and delivered as a condition precedent pursuant to schedule 2 (Conditions precedent) to the Amendment and Restatement Deed.

Original Financial Statements means in relation to each Original Obligor, its audited (consolidated, if applicable) financial statements for its financial year ended 31 December 2019.

Original Initial Banking Case means the Banking Case financial projections and ratios prepared by the Borrower and delivered as a condition precedent to Financial Close pursuant to paragraph (a) of Clause 4.1 (Initial conditions precedent).

Original Obligor means each person listed in Part 1 (The Original Obligors) of Schedule 1 (The Original Parties) and identified under the heading **Original Borrower**, **Original Shareholder** and **Original Sponsor**, as the case may be.

Original Shareholder means each Shareholder listed in Part 1 (The Original Obligors) of Schedule 1 (The Original Parties) and identified under the heading **Original Shareholder**, being TBP, Lygend and KX as of the Amendment and Restatement Date.

Original Sponsor means each Sponsor listed in Part 1 (The Original Obligors) of Schedule 1 (The Original Parties) and identified under the heading **Original Sponsor**, being HJR and Lygend as of the Amendment and Restatement Date.

Party means a party to this Agreement.

Payment means, in respect of any Secured Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Secured Liabilities (or other liabilities or obligations).

Payment Netting means netting under section 2(c) of the ISDA Master Agreement.

PCOD Sunset Date means 1 April 2024.

Performance Liquidated Damages means any liquidated damages payable to the Borrower under any EPC Contract:

- (a) for, or in respect of, a failure to achieve the performance guarantees in respect of the Processing Facilities; or
- (b) otherwise in respect of defective performance,

but excluding Delay Liquidated Damages payable in respect of any delay under any EPC Contract.

Permitted Automatic Early Termination means an Automatic Early Termination of a hedging transaction under a Hedging Agreement, the provision of which is permitted under Clause 25.11 (Terms of Hedging Agreements).

Permitted Disposal means any Disposal:

- (a) by the Borrower of MHP and/or Sulphates generated by the Processing Facilities under and in accordance with any Offtake Agreement;
- (b) of assets in the ordinary course of business in exchange for other assets comparable or superior as to type, value and quality and for a similar purpose or any asset that is obsolete;
- (c) by the Borrower of any consumables for use in the operation of the Processing Facilities in the ordinary course of business;
- (d) by the Borrower of any of other Disposal required by a Project Document;
- (e) by the Borrower where the higher of the market value or consideration receivable (when aggregated with the higher of the market value or consideration receivable for any other sale, lease, transfer or other disposal by the Borrower, other than any Permitted Disposal under paragraphs (a) to (d) above) does not exceed US\$5,000,000 (or its equivalent in another currency or currencies) in any financial year.

Permitted Equity Party Payment means:

- (a) a reimbursement of a Shareholder in accordance with clauses 5.2 (Withdrawals from Equity Account) and 12.2 (Withdrawals from Early Generation Equity Account) of the Cash and Accounts Management Agreement;
- (b) any amount payable by the Borrower to an Equity Party or an Affiliate of an Equity Party pursuant to a Project Document and which:
 - (i) has been approved by the Agent; or
 - (ii) has been separately identified as payable to an Equity Party or an Affiliate of an Equity Party in, and is reflected in the most recently approved Project Budget or Operating Budget.

Permitted Financial Indebtedness means:

- (a) any Financial Indebtedness incurred pursuant to any Finance Document or Subordinated Advance Agreement;
- (b) any trade credit provided to it arising in the ordinary course of its business where such credit is reimbursable or payable within ninety (90) days of being extended and which, taken together with all other Financial Indebtedness permitted under this paragraph (b), does not exceed forty million US dollars (\$40,000,000) in aggregate; and
- (c) any Financial Indebtedness incurred pursuant to any Bridge Facilities Finance Document but solely to the extent outstanding on or prior to the first Utilisation Date of Facility A.

Permitted Hedge Close-Out means, in relation to a hedging transaction under a Hedging Agreement, a termination or close-out of that hedging transaction which is permitted pursuant to Clause 25.8 (Permitted Enforcement: Hedge Counterparties).

Permitted Payment means a Payment of:

- (a) Hedging Liabilities permitted by Clause 25.3 (Permitted Payments: Hedging Liabilities); or

- (b) the Secured Liabilities owed by the Borrower to the Facility Creditors under the Finance Documents at any time in accordance with the Finance Documents.

Permitted Security Interest means, with respect to any person:

- (a) any netting or set-off arrangement entered into in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (b) any lien arising by operation of law and in the ordinary course of trading *provided that* the debt which is secured thereby is paid when due or contested in good faith by appropriate proceedings and properly provisioned;
- (c) any Security Interest or Quasi-Security Interest created pursuant to any Finance Document; or
- (d) any Security Interest or Quasi-Security Interest arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to it in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by it.

Pledge of Accounts means:

- (a) the Amended and Restated Pledge of Onshore Project Accounts; or
- (b) the Pledge of Onshore Project Accounts.

Pledge of Onshore Project Accounts means the Deed of Pledge of Bank Account Agreement No. 99, dated 17 March 2021, drawn up by Jimmy Tanal, S.H., M.Kn., Notary in Jakarta, made between the Borrower as pledgor and the Security Agent as pledgee. as amended and restated by the Amended and Restated Pledge of Onshore Project Accounts.

Processing Facilities means the Initial Processing Facilities and the Expansion Processing Facilities.

Products has the meaning given to it in the Offtake Agreements.

Project means the Initial Project and the Expansion Project.

Project Account has the meaning given to that term in the Cash and Accounts Management Agreement.

Project Assets means all assets, properties, rights and interests from time to time owned (whether legally or beneficially) by the Borrower or used and/or enjoyed by the Borrower in connection with the Project, including:

- (a) the Processing Facilities;
- (b) the Project Site;
- (c) lease rights, rights of way and other land use rights;
- (d) all facilities and equipment and all other property (assets and rights) (whether tangible or not and whether real or personal) constructed or acquired from time to time by the Borrower for the implementation of the Project;
- (e) the Borrower's rights under the Project Documents and any other agreement or contract entered into by the Borrower from time to time;

- (f) the Borrower's rights in respect of Project Revenues;
- (g) the Borrower's rights in respect of Project Insurances; and
- (h) the Project Accounts.

Project Budget means a budget for the design, engineering, financing, procurement, development, construction, testing and commissioning, insuring and ownership of the Project prepared by the Borrower and delivered to the Agent as a condition precedent to the Financial Close and as further updated in accordance with Clause 20.7 (Project Budget).

Project Commercial Operation Date or PCOD means, in relation to the Project, the date on which the Agent notifies the Borrower that each of the following conditions in respect of the Project have been satisfied or waived by the Agent (acting on the instructions of the Lenders (acting reasonably) and in consultation with the Lenders' Technical Advisor):

- (a) the Borrower has delivered to the Agent and the Lenders' Technical Advisor an officer certificate signed by a director certifying, and the Lenders' Technical Advisor has issued a confirmation verifying, that:
 - (i) the Module Commercial Operation Date in respect of each of the MHP Module and Sulphates Module has been achieved;
 - (ii) the performance tests for each Module have been satisfied under and in accordance with all relevant Project Documents;
 - (iii) the performance tests for the Expansion Processing Facilities have been satisfied under and in accordance with all relevant Project Documents;
 - (iv) Borrower has obtained, or has made arrangements acceptable to the Lenders' Technical Advisor, to obtain, spare parts and other inventory of a type, in a number and in such condition as it may require to operate the Processing Facilities in accordance with Good Industry Practices at all times;
 - (v) the Project has demonstrated to the satisfaction of the Lenders' Technical Advisor the ability to produce MHP, nickel sulphate and cobalt sulphate (A) at a rolling average of at least eighty per cent. (80)% of the Nameplate Capacity over a continuous period of six (6) Months; and (B) at more than eighty per cent. (80)% of the Nameplate Capacity in each of the last three (3) months of such continuous six (6)-month period;
 - (vi) the Borrower has demonstrated to the satisfaction of the Lenders' Technical Advisor that it has the requisite staff, technical and managerial expertise to operate the Project in accordance with the O&M Plan; and
 - (vii) the JORC reserve certification addressed to the Lenders and dated no earlier than ninety (90) days prior to the Project Commercial Operation Date and has been reviewed by the Lenders' Technical Advisor and an independent Competent Person (as defined in the JORC Code) and demonstrates sufficient nickel ore quantities required for the Project for remaining life of the Project;
- (b) the Lenders' Insurance Advisor has delivered to the Agent a certificate certifying that all Project Insurances then required to be in effect pursuant to Clause 24 (Project Insurance) and Schedule 13 (Project Insurances) of this Agreement and all relevant Project Documents are in full force and effect;

- (c) the Borrower has delivered to the Agent an officer certificate signed by a director certifying that:
 - (i) all Authorisations (including, but not limited to, any Environmental Permit and the Electricity Operations Permit) required for the construction and operations of the Project and each Obligor (including the IPPKH and AMDAL for the Project held by TBP as at the Original Agreement Date) have been issued and are in full force and effect and the Project is in material compliance with all Applicable Laws;
 - (ii) each Project Document is in full force and effect (or, where applicable in the case of certain of the Project Documents, has been fully discharged) and has not been cancelled;
 - (iii) all Transaction Security purported to be created by the Transaction Security Documents has been validly created by such Transaction Security Documents and perfected in accordance with the Transaction Security Documents and all Applicable Laws;
- (d) the Borrower has provided a certificate signed by a director of the Borrower confirming that the Borrower has all necessary intellectual property rights to operate and maintain the Project until the scheduled Final Maturity Date;
- (e) the Borrower has complied with the Hedging Policy in all aspects and all Hedging Agreements required in accordance with the Hedging Policy have been executed by the Borrower on terms satisfactory to the Agent (acting on the instructions of all Lenders);
- (f) no Default has occurred and is continuing (unless such Default has been waived by the Majority Lenders); and
- (g) the cash balance in the Debt Service Reserve Account is not less than the DSRA Reserve Requirement as at the Project Commercial Operation Date.

Project Costs means all costs, liabilities, fees, expenses, and Taxes on or in relation to them, which are accrued, paid, payable or reimbursable by or on behalf of the Borrower relating to the Project as are required to achieve the Project Commercial Operation Date, including (without limitation and without double counting):

- (a) any MHP Module Project Costs;
- (b) any Sulphates Module Project Costs;
- (c) any Expansion Project Costs;
- (d) any other costs, expenses and liabilities in relation to the development, construction, engineering, procurement, manufacturing, completion, testing, commissioning, insuring, ownership and obtaining permits for, the Project not otherwise falling within any other paragraphs of this definition, including any Captive Power Plant Project Costs;
- (e) Financing Costs (including, without limitation, Financing Costs accrued up to the First Repayment Date) in respect of a Facility;
- (f) initial cash funding of the Debt Service Reserve Account prior to, or as a condition to, the Project Commercial Operation Date; and

(g) working capital requirements up to the Project Commercial Operation Date.

Project Document means each of:

- (a) each Nickel Ore Supply Agreement;
- (b) each Offtake Agreement;
- (c) each Material EPC Contract;
- (d) the Forestry Utilisation Agreement;
- (e) the Special Terminal Cooperation Agreement;
- (f) each Expansion Project Document;
- (g) any contract, agreement or document in connection with the construction, commissioning and/or operation of the Captive Power Plant (or series of contracts entered into with the same contractual counterparty or a group of Affiliated counterparties) with a value of more than USD5,000,000;
- (h) any other bond, guarantee and performance security issued under or in connection with any Project Document; and
- (i) any other contract, agreement or document designated as such in writing by the Agent and the Borrower.

Project Insurances means each of the contracts of insurance or reinsurance entered into by or on behalf of the Borrower in respect of the Project and in accordance with its obligations under Clause 24 (Project Insurance) and Schedule 13 (Project Insurances).

Project Site means the 562.53 hectares of land on which the IPPKH is granted and necessary for the construction, operation and maintenance of the Project as described in the Forestry Utilisation Agreement.

Projected DSCR means, for any Projected Period, the ratio of:

- (a) the CFADS during that Projected Period,

to:

- (a) the Scheduled Debt Service during that Projected Period (for the avoidance of doubt, without taking into account any Cash Sweep Payments projected to be made pursuant to the then applicable Banking Case),

as calculated in accordance with this Agreement and the Ratio Calculation Statement delivered immediately following that Calculation Date. In calculating a Projected DSCR at any time, all undrawn but committed Term Loan Facilities shall be assumed to have been drawn in the amounts and at the times reasonably projected.

Projected Period means the twelve (12)-Month period immediately following (but excluding) the relevant Calculation Date.

Put Option Deed means each of the put option deed dated 27 October 2020, and the put option deed dated 29 January 2021, each between Mr. Lim Gunawan as grantor, PT Bank OCBC NISP TBK as agent and PT Bank Mandiri (Persero) TBK as security agent.

Quasi-Security Interest means, with respect to any person, any transaction to:

- (a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or reacquired by it;
- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into or permit to subsist any title retention arrangement;
- (d) enter into or permit to subsist any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (e) enter into or permit to subsist any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

Ratio Calculation Statement means each ratio calculation statement to be delivered by the Borrower in accordance with Clause 22.4 (Delivery of draft Ratio Calculation Statement) and substantially in the form set out in Schedule 15 (Form of Ratio Calculation Statement).

Receiver means a receiver or receiver and manager of the whole or any part of the Charged Property.

Reference Rate Supplement means a document which:

- (a) is agreed in writing by the Borrower, the Agent (in its own capacity) and the Agent (acting on the instructions of the Majority Lenders);
- (b) specifies the relevant terms which are expressed in this Agreement to be determined by reference to Reference Rate Terms; and
- (c) has been made available to the Borrower and each Finance Party.

Reference Rate Terms means the terms set out in Schedule 19 (Reference Rate Terms) or in any Reference Rate Supplement.

Refinancing Amount means the aggregate of the following amounts that are due and payable by the Borrower under or in connection with the refinancing of the Bridge Facilities as at the first Utilisation Date of Facility A:

- (a) the total outstanding principal amounts of the Bridge Facilities;
- (b) any duly documented voluntary prepayment fees and break costs, if any, incurred in connection with the repayment or prepayment of the Bridge Facilities;
- (c) any interest in respect of the principal amounts of the Bridge Facilities which has accrued since the immediate preceding repayment date under the Bridge Facilities up to and including the first Utilisation Date of Facility A; and
- (d) any other duly documented fees (including legal fees), costs (including any due diligence costs) and expenses.

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 advisor as the first fund or, if it is managed by a different investment manager or investment advisor, a fund whose investment manager or investment advisor is an Affiliate of the investment manager or investment advisor of the first fund.

Relevant Expert has the meaning given to that term in Clause 20.10(f)(i) (Expert Determination).

Relevant Jurisdiction means, in relation to an Obligor:

- (a) its jurisdiction of incorporation;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

Relevant Market means the market specified as such in the Reference Rate Terms.

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.

Reporting Day means the day (if any) specified as such in the Reference Rate Terms.

Reporting Time means the relevant time (if any) specified as such in the Reference Rate Terms.

Repayment Date means:

- (a) in respect of Facility A:
 - (i) the Facility A First Repayment Date;
 - (ii) in the case of each subsequent Repayment Date, the date falling three (3) Months after the immediately preceding Repayment Date, *provided that* in the event the Facility B First Repayment Date falls on the date referred to in paragraph (a) of the definition of such term (being 31 December 2022), and if such date is not concurrently a Repayment Date for Facility A in accordance with this definition, then the Repayment Date for Facility A which would otherwise fall immediately after the Facility B First Repayment Date shall fall on the Facility B First Repayment Date, such that each subsequent Repayment Date for Facility A will fall on a same date as each subsequent Repayment Date for Facility B; and
 - (iii) the Final Maturity Date;
- (b) in respect of Facility B:
 - (i) the Facility B First Repayment Date;
 - (ii) in the case of each subsequent Repayment Date, the date falling three (3) Months after the immediately preceding Repayment Date; and
 - (iii) the Final Maturity Date;

- (c) in respect of Facility C, each Interest Payment Date; and
- (d) in respect of Facility D:
 - (i) the Facility D First Repayment Date;
 - (ii) in the case of each subsequent Repayment Date, the date falling three (3) Months after the immediately preceding Repayment Date; and
 - (iii) the Final Maturity Date,

and, in each case, where the previous Repayment Date is the last day of a month, every subsequent Repayment Date (other than the Final Maturity Date) shall be the last day of the month falling three (3) Months after the immediately preceding Repayment Date.

Repayment Instalment means each instalment for repayment of Term Loans outstanding under a Term Loan Facility which is scheduled to be made in accordance with the Repayment Schedule.

Repayment Schedule means the repayment schedule for each Term Loan Facility as set out in Schedule 4 (Repayment Schedule) and as amended by the Agent and the Borrower in accordance with the terms of this Agreement from time to time.

Repeating Representation means each of the Representations other than those set out in Clauses 19.7 (Registration requirements), 19.9 (Tax), 19.10 (No filing or stamp taxes), 19.13 (Transaction Documents), 19.17 (Indebtedness; Pari passu ranking), 19.22 (Insolvency), 19.27 (Insurances), 19.28 (No Other Business) and 19.29(a) (Ownership and Shares).

Representation means each of the representations set out in Clause 19 (Representations).

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

Retention Sum Account has the meaning given to that term in the Cash and Accounts Management Agreement.

Retiring Security Agent has the meaning given to that term in Clause 33.1(d) (Resignation of the Security Agent).

Revenue Account has the meaning given to that term in the Cash and Accounts Management Agreement.

Review Date means each Scheduled Review Date and Interim Review Date.

RFR means the rate specified as such in the Reference Rate Terms.

RFR Banking Day means any day specified as such in the Reference Rate Terms.

Sanctioned Country has the meaning given to that term in Clause 19.20(a) (Sanctions).

Sanctioned Person has the meaning given to that term in Clause 19.20(a) (Sanctions).

Sanctions means any economic or trade sanctions or restrictive measures enacted, administered, imposed or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), the U.S. Department of State, the United Nations Security Council, French Republic, the European Union, His Majesty's Treasury and/or the Monetary Authority of Singapore.

Scheduled Debt Service means, for any period, an amount equal to the aggregate of:

- (a) Financing Costs accruing or (in the case of a future period) projected to accrue in that period (excluding any non-recurring payments under the Finance Documents, and including (for the avoidance of doubt) any payments arising under Clause 15 (Increased Costs)); and
- (b) Repayment Instalments payable or (in the case of a future period) projected to be payable in that period.

Scheduled Review Date has the meaning given to that term in Clause 21.1(b) (Adoption).

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Secured Party under each Finance Document.

Secured Party means a Finance Party, a Receiver or any Delegate.

Security Interest means any mortgage, *hak tanggungan* (land mortgage), charge, pledge, hypothecation, fiducia security, lien, encumbrance, assignment by way of security or other security interest or any other arrangement having the effect of conferring security (whether *in-rem* security or contractual or other security), including a conditional sale, hire purchase or finance lease or other title retention agreement, or any power of attorney or any arrangement whereby rights are subordinated to the rights of a third party.

Security Property means:

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by an Obligor to pay amounts in respect of the Secured Liabilities to the Security Agent as trustee for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by an Obligor in favour of the Security Agent as trustee for the Secured Parties; and
- (c) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents to hold as trustee on trust for the Secured Parties.

Separate Loans has the meaning set out in Clause 8.2(c) (Repayment of Facility C Loans).

Share Pledge means:

- (a) the Amended and Restated TBP Share Pledge;
- (b) the Amended and Restated Lygend Share Pledge;
- (c) the TBP Share Pledge;
- (d) the Lygend Share Pledge; or
- (e) the KX Share Pledge.

Shareholder means each Original Shareholder and each company which becomes a Shareholder in accordance with the Equity Support and Retention Deed.

Shareholders Agreement means the shareholders agreement between Lygend and HJR dated 29 May 2018 as lastly amended by an addendum agreement 13 January 2020.

Special Terminal Cooperation Agreement means a cooperation agreement dated 3 December 2018 between TBP and the Borrower which governs the use of TBP's special terminal by the Borrower.

Specified Time means a day or time determined in accordance with Schedule 11 (Timetables).

Sponsor means each Original Sponsor and each company which becomes a Sponsor in accordance with the Equity Support and Retention Deed.

Sponsor Financial Covenant means, in respect of a Sponsor, each financial covenant given by such Sponsor pursuant to clause 8 (Sponsor Financial Covenants) of the Equity Support and Retention Deed.

Subordinated Advance means any advance made or to be made by a Subordinated Advance Lender to the Borrower under a Subordinated Advance Agreement.

Subordinated Advance Agreement means a loan agreement with the Borrower as borrower and a Subordinated Advance Lender as lender substantially in the form set out in schedule 1 (Form of Subordinated Advance Agreement) to the Equity Support and Retention Deed.

Subordinated Advance Assignment Agreement means each security assignment agreement between a Subordinated Advance Lender and the Security Agent which creates a Security Interest over the rights of such Subordinated Advance Lender in respect of any Subordinated Advance made by it in form and substance acceptable to the Agent.

Subordinated Advance Lender means a lender under a Subordinated Advance Agreement who is an Equity Party or an Affiliate of an Equity Party, *provided that* such Affiliate complies and satisfies any "know your customer" requirements of the Lenders.

Subsidiary means, in relation to any company or corporation, a company or corporation:

- (a) which is controlled, directly or indirectly, by the first mentioned company or corporation;
- (b) more than half the issued equity share capital of which is beneficially owned, directly or indirectly, by the first mentioned company or corporation; or
- (c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

Sulphates means nickel-sulphate (NiSO₄) or cobalt-sulphate (CoSO₄).

Sulphates Module means the plant with a design capacity to produce up to 162.162 ktpa of nickel sulphate and 21.335 ktpa of cobalt sulphate, containing 36ktpa of nickel and 4.373ktpa of cobalt in content and any supporting infrastructure required for its operation.

Sulphates Module Project Costs means all costs, expenses and liabilities in relation to the development, construction, engineering, procurement, manufacturing, completion, testing, commissioning, ownership, insuring, and obtaining permits for, the Sulphates Module, but excluding for the avoidance of doubt any Captive Power Plant Project Costs and any Expansion Project Costs

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 such term in Clause 14.1 (Tax definitions).

TBP means PT Trimegah Bangun Persada, a limited liability company established and existing under the laws of the Republic of Indonesia with its registered office at Bank Panin Building, Senayan, 2nd Floor, Jl. Jend Sudirman, Jakarta, Indonesia.

TBP Share Pledge means the Deed of Pledge over Shares Agreement No. 100, dated 17 March 2021 as amended by Deed of Amendment to Pledge of Shares Agreement No. 42 dated 10 March 2022, each drawn up by Jimmy Tanal, S.H., M.Kn., Notary in Jakarta between TBP as the pledgor and the Security Agent as pledgee as amended and restated by the Amended and Restated TBP Share Pledge.

Technical Assumptions means the assumptions set out in the Banking Case relating to technical matters as may be updated and amended from time to time in accordance with Clause 21 (Banking Case).

Term means each period determined under this Agreement for which a WCF Lender is under a liability under a Letter of Credit.

Term Loan means a Facility A Loan, a Facility B Loan or a Facility D Loan.

Term Loan Facility means each of Facility A, Facility B or Facility D.

Term Loan Lender means each Lender making available a Facility A Commitment, a Facility B Commitment or a Facility D Commitment to the Borrower in accordance with the terms of this Agreement.

Third Parties Act means the Contracts (Rights of Third Parties) Act 1999.

Total Commitments means at any time the aggregate of the Total Facility A Commitments, the Total Facility B Commitments, the Total Facility C Commitments and the Total Facility D Commitments (being US\$811,500,000 at the Amendment and Restatement Date).

Total Facility A Commitments means the aggregate of the Facility A Commitments (being US\$425,000,000 at the Amendment and Restatement Date).

Total Facility B Commitments means the aggregate of the Facility B Commitments (being US\$175,000,000 at the Amendment and Restatement Date).

Total Facility C Commitments means the aggregate of the Facility C Commitments (being US\$25,000,000 at the Amendment and Restatement Date).

Total Facility D Commitments means the aggregate of the Facility D Commitments (being US\$186,500,000 at the Amendment and Restatement Date).

Total Loss means all or substantially all of any of the Processing Facilities:

- (a) is damaged and an insurance settlement is made with respect to such damage on the basis of a total loss, a constructive total loss or an agreed total loss under the terms and conditions of the applicable insurances; or

- (b) is damaged beyond economic repair or reinstatement or such damage results in the Processing Facilities being permanently unfit for use.

Transaction Document means:

- (a) each Finance Document; and
- (b) each Project Document.

Transaction Security means the Security Interest created or evidenced or expressed to be created or evidenced under the Transaction Security Documents.

Transaction Security Document means each of:

- (a) each Offshore Security Document;
- (b) each Onshore Security Document;
- (c) any other document executed in favour of the Security Agent on behalf of all of the Secured Parties evidencing or creating or expressed to evidence or create Security Interest to secure any Secured Liabilities and which the Agent designates as a Transaction Security Document.

Transfer Certificate means a certificate substantially in the form set out in Schedule 5 (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.

Treasury Transaction means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

Unpaid Sum means any principal, interest or other amount (including any up-front fee, commitment fee or Agent's fee) due and payable by an Obligor to a Finance Party pursuant to the Finance Documents, which amount is not paid at or before the time and date required to be paid under the relevant Finance Document (or, if not stated, by 12pm Singapore time on the due date for payment thereof).

US means the United States of America.

Utilisation means a utilisation of a Facility or a Letter of Credit.

Utilisation Date means the date of a Utilisation, being the date on which the relevant Loan is to be made or the relevant Letter of Credit is to be issued.

Utilisation Request means, in respect of a Term Loan, a notice substantially in the form set out in Schedule 3 (Utilisation Requests) and in respect of a Facility C Utilisation, a written request in respect of such Utilisation delivered by the Borrower to the relevant WCF Lender.

WCF Lender means a Lender making available the Facility C Commitments to the Borrower in accordance with the terms of this Agreement.

1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
- (i) any **Account Bank**, **Administrative Party**, the **Agent**, the **Arranger**, any **Finance Party**, any **Lender**, any **Hedge Counterparty**, any **Obligor**, any **Party**, any **Secured Party**, the **Security Agent** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Agent and the Security Agent, any person for the time being appointed as Agent or Security Agent (as the case may be) in accordance with the Finance Documents;
 - (ii) a document in **agreed form** is a document which is previously agreed in writing by or on behalf of Borrower and the Agent or, if not so agreed, is in the form specified by the Agent;
 - (iii) **amendment** includes a supplement, novation, extension (whether of maturity or otherwise), restatement or re-enactment or replacement, however fundamental and whether or not more onerous, and **amended** will be construed accordingly;
 - (iv) **assets** includes present and future properties, revenues and rights of every description;
 - (v) **authorisation** includes any authorisation, approval, consent, licence, permit, franchise, permission, registration, resolution, direction, declaration, filing, notarisation or exemption;
 - (vi) **certified copies** means a certificate signed by an authorised representative of a person attaching a copy of one or more documents and confirming that such copy is a true, complete, current and accurate copy of the relevant document(s) and that such document(s) remain unamended and in full force and effect as of the date of such certificate;
 - (vii) a Lender's **cost of funds** in relation to its participation in a Loan is a reference to the average cost (determined either on an actual or a notional basis) which that Lender would incur if it were to fund, from whatever source(s) it may reasonably select, an amount equal to the amount of that participation in that Loan for a period equal in length to the Interest Period of that Loan;
 - (viii) a **currency** is a reference to the lawful currency for the time being of the relevant country;
 - (ix) **enforce**, together with all grammatical variations thereof, includes all methods of enforcement or suit and, when used in the context of a Secured Party enforcing rights under or in connection with the Finance Document;
 - (x) a **Finance Document**, **Project Document**, **Transaction Document** or any other agreement or instrument is a reference to that Finance Document, Project Document, Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
 - (xi) **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;
 - (xii) **including** shall be construed as "including without limitation" (and cognate expressions shall be construed similarly);

- (xiii) **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;
 - (xiv) the **Interest Period** of a Letter of Credit shall be construed as a reference to the Term of that Letter of Credit;
 - (xv) **knowledge**, where used in respect of the Borrower or any authorised representative of the Borrower, shall be construed to mean the best knowledge of the Borrower, any Equity Party or any Affiliate of the foregoing, in each case, after due and careful enquiry, *provided that*, Affiliate, for the purposes of this paragraph (xv), shall only include persons controlled by an Equity Party or where such Equity Party holds or beneficially owns fifty per cent. (50%) or more of the equity interests of such person;
 - (xvi) a Lender's **participation** in a Loan or Unpaid Sum includes an amount (in the currency of such Loan or Unpaid Sum) representing the fraction or portion (attributable to such Lender by virtue of the provisions of this Agreement) of the total amount of such Loan or Unpaid Sum and the Lender's rights under this Agreement in respect thereof and a Lender's participation in relation to a Letter of Credit shall be construed as a reference to the relevant amount that is or may be payable by a Lender in relation to that Letter of Credit;
 - (xvii) 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 regulatory, self-regulatory or other authority or organisation;
 - (xviii) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
 - (xix) a Utilisation made or to be made to the Borrower includes a Letter of Credit issued on its behalf;
 - (xx) a provision of law is a reference to that provision as amended or re-enacted;
 - (xxi) singular words include the plural and vice versa; and
 - (xxii) a time of day is a reference to Jakarta time.
- (b) Clause and Schedule headings are for ease of reference only.
 - (c) 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.
 - (d) The Borrower providing **cash cover** for a Letter of Credit means that Borrower paying an amount in the currency of the Letter of Credit to an interest-bearing account in the name of the Borrower and the following conditions being met:
 - (i) either:
 - (A) the account is in the name of the Borrower and is with the WCF Lender for which that cash cover is to be provided and until no amount is or may be outstanding under that Letter of Credit, withdrawals from the account may only be made to pay the relevant Finance Party amounts due and payable to it under this Agreement in respect of that Letter of Credit; or

- (B) the account is in the name of the WCF Lender for which that cash cover is to be provided; and
 - (ii) the Borrower has executed a security document, in form and substance satisfactory to that WCF Lender, creating a first ranking security interest over that account in favour of that WCF Lender.
- (e) A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived in writing and an Event of Default is **continuing** if it has not been waived in writing.
- (f) The Borrower **repaying** or **prepaying** a Letter of Credit means:
- (i) that Borrower providing cash cover for that Letter of Credit;
 - (ii) the maximum amount payable under that Letter of Credit being reduced or cancelled in accordance with its terms; or
 - (iii) the relevant WCF Lender being satisfied that its liability under that Letter of Credit has been reduced or cancelled,

and the amount by which a Letter of Credit is repaid or prepaid above is the amount of the relevant cash cover, reduction or cancellation.

- (g) An amount borrowed includes any amount utilised by way of Letter of Credit.
- (h) A Lender funding its participation in a Utilisation includes a WCF Lender issuing a Letter of Credit.
- (i) Amounts outstanding under this Agreement include amounts outstanding under or in respect of any Letter of Credit.
- (j) An outstanding amount of a Letter of Credit at any time is the maximum amount that is or may be payable by the Borrower in respect of that Letter of Credit at that time.
- (k) The Borrower's obligation on Utilisations becoming **due and payable** includes the Borrower becoming liable to repay any Letter of Credit in accordance with paragraph (f) above.
- (l) Where this Agreement specifies an amount in a given currency (the **specified currency**) or its **equivalent**, the **equivalent** is a reference to the amount of any other currency which, when converted into the specified currency utilising the Agent's spot rate of exchange for the purchase of the specified currency with that other currency at or about 11am on the relevant date, is equal to the relevant amount in the specified currency.
- (m) A reference in this Agreement to a page or screen of an information service displaying a rate shall include:
 - (i) any replacement page of that information service which displays that rate; and
 - (ii) the appropriate page of such other information service which displays that rate from time to time in place of that information service,

and, if such page or service ceases to be available, shall include any other page or service displaying that rate specified by the Agent after consultation with the Borrower.

- (n) A reference in this Agreement to a Central Bank Rate shall include any successor rate to, or replacement rate for, that rate.

- (o) Any Reference Rate Supplement overrides anything in:
 - (i) Schedule 19 (Reference Rate Terms); or
 - (ii) any earlier Reference Rate Supplement.
- (p) A Compounding Methodology Supplement relating to the Cumulative Compounded RFR Rate overrides anything relating to that rate in:
 - (i) Schedule 21 (Cumulative Compounded RFR Rate); or
 - (ii) any earlier Compounding Methodology Supplement.

1.3 Currency symbols and definitions

\$, US\$, USD and US dollars denote the lawful currency of the United States of America.

1.4 Third party rights

- (a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any third person who is not a Party is not required to rescind or vary this Agreement at any time.
- (c) Any Receiver, Delegate or any person described in Clause 31.11(b) (Exclusion of liability) may, subject to this Clause 1.4 and the Third Parties Act, rely on any Clause of this Agreement which expressly confers rights on it.

2. THE FACILITIES

2.1 The Facilities

- (a) Subject to the terms of this Agreement, the Initial Term Loan Lenders make available to the Borrower a US dollar term loan facility in an aggregate amount equal to the Total Facility A Commitments.
- (b) Subject to the terms of this Agreement, the Initial Term Loan Lenders make available to the Borrower a US dollar term loan facility in an aggregate amount equal to the Total Facility B Commitments.
- (c) Subject to the terms of this Agreement, the WCF Lenders make available to the Borrower a US dollar revolving credit facility in an aggregate amount equal to the Total Facility C Commitments.
- (d) Subject to the terms of this Agreement, the Facility D Lenders make available to the Borrower a US dollar term loan facility in an aggregate amount equal to the Total Facility D Commitments.

2.2 Increase

- (a) The Borrower may request that the Commitments relating to both Facility A and Facility B be increased (and the Commitments relating to those Facilities shall be so increased) as follows:
 - (i) the increased Commitments under each Facility will be assumed by one or more Increase Lenders each of which confirms in writing (whether in the relevant Increase Confirmation or otherwise) its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender;

- (ii) each of the Obligors and any Increase Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and the Increase Lender would have assumed and/or acquired had the Increase Lender been an Original Lender;
 - (iii) each Increase Lender shall become a Party as a “Lender” and any Increase Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Increase Lender and those Finance Parties would have assumed and/or acquired had the Increase Lender been an Original Lender;
 - (iv) the Commitments of the other Lenders shall continue in full force and effect;
 - (v) the aggregate amount of the Commitments following any increase must not at any time exceed:
 - (A) in the case of Facility A, \$425,000,000; and
 - (B) in the case of Facility B, \$175,000,000,
 in each case, *less* the amount of any Commitments which are cancelled, reduced or are otherwise no longer available in accordance with the terms of this Agreement;
 - (vi) any increase in the Commitments relating to a Facility shall take effect on the date specified by the Borrower in the notice referred to above or any later date on which the conditions set out in paragraph (b) below are satisfied;
 - (vii) Facility A and Facility B must be increased in a proportionate manner, such that the ratio of total Commitments under Facility A to the total Commitments under Facility B as of the Original Agreement Date remains the same following such increase; and
 - (viii) each Increase Lender must ensure that, following such increase, it has a pro rata share of the Facility A Commitments and the Facility B Commitments.
- (b) An increase in the Commitments relating to a Facility will only be effective on the date on which the Agent confirms that it has received the following documents and evidence in form and substance satisfactory to the Agent:
- (i) no Default is continuing or would result from the creation of such increase;
 - (ii) the execution by the Agent of an Increase Confirmation from the relevant Increase Lender; and
 - (iii) in relation to an Increase Lender which is not a Lender immediately prior to the relevant increase:
 - (A) the Increase Lender entering into the documentation required for it to accede as a party to this Agreement and any other relevant Finance Documents; and
 - (B) the Agent being satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Lender. The Agent shall promptly notify the Borrower and the Increase Lender upon being so satisfied.
- (c) Each Increase Lender, by executing the Increase Confirmation, 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 increase becomes effective.

- (d) The Borrower shall within seven (7) Business Days of demand pay the Agent and the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by either of them and, in the case of the Security Agent, by any Receiver or Delegate in connection with any increase in Commitments under this Clause 2.2.
- (e) The Borrower may pay to the Increase Lender a fee in the amount and at the times agreed between the Borrower and the Increase Lender in a Fee Letter (if any), *provided that* such fee may not exceed the upfront fee paid to the Original Lenders pursuant to Clause 13.2 (Arrangement fee).
- (f) Clause 30.4 (Limitation of responsibility of Existing Lenders) shall apply *mutatis mutandis* to this Clause 2.2 in relation to an Increase Lender as if references in that Clause to:
 - (i) an **Existing Lender** were references to all the Lenders immediately prior to the relevant increase;
 - (ii) the **New Lender** were references to that Increase Lender; and
 - (iii) a **re-transfer** and **re-assignment** were references to respectively a transfer and assignment.

2.3 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 an Obligor is 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 an Obligor 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 that Obligor.
- (c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

2.4 Obligors' Agent

- (a) Each Obligor (other than the Borrower) by its execution of the Finance Documents to which it is a party irrevocably appoints the Borrower to act on its behalf as its agent in relation to the Finance Documents to which it is a party and irrevocably authorises:
 - (i) the Borrower on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including, in the case of the Borrower, Utilisation Requests), to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and

- (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Borrower,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions (including, without limitation, any Utilisation Requests) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors' Agent or given to the Obligors' Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors' Agent and any other Obligor, those of the Obligors' Agent shall prevail.

3. PURPOSE

3.1 Purpose

- (a) The Borrower shall apply all amounts borrowed by it under the Facility A:
 - (i) towards payment of the Project Costs incurred or to be incurred in accordance with the most recently approved Project Budget, other than any Sulphates Module Project Costs or Captive Power Plant Project Costs;
 - (ii) towards payment of the Refinancing Amount; and
 - (iii) to fund an Equity True Up.
- (b) The Borrower shall apply all amounts borrowed by it under the Facility B:
 - (i) towards payment of the Project Costs incurred or to be incurred in accordance with the most recently approved Project Budget, other than any MHP Module Project Costs or Captive Power Plant Project Costs; and
 - (ii) to fund an Equity True Up.
- (c) The Borrower shall apply all amounts borrowed by it under the Facility C towards its general working capital purposes.
- (d) The Borrower shall apply all amounts borrowed by it under the Facility D towards:
 - (i) towards payment of the Expansion Project Costs incurred or to be incurred in accordance with the most recently approved Project Budget; and
 - (ii) to fund an Equity True Up.
- (e) Each Letter of Credit may only be issued to counterparties to the Borrower under a Project Document or any other agreement entered into by the Borrower in relation to the implementation of the Project.

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 Borrower may not deliver a Utilisation Request in respect of any Facility unless the Agent has received all of the documents and other evidence listed in Part 1 (Conditions Precedent to Financial Close) of Schedule 2 (Conditions Precedent and Subsequent) in form and substance satisfactory to the Agent. The Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.
- (b) Without prejudice to paragraph (a) above, the Borrower may not deliver a Utilisation Request in respect of Facility B unless the Agent has received all of the documents and other evidence listed in Part 2 (Conditions Precedent to Initial Utilisation of Facility B) of Schedule 2 (Conditions Precedent and Subsequent) in form and substance satisfactory to the Agent. The Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.
- (c) Other than to the extent that the all Lenders notify the Agent in writing to the contrary before the Agent gives the notifications described in paragraphs (a) and (b) above, 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.

4.2 Further conditions precedent

The Lenders will be obliged to comply with Clause 5.5 (Lenders' participation) and Clause 6.3(a) (Issue of Letters of Credit) only if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) in relation to a Utilisation of a Term Loan Facility, no Default and, in relation to a Utilisation of Facility C, no Event of Default, is continuing or would result from the proposed Utilisation;
- (b) each Repeating Representation, to be made by each Obligor, is true in all material respects;
- (c) none of the circumstances described in Clause 9.1 (Mandatory Prepayment) has occurred unless the mandatory repayments required thereunder have been made;
- (d) unless a Cost to Complete Certificate has been or is to be delivered within thirty (30) days prior to the proposed Utilisation Date, the Borrower has delivered to the Agent an updated Cost to Complete Certificate which shall demonstrate, to the satisfaction of the Agent (in consultation with the Lenders' Technical Advisor) that on the date of that Cost to Complete Certificate, the Available Funds are not less than the remaining forecast Project Costs (by reference to the most recently approved Banking Case) as are required by the Borrower to achieve the Project Commercial Operation Date;
- (e) Lenders' Technical Advisor has provided a certificate confirming that the Project is proceeding to a schedule that can reasonably be expected to allow the Borrower to reach the Expected MCOD of the relevant Module and the Expansion Processing Facilities; and
- (f) the Borrower has provided details of the items to be financed by the proceeds of the requested Loan, such items being set out in the Project Budget,

provided that the conditions stated in paragraphs (d), (e) and (f) above shall not apply to any Facility C Utilisation.

4.3 Maximum number of Utilisations

- (a) The Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation:
 - (i) four or more Facility A Loans would be outstanding at any one time;
 - (ii) four or more Facility B Loans would be outstanding at any one time;
 - (iii) the number of Facility C Utilisations would be more than the number as agreed between the Borrower and the relevant WCF Lender at any one time; or
 - (iv) four or more Facility D Loans would be outstanding at any one time.
- (b) The Borrower may not request that any Loan may be divided.

5. UTILISATION – LOANS

5.1 Delivery of a Utilisation Request for Loans

- (a) The Borrower may utilise a Term Loan Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.
- (b) The Borrower may request a Facility C Loan by submitting a Utilisation Request directly to the relevant WCF Lender not later than the Specified Time.

5.2 Completion of a Utilisation Request for Loans

- (a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
 - (i) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
 - (ii) it identifies the Facility to be utilised;
 - (iii) the currency and amount of the Utilisation comply with Clause 5.3 (Currency and amount); and
 - (iv) the proposed first Interest Period complies with Clause 11 (Interest Periods).
- (b) Only one Loan may be requested in each Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be US dollars.
- (b) The amount of the proposed Loan must be:
 - (i) in respect of Facility A, an amount which is not more than the Available Facility and which is a minimum of five million US dollars (\$5,000,000) or, if less, the Available Facility;
 - (ii) in respect of Facility B, an amount which is not more than the Available Facility and which is a minimum of five million US dollars (\$5,000,000) or, if less, the Available Facility;

- (iii) in respect of Facility C, an amount which is not more than the Available Facility and which is a minimum of five hundred thousand US dollars (\$500,000) or, if less, the Available Facility; and
- (iv) in respect of Facility D, an amount which is not more than the Available Facility and which is a minimum of five million US dollars (\$5,000,000) or, if less, the Available Facility.

5.4 Equity True Up Utilisation

- (a) All or part of the proceeds of the final Utilisation of Facility A, Facility B and/or Facility D may also be applied to fund an Equity True Up of up to the Equity Overfunding Amount on the Project Commercial Operation Date (an **Equity True-up Utilisation**), *provided that* the Borrower delivers to the Agent an Equity True Up Compliance Certificate confirming that at the time of application of the proceeds of the Equity True Up Utilisation:
 - (i) the Borrower has paid, or by no later than funding of the Equity True Up will pay, all amounts due and payable from it under each Project Document (excluding any retention by the Borrower provided for therein, provided such retention amounts have been reserved for) and all other amounts required to complete the construction and commissioning of the Project into the Equity Account, or, in the event the Borrower is disputing any amounts alleged to be payable by it under any Project Document, the Borrower has reserved sufficient amounts in the Equity Account, or otherwise has funding available, to pay in full the disputed amounts, in each case as certified by the Lenders' Technical Advisor;
 - (ii) after making the Equity True Up payment, the Base Equity Commitment has been fully contributed to the Borrower; and
 - (iii) no Default or Event of Default has occurred and is continuing or could reasonably be expected to result from making the Equity True Up.
- (b) The proceeds of an Equity True Up Utilisation shall be transferred directly into the Equity Account up to the Equity Overfunding Amount without regard to (i) the Distribution Conditions, notwithstanding the terms of the Finance Documents or (ii) any undertaking restricting the repayment of principal and other amounts under the Subordinated Liabilities (as defined under the Equity Support and Retention Deed).

5.5 Lenders' participation

- (a) If the conditions set out in Clause 4 (Conditions of Utilisation) and Clauses 5.1 (Delivery of a Utilisation Request for Loans) to 5.3 (Currency and amount) above have been met, and subject to Clause 8.2 (Repayment of Facility C Loans), each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (b) Subject to paragraph (c) below, the amount of each Lender's participation in each Term Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Term Loan.
- (c) To the extent that any Increase Confirmation has become effective in accordance with Clause 2.2 (Increase) above, the Agent will first allocate participations in each Term Loan to each relevant Increase Lender until such time as the proportions borne by the Increase Lenders in the Term Loans under each Term Loan Facility is equivalent to the proportions borne by the non-Increase Lenders under that Term Loan Facility, and thereafter each Lender's participation in each Term Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Term Loan.

- (d) The Agent shall notify each Lender of the amount of each Term Loan and the amount of its participation in that Term Loan by the Specified Time.
- (e) Each WCF Lender shall inform the Agent of the amount of principal outstanding under Facility C Loans, the amount of Letters of Credit issued by it to the Borrower, and any interest and Letter of Credit fees:
 - (i) at least five (5) Business Days prior to each Interest Payment Date, in respect of such amounts due and payable on the next Interest Payment Date; and
 - (ii) at any other time requested by the Agent, in respect of such amounts accrued, or due and payable at that time.

5.6 Cancellation of Available Facility

- (a) The Facility A Commitments which, at that time, are unutilised shall be immediately cancelled at 5pm on the last day of the Availability Period for Facility A.
- (b) The Facility B Commitments which, at that time, are unutilised shall be immediately cancelled at 5pm on the last day of the Availability Period for Facility B.
- (c) The Facility C Commitments which, at that time, are unutilised shall be immediately cancelled at 5pm on the last day of the Availability Period for Facility C.
- (d) The Facility D Commitments which, at that time, are unutilised shall be immediately cancelled at 5pm on the last day of the Availability Period for Facility D.

6. UTILISATION – LETTERS OF CREDIT

6.1 Utilisation of Facility C by Letters of Credit

- (a) Facility C may be utilised by way of Letters of Credit.
- (b) Clause 5 (Utilisation – Loans) does not apply to Utilisations by way of Letters of Credit.
- (c) The Available Commitment of a WCF Lender will be calculated ignoring any cash cover provided for outstanding Letters of Credit issued by that WCF Lender.

6.2 Delivery of a Utilisation Request for Letters of Credit

- (a) The Borrower may request a Letter of Credit to be issued by a WCF Lender by delivery to that WCF Lender of a Utilisation Request not later than the Specified Time.
- (b) The amount of the proposed Letter of Credit must be an amount which is not more than the Available Facility under Facility C.

6.3 Issue of Letters of Credit

- (a) If the conditions set out in this Agreement have been met, the relevant WCF Lender shall issue the Letter of Credit on the Utilisation Date.
- (b) Each WCF Lender is solely responsible for the form of the Letter of Credit that it issues. The Agent has no duty to monitor the form of that document.

- (c) Subject to Clause 31.7(i) (Rights and discretions), each WCF Lender and the Agent shall provide the other with any information reasonably requested by the other that relates to a Letter of Credit and its issue.

7. LETTERS OF CREDIT

7.1 Immediately payable

If a Letter of Credit or any amount outstanding under a Letter of Credit is expressed to be immediately payable, the Borrower that requested the issue of that Letter of Credit shall repay or prepay that amount immediately.

7.2 Claims under a Letter of Credit

- (a) The Borrower irrevocably and unconditionally authorises each WCF Lender to pay any claim made or purported to be made under a Letter of Credit requested by it from such WCF Lender and which appears on its face to be in order (in this Clause 7, a **claim**).
- (b) The Borrower shall immediately on demand pay to that WCF Lender an amount equal to the amount of any claim when due and payable.
- (c) The Borrower acknowledges that each WCF Lender:
 - (i) is not obliged to carry out any investigation or seek any confirmation from any other person before paying a claim; and
 - (ii) deals in documents only and will not be concerned with the legality of a claim or any underlying transaction or any available set-off, counterclaim or other defence of any person.
- (d) The obligations of the Borrower under this Clause 7 will not be affected by:
 - (i) the sufficiency, accuracy or genuineness of any claim or any other document; or
 - (ii) any incapacity of, or limitation on the powers of, any person signing a claim or other document.

7.3 Indemnities

- (a) The Borrower shall immediately on demand indemnify each WCF Lender against any cost, loss or liability incurred by that WCF Lender (otherwise than by reason of that WCF Lender's gross negligence or wilful misconduct) in acting as a WCF Lender under any Letter of Credit requested by that Borrower.
- (b) The obligations of the Borrower under this Clause 7.3 are continuing obligations and will extend to the ultimate balance of sums payable by the Borrower in respect of any Letter of Credit, regardless of any intermediate payment or discharge in whole or in part.
- (c) The obligations of the Borrower under this Clause 7.3 will not be affected by any act, omission, matter or thing which, but for this Clause 7.3, would reduce, release or prejudice any of its obligations under this Clause 7.3 including (without limitation and whether or not known to it or any other person):
 - (i) any time, waiver or consent granted to, or composition with, any Obligor, any beneficiary under a Letter of Credit or any other person;

- (ii) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor or any member of the Group;
- (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor, any beneficiary under a Letter of Credit or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (iv) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor, any beneficiary under a Letter of Credit or any other person;
- (v) any amendment (however fundamental) or replacement of a Finance Document, any Letter of Credit or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (vi) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, any Letter of Credit or any other document or security; or
- (vii) any insolvency, resolution or similar proceedings.

7.4 Rights of contribution

No Obligor will be entitled to any right of contribution or indemnity from any Finance Party in respect of any payment it may make under this Clause 7.

8. REPAYMENT

8.1 Repayment of Term Loans

- (a) Subject to paragraph (c) below and Clause 9 (Prepayment and Cancellation), in respect of a Term Loan Facility, the Borrower shall repay the Term Loans advanced to it under such Term Loan Facility that are outstanding as at the end of the Availability Period in the percentages set out in the Repayment Schedule (with the Facility A First Repayment Date, the Facility B First Repayment Date and the Facility D First Repayment Date corresponding to Repayment Number 1 in the relevant Repayment Schedule, and the percentage amount due on each subsequent Repayment Date following thereafter).
- (b) The Agent shall, in consultation and with the consent of the Borrower, revise the Repayment Schedule in respect of repayments of the Term Loans then outstanding and provide a copy of the revised Repayment Schedule to each Term Loan Lender and the Borrower:
 - (i) promptly after the end of the Availability Period and in any case prior to the Facility A First Repayment Date;
 - (ii) following the making of any prepayments of Loans in accordance with Clause 9 (Prepayment and Cancellation), including, for the avoidance of doubt, any Cash Sweep Payment; and
 - (iii) as otherwise may be required from time to time as a Term Loan Lender and the Borrower may agree.
- (c) Notwithstanding paragraph (a) above, for any Repayment Instalment that falls due prior to the end of the Availability Period, the amount of such Repayment Instalment shall be calculated on the basis that

the relevant Term Loan Facility has been fully utilised and, if any Repayment Instalments have been calculated on such a basis and at the end of the Availability Period the relevant Term Loan Facility has not been fully utilised, then the remaining Repayment Instalments shall be recalculated by the Agent as appropriate, with any reduction being applied across each remaining Repayment Instalment so as to reduce the amount of each remaining Repayment Instalment on a pro rata basis, and notified by the Agent to each Term Loan Lender and the Borrower promptly after the date of expiry of the applicable Availability Period.

- (d) All outstanding amounts under any Term Loan shall be repaid in full by the Borrower on or before the Final Maturity Date.
- (e) The Borrower may not reborrow any part of a Term Loan Facility which is repaid.

8.2 Repayment of Facility C Loans

- (a) The Borrower shall repay each Facility C Loan on the last day of its Interest Period.
- (b) Without prejudice to the Borrower's obligation under paragraph (a) above, if:
 - (i) one or more Facility C Loans are to be made available to the Borrower:
 - (A) on the same day that a maturing Facility C Loan is due to be repaid by the Borrower; and
 - (B) in whole or in part for the purpose of refinancing the maturing Facility C Loan; and
 - (ii) the proportion borne by each Lender's participation in the maturing Facility C Loan to the amount of that maturing Facility C Loan is the same as the proportion borne by that Lender's participation in the new Facility C Loans to the aggregate amount of those new Facility C Loans,

the aggregate amount of the new Facility C Loans shall, unless the Borrower notifies the relevant WCF Lender to the contrary in the relevant Utilisation Request, be treated as if applied in or towards repayment of the maturing Facility C Loan so that:

- (A) if the amount of the maturing Facility C Loan exceeds the aggregate amount of the new Facility C Loans:
 - I. the Borrower will only be required to make a payment under Clause 36.1 (Payments to the Agent) in an amount equal to that excess; and
 - II. each Lender's participation in the new Facility C Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation in the maturing Facility C Loan and that Lender will not be required to make a payment under Clause 36.1 (Payments to the Agent) in respect of its participation in the new Facility C Loans; and
- (B) if the amount of the maturing Facility C Loan is equal to or less than the aggregate amount of the new Facility C Loans:
 - I. the Borrower will not be required to make a payment under Clause 36.1 (Payments to the Agent); and

II. each Lender will be required to make a payment under Clause 36.1 (Payments to the Agent) in respect of its participation in the new Facility C Loans only to the extent that its participation in the new Facility C Loans exceeds that Lender's participation in the maturing Facility C Loan and the remainder of that Lender's participation in the new Facility C Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation in the maturing Facility C Loan.

- (c) At any time when a Lender becomes a Defaulting Lender, the maturity date of each of the participations of that Lender in the Facility C Loan then outstanding will be automatically extended to the last day of the Final Maturity Date applicable to Facility C and will be treated as separate Facility C Loans (the **Separate Loans**) denominated in the currency in which the relevant participations are outstanding.
- (d) If the Borrower makes a prepayment of a Facility C Loan pursuant to Clause 9.4 (Voluntary prepayment of Facility C Utilisations), the Borrower may prepay a Separate Loan by giving not less than three (3) Business Days' prior notice to the relevant WCF Lender and the Agent. The proportion borne by the amount of the prepayment of the Separate Loan to the total amount of the Separate Loans shall not exceed the proportion borne by the amount of the prepayment of the Facility C Loan to the total Facility C Loan.
- (e) Interest in respect of a Separate Loan will accrue for successive Interest Periods selected by the Borrower by the time and date specified by the relevant WCF Lender and will be payable by that Borrower to the relevant WCF Lender on the last day of each Interest Period of that Loan.
- (f) The terms of this Agreement shall continue to apply to Separate Loans other than to the extent inconsistent with paragraphs (c) to (e) above, in which case those paragraphs shall prevail in respect of any Separate Loan.

8.3 Clean down of Facility C Loans

Other than in respect of any Separate Loans, the Borrower shall ensure that no principal amount shall be outstanding under any Facility C Loan for a period of not less than ten (10) successive Business Days in each of its Financial Years. Not less than three (3) months shall elapse between two (2) such periods. For the avoidance of doubt, this Clause 8.3 does not apply to any Letters of Credit issued under Facility C.

9. PREPAYMENT AND CANCELLATION

9.1 Mandatory Prepayment

(a) Illegality

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Utilisation or it is or will become unlawful for any Affiliate of a Lender for that Lender to do so:

- (i) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (ii) upon the Agent notifying the Borrower, the Available Commitment of that Lender will be immediately cancelled; and
- (iii) to the extent that the Lender's participation has not been transferred pursuant to Clause 9.5(d) (Right of prepayment and cancellation in relation to a single Lender), the Borrower shall repay

that Lender's participation in the Utilisations on the next following Interest Payment Date or Repayment Date, as the case may be, after the Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's Commitment shall be immediately cancelled in the amount of the participation repaid.

(b) Illegality in relation to WCF Lender

If, in any applicable jurisdiction, it becomes unlawful for a WCF Lender to perform any of its obligations under any Letter of Credit or to issue or leave outstanding any Letter of Credit or it becomes unlawful for any Affiliate of a WCF Lender for that WCF Lender to do so, then:

- (i) that WCF Lender shall promptly notify the Agent upon becoming aware of that event;
- (ii) with immediate effect, that WCF Lender shall not be obliged to issue any Letter of Credit; and
- (iii) the Borrower shall use its best endeavours to procure the release of each Letter of Credit issued by that WCF Lender and outstanding at such time on or before the date specified by that WCF Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law).

(c) Insurance Proceeds; Compensation and Other Proceeds

The Borrower shall, following:

- (i) receipt of any Insurance Proceeds pursuant to any insured event resulting in loss or damage in excess of twenty million US dollars (USD20,000,000) and in the opinion of the Lenders' Technical Advisor the restoration, reinstatement or replacement of the property affected by such insured event is not technically feasible or financially viable;
- (ii) receipt of any Performance Liquidated Damages;
- (iii) receipt of any Compensation other than Performance Liquidated Damages; or
- (iv) receipt of net proceeds in respect of the Disposal of any assets in any calendar year which have an aggregate value in excess of US\$10,000,000 and which are not applied within sixty (60) days of such receipt to purchase reasonably adequate substitutes, other than any Permitted Disposal,

apply:

- (A) in respect of paragraph (i) above, such amounts (to the extent received but not applied towards restoration, reinstatement or replacement or towards meeting third party liability in accordance with clause 10.2(b) (Withdrawals from the Insurance and Compensation Account) of the Cash and Accounts Management Agreement) in or towards prepayment of the Term Loans outstanding by applying such amounts against the remaining Repayment Instalments in inverse order of maturity;
- (B) for all amounts received under paragraph (ii) above and which have not been applied towards rectifying the performance of the relevant Processing Facilities, as certified by the Borrower in an officer certificate delivered to the Agent, the Technical Bank and the Lenders' Technical Advisor, in or towards prepayment of the Term Loans outstanding by applying such amounts against the remaining Repayment Instalments on a pro rata basis; and

- (C) for all amounts received under paragraphs (iii) and (iv) above, in or towards prepayment of the Term Loans outstanding by applying such amounts against the remaining Repayment Instalments in inverse order of maturity,

in each case, on the Interest Payment Date immediately after the date of receipt of the relevant amount.

(d) **Early Generation Cash Sharing and Cash Sweep**

- (i) The Borrower shall, on the first Repayment Date following the Project Commercial Operation Date, apply all amounts standing to the credit of the Early Generation Debt Account in or towards prepayment of the Term Loans outstanding by applying such amounts against the remaining Repayment Instalments in inverse order of maturity in accordance with clause 11 (Early Generation Debt Account) of the Cash and Accounts Management Agreement.
- (ii) The Borrower shall, on each relevant Repayment Date, apply all applicable amounts standing to the credit of the Revenue Account in or towards prepayment of the Term Loans outstanding by applying such amounts against the remaining Repayment Instalments in inverse order of maturity in accordance with clause 7 (Cash Sweep) of the Cash and Accounts Management Agreement.

(e) **FX Control Event**

If, at any time, an FX Control Event has occurred and is continuing, the Borrower shall promptly after becoming aware of such FX Control Event or, if earlier, upon being notified by the Agent of the occurrence of such FX Control Event, repay all Term Loans outstanding together with accrued interest, all Available Commitments under this Agreement will be immediately cancelled and all other amounts accrued under the Finance Documents shall become immediately due and payable.

(f) **Total Loss**

If, at any time, a Total Loss has occurred, the Borrower shall promptly after becoming aware of such Total Loss or, if earlier, upon being notified by the Agent of the occurrence of such Total Loss, prepay all Term Loans outstanding together with accrued interest any and any other amounts due and payable under the Finance Documents. Upon the occurrence of a Total Loss, all Available Commitments under this Agreement will be immediately cancelled.

9.2 Voluntary cancellation

The Borrower may, if it gives the Agent not less than three (3) Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of US\$10,000,000 in respect of the Term Loan Facility, and US\$1,000,000 in respect of Facility C or a higher multiple of US\$1,000,000) of any Available Facility. Any cancellation under this Clause 9.2 in respect of a Term Loan Facility shall reduce the Commitments of each Term Loan Lender under that Term Loan Facility rateably and, if any cancellation applies to both Term Loan Facilities, such cancellation must reduce both Term Loan Facilities on a pro rata basis.

9.3 Voluntary prepayment of Term Loans

- (a) The Borrower may, if it gives the Agent not less than ten (10) RFR Banking Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of the Term Loans (to the extent all Term Loan Facilities are outstanding, pro rata across all Term Loan Facilities and, if in part, being an amount that reduces the amount of each Term Loan by a minimum amount of US\$5,000,000 or a higher multiple of US\$1,000,000).

- (b) A Term Loan may only be prepaid after the Project Commercial Operation Date.
- (c) Any prepayment under this Clause 9.3 shall be applied pro rata among the participations of all Lenders of such Term Loan and in inverse order of maturity.

9.4 Voluntary prepayment of Facility C Utilisations

The Borrower may voluntarily prepay the Facility C Utilisations at the times and in the amounts agreed between the Borrower and each relevant Facility C Lender.

9.5 Right of prepayment and cancellation in relation to a single Lender

- (a) If:
 - (i) any sum payable to any Lender by an Obligor is required to be increased under Clause 14.2(a) (Tax gross-up); or
 - (ii) any Lender claims indemnification from the Borrower under Clause 14.3 (Tax indemnity) or Clause 15.1 (Increased costs),

the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice:

- (A) (if such circumstance relates to a Lender other than a WCF Lender) of cancellation of the Commitment of that Lender and its intention to procure the prepayment of that Lender's participation in the Utilisations (together with any amounts due to a Hedge Counterparty in connection with Clause 25.8(a)(iv) (Permitted Enforcement: Hedge Counterparties)) or give the Agent notice of its intention to replace that Lender in accordance with paragraph (d) below; or
 - (B) (if such circumstance relates to a WCF Lender) of cancellation of that WCF Lender's appointment as a WCF Lender under this Agreement in relation to any Letters of Credit to be issued in the future and its intention to procure the repayment of any outstanding Letter of Credit issued by that WCF Lender.
- (b) On receipt of a notice of cancellation referred to in paragraph (a) above, the Available Commitments of that Lender shall be immediately reduced to zero.
 - (c) On each Interest Payment Date which falls 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 prepay that Lender's participation in the relevant Utilisation.
 - (d) On receipt of a notice of prepayment referred to in paragraph (a) above in relation to a WCF Lender, that WCF Lender will immediately cease to be a WCF Lender in relation to any future Letter of Credit.
 - (e) If:
 - (i) any of the circumstances set out in paragraph (a) above apply to a Lender; or
 - (ii) the Borrower becomes obliged to pay any amount in accordance with Clause 9.1(a) (Illegality) to any Lender,

the Borrower may, on ten (10) Business Days' prior notice to the Agent and that Lender, replace that Lender by requiring that Lender to (and, to the extent permitted by law, that Lender shall) transfer pursuant to Clause 30 (Changes to the Lenders) all (and not part only) of its rights and obligations

under the Finance Documents to a Lender or other bank, financial institution, trust, fund or other entity selected by the Borrower which (A) is not an Obligor or an Affiliate of any Obligor and which and (B) confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 30 (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 Lender's participation in the outstanding Utilisations and all accrued interest (to the extent that the Agent has not given a notification under Clause 30.12 (Pro-rata interest settlement)), Break Costs and other amounts payable in relation thereto under the Finance Documents.

- (f) The replacement of a Lender pursuant to paragraph (d) 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 Lender;
 - (iii) in no event shall the Lender replaced under paragraph (d) above be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents; and
 - (iv) no Lender shall be obliged to execute a Transfer Certificate unless it is satisfied that it has completed all "know your customer" and other similar procedures that it is required (or deems desirable) to conduct in relation to the transfer to such replacement Lender.
- (g) A Lender shall perform the procedures described in paragraph (f)(iv) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (d) above and shall notify the Agent and the Borrower when it is satisfied that it has completed those checks.

9.6 Right of cancellation in relation to a Defaulting Lender

- (a) If any Lender becomes a Defaulting Lender, the Borrower may, at any time whilst the Lender continues to be a Defaulting Lender, give the Agent ten (10) Business Days' notice of cancellation of each Available Commitment of that Lender.
- (b) On the notice referred to in paragraph (a) above becoming effective, each Available Commitment of the Defaulting Lender shall immediately be reduced to zero.
- (c) The Agent shall as soon as practicable after receipt of a notice referred to in paragraph (a) above, notify all the Lenders.

9.7 Restrictions

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 9 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 (if any) and any amount due under any Hedging Agreement (including any Hedging Termination Payments), without additional premium or penalty.
- (c) The Borrower may not reborrow any part of a Term Loan Facility which is prepaid.
- (d) Unless a contrary indication appears in this Agreement, any part of Facility C which is repaid or prepaid may be reborrowed in accordance with the terms of this Agreement.

- (e) The Borrower shall not repay or prepay all or any part of the Utilisations 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 9 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 Term Loan is repaid or prepaid, an amount of that Lender's Commitment (equal to the amount of the participation which is repaid or prepaid) in the relevant Facility will be deemed to be cancelled on the date of repayment or prepayment.
- (i) If the making of any mandatory prepayment under Clause 9.1(b) (Illegality in relation to WCF Lender) (a **Partial Mandatory Prepayment**) would result in a payment (a **Hedge Reduction Payment**) becoming due to any Hedge Counterparty pursuant to the Hedging Policy, the amount of that Partial Mandatory Prepayment will be reduced so that the aggregate of:
 - (i) the reduced Partial Mandatory Prepayment; and
 - (ii) each Hedge Reduction Payment which would result from that reduced Mandatory Payment,
 is equal to the amount of the original Partial Mandatory Prepayment prior to such reduction.

9.8 Application of prepayments

Any prepayment of a Utilisation (other than a prepayment pursuant to Clause 9.1(a) (Illegality), Clause 9.1(d) (Early Generation Cash Sharing and Cash Sweep) Clause 9.5 (Right of prepayment and cancellation in relation to a single Lender) or Clause 9.6 (Right of cancellation in relation to a Defaulting Lender)) shall be applied pro rata to each Lender's participation in that Loan, and to the extent all Term Loan Facilities are outstanding, pro rata across all Term Loan Facilities.

10. INTEREST

10.1 Calculation of interest

- (a) The rate of interest on each Loan for any day during an Interest Period is the percentage rate per annum which is the aggregate of the applicable:
 - (i) Margin; and
 - (ii) Compounded Reference Rate for that day.
- (b) If any day during an Interest Period for a Loan is not an RFR Banking Day, the rate of interest on that Loan for that day will be the rate applicable to the immediately preceding RFR Banking Day.

10.2 Payment of interest

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

10.3 Default interest

- (a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the Unpaid Sum from the due date to the date of actual payment (both before and after judgment) at a rate which is two per cent. (2%) per annum higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted a Loan in the currency

of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 10.3 shall be immediately payable by the Obligor on demand by the Agent.

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

10.4 Notifications

- (a) In the case of a Term Loan, the Agent shall promptly upon an Interest Payment being determinable notify:
 - (i) the Borrower of that Interest Payment;
 - (ii) each relevant Lender of the proportion of that Interest Payment which relates to that Lender's participation in the relevant Loan; and
 - (iii) the relevant Lenders and the Borrower of:
 - (A) each applicable rate of interest relating to the determination of that Interest Payment; and
 - (B) to the extent it is then determinable, the Market Disruption Rate (if any) relating to the relevant Loan.
- (b) In the case of a Facility C Loan, the relevant WCF Lender shall promptly upon an Interest Payment being determinable notify the Borrower of:
 - (i) that Interest Payment;
 - (ii) each applicable rate of interest relating to the determination of that Interest Payment; and
 - (iii) to the extent it is then determinable, the Market Disruption Rate (if any) relating to the relevant Loan.
- (c) Paragraphs (a) and (b) shall not apply to any Interest Payment determined pursuant to Clause 12.3 (Cost of funds).
- (d) Either the Agent or the relevant WCF Lender (as the case may be) shall promptly notify the Borrower of each Funding Rate relating to a Loan.
- (e) Either the Agent or the relevant WCF lender (as the case may be) shall promptly notify the relevant Lenders and the Borrower of the determination of a rate of interest relating to a Loan to which Clause 12.3 (Cost of funds) applies.
- (f) This Clause 10.4 shall not require the Agent or the relevant WCF Lender (as the case may be) to make any notification to any Party on a day which is not a Business Day.

10.5 Calculation of accrued interest

If, pursuant to this Agreement, any accrued interest on all or any part of a Loan or an Unpaid Sum becomes payable prior to the last day of an Interest Period for that Loan or Unpaid Sum, that Interest Period shall:

- (a) for the purposes of calculating that accrued interest only, and in relation only to such part of that Loan or Unpaid Sum to which that accrued interest relates, be treated as ending on the day on which that accrued interest becomes payable pursuant to this Agreement; and
- (b) for all other purposes under this Agreement, continue to end, and shall be treated as ending, on the last day of that Interest Period.

11. INTEREST PERIODS

11.1 Interest Periods

- (a) Subject to this Clause 11,
 - (i) the Interest Period for each Facility A Loan, each Facility B Loan or each Facility D Loan shall be:
 - (A) three (3) Months; or
 - (B) any other period agreed with the Agent (acting on instruction of the Majority Lenders) and the Borrower; and
 - (ii) the Interest Period for each Facility C Loan shall be:
 - (A) three (3) Months; or
 - (B) any other period agreed with the relevant WCF Lender and the Borrower.
- (b) An Interest Period for a Loan shall not extend beyond the Final Maturity Date of the Facility under which such Loan was made. In respect of the last Interest Period relating to a Loan, the Borrower may select an Interest Period of less than one (1) Month ending on the Final Maturity Date.
- (c) The initial Interest Period in respect of each Loan shall commence on the Utilisation Date of that Loan and shall extend up to the next Interest Payment Date following that Utilisation Date. Each subsequent Interest Period in respect of such Loan shall commence on an Interest Payment Date and shall extend to the next Interest Payment Date.
- (d) The Borrower shall ensure that, in respect of each Hedging Transaction in respect of interest rates entered into after Financial Close, the scheduled payment dates thereunder shall conform to the Interest Periods set out in this Clause 11 for a Term Loan.
- (e) No Interest Period shall be longer than six (6) Months.

11.2 Changes to Interest Periods

- (a) Prior to the first day of an Interest Period for a Term Loan, the Agent shall be entitled to shorten any Interest Period for any Term Loan under a Term Loan Facility to match interest periods with the payment date due under the Hedging Agreements.
- (b) Prior to the first day of an Interest Period for a Term Loan, the Agent shall also be entitled to shorten any Interest Period to ensure that the aggregate principal amount of a Term Loan with an Interest Period ending on a Repayment Date is not less than the amount of principal due to be repaid on that Repayment Date in accordance with the Repayment Schedule.
- (c) The Agent shall promptly notify the Lenders and the Borrower if any Interest Period is shortened in accordance with this Clause 11.2.

11.3 Non-Business Days

Any rules specified as “Business Day Conventions” in the Reference Rate Terms shall apply to each Interest Period.

11.4 Consolidation of Loans

If two or more Interest Periods relating to Term Loans under a Term Loan Facility end on the same date, those Term Loans will be consolidated into, and treated as, a single Term Loan under that Term Loan Facility on the last day of the Interest Period. For the avoidance of doubt, no Term Loan may be consolidated with a Term Loan under another Term Loan Facility.

12. CHANGES TO THE CALCULATION OF INTEREST

12.1 Interest calculation if no RFR or Central Bank Rate

If:

- (a) there is no applicable RFR or Central Bank Rate for the purposes of calculating the Cumulative Compounded RFR Rate during an Interest Period for a Loan; and
- (b) *Cost of funds will apply as a fallback* is specified in the Reference Rate Terms,

Clause 12.3 (Cost of funds) shall apply to that Loan for that Interest Period.

12.2 Market disruption

If:

- (a) a Market Disruption Rate is specified in the Reference Rate Terms; and
- (b) before the Reporting Time the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed thirty-five per cent. (35%) of that Loan) that its cost of funds relating to its participation in that Loan would be in excess of that Market Disruption Rate,

then Clause 12.3 (Cost of funds) shall apply to that Loan for the relevant Interest Period.

12.3 Cost of funds

- (a) If this Clause 12.3 applies to a Loan for an Interest Period, Clause 10.1 (Calculation of interest) shall not apply to that Loan for that Interest Period and the rate of interest on each 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 applicable Margin; and
 - (ii) the weighted average of the rates notified to the Agent by each Lender as soon as practicable and in any event by the Reporting Time to be that which expresses as a percentage rate per annum its cost of funds relating to its participation in that Loan.
- (b) If this Clause 12.3 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 consent of all the Lenders and the Borrower, be binding on all Parties.
- (d) If this Clause 12.3 applies pursuant to Clause 12.2 (Market disruption) and:
 - (i) a Lender's Funding Rate is less than the Market Disruption Rate; or
 - (ii) a Lender does not notify a rate to the Agent by the Reporting Time,
 that Lender's cost of funds relating to its participation in that Loan for that Interest Period shall be deemed, for the purposes of paragraph (a) above, to be the Market Disruption Rate.
- (e) Subject to paragraph (d) above, if this Clause 12.3 applies but any Lender does not notify a rate to the Agent by the Reporting Time, the rate of interest shall be calculated on the basis of the rates notified by the remaining Lenders.
- (f) If this Clause 12.3 applies, the Agent shall, as soon as is practicable, notify the Borrower.

12.4 Break Costs

- (a) If an amount is specified as Break Costs in the Reference Rate Terms, the Borrower shall, within five (5) Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs (if any) attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day prior to the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) Each Term Loan Lender shall, as soon as reasonably practicable after a demand by the Agent, or in the case of Facility C, the relevant WCF Lender shall, provide a certificate confirming the amount of its Break Costs for any Interest Period in respect of which they become, or may become, payable.

13. FEES

13.1 Commitment fee

- (a) The Borrower shall pay to the Agent (for the account of each Term Loan Lender) a fee computed and accruing on a daily basis at a rate per annum equal to forty per cent. (40%) of the Margin applicable to a Term Loan Facility on that Term Loan Lender's Available Commitment in respect of such Term Loan Facility for the Availability Period in respect of such Term Loan Facility at close of business (in Jakarta) on each day of the Availability Period in respect of such Term Loan Facility (or, if any such day shall not be a Business Day, at such close of business on the immediately preceding Business Day).
- (b) The accrued commitment fee pursuant to paragraph (a) above for Facility A or Facility B is payable in arrears:
 - (i) forty-five (45) days from the Original Agreement Date and thereafter, on each Interest Payment Date falling during the relevant Availability Period in respect of that Facility;
 - (ii) on the last day of the relevant Availability Period for that Facility; and
 - (iii) if an Initial Term Loan Lender's Available Commitment is reduced to zero before the last day of the relevant Availability Period, on the day on which such reduction to zero becomes effective.
- (c) The Borrower shall pay to each WCF Lender any commitment fees at the times and in the amounts agreed with that WCF Lender.

- (d) The accrued commitment fee pursuant to paragraph (a) above for Facility D is payable in arrears:
 - (i) forty-five (45) days from the Amendment and Restatement Date and thereafter, on each Interest Payment Date falling during the relevant Availability Period in respect of Facility D;
 - (ii) on the last day of the relevant Availability Period for Facility D; and
 - (iii) if a Facility D Lender's Available Commitment is reduced to zero before the last day of the relevant Availability Period, on the day on which such reduction to zero becomes effective.
- (e) No commitment fee is payable to the Agent (for the account of a Lender) on any Available Commitment of that Lender for any day on which that Lender is a Defaulting Lender.

13.2 Arrangement fee

The Borrower shall pay to the Arrangers an arrangement fee in respect of each Facility in the amount and at the times agreed in a Fee Letter in respect of such Facility.

13.3 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 Letter.

13.4 Security agency fee

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

13.5 Fees payable in respect of Letters of Credit

- (a) The Borrower shall pay to the relevant WCF Lender a Letter of Credit fee on the face value of each Letter of Credit computed at the rate agreed between the relevant WCF Lender and the Borrower (*provided that* such amount does not exceed the Margin for Facility C).
- (b) The accrued Letter of Credit fee shall be payable at such times agreed with the relevant WCF Lender that issues such Letter of Credit.
- (c) The Borrower shall pay to each WCF Lender an issuance/administration fee in the amount and at the times specified as agreed with the relevant WCF Lender.

14. TAX GROSS-UP AND INDEMNITIES

14.1 Tax definitions

- (a) In this Clause 14:

Tax Credit means a credit against, relief or remission for, or repayment of any Tax.

Tax Deduction means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

Tax Payment means an increased payment made by the Borrower to a Finance Party under Clause 14.2 (Tax gross-up) or a payment under Clause 14.3 (Tax indemnity).

- (b) Unless a contrary indication appears, in this Clause 14 a reference to “determines” or “determined” means a determination made in the absolute discretion of the person making the determination.

14.2 Tax gross-up

- (a) All payments to be made by the Borrower to any Finance Party under the Finance Documents shall be made free and clear of and without any Tax Deduction unless the Borrower is required to make a Tax Deduction, in which case the sum payable by the Borrower (in respect of which such Tax Deduction is required to be made) shall be increased to the extent necessary to ensure that such Finance Party receives a sum net of any deduction or withholding equal to the sum which it would have received had no such Tax Deduction been made or required to be made.
- (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 the Borrower is required to make a Tax Deduction, it 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.
- (d) Within thirty (30) days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower shall deliver to the Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment has been paid to the relevant taxing authority.

14.3 Tax indemnity

- (a) Without prejudice to Clause 14.2 (Tax gross-up), if any Finance Party is required to make any payment of or on account of Tax on or in relation to any sum received or receivable under the Finance Documents (including any sum deemed for the purposes of Tax to be received or receivable by such Finance Party whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against any Finance Party, the Borrower shall, within five (5) Business Days of demand of the Agent, promptly indemnify the Finance Party which suffers a loss or liability as a result against such payment or liability, together with any interest, penalties, costs and expenses payable or incurred in connection therewith, *provided that* this Clause 14.3 shall not apply to:
- (i) any Tax imposed on and calculated by reference to the net income actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for the purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which such Finance Party is incorporated;
 - (ii) any Tax imposed on and calculated by reference to the net income of the Facility Office of such Finance Party actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for the purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which its Facility Office is located; or
 - (iii) a FATCA Deduction required to be made by a Party.
- (b) A Finance Party intending to make a claim under paragraph (a) above shall notify the Agent of the event giving rise to the claim, whereupon the Agent shall notify the Borrower thereof.

- (c) A Finance Party shall, on receiving a payment from the Borrower under this Clause 14.3, notify the Agent.

14.4 Tax credit

If the Borrower makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Borrower which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Borrower.

14.5 Stamp taxes

The Borrower shall:

- (a) pay all stamp duty, registration and other similar Taxes payable in respect of any Finance Document; and
- (b) within ten (10) Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to any stamp duty, registration or other similar Tax paid or payable in respect of any Finance Document,

provided that this indemnity shall not extend to any such liability arising in connection with an assignment, sub-participation, or transfer of rights or obligations by a Lender pursuant to Clause 30 (Changes to the Lenders).

14.6 Indirect Tax

- (a) All amounts set out or expressed in a Finance Document to be payable by any Party to a Finance Party shall be deemed to be exclusive of any Indirect Tax. If any Indirect Tax is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the Indirect Tax.
- (b) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify the Finance Party against all Indirect Tax incurred by that Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment in respect of the Indirect Tax.

14.7 FATCA information

- (a) Subject to paragraph (c) below, each Party shall, within ten (10) Business Days of a reasonable request by another Party:
- (i) confirm to that other Party whether it is:
- (A) a FATCA Exempt Party; or

- (B) not a FATCA Exempt Party;
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
 - (c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
 - (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

14.8 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Borrower and the Agent and the Agent shall notify the other Finance Parties.

15. INCREASED COSTS

15.1 Increased costs

- (a) Subject to Clause 15.3 (Exceptions), the Borrower shall, within five (5) 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 Original Agreement Date. The terms "law" and "regulation" in this paragraph (a) shall include any law or regulation concerning capital adequacy, prudential limits, liquidity, reserve assets or Tax.

- (b) In this Agreement, **Increased Costs** means:
- (i) a reduction in the rate of return from any Facility or on a Finance Party's (or its Affiliate's) overall capital (including, as a result of any reduction in the rate of return on capital brought about by more capital being required to be allocated by such Finance Party);
 - (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 the undertaking, funding or performance by such Finance Party of any of its obligations under any Finance Document or any participation of such Finance Party in any Loan, Letter of Credit or Unpaid Sum.

15.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 15.1 (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.

15.3 Exceptions

- (a) Clause 15.1 (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) attributable to a FATCA Deduction required to be made by a Party;
 - (iii) attributable to the implementation or application of, or compliance with, the "International Convergence of Capital Measurement and Capital Standards, a Revised Framework" published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the Original Agreement Date or, if later, the date it became party to this Agreement (but excluding any amendment arising out of the Basel III Standards) (**Basel II**) or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates);
 - (iv) compensated for by Clause 14.3 (Tax indemnity) (or would have been compensated for under Clause 14.3 (Tax indemnity) but was not so compensated solely because the exclusion in Clause 14.3(a) (Tax indemnity) applied); or
 - (v) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.
- (b) In this Clause 15.3, a reference to a **Tax Deduction** has the same meaning given to the term in Clause 14.1 (Tax definitions).

16. MITIGATION BY THE LENDERS

16.1 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 9.1(a) (Illegality), Clause 9.1(b) (Illegality in relation to WCF Lender), Clause 14 (Tax Gross-Up and Indemnities) or Clause 15 (Increased Costs), including:
- (i) providing such information as the Borrower may reasonably request in order to permit the Borrower to determine its entitlement to claim any exemption or other relief (whether pursuant to a double taxation treaty or otherwise) from any obligation to make a Tax Deduction; and
 - (ii) in relation to any circumstances which arise following the Original Agreement Date, 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.

16.2 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 16.1 (Mitigation).
- (b) A Finance Party is not obliged to take any steps under Clause 16.1 (Mitigation) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

16.3 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.

17. OTHER INDEMNITIES

17.1 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 five (5) Business Days of demand, indemnify each Secured 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.

17.2 Other indemnities

The Borrower shall, within ten (10) Business Days of demand, indemnify each Secured Party against any cost, loss or liability incurred by that Secured Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) the Information Memorandum or any other information produced or approved by any Obligor being misleading and/or deceptive in any respect;
- (c) any enquiry, investigation, subpoena (or similar order) or litigation with respect to any Obligor or with respect to the transactions contemplated or financed or secured under any Finance Document;
- (d) a failure by an Obligor to pay any amount due under a Finance Document on its due date or in the relevant currency, including, without limitation, any cost, loss or liability arising as a result of Clause 35 (Sharing among the Finance Parties);
- (e) funding, or making arrangements to fund, its participation in a Utilisation 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); or
- (f) issuing or making arrangements to issue a Letter of Credit requested by the Borrower in a Utilisation Request but not issued 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
- (g) a Utilisation (or part of a Utilisation) not being prepaid in accordance with a notice of prepayment given by the Borrower.

17.3 Indemnity to the Agent

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

- (a) investigating any event which it reasonably believes is a Default;
- (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
- (c) instructing lawyers, accountants, tax advisors, surveyors or other professional advisors or experts as permitted under this Agreement.

17.4 Indemnity to the Security Agent

The Borrower shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them:

- (a) as a result of:
 - (i) any failure by the Borrower to comply with obligations under Clause 18 (Costs and Expenses);
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
 - (iii) the taking, holding, protection or enforcement of the Transaction Security;
 - (iv) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;
 - (v) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents;
 - (vi) instructing lawyers, accountants, tax advisors, surveyors or other professional advisors or experts as permitted under this Agreement; or
- (b) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Charged Property or the performance of the terms of the Finance Documents (otherwise than as a result of its gross negligence or wilful misconduct).

17.5 Priority of indemnity

The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in Clause 17.4 (Indemnity to the Security Agent) and shall have a lien on the Transaction Security and the proceeds of enforcement of the Transaction Security for all moneys payable to it.

18. COSTS AND EXPENSES

18.1 Transaction expenses

The Borrower shall, within five (5) Business Days of demand, pay the Administrative Parties the amount of all costs and expenses (including legal fees) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement or in a Transaction Security Document; and
- (b) any other Finance Documents executed after the Original Agreement Date.

18.2 Amendment costs

If an Obligor requests an amendment, waiver or consent or an amendment is required under Clause 42.5 (Change to Reference Rates), the Borrower shall, within ten (10) Business Days of demand, reimburse each of the Agent and the Security Agent for the amount of all costs and expenses

(including legal fees) reasonably incurred by the Agent or the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

18.3 Security Agent's ongoing costs

- (a) In the event of (i) a Default or (ii) the Security Agent being requested by an Obligor or the Majority Lenders to undertake duties which the Security Agent and the Borrower agree to be of an exceptional nature and/or outside the scope of the normal duties of the Security Agent under the Finance Documents, the Borrower shall pay to the Security Agent any additional remuneration (together with any applicable Indirect Tax) that may be agreed between them.
- (b) If the Security Agent and the Borrower fail to agree upon the nature of the duties or upon any additional remuneration, that dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Borrower (the costs of the nomination and of the investment bank being payable by the Borrower) and the determination of any investment bank shall be final and binding upon the parties to this Agreement.

18.4 Enforcement and preservation costs

The Borrower shall, within five (5) Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document and the Transaction Security and any proceedings instituted by or against that Secured Party as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.

19. REPRESENTATIONS

19.1 Representations

The Borrower makes the representations and warranties set out in this Clause 19 to each Finance Party.

19.2 Status

- (a) It is a corporation, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

19.3 Binding obligations

- (a) Subject to the Legal Reservations, the obligations expressed to be assumed by it in each Finance Document are legal, valid, binding and enforceable obligations.
- (b) Without limiting the generality of paragraph (a) above, each Transaction Security Document to which it is a party creates the security interests which that Transaction Security Document purports to create and, upon completion of the necessary perfection requirements in relation to such Transaction Security Document identified in this Agreement and/or in that Transaction Security Document, those security interests are valid and effective.

19.4 Non-conflict with other obligations

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

- (a) any law, regulation or Authorisation applicable to it or the Project;
- (b) its constitutional documents; or
- (c) any material agreement or instrument binding upon it or any of its material assets.

19.5 Power and authority

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.

19.6 Validity and admissibility in evidence

Except for registration of the Transaction Security Documents in accordance with Clause 19.7 (Registration requirements), as at the date this Representation is made, all Authorisations required:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party;
- (b) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdiction;
- (c) in connection with the construction, completion, operation and ownership of the Project;
- (d) in connection with the grant by it of the Transaction Security granted and the validity, enforceability and perfection thereof; and
- (e) for it to carry on their business, and which are material,

have been obtained or effected and are in full force and effect.

19.7 Registration requirements

It is not necessary to file, register or record any Finance Document in any public place or elsewhere, except:

- (a) the reporting to and filing of this Agreement and the Amendment and Restatement Deed by the Borrower with Bank Indonesia and the Minister of Finance;
- (b) the reporting to and filing of each of the English Law Completion Guarantee (HJR), Indonesian Law Completion Guarantee and the Amended and Restated Indonesian Law Completion Guarantee and with each of Bank Indonesia and the Minister of Finance;
- (c) the registration of each Fiducia Security with the fiducia registration office via the online fiducia registration system;
- (d) the registration of each Share Pledge on the shareholder register of the Borrower;

- (e) the completion of the SAFE outbound guarantee or security registration (or updated registration, as the case may be) in respect of the Lygend Share Pledge, the English Law Completion Guarantee (Lygend), the Equity Support and Retention Agreement and any Subordinated Advance Assignment Agreement to which Lygend is a party once entered into; and
- (f) the Enterprise Borrower Foreign Debt Review and Registration Certificate (企业借用外债审核登记证明) in respect of Facility C (to the extent as not utilised as of the date of the Amendment and Restatement Deed) and Facility D, issued by National Development and Reform Commission of the People's Republic of China.

19.8 Governing law and enforcement

- (a) The choice of governing law and submission to jurisdiction (where relevant) in each of the Transaction Documents will be recognised and enforceable in its Relevant Jurisdictions.
- (b) Each of the Transaction Documents is in proper legal form for the jurisdiction by which it is governed and is capable of enforcement in such jurisdiction without any further action on the part of any person.
- (c) Subject to any Legal Reservations, any arbitral award in connection with a Dispute which award is made in Singapore in accordance with the SIAC Rules will be recognised and enforceable in Indonesia.

19.9 Tax

- (a) It is not required under the law applicable where it is incorporated or resident or at the address specified in this Agreement to make any deduction for or on account of Tax from any payment it may make under any Finance Document.
- (b) It is not materially overdue in the filing of Tax returns required to have been filed by it or on its behalf under any applicable law and such Tax returns contain the information required by applicable law to be contained in them.
- (c) It has paid when due all Taxes payable by it under applicable law except to the extent that it is contesting payment in good faith and by appropriate means.
- (d) With respect to Taxes which it is contesting, it is maintaining reserves adequate for their payment and in accordance, where applicable, with GAAP.
- (e) No claims or investigations are being, or to the best of its knowledge and belief are reasonably likely to be, made or conducted against it with respect to Taxes which would reasonably be expected to have a Material Adverse Effect.
- (f) It is resident for Tax purposes only in its jurisdiction of incorporation.

19.10 No filing or stamp taxes

Except for registration fees associated with the registration of the Transaction Security Documents in accordance with Clause 19.7 (Registration requirements), it is not necessary under the laws of its Relevant Jurisdictions 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 for stamp duty of as of 1 January 2021, IDR10,000 (or at an amount which is required by Indonesian law) to be paid in Indonesia in respect of each Finance Document executed, amended or used in Indonesia on the date that such Finance Document is executed, amended or used.

19.11 No default

- (a) No Event of Default is continuing or could reasonably be expected to result from the making of any Utilisation.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or to which its assets are subject which could reasonably be expected to have a Material Adverse Effect.

19.12 No misleading information

- (a) All documents, reports and other written information, including the Information Memorandum, the Banking Case (as updated from time to time), each Compliance Certificate, each Project Budget, each Construction Report, each Commissioning and Ramp-up Plan, each Operating Budget, each Operating Report and each Ratio Calculation Statement provided to a Finance Party by or on behalf of the Borrower or any Equity Party in connection with the Project and/or the entry into the Finance Documents by the Finance Parties were:
 - (i) with respect to all of the factual information set out therein, true, complete and accurate in all material respects as at the date it was provided (or as of the date any subsequent update or revision was provided) and not misleading in any material respect and did not omit any information necessary to make the information therein not materially misleading;
 - (ii) has been compiled with due care and attention; and
 - (iii) fairly presents in all material respects its expectations as to the matters covered thereby as of their date.
- (b) All opinions, estimates, projections, forecasts and forward-looking statements provided to any Finance Party (including all projections and forecasts contained therein) by or on behalf of the Borrower or any Equity Party in connection with the Project have been prepared in good faith on the basis of assumptions which were reasonable at the time at which they were prepared and supplied.
- (c) Each draft Project Budget and Operating Budget (when delivered) reflects in all material respects all revenues, costs and expenses estimated to be received or incurred:
 - (i) with respect to the Project Budget, in order to achieve each Module Commercial Operation Date and Project Commercial Operation Date substantially in accordance with the timetable set out in the most recently approved Project Budget and Banking Case; and
 - (ii) with respect to the Operating Budget, to operate the Project in accordance with the terms of the Project Documents and the most recently approved Banking Case.

19.13 Transaction Documents

- (a) To the best of its knowledge, no circumstances have arisen (whether as a result of a force majeure event or for any other reason) which have led or could reasonably be expected to lead to any material obligation of any Major Project Party under any Project Document to which it is a party or any Authorisation being suspended or incapable of fulfilment.
- (b) The Borrower is not, and, to the best of its knowledge, no other Major Project Party to the Project Documents is, in breach of its material obligations under the Project Documents to which it is a party.

19.14 Representations and Warranties

All the representations and warranties of the Borrower and, to the best of its knowledge, each Major Project Party, contained in the Project Documents and any instruments, documents or certificates issued pursuant thereto or in connection therewith are true and correct (except for representations and warranties that expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date) and the Borrower hereby confirms each such representation and warranty with the same effect as if set forth in full in this Clause 19.

19.15 Immunity, Commercial Acts

- (a) The execution by it of each Finance Document to which it is a party constitutes, and its exercise of its rights and performance of its obligations under each Finance Document to which it is a party and the transactions contemplated thereby will constitute, private and commercial acts done and performed for private and commercial purposes (and not governmental or public acts done and performed for governmental or public purposes) and it is subject to private commercial law with respect thereto.
- (b) It is subject to civil and commercial law and to legal proceedings and it cannot and will not be able to claim for itself or its assets any immunity or privilege from any set-off, judgment, execution, attachment or other legal process.

19.16 Financial statements

- (a) Its financial statements most recently supplied to the Agent (which, at the Original Agreement Date, are its Original Financial Statements) were prepared in accordance with GAAP consistently applied save to the extent expressly disclosed in such financial statements.
- (b) Its financial statements most recently supplied to the Agent (which, at the Original Agreement Date, are its Original Financial Statements) give a true and fair view of and represent its financial condition and operations during the relevant period to which such financial statements relate save to the extent expressly disclosed in such financial statements.
- (c) There has been no material adverse change in its business or financial condition since the date of its financial statements most recently supplied to the Agent.

19.17 Indebtedness; Pari passu ranking

- (a) It has no Financial Indebtedness other than Permitted Financial Indebtedness.
- (b) Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

19.18 No proceedings pending or threatened

No litigation, arbitration or administrative proceedings (including any labour disputes) of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it except as disclosed to the Agent prior to each respective date that this representation is made or repeated.

19.19 Environmental Laws and Standards

- (a) It is in compliance with the Environmental Laws and Standards in all material respects and Clause 23.33 (Environmental compliance), and to the best of its knowledge and belief no circumstances have occurred which would prevent such compliance.
- (b) It has all necessary Environmental Permits required to carry on its business activities and is in compliance with the material requirements of all such Environmental Permits.
- (c) No material Environmental Claim has been commenced or (to the best of its knowledge and belief) is threatened against it.

19.20 Sanctions

- (a) Neither it, nor any of its directors or officers, any affiliate, agent or employee is an individual or entity, that is, or is owned or controlled by Persons that are: (i) the target or subject of any Sanctions (a **Sanctioned Person**) or (ii) located, organised or resident in a country or territory that is, or whose government is, the subject of Sanctions broadly prohibiting dealings with such government, country, or territory (a **Sanctioned Country**).
- (b) Neither it, nor any of its directors or officers, any affiliate, agent or employee have or will act in any manner that would result in it being in breach of any applicable Sanctions or becoming a target or subject of any Sanctions.
- (c) The Facilities (and proceeds of loans made under the Facilities) have not or will not be utilised for the benefit of any person that is a target or subject of any Sanctions or in any manner that would result in it or the Lenders and the Lenders' related corporations being in breach of any applicable Sanctions or becoming a target or subject of Sanctions.

19.21 Anti-bribery, anti-corruption and anti-money laundering

Neither it nor any of its subsidiaries, directors or officers, nor any affiliate, agent or employee of it, has engaged in any activity or conduct which would violate any applicable anti-bribery, anti-corruption or anti-money laundering laws, regulations or rules in any applicable jurisdiction and it has instituted and maintains policies and procedures designed to prevent violation of such laws, regulations and rules.

19.22 Insolvency

- (a) No:
 - (i) corporate action, legal proceeding or other procedure or step described in Clause 26.12 (Insolvency proceedings); or
 - (ii) creditors' process described in Clause 26.13 (Creditors' process),has been taken in relation to it; and none of the circumstances described in Clause 26.11 (Insolvency) applies to it.
- (b) To the best of its knowledge, each other Major Project Party is solvent and able to pay its debts as they fall due, except as disclosed in writing to the Agent.

19.23 Authorised Signatures

On the Original Agreement Date, any person specified as its authorised signatory under paragraph 1.1(b)(ii) of Part 1 (Conditions Precedent to Financial Close) of Schedule 2 (Conditions Precedent and Subsequent) and thereafter, the most recent authorised signatories advised to the Agent at that time (either pursuant to the foregoing or in connection with Clause 20.16(d) (Information: miscellaneous)) is authorised to sign Utilisation Requests, any certificate to be delivered by the Borrower in connection with any Module Commercial Operation Date or Project Commercial Operation Date, any Compliance Certificate and any other document, certificate, report, notice and acknowledgement on its behalf.

19.24 Ranking of Security

The Transaction Security has, or once created and perfected in accordance with the perfection steps set out either in this Agreement and/or the relevant Transaction Security Document, will have first ranking priority and is not subject to any prior ranking or *pari passu* ranking Security.

19.25 Valid title

The Borrower:

- (a) has sole legal and valid title to the Project Assets and any other assets necessary to implement the Project in accordance with the Transaction Documents;
- (b) has freedom to the exclusive possession and use of the Project Assets and any other assets necessary, to implement the Project in accordance with the Transaction Documents under applicable law and, where relevant, the Transaction Documents and any other contract or agreement to which it is party, including the right to use the Project Site for the construction, completion, operation and ownership of the Project;
- (c) has all easements and other rights of way and other rights necessary to implement the Project in accordance with the Transaction Documents; and
- (d) has paid all required compensation to the relevant landowners for the land acquired or leased for the Project Site and all easements and other rights of way necessary to implement the Project in accordance with the Transaction Documents,

in each case, subject to no Security Interest other than any Permitted Security Interest.

19.26 Intellectual Property

- (a) It owns or has the right to use all intellectual property, including licences, copyrights, design registrations and know-how necessary for the lawful and unimpeded implementation by it of the relevant part of the Project, free from Security Interest other than any Permitted Security Interest.
- (b) It has filed all material applications required in respect of such intellectual property to obtain legal protection in Indonesia. To the best of its knowledge, nothing has come to its attention suggesting that any product, process, method, substance, part or other material presently contemplated to be sold or employed by it in connection with the Project will infringe upon any licence or any other right owned by any person.

19.27 Insurances

On and from the first Utilisation Date of Facility A, all Project Insurances which are required to be maintained or effected as of such date are in full force and effect, all premiums due and payable have

been paid and to the best of its knowledge, no event or circumstance has occurred, nor has there been any omission to disclose a fact, which would in either case render any of such Project Insurances unenforceable, suspended, void or voidable, in whole or in part or would entitle any insurer to avoid or otherwise reduce its liability under any policy relating to the Project Insurances.

19.28 No Other Business

- (a) It has not engaged in any business or activities, either alone or in partnership or joint venture, other than those envisaged by the Transaction Documents or otherwise approved by the Agent and does not have any place of business outside Indonesia.
- (b) It has not entered into any partnership, joint venture arrangement or other type of arrangement under which its profits or revenue may be pooled with that of any other person, other than those envisaged by the Transaction Document or otherwise approved by the Agent.
- (c) It has no Subsidiary and does not hold any share capital or equivalent rights of ownership, directly or indirectly, in any other person.
- (d) It has no investments.

19.29 Ownership and Shares

- (a) The Borrower's entire issued share capital is legally and beneficially owned and controlled as follows:
 - (i) forty-five point one per cent. (45.10%) of the entire issued share capital of the Borrower is legally and beneficially owned by TBP;
 - (ii) thirty-six point nine per cent. (36.90%) of the entire issued share capital of the Borrower is legally and beneficially owned by Lygend; and
 - (iii) eighteen per cent. (18.00%) of the entire issued share capital of the Borrower is legally and beneficially owned by KX.
- (b) The shares in the Borrower are fully paid and are not subject to any option to purchase or similar rights other than under each Put Option Deed. The constitutional documents of the Borrower do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security over its shares. There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of the Borrower (including any option or right of pre-emption or conversion) other than under each Put Option Deed.

19.30 Time for Making Representations and Warranties

- (a) Each Representation set out in this Clause 19 are made by each Borrower to each of the Finance Parties on the Amendment and Restatement Date and the first Utilisation Date of Facility D.
- (b) 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, each Utilisation Date, each Interest Payment Date and each Repayment Date.

20. INFORMATION UNDERTAKINGS

Unless expressly provided otherwise in this Clause 20, the undertakings in this Clause 20 remain in force from the Original Agreement Date for so long as any amount is outstanding under the Finance

Documents or any Commitment is in force. The Borrower shall supply each Hedge Counterparty with the information referred to in this Clause 20 at the same time it supplies such information to the Agent.

20.1 Financial statements

The Borrower shall supply to the Agent:

- (a) as soon as the same become available, but in any event within one hundred and eighty (180) days after the end of each financial year, its audited (consolidated, if applicable) financial statements for that financial year; and
- (b) as soon as the same become available, but in any event within forty-five (45) days after the end of the each quarter of its financial year, its interim unaudited (consolidated, if applicable) financial statements for that financial quarter.

20.2 Compliance Certificate

- (a) The Borrower shall supply to the Agent, with each set of its financial statements delivered pursuant to Clause 20.1(b) (Financial statements), a Compliance Certificate certifying that such financial statements fairly representing its financial condition as at the date as at which those financial statements were drawn up and, in respect of the financial statements delivered pursuant to Clauses 20.1(a) (Financial statements), confirming that such financial statements have been audited by the Auditor.
- (b) Each Compliance Certificate delivered pursuant to paragraph (a) above shall be signed by a director of the Borrower and in the form as set out in Schedule 7 (Form of Compliance Certificate).

20.3 Requirements as to financial statements

- (a) The Borrower shall procure that each set of its financial statements delivered pursuant to Clause 20.1 (Financial statements) is prepared using GAAP.
- (b) The Borrower shall ensure that each set of financial statements delivered by it pursuant to Clause 20.1(a) (Financial statements) has been audited by the Auditor.
- (c) The Borrower shall procure that each set of financial statements of itself under this Agreement or of an Equity Party delivered pursuant to clause 7.17 (Financial Statements) of the Equity Support and Retention Deed is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements for that Obligor unless, in relation to any set of financial statements, it notifies the Agent that there has been a change in GAAP, the accounting practices or reference periods or the auditors of itself or the relevant Equity Party, it shall deliver to the Agent:
 - (i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which that Obligor's Original Financial Statements (or in the case of the Borrower only, the first set of its audited financial statements delivered under this Agreement) were prepared; and
 - (ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to make an accurate comparison between the financial position indicated in those financial statements and that Obligor's Original Financial Statements.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements (or

in the case of the Borrower only, the first set of its audited financial statements delivered under this Agreement) were prepared.

20.4 Notification of default

- (a) The Borrower shall notify the Agent of any Default promptly upon becoming aware of its occurrence and provide a description of such Default and the steps, if any, being taken or proposed to be taken to remedy it or mitigate its effects.
- (b) Promptly upon a written request by the Agent, the Borrower shall supply to the Agent a certificate signed by a director certifying that no Default is continuing (or if a Default is continuing, providing a description of such Default and the steps, if any, being taken or proposed to be taken to remedy it or mitigate its effects).

20.5 Books and records

- (a) The Borrower shall maintain up-to-date statutory books and records in accordance with GAAP in respect of its business and the Project.
- (b) If reasonably requested by the Agent at a time when an Event of Default has occurred and is continuing and reasonably relevant to such underlying Event of Default, the Borrower shall make available to the Agent on request, copies or extracts of its books and records.

20.6 Auditors

The Borrower shall appoint and maintain Teramihardja, Prahono & Chandra, member firm of Rodl & Partner as the Auditor or such other firm of auditors permitted or approved under Clause 23.9 (Replacement of Auditors).

20.7 Project Budget

- (a) The Borrower shall deliver a Project Budget consistent with the Banking Case together with confirmation from the Lenders' Technical Advisor as to the reasonableness of the construction schedule and cost items (including contingency) set out therein, to the Agent and the Technical Bank prior to Financial Close and thereafter, as soon as reasonably practicable and in any event within thirty (30) days of the end of each semi-annual period falling after Financial Close until the Project Commercial Operation Date or as required by the Agent on or before the Amendment and Restatement Effective Date, an updated (and amended if necessary) Project Budget.
- (b) The Project Budget and each updated Project Budget shall set out:
 - (i) each projected Module Commercial Operation Date and the Project Commercial Operation Date;
 - (ii) projected Project Costs anticipated to be incurred to achieve each Module Commercial Operation Date and the Project Commercial Operation Date; and
 - (iii) the anticipated utilisation requirements of the Borrower in respect of each of the Facilities.
- (c) Each updated Project Budget, to the extent it differs from the Project Budget delivered prior to Financial Close, shall be subject to the approval of the Agent (acting reasonably in consultation with the Lenders' Technical Advisor and the Majority Lenders).

- (d) At any time prior to the agreement by the Agent of the updated Project Budget, the most recent agreed Project Budget shall be the Project Budget for the purposes of this Agreement (including for the purposes of determining the amount of the Project Costs required to achieve the Project Commercial Operation Date). Once agreed by the Agent, the updated Project Budget shall be the Project Budget for the purposes of this Agreement.

20.8 Construction Report

- (a) The Borrower shall deliver to the Agent, the Technical Bank and the Lenders' Technical Advisor, within thirty (30) days following the end of each month, beginning with the first complete month following the Original Agreement Date until the Project Commercial Operation Date, a Construction Report signed by an authorised signatory summarising the construction and commissioning activities (if applicable) that were carried out in relation to the Project during such period, including a description of:
- (i) the construction and other work carried out in relation to the Project during such period;
 - (ii) a comparison between the actual state of construction of the Project with the schedule therefor, together with an explanation for any material differences between the progress achieved and the progress forecast in the preceding report in respect of activities, including, but not limited to, engineering and design, procurement and manufacturing, construction, commissioning and start-up and milestone and invoicing status;
 - (iii) (A) the cumulative Project Costs incurred as at the end of such period and a comparison against the most recent Project Budget; (B) the Borrower's estimates of the remaining Project Costs (irrespective of whether or not included in the Project Budget) required to achieve the Project Commercial Operation Date; and (C) details of any Available Funds;
 - (iv) a current forecast of the likely date of each Module Commercial Operation Date and the Project Commercial Operation Date and a confirmation as to the Project's ability to meet each Expected MCOB;
 - (v) the performance of the Project during such period (where applicable);
 - (vi) details of any matters which are likely to materially and adversely affect the construction of the Project;
 - (vii) details of any event of force majeure under any Project Document which has occurred and details of any mitigation undertaken by the Borrower or the relevant Major Project Party;
 - (viii) details of any material variations to the design of a Module;
 - (ix) the amount of any Early Generation Revenues received and transferred on a monthly basis into the Early Generation Debt Account in accordance with clause 11.1 (Payments into the Early Generation Debt Account) of the Cash and Accounts Management Agreement; and
 - (x) such other information concerning the construction of the Project as may reasonably be requested by the Lenders' Technical Advisor.
- (b) The Borrower shall procure, prior to the Project Commercial Operation Date, quarterly site visits to the Project Site by the Lenders' Technical Advisor in order for the Lenders' Technical Advisor to review and issue a quarterly monitoring report (in form and substance satisfactory to the Majority Lenders) on each Construction Report delivered by the Borrower under paragraph (a) above.

20.9 Commissioning and Ramp-up Plan

- (a) The Borrower shall deliver to the Agent, the Technical Bank and the Lenders' Technical Advisor, by no later than forty-five (45) days from the Original Agreement Date, a Commissioning and Ramp-up Plan in respect of a Module in form and substance satisfactory to the Agent and the Lenders' Technical Advisor (each acting reasonably), detailing:
- (i) in respect of commissioning of a Module:
 - (A) construction completion test requirements and proposed acceptance documents, including testing standards and documentation;
 - (B) handover documentation;
 - (C) pre-commissioning equipment testing, including standards, procedures and documents;
 - (D) individual processing unit commissioning plans; and
 - (ii) in respect of ramp-up of a Module target key process parameters and the dates for each to be achieved.
- (b) The Borrower shall update the Commissioning and Ramp-up Plan within thirty (30) days following the end of each quarter prior to MCOB of the relevant Module to reflect any changes since the last version of the Commissioning and Ramp-up Plan delivered (or a confirmation by the Borrower that no changes to the Commissioning and Ramp-up Plan are required).

20.10 Operating Budget

(a) Submission of the Operating Budget

- (i) The Borrower shall, not later than forty-five (45) days prior to the Expected MCOB of the Sulphates Module, deliver to the Agent, the Technical Bank and the Lenders' Technical Advisor an initial operating budget for the period from the Expected MCOB of the Sulphates Module until the end of the then-current financial year of the Borrower (the **Initial Operating Budget**).
- (ii) Not later than forty-five (45) days prior to the start of each financial year of the Borrower commencing after the Project Commercial Operation Date, the Borrower shall deliver to the Agent and the Technical Bank an annual operating budget for the twelve (12) Months starting from the start of such financial year and for the twelve (12) Months of the successive financial year (the **Annual Operating Budget**).

(b) Form of Operating Budgets

Each Annual Operating Budget shall comprise an operating plan and an operating budget for the relevant period in a form consistent with that of the Initial Operating Budget setting out, on a month-by-month basis, the projections of the Operating Costs to be incurred, and reasonable estimates of the plant production levels to be achieved, during such period (prepared in good faith and taking into account the terms of the Project Documents) together with all technical and operational assumptions relating thereto.

(c) **Approval of the Initial Operating Budget**

The Agent shall, within fifteen (15) days following receipt by it of the Initial Operating Budget, notify the Borrower whether or not the Majority Lenders have approved such Initial Operating Budget (such approval not to be unreasonably withheld or delayed) and whether or not the Lenders' Technical Advisor has confirmed the reasonableness of the projected Operating Costs contained in the Initial Operating Budget.

(d) **Approval of Annual Operating Budgets**

The Agent shall, within fifteen (15) days following receipt by it of each Annual Operating Budget (following consultation with the Lenders' Technical Advisor), notify the Borrower whether or not the Lenders' Technical Advisor has confirmed the reasonableness of the projected Operating Costs and technical and operating assumptions contained in such Annual Operating Budget.

(e) **Disapproval of Operating Budgets**

- (i) If a notice disapproving the Initial Operating Budget is given, the Agent and the Borrower shall negotiate for a period of ten (10) days in good faith in order to agree on the Initial Operating Budget or operating budget excess.
- (ii) If the Agent and the Borrower are unable to agree the Initial Operating Budget or Annual Operating Budget within the ten (10) day period, then the dispute shall be determined by an expert appointed pursuant to paragraph (f) below.

(f) **Expert Determination**

- (i) Where a dispute is referred for determination pursuant to paragraph (e) above, the Agent and the Borrower shall together agree upon and appoint a person of appropriate qualifications and experience (the **Relevant Expert**).
- (ii) If the Borrower and the Agent are unable to agree the identity of the Relevant Expert within five (5) days of the conclusion of the discussions referred to in paragraph (e) above, they shall together request the Institution of Mechanical Engineers in London or an equivalent independent and internationally recognised body to appoint the Relevant Expert, who shall be a person independent of the Finance Parties, the Borrower and its Affiliates.
- (iii) A certificate of the Relevant Expert in respect of the disputed Initial Operating Budget, or Annual Operating Budget shall, in the absence of manifest error, be conclusive and binding on the parties.
- (iv) The Relevant Expert referred to in this paragraph (f) shall be appointed on terms that:
 - (A) the Relevant Expert shall act as an independent expert and not as an arbitrator; and
 - (B) the Relevant Expert shall be required to determine the matter referred to him/her within fifteen (15) days of the referral having been made to him/her.

20.11 Operating Report

- (a) The Borrower shall deliver to the Agent, the Technical Bank and the Lenders' Technical Advisor an Operating Report signed by an authorised signatory:
- (i) within thirty (30) days following the end of each quarter from the Original Agreement Date until the first anniversary of the Project Commercial Operation Date; and
 - (ii) thereafter, within forty-five (45) days following the end of each half-year period until the Final Maturity Date,
- summarising the operation and maintenance activities that were carried out in relation to the Project during such period, including a description of:
- (A) in respect of any Operating Report delivered under paragraph (i) above only, information demonstrating the Project's adherence to the Commissioning and Ramp-up Plan for each Module;
 - (B) details of the performance, production, operation and maintenance of the Project during that period, including the percentage performance as against Nameplate Capacity of the relevant Module, and projections of forecast production, capital and operating costs on a monthly basis;
 - (C) details of the quality of the relevant Products produced by the Project for that period (and how that compared to the specifications required by the Offtake Agreements);
 - (D) details of the quantity of the Products sold by the Borrower under any Offtake Agreement;
 - (E) details of any actual material maintenance for that period;
 - (F) any material defects or material malfunctions of the Processing Facilities during that period which are likely to have a Material Adverse Effect together with summary details of the action being taken to remedy those material defects or malfunctions;
 - (G) details of all Operating Costs on a monthly basis for such period;
 - (H) details of revenues from the Project on a monthly basis for such period;
 - (I) details of any modifications to the Processing Facilities needed or reasonably expected to be required in the future; and
 - (J) such other information as the Agent or the Technical Bank (each acting on behalf of the Majority Lenders) may reasonably request.
- (b) If the information in paragraph (a)(ii)(B) above indicates that either Module is performing at less than eighty per cent. (80%) of its Nameplate Capacity for the period in question, the Operating Report shall also include information as to the reason for the shortfall in performance and what steps the Borrower is taking, or intends to take, to remedy such situation.

20.12 EHSMS Report

- (a) The Borrower shall deliver to the Agent, the Technical Bank and the Lenders' E&S Advisor within forty-five (45) days following the end of each calendar year, an EHSMS Report summarising the progress made under the environmental and social action plan, as updated from time to time in consultation with the Lenders' E&S Advisor.

- (b) The Borrower shall procure that an E&S Report is prepared or updated (as the case may be) by the Lenders' E&S Advisor in form and substance satisfactory to the Majority Lenders and delivered to the Agent (i) at least once per year, in sufficient time prior to each Scheduled Review Date and (ii) if required by the Technical Bank (acting reasonably), where any request for an Interim Banking Case is made by the Technical Bank pursuant to Clause 21.1(c) (Adoption).

20.13 Project Appraisal

The Borrower shall deliver to the Agent at the cost and expense of the Borrower, a valuation report of the Project to be carried out by an independent appraiser in form and substance satisfactory to the Agent (acting on behalf of the Majority Lenders):

- (a) within 12 months from the PCOD; and
- (b) thereafter, with 24 months from the date of acceptance of the previous valuation report by the Agent until the Final Maturity Date.

20.14 Information – Project Documents

The Borrower will promptly (and in any event within five (5) Business Days) notify the Agent of:

- (a) any amendment, variation or modification of, or any assignment, transfer or waiver of any rights or obligations under a Project Document (other than those which are minor or administrative in nature), in each case, with a copy thereof;
- (b) the entry into of any Project Document or other material contract, including any EPC Contract relating to the Sulphates Module;
- (c) it becoming aware of any material breach of, or any material default under, or termination of, any Project Document or any receipt of any notice of the same;
- (d) any agreement under any Offtake Agreement in relation to any adjustments to the Minimum Buyer's Commitment or the Maximum Buyer's Commitment (each, as defined thereunder);
- (e) service of any notice under any Project Document of any:
 - (i) claimed, threatened or actual indefinite suspension, termination, default, material delay or force majeure event (howsoever described) thereunder;
 - (ii) any event or circumstance becoming known to it which has led or which is reasonably likely to lead to any Project Document to which it is a party not being in full force and effect; or
 - (iii) any other material instructions as the Agent, the Technical Bank or the Lenders' Technical Advisor may reasonably request.

20.15 Project Accounts

The Borrower shall supply to the Agent, as soon as the same become available, but in any event within forty-five (45) days after the end of each quarter of its financial year, the most recent account statements of each Project Account.

20.16 Information: miscellaneous

The Borrower shall supply to the Agent:

- (a) all documents dispatched by an Obligor to its shareholders (or any class of them) or its creditors generally at the same time as they are despatched;
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any Obligor, and which, if adversely determined, could reasonably be expected to have a Material Adverse Effect;
- (c) promptly, such information as the Security Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Transaction Security Documents;
- (d) promptly, notice of any change in authorised signatories of any Obligor signed by a director or company secretary of such Obligor accompanied by specimen signatures of any new authorised signatories;
- (e) promptly, such further information regarding the financial condition, business and operations of any Obligor or the Project as any Finance Party (through the Agent) may reasonably request; and
- (f) a copy of each agreement to sell the Products other than an Offtake Agreement, including a copy of any Back to Back Sale Agreement (as defined under the Equity Support and Retention Deed).

20.17 Use of websites

- (a) The Borrower may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the **Website Lenders**) who accept this method of communication by posting the information onto an electronic website designated by the Borrower and the Agent (the **Designated Website**) if:
 - (i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
 - (ii) both the Borrower and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and
 - (iii) the information is in a format previously agreed between the Borrower and the Agent.

If any Lender (a **Paper Form Lender**) does not agree to the delivery of information electronically, then the Agent shall notify the Borrower accordingly and the Borrower shall supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Borrower shall supply the Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Borrower and the Agent.

- (c) The Borrower shall promptly upon becoming aware of its occurrence notify the Agent if:
 - (i) the Designated Website cannot be accessed due to technical failure;
 - (ii) the password specifications for the Designated Website change;
 - (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
 - (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
 - (v) the Borrower becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Borrower notifies the Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Borrower under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

- (d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower shall comply with any such request within ten (10) Business Days.
- (e) Each of the Parties agrees that:
 - (i) no Finance Party shall be liable for any cost, loss or liability incurred by any Party as a result of its access or use of any Designated Website or its inability to access or use the Designated Website; and
 - (ii) the Agent is under no obligation to monitor access to or the availability of the Designated Website,

and the Borrower shall indemnify each Secured Party in relation to any cost, loss or liability incurred by that Secured Party as a result of or in connection with the use of any Designated Website (save for where such cost, loss or liability results from that Secured Party's gross negligence or wilful default).

21. BANKING CASE

21.1 Adoption

- (a) Until the adoption of the first new Banking Case in accordance with this Clause 21,
 - (i) the Original Initial Banking Case shall be the Banking Case as at the Original Agreement Date for the purposes of this Agreement; and
 - (ii) the Original Expansion Banking Case shall be the Banking Case as at the Amendment and Restatement Effective Date for the purposes of this Agreement.
- (b) Subject to paragraph (c) below, a new Banking Case shall be prepared in accordance with this Clause 21 and adopted as of each anniversary of the Amendment and Restatement Date (each, a **Scheduled Review Date**).

- (c) In addition, a new Banking Case (each, an **Interim Banking Case**) shall be prepared in accordance with this Clause 21 and adopted as of each Interim Review Date:
 - (i) if the Borrower so requests, save that only one such request may be made in the period between two consecutive Calculation Dates;
 - (ii) if the Technical Bank or the Majority Lenders so request if it determines (acting reasonably) that a material change in circumstances has occurred which is not reflected in the then current Banking Case;
 - (iii) in the event the actual or forecast Operating Costs exceed or are expected to exceed the Operating Costs by more than ten per cent. (10%) in the previous or forecasted Calculation Period; and
 - (iv) if the Agent so requests following the occurrence of an Event of Default that is continuing.
- (d) As soon as reasonably practicable following any request for a new Banking Case to be prepared pursuant to paragraph (c) above, the Technical Bank (acting reasonably and in consultation with the Borrower) shall determine, and notify, the Borrower and the Agent of the date (an **Interim Review Date**) as of which such new Banking Case is to be adopted.
- (e) If any Interim Banking Case is adopted under paragraph (c) above not more than three (3) Months prior to any Scheduled Review Date, or is in preparation not more than three (3) Months prior to any Scheduled Review Date with the intention of adopting the same by that Scheduled Review Date, the Banking Case that was scheduled to be prepared pursuant to paragraph (b) above for adoption by that Scheduled Review Date shall not be prepared.

21.2 Content

Each Banking Case and draft Banking Case prepared pursuant to this Clause 21 must:

- (a) be prepared using the financial model used to generate the Original Expansion Banking Case (as updated in accordance with the terms of this Clause 21);
- (b) be in substantially the same form as the Original Expansion Banking Case (or such other form as the Technical Bank, acting reasonably, may approve) and include the same type of information (and in the same level of detail) as that included in the Original Expansion Banking Case;
- (c) be prepared on the basis of the Assumptions that are proposed, approved, agreed and/or determined in accordance with this Clause 21; and
- (d) without prejudice to paragraph (c) above, include:
 - (i) details of all the Assumptions on which it is based; and
 - (ii) calculations of:
 - (A) the CFADS;
 - (B) the Scheduled Debt Service; and
 - (C) the Projected DSCR, the Minimum DSCR and the LLCR,

for each Calculation Period commencing after the relevant Review Date on which that Banking Case is due to be adopted.

21.3 Key principles

Notwithstanding anything to the contrary in this Clause 21, in (i) proposing, agreeing and/or determining Assumptions, (ii) preparing and/or approving any Banking Case or draft Banking Case or (iii) otherwise carrying out their obligations, and exercising their rights, under this Clause 21, the Parties shall have regard to and comply with the following principles:

- (a) each Banking Case must, in projecting interest rates, exchange rates and sale prices, take due account of the terms of any existing Hedging Agreement and the prices payable under the Nickel Ore Supply Agreements and under the Offtake Agreements;
- (b) all figures for Taxes included in any Banking Case must be based on tax legislation in force on the relevant Review Date on which that Banking Case is due to be adopted and on any official announcements or official publications promulgated by a relevant taxation authority or government (to the extent the same has not been withdrawn or amended) as at such date stating that such legislation is to be altered, supplemented or replaced in whole or in part.

21.4 Preparatory steps

- (a) By the date specified for Assumption submissions in the relevant column of the table in Schedule 14 (Banking Case Timetable), the Technical Bank shall submit to the Borrower its proposals for the Assumptions to be used for that Banking Case, *provided that*:
 - (i) the Economic Assumptions shall be determined by the Technical Bank and the Technical Bank shall consult with the Lenders' Market Advisor only on the price of Cobalt and Nickel used in the Economic Assumptions in preparing each new Banking Case; and
 - (ii) the Technical Assumptions shall be based on the Project Budget, Construction Report, the quarterly construction monitoring report issued by the Lenders' Technical Advisor, the Commissioning and Ramp-up Plan, the Operating Budget, the Operating Report, the EHSMS Report and the E&S Report, in each case, as most recently delivered to or approved by (as applicable) the Agent in accordance with the terms of this Agreement, and based on up to date actual historical production and yield levels of the Project.
- (b) The Borrower and the Technical Bank shall seek to agree the Economic Assumptions and the Technical Assumptions, to be used for each Banking Case based on the proposals submitted in accordance with paragraph (a) above by the target Assumption agreement date specified in the relevant column of the table in Schedule 14 (Banking Case Timetable).
- (c) If the Borrower and the Technical Bank are not able to agree on any Assumption by the date referred to in paragraph (b) above, then such Assumption shall be determined by the Agent (acting on the instructions of the Majority Lenders), acting reasonably.

21.5 Draft Banking Case

- (a) The Borrower shall (in consultation with the Technical Bank) prepare a draft Banking Case using all the Assumptions that have been agreed or determined pursuant to Clause 21.4 (Preparatory steps).
- (b) The Borrower and the Technical Bank shall endeavour to provide (through the Agent) each draft Banking Case to the Lenders (together with a technical note prepared by the Technical Bank) no later

than the target delivery to Lenders date specified in the relevant column of the table in Schedule 14 (Banking Case Timetable).

21.6 Consideration by Lenders

- (a) For the purposes of this Clause 21.6, **Delivery Date** means, in relation to any draft Banking Case, the date on which the Agent delivers such copies of the draft Banking Case, and other information (if any), to all the Lenders under Clause 21.5(b) (Draft Banking Case).
- (b) Each Lender may, within ten (10) Business Days of the Delivery Date for any draft Banking Case, notify the Agent and the Technical Bank of whether it approves of the Assumptions used in the preparation of the draft Banking Case.
- (c) Any Lender that does not inform the Agent to the contrary within ten (10) Business Days of the Delivery Date for any draft Banking Case, shall be deemed to have approved of the Assumptions used in the preparation of the draft Banking Case.
- (d) In any event, the Agent shall, on the date falling ten (10) Business Days after the Delivery Date for any draft Banking Case, notify the Borrower and the Lenders of whether Clause 21.7 (Lenders approve) or Clause 21.8 (Lenders do not approve) applies with respect to such draft Banking Case.

21.7 Lenders approve

If the Majority Lenders approve, or are deemed to have approved, of each of the Assumptions used in the preparation of the draft Banking Case the draft Banking Case shall be adopted as the current Banking Case in accordance with Clause 21.9 (Adoption of Banking Case).

21.8 Lenders do not approve

If Majority Lenders do not approve of any of the Assumptions (the **rejected Assumption**) used in any draft Banking Case, then:

- (a) the Borrower and the Majority Lenders (through the Agent) shall seek to agree the Assumption to be used for the purposes of the relevant Banking Case instead of the rejected Assumption(s);
- (b) if the Majority Lenders (through the Agent) and the Borrower have not been able to reach agreement on the relevant Assumption(s) to be used in the preparation of the relevant Banking Case instead of the rejected Assumption by the target date for the agreement of rejected Assumption(s) specified in the relevant column of the table in Schedule 14 (Banking Case Timetable), then the relevant Assumption(s) shall be determined by the Majority Lenders (acting reasonably);
- (c) the Borrower (in consultation with the Technical Bank) shall promptly upon the relevant Assumption(s) being agreed between the Majority Lenders and the Borrower or being determined pursuant to paragraph (b) above:
 - (i) prepare a revised draft Banking Case using the Assumption so agreed or determined instead of the rejected Assumption; and
 - (ii) deliver (through the Agent) a copy of such revised draft Banking Case to the Technical Bank and the Lenders (and such revised draft Banking Case shall be adopted as the current Banking Case in accordance with Clause 21.9 (Adoption of Banking Case)).

21.9 Adoption of Banking Case

- (a) Each draft Banking Case prepared pursuant to (as the case may be) Clauses 21.5 (Draft Banking Case) and 21.8 (Lenders do not approve) shall not be adopted as the current Banking Case for the purposes of this Agreement until the later of:
 - (i) the relevant Review Date on which the relevant Banking Case is due to be adopted; and
 - (ii) (in the case of any revised draft Banking Case that has been prepared pursuant to Clause 21.8 (Lenders do not approve)) the date on which the Technical Bank has confirmed (through the Agent) to the Lenders that the Technical Bank has verified that the relevant revised draft Banking Case has been prepared to its reasonable satisfaction in accordance with the requirements of this Clause 21 and the Majority Lenders have approved, or be deemed to have approved such draft Banking Case (*provided that* each Lender shall notify the Agent and the Technical Bank whether or not it approves such draft Banking Case no later than five (5) Business Days after the Technical Bank's confirmation under this paragraph (ii) (and any Lender that does not inform the Agent to the contrary within such five (5) Business Day period shall be deemed to have approved of such draft Banking Case)).
- (b) If Clause 21.8 (Lenders do not approve) does not apply, the Technical Bank (through the Agent and at the same time as issuing any notice under Clause 21.6 (Consideration by Lenders)) shall confirm to the Borrower and the Lenders that the relevant Banking Case will be adopted in accordance with paragraph (a) above.
- (c) If Clause 21.8 (Lenders do not approve) applies for any reason, the Technical Bank (through the Agent) shall, upon the adoption of the relevant Banking Case in accordance with paragraph (a) above or as soon as reasonably possible, and in any case before such adoption, confirm to the Borrower and the Lenders that the relevant Banking Case has been, or (as the case may be) will be, adopted in accordance with this Clause 21.9.

22. FINANCIAL COVENANTS

22.1 Interpretation

- (a) Any amount in a currency other than US Dollars is to be taken into account at its US Dollar equivalent calculated on the basis of:
 - (i) the Agent's spot rate of exchange for the purchase of the relevant currency in the London foreign exchange market with US Dollars at or about 11am on the day the relevant amount falls to be calculated; or
 - (ii) if the amount is to be calculated on the last day of a financial period of the Borrower, the relevant rates of exchange used by the Borrower in, or in connection with, its financial statements for that period.
- (b) No item may be credited or deducted more than once in any calculation under this Clause 22.

22.2 Financial Covenants

The Borrower shall ensure that on each Calculation Date:

- (a) the Historic DSCR is not less than 1.20:1;
- (b) the Minimum DSCR is not less than 1.20:1; and

- (c) the LLCR is not less than 1.20:1.

22.3 Calculation of Ratios

- (a) The Historic DSCR will be calculated by reference to the most recent financial statements delivered under Clause 20.1(b) (Financial statements) for the Historic Period ending on each Calculation Date, using values for historic revenues and costs and expenses based on actual cash flow into or out of the Project Accounts and actual sales information.
- (b) The Projected DSCR, the Minimum DSCR and the LLCR shall be calculated based on the Assumptions set out in the most recently adopted Banking Case in accordance with Clause 21 (Banking Case).

22.4 Delivery of draft Ratio Calculation Statement

No later than forty-five (45) days after each Calculation Date, the Borrower shall deliver to the Agent and the Technical Bank a draft Ratio Calculation Statement in the form set out in Schedule 15 (Form of Ratio Calculation Statement) (which may be consolidated and delivered together with the Compliance Certificate required to be delivered under Clause 20.2 (Compliance Certificate)), setting out in reasonable detail the calculations of:

- (a) the Historic DSCR for the Historic Period ending on that Calculation Date;
- (b) the Projected DSCR for the Projected Period starting from the day following that Calculation Date;
- (c) the Minimum DSCR; and
- (d) the LLCR,

in the cases of paragraphs (b) to (d) above, based on the Assumptions set out in the most recently adopted Banking Case in accordance with Clause 21 (Banking Case) and in each case, together with such explanation of and reasonable supporting information as the Agent or the Technical Bank may reasonably request. Each Ratio Calculation Statement must be signed by a director of the Borrower.

22.5 Review and finalisation of the Ratio Calculation Statement

- (a) If the Technical Bank agrees with the calculations of the ratios set out in the draft Ratio Calculation Statement, it will promptly notify the Borrower no later than within fifteen (15) days of having received the draft Ratio Calculation Statement.
- (b) If any element of the calculations in such draft Ratio Calculation Statement is not agreed, the Technical Bank and the Borrower shall negotiate in good faith in order to resolve the dispute, failing which, it will be determined by the Majority Lenders (acting reasonably).
- (c) The draft Ratio Calculation Statement and any determination of the ratio calculations in accordance with this Clause 22 will, upon agreement between the Technical Bank and the Borrower, or determination by the Majority Lenders, as applicable, be conclusive, binding and finally determined for the purpose of this Agreement and the Historic DSCR, the Projected DSCR, the Minimum DSCR and the LLCR set out therein will apply until the next Ratio Calculation Statement delivered in accordance with this Clause 22 becomes binding.

23. GENERAL COVENANTS

The undertakings in this Clause 23 remain in force from the Original Agreement Date for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

23.1 Corporate Existence and Financial Year

- (a) The Borrower shall maintain its legal existence as a company limited by shares duly incorporated and validly existing under the laws of Indonesia with the corporate power and authority required to implement the Project.
- (b) The Borrower shall maintain 31 December in each calendar year as its financial year-end and 30 June in each year as its financial half-year end.

23.2 Authorisations

- (a) The Borrower shall promptly:
 - (i) obtain, comply with and do all that is necessary to maintain in full force and effect; and
 - (ii) supply certified copies to the Agent of,

any Material Authorisation, and any other Authorisation required to enable it to implement the Project, perform its obligations under the Transaction Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Transaction Document, in each case in form and substance satisfactory to the Agent.
- (b) The Borrower shall, and shall procure that each other Obligor shall, promptly (or at the time agreed in the Finance Documents for the making of such registrations) make the registrations and comply with the other requirements specified in Clause 19.7 (Registration requirements) applicable to it.
- (c) The Borrower shall procure that its IPPKH shall remain valid until a date falling no earlier than the Final Maturity Date.

23.3 Compliance with laws

The Borrower shall comply, and shall procure that the Project is implemented in compliance, in all material respects, with all Applicable Laws.

23.4 Bank Indonesia reporting and other requirements

- (a) The Borrower shall comply with all reporting, filing and similar requirements under Applicable Laws and provide evidence to the Agent of such reporting, filings and other similar actions taken by that Borrower upon request by the Agent from time to time, in respect of any information relating to the Finance Documents that must be reported to any competent Governmental Authority, where failure to do so has or could reasonably be expected to have a Material Adverse Effect.
- (b) Without limiting the foregoing, the Borrower shall from time to time comply with all requirements provided under the prevailing regulations in Indonesia in relation to the entry and implementation of this Agreement where applicable, including, but not limited to:
 - (i) an initial report (accompanied by a copy of this Agreement) to Bank Indonesia and the Ministry of Finance within fifteen (15) days of the Original Agreement Date;

- (ii) any hedging and liquidity requirement, where applicable, under Bank Indonesia issued Regulation No. 16/21/PBI/2014, dated 29 December 2014 on the Prudential Principle in Managing Offshore Loans for Non-Bank Companies as amended by Bank Indonesia Regulation No. 18/4/PBI/2016, dated 21 April 2016, as amended, replaced or supplemented from time to time (and its implementing regulations);
- (iii) all of the requirements provided under the prevailing regulations in Indonesia in relation to the entry and implementation of this Agreement, including periodic reports of its payment obligations (and any other related information) under this Agreement to Bank Indonesia in accordance with the prevailing laws and regulations where applicable, including, but not limited to, in Bank Indonesia Regulation No. 16/22/PBI/2014 on the Foreign Exchange Activities Reporting and the Application of the Prudential Principle in Managing Offshore Loans for Non-Bank Companies Reporting as partially revoked by Bank Indonesia Regulation No. 21/2/PBI/2019 on the Foreign Exchange Activities Reporting, as amended, replaced or supplemented from time to time (and its implementing regulations);
- (iv) all of the requirements in relation to the entry and implementation of this Agreement as required under Bank Indonesia Regulation No. 16/10/PBI/2014 on Receipt of Export Proceeds and Offshore Loan Disbursement dated 19 May 2014 as further amended by Bank Indonesia Regulation No. 17/23/PBI/2015 (and its implementing regulations); and
- (v) any information relating to this Agreement (other than referred to in paragraph (i) to (iv) above) that shall be reported to any other competent Governmental Authority in Indonesia in accordance with Applicable Laws, if failure to do so would, in the reasonable opinion of the Agent, materially impair:
 - (A) its ability to perform its payment or other material obligations under the Transaction Documents; or
 - (B) the validity, legality, enforceability or admissibility in evidence in Indonesia of any Transaction Document.

23.5 Project Documents

- (a) Subject to paragraph (d) below, the Borrower shall:
 - (i) duly comply with and perform its material obligations under each Project Document to which it is or will be a party;
 - (ii) take all reasonable action (including enforcement action) to ensure that the material obligations of all other parties under the Project Documents to which it is a party are observed and performed;
 - (iii) keep the Project Documents in full force and effect in accordance with their respective terms;
 - (iv) provide the Agent with a copy of any Project Document entered into after the Original Agreement Date within five (5) Business Days of receipt; and
 - (v) promptly inform the Agent of any breach by it of any of its material obligations under a Project Document and thereafter inform the Agent on a regular basis and otherwise promptly after request by the Agent about all measures taken or intended to be taken by it to remedy the default under the relevant Project Document or to overcome, or compensate for, its effect.

- (b) Subject to paragraph (d) below, the Borrower shall not agree, approve or consent to or take any of the following actions under any Project Document to which it is a party without the prior written consent of the Agent:
- (i) dispose of any rights or obligations (including by way of a Security Interest, other than a Permitted Security Interest) under a Project Document, or consent to any of the foregoing;
 - (ii) terminate, repudiate or rescind any Project Document, or consent to any of the foregoing;
 - (iii) consent to any assignment, novation or transfer of any rights or obligations under a Project Document;
 - (iv) except to the extent expressly permitted under this Agreement in relation to a specific Project Document, vary, amend or modify any material provision of any Project Document, or consent to any of the foregoing;
 - (v) waive compliance with any material provision of, or otherwise relinquish any material right it has under, a Project Document; or
 - (vi) agree to any suspension of performance under any Project Document other than:
 - (A) for maintenance and repairs to be carried out in accordance with Good Industry Practice;
 - (B) arising from an event of force majeure or an Emergency; or
 - (C) suspension of performance which has been approved by the Agent (following consultation with the Lenders' Technical Advisor).
- (c) The Borrower shall procure the extension of the term of the Special Terminal Cooperation Agreement by no later than 31 July 2021 until a date falling no earlier than the Final Maturity Date.
- (d) Minimum Buyer's Commitment under the Offtake Agreements
- (i) Clause 3.3 (Seller's Commitment) of the GEM Offtake Agreement provides that the Borrower as seller shall make available for the delivery to GEM as buyer, and sell to GEM, a quantity of each Product to be determined at the Borrower's discretion, *provided that* such quantity is between the Minimum Buyer's Commitment and the Maximum Buyers's Commitment (each as defined under the GEM Offtake Agreement).
 - (ii) Clause 3.3 (Seller's Commitment) of the Easpring Offtake Agreement provides that the Borrower as seller shall make available for the delivery to Easpring as buyer, and sell to Easpring, a quantity of each Product to be determined at the Borrower's discretion, *provided that* such quantity is between the Minimum Buyer's Commitment and the Maximum Buyers's Commitment (each as defined under the Easpring Offtake Agreement).
 - (iii) Clause 3.3 (Seller's Commitment) of the New Offtake Agreement provides that the Borrower as seller shall make available for the delivery to GEM as buyer, and sell to GEM, a quantity of each Product to be determined at the Borrower's discretion, *provided that* such quantity is between the Minimum Buyer's Commitment and the Maximum Buyers's Commitment (each as defined under the New Offtake Agreement).
 - (iv) The Parties agree and acknowledge that the Borrower shall not breach the undertakings in paragraph (a) or (b) above solely in respect of agreeing to deliver a quantity of each Product

below the relevant Minimum Buyer's Commitment under the GEM Offtake Agreement, the Easpring Offtake Agreement, the New Offtake Agreement (or any other equivalent provisions in any other Offtake Agreement), if:

- (A) the Borrower has first offered the Products to the relevant buyers under each Offtake Agreement in accordance with its obligations to offer the Minimum Buyer's Commitment thereunder (or any equivalent provision in any other Offtake Agreement);
- (B) the relevant Buyer thereunder has entered into a written agreement that it does not require such Products and that the Seller is not obligated to deliver the Minimum Buyer's Commitment thereunder (or any equivalent provision in any other Offtake Agreement) and that written agreement shall be delivered to the Agent in form and substance satisfactory to the Agent (acting on behalf of the Majority Lenders);
- (C) the Borrower shall sell the Products to any other buyer (other than the relevant Offtaker) (I) on a spot basis and (II) at pricing and otherwise on terms which are more favourable than the price payable under such Offtake Agreement, including by selling to NW; and
- (D) the entry into by the Borrower of an agreement to sell the Products to a buyer other than an Offtaker would not and could not reasonably be expected to result in a breach by the Borrower of any obligations under any Offtake Agreement.

23.6 Material Agreements

The Borrower shall not enter into any material contracts (other than the Transaction Documents or the Subordinated Advance Agreements) or assume other material obligations (other than pursuant to the Transaction Documents or the Subordinated Advance Agreements) or permit the subcontracting of any material services to be provided under any of the Project Documents, except:

- (a) where such agreements are entered into in the ordinary course of implementing or operating the Project and are consistent with Good Industry Practice and the maximum aggregate liability of the Borrower under such agreements, either expressed therein or determined therefrom, does not, at any time, exceed US\$5,000,000 (or its equivalent) (indexed);
- (b) agreements in respect of which the Borrower will only use funds in the Distribution Account, unless such agreement could increase the liabilities of the Borrower in excess of liabilities that can be settled with funds in the Distribution Account;
- (c) where such subcontracting is permitted or contemplated by such Project Document; or
- (d) such other agreements as approved by the Agent.

23.7 Constitutional documents

The Borrower shall not, without the prior written consent of the Agent, take any action to amend its articles of association or other constitutional documents in a manner which would be materially adverse to the interests of the Finance Parties.

23.8 Change of business

The Borrower shall not change the nature of its business in any material respect from that contemplated by its constitutional documents or this Agreement.

23.9 Replacement of Auditors

In the event the Borrower wishes to replace its existing auditor for any reason, it may, after the Agent has approved such replacement (acting reasonably), replace its existing auditor with any other internationally recognised firm of independent auditors approved by the Agent, or any of their respective Indonesian affiliate firms.

23.10 Use of Proceeds

The Borrower shall apply the proceeds of the Loans in accordance with Clause 3.1 (Purpose).

23.11 Construction

The Borrower shall diligently construct, or cause to be constructed, the Processing Facilities in accordance with the EPC Contracts and all other material requirements relating thereto in any other relevant Project Document, Good Industry Practices and, in all material respects, all Applicable Laws and Authorisations and the Environmental Laws and Standards.

23.12 Operation

- (a) The Borrower shall procure the commissioning, ramp-up, operation, repair and maintenance of the Processing Facilities in accordance with the then up-to-date Commissioning and Ramp-up Plan, Good Industry Practices and, in all material respects, all Applicable Laws and Authorisations and the Environmental Laws and Standards.
- (b) The Borrower shall use reasonable endeavours to procure nickel ore and other applicable feedstock required to enable it to implement the Project in accordance with the Assumptions set out in the most recently approved Banking Case.
- (c) The Borrower shall ensure adequate power supply as is required to implement the Project in accordance with the Transaction Documents and shall procure that the construction of the Captive Power Plant (as recommended by the Lenders' Technical Advisor) be completed by at least three (3) Months before Expected MCOD of the Sulphates Module.
- (d) The Borrower shall use all reasonable efforts to ensure that the Project is producing products at a level that is no less than that contemplated in the Initial Operating Budget or the then-applicable Annual Operating Budget, as applicable.
- (e) The Borrower shall use all reasonable efforts to procure that the operations of the Nickel Ore Suppliers are performed in accordance with Good Mining Practice.

23.13 Capital Assets

The Borrower shall not acquire any capital assets (whether by means of sale and purchase, lease, conditional sale, instalment sale, hire purchase or otherwise) other than:

- (a) in accordance with the Project Budget, Initial Operating Budget or (as applicable) the then current Annual Operating Budget (taking into account any amendments thereto and any applicable allowances or contingencies therein);
- (b) in order to repair or replace lost or damaged assets in accordance with Clauses 23.11 (Construction) and/or 23.12 (Operation);
- (c) as expressly permitted by the Finance Documents; or

- (d) to the extent such capital assets are required to be purchased as a result of an unforeseen event and do not exceed US\$10,000,000 per calendar year (or its equivalent) (indexed).

23.14 Operating Costs

At all times from (and including) the Project Commercial Operation Date, the Borrower must not incur or commit to incur in any period any expenditure or monetary obligation relating to works or physical changes to the Project or Operating Costs in an amount in excess of one hundred and ten per cent. (110%) of the aggregate amount set out in the then-current Operating Budget or one hundred and ten per cent. (110%) in respect of any individual line item in the then-current Operating Budget, other than any Operating Costs or which are funded in their entirety through the Distribution Account or Insurance Proceeds pursuant to clauses 10 (Insurance and Compensation Account) and 14 (Distribution Account) of the Cash and Accounts Management Agreement.

23.15 Emergencies

The Borrower shall promptly notify the Agent of reasonable details of any Emergency and any actions to remedy an Emergency which has required the Borrower to incur costs exceeding US\$10,000,000.

23.16 Pari passu ranking

The Borrower shall ensure that its payment obligations under the Finance Documents at all times rank at least *pari passu* in all respects with all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by operation of applicable law.

23.17 Discharge of Bridge Facilities

The Borrower shall:

- (a) prior to the first Utilisation Date of Facility A, execute the Bridge Facilities Discharge Document in form and substance satisfactory to the Agent into escrow held by the Agent pending release to the Borrower's instruction on the first Utilisation Date of Facility A;
- (b) promptly upon the Agent's confirmation on the first Utilisation Date of Facility A that each Lender has disbursed its participation to it in accordance with the terms of this Agreement and each conditions precedent to Financial Close as set out in Part 1 (Conditions Precedent to Financial Close) of Schedule 2 (Conditions Precedent and Subsequent) has been satisfied or waived other than the release of the Bridge Facilities Discharge Document from escrow referred to in paragraph (a) above, give the Agent the instruction to release the Bridge Facilities Discharge Document from escrow; and
- (c) use (in full or part) the proceeds of the first Utilisation of Facility A towards payment of Refinancing Amount and discharging all of its Bridge Facilities Liabilities in full.

23.18 Negative pledge

- (a) The Borrower shall not create or permit to subsist any Security Interest or Quasi-Security Interest over any of its assets.
- (b) Paragraph (a) above does not apply to any Permitted Security Interest.

23.19 Further assurance

- (a) The Borrower shall promptly (and shall procure that each other person (other than a Security Agent) that is party to a Transaction Security Document shall promptly) make all filings, registrations, recordations, submission of notifications and reports or other actions required to create, perfect and maintain the Security Interests intended to be created by the Transaction Security Documents within the time periods prescribed under the relevant Applicable Law, or if no time period is prescribed, within ten (10) Business Days after the relevant event (or, solely with respect to actions required pursuant to this paragraph (a) to perfect (but not create or maintain) any Indonesian law-governed Security Interest purported to be granted under each Onshore Security Document, within twenty (20) Business Days after signing of the relevant Onshore Security Document), or such other time period for the performance of such obligations expressly agreed in this Agreement or another Finance Document.
- (b) Without limiting the foregoing, the Borrower shall undertake all actions which are necessary or desirable in the reasonable judgement of a Security Agent to:
 - (i) maintain the Transaction Security granted by it over the Project Assets (including, to the extent available under Applicable Law, the perfection and priority of the Transaction Security expressed in the relevant Transaction Security Documents (or where none is expressed, first ranking priority)) in full force and effect at all times required under the Finance Documents;
 - (ii) preserve and protect the Project Assets it owns, holds under lease or is otherwise required to use for the purpose of the Project; and
 - (iii) protect and enforce its rights and title, and the rights and title of the Secured Parties, to the Project Assets it owns, holds under lease or is otherwise required to use for the purpose of the Project.
- (c) If the Borrower at any time acquires any interest in property not covered by the Transaction Security or enters into any additional Project Documents, then it shall promptly upon such acquisition or execution, execute, deliver and record a supplement to the relevant Transaction Security Document or execute and deliver such other documents and instruments (including any legal opinion from Lenders' counsel with respect to the creation and perfection of such Security Interest) as the Agent or the Security Agents shall require and take such other action, in each case, satisfactory in form and substance to the Agent and the Security Agents, in order to ensure that a valid and effective prior ranking Security Interest is created and maintained over such property on terms comparable to the existing Security Interests granted to the Secured Parties under the Transaction Security Documents (or purported to be granted thereunder) over the property of the Borrower.
- (d) Promptly upon the entry into any Subordinated Advance Agreement and prior to the making of any Subordinated Advance, the Borrower shall ensure that the Subordinated Advance Lender executes, delivers and perfects a Subordinated Advance Assignment Agreement or Fiducia Security of Subordinated Advance Agreement granting first ranking Security Interest over the Subordinated Advance Lender's rights in respect of any Subordinated Advance to the Secured Parties, together with such other documents and instruments (including any legal opinion from Lenders' counsel with respect to the creation and perfection of such Security Interest) as the Agent or Security Agent may require and take such other action, in each case, satisfactory in form and substance to the Agent and the Security Agents, in order to ensure that a valid and effective prior ranking Security Interest is created and maintained.

23.20 Disposals

- (a) The Borrower shall not enter into a single transaction or a series of transactions (whether related or not) to Dispose of any of its business or asset.
- (b) Paragraph (a) above does not apply to any Permitted Disposal.

23.21 Acquisition and Investment

The Borrower shall not:

- (a) form, acquire or establish any Subsidiary or any partnership or joint venture interest in any company;
- (b) acquire all or part of the business of any other person or any property or right in the nature of an investment;
- (c) invest in any other person or have any other form of investments; or
- (d) merge into or consolidate with or transfer all or substantially all of its assets to any other person or enter into any demerger, corporate reconstruction or corporate reorganisation.

23.22 Loans and guarantees

The Borrower shall not make or allow to subsist any loans, grant any credit (save in the ordinary course of business) or give or allow to remain outstanding any guarantee or indemnity (except as required under any of the Transaction Documents) to or for the benefit of any person or otherwise voluntarily assume any liability, whether actual or contingent, in respect of any obligation of any person.

23.23 Financial Indebtedness

- (a) The Borrower shall not incur or permit to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to any Permitted Financial Indebtedness.

23.24 Litigation

The Borrower shall not consent to any settlement, resolution or compromise of any litigation, arbitration or other dispute if the amount in dispute:

- (a) exceeds US\$10,000,000 (or its equivalent); or
- (b) when aggregated with any other litigation, arbitration or dispute (whether continuing, settled or determined) initiated against the Borrower by a single person together with its Affiliates (or to which such person or any of its Affiliates are joined) exceeds or could be reasonably expected to exceed US\$10,000,000 (or its equivalent),

without the consent of the Agent.

23.25 Maintenance of title

The Borrower shall:

- (a) maintain good and valid title to, and exclusive possession and right to use the Project Assets it owns, holds under lease or that is otherwise required by it for the purpose of the Project free and clear of any Security Interests other than Permitted Security Interests; and
- (b) maintain its property in good working order and condition (ordinary wear and tear excepted) in accordance with Good Industry Practices, excluding any Permitted Disposal of assets.

23.26 Project Accounts

The Borrower shall not maintain any accounts other than the Project Accounts and Local Accounts.

23.27 Intellectual Property

The Borrower shall ensure that at all times it owns or has the right to use all intellectual property, including licences, copyrights, patents, design registrations and know-how necessary for the lawful implementation of the Project, as contemplated in the Transaction Documents, free from Security Interest other than any Permitted Security Interest.

23.28 Hedging arrangements

The Borrower will not enter into any hedging arrangement or Hedging Agreement other than a Hedging Agreement in accordance with the Hedging Policy.

23.29 Distribution

The Borrower shall not make, declare or pay any Distribution or transfer any amount to the Distribution Account other than in accordance with the terms of the Cash and Accounts Management Agreement.

23.30 Transactions with Affiliates

The Borrower shall not enter into any agreement, transaction or other arrangement with any Equity Party or any Affiliate of an Equity Party, other than:

- (a) any Transaction Documents to which the Borrower is a party on the Original Agreement Date;
- (b) any Bridge Facilities Finance Documents;
- (c) any Shareholders Agreement;
- (d) any Subordinated Advance Agreement;
- (e) any transaction or other arrangement entered into in the ordinary course of business on fair and commercially reasonable terms that, assessed as a whole, are no less favourable to the Borrower than would be obtained in a comparable agreement with independent parties acting at arm's length; and
- (f) any other agreement approved in writing by the Agent.

23.31 Conditions Subsequent

The Borrower shall deliver to the Agent the documents and evidence listed in Part 3 (Conditions Subsequent) of Schedule 2 (Conditions Precedent and Subsequent) in form and substance satisfactory to the Agent on or before the date identified therein.

23.32 Taxes

- (a) The Borrower shall pay and discharge all Taxes, assessments and governmental charges or levies whatsoever imposed on it or its income or profits, on any of its property or on any Transaction Document or any other contract or agreement to which it is party and all Taxes, assessments and governmental charges or levies that it has agreed to pay pursuant to any Transaction Document, any other contract or agreement to which it is party or any Authorisation and all lawful claims relating thereto prior to the date on which penalties attach thereto, and shall timely file all returns relating thereto, except to the extent that any such Tax, assessment, governmental charge, levy or claim is being contested in good faith and through appropriate proceedings that would not reasonably be likely to involve any substantial danger of the sale, forfeiture, loss or interference of or in the Project or the Project Assets or to have a Material Adverse Effect in the opinion of the Agent (acting reasonably) and in respect of which the Borrower has made adequate provisions for such Tax.
- (b) The Borrower shall not change its residence for Tax purposes.

23.33 Environmental compliance

The Borrower shall:

- (a) comply in all material respects with the Environmental Laws and Standards;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Permits; and
- (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Laws and Standards.

23.34 Environmental claims

The Borrower shall promptly upon becoming aware of the same, inform the Agent in writing of:

- (a) any Environmental Claim against the Borrower which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against the Borrower.

23.35 KYC

If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the Original Agreement Date;
- (b) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the Original Agreement Date;
- (c) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under the Finance Documents to a party that is not a Lender prior to such assignment or transfer; or

- (d) the appointment or replacement of the Agent, the Security Agent or an Account Bank under the Finance Documents with a party that is not the Agent, the Security Agent or an Account Bank prior to such appointment or replacement,

obliges any Finance Party (or, in the case of paragraph (c) above, any prospective new Lender or, in the case of paragraph (d) above, any prospective new Agent, Security Agent or Account Bank) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, or (in the case of paragraph (d) above) has not been (and cannot be) provided to it by the outgoing Agent, Security Agent or Account Bank, the Borrower will, 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 Finance Party) or any Lender (for itself or, in the event described in paragraph (c) above, on behalf of any prospective new Lender) in respect of itself, any Obligor and any specified Major Project Party in order for such Agent, Security Agent, Account Bank or Lender to carry out and be satisfied it has complied in all material respects with all necessary “know your customer” or other similar checks under all applicable laws applicable to it in accordance with its obligations under the Finance Documents.

23.36 Sanctions

- (a) The Borrower shall not:
 - (i) directly or indirectly, use the proceeds of the loan hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or any other Person:
 - (A) to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, a Sanctioned Person or Sanctioned Country;
 - (B) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in the loan hereunder, whether as underwriter, advisor, investor, lender, hedge provider, facility or security agent or otherwise); or
 - (C) to finance the purchase or transfer of any military goods or equipment or any terrorist activities;
 - (ii) directly or indirectly, fund all or part of any repayment or prepayment of the Facilities out of proceeds that are derived from:
 - (A) any transaction with or action involving a Restricted Party or which could result in a breach of Sanctions; or
 - (B) a breach of Sanctions; or
 - (iii) engage in any transaction, activity or conduct with any party named on a Sanctions List, or that would otherwise violate Sanctions, that would cause any Secured Party to be in breach of any Sanctions or that could reasonably be expected to result in it being designated as a Restricted Party.
- (b) The Borrower shall inform the Lenders in writing immediately if at any time it or their Affiliates or group companies become targets or the subject of Sanctions or if the Facilities (or proceeds of loans made under the Facilities) are utilised in a manner contrary to this Clause 23.36.

23.37 Anti-money laundering

The Borrower shall at all times conduct its operations in compliance with Anti-Money Laundering Laws.

23.38 Anti-Bribery and Corruption Laws

- (a) The Borrower shall:
- (i) conduct its business in compliance with all applicable Anti-Bribery and Corruption Laws in all respects; and
 - (ii) maintain systems, controls, policies and procedures designed to promote and achieve ongoing compliance with all applicable Anti-Bribery and Corruption Laws.
- (b) The Borrower shall not directly or indirectly use the proceeds of any Facility for any purpose that would breach any applicable Anti-Bribery and Corruption Laws.

23.39 Lenders' Consultants

The Borrower will provide all reasonable cooperation and assistance to, and use reasonable efforts to ensure that each other party to each Project Document to which it is a party provides all reasonable cooperation and assistance to, each Lenders' Advisor, and provide access to the site and the Project as and when required by them, *provided that* they provide reasonable prior notice of their visit during normal business hours.

24. PROJECT INSURANCE

The Borrower shall, subject always to Applicable Laws, comply at all times with the provisions of Schedule 13 (Project Insurances).

25. HEDGING

25.1 Identity of Hedge Counterparties

No person entering into any Treasury Transaction with, or providing hedging arrangements to, the Borrower shall be entitled to share in any of the Transaction Security or receive the benefit of any guarantee, indemnity or other assurance against loss contained in this Agreement in respect of any of the moneys, debts or liabilities arising under or in connection with that Treasury Transaction or hedging arrangement, unless and until that entity is or becomes a Party as a Hedge Counterparty in accordance with Clause 30.13 (Accession of Hedge Counterparties).

25.2 Restriction on Payment: Hedging Liabilities

The Borrower shall not make any Payment of the Hedging Liabilities at any time unless:

- (a) that Payment is permitted under Clause 25.3 (Permitted Payments: Hedging Liabilities); or
- (b) the taking or receipt of that Payment is permitted under Clause 25.8(c) (Permitted Enforcement: Hedge Counterparties).

25.3 Permitted Payments: Hedging Liabilities

- (a) Subject to paragraph (b) below, and the terms of the Cash and Accounts Management Agreement, the Borrower may make Payments to any Hedge Counterparty in respect of the Hedging Liabilities then

due to that Hedge Counterparty under any Hedging Agreement in accordance with the terms of that Hedging Agreement:

- (i) if the payment is permitted under the Cash and Accounts Management Agreement;
 - (ii) if the Payment is a scheduled Payment arising under the relevant Hedging Agreement;
 - (iii) to the extent that the Borrower's obligation to make the Payment arises as a result of the operation of any of sections 2(d) (Deduction or Withholding for Tax), 8(a) (Payment in the Contractual Currency), 8(b) (Judgments), 9(h)(i) (Prior to Early Termination) and 11 (Expenses) of the ISDA Master Agreement;
 - (iv) to the extent that the relevant the Borrower's obligation to make the Payment arises from a Non-Credit Related Close-Out;
 - (v) to the extent that:
 - (A) the Borrower's obligation to make the Payment arises from:
 - I. a Credit Related Close-Out in relation to that Hedging Agreement; or
 - II. a Permitted Automatic Early Termination under that Hedging Agreement which arises as a result of an event relating to the Borrower; and
 - (B) no Event of Default is continuing at the time of that Payment or would result from that Payment;
 - (vi) to the extent that no Default is continuing or would result from that Payment and the Borrower's obligation to make the Payment arises as a result of a close-out or termination arising as a result of:
 - (A) section 5(a)(vii) (Bankruptcy) of the ISDA Master Agreement and the Event of Default (as defined in the relevant Hedging Agreement) has occurred with respect to the relevant Hedge Counterparty; or
 - (B) the Borrower terminating or closing-out the relevant Hedging Agreement as a result of a Hedging Force Majeure and the Termination Event (as defined in the relevant Hedging Agreement) has occurred with respect to the relevant Hedge Counterparty; or
 - (vii) if the Majority Lenders give prior consent to the Payment being made.
- (b) No Payment may be made to a Hedge Counterparty under paragraph (a) above if any scheduled Payment due from that Hedge Counterparty to the Borrower under a Hedging Agreement to which they are both party is due and unpaid (other than non-payment of a scheduled payment by the Hedge Counterparty where such non-payment is permitted under section 2(a)(iii) of the ISDA Master Agreement) unless the prior consent of the Majority Lenders is obtained.
- (c) Failure by the Borrower to make a Payment to a Hedge Counterparty which results solely from the operation of paragraph (b) above shall, without prejudice to Clause 25.4 (Payment obligations continue), not result in a default (however described) by the Borrower under that Hedging Agreement.

25.4 Payment obligations continue

The Borrower shall not be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Finance Document by the operation of Clauses 25.2 (Restriction on Payment: Hedging Liabilities) and 25.3 (Permitted Payments: Hedging Liabilities) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

25.5 Amendments and Waivers: Hedging Agreements

- (a) Subject to paragraph (b) below, the Hedge Counterparties may not, at any time, amend or waive any term of the Hedging Agreements.
- (b) A Hedge Counterparty may amend or waive any term of a Hedging Agreement in accordance with the terms of that Hedging Agreement if that amendment or waiver does not breach another term of this Agreement or would result in the Borrower being in breach of the Hedging Policy.

25.6 Security: Hedge Counterparties

The Hedge Counterparties may not take, accept or receive the benefit of any security, guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Hedging Liabilities other than:

- (a) the Transaction Security;
- (b) any guarantee, indemnity or other assurance against loss contained in:
 - (i) this Agreement; or
 - (ii) the relevant Hedging Agreement (to no greater in extent than any guarantee, indemnity or other assurance against loss contained in this Agreement); and
- (c) the indemnities contained in the ISDA Master Agreements.

25.7 Restriction on Enforcement: Hedge Counterparties

Subject to Clause 25.8 (Permitted Enforcement: Hedge Counterparties) and Clause 25.9 (Required Enforcement: Hedge Counterparties), the Hedge Counterparties shall not take any Enforcement Action in respect of any of the Hedging Liabilities or any of the hedging transactions under any of the Hedging Agreements at any time.

25.8 Permitted Enforcement: Hedge Counterparties

- (a) To the extent it is able to do so under the relevant Hedging Agreement, a Hedge Counterparty may terminate or close-out in whole or in part any hedging transaction under that Hedging Agreement prior to its stated maturity:

Non-Credit Related Close-Outs

- (i) if, prior to a Distress Event, the Borrower has certified to that Hedge Counterparty that that termination or close-out would not result in a breach of this Agreement;
- (ii) if a Hedging Force Majeure has occurred in respect of that Hedging Agreement;
- (iii) to the extent necessary to comply with the Hedging Policy;

- (iv) upon either the service of any notice by the Agent to the Borrower in relation to any form of repayment or prepayment under this Agreement (other than in respect of Facility C), or such repayment or prepayment actually occurring, where upon such repayment or prepayment the Hedge Counterparty (or its Affiliate) will cease to be a Lender under this Agreement, other than as a result of a voluntary assignment or transfer by that Lender pursuant to Clause 30.1 (Assignments and transfers by the Lenders), *provided that* the date designated for any Hedging Termination Payments hereunder may not be earlier than the date such repayment or prepayment falls due under this Agreement;

Credit Related Close-Outs

- (v) if a Distress Event has occurred;
 - (vi) if an Event of Default has occurred under Clause 26.11 (Insolvency) or Clause 26.12 (Insolvency proceedings), in relation to the Borrower;
 - (vii) if the Majority Lenders give prior consent to that termination or close-out being made; or
 - (viii) on or immediately following a refinancing (or repayment) and cancellation in full of the Secured Liabilities owed by the Obligors to the Facility Creditors under the Finance Documents.
- (b) If the Borrower has defaulted on any Payment due under a Hedging Agreement (after allowing any applicable notice or grace periods) and the default has continued unwaived for more than three (3) Business Days after notice of that default has been given to the Security Agent pursuant to Clause 29.2 (Notification of prescribed events), the relevant Hedge Counterparty:
- (i) may, to the extent it is able to do so under the relevant Hedging Agreement, terminate or close out in whole or in part any hedging transaction under that Hedging Agreement; and
 - (ii) until such time as the Agent has given notice to that Hedge Counterparty that the Transaction Security is being enforced (or that any formal steps are being taken to enforce the Transaction Security), shall be entitled to exercise any right it might otherwise have to sue for, commence or join legal or arbitration proceedings against the Borrower to recover any Hedging Liabilities due under that Hedging Agreement.
- (c) After the occurrence of an Insolvency Event in relation to the Borrower, each Hedge Counterparty shall be entitled to exercise any right it may otherwise have in respect of the Borrower to:
- (i) prematurely close out or terminate any Hedging Liabilities of the Borrower;
 - (ii) make a demand under any guarantee, indemnity or other assurance against loss given by the Borrower in respect of any Hedging Liabilities;
 - (iii) exercise any right of set-off or take or receive any Payment in respect of any Hedging Liabilities of the Borrower; or
 - (iv) claim and prove in the liquidation of the Borrower for the Hedging Liabilities owing to it.

25.9 Required Enforcement: Hedge Counterparties

- (a) Subject to paragraph (b) below, a Hedge Counterparty shall promptly terminate or close out in full any hedging transaction under all or any of the Hedging Agreements to which it is party prior to their stated maturity, following:
 - (i) the occurrence of an Acceleration Event and delivery to it of a notice from the Agent that that Acceleration Event has occurred; and
 - (ii) delivery to it of a subsequent notice from the Agent (acting on the instructions of the Majority Lenders) instructing it to do so.
- (b) Paragraph (a) above shall not apply to the extent that that Acceleration Event occurred as a result of an arrangement made between any Obligor and any Finance Party (other than the Hedge Counterparties) with the purpose of bringing about that Acceleration Event.
- (c) If a Hedge Counterparty is entitled to terminate or close out any hedging transaction under Clause 25.8(b) (Permitted Enforcement: Hedge Counterparties) (or would have been able to if that Hedge Counterparty had given the notice referred to in that Clause) but has not terminated or closed out each such hedging transaction, that Hedge Counterparty shall promptly terminate or close out in full each such hedging transaction following a request to do so by the Security Agent (acting on the instructions of the Majority Lenders).

25.10 Treatment of Payments due to Obligors on termination of hedging transactions

- (a) If, on termination of any hedging transaction under any Hedging Agreement occurring after a Distress Event, a settlement amount or other amount (following the application of any Close-Out Netting, Payment Netting or Inter-Hedging Agreement Netting in respect of that Hedging Agreement) falls due from a Hedge Counterparty to the relevant Obligor, then that amount shall be paid by that Hedge Counterparty to the Agent, treated as the proceeds of enforcement of the Transaction Security and applied in accordance with the terms of this Agreement.
- (b) The payment of that amount by the Hedge Counterparty to the Agent in accordance with paragraph (a) above shall discharge the Hedge Counterparty's obligation to pay that amount to that Obligor.

25.11 Terms of Hedging Agreements

The Hedge Counterparties (to the extent party to the Hedging Agreement in question) and the Borrower to the Hedging Agreements shall ensure that, at all times:

- (a) each Hedging Agreement documents only hedging arrangements entered into for the purpose of hedging the types of liabilities described in the definition of Hedging Agreement and that no other hedging arrangements are carried out under or pursuant to a Hedging Agreement;
- (b) each Hedging Agreement is based on the ISDA Master Agreement;
- (c) in the event of a termination of the hedging transaction entered into under a Hedging Agreement, whether as a result of a Termination Event or an Event of Default, each as defined in the relevant Hedging Agreement, that Hedging Agreement will make no material amendment to section 6(e) (Payments on Early Termination) of the ISDA Master Agreement;

- (d) each Hedging Agreement will not provide for Automatic Early Termination other than to the extent that:
 - (i) the provision of Automatic Early Termination is consistent with practice in the relevant derivatives market, taking into account the legal status and jurisdiction of incorporation of the parties to that Hedging Agreement; and
 - (ii) that Automatic Early Termination is as provided for in section 6(a) (Right to Terminate Following Event of Default) of the ISDA Master Agreement;
- (e) each Hedging Agreement will provide that the relevant Hedge Counterparty will be entitled to designate an Early Termination Date or otherwise be able to terminate each transaction under such Hedging Agreement if so required pursuant to Clause 25.9 (Required Enforcement: Hedge Counterparties); and
- (f) each Hedging Agreement will permit the relevant Hedge Counterparty and the Borrower to take such action as may be necessary to comply with the Hedging Policy.

25.12 Hedging Policy

- (a) The Borrower shall ensure compliance with the Hedging Policy at all times until the Final Maturity Date.
- (b) On or prior to the first Utilisation Date of Facility A, the Borrower shall enter into one or more Hedging Agreements with respect to its interest rate exposures, each with a Hedge Counterparty that is a Lender or an Affiliate of a Lender, with respect to principal amount in the same proportions as such Lender's (or its Affiliate Lender's) Commitment under a Term Loan Facility bears to the Total Facility A Commitments, the Total Facility B Commitment or the Total Facility D Commitment (as the case may be).
- (c) To the extent a Lender or its Affiliate is unable to provide the Hedging Agreement as contemplated under paragraph (b) above, the unhedged amount shall be made available to the remaining Lenders pro rata.

25.13 Nickel hedging

The Borrower shall, by no later than sixty (60) days prior to the Project Commercial Operation Date, discuss with the Technical Bank as to whether any nickel hedging is required, and, if those parties agree that nickel hedging is required, the Hedging Policy shall be updated to incorporate the agreed nickel hedging policy.

25.14 Assignments and transfers by Hedge Counterparties

- (a) No Hedge Counterparty may assign any of its rights or transfer any of its rights or obligations under this Agreement or any Hedging Agreement to any person:
 - (i) that is not an Acceptable Hedge Counterparty;
 - (ii) except as permitted under the relevant Hedging Agreement; and
 - (iii) unless and until the proposed Hedge Counterparty accedes to this Agreement in accordance with Clause 30.13 (Accession of Hedge Counterparties), save where it is already party to this Agreement as a Hedge Counterparty.

- (b) Each Party (other than the relevant transferee under paragraph (a) above) irrevocably authorises the Security Agent to execute on its behalf any Hedging Accession Letter which has been duly completed and signed on behalf of that transferee.
- (c) A Hedge Counterparty may not assign or transfer to any Obligor or any Affiliate of any Obligor any of such Hedge Counterparty's rights or obligations under any Finance Document or Hedging Agreement, except with the prior written consent of all the Lenders and Hedge Counterparties.

25.15 Consent to Security

- (a) This Agreement constitutes notice in writing to each Hedge Counterparty of any charge or assignment by way of security that may at any time be created or made under the Transaction Security Documents in respect of any obligation or liability under the applicable Hedging Agreement.
- (b) If the consent of a Hedge Counterparty is required by the Borrower to create security over its rights under a Hedging Agreement, that Hedge Counterparty is deemed to provide consent to the creation of such security by acceding to this Agreement as a Hedge Counterparty.

26. EVENTS OF DEFAULT

Each of the events or circumstances set out in the following Clauses of this Clause 26 (other than 26.21 (Acceleration)) is an Event of Default.

26.1 Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document to which it is a party at the place at and in the currency in which it is expressed to be payable unless the non-payment:

- (a) is caused by technical or administrative error or a Disruption Event; and
- (b) is remedied within three (3) Business Days of the due date.

26.2 Financial covenants and other obligations

- (a) Any financial covenant of Clause 22.2 (Financial Covenants) is not satisfied.
- (b) Any Sponsor Financial Covenant is not satisfied.
- (c) An Obligor does not comply with any of:
 - (i) Clause 23.36 (Sanctions);
 - (ii) Clause 23.37 (Anti-money laundering);
 - (iii) Clause 23.38 (Anti-Bribery and Corruption Laws);
 - (iv) clause 4.2 (Minimum Ownership Requirements) of the Equity Support and Retention Deed;
 - (v) clause 4.6 (Conditions to all Transfers) of the Equity Support and Retention Deed;
 - (vi) clause 7.13 (Sanctions) of the Equity Support and Retention Deed;
 - (vii) clause 7.14 (Anti-bribery, anti-corruption and anti-money laundering) of the Equity Support and Retention Deed; or

- (viii) any other provision of any Finance Document that is specified as being an immediate Event of Default under that Finance Document.

26.3 Other obligations

An Obligor does not comply with any other term of the Finance Documents (other than those referred to in Clause 26.1 (Non-payment) and Clause 26.2 (Financial covenants and other obligations)), unless the non-compliance:

- (a) is capable of remedy; and
- (b) is remedied within twenty (20) Business Days of the earlier of the Agent giving notice of the breach to the relevant Obligor and the relevant Obligor becoming aware of the non-compliance.

26.4 Misrepresentation

- (a) Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor 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.
- (b) No Event of Default under paragraph (a) above will occur if the event or circumstance giving rise to the breach is capable of remedy and is remedied within twenty (20) Business Days of the earlier of:
 - (i) the Agent giving notice to the relevant Obligor; and
 - (ii) the relevant Obligor becoming aware of the breach.

26.5 Breach of Project Documents

- (a) The Borrower defaults in the performance of any of its material obligations under any Project Document and, if capable of remedy, the Borrower fails to remedy such default within thirty (30) days of receiving written notice thereof from the Agent.
- (b) Any Major Project Party defaults in the performance of any of its material obligations under any Project Document and, if capable of remedy, such Major Project Party fails to remedy such breach within any grace period specified therein, *provided that* no Event of Default shall occur pursuant to this paragraph (b) if:
 - (i) the Borrower is able to demonstrate within thirty (30) days of receiving notice from the Agent, to the satisfaction of the Majority Lenders (acting reasonably), that either such default by such Major Project Party shall be cured, or that the Borrower will be able to procure an acceptable substitute for the affected Major Project Party to discharge the relevant duties of such Major Project Party, in either case on terms and within a time period reasonably acceptable to the Majority Lenders; and
 - (ii) the Borrower then procures such cure or substitute in the manner and in the applicable time period agreed to in accordance with paragraph (i) above.
- (c) Any Major Project Party issues a termination notice pursuant to and in accordance with the terms set out in the Direct Agreement to which such Major Project Party is party and does not revoke or withdraw such notice within fourteen (14) days of the date of such notice.

26.6 Invalidity of Project Documents

- (a) It becomes unlawful for any person to perform any of its material obligations under any Project Document.
- (b) Any part of a Project Document ceases to be binding or effective on any person or is declared in a final judgment to be not binding or effective on any person.
- (c) It shall not constitute an Event of Default under paragraph (a) or (b) above if:
 - (i) the relevant event or circumstance under paragraph (a) or (b) above:
 - (A) has not resulted from a breach by the Borrower of its obligations under such Project Document; and
 - (B) does not and will not result in the Borrower being in breach of its material obligations under any other Project Document or any counterparty to any Project Document becoming entitled to issue a notice of termination in respect thereof or where such termination right has been waived by the relevant counterparty; and
 - (ii) the affected Project Document is replaced with an agreement satisfactory to the Majority Lenders within forty-five (45) days from the earlier of the date on which the Borrower (i) receives notice from the Agent specifying such event or circumstance or (ii) the Borrower has or should have, with the exercise of reasonable due care and diligence, become aware of such event or circumstance.

26.7 Unlawfulness

- (a) It is or becomes unlawful for an Obligor to perform any of its obligations under the Finance Documents.
- (b) Any obligation or obligations of any Obligor under any Finance Documents are not subject to the Legal Reservations 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) Any Finance Document ceases to be in full force and effect or any Transaction Security ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective.

26.8 Revocation of Authorisation

- (a) Any Authorisation (other than the IPPKH and any other Material Authorisation) is revoked, determined to be invalid or not renewed and such revocation, determination of invalidity or non-renewal is not cured within thirty (30) days and in the reasonable opinion of the Majority Lenders has or could reasonably be expected to have a Material Adverse Effect.
- (b) The IPPKH or any other Material Authorisation is revoked, determined to be invalid or not renewed.

26.9 Repudiation and rescission of agreements

An Obligor or a Major Project Party rescinds or purports to rescind or repudiates or purports to repudiate a Transaction Document or evidences an intention to rescind or repudiate a Transaction Document.

26.10 Cross default

- (a) Other than Financial Indebtedness under any Finance Document:
- (i) any Financial Indebtedness of any Obligor is not paid when due nor within any originally applicable grace period;
 - (ii) any Financial Indebtedness of any Obligor is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described);
 - (iii) any commitment for any Financial Indebtedness of any Obligor is cancelled or suspended by a creditor of any Obligor as a result of an event of default (however described); or
 - (iv) any creditor of any Obligor becomes entitled to declare any Financial Indebtedness of any Obligor due and payable prior to its specified maturity as a result of an event of default (however described).
- (b) No Event of Default will occur under this Clause 26.10 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a)(i) to (iv) above is less than:
- (i) with respect to the Borrower, US\$5,000,000; or
 - (ii) with respect to any other Obligor, US\$10,000,000,
- (or, in each case, its equivalent in any other currency or currencies).

26.11 Insolvency

- (a) An Obligor is or is presumed or deemed to be unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- (b) The value of the assets of any Obligor is less than its liabilities (taking into account contingent and prospective liabilities).
- (c) A moratorium is declared in respect of any indebtedness of any Obligor.

26.12 Insolvency proceedings

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
- (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, judicial management, provisional supervision or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Obligor;
 - (ii) a composition or arrangement with any creditor of any Obligor, or an assignment for the benefit of creditors generally of any Obligor or a class of such creditors;
 - (iii) the appointment of a liquidator, receiver, administrator, judicial manager, administrative receiver, compulsory manager, provisional supervisor or other similar officer in respect of any Obligor or in each case, any of its assets; or
 - (iv) enforcement of any Security over any assets of any Obligor,

or any analogous procedure or step is taken in any jurisdiction.

- (b) Paragraph (a) above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within thirty (30) days of commencement.

26.13 Creditors' process

Any attachment, sequestration, distress or execution affects any asset or assets of an Obligor.

26.14 Cessation of business

An Obligor suspends or ceases to carry on all or a material part of its business.

26.15 Judgment

At any time one or more final non-appealable judgments or decrees is entered against the Borrower, in each case, in excess of five million US dollars (USD5,000,000) (or its equivalent), and such judgment or decree has not been paid, discharged or stayed within thirty (30) days.

26.16 Abandonment

Abandonment occurs.

26.17 Delay

- (a) The Module Commercial Operation Date in respect of the MHP Module has not occurred by the MHP MCOD Sunset Date.
- (b) The Project Commercial Operation Date has not occurred by the PCOD Sunset Date.

26.18 Moratorium

Any Governmental Authority in Indonesia:

- (a) declares, or takes action to effect, any moratorium on the payment of all or substantially all of the amounts due under agreements involving the borrowing of money or the advance of credit in currencies other than Rupiah; or
- (b) commences negotiations generally with its creditors with a view to a general rescheduling of all or substantially all of the amounts due under agreements involving the borrowing of money or the advance of credit in currencies other than Rupiah.

26.19 Expropriation

Any Governmental Authority takes, or provides official notice that it intends to take, any step with a view to the seizure, expropriation, nationalisation or compulsory acquisition (whether or not for fair compensation) of the Borrower, the shares of the Borrower or all or a substantial part of the Project or shall have taken any action for the dissolution or disestablishment of the Borrower or any action that would prevent the Borrower or its officers from carrying on its business or operations or a substantial part thereof.

26.20 Material adverse change

Any event or series of events occurs which, in the opinion of the Majority Lenders, has or is reasonably likely to have a Material Adverse Effect.

26.21 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) without prejudice to the participations of any Lenders in any Utilisations then outstanding:
 - (i) cancel the Commitments (and reduce them to zero), whereupon they shall immediately be cancelled (and reduced to zero); or
 - (ii) cancel any part of any Commitment (and reduce such Commitment accordingly), whereupon the relevant part shall immediately be cancelled (and the relevant Commitment shall be immediately reduced accordingly);
- (b) declare that all or part of the Utilisations, 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;
- (c) declare that all or any of the Transaction Security constituted by the Transaction Security Documents has become enforceable and that any of the rights of the Finance Parties under the Transaction Security Documents may be exercised;
- (d) declare that cash cover in respect of each Letter of Credit be immediately provided whereupon it shall become immediately due and payable;
- (e) declare that cash cover in respect of each Letter of Credit be provided on demand, whereupon it shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders;
- (f) cure any default under any of the Project Documents by exercising rights under any Direct Agreement;
- (g) set off and apply all moneys on deposit in any Project Account to the satisfaction of the amounts outstanding under the Finance Documents;
- (h) instructing the Security Agent to exercise all or any of their rights in respect of the Finance Documents;
- (i) give notice to the Borrower and each Account Bank that no further payments shall be made from any Project Account without the prior consent of the Agent, whereupon each Account Bank shall become bound to block all payments from the Project Account on its books other than payments approved by the Agent (acting on the instruction of the Majority Lenders); and/or
- (j) exercise or direct the Security Agent to exercise any or all of its other rights, remedies, powers or discretions under the Finance Documents.

27. ENFORCEMENT OF TRANSACTION SECURITY

27.1 Enforcement instructions

- (a) The Security Agent may refrain from enforcing the Transaction Security unless instructed otherwise by the Majority Creditors.

- (b) Subject to the Transaction Security having become enforceable in accordance with its terms, the Majority Creditors may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit.
- (c) The Security Agent is entitled to rely on and comply with instructions given in accordance with this Clause 27.1.

27.2 Manner of enforcement

If the Transaction Security is being enforced pursuant to Clause 27.1 (Enforcement instructions), the Security Agent shall enforce the Transaction Security in such manner (including, without limitation, the selection of any administrator (or analogous officer in any jurisdiction) of any Obligor to be appointed by the Security Agent) as the Majority Creditors shall instruct, or in the absence of any such instructions, as the Security Agent considers in its discretion to be appropriate.

27.3 Waiver of rights

To the extent permitted under applicable law and subject to Clause 27.1 (Enforcement instructions), Clause 27.2 (Manner of enforcement) and Clause 34 (Application of Proceeds), each of the Secured Parties and the Obligors waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any amount received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Liabilities is so applied.

28. EFFECT OF INSOLVENCY EVENT

28.1 Distributions

- (a) After the occurrence of an Insolvency Event in relation to any Obligor, any Party entitled to receive a distribution out of the assets of that Obligor in respect of Secured Liabilities owed to that Party will, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that Obligor to make that distribution to the Security Agent (or to such other person as the Security Agent may direct) until the Secured Liabilities owing to the Secured Parties have been paid in full.
- (b) The Security Agent must apply distributions paid to it under paragraph (a) above in accordance with Clause 34 (Application of Proceeds).

28.2 Set-off

- (a) Subject to paragraph (b) below, to the extent that any Secured Liabilities are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to that Obligor, any Lender or Hedge Counterparty which benefited from that set-off must pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Agent for application in accordance with Clause 34 (Application of Proceeds).
- (b) Paragraph (a) above shall not apply to:
 - (i) any Close-Out Netting by a Hedge Counterparty;
 - (ii) any Payment Netting by a Hedge Counterparty; and
 - (iii) any Inter-Hedging Agreement Netting by a Hedge Counterparty.

28.3 Non-cash distributions

If the Security Agent or any other Secured Party receives a distribution in a form other than in cash in respect of any of the Secured Liabilities, the Secured Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Secured Liabilities.

28.4 Filing of claims

After the occurrence of an Insolvency Event in relation to an Obligor, each Lender and Hedge Counterparty irrevocably authorises the Security Agent, on its behalf, to:

- (a) take any Enforcement Action (in accordance with the terms of this Agreement) against that Obligor;
- (b) demand, sue, prove and give receipt for any or all of that Obligor's Secured Liabilities;
- (c) collect and receive all distributions on, or on account of, any or all of that Obligor's Secured Liabilities; and
- (d) file claims, take proceedings and do all other things the Security Agent considers reasonably necessary to recover the Secured Liabilities of that Obligor.

28.5 Further assurance – Insolvency Event

Each Lender and each Hedge Counterparty will:

- (a) do all things that any Security Agent requests in order to give effect to this Clause 28; and
- (b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 28 or if the Security Agent requests that a Lender take that action, undertake that action itself in accordance with the instructions of the Security Agent or grant a power of attorney to the Security Agent (on such terms as the Security Agent may reasonably require) to enable the Security Agent to take such action.

28.6 Security Agent instructions

For the purposes of Clause 28.1 (Distributions), Clause 28.4 (Filing of claims) and Clause 28.5 (Further assurance – Insolvency Event) each Security Agent must act:

- (a) on the instructions of the Majority Creditors to give instructions with respect to any Enforcement Action relating to the Security; or
- (b) in the absence of any such instructions, as that Security Agent sees fit.

29. INFORMATION

29.1 Information

- (a) Each Finance Party, each Hedge Counterparty and each Obligor must supply the Security Agent with any information that any Security Agent may reasonably specify as being necessary to enable it to perform its functions as security agent.
- (b) Each Lender must deal with the Security Agent exclusively through the Agent and the Hedge Counterparty will deal directly with the Security Agent and shall not deal through the Agent.

- (c) The Agent will not be under any obligation to act as agent or otherwise on behalf of any Hedge Counterparty except as expressly provided for in, and for the purposes of, this Agreement.

29.2 Notification of prescribed events

- (a) If an Event of Default either occurs or ceases to be continuing the Agent must, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent must, upon receiving that notification, notify each Hedge Counterparty.
- (b) If the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it must notify each Party of that action.
- (c) If the Borrower defaults on any Payment due under a Hedging Agreement, the Hedge Counterparty which is party to that Hedging Agreement shall, upon becoming aware of that default, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify the Agent and each other Hedge Counterparty.
- (d) If a Hedge Counterparty terminates or closes out, in whole or in part, any hedging transaction under any Hedging Agreement under Clause 25.8 (Permitted Enforcement: Hedge Counterparties), it shall notify the Agent and the Agent shall, upon receiving that notification, notify the Security Agent and each other Hedge Counterparty.
- (e) If any Lender exercises any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security it must notify the Security Agent and the Security Agent must, upon receiving that notification, notify each Party of that action.

30. CHANGES TO THE LENDERS

30.1 Assignments and transfers by the Lenders

Subject to this Clause 30, a Lender (the **Existing Lender**) may at its sole discretion:

- (a) assign any of its rights any of its rights and obligations; or
- (b) transfer by novation any of its rights and obligations; or
- (c) grant any sub-participation in respect of any of its rights and obligations,

under the Finance Documents to another bank or financial institution or to any insurer or reinsurer 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**).

30.2 Conditions of assignment or transfer

- (a) No Lender may assign any of its rights, transfer by novation, or sub-participate any of its rights and obligations under a Term Loan Facility without also assigning or transferring a proportionate rights, or rights and obligations (as the case may be), under the other Term Loan Facility, such that immediately after that assignment, transfer or sub-participation, in respect of each of the Existing Lender and the New Lender:
 - (i) if there is any Loan then outstanding, the proportion borne by: (X) the sum of its participation(s) in Facility A Loan(s) then outstanding to (Y) the aggregate amount of Facility A Loan(s) shall equal to:

- (A) the proportion borne by (X) the sum of its participation(s) in Facility B Loan(s) then outstanding to (Y) the aggregate amount of Facility B Loan(s); and
- (B) the proportion borne by (X) the sum of its participation(s) in Facility D Loan(s) then outstanding to (Y) the aggregate amount of Facility D Loan(s); or
- (ii) if there is no Loan then outstanding and the Available Facility is then greater than zero, the proportion borne by: (X) its Available Commitment in Facility A to (Y) the aggregate Available Commitment of Facility A shall equal to:
 - (A) the proportion borne by (X) its Available Commitment in Facility B to (Y) the aggregate Available Commitment of Facility B; and
 - (B) the proportion borne by (X) its Available Commitment in Facility D to (Y) the aggregate Available Commitment of Facility D.
- (b) A transfer will be effective only if the procedure set out in Clause 30.5 (Procedure for transfer) is complied with.
- (c) An assignment will be effective only if the procedure and conditions set out in Clause 30.6 (Procedure for assignment) are complied with.
- (d) If:
 - (i) a Lender assigns or transfers any of its rights 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 Obligors would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 14 (Tax Gross-Up and Indemnities) or Clause 15 (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 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.

30.3 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 \$5,000.

30.4 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 any Obligor;
 - (iii) the performance and observance by any Obligor 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, the other Finance Parties and the Secured Parties that it:
 - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor 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 each Obligor 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 30; or
 - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

30.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 30.2 (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. 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 not be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct in relation to the transfer to such New Lender.
- (c) Subject to Clause 30.12 (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 and in respect of the Transaction Security each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another shall be cancelled (being the **Discharged Rights and Obligations**);
 - (ii) each of the Obligors 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 that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;

- (iii) the Agent, the Arranger, the Security Agent, the New Lender and other Lenders and the Hedge Counterparties shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security 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 Arranger, the Security Agent 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**.
- (d) The procedure set out in this Clause 30.5 shall not apply to any right or obligation under any Finance Document (other than this Agreement) if and to the extent its terms, or any laws or regulations applicable thereto, provide for or require a different means of transfer of such right or obligation or prohibit or restrict any transfer of such right or obligation, unless such prohibition or restriction shall not be applicable to the relevant transfer or each condition of any applicable restriction shall have been satisfied.

30.6 Procedure for assignment

- (a) Subject to the conditions set out in paragraph (d) below and in Clause 30.2 (Conditions of assignment or transfer), an assignment may be effected in accordance with paragraph (b) 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 (d)(ii) 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) Subject to Clause 30.12 (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 and in respect of the Transaction Security expressed to be the subject of the assignment in the Assignment Agreement;
 - (ii) the Existing Lender will be released by each Obligor 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 any corresponding obligations by which it is bound in respect of the Transaction Security); and
 - (iii) the New Lender shall become a Party as a “Lender” and will be bound by obligations equivalent to the Relevant Obligations.
- (c) Lenders may utilise procedures other than those set out in this Clause 30.6 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with Clause 30.5 (Procedure for transfer), to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender), *provided that* they comply with the conditions set out in paragraph (d) below.
- (d) An assignment (whether pursuant to an Assignment Agreement or paragraph (c) above) will only be effective on:
 - (i) receipt by the Agent (whether in an 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 and the Secured Parties as it would have been under if it was 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. The Agent shall not be obliged to execute an Assignment Agreement delivered to it by an Existing Lender and the New Lender or any document delivered to it pursuant to paragraph (c) above unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct in relation to the assignment to such New Lender.
- (e) The procedure set out in this Clause 30.6 shall not apply to any right or obligation under any Finance Document (other than this Agreement) if and to the extent its terms, or any laws or regulations applicable thereto, provide for or require a different means of assignment of such right or release or assumption of such obligation or prohibit or restrict any assignment of such right or release or assumption of such obligation, unless such prohibition or restriction shall not be applicable to the relevant assignment, release or assumption or each condition of any applicable restriction shall have been satisfied.

30.7 Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Borrower

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

30.8 Existing consents and waivers

A New Lender shall be bound by any consent, waiver, election or decision given or made by the relevant Existing Lender under or pursuant to any Finance Document prior to the coming into effect of the relevant assignment or transfer to such New Lender.

30.9 Exclusion of Agent’s liability

In relation to any assignment or transfer pursuant to this Clause 30, each Party acknowledges and agrees that the Agent shall not be obliged to enquire as to the accuracy of any representation or warranty made by a New Lender in respect of its eligibility as a Lender.

30.10 Assignments and transfers to Obligor group

A Lender may not assign or transfer to any Obligor or any Affiliate of any Obligor any of such Lender’s rights or obligations under any Finance Document, except with the prior written consent of all the Lenders.

30.11 Security over Lenders’ rights

- (a) In addition to the other rights provided to Lenders under this Clause 30, each Lender may without consulting with or obtaining consent from any Obligor, at any time charge, assign, pledge 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:
 - (i) any charge, assignment, pledge or other Security to secure obligations to a federal reserve or central bank (including, for the avoidance of doubt, the European Central Bank) (including, without limitation, any transfer or assignment of rights to a special purpose vehicle where Security over securities issued by such special purpose vehicle is to be created in favour of a federal reserve or central bank (including, for the avoidance of doubt, the European Central Bank)); and

- (ii) in the case of any Lender which is a fund, any charge, assignment, pledge 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:

- (A) 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
 - (B) require any payments to be made by an Obligor 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.
- (b) The limitations on assignments or transfers by a Lender set out in any Finance Document, in particular in Clause 30.1 (Assignments and transfers by the Lenders), Clause 30.2 (Conditions of assignment or transfer) and Clause 30.3 (Assignment or transfer fee), shall not apply to the creation or enforcement of Transaction Security pursuant to paragraph (a) above.

30.12 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 then (in respect of any transfer pursuant to Clause 30.5 (Procedure for transfer) or any assignment pursuant to Clause 30.6 (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):

- (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 (**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 three (3) Months, on the next of the dates which falls at three (3) Monthly intervals after the first day of that Interest Period); 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 on that date will be the amount which would, but for the application of this Clause 30.12, have been payable to it on that date, but after deduction of the Accrued Amounts.

30.13 Accession of Hedge Counterparties

- (a) Any person entering into a Treasury Transaction with the Borrower shall become a Hedge Counterparty if:
 - (i) that person is a Lender or an Affiliate of a Lender;
 - (ii) that person delivers to the Agent and the Security Agent a duly completed and signed Hedging Accession Letter; and

- (iii) the Security Agent executes such Hedging Accession Letter.
- (b) Each Party (other the relevant proposed Hedge Counterparty under paragraph (a) above) irrevocably authorises the Security Agent to execute on its behalf any Hedging Accession Letter which has been duly completed and signed on behalf of that proposed Hedge Counterparty.

31. ROLE OF THE ADMINISTRATIVE PARTIES

31.1 Appointment of the Agent

- (a) Each of the other Finance Parties appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the other Finance Parties authorises the Agent and the Technical Bank to exercise the rights, powers, authorities and discretions specifically given to that Administrative Party under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

31.2 Duties of the Agent

- (a) Except where a Finance Document specifically provides otherwise, the Agent shall promptly forward to each Finance Party the original or a copy of any notice or document which is delivered to the Agent by any Obligor under any of the Finance Documents.
- (b) Without prejudice to Clause 30.7 (Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Borrower), paragraph (a) above shall not apply to any Hedging Agreement, Transfer Certificate, any Assignment Agreement or to any Increase Confirmation.
- (c) Except where a Finance Document specifically provides otherwise, an Administrative Party is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (d) 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.
- (e) 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 to any Administrative Party) under this Agreement it shall promptly notify the other Finance Parties.
- (f) An Administrative Party's duties under the Finance Documents are solely mechanical and administrative in nature.

31.3 Role of the Technical Bank

Except where a Finance Document specifically provides otherwise, the Technical Bank has no obligation of any kind to any other Party under or in connection with any Finance Document.

31.4 Role of the Arranger

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

31.5 No fiduciary duties

- (a) Nothing in any Finance Document constitutes:
 - (i) an Administrative Party (other than the Security Agent) as a trustee or fiduciary of any other person; or
 - (ii) the Security Agent as an agent, trustee or fiduciary of any Obligor.
- (b) No Administrative Party or an Arranger shall be bound to account to any other Finance Party or (in the case of the Security Agent) any Secured Party for any sum or the profit element of any sum received by it for its own account.

31.6 Business with the Obligors

Any Administrative Party may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Obligor.

31.7 Rights and discretions

- (a) An Administrative Party may:
 - (i) rely on any representation communication, notice or document believed by it to be genuine, correct and appropriately authorised and shall have no duty to verify any signature on any document;
 - (ii) rely on any statement purportedly made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify;
 - (iii) assume that any instructions received by it from the Majority Lenders, any Finance Party or any group of Finance Parties are duly given in accordance with the terms of the Finance Documents and unless it has received notice of revocation, that those instructions have not been revoked; and
 - (iv) 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) An Administrative Party 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 26.1 (Non-payment));
 - (ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and

- (iii) any notice or request made by the Borrower is made on behalf of and with the consent and knowledge of all the Obligors.
- (c) An Administrative Party may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts selected by it (including those representing a Party other than itself).
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, an Administrative Party may at any time engage and pay for the services of any lawyers to act as independent counsel to that Agent or Technical Bank (as applicable) (and so separate from any lawyers instructed by the Lenders) if that Administrative Party in its reasonable opinion, deems this to be necessary.
- (e) An Administrative Party may rely on the advice or services of any lawyers, accountants, tax advisors, surveyors or other professional advisors or experts (whether obtained by that Administrative Party or by any other Party) and will not be liable for any cost, loss or liability whatsoever any person incurs or any diminution in value arising as a result of that Administrative Party so relying.
- (f) An Administrative Party may act in relation to the Finance Documents through its officers, employees and agents and 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 that Administrative Party's gross negligence or wilful misconduct.
- (g) Unless a Finance Document specifically provides otherwise, an Administrative Party may disclose to any other Party any information it reasonably believes it has received as agent or technical bank (as the case may be) under the Finance Documents.
- (h) Without prejudice to the generality of paragraph (g) above, the Agent:
 - (i) may disclose; and
 - (ii) on the written request of the Borrower or the Majority Lenders shall, as soon as reasonably practicable, disclose,
 the identity of a Defaulting Lender to the Borrower and to the other Finance Parties.
- (i) Notwithstanding any other provision of any Finance Document to the contrary:
 - (i) no Administrative Party is obliged to do or omit to do anything (including disclosing any information) 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 or otherwise be actionable by any person; and
 - (ii) an Administrative Party may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.
- (j) Notwithstanding any other provision of any Finance Document to the contrary, no Administrative Party is 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 those funds or adequate indemnity against, or security for, that risk or liability is not reasonably assured to it.

31.8 Majority Lenders' instructions

- (a) Unless a contrary indication appears in a Finance Document, an Administrative Party shall:
 - (i) exercise any right, power, authority or discretion vested in it as Agent, Security Agent or Technical Bank (as the case may be) (or, if so instructed, refrain from exercising such right, power, authority or discretion) in accordance with any instructions given to it by in accordance with any instructions given to it by:
 - (A) all Lenders if a Finance Document stipulates the matter is an all Lender decision;
 - (B) the relevant Finance Party or group of Finance Parties if a Finance Document stipulates the matter is a decision for that Finance Party or group of Finance Parties; and
 - (C) in all other cases, the Majority Lenders; and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance paragraph (i) above.
- (b) An Administrative Party 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 Finance Party or group of Finance Parties or all Lenders, from that Finance Party or group of Finance Parties or all Lenders (as applicable)) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent and Technical Bank (as applicable) 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 Finance Party or group of Finance Parties or all Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to an Administrative Party by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) An Administrative Party may refrain from acting in accordance with the instructions of the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties or all Lenders, from that Finance Party or group of Finance Parties or all Lenders (as applicable)) or under paragraph (e) below until it has received such security as it may require for any cost, loss or liability (together with any associated Indirect Tax) which it may incur in complying with the instructions.
- (e) In the absence of instructions from the Majority Lenders, (or, if the relevant Finance Document stipulates the matter is a decision for any other Finance Party or group of Finance Parties or all Lenders, from that Finance Party or group of Finance Parties or all Lenders (as applicable)) an Administrative Party may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.
- (f) No Administrative Party is 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. This paragraph (f) shall not apply to any legal or arbitration proceedings relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of any Transaction Security or Transaction Security Documents.

31.9 Responsibility for documentation

No Administrative Party:

- (a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by any Administrative Party, an Obligor or any other person given in or in connection with any Finance Document or the Information Memorandum;
- (b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document or the Transaction Security; or
- (c) is responsible for 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.

31.10 No duty to monitor

No Administrative Party shall 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.

31.11 Exclusion of liability

- (a) Without limiting paragraph (b) below, no Administrative Party shall be liable for any cost, loss or liability incurred by any Party as a consequence of:
 - (i) that Administrative Party having taken or having omitted to take any action under or in connection with any Finance Document or the Transaction Security, unless directly caused by that Administrative Party's gross negligence or wilful misconduct; or
 - (ii) any delay in the crediting to any account of an amount required under the Finance Documents to be paid by that Administrative Party, if that Administrative Party shall have 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 that Administrative Party for the purpose of such payment.
- (b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of an Administrative Party in respect of any claim it might have against that Administrative Party or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or the Transaction Security and any officer, employee or agent of that Administrative Party may rely on this Clause 31 subject to Clause 1.4 (Third party rights) and the provisions of the Third Parties Act.
- (c) Nothing in this Agreement shall oblige any Administrative Party to conduct any "know your customer" or other procedures in relation to any person on behalf of any Lender and each Lender confirms to each Administrative Party that it is solely responsible for any such procedures it is required

to conduct and that it shall not rely on any statement in relation to such procedures made by any Administrative Party.

31.12 Lenders' indemnity

- (a) Each Lender shall, in accordance with paragraph (b) below, indemnify an Administrative Party, within three (3) Business Days of demand, against any cost, loss or liability incurred by that Administrative Party (otherwise than by reason of that Administrative Party's gross negligence or wilful misconduct) in acting as an Administrative Party under the Finance Documents (unless that Administrative Party has been reimbursed by an Obligor pursuant to a Finance Document).
- (b) The proportion of such cost, loss or liability to be borne by each Lender shall be:
 - (i) if there is any Loan then outstanding, the proportion borne by (A) the sum of its participation(s) in the Loan(s) then outstanding to (B) the aggregate amount of such Loan(s); or
 - (ii) if there is no Loan then outstanding and the Available Facility is then greater than zero, the proportion borne by (A) its Available Commitment to (B) the Available Facility; or
 - (iii) if there is no Loan then outstanding and the Available Facility is then zero:
 - (A) if the Available Facility became zero after a Loan ceased to be outstanding, the proportion borne by (A) its Available Commitment to (B) the Available Facility immediately before the Available Facility became zero; or
 - (B) if a Loan ceased to be outstanding after the Available Facility became zero, the proportion borne by (A) the sum of its participation(s) in the Loan(s) outstanding immediately before any Loan ceased to be outstanding to (B) the aggregate amount of such Loan(s).

31.13 Resignation of the Agent or Technical Bank

- (a) The Agent or Technical Bank may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Borrower.
- (b) Alternatively the Agent or Technical Bank may resign by giving notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Agent or Technical Bank.
- (c) If the Majority Lenders have not appointed a successor Agent or Technical Bank in accordance with paragraph (b) above within thirty (30) days after notice of resignation was given, the retiring Agent or Technical Bank (after consultation with the Borrower) may appoint a successor Agent or Technical Bank.
- (d) The retiring Agent or Technical Bank shall at its own cost make available to the successor Agent or Technical Bank (as applicable) such documents and records and provide such assistance as the successor Agent or Technical Bank (as applicable) may reasonably request for the purposes of performing its functions as Agent or Technical Bank (as applicable) under the Finance Documents.
- (e) The resignation notice of the Agent or Technical Bank shall take effect only upon the appointment of a successor.

- (f) Upon the appointment of a successor, the retiring Agent or Technical Bank shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 31. Its 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.
- (g) After consultation with the Borrower, the Majority Lenders may, by notice to the Agent or Technical Bank require it to resign in accordance with paragraph (b) above. In this event, the Agent or Technical Bank (as applicable) shall resign in accordance with paragraph (b) above.
- (h) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three (3) Months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:
 - (i) the Agent fails to respond to a request under Clause 14.7 (FATCA information) and the Borrower or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
 - (ii) the information supplied by the Agent pursuant to Clause 14.7 (FATCA information) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
 - (iii) the Agent notifies the Borrower and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,

and (in each case) the Borrower or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Borrower or that Lender, by notice to the Agent, requires it to resign.

31.14 Replacement of the Agent

- (a) After consultation with the Borrower, the Majority Creditors may, by giving thirty (30) days' notice to the Agent (or, at any time the Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Creditors) replace the Agent by appointing a successor Agent.
- (b) The retiring Agent shall (at its own cost if it is an Impaired Agent 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 Majority Creditors to the retiring Agent. 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 17.3 (Indemnity to the Agent) and this Clause 31 (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.

31.15 Confidentiality

- (a) In acting as agent for the Finance Parties, the Agent or Technical Bank (as applicable) shall be regarded as acting through its agency division which shall be treated as a separate legal person from any other of its branches, divisions or departments.
- (b) If information is received by another branch, division or department of the legal person which is the Agent or Technical Bank (as applicable), it may be treated as confidential to that branch, division or department and the Agent or Technical Bank (as applicable) shall not be deemed to have notice of it.
- (c) The Agent or Technical Bank (as applicable) shall not be obliged to disclose to any Finance Party any information supplied to it by the Borrower or any Affiliates of the Borrower on a confidential basis and for the purpose of evaluating whether any waiver or amendment is or may be required or desirable in relation to any Finance Document.

31.16 Relationship with the other Finance Parties

- (a) Subject to Clause 30.12 (Pro-rata interest settlement) and Clause 36.2 (Distributions by the Agent), the Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office, 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 38.5 (Electronic communication)) electronic mail address and/or any other information required to enable the sending and receipt 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, department and officer by that Lender for the purposes of Clause 38.2 (Addresses) and Clause 38.5(a)(ii) (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.

31.17 Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to each Administrative Party 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 each Obligor;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (c) whether that Finance Party 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 Transaction Security, 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 or the Transaction Security;

- (d) the adequacy, accuracy and/or completeness of the Information Memorandum and any other information provided by the Agent, any Party or by any other person 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;
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

31.18 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.

31.19 Agent's Management Time

Any amount payable to the Agent, the Security Agent and the Technical Bank under Clause 17.3 (Indemnity to the Agent), Clause 18 (Costs and Expenses) and Clause 31.12 (Lenders' indemnity) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Borrower and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 13 (Fees).

32. THE SECURITY AGENT

32.1 Security Agent

- (a) Unless expressly provided to the contrary in any Finance Document, the Security Agent declares that it holds any security created by a Security Document governed by any law other than Indonesian law and the proceeds of that security on trust for the Secured Parties on the terms contained in this Agreement.
- (b) Each other Secured Party irrevocably appoints the Security Agent to act as security agent under and in connection with the Finance Documents in relation to any Security Documents which is expressed to be governed by Indonesian law.
- (c) Each of the parties to this Agreement agrees that the Security Agent shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Transaction Security Documents to which the Security Agent is expressed to be a party (and no others shall be implied).

32.2 No independent power

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any rights or powers arising under the Transaction Security Documents except through the Security Agent.

32.3 Instructions to Security Agent and exercise of discretion

- (a) Subject to Clause 27.1 (Enforcement instructions) and paragraphs (d) and (e) below, the Security Agent shall act in accordance with any instructions given to it by the Majority Creditors or, if so instructed by the Majority Creditors, refrain from exercising any right, power, authority or discretion

vested in it as Security Agent and shall be entitled to assume that (i) any instruction received by it from the Agent, the Lenders or a group of Lenders, the Hedge Counterparties or a group of Hedge Counterparties, or the Majority Creditors, are duly given in accordance with the terms of the Finance Documents and (ii) unless it has received actual notice of revocation, that those instructions or directions have not been revoked.

- (b) The Security Agent shall be entitled to request instructions, or clarification of any direction, from the Majority Lenders as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Agent may refrain from acting unless and until those instructions or clarification are received by it.
- (c) Any instructions given to the Security Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties.
- (d) Paragraph (a) above shall not apply:
 - (i) where a contrary indication appears in this Agreement;
 - (ii) where this Agreement requires the Security Agent to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role as Security Agent for the Secured Parties including, without limitation, the provisions set out in Clauses 32.5 (Security Agent's discretions) to Clause 32.18 (Trustee division separate); or
 - (iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:
 - (A) Clause 34.1 (Order of application);
 - (B) Clause 34.2 (Prospective liabilities); and
 - (C) Clause 34.5 (Permitted Deductions).
- (e) If giving effect to instructions given by the Majority Lenders would (in the Security Agent's opinion) have an effect equivalent to an amendment or waiver referred to in Clause 42.2 (Exceptions), the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Security Agent) whose consent would have been required in respect of that amendment or waiver.
- (f) In exercising any discretion to exercise a right, power or authority under this Agreement where either:
 - (i) it has not received any instructions from the Majority Lenders as to the exercise of that discretion; or
 - (ii) the exercise of that discretion is subject to paragraph (d)(iv) above,the Security Agent shall do so having regard to the interests of all the Secured Parties.

32.4 Security Agent's Actions

Without prejudice to the provisions of Clause 32.3 (Instructions to Security Agent and exercise of discretion), the Security Agent may (but shall not be obliged to), in the absence of any instructions to

the contrary, take such action in the exercise of any of its powers and duties under the Finance Documents as it considers in its discretion to be appropriate.

32.5 Security Agent's discretions

The Security Agent may:

- (a) assume (unless it has received actual notice to the contrary from the Agent or any Hedge Counterparty) that (i) no Default has occurred and no Obligor is in breach of or default under its obligations under any of the Finance Documents and (ii) any right, power, authority or discretion vested by any Finance Document in any person has not been exercised;
- (b) if it receives any instructions or directions to take any action in relation to the Transaction Security, assume that all applicable conditions under the Finance Documents for taking that action have been satisfied;
- (c) engage, pay for and rely on the advice or services of any legal advisors, accountants, tax advisors, surveyors or other experts (whether obtained by the Security Agent or by any other Secured Party) whose advice or services may at any time seem necessary, expedient or desirable;
- (d) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party, or an Obligor, upon a certificate signed by or on behalf of that person; and
- (e) refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Finance Documents) until it has received any indemnification and/or security that it may in its discretion require (whether by way of payment in advance or otherwise) for all costs, losses and liabilities which it may incur in so acting.

32.6 Security Agent's obligations

The Security Agent shall promptly:

- (a) copy to the Agent the contents of any notice or document received by it from any Obligor under any Finance Document;
- (b) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party, *provided that*, except where a Finance Document expressly provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party; and
- (c) inform the Agent and each Hedge Counterparty of the occurrence of any Default or any default by an Obligor in the due performance of or compliance with its obligations under any Finance Document of which the Security Agent has received notice from any other Party.

32.7 Excluded obligations

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Agent shall not:

- (a) be bound to enquire as to (i) whether or not any Default has occurred or (ii) the performance, default or any breach by an Obligor of its obligations under any of the Finance Documents;

- (b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;
- (c) be bound to disclose to any other person (including, but not limited to, any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty; or
- (d) have or be deemed to have any relationship of trust or agency with any Obligor.

32.8 Exclusion of liability

None of the Security Agent, any Receiver nor any Delegate shall accept responsibility or be liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent 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;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (c) any losses to any person or any liability arising as a result of taking or refraining from taking any action in relation to any of the Finance Documents, the Security Property or otherwise, whether in accordance with an instruction from the Agent or otherwise unless directly caused by its gross negligence or wilful misconduct;
- (d) the exercise of, or the failure to exercise, any judgment, discretion or power given to it by or in connection with any of the Finance Documents, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Finance Documents or the Security Property; or
- (e) any shortfall which arises on the enforcement or realisation of the Security Property.

32.9 No proceedings

No Party (other than the Security Agent, that Receiver or that Delegate) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause 32 subject to Clause 1.4 (Third party rights) and the provisions of the Third Parties Rights Act.

32.10 Own responsibility

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Secured Party confirms to the Security Agent 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 each Obligor;
- (b) the legality, validity, effectiveness, adequacy and enforceability of any Finance Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (c) whether that Secured Party 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 Security Property, 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 or the Security Property;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Security Agent 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; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property,

and each Secured Party warrants to the Security Agent that it has not relied on and will not at any time rely on the Security Agent in respect of any of these matters.

32.11 No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Finance Documents or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any Applicable Laws in any jurisdiction or to give notice to any person of the execution of any of the Finance Documents or of the Transaction Security;
- (d) take, or to require any of the Obligors to take, any steps to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under the laws of any jurisdiction; or
- (e) require any further assurances in relation to any of the Transaction Security Documents.

32.12 Insurance by Security Agent

- (a) The Security Agent shall not be under any obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Finance Documents. The Security Agent shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.

- (b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Agent shall have requested it to do so in writing and the Security Agent shall have failed to do so within fourteen (14) days after receipt of that request.

32.13 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

32.14 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the Obligors may have to any of the Charged Property and shall not be liable for or bound to require any Obligor to remedy any defect in its right or title.

32.15 Refrain from illegality

Notwithstanding anything to the contrary expressed or implied in the Finance Documents, the Security Agent may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and the Security Agent may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

32.16 Business with the Obligors

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

32.17 Winding up of trust

If the Security Agent, with the approval of the Majority Lenders, determines that all of the Secured Liabilities and all other liabilities secured by the Transaction Security Documents have been fully and finally discharged and none of the Secured Parties is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Finance Documents:

- (a) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Transaction Security Documents; and
- (b) any Retiring Security Agent shall release, without recourse or warranty, all of its rights under each of the Transaction Security Documents.

32.18 Trustee division separate

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

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

32.19 Secured Parties' indemnity to the Security Agent

- (a) Each Secured Party (other than the Security Agent, Agent and Arranger) shall (in the proportion that the aggregate Secured Liabilities due to it bears to the aggregate of the Secured Liabilities due to all the Secured Parties (other than the Security Agent, the Agent and the Arranger) for the time being (or, if the aggregate of Secured Liabilities due to each of those Secured Parties is zero, immediately prior to such aggregate being reduced to zero)) indemnify the Security Agent and every Receiver and every Delegate, within three (3) Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the Security Agent's gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under the Finance Documents (unless the relevant Security Agent, Receiver or Delegate has been reimbursed by an Obligor pursuant to a Finance Document) and the Obligors shall jointly and severally indemnify each Lender against any payment made by it under this Clause 32.19.
- (b) For the purposes only of paragraph (a) above, to the extent that any hedging transaction under a Hedging Agreement has not been terminated or closed out, the Hedging Liabilities due to any Hedge Counterparty in respect of that hedging transaction will be deemed to be the amount (certified by that Hedge Counterparty and as calculated in accordance with that Hedging Agreement), if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the ISDA Master Agreement) for which the Borrower is the Defaulting Party (as defined in the ISDA Master Agreement).

32.20 Conflict with the Transaction Security Documents

If there is any conflict between this Agreement and any Transaction Security Document with regard to instructions to, or other matters affecting, the Security Agent, this Agreement will prevail.

33. CHANGE OF SECURITY AGENT AND DELEGATION

33.1 Resignation of the Security Agent

- (a) The Security Agent may resign and appoint one of its affiliates as successor by giving notice to the Borrower and the Majority Lenders.
- (b) Alternatively, the Security Agent may resign by giving notice to the other Parties, in which case the Majority Lenders may appoint a successor Security Agent.
- (c) If the Majority Lenders have not appointed a successor Security Agent in accordance with paragraph (b) above within thirty (30) days after the notice of resignation was given, the Security Agent (after consultation with the Agent) may appoint a successor Security Agent.
- (d) The retiring Security Agent (the **Retiring Security Agent**) shall, at its own cost, make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Finance Documents.
- (e) The Security Agent's resignation notice shall only take effect upon (i) the appointment of a successor and (ii) the transfer of all of the Security Property to that successor.

- (f) Upon the appointment of a successor, the Retiring Security Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under Clause 32.17(b) (Winding up of trust) and under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Agent, remain entitled to the benefit of Clauses 32 (The Security Agent) and 17.4 (Indemnity to the Security Agent). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (g) The Majority Lenders may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Borrower.

33.2 Delegation

- (a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Finance Documents.
- (b) That delegation may be made upon any terms and conditions (including the power to sub delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub delegate.

33.3 Additional Security Agents

- (a) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it (i) if it considers that appointment to be in the interests of the Secured Parties or (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Agent deems to be relevant or (iii) for obtaining or enforcing any judgment in any jurisdiction, and the Security Agent shall give prior notice to the Borrower and each of the Agents of that appointment.
- (b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Agent by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.
- (c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable Indirect Tax) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

34. APPLICATION OF PROCEEDS

34.1 Order of application

Subject to Clause 34.2 (Prospective liabilities), all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Finance Document or in connection with the realisation or enforcement of all or any part of the Transaction Security (for the purposes of this Clause 34, the **Recoveries**) shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 34), in the following order:

- (a) in discharging any sums owing to the Security Agent, any Receiver or any Delegate;

- (b) in payment of all costs and expenses incurred by the Agent or any Secured Party in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Agreement;
- (c) in payment or distribution to:
 - (i) the Agent on its own behalf and on behalf of the Lenders and each Arranger for application (in accordance with Clause 36.6 (Partial payments)) towards the discharge of the Secured Liabilities owed to the Agent, the Lenders and each Arranger under the Finance Documents on a *pari passu* basis; and
 - (ii) to the Hedge Counterparties for application towards the discharge of the Secured Liabilities owed to the Hedge Counterparties under the Hedging Agreements on a *pari passu* basis,

on a pro rata basis between paragraph (i) and paragraph (ii) above;
- (d) if none of the Obligors is under any further actual or contingent liability under any Finance Document or any Hedging Agreement, in payment to any person to whom the Security Agent is obliged to pay in priority to any Obligor; and
- (e) the balance, if any, in payment to the relevant Obligor.

34.2 Prospective liabilities

Following acceleration, the Security Agent may, in its discretion, hold any amount of the Recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) for later application under Clause 34.1 (Order of application) in respect of:

- (a) any sum payable to the Security Agent, any Receiver or any Delegate; and
- (b) any part of the Secured Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future.

34.3 Investment of proceeds

Prior to the application of the Recoveries in accordance with Clause 34.1 (Order of application), the Security Agent may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Agent's discretion in accordance with the provisions of this Clause 34.

34.4 Currency Conversion

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities the Security Agent may convert any moneys received or recovered by the Security Agent from one currency to another, at a market rate of exchange.

- (b) The obligations of any Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

34.5 Permitted Deductions

The Security Agent shall be entitled, in its discretion:

- (a) to set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
- (b) to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

34.6 Good Discharge

- (a) Any payment to be made in respect of the Secured Liabilities by the Security Agent may be made to the Agent on behalf of the Finance Parties or the Hedge Counterparties (as applicable) and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.
- (b) The Security Agent is under no obligation to make the payments to the Agent or the Hedge Counterparties under paragraph (a) above in the same currency as that in which the obligations and liabilities owing to the relevant Finance Party are denominated.

34.7 Turnover by the Creditors

Subject to Clause 34.8 (Exclusions), if at any time prior to the Final Discharge Date, any Finance Party or Hedge Counterparty receives or recovers:

- (a) any Payment or distribution of, or on account of or in relation to, any of the Secured Liabilities which is neither:
 - (i) a Permitted Payment; nor
 - (ii) made in accordance with this Clause 34;
- (b) other than where Clause 28.2(a) (Set-off) applies, any amount by way of set-off in respect of any of the Secured Liabilities owed to it which does not give effect to a Permitted Payment;
- (c) notwithstanding paragraphs (a) and (b) above, and other than where Clause 28.2(a) (Set-off) applies, any amount:
 - (i) on account of, or in relation to, any of the Secured Liabilities:
 - (A) after the occurrence of a Distress Event; or
 - (B) as a result of any other litigation or proceedings against an Obligor (other than after the occurrence of an Insolvency Event in respect of that Obligor); or
 - (ii) by way of set-off in respect of any of the Secured Liabilities owed to it after the occurrence of a Distress Event,

other than, in each case, any amount received or recovered in accordance with this Clause 34;

- (d) the proceeds of any enforcement of any Transaction Security except in accordance with this Clause 34; or
- (e) other than where Clause 28.2(a) (Set-off) applies, any distribution or Payment of, or on account of or in relation to, any of the Secured Liabilities owed by any Obligor which is not in accordance with this Clause 34 and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that Obligor,

that Finance Party or Hedge Counterparty (as applicable) will promptly pay or distribute an amount equal to that receipt or recovery to the Security Agent for application in accordance with the terms of this Agreement.

34.8 Exclusions

Clause 34.7 (Turnover by the Creditors) shall not apply to any receipt or recovery by way of:

- (a) Close-Out Netting by a Hedge Counterparty;
- (b) Payment Netting by a Hedge Counterparty; or
- (c) Inter-Hedging Agreement Netting by a Hedge Counterparty.

35. SHARING AMONG THE FINANCE PARTIES

35.1 Payments to Finance Parties

- (a) Subject to paragraph (b) below, if a Finance Party (a **Recovering Finance Party**) receives or recovers (whether by set off or otherwise) any amount from an Obligor other than in accordance with Clause 36 (Payment Mechanics) (a **Recovered Amount**) and applies that amount to a payment due under the Finance Documents, then:
 - (i) the Recovering Finance Party shall, within three (3) Business Days, notify details of the receipt or recovery, to the Agent;
 - (ii) 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 36 (Payment Mechanics), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
 - (iii) 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 36.6 (Partial payments) towards the obligations of that Obligor to the Finance Parties.
- (b) Paragraph (a) above shall not apply to any amount received or recovered by a WCF Lender in respect of any cash cover provided in accordance with the terms of this Agreement for the benefit of that WCF Lender.

35.2 Recovering Finance Party's rights

- (a) On a distribution by the Agent under this Clause 35 of a payment received by a Recovering Finance Party from an Obligor, as between the relevant Obligor 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 that Obligor.
- (b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the relevant Obligor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

35.3 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 relevant Obligor and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Obligor.

35.4 Exceptions

- (a) This Clause 35 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 35, have a valid and enforceable claim against the relevant Obligor.
- (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.

36. PAYMENT MECHANICS

36.1 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, that 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. Notwithstanding the foregoing, but subject to the terms of the in the Cash and Accounts Management Agreement, payments by a WCF Lender to the Borrower, or by the Borrower to a WCF Lender, may (if agreed between the relevant WCF Lender and the Borrower) be made directly by that WCF Lender to the Borrower, or the Borrower to that WCF Lender.

- (b) Payment shall be made to such account in the principal financial centre of the country of that currency with such bank as the Agent specifies.

36.2 Distributions by the Agent

- (a) Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 36.3 (Distributions to an Obligor) and Clause 36.4 (Clawback), 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 in the principal financial centre of the country of that currency.
- (b) The Agent shall distribute payments received by it in relation to all or any part of a Loan to the Lender indicated in the records of the Agent as being so entitled on that date, *provided that* the Agent is authorised to distribute payments to be made on the date on which any transfer becomes effective pursuant to Clause 30 (Changes to the Lenders) to the Lender so entitled immediately before such transfer took place regardless of the period to which such sums relate.

36.3 Distributions to an Obligor

The Agent may (with the consent of the Obligor or in accordance with Clause 37 (Set-Off)) apply any amount received by it for that Obligor in or towards payment (in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

36.4 Clawback

- (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) 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.

36.5 Impaired Agent

- (a) If, at any time, the Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Agent in accordance with Clause 36.1 (Payments to the Agent) may instead either:
 - (i) pay that amount direct to the required recipient(s); or
 - (ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of "Acceptable Bank" and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Obligor or the Lender making the payment (the **Paying Party**) and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the **Recipient Party** or **Recipient Parties**).

In each case such payments must be made on the due date for payment under the Finance Documents.

- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties pro rata to their respective entitlements.
- (c) A Party which has made a payment in accordance with this Clause 36.5 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.
- (d) Promptly upon the appointment of a successor Agent in accordance with Clause 31.14 (Replacement of the Agent), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with Clause 36.1 (Payments to the Agent).
- (e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
 - (i) that it has not given an instruction pursuant to paragraph (d) above; and
 - (ii) that it has been provided with the necessary information by that Recipient Party,

give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

36.6 Partial payments

- (a) If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:
 - (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of, and other amounts owing to, the Agent, any Account Bank, the Security Agent, any Receiver or any Delegate (other than any amount under Clause 7.2 (Claims under a Letter of Credit) or, to the extent relating to the reimbursement of a claim (as defined in Clause 7 (Letters of Credit)), Clause 7.3 (Indemnities)) under the Finance Documents;
 - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fees (other than as provided in paragraph (i) above) or commission due but unpaid under the Finance Documents, including any amounts payable under a Hedging Agreement other than any Hedging Termination Payment;
 - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement and any Hedging Termination Payment and any amount due but unpaid under Clause 7.2 (Claims under a Letter of Credit) and Clause 7.3 (Indemnities); 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 all of the Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

36.7 No set-off by Obligors

All payments to be made by an Obligor under the Finance Documents shall be calculated and made without (and free and clear of any deduction for) set-off or counterclaim (other than any contractual rights of set-off or netting contained in the unamended form of the ISDA Master Agreement).

36.8 Business Days

- (a) Any payment 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 paragraph (a) above, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

36.9 Currency of account

- (a) Subject to paragraphs (b) and (c) below, US dollars is the currency of account and payment for any sum due from an Obligor 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 US dollars shall be paid in that other currency.

36.10 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.

37. SET-OFF

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, 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. That Finance Party shall promptly notify that Obligor of any such set-off or conversion.

38. NOTICES

38.1 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.

38.2 Addresses

The address and 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 and each other Original Obligor, set out on the signature pages at the end of the Amendment and Restatement Deed;
- (b) in the case of each Lender and each Original Hedge Counterparty, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and
- (c) in the case of the Agent and the Security Agent, set out on the signature pages at the end of the Amendment and Restatement Deed,

or any substitute address, 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 is made by the Agent) by not less than five (5) Business Days' notice.

38.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will be effective:
 - (i) if by way of fax, only when received in legible form; or
 - (ii) if by way of letter, only when it has been left at the relevant address or five (5) Business Days after being deposited in the post, with 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 38.2 (Addresses), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's or the Security Agent's signature below (or any substitute department or officer as the Agent or the Security Agent shall specify for this purpose).
- (c) All notices from or to an Obligor shall be sent through the Agent.
- (d) Any communication or document made or delivered to the Borrower in accordance with this Clause 38.3 will be deemed to have been made or delivered to each of the Obligors.
- (e) Any communication or document which becomes effective, in accordance with paragraphs (a) to (d) above, after 5pm in the place of receipt shall be deemed only to become effective on the following day.

- (f) Any communication or document made or delivered to an Obligor (other than the Borrower) shall be copied to the Borrower at the same time and by the same method.

38.4 Communication when Agent is an Impaired Agent

If the Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Agent, communicate with each other directly and (while the Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Agent has been appointed.

38.5 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 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 and if those two Parties:
 - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt 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 electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Agent or the Security Agent only if it is addressed in such a manner as the Agent or the Security Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5pm in the place of receipt shall be deemed only to become effective on the following day.
- (d) All parties acknowledge the risk of receiving non-encrypted e-mails containing confidential information and may also be privileged, and the Borrower shall indemnify each Secured Party in relation to any cost, loss or liability incurred by that Secured Party as a result of or in connection with the use of any form of electronic communication.
- (e) No Administrative Party will have any responsibility for unauthorised access and/or alteration to this communication, nor for any consequence based on or arising from any use of information that may have been illegitimately accessed or altered.

38.6 Indonesian Language Law

- (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.

- (c) In relation to the Indonesian Language Law, the Borrower:
- (i) confirms that it has read and understood the contents and consequences of the Finance Documents and has no objection to executing them only in an English version and it further agrees that the execution of the Finance Documents in the English language will not affect the validity, binding effect or enforceability of this Agreement;
 - (ii) shall procure, at its own cost and expense, and deliver to the Lender, by no later than the date falling thirty (30) days after the Original Agreement Date (or, if entered into after the Original Agreement Date, within thirty (30) days of the date of such agreement), a duly executed Indonesian language version of each Finance Document to which an Indonesian party is party (other than those which are already made and executed in Indonesian language). Each such Indonesian language version shall be deemed effective as of the date of the corresponding Finance Document as if it was executed on the date of that Finance Document, and both the English and the Indonesian language texts will be equally authentic;
 - (iii) agrees that in the event of any conflict between the English version and the Bahasa Indonesia version of any Finance Document, the English version will prevail and the Bahasa Indonesia version of the relevant Finance Documents shall be deemed to be amended to conform with the provisions in the English version of that Finance Documents;
 - (iv) shall not (and shall not allow or assist any other party to) in any manner or forum, challenge the validity of, or raise or file any objection to, the Finance Documents on the basis of any failure to comply with the Indonesian Language Law in Indonesia or other laws and regulations applicable in Indonesia;
 - (v) confirms that it has obtained legal advice from its legal advisors for the purposes of this paragraph (c) and the Finance Documents; and
 - (vi) agrees (at its own cost and expense) to take all steps to comply with the Indonesian Language Law and the implementing regulations.

39. CALCULATIONS AND CERTIFICATES

39.1 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.

39.2 Certificates and determinations

- (a) Any certification or determination by a Finance Party of a rate or amount under any Finance Document shall set out in reasonable detail the basis of calculation of that rate or amount and is, in the absence of manifest error, conclusive evidence of the matters to which it relates.
- (b) No director, officer nor other representative of any Obligor shall incur personal liability by signing any notice or certificate under any Finance Document.

39.3 Day count convention and interest calculation

- (a) Any interest, commission or fee accruing under a Finance Document will accrue from day to day and the amount of any such interest, commission or fee is calculated:

- (i) 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; and
 - (ii) subject to paragraph (b) below, without rounding.
- (b) The aggregate amount of any accrued interest, commission or fee which is, or becomes, payable by an Obligor under a Finance Document shall be rounded to two decimal places.

40. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents 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.

41. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents 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 this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

42. AMENDMENTS AND WAIVERS

42.1 Required consents

- (a) Subject to Clauses 42.2 (Exceptions), 42.4 (Other exceptions) and 42.5 (Change to Reference Rates), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Borrower as the Obligors' Agent (in accordance with Clause 2.4 (Obligors' Agent)) 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 42.

42.2 Exceptions

- (a) An amendment or waiver that has the effect of changing or which relates to:
 - (i) the definition of **Majority Lenders** in Clause 1.1 (Definitions);
 - (ii) an extension to the date of payment of any amount under the Finance Documents;
 - (iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
 - (iv) an increase in any Commitment, an extension of the period of the Availability Period or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably under any Facility;
 - (v) any provision which expressly requires the consent of all the Lenders;

- (vi) Clause 2.3 (Finance Parties' rights and obligations), Clause 9 (Prepayment and Cancellation), Clause 19.20 (Sanctions), Clause 19.21 (Anti-bribery, anti-corruption and anti-money laundering), Clause 23.20 (Disposals), Clause 23.36 (Sanctions), Clause 23.37 (Anti-money laundering), Clause 23.38 (Anti-Bribery and Corruption Laws), Clause 30 (Changes to the Lenders), Clause 36.6 (Partial payments) or this Clause 42;
 - (vii) a change in the currency of any amounts due or outstanding under any Finance Document; or
 - (viii) a change in the governing law or the dispute resolution provisions of any Finance Document, shall not be made without the prior consent of all the Lenders.
- (b) The Borrower and the Agent or Security Agent, as applicable, may amend or waive a term of a Fee Letter to which they are party.
 - (c) An amendment or waiver which relates to the rights or obligations of any Administrative Party, an Account Bank or a Hedge Counterparty may not be effected without the consent of that Administrative Party, Account Bank or Hedge Counterparty (as the case may be).
 - (d) An amendment or waiver relating to any term of Clause 25 (Hedging) or Schedule 12 (Hedging Policy) may not be effected without the consent of the Hedge Counterparties.

42.3 All-Creditor matters

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 "Credit Participation", "Majority Creditors" or "Enforcement Action" in Clause 1.1 (Definitions);
- (b) the manner or priority in which the proceeds of enforcement of the Transaction Security are distributed;
- (c) the order of application of proceeds as set out in the Cash and Accounts Management Agreement, or the application of the cash sweep thereunder;
- (d) the nature or scope of, or the release of any Transaction Security, unless permitted under any Finance Document; or
- (e) this Clause 42.3,

may not be made without the prior consent of all the Lenders and all the Hedge Counterparties.

42.4 Other exceptions

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

42.5 Change to Reference Rates

- (a) Subject to Clause 42.4 (Other exceptions), if an RFR Replacement Event has occurred any amendment or waiver which relates to:
 - (i) providing for the use of a Replacement Reference Rate in place of the RFR; and

- (ii) (A) aligning any provision of any Finance Document to the use of that Replacement Reference Rate;
- (B) enabling that Replacement Reference Rate to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Reference Rate to be used for the purposes of this Agreement);
- (C) implementing market conventions applicable to that Replacement Reference Rate;
- (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Reference Rate; or
- (E) 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 Reference Rate (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.

- (b) An amendment or waiver that relates to, or has the effect of, aligning the means of calculation of interest on a Loan under this Agreement to any recommendation of a Relevant Nominating Body which:
 - (i) relates to the use of the RFR on a compounded basis in the international or any relevant domestic syndicated loan markets; and
 - (ii) is issued on or after the Amendment and Restatement Date,

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

- (c) In this Clause 42.5:

RFR Replacement Event means:

- (i) the methodology, formula or other means of determining the RFR has, in the opinion of the Majority Lenders and the Borrower, materially changed;
- (ii) (A) I. the administrator of the RFR or its supervisor publicly announces that such administrator is insolvent; or
 - II. 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 the RFR is insolvent,

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

- (B) the administrator of the RFR publicly announces that it has ceased or will cease to provide the RFR permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the RFR;
 - (C) the supervisor of the administrator of the RFR publicly announces that the RFR has been or will be permanently or indefinitely discontinued; or
 - (D) the administrator of the RFR or its supervisor announces that the RFR may no longer be used; or
- (iii) in the opinion of the Majority Lenders and the Borrower, the RFR is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

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.

Replacement Reference Rate means a reference rate which is:

- (i) formally designated, nominated or recommended as the replacement for the RFR by:
 - (A) the administrator of the RFR (*provided that* the market or economic reality that such reference rate measures is the same as that measured by the RFR); or
 - (B) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the “Replacement Reference Rate” will be the replacement under paragraph (B) above;
- (ii) 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 RFR; or
- (iii) in the opinion of the Majority Lenders and the Borrower, an appropriate successor to the RFR.

42.6 Disenfranchisement of Defaulting Lenders

- (a) For so long as a Defaulting Lender has any Available Commitment, in ascertaining:
 - (i) the Majority Lenders; or
 - (ii) whether:
 - (A) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments under the relevant Facility/ies; or
 - (B) 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,

that Defaulting Lender’s Commitments under the relevant Facility/ies will be reduced by the amount of its Available Commitments under the relevant Facility/ies and, to the extent that that reduction

results in that Defaulting Lender's Total Commitments being zero, that Defaulting Lender shall be deemed not to be a Lender for the purposes of paragraphs (i) and (ii) above.

- (b) For the purposes of this Clause 42.6, the Agent may assume that the following Lenders are Defaulting Lenders:
- (i) any Lender which has notified the Agent that it has become a Defaulting Lender; or
 - (ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraph (a), (b) or (c) of the definition of "Defaulting Lender" has occurred,

unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

42.7 Replacement of a Defaulting Lender

- (a) The Borrower may, at any time a Lender has become and continues to be a Defaulting Lender, by giving five (5) Business Days' prior written notice to the Agent and such Lender:
- (i) replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 30 (Changes to the Lenders) all (and not part only) of its rights and obligations under this Agreement;
 - (ii) require such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 30 (Changes to the Lenders) all (and not part only) of the undrawn Facility C Commitment of the Lender; or
 - (iii) require such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 30 (Changes to the Lenders) all (and not part only) of its rights and obligations in respect of the Facility C,

to an Eligible Institution (a **Replacement Lender**) which confirms its willingness to assume and does assume all the obligations, or all the relevant obligations, of the transferring Lender in accordance with Clause 30 (Changes to the Lenders) for a purchase price in cash payable at the time of transfer which is either:

- (A) in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Utilisations and all accrued interest (to the extent that the Agent has not given a notification under Clause 30.12 (Pro-rata interest settlement)), Break Costs and other amounts payable in relation thereto under the Finance Documents; or
 - (B) in an amount agreed between that Defaulting Lender, the Replacement Lender and the Borrower and which does not exceed the amount described in paragraph (A) above.
- (b) Any transfer of rights and obligations of a Defaulting Lender pursuant to this Clause 42.7 shall be subject to the following conditions:
- (i) the Borrower shall have no right to replace the Agent or Security Agent;
 - (ii) neither the Agent nor the Defaulting Lender shall have any obligation to the Borrower to find a Replacement Lender;

- (iii) the transfer must take place no later than thirty (30) days after the notice referred to in paragraph (a) above;
 - (iv) in no event shall the Defaulting Lender be required to pay or surrender to the Replacement Lender any of the fees received by the Defaulting Lender pursuant to the Finance Documents; and
 - (v) the Defaulting Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to that transfer to the Replacement Lender.
- (c) The Defaulting Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.

42.8 Replacement of Lender

- (a) If Any Lender becomes a Non-Consenting Lender (as defined in paragraph (d) below) then the Borrower may, on five (5) Business Days’ prior written notice to the Agent and such Lender, replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 30 (Changes to the Lenders) all (and not part only) of its rights and obligations under this Agreement to an Eligible Institution (a **Replacement Lender**) which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 30 (Changes to the Lenders) for a purchase price in cash payable at the time of transfer in an amount equal to the outstanding principal amount of such Lender’s participation in the outstanding Utilisations and all accrued interest (to the extent that the Agent has not given a notification under Clause 30.12 (Pro-rata interest settlement)), Break Costs and other amounts payable in relation thereto under the Finance Documents.
- (b) The replacement of a Lender pursuant to this Clause 42.7 shall be subject to the following conditions:
- (i) the Borrower shall have no right to replace the Agent or Security Agent;
 - (ii) neither the Agent nor the Lender shall have any obligation to the Borrower to find a Replacement Lender;
 - (iii) in the event of a replacement of a Non-Consenting Lender, such replacement must take place no later than thirty (30) days after the date on which that Lender is deemed a Non-Consenting Lender;
 - (iv) in no event shall the Lender replaced under this Clause 42.7 be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents; and
 - (v) the Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to that transfer.
- (c) A Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Borrower when it is satisfied that it has complied with those checks.

- (d) In the event that:
- (i) the Borrower or the Agent (at the request of the Borrower) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents;
 - (ii) the consent, waiver or amendment in question requires the approval of all the Lenders; and
 - (iii) Lenders whose Commitments aggregate in the case of a consent, waiver or amendment requiring the approval of all the Lenders, more than sixty-six and two-thirds per cent. ($66\frac{2}{3}\%$) of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than sixty-six and two-thirds per cent. ($66\frac{2}{3}\%$) of the Total Commitments prior to that reduction) have consented or agreed to such waiver or amendment,

then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a **Non-Consenting Lender**.

42.9 Excluded Commitments

If:

- (a) any Defaulting Lender fails 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 Lenders under the terms of this Agreement within ten (10) Business Days of that request being made; or
- (b) any Lender which is not a Defaulting Lender fails to respond to such a request (other than an amendment, waiver or consent referred to in Clauses 42.2(a)(ii), 42.2(a)(iii) and 42.2(a)(iv) (Exceptions)) or such a vote within twenty (20) Business Days of that request being made,

(unless, in either case, the Borrower and the Agent agree to a longer time period in relation to such request):

- (i) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments under the relevant Facility/ies when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and
- (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

43. CONFIDENTIAL INFORMATION

43.1 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 43.2 (Disclosure of Confidential Information) and Clause 43.3 (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.

43.2 Disclosure of Confidential Information

Any Finance Party and its officers may disclose:

- (a) to any of its head office, other branches and regional offices, Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisors, auditors, partners 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 or Security Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisors;
 - (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 one or more Obligor and to any of that person's Affiliates, Related Funds, Representatives and professional advisors;
 - (iii) appointed by any Finance Party or by a person to whom paragraph (i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including any person appointed under Clause 31.16(b) (Relationship with the other Finance Parties));
 - (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 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 30.11 (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 advisor and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
 - (B) in relation to paragraphs (iv) and (v) 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; or
 - (C) in relation to paragraphs (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;
- (c) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including 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 (c) 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;
 - (d) to any rating agency (including its professional advisors) 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 Obligors 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; and
 - (e) in respect of any Finance Party subject to Singapore law, such Confidential Information as permitted under the Banking Act. Nothing in this Clause 43 may be construed as constituting an agreement between any Obligor and any Finance Party that a higher degree of confidentiality applies to that Finance Party than that prescribed in Section 47 and the Third Schedule of the Banking Act. This paragraph (e) only applies to a Finance Party that is subject to Singapore law for the purposes of the Finance Documents.

43.3 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, any Facility and/or one or more Obligors the following information:
 - (i) names of Obligors;
 - (ii) country of domicile of Obligors;
 - (iii) place of incorporation of Obligors;

- (iv) the Original Agreement Date;
- (v) the Amendment and Restatement Date;
- (vi) Clause 46 (Governing Law);
- (vii) the names of the Agent and the Arranger;
- (viii) date of each amendment and restatement of this Agreement;
- (ix) amounts of, and names of, any Facility (and any tranches);
- (x) amount of Total Commitments;
- (xi) currency of any Facility;
- (xii) ranking of any Facility;
- (xiii) Final Maturity Date for any Facility;
- (xiv) changes to any of the information previously supplied pursuant to paragraphs (i) to (xiii) above; and
- (xv) 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, any Facility and/or one or more Obligors 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 (a)(xv) 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, any Facility and/or one or more Obligors; and
 - (ii) the number or, as the case may be, numbers assigned to this Agreement, any Facility and/or one or more Obligors by such numbering service provider.

43.4 Disclosure

- (a) For the avoidance of doubt, the consent to disclosure authorised in this Clause 43 shall not replace or prejudice but shall be in addition to any other consent or right of disclosure which the Finance Party may have received or be entitled to (whether under law, agreement or otherwise).
- (b) For the purpose of any banking secrecy obligation which may be imposed upon any Finance Party pursuant to any applicable law, rule or regulation, the disclosure authorisation given herein shall survive and continue in full force and effect for the benefit of that Finance Party notwithstanding the full repayment of all outstandings under the Finance Documents and/or the cancellation or cessation of all Commitments.

43.5 PDPA

- (a) If the Borrower provides the Finance Parties with personal data of any individual as required by, pursuant to, or in connection with the Finance Documents, the Borrower represents and warrants to the Finance Parties that it has, to the extent required by law, (i) notified the relevant individual of the purposes for which data will be collected, processed, used or disclosed; and (ii) obtained such individual's consent for, and hereby consents on behalf of such individual to, the collection, processing, use and disclosure of his/her personal data by the Finance Parties, in each case, in accordance with or for the purposes of the Finance Documents, and confirms that it is authorised by such individual to provide such consent on his/her behalf.
- (b) The Borrower agrees and undertakes to notify the Agent promptly upon its becoming aware of the withdrawal by the relevant individual of his/her consent to the collection, processing, use and/or disclosure by any Finance Party of any personal data provided by it to any Finance Party.
- (c) Any consent given pursuant to this agreement in relation to personal data shall, subject to all Applicable Laws, survive death, incapacity, bankruptcy or insolvency of any such individual and the termination or expiration of this agreement.
- (d) In this Clause 43.5, **personal data** has the meaning given to it in the Minister of Communication and Information Regulation No. 20 of 2016 on Protection of Personal Data on Electronic System, or the Personal Data Protection Act 2012 of Singapore, as the case may be.

43.6 Entire agreement

This Clause 43 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.

43.7 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.

43.8 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 Clause 43.2(b)(v) (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 43.

43.9 Continuing obligations

The obligations in this Clause 43 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 Obligors under or in connection with any Finance Document 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.

44. CONFIDENTIALITY OF FUNDING RATES

44.1 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 10.4 (Notifications); 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 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, as the case may be.
- (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 advisors, 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 Lender.

44.2 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 undertakes 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 Lender:
 - (i) of the circumstances of any disclosure made pursuant to Clause 44.1(c)(ii) (Confidentiality and disclosure) except where such disclosure is made to any of the persons referred to in that Clause 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 44.

44.3 No Event of Default

No Event of Default will occur under Clause 26.3 (Other obligations) by reason only of the Borrower's failure to comply with this Clause 44.

45. 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.

46. GOVERNING LAW

This Agreement and any non-contractual obligation arising out of or in connection with this Agreement is governed by English law.

47. ENFORCEMENT

47.1 Disputes

- (a) Any dispute, controversy or claim arising out of, relating to, or in connection with this Agreement, including any dispute regarding the breach, existence, validity or termination of this Agreement or the consequences of its nullity and any dispute relating to any non-contractual obligations arising out of or in connection with it (each, a **Dispute**) shall be finally referred to and finally resolved by arbitration. The arbitration shall be conducted in accordance with the Arbitration Rules of the Singapore International Arbitration Centre in effect at the time of the commencement of the arbitration (the **Rules**).
- (b) The seat of the arbitration shall be Singapore and the arbitration shall be conducted in the English language. All documents submitted in connection with the proceedings shall be in the English language, or, if in another language, accompanied by an English translation. This Clause 47 shall be governed by Singapore law.
- (c) Except as modified by the provisions of this Clause 47 and the Rules, Part II of the International Arbitration Act 2001 of Singapore, as amended from time to time, shall apply to any arbitration proceedings commenced under this Clause 47.
- (d) The arbitration shall be conducted by three (3) arbitrators appointed in accordance with the Rules.

47.2 Consolidation

- (a) Each party agrees that for the purposes of the Rules, the arbitration agreement set out in this Clause 47 and the arbitration agreement contained in each Finance Document shall together be deemed to be an arbitration agreement that binds each party to this Agreement and each party to each Finance Document.
- (b) Pursuant to Rules 6 and 8 of the Rules:
 - (i) Disputes may be resolved in a single arbitration together with Disputes (as defined in any Finance Document) arising out of any such Finance Document; and
 - (ii) the parties agree to the consolidation of any two or more arbitrations commenced pursuant to this Clause 47 and/or the arbitration agreement contained in any Finance Document into a single arbitration, as provided for in the Rules.
- (c) Each party waives any objection, on the basis that a Dispute has been resolved in a manner contemplated at paragraph (b) above, to the validity and/or enforcement of any arbitral award made by an arbitral tribunal following the Dispute being resolved in that manner.
- (d) The requirement in the Rules that the Court or a tribunal considering whether to consolidate disputes should consider the views of all parties or give the parties an opportunity to be heard shall extend to all parties to each of the arbitrations in respect of which consolidation is sought.

47.3 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Borrower:

- (a) irrevocably appoints Radiant Stance Holdings Pte Ltd as its agent for service of process if recourse is sought to the Singapore courts in relation to any arbitration proceedings contemplated by this Clause 47;
- (b) agrees that if any person appointed as process agent under this Clause 47.3 is unable for any reason to so act, the Obligors must immediately (and in any event within five (5) days of the event taking place) appoint another agent. Failing this, the Finance Parties may appoint another process agent for this purpose; and
- (c) agrees that failure by a process agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

The Borrower expressly agrees and consents to the provisions of this Clause 47.3.

47.4 Waiver of immunity

The Borrower irrevocably and unconditionally:

- (a) agrees not to claim any immunity from any proceedings brought by a Finance Party against it in relation to a Finance Document and to ensure that no such claim is made on its behalf;
- (b) consents generally to the giving of any relief or the issue of any process in connection with those proceedings; and
- (c) waives all rights of immunity in respect of it or its assets.

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

SCHEDULE 1

THE ORIGINAL PARTIES

PART 1

THE ORIGINAL OBLIGORS

Name of Original Borrower	Registration Number (or equivalent, if any)	Jurisdiction of Incorporation
PT Halmahera Persada Lygend	8120002821438	Indonesia
Name of Original Shareholder	Registration Number (or equivalent, if any)	Jurisdiction of Incorporation
PT Trimegah Bangun Persada	8120016181051	Indonesia
Lygend Resources & Technology Co., Ltd. (formerly known as Ningbo Lygend Mining Co., Ltd.)	91330201684250085X	People's Republic of China
Kang Xuan Pte. Ltd.	202120835W	Singapore
Name of Original Sponsor	Registration Number (or equivalent, if any)	Jurisdiction of Incorporation
PT Harita Jayaraya	09.05.1.46.18942	Indonesia
Lygend Resources & Technology Co., Ltd. (formerly known as Ningbo Lygend Mining Co., Ltd.)	91330201684250085X	People's Republic of China

PART 2

THE ARRANGER

- (1) BNP Paribas
- (2) DBS Bank Ltd
- (3) Maybank Securities Pte Ltd (formerly known as Maybank Kim Eng Securities Pte. Ltd.)
- (4) Oversea-Chinese Banking Corporation Limited
- (5) PT Bank Central Asia, Tbk.
- (6) PT Bank Mandiri (Persero) Tbk.
- (7) PT Bank Negara Indonesia (Persero) Tbk.
- (8) PT Bank OCBC NISP Tbk.
- (9) United Overseas Bank Limited

PART 3

THE ORIGINAL INITIAL LENDERS

Name of Original Initial Lender	Facility A Commitment
(1) BNP Paribas	\$38,958,333.33
(2) DBS Bank Ltd	\$70,833,333.00
(3) Lembaga Pembiayaan Ekspor Indonesia	\$14,166,666.67
(4) Malayan Banking Berhad, Singapore Branch	\$28,333,333.00
(5) Oversea-Chinese Banking Corporation Limited	\$70,833,333.00
(6) PT Bank Central Asia, Tbk.	\$35,416,667.00
(7) PT Bank Mandiri (Persero) Tbk.	\$49,583,333.00
(8) PT Bank Negara Indonesia (Persero) Tbk.	\$35,416,667.00
(9) PT Bank OCBC NISP Tbk.	\$46,041,667.00
(10) United Overseas Bank Limited	\$35,416,667.00
Total Facility A Commitments	\$425,000,000.00

Name of Original Initial Lender	Facility B Commitment
(1) BNP Paribas	\$16,041,666.67
(2) DBS Bank Ltd	\$29,166,667.00
(3) Lembaga Pembiayaan Ekspor Indonesia	\$5,833,333.33
(4) Malayan Banking Berhad, Singapore Branch	\$11,666,667.00
(5) Oversea-Chinese Banking Corporation Limited	\$29,166,667.00
(6) PT Bank Central Asia, Tbk.	\$14,583,333.00
(7) PT Bank Mandiri (Persero) Tbk.	\$20,416,667.00
(8) PT Bank Negara Indonesia (Persero) Tbk.	\$14,583,333.00
(9) PT Bank OCBC NISP Tbk.	\$18,958,333.00

(10) United Overseas Bank Limited	\$14,583,333.00
Total Facility B Commitments	\$175,000,000.00

Name of Original Initial Lender	Facility C Commitment
(1) PT Bank Negara Indonesia (Persero) Tbk.	\$10,000,000.00
(2) PT Bank OCBC NISP Tbk.	\$15,000,000.00
Total Facility C Commitments	\$25,000,000.00

PART 4

THE ORIGINAL EXPANSION LENDERS

Name of Original Expansion Lender	Facility D Commitment
(1) BNP Paribas	\$17,095,833.34
(2) DBS Bank Ltd	\$31,083,333.69
(3) Lembaga Pembiayaan Ekspor Indonesia	\$6,216,666.66
(4) Malayan Banking Berhad, Singapore Branch	\$12,433,333.69
(5) Oversea-Chinese Banking Corporation Limited	\$31,083,333.69
(6) PT Bank Central Asia, Tbk.	\$15,541,666.31
(7) PT Bank Mandiri (Persero) Tbk.	\$21,758,333.69
(8) PT Bank Negara Indonesia (Persero) Tbk.	\$15,541,666.31
(9) PT Bank OCBC NISP Tbk.	\$20,204,166.31
(10) PT Bank UOB Indonesia	\$15,541,666.31
Total Facility D Commitments	\$186,500,000.00
Total Commitment	\$811,500,000.00

PART 5

THE ORIGINAL HEDGE COUNTERPARTIES

- (1) BNP Paribas
- (2) DBS Bank Ltd
- (3) Malayan Banking Berhad, Singapore Branch
- (4) Oversea-Chinese Banking Corporation Limited
- (5) PT Bank Central Asia, Tbk.
- (6) PT Bank Mandiri (Persero) Tbk.
- (7) PT Bank Negara Indonesia (Persero) Tbk.
- (8) PT Bank OCBC NISP Tbk.
- (9) PT Bank UOB Indonesia

SCHEDULE 2

CONDITIONS PRECEDENT AND SUBSEQUENT

PART 1

CONDITIONS PRECEDENT TO FINANCIAL CLOSE

[Satisfied on 24 March 2021. This Part has been retained for information purposes only.]

1. Constitutional and Corporate Documents

1.1 Original Obligors

- (a) A copy of the current constitutional documents of each Original Obligor (and, in relation to Lygend, its latest valid business licence and current articles of associations).
- (b) A copy of resolutions of the board of commissioners and shareholders of each of the Borrower, HJR and TBP (in each case as necessary):
 - (i) approving the terms of, and the transactions contemplated by, each Transaction Document to which it is a party and resolving that it execute, deliver and perform the Transaction Documents to which it is a party;
 - (ii) authorising a specified person or persons to execute each Transaction Document to which it is a party on its behalf;
 - (iii) confirming that the execution and delivery of, and performance by it of its obligations under, each Transaction Document to which it is a party are for its commercial benefit and are in its commercial interests; and
 - (iv) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request and Selection Notice) to be signed and/or despatched by it under or in connection with each Transaction Document to which it is a party.
- (c) A copy of resolution of the shareholders of Lygend:
 - (i) approving the terms of, and the transactions contemplated by, each Transaction Document to which it is a party and resolving that it execute, deliver and perform the Transaction Documents to which it is a party;
 - (ii) authorising a specified person or persons to execute each Transaction Document to which it is a party on its behalf;
 - (iii) confirming that the execution and delivery of, and performance by it of its obligations under, each Transaction Document to which it is a party are for its commercial benefit and are in its commercial interests; and
 - (iv) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with each Transaction Document to which it is a party.
- (d) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above (which may be provided by way of a passport copy).

- (e) A copy of shareholders resolutions of the Borrower waiving any right of first refusal in the event of enforcement of any Share Pledge.
- (f) A certificate of an authorised signatory of the Borrower certifying that the Borrower shall ensure that it complies with, any credit rating requirement, applicable hedging requirements, liquidity requirements and other obligations provided under the prevailing regulations in Indonesia in relation to the entry and implementation of this Agreement under:
 - (i) Bank Indonesia Regulation No. 16/21/PBI/2014 on the Prudential Principle in Managing Offshore Loans for Non-Bank Companies as amended by Bank Indonesia Regulation No. 18/4/PBI/2016, dated 21 April 2016 as partially revoked by Bank Indonesia Regulation No. 21/2/PBI/2019 on the Foreign Exchange Activities Reporting and its implementing regulations (each as amended, supplemented or replaced from time to time); and
 - (ii) Bank Indonesia Regulation No. 16/22/PBI/2014 on Foreign Exchange Activities Reporting and the Application of the Prudential Principle in Managing Offshore Loans for Non-Bank Companies and its implementing regulations (each as amended, supplemented or replaced from time to time).
- (g) A certificate of an authorised signatory (including any attorney-in-fact (as the case may be)) of each Original Obligor certifying that:
 - (i) each copy document relating to it specified in this Part 1 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at the date falling on or about the date of Financial Close;
 - (ii) any borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guarantee or security or similar limit binding on any such Original Obligor to be exceeded;
 - (iii) no liquidation, bankruptcy, winding-up, suspension of payments or petitions have been presented nor winding-up orders made and no resolutions have been passed for its winding-up, bankruptcy, suspension of payments or liquidation, and no receiver or liquidator has been appointed to or for it and no application for its dissolution has been filed;
 - (iv) in the case of each of the Borrower and TBP, (A) the Authorisations set out in Part 1 (Material Authorisations to be Delivered as Conditions Precedent) of Schedule 17 (Material Authorisations) required to be obtained by Financial Close constitute all of the material authorisations necessary as at Financial Close for the construction and the operation of the Project and for the performance by the Borrower or TBP (as the case may be) under the Transaction Documents to which it is a party, (B) each such Authorisation has been obtained and is in full force and effect and (C) it is in compliance in all material respects with the conditions and requirements of such Authorisations; and
 - (v) in the case of the Borrower, it holds no accounts other than the Project Accounts listed in schedule 1 part 1 (List of Project Accounts) to the Cash and Accounts Management Agreement and the Local Accounts listed in schedule 1 part 2 (Existing Local Accounts) to the Cash and Accounts Management Agreement other than those accounts set out in schedule 1 part 3 (Bridge Facility Accounts) to the Cash and Accounts Management Agreement.

1.2 Offtakers

Copies of:

- (a) its current constitutional documents (including, in respect of any Offtaker incorporated in the People's Republic of China, its latest valid business licence and current articles of associations); and
- (b) its most recent audited (consolidated if applicable) annual financial statements (which may be provided by way of publication on its website where the Offtaker is a listed company).

2. Finance Documents (other than Transaction Security Documents)

Copies (with originals to follow as soon as reasonably practicable thereafter) of each of the following Finance Documents duly executed (or, in the case of the Bridge Facilities Discharge Document, duly executed and predated the date of Financial Close and held in escrow by the Agent to the instruction of the Borrower to be given in accordance with Clause 23.17 (Discharge of Bridge Facilities)) and, in the case of each Indonesian law-governed Finance Document, accompanied by a cover letter from a notary evidencing the execution of such Finance Document:

- (a) this Agreement;
- (b) the Cash and Accounts Management Agreement;
- (c) the Bridge Facilities Discharge Document;
- (d) each Direct Agreement;
- (e) the Equity Support and Retention Deed;
- (f) the Facility Letter;
- (g) each Fee Letter;
- (h) each Hedging Agreement (to the extent required to be entered into on or prior to Financial Close pursuant to this Agreement); and
- (i) each Completion Guarantee.

3. Transaction Security Documents

- (a) Copies (with originals to follow as soon as reasonably practicable thereafter) of each of the following Transaction Security Documents duly executed or, in case of an Indonesian law-governed document, a cover letter from a notary evidencing its execution:
 - (i) the Offshore Project Accounts Charge;
 - (ii) the Offshore General Security Agreement;
 - (iii) the Conditional Assignment of Project Documents;
 - (iv) each Fiducia Security (other than the Fiducia Security of Subordinated Advance Agreement);
 - (v) the Pledge of Onshore Project Accounts;

- (vi) each Share Pledge.
- (b) In relation to the TBP Share Pledge:
- (i) each executed power of attorney to sell shares (in substantially the form set out in the schedules of the TBP Share Pledge) evidenced by a cover letter from a notary;
 - (ii) each executed irrevocable power of attorney (in substantially the form set out in the schedules of the TBP Share Pledge) evidenced by a cover letter from a notary;
 - (iii) each executed consent to transfer (in substantially the form set out in the schedules of the TBP Share Pledge);
 - (iv) signed but undated notice of the pledge and instruction (in substantially the form set out in the annexure of the TBP Share Pledge from TBP to the Borrower);
 - (v) signed but undated notice of the instruction acceptance (in substantially the form set out in the annexure of the TBP Share Pledge from the Borrower to the Security Agent); and
 - (vi) copies (with originals to follow as soon as reasonably practicable thereafter) of the share certificates representing all of the shares owned by TBP in the Borrower, being in aggregate sixty-three-point-one per cent. (63.10%) of the issued share capital of the Borrower.
- (c) In relation to the Lygend Share Pledge:
- (i) each executed power of attorney to sell shares (in substantially the form set out in the schedules of the Lygend Share Pledge) evidenced by a cover letter from a notary;
 - (ii) each executed irrevocable power of attorney (in substantially the form set out in the schedules of the Lygend Share Pledge) evidenced by a cover letter from a notary;
 - (iii) each executed consent to transfer (in substantially the form set out in the schedules of the Lygend Share Pledge);
 - (iv) signed but undated notice of the pledge and instruction (in substantially the form set out in the annexure of the Lygend Share Pledge from Lygend to the Borrower);
 - (v) signed but undated notice of the instruction acceptance (in substantially the form set out in the annexure of the Lygend Share Pledge from the Borrower to the Security Agent); and
 - (vi) copies (with originals to follow as soon as reasonably practicable thereafter) of the share certificates representing all of the shares owned by Lygend in the Borrower, being in aggregate thirty-six-point-nine per cent. (36.90%) of the issued share capital of the Borrower.
- (d) In relation to the Conditional Assignment of Project Documents:
- (i) notice of conditional security assignment (in substantially the form set out in the schedules of the Conditional Assignment of Project Documents) to each Nickel Ore Supplier and TBP; and
 - (ii) acknowledgement of the notice of conditional security assignment from each Nickel Ore Supplier and TBP.

- (e) In relation to the Fiducia Security of Receivables and Insurance Claim Proceeds:
 - (i) copy of each insurance contract relating to Project Insurance which the Borrower is required to have effected or procured as at Financial Close;
 - (ii) notice of fiducia security assignment to each insurance company and counterparty (in substantially the form set out in the schedules of the Fiducia Security of Receivables and Insurance Claim Proceeds); and
 - (iii) a fiducia certificate issued by the fiducia registration office via the online fiducia registration system.
- (f) In relation to the Fiducia Security of Building, a fiducia certificate issued by the fiducia registration office via the online fiducia registration system.
- (g) In relation to the Fiducia Security of Inventories, a fiducia certificate issued by the fiducia registration office via the online fiducia registration system.
- (h) In relation to the Fiducia Security of Machinery and Equipment, a fiducia certificate issued by the fiducia registration office via the online fiducia registration system.
- (i) In relation to the Fiducia Security of Intellectual Property Rights, a fiducia certificate issued by the fiducia registration office via the online fiducia registration system.
- (j) In relation to the Pledge of Onshore Project Accounts:
 - (i) notice of pledge and instruction to the Onshore Account Bank at which the Onshore Project Accounts are maintained; and
 - (ii) acknowledgement to the notice of pledge and instruction to the Onshore Account Bank, at which the Onshore Project Accounts are maintained, from the Onshore Account Bank.
- (k) In relation to the Offshore Project Accounts Charge, notice of pledge and instruction to the Offshore Account Bank at which the Offshore Project Accounts are maintained.
- (l) In relation to the Offshore General Security Assignment, notice of assignment to:
 - (i) GEM Co., Ltd., substantially in the form attached as schedule 3 to the Offtake Agreement entered into between the Borrower and GEM Co., Ltd.; and
 - (ii) each Hedging Counterparty, substantially in the form attached to the Offshore General Security Assignment.

4. Authorisations

A copy of each of the Authorisations set out in Part 1 (Material Authorisations to be Delivered as Conditions Precedent) of Schedule 17 (Material Authorisations) required to be obtained by Financial Close.

5. Project Documents

- (a) Copies duly executed by all parties thereto, certified as correct and complete by an officer certificate of the Borrower of the following Project Documents:
 - (i) the Nickel Ore Supply Agreement;

- (ii) each Offtake Agreement;
 - (iii) each Material EPC Contract;
 - (iv) the Forestry Utilisation Agreement; and
 - (v) the Special Terminal Cooperation Agreement.
- (b) Confirmation by the Borrower in an officer's certificate that all conditions precedent to the effectiveness of the Project Documents have been satisfied or duly waived and that each Project Document is unconditional and in full force and effect, other than the conditions precedent under clause 2.2 of each Offtake Agreement.

6. Reports

- (a) A report prepared by the Lenders' Technical Advisor as to its evaluation and investigation of technical matters in relation to the Project and, in the event that such report is issued more than ninety (90) days prior to Financial Close, a confirmation from the Lenders' Technical Advisor as of a date on or about the date of Financial Close that there has been no material change in the Project Documents since the issuance of its report.
- (b) A report prepared by the Lenders' and Hedging Banks' Legal Counsel as to the legal matters in relation to the Project and, in the event that such report is issued more than ninety (90) days prior to Financial Close, a confirmation from the Lenders' and Hedging Banks' Legal Counsel as of a date on or about the date of Financial Close that there has been no material change in the Project Documents since the issuance of its report.
- (c) A report prepared by the Lenders' Insurance Advisor confirming that the Project Insurances then required to be maintained pursuant to the Transaction Documents are in full force and effect and as to its evaluation and investigation of any other insurance matters upon which its advice has been sought.
- (d) A report prepared by the Lenders' Market Advisor as to its evaluation and investigation of offtake arrangements in relation to the Project, including the contractual structure and pricing mechanism for sale of product under each Offtake Agreement.
- (e) A report prepared by the Lenders' E&S Advisor on the Project's compliance with Equator Principles IV (2013) and its implementation of EHSMS.
- (f) (i) A JORC reserve certification addressed to the Lenders and certified by a Competent Person (as defined in the JORC Code) and (ii) evidence that an independent party from the Borrower and the Sponsors registered with the Australasian Institute of Mining and Metallurgy has reviewed the JORC reserve certification and supports the nickel ore quantities required for the Project for at least five (5) years since the first Utilisation of Facility A, by reference to the Utilisation schedule set out in the Original Banking Case.
- (g) To the extent any of the reports referred to in paragraphs (a) to (e) above is not addressed to each Finance Party, a reliance letter (or other evidence of extension of reliance) in favour of each Finance Party in respect of such report.

7. Insurances

- (a) Evidence (in the form of insurance and reinsurance cover notes or similar documents) that all Project Insurance which the Borrower is required to have effected or procured as at Financial Close in accordance with terms of the Transaction Documents are in place and in full force and effect, including

evidence that the Borrower has extended its current construction insurance programme to cover the period up to the Expected MCOB of the MHP Module.

- (b) Delivery of the letter of undertaking from reputable insurance and reinsurance brokers (if appointed), providing the Project Insurances, either materially in the form set out in Part 6 (Form of Broker's Letter of Undertaking) of Schedule 13 (Project Insurances) or in their standard form, respectively.

8. Financial Information

The Original Financial Statements of each Obligor, certified by an officer certificate of the relevant entity as being true, complete and accurate.

9. Banking Case

The Original Banking Case in form and substance satisfactory to the Technical Bank acting on the instructions of the Majority Lenders.

10. Budgets and Plans

- (a) A copy of the initial Project Budget consistent with the Original Banking Case, together with confirmation from the Lenders' Technical Advisor as to the reasonableness of the construction schedule and cost items (including contingency) set out therein (which may be contained in the report referred to in paragraph 6(a) above), in each case in form and substance satisfactory to the Technical Bank.
- (b) A copy of the EHSMS.
- (c) A copy of a procurement strategy for the auxiliary materials required for the operation of the Project, in form and substance satisfactory to the Lenders' Technical Advisor.

11. Equity injection

Evidence that the Equity Parties have in aggregate injected US\$300,000,000 of Equity into the Borrower, including, but without limitation:

- (a) evidence of telegraphic transfer of such equity amount into the Equity Account;
- (b) an officer certificate of the Borrower:
 - (i) confirming the amount of Equity injected into the Borrower; and
 - (ii) confirming that the amount of the Equity injected into the Borrower has been used solely towards the payment of Project Costs.

12. Project Accounts

- (a) Confirmation from the Account Banks to the Agent that all Project Accounts required to be opened by Financial Close have been opened and properly maintained in accordance with the requirements of the Cash and Accounts Management Agreement (together with accounts number and details).
- (b) Evidence of closure of any pre-existing accounts other than the Project Accounts, any Distribution Account or any Local Account.

13. Discharge of the Bridge Facilities

Evidence that all necessary arrangements have been made with the Bridge Facilities Finance Parties such that the Bridge Facilities Liabilities will be irrevocably and unconditionally discharged in full by the Borrower upon first Utilisation of Facility A.

14. Appointment of Advisors

Copy of the fully executed engagement letter evidencing the fact that the Borrower has appointed:

- (a) the Lenders' Insurance Advisor;
- (b) the Lenders' Technical Advisor and E&S Advisor; and
- (c) the Lenders' Marketing Advisor.

15. Legal opinions

Receipt of following legal opinions addressed to the Finance Parties and the Hedge Counterparties as at the date of this Agreement:

- (a) A legal opinion of Allen & Overy LLP, legal advisors to the Agent as to English law, with respect to the enforceability of the relevant English law Finance Documents.
- (b) A legal opinion of Ginting & Reksodiputro, legal advisors to the Agent as to Indonesian law, with respect to the enforceability of the relevant Indonesian law Finance Documents and the capacity and corporate authority of the Borrower, TBP and HJR.
- (c) A legal opinion of Global Law Office, legal advisors to the Agent as to PRC law, with respect to, among others, the capacity and corporate authority of Lygend and each Offtaker.
- (d) A legal opinion of King & Spalding Gaikokuho Jimu Bengoshi Jimusho, legal advisors to the Obligors as to English law, with respect to the enforceability of each English law-governed Offtake Agreement.
- (e) A legal opinion of Oentoeng Suria & Partners, legal advisors to the Obligors as to Indonesian law, with respect to the enforceability of the Indonesian law Nickel Ore Supply Agreement.

16. Process agent

Evidence that each Obligor has appointed an agent for service of process in Singapore in relation to any Transaction Document that is expressed to be governed by English law and where the parties have agreed that the courts of Singapore have jurisdiction to hear and determine disputes under that document to which it is a party and each such agent, where applicable, has accepted such appointment.

17. Know your customer

Delivery of each document required by any Finance Party order for it to meet all necessary "know your customer" or similar requirements in the form reasonably requested by each such Finance Party, to the extent not specified in this Part 1 of Schedule 2.

18. Fees and expenses

Evidence that all fees and expenses (including the legal fees of the Administrative Parties) then due and payable from the Borrower under this Agreement have been or will be paid through the proceeds of the first Utilisation.

PART 2

CONDITIONS PRECEDENT TO INITIAL UTILISATION OF FACILITY B

[Satisfied in 2021. This Part has been retained for information purposes only.]

1. Copy of the latest Project Budget which shall, without prejudice to the requirements set out in Clause 20.7 (Project Budget), set out the projected construction and commissioning schedule with respect to the Sulphates Module in form and substance satisfactory to the Lenders' Technical Advisor and the Technical Bank, together with a certificate from the Lenders' Technical Advisor that the Project is proceeding to a schedule that can reasonably be expected to allow the Borrower to reach the Expected MCOB of the Sulphates Module.
2. Copy of the Commissioning and Ramp-up Plan with respect to the MHP Module in form and substance satisfactory to the Lenders' Technical Advisor and the Technical Bank.
3. Confirmation by the Lenders' Technical Advisor that, since the issuance of its due diligence report delivered as a condition precedent to Financial Close pursuant to Clause 4.1 (Initial conditions precedent) or, if applicable, its confirmation referred to in paragraph 6(a) of Part 1 (Conditions Precedent to Financial Close) of this Schedule 2, there has been no material change in the design of the Sulphates Module which could, or could reasonably be expected to, result in a material delay to the Project's schedule for achieving the Project Commercial Operation Date.
4. Evidence that the Borrower has put in place satisfactory arrangement with respect to the construction, engineering, procurement and commissioning of the Captive Power Plant in form and substance satisfactory to the Lenders' Technical Advisor and the Technical Bank.
5. Evidence that the Equity Parties have injected Equity in an amount which, when aggregated with any amounts transferred to the Equity Account pursuant to Clause 3.1(a)(iii) (Purpose) and clause 5 (Equity Account) of the Cash and Accounts Management Agreement, is no less than the amount of Equity which is required to be contributed to the Borrower in order for the Borrower to fully fund the projected Project Costs pursuant to the Original Banking Case. For the purposes of satisfying this condition precedent, any Available Commitments of Facility A up to an amount of the Equity Overfunding Amount shall be deemed to have been utilised and applied by the Borrower in accordance with Clause 3.1(a)(iii) (Purpose) and clause 5 (Equity Account) of the Cash and Accounts Management Agreement.
6. A certificate of an authorised signatory of the Borrower certifying that:
 - (a) the Finance Parties may assume that the certifications made in its officer certificate(s) delivered as condition(s) precedent to the Financial Close pursuant to Clause 4.1 (Initial conditions precedent) remain true and correct on the first Utilisation Date in respect of Facility B unless the Borrower notifies the Agent to the contrary in writing; and
 - (b) each copy document relating to it specified in this Part 2 of Schedule 2 is correct, complete and in full force and effect and has not been amended or superseded as at the date falling on or about the first Utilisation Date in respect of Facility B.

PART 3

CONDITIONS SUBSEQUENT

[The conditions subsequent in paragraphs 1 to 11 below have been satisfied, which have been retained for information purposes only.]

1. By no later than one (1) Business Day after the first Utilisation Date, the signed and dated Bridge Facilities Discharge Document.
2. By no later than five (5) Business Days after the first Utilisation Date, in relation to the TBP Share Pledge:
 - (a) delivery of the original share certificates under the name of TBP in the Borrower;
 - (b) registration of the pledge in the Borrower share registry books;
 - (c) delivery of a notice of the pledge and instruction (in substantially the form set out in the annexure of the TBP Share Pledge) from TBP to the Borrower; and
 - (d) delivery of a notice of the instruction acceptance (in substantially the form set out in the annexure of the TBP Share Pledge) from the Borrower to the Security Agent.
3. By no later than five (5) Business Days after the first Utilisation Date, in relation to the Lygend Share Pledge:
 - (a) delivery of the original share certificates under the name of Lygend in the Borrower;
 - (b) registration of the pledge in the Borrower share registry books;
 - (c) delivery of a notice of the pledge and instruction (in substantially the form set out in the annexure of the Lygend Share Pledge from Lygend to the Borrower); and
 - (d) delivery of a notice of the instruction acceptance (in substantially the form set out in the annexure of the Lygend Share Pledge) from the Borrower to the Security Agent.
4. By no later than fifteen (15) Business Days after the first Utilisation Date, evidence of submission of this Agreement to Bank Indonesia and the Minister of Finance in the form of a submission receipt from the relevant authorities or in another form to the Agent's satisfaction acting reasonably.
5. As soon as possible, but no later than 30 June 2021, copy (with originals to follow as soon as reasonably practicable thereafter) of the Offshore Assignment Reinsurances.
6. As soon as possible, but by no later than forty-five (45) days after the first Utilisation Date, in relation to the Fiducia Security of Receivables and Insurance Claim Proceeds
 - (a) copy of acknowledgment to the notice of fiducia security assignment (in substantially the form set out in the schedules of the Fiducia Security of Receivables and Insurance Claim Proceeds) from each insurance company and counterparty; and
 - (b) evidence that the bankers' clause (in the form attached to the Fiducia Security of Receivables and Insurance Claim Proceeds) has been included in the relevant insurance policies that are subject to the Fiducia Security of Receivables and Insurance Claims.

7. As soon as possible, but no later than thirty (30) days after the first Utilisation Date, in relation to the Offshore General Security Assignment, acknowledgment to the notice of assignment from:
 - (a) GEM Co., Ltd., substantially in the form attached as schedule 3 to the Offtake Agreement entered into between the Borrower and GEM Co., Ltd; and
 - (b) each Hedging Counterparty, substantially in the form attached to the Offshore General Security Assignment.
8. As soon as possible, but no later than thirty (30) days after the first Utilisation Date, in relation to the Offshore Project Accounts Charge, acknowledgement to the notice of pledge and instruction to the Offshore Account Bank, at which the Offshore Project Accounts are maintained, from the Offshore Account Bank.
9. As soon as possible, but no later than forty-five (45) days after the first Utilisation Date, in relation to the Offshore Assignment of Reinsurances, notice of assignment to each reinsurer and acknowledgement to the notice of assignment (in substantially the form set out in the schedules of the Offshore Assignment of Reinsurances) from each reinsurer.
10. Without prejudice to paragraphs 6 to 9 above, any other acknowledgments desirable for the purpose of perfection of the Security Interests created under the Security Documents shall be obtained on a commercially reasonable effort basis.
11. By no later than 3 June 2021, evidence of extension of the term of the Special Terminal Cooperation Agreement to be at least up to the Final Maturity Date.
12. By the relevant date specified therein, the Authorisations listed in Part 2 (Material Authorisations to be Delivered as Conditions Subsequent) of Schedule 17 (Material Authorisations) in form and substance satisfactory to the Agent.

SCHEDULE 3
UTILISATION REQUESTS

From: [*Borrower*]

To: [*Agent*]

Dated:

Dear Sirs

PT HALMAHERA PERSADA LYGEND – US\$[●] Facility Agreement dated 22 February 2021 as amended and restated by an amendment and restatement deed dated [●] 2023 (the Facility Agreement)

1. We refer to the Facility Agreement. This is a Utilisation Request. Terms defined in the Facility Agreement shall have the same meaning in this Utilisation Request.

2. We wish to borrow a Loan on the following terms:

Facility to be utilised	[Facility A/Facility B/Facility D]
Proposed Utilisation Date:	[] (or, if that is not a Business Day, the next Business Day)
Utilisation Amount:	US\$[] or, if less, the Available Facility
Interest Period:	From [] to []

3. We confirm that each condition specified in Clause 4.2 (Further conditions precedent) is satisfied on the date of this Utilisation Request.

4. The proceeds of this Loan should be credited to [*account*].

5. This Utilisation Request is irrevocable.

Yours faithfully

.....
authorised signatory for
[*name of Borrower*]

SCHEDULE 4
REPAYMENT SCHEDULE
PART 1
FACILITY A REPAYMENT SCHEDULE

Repayment Number	Percentage of Facility A to be repaid (%)
1	0.10%
2	0.10%
3	0.20%
4	0.20%
5	1.00%
6	1.00%
7	2.40%
8	3.10%
9	3.20%
10	3.80%
11	4.80%
12	4.80%
13	5.00%
14	5.00%
15	6.00%
16	6.00%
17	6.00%
18	6.00%
19	6.00%
20	6.50%
21	6.50%
22	7.50%
23	7.50%
24	7.30%
Total	100.00%

PART 2

FACILITY B REPAYMENT SCHEDULE

Repayment Number	Percentage of Facility B to be repaid (%)
1	0.60%
2	1.00%
3	1.00%
4	2.40%
5	3.10%
6	3.20%
7	3.80%
8	4.80%
9	4.80%
10	5.00%
11	5.00%
12	6.00%
13	6.00%
14	6.00%
15	6.00%
16	6.00%
17	6.50%
18	6.50%
19	7.50%
20	7.50%
21	7.30%
Total	100.00%

PART 3

FACILITY D REPAYMENT SCHEDULE

Repayment Number	Percentage of Facility D to be repaid (%)
1	5.00%
2	5.00%
3	5.00%
4	5.00%
5	5.00%
6	5.00%
7	5.00%
8	6.00%
9	6.00%
10	6.00%
11	6.00%
12	6.00%
13	6.50%
14	6.50%
15	7.50%
16	7.50%
17	7.00%
Total	100.00%

SCHEDULE 5

FORM OF TRANSFER CERTIFICATE

To: [] as Agent and [] as Security Agent

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

Dated:

**PT HALMAHERA PERSADA LYGEND – US\$[●] Facility Agreement dated 22 February 2021 as amended and restated by an amendment and restatement deed dated [●] 2023
(the Facility Agreement)**

1. We refer to Clause 30.5 (Procedure for transfer)¹ of the Facility Agreement. This is a Transfer Certificate. Terms used in the Facility Agreement shall have the same meaning in this Transfer Certificate.
2. The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with Clause 30.5 (Procedure for transfer), 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(s) and participations in Utilisations under the Facility Agreement as specified in the Schedule.
3. The proposed Transfer Date is [].
4. The Facility Office and address, fax number and attention particulars for notices of the New Lender for the purposes of Clause 38.2 (Addresses) are set out in the Schedule.
5. The New Lender expressly acknowledges:
 - (a) the limitations on the Existing Lender's obligations set out in Clauses 30.4(a) and 30.4(c) (Limitation of responsibility of Existing Lenders); and
 - (b) that it is the responsibility of the New Lender to ascertain whether any document is required or any formality or other condition requires to be satisfied to effect or perfect the transfer contemplated by this Transfer Certificate or otherwise to enable the New Lender to enjoy the full benefit of each Finance Document.
6. The New Lender confirms that it is a "New Lender" within the meaning of Clause 30.1 (Assignments and transfers by the Lenders).
7. The Existing Lender and the New Lender confirm that the New Lender is not an Obligor or an Affiliate of an Obligor.
8. 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.
9. This Transfer Certificate and all non-contractual obligations arising from or in connection with this Transfer Certificate are governed by English law.

¹ Consider whether procedures for the assignment/transfer of rights/obligations under other Finance Documents should be specifically addressed.

10. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

Note: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender's interest in the Transaction Security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

THE SCHEDULE

Commitment/rights and obligations to be transferred, and other particulars

Commitment/participation(s) transferred

Drawn Loan(s) participation(s) amount(s): []
Available Commitment amount: []

Administration particulars:

New Lender's receiving account: []
Address: []
Telephone: []
Facsimile: []
Attn/Ref: []

[*the Existing Lender*]

[*the New Lender*]

By:

By:

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

[*the Agent*]

By:

Note: It is the New Lender's responsibility to ascertain whether any other document is required, or any formality or other condition is required to be satisfied, to effect or perfect the transfer contemplated in this Transfer Certificate or to give the New Lender full enjoyment of all the Finance Documents.

SCHEDULE 6

FORM OF ASSIGNMENT AGREEMENT

To: [[*Agent*] as Agent, [*Borrower*] as Borrower]

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

Dated:

**PT HALMAHERA PERSADA LYGEND – US\$[●] Facility Agreement dated 22 February 2021 as amended and restated by an amendment and restatement deed dated [●] 2023
(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 30.6 (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(s) and participations in Utilisations under the Facility 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 Commitment(s) and participations in Utilisations 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 particulars for notices of the New Lender for the purposes of Clause 38.2 (Addresses) of the Facility Agreement, are set out in the Schedule.
6. The New Lender expressly acknowledges:
 - (a) the limitations on the Existing Lender's obligations set out in Clauses 30.4(a) and 30.4(c) (Limitation of responsibility of Existing Lenders) of the Facility Agreement; and
 - (b) that it is the responsibility of the New Lender to ascertain whether any document is required or any formality or other condition requires to be satisfied to effect or perfect the transfer contemplated by this Transfer Certificate or otherwise to enable the New Lender to enjoy the full benefit of each Finance Document.
7. The New Lender confirms that it is a "New Lender" within the meaning of Clause 30.1 (Assignments and transfers by the Lenders) of the Facility Agreement.
8. [The Existing Lender and the New Lender confirm that the New Lender is not an Obligor or an Affiliate of an Obligor.]

9. This Assignment Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 30.7 (Copy of Transfer Certificate, Assignment Agreement or Increase Confirmation to Borrower) of the Facility Agreement, to the Borrower (on behalf of each Obligor) of the assignment referred to in this Assignment Agreement.
10. 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.
11. This Assignment Agreement and all non-contractual obligations arising out of or in connection with this Assignment Agreement are governed by English law.
12. This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

Note: It is the New Lender's responsibility to ascertain whether any other document is required, or any formality or other condition is required to be satisfied, to effect or perfect the transfer contemplated in this Assignment Agreement or to give the New Lender full enjoyment of all the Finance Documents.

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 7

FORM OF COMPLIANCE CERTIFICATE

To: [] as Agent

From: [*Borrower*]

Dated:

Dear Sirs

PT HALMAHERA PERSADA LYGEND – US\$[●] Facility Agreement dated 22 February 2021 as amended and restated by an amendment and restatement deed dated [●] 2023 (the Facility Agreement)

1. We refer to the Facility Agreement. This is a Compliance Certificate. Terms used in the Facility Agreement shall have the same meaning in this Compliance Certificate.
2. We confirm that: [Insert details of covenants to be certified including calculations]
3. [We confirm that no Default is continuing.]*

Signed:
Director	Director
of	of
PT HALMAHERA PERSADA LYGEND	PT HALMAHERA PERSADA LYGEND

[[*insert applicable certification language*]]**

.....
for and on behalf of
[*name of auditors of the Borrower*]]***

* If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.
** To be agreed with the Borrower's auditors and the Lenders prior to signing the Agreement.
*** Only applicable if the Compliance Certificate accompanies the audited financial statements and is to be signed by the auditors. To be agreed with the Borrower's auditors prior to signing the Agreement.

SCHEDULE 8

EQUITY TRUE UP COMPLIANCE CERTIFICATE

To: [] as Agent

From: [Borrower]

Dated:

Dear Sirs

PT HALMAHERA PERSADA LYGEN D – US\$[●] Facility Agreement dated 22 February 2021 as amended and restated by an amendment and restatement deed dated [●] 2023 (the Facility Agreement)

1. We refer to the Facility Agreement. This is the Equity True Up Compliance Certificate. Terms used in the Facility Agreement shall have the same meaning in the Equity True Up Compliance Certificate.
2. We certify that as at the Project Commercial Operation Date, being [●], the Equity Overfunding Amount is US\$[●].
3. We elect to apply US\$[●] from the proceeds of the final Utilisation of [Facility A / Facility B / Facility D] to fund an Equity True Up.
4. The proposed final Utilisation Date of the final Utilisation of [Facility A / Facility B / Facility D] is [●]. We confirm that as of such Utilisation Date:
 - (a) we have paid, or by no later than funding of the Equity True Up will pay, all amounts due and payable under each Project Document and all other amounts required to complete the construction and commissioning of the Project into the Equity Account [and for amounts alleged to be payable by us under any Project Document which we are disputing, we have reserved sufficient amounts in the Equity Account, or otherwise have funding available, to pay in full the disputed amounts]. We attach the Lenders' Technical Advisor's certification of the foregoing;
 - (b) after making the Equity True Up payment, the Base Equity Commitment has been fully contributed to the Borrower; and
 - (c) no Default or Event of Default has occurred and is continuing or could reasonably be expected to result from making the Equity True Up.

Signed:
Director
of
PT HALMAHERA PERSADA LYGEN D

.....
Director
of
PT HALMAHERA PERSADA LYGEN D

SCHEDULE 9

FORM OF HEDGING ACCESSION LETTER

To: [●] as Security Agent

Copy: [●] as Agent

From: [*Acceding Hedge Counterparty*] (the **Acceding Hedge Counterparty**) and [*Borrower*]

Dated:

PT HALMAHERA PERSADA LYGEND – US\$[●] Facility Agreement dated 22 February 2021 as amended and restated by an amendment and restatement deed dated [●] 2023 (the Facility Agreement)

1. We refer to the Facility Agreement. This is a Hedging Accession Letter for the purposes of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Hedging Accession Letter unless given a different meaning in this Hedging Accession Letter.
2. The Acceding Hedge Counterparty has become a provider of hedging arrangements to the [*Borrower*] pursuant to the terms of the Hedging Agreement described in paragraph 6 below.
3. The Acceding Hedge Counterparty is entering into this Hedging Accession Letter for the purpose of receiving the benefit of:
 - (a) the Transaction Security; and
 - (b) any guarantee, indemnity or other assurance against loss contained in the Facility Agreement, in respect of the Hedging Liabilities owed to it, in accordance with the terms of the Facility Agreement.
4. In consideration of the Acceding Hedge Counterparty being accepted as a Hedge Counterparty for the purposes of the Facility Agreement, the Acceding Hedge Counterparty confirms, for the benefit of the parties to the Facility Agreement, that, as from [*date*], it intends to be party to the Facility Agreement as a Hedge Counterparty, and undertakes to perform all the obligations expressed in the Facility Agreement to be assumed by a Hedge Counterparty and agrees that it shall be bound by all the provisions of the Facility Agreement, as if it had been an original party to the Facility Agreement as a Hedge Counterparty.
5. The Acceding Hedge Counterparty's administrative details are as follows:

Address:

Email Address:

Fax No:

Attention:
6. The details of the Hedging Agreement are as follows:

Date:

Parties: The Acceding Hedge Counterparty and [*Obligor*]

Terms: [*Insert brief summary of type of contract*].

7. Each of the Borrower and the Acceding Hedge Counterparty confirms that the Hedging Agreement entered or to be entered into between the Borrower and the Acceding Hedge Counterparty has or will be entered into only for the purpose of hedging the types of liabilities and/or risks in relation to the Facilities which the Facility Agreement requires to be hedged.²
8. This Hedging Accession Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[*Acceding Hedge Counterparty*]

[*Borrower*]

This Hedging Accession Letter is accepted by the Security Agent.

[*Security Agent*]

² Note: Consider modifying this paragraph to the extent your Facility Agreement has any specific requirements around hedging arrangements.

SCHEDULE 10

FORM OF COST TO COMPLETE CERTIFICATE

To: [] as Agent

From: [Borrower]

Dated:

Dear Sirs

I refer to the Facility Agreement dated 22 February 2021 as amended and restated by an amendment and restatement deed dated [●] 2023 (the **Facility Agreement**).

A term defined in the Facility Agreement has the same meaning where used in this Cost to Complete Certificate unless otherwise defined herein.

1. I certify that, as of the date of this Cost to Complete Certificate:
 - (a) the aggregate amount held in the Equity Account, Early Generation Equity Account, Retention Sum Account, Revenue Account, Operating Account, Disbursement Account and Local Accounts is US\$[●];
 - (b) the undrawn Commitments under the Facilities is US\$[●];
 - (c) the Base Equity Commitment not already contributed to the Borrower is \$[●]; and
 - (d) the amount of Early Generation Revenues projected to still be received pursuant to the most recently approved Banking Case is US\$[●].

The aggregate total of items (a) to (d) above is US\$[●] (**Available Funds**).

- (e) the total amount reasonably projected to be required to be payable in order to achieve the Project Commercial Operation Date based on the most recently approved Banking Case is US\$[●] (the **Remaining Project Costs**); and
 - (f) the Remaining Project Costs contained in the most recently approved Banking Case reflects, to the Borrower's knowledge, the actual Remaining Project Costs as of the date of this Cost to Complete Certificate.
2. As of the date of this Cost to Complete Certificate, the Available Funds is equal to or greater than the Remaining Project Costs.

This Cost to Complete Certificate shall be governed by English Law.

Authorised Person

[Borrower]

SCHEDULE 11

TIMETABLES

Delivery of a duly completed Utilisation Request under a Term Loan Facility (Clause 5.1 (Delivery of a Utilisation Request for Loans))	Five (5) Business Days prior to the Utilisation Date (other than the first Utilisation which shall be two (2) Business Days) before 10am Jakarta time
Agent notifies the Lenders of the Loan under a Term Loan Facility in accordance with Clause 5.5 (Lenders' participation)	Three (3) Business Days prior to the Utilisation Date before 10am Jakarta time
Delivery of a duly completed Utilisation Request under Facility C or issuance of a Letter of Credit under Facility C	No later than the time agreed between the relevant WCF Lender and the Borrower

SCHEDULE 12

HEDGING POLICY

This is the Hedging Policy referred to in the Facility Agreement.

1. Hedging Strategy

1.1 The obligations of the Borrower with regard to their hedging strategy are:

- (a) not to enter into any speculative Hedging Agreements, *provided that* any hedging pursuant to and in accordance with this policy shall not be regarded as speculative for the purpose of this paragraph (a);
- (b) to the extent the Borrower agrees to enter into Treasury Transactions under Clause 25.13 (Nickel hedging), or if the Borrower wishes to otherwise enter into any Treasury Transactions in order to hedge against fluctuations in the price of nickel (the **Commodities Hedging**), to enter into such Treasury Transactions in accordance with the requirements set out in this Schedule 12;
- (c) to enter into Treasury Transactions in order to hedge against fluctuations in interest rates in respect of amounts due under the Facility Agreement (the **Interest Rate Hedging**), as applicable, in accordance with the requirements set out in this Schedule 12; and
- (d) to only enter into Treasury Transactions with Hedge Counterparties.

1.2 The parties agree that (save as provided herein):

- (a) no later than thirty (30) calendar days from the date of the first Utilisation of Facility A;
- (b) no later than thirty (30) calendar days from the date that the Borrower exercises any rights under Clause 2.2 (Increase);
- (c) thereafter, upon each Utilisation of Facility B; and
- (d) thereafter, upon each Utilisation of Facility D,

the Borrower will enter into Interest Rate Hedging on a pro rata basis with the Lenders (pro rata with respect to their Commitments under each Facility) with the effect that at least seventy per cent. (70%) of all amounts outstanding under the Term Loan Facilities effectively bear a fixed rate of interest until the scheduled Final Maturity Date (the **Mandatory Interest Rate Hedging**).

1.3 The Borrower may enter into Interest Rate Hedging that is not Mandatory Interest Rate Hedging, *provided that*:

- (a) no more than one hundred per cent. (100%) of the Term Loan Facilities effectively bears a fixed rate of interest; and
- (b) the tenor of such Interest Rate Hedging is no longer than the period up to the scheduled Final Maturity Date.

1.4 The Borrower may enter into Commodities Hedging at any time at its discretion *provided that*:

- (a) the Commodities Hedging is entered into with any Hedging Counterparties selected by the Borrower;

- (b) any Commodities Hedging in respect of Nickel (**Nickel Hedging**) executed by the Borrower will only be in the form of nickel puts, forwards, capped forwards, swaps and/or collars;
- (c) the aggregate notional amount in respect of any Nickel Hedging forwards, capped forwards, swaps and collars executed by the Borrower will not exceed forty per cent. (40%) of the forecast nickel production shown in the latest Banking Case at any time; and
- (d) the aggregate notional amount in respect of all Nickel Hedging shall not exceed one hundred per cent. (100%) of the forecast nickel production shown in the latest Banking Case at any time.

1.5 All Hedging Agreements will be documented by way of an agreement which complies with the requirements of this Schedule 12 and the Facility Agreement and which will be entered into prior to any Treasury Transaction for which a Hedging Agreement is required.

1.6 Unless otherwise agreed by the Agent prior to Financial Close, Interest Rate Hedging may only be entered into with a Hedge Counterparty, and will be entered into with each of the Hedge Counterparties on a pro rata basis (pro rata with respect to the amount their Commitments under each Facility bear to the Total Commitments under that Facility), *provided that* this paragraph 1.6 will not apply if the Hedge Counterparties fail to offer to enter into the Interest Rate Hedging on commercially reasonable and competitive terms (having regard to leading dealers in the market).

1.7 Subject to the terms of the Facility Agreement and the Cash and Accounts Management Agreement, any Interest Rate Hedging or Commodities Hedging entered into with a Lender will be secured by the Transaction Security and will rank *pari passu* with the liabilities of the Borrower under the Facility Agreement in all respects without any preference between them;

2. Overhedging

2.1 In the event that:

- (a) the aggregate notional amount of Interest Rate Hedging, at any time, exceeds one hundred per cent. (100%) of a Term Loan Facility (whether by reason of a voluntary prepayment, mandatory prepayment or otherwise);
- (b) the Borrower will be required to make a mandatory prepayment on any Interest Payment Date, or wishes to make any voluntary prepayment, and as a result the aggregate notional amount of Interest Rate Hedging would (after the making of that prepayment) exceed one hundred per cent. (100%) of a Term Loan Facility; or
- (c) the aggregate amount of all Nickel Hedging exceeds the amounts set out in either paragraph 1.4(c) or 1.4(d) above,

(each, an **Overhedged Position**), the Borrower will within thirty (30) days of the earlier of either the Borrower or any Hedge Counterparty becoming aware of such Overhedged Position, reduce the notional amount of the relevant Hedging Agreements in such amount as to remedy an Overhedged Position, *provided that* to the extent any Hedging Agreements are terminated it must terminate all Hedging Agreements (in whole or in part) on a pro rata basis across all then outstanding Hedging Agreements relating to the relevant Overhedged Position.

2.2 The Borrower will pay to that Hedge Counterparty (in accordance with the relevant Hedging Agreement) an amount equal to the sum of all payments (if any) that become due from the Borrower to a Hedge Counterparty under the relevant Hedging Agreement(s) as a result of any action described in paragraph 2.1 above.

- 2.3 Each Hedge Counterparty shall co-operate in any process described in paragraph 2.1 above and shall pay (in accordance with the relevant Hedging Agreement(s)) any amount that becomes due from it under the relevant Hedging Agreement(s) to the Borrower as a result of any action described in paragraph 2.1 above.

SCHEDULE 13

PROJECT INSURANCES

PART 1

INSURANCE OBLIGATIONS

1. General obligations

- (a) The Borrower shall, without cost to the Finance Parties, take out and maintain at all relevant times such insurances as specified in this Schedule 13.
- (b) The insurance and reinsurance required by this Schedule 13 shall be:
 - (i) provided by Insurers licensed to provide the relevant insurance or reinsurance under Applicable Law;
 - (ii) in the case of material damage insurances, calculated to cover the Project and the Project Assets to their full replacement value or as otherwise stipulated herein;
 - (iii) (where relevant) adjusted from time to time as necessary to maintain such full replacement value;
 - (iv) subject to paragraph (v) below, in the case of any reinsurance, governed by the laws of England and Wales or the Republic of Indonesia; and
 - (v) from 30 June 2021, in the case of any reinsurance, governed under the laws of England and Wales.
- (c) Without limiting the requirements of this paragraph 1, at all times the Borrower shall:
 - (i) obtain and maintain in full force those insurances that it is required to obtain under the terms of any Transaction Document to which it is a party;
 - (ii) obtain and maintain in full force those insurances that it is required to obtain under any Applicable Law, including insurance under any workers' compensation laws (where any conflict between the requirements hereunder and such Applicable Law shall be resolved in favour of the Applicable Law); and
 - (iii) obtain and maintain in full force those insurances that it is required to obtain under the terms of any other contract, in connection with the Project or the operation of the Captive Power Plant, to which it is a party where failure to do so would have or would reasonably be likely to have a Material Adverse Effect.
- (d) The Borrower shall:
 - (i) maintain or cause to be maintained reinsurance on a facultative basis for at least ninety per cent. (90%) of the direct insurance required to be subject to an assignment, mortgage or other form of Security Interest under paragraph (f)(iii) below, with:
 - (A) underwriters or insurance companies (including reinsurance companies) located outside of Indonesia who have a rating of at least "A-" (S&P), "A-" (AM Best) or "A3" (Moody's) or such lower ratings as otherwise as agreed by the Agent in consultation with the LIA; or

- (B) such other underwriters or insurance and reinsurance companies as are, from time to time, acceptable to the Agent (acting reasonably) acting on the advice of the LIA;
 - (ii) notwithstanding the requirements of paragraph (i) above, procure that each insurance and reinsurance of the Project shall at all times comply in all respects with Otoritas Jasa Keuangan Regulation No. 14/POJK.05/2015 and Otoritas Jasa Keuangan Circular Letter No. 31/SEOJK.05/2015; and
 - (iii) if required by the Agent, certify to the Agent that it has complied with all Applicable Laws of Indonesia and/or otherwise obtained the necessary dispensation from the appropriate Governmental Authorities in Indonesia which are required for the Borrower to comply with this paragraph (d).
- (e) The Borrower shall:
- (i) duly and punctually pay, when due or prior to the expiration of any grace period allotted in connection with such payment, all premiums, commissions, taxes, charges and other costs necessary for effecting and maintaining any insurance issued in its name contemplated as being procured under this Schedule 13;
 - (ii) not do anything which may in any way materially prejudice its rights or those of any of the Finance Parties under any insurance issued in its name, or any associated facultative reinsurance; and
 - (iii) promptly do all things commercially reasonable to make any claim or recover money under any of the insurances to which the Borrower is entitled.
- (f) Each Borrower shall procure, with respect to each insurance and reinsurance contract procured by it pursuant to this Schedule 13 (with the exception of workers' compensation, motor vehicle insurance or employers' liability however so described), that:
- (i) the Borrower is named as the "Insured Party";
 - (ii) the Security Agent on behalf of the Finance Parties is named as an "Additional Insured";
 - (iii) each insurance policy required to be taken out by the Borrower is subject to an assignment, mortgage or other form of Security Interest acceptable to the Agent (acting reasonably) of such insurances and reasonable endeavours are taken to procure that an acknowledgement of such assignment or other Security Interest is received from each insurer;
 - (iv) each reinsurance contract is subject to an assignment or other form of Security Interest acceptable to the Agent (acting reasonably) of reinsurances and reasonable efforts are taken to procure that an acknowledgement of such assignment or other Security Interest is received from each reinsurer;
 - (v) no insurance policy or reinsurance contract shall be subject to any coverage exclusion or exception except:
 - (A) as specified in the relevant Part of this Schedule 13;
 - (B) in the event such exclusion or exception is a necessary standard exclusion or exception within the insurance industry for the type or size of risk covered by the relevant insurance; or

- (C) as otherwise approved in writing by the Agent (acting reasonably) following consultation with the LIA;
 - (vi) each insurance policy contains the endorsements and acknowledgements in substantially the form set out in Part 4 (Endorsements and Acknowledgements under Direct Insurances) of this Schedule 13 or such other form agreed between the Agent and the Borrower; and
 - (vii) each reinsurance contract contains the endorsements and, utilising the best endeavours of the Borrower, acknowledgements in substantially the form set out in Part 5 (Endorsements and Acknowledgements under Reinsurances) of this Schedule 13 or such other form agreed between the Agent and the Borrower.
- (g) Without limiting the other requirements of this Schedule 13, the Borrower shall obtain and maintain any insurances and reinsurances in addition to or supplementing those required by this paragraph 1 that:
- (i) are mutually agreed with the LIA (each acting reasonably);
 - (ii) are available on commercially reasonable terms; and
 - (iii) are consistent with the relevant Good Industry Practice.
- (h) Without limiting the other requirements of this Schedule 13, the Borrower may (but shall not be obliged to) effect such other insurances or procure the effect of reinsurances in addition to or supplementing those referred to elsewhere in this Schedule 13 as it think fit *provided that* such other insurances or reinsurances do not affect rights to recover under the insurances or reinsurances required to be effected under this Schedule 13 and shall notify the Agent in writing as soon as practicable after effecting or procuring the effecting of such other insurances or reinsurances.
- (i) The Borrower shall retain, at all times, an insurance broker or insurance advisor from a reputable firm of insurance advisors on terms satisfactory to the Agent (acting reasonably) with respect to any insurance policy comprising any insurance (including any reinsurance contract).
- (j) The Borrower shall take such action as is available to it to ensure that payments under each insurance policy and reinsurance contract issued in its name are made in accordance with the insurance and reinsurance endorsements (including the endorsement provision on the Project Account into which such proceeds shall be paid).

2. Information

- (a) The Borrower shall provide the Agent and the LIA:
- (i) at least thirty (30) days prior to the renewal of any insurances an any reinsurances, reasonable details regarding the respective intended renewal arrangements and any preliminary information from the insurance market, including regarding the terms and conditions of renewal cover;
 - (ii) at least ten (10) days prior to the renewal of any insurances an any reinsurances, reasonable details regarding the respective final renewal arrangements, including regarding the terms and conditions of renewal cover;
 - (iii) promptly upon receipt thereof, details of the respective premiums for, and insurers/reinsurers providing, such renewal cover; and

- (iv) promptly following such renewal, certified copies of the respective renewal documentation.
- (b) The Borrower shall procure that the LIA provides to the Agent, within sixty (60) days following the end of each calendar year, a report setting out:
- (i) any material changes to the insurance since the last such report and confirming that such insurance continue to satisfy the criteria set out in this Schedule 13;
 - (ii) any material claims made under the insurances during such calendar year;
 - (iii) the status of all material outstanding claims;
 - (iv) any revisions to the security rating of the insurers and any reinsurers and any changes in insurance regulations of which the Borrower or the LIA has knowledge that could reasonably be expected to adversely affect any Borrower's ability to maintain the insurance as required under this Agreement in any material respect;
 - (v) any changes in the global insurance market or in the Indonesian insurance market materially affecting the availability and/or cost of any insurance or reinsurance coverage required to be obtained under the Finance Documents;
 - (vi) any effect or likely effect of material events, circumstances or conditions occurring at or affecting the Project on the availability and/or cost of any insurances required to be obtained under the Finance Documents; and
 - (vii) whether the premiums for all insurance then due and payable by the Borrower have been paid.
- (c) The Borrower shall deliver to the Agent as soon as practicable when requested:
- (i) a copy of each policy of insurance and reinsurance agreement in respect of the insurances and reinsurances;
 - (ii) copies of all renewals, certificates, endorsement slips and receipts for payment of premiums and other moneys for each policy of insurance in respect of the insurances and reinsurances; and
 - (iii) copies of all stamped and signed placement slips and reinsurance cover notes for each reinsurance contract related to such Project Insurances.
- (d) The Borrower shall notify the Agent as soon as it becomes aware of:
- (i) the occurrence of any event which may give rise to a claim in excess of USD5,000,000 (or its equivalent) under any insurance;
 - (ii) any claim in excess of USD5,000,000 (or its equivalent) which the Borrower makes under any insurance;
 - (iii) any determination by an insurer in relation to a claim under any insurance consequent upon paragraph (i) or (ii) above;
 - (iv) any proposed amendment to or variation of any insurance or reinsurance which is a material deviation from or otherwise not comply with the requirements of this Schedule 13; and
 - (v) any other event which may have a materially adverse effect on any insurance or reinsurance.

- (e) If the Borrower notifies the Agent that an insurance policy (or any relevant terms thereof) forming part of the required insurances under this Schedule 13:
- (i) is not available on commercially reasonable terms as a result of a lack of capacity in the local or international insurance markets; or
 - (ii) has increased materially in cost and has become unreasonably expensive with regard to the risk being covered and the interests of the Finance Parties (each of paragraph 2(e)(i) and 2(e)(ii), being a **Capacity Event**),

then the following provisions shall apply:

- (A) the Borrower, the LIA and the Agent shall meet and discuss in good faith what, if any, changes should be made to the relevant insurance requirements to take account of the Capacity Event;
- (B) for so long as the circumstances constituting a Capacity Event continue, the Borrower shall be entitled to modify the relevant insurance requirements only if and to the extent approved by the Agent (acting reasonably and in consultation with the LIA); and
- (C) if circumstances change following such events, and the Capacity Event cease to be in effect, then that Borrower shall promptly restore the insurances under this Schedule 13.

3. **Capitalised Terms**

Capitalised terms used under Part 2 (Construction Insurances) and Part 3 (Operational Insurances) of this Schedule 13 shall, unless otherwise defined under this Agreement, have the meaning provided for in the respective underlying policies. For the purposes of the Borrower's obligations as regards to this Schedule 13, the meaning given under such term under this Agreement shall prevail.

PART 2

CONSTRUCTION INSURANCES

2A: CONSTRUCTION INSURANCES IN RELATION TO MHP FACILITIES

1. Construction/Erection “All Risks” Insurance

SCOPE OF COVERAGE	Unforeseen and sudden physical loss or damage from any cause, other than those specifically excluded, to the Project, including permanent and temporary works, temporary buildings, material, spares, machinery and equipment, office equipment, tools, and all other property or equipment of whatsoever nature or description.
INSUREDS	<p>PT Halmahera Persada Lygend as Owner/Principal and/or Main Contractors and/or Sub-Contractors of any tiers and/or Suppliers and/or All Consultants and/or any other party for whom the Insured undertakes to insure for their respective rights, interests and liabilities in respect of project activities.</p> <p>The Security Agent (on behalf of the Finance Parties).</p> <p>The employees, directors or officers of any of the above.</p> <p>Each as their respective rights and interests may appear.</p>
PERIOD	<p>Commencement of Works on or after the Notice to Proceed Date or after the unloading of the Works’ items at the site, including any preassembly activities offsite;</p> <p>Up to the Module Commercial Operation Date in respect of the MHP Module, including testing and commissioning, until the date of issuance of the Provisional Handover Certificate, followed by Maintenance Period of three hundred and sixty-five (365) days.</p> <p>Both dates in local standard time as at the location of the loss, damage or occurrence.</p>
TERRITORY	The site shall be all locations at which work is carried out in connection with the project anywhere in the Republic of Indonesia including all inland storage and/or inland transit (unless otherwise Insured under a marine cargo insurance).
CURRENCY OF PAYMENT	USD
SUM INSURED	USD650,000,000 (excluding VAT) being the Estimated Total Project Value.
MAXIMUM DEDUCTIBLES	<p>In respect of each and every occurrence or series of occurrences consequent upon or attributable to one source or original cause, the Insured shall be responsible for the first:</p> <p>For loss caused by Earthquake, Tsunami: ten per cent. (10%) of loss minimum USD250,000 any one incident</p>

For Typhoon, windstorm, rainstorm and flood: ten per cent. (10%) of loss minimum USD150,000 any one incident

For Works, Fire, Collapse, Faulty Design, Defective Material, Bad Workmanship, Testing & Commissioning and during Maintenance Period: ten per cent. (10%) of loss minimum USD100,000 any one incident

All Other Losses: USD25,000 any one accident.

PRINCIPAL EXTENSIONS

1. Architects, Surveyors, Consultants and Engineers Clause (Limit USD10,000,000 each and every occurrence)
2. Automatic Escalation of Value (fifteen per cent. (15%) of Total Sum Insured)
3. Automatic Reinstatement Of Sum Insured Clause (subject to no additional premium)
4. Claim Preparation Costs Clause (Limit USD1,000,000 each occurrence and in the aggregate)
5. Inland Transit for locally supplied material only, subject to Territorial Limits: Sulawesi, Maluku and Ambon (Limit USD15,000,000 per conveyance)
6. Fire Extinguishing & Other Costs Clause (USD5,000,000 each and every occurrence)
7. 50/50 Clause
8. Minimisation of Loss Expenses Clause (USD1,000,000 any one occurrence)
9. Plans and Documents (USD500,000 each and every occurrence in addition to the Sum Insured)
10. Removal of Debris (maximum USD10,000,000 each and every loss and in the aggregate)
11. Repeat Test Clause
12. Time Adjustment Clause (seventy-two (72) hours)
13. Strike, Riot, Malicious Damage and Civil Commotion
14. Non-Cancellation Clause
15. Waiver of Subrogation (against the Insured and their representatives, subsidiaries, affiliates, directors, officers and employees)
16. Payment on Account Clause twenty-five per cent. (25%) or more as mutually agreed

PRINCIPAL EXCLUSIONS

- 17. Lenders' Endorsement Clauses
- 1. War Risks
- 2. Terrorism
- 3. Nuclear Radiation Risks
- 4. Electronic Data Recognition
- 5. Aircraft, Watercraft and Mechanically Propelled Vehicles
- 6. Consequential Loss
- 7. LEG2/96 or equivalent
- 8. Any other exclusion or exceptions which are market standard for the type or size of risk insured under this type of policy (as confirmed by the LIA acting reasonably)

2. Third Party Liability Insurance

POLICY COVERAGE

The Insurers shall indemnify the Insured which the Insured shall become legally payable to pay as damages consequent upon:

- (a) Accidental death, bodily injury to/or illness of third parties (whether fatal or not).
- (b) Accidental loss of or damage to property belonging to third parties occurring in direct connection with erection, construction or testing of the items Insured under the Construction/Erection "All Risks" insurance policy and happening on or in the immediate vicinity of the site during the Period of Cover.

Including costs and expenses of litigation approved by the Insurer and all costs and any expenses of litigation recovered by any claimant from the Insured.

INSUREDS

PT Halmahera Persada Lygend as Owner/Principal and/or Main Contractors and/or Sub-Contractors of any tiers and/or Suppliers and/or All Consultants and/or any other party for whom the Insured undertakes to insure for their respective rights, interests and liabilities in respect of project activities.

The Security Agent (on behalf of the Finance Parties).

The employees, directors or officers of any of the above.

Each as their respective rights and interests may appear.

PERIOD	<p>Commencement of Works on or after the Notice to Proceed Date or after the unloading of the Works' items at the site, including any preassembly activities offsite;</p> <p>up to the Module Commercial Operation Date in respect of the MHP Module, including testing and commissioning, until the date of issuance of the Provisional Handover Certificate, followed by Maintenance Period of three hundred and sixty-five (365) days.</p> <p>Both dates in local standard time as at the location of the loss, damage or occurrence.</p>
TERRITORY/JURISDICTION	Republic of Indonesia
CURRENCY OF PAYMENT	USD
LIMITS OF THE POLICY	USD10,000,000 any one occurrence and USD50,000,000 in the aggregate combined Single Limit for bodily injury and third party property damage and in the aggregate.
MAXIMUM EXCESS	<p>In respect of each and every occurrence or series of occurrences consequent upon or attributable to one source or original cause, the Insured shall be responsible for the first:</p> <ul style="list-style-type: none"> - Third Party Bodily Injury: Nil. - Third Party Property Damage including Vibration, Removal and Weakening of Support: USD10,000.
ADDITIONAL CLAUSES	<ol style="list-style-type: none"> 1. Accidental Pollution Clause 2. Cross Liability Clause 3. Non-Cancellation Clause 4. Waiver of Subrogation (against the Insured and their representatives, subsidiaries, affiliates, directors, officers and employees) 5. Payment on Account Clause twenty-five per cent. (25%) or more as mutually agreed 6. Lenders' Endorsement Clauses
PRINCIPAL EXCLUSIONS	<ol style="list-style-type: none"> 1. Pollution except Sudden and Accidental 2. Liquidated Damages, Fines and Penalties 3. Professional Liability 4. Products Liability 5. Asbestos 6. Toxic Mould

7. Electromagnetic Field
8. War Risks
9. Terrorism
10. Any other exclusion or exceptions which are market standard for the type or size of risk insured under this type of policy (as confirmed by the LIA acting reasonably)

3. Workers' Compensation Insurance

Workers' Compensation insurance in compliance with the laws of Indonesia

2B: CONSTRUCTION INSURANCES IN RELATION TO SULPHATE EXTENSION FACILITIES

1. Construction/Erection “All Risks” Insurance

SCOPE OF COVERAGE	<p>Unforeseen and sudden physical loss or damage from any cause, other than those specifically excluded, to the Project, including permanent and temporary works, temporary buildings, material, spares, machinery and equipment, office equipment, tools, and all other property or equipment of whatsoever nature or description.</p> <p>Consumables (only prior to commencement of Testing and Commissioning of equipment containing such consumables unless Damage caused by other indemnifiable event), fuels and oils and camps, offices and their contents, and any other property or equipment of whatsoever nature to be incorporated into the permanent Works and plant, the property of the Insured or for which they are responsible whilst at the Project Site and in the case of locally supplied materials, whilst in transit other than by air or sea.</p> <p>Excluding contractor’s constructional plant, tools and equipment.</p>
INSUREDS	<p>PT Halmahera Persada Lygend as Owner/Principal and/or Main Contractors and/or Sub-Contractors of any tiers and/or Suppliers and/or All Consultants and/or any other party for whom the Insured undertakes to insure for their respective rights, interests and liabilities in respect of project activities.</p> <p>The Security Agent (on behalf of the Finance Parties). The employees, directors or officers of any of the above.</p> <p>Suppliers, Professional Consultants, Architects, Engineers Lenders’ Technical Consultant and/or vendors of any tier engaged by any other insured parties for their on-site activities only</p> <p>Each as their respective rights and interests may appear.</p>
PERIOD	<p>The whole of the period of the Project from Commencement of Works on or after the Limited Notice to Proceed or Notice to Proceed Date or after the unloading of the Works’ items at the site, including any preassembly activities offsite; up to Module Commercial Operation Date in respect of the Sulphates Module, including testing and commissioning, until the date of issuance of the Provisional Handover Certificate, followed by Maintenance Period of twelve (12) months.</p> <p>Both days inclusive, local standard time at the Project Site, including any Hot Testing and Commissioning Period of up to 120 non-consecutive days per unit, and thereafter automatically held covered for the first three (3) months at pro rata premium except extensions to Testing Period. Further periods if required at additional premium to be agreed by Leading Insurer only.</p>
TERRITORY	<p>Anywhere in Indonesia but worldwide with respect to temporary removal and Named Suppliers</p>

CURRENCY OF PAYMENT	USD
SUM INSURED	A sum equivalent to the full replacement cost of the Plant (comprising the contract price and the value of the Borrower's works), subject to customary sub-limits for covers as indicated in the Additional Clauses section below.
MAXIMUM DEDUCTIBLES	<p>In respect of each and every occurrence or series of occurrences consequent upon or attributable to one source or original cause, the Insured shall be responsible for the first:</p> <ul style="list-style-type: none"> – For loss caused by Earthquake, Tsunami: ten per cent. (10%) of loss minimum of USD250,000 any one incident. – For Typhoon, windstorm, rainstorm and flood: ten per cent. (10%) of loss minimum USD150,000 any one incident. – For Works, Fire, Collapse, Faulty Design, Defective Material, Bad Workmanship, Testing & Commissioning and during Maintenance Period: ten per cent. (10%) of loss minimum USD100,000 any one incident. – All Other Losses: USD25,000 any one accident.
PRINCIPAL EXTENSIONS	<ol style="list-style-type: none"> 1. Architects, Surveyors, Consultants and Engineers Clause (Limit USD10,000,000 each and every occurrence) 2. Automatic Escalation of Value fifteen per cent. (15%) of Total Sum Insured 3. Automatic Reinstatement Of Sum Insured Clause (subject to no additional premium) 4. Claim Preparation Costs Clause (Limit USD1,000,000 each occurrence and in the aggregate) 5. Inland Transit for locally supplied material only, subject to Territorial Limits: Sulawesi, Maluku and Ambon (Limit USD15,000,000 per conveyance) 6. Fire Extinguishing & Other Costs Clause (USD5,000,000 each and every occurrence) 7. 50/50 Clause 8. Minimisation of Loss Expenses Clause (USD1,000,000 any one occurrence) 9. Plans and Documents (USD500,000 each and every occurrence in addition to the Sum Insured) 10. Removal of Debris (maximum USD10,000,000 each and every loss and in the aggregate) 11. Repeat Test Clause

12. Time Adjustment Clause (seventy-two (72) hours)
13. Strike, Riot, Malicious Damage and Civil Commotion
14. Non-Cancellation Clause
15. Waiver of Subrogation (against the Insured and their representatives, subsidiaries, affiliates, directors, officers and employees)
16. Payment on Account Clause twenty-five per cent. (25%) or more as mutually agreed
17. Lenders' Endorsement Clauses

PRINCIPAL EXCLUSIONS

1. War Risks
2. Terrorism
3. Nuclear Radiation Risks
4. Electronic Data Recognition
5. Aircraft, Watercraft and Mechanically Propelled Vehicles
6. Consequential Loss
7. Any other exclusion or exceptions which are market standard for the type or size of risk insured under this type of policy (as confirmed by the LIA acting reasonably)

2. Third Party Liability Insurance

POLICY COVERAGE

The Insurers shall indemnify the Insured which the Insured shall become legally payable to pay as damages consequent upon:

- (a) Accidental death, bodily injury to/or illness of third parties (whether fatal or not).
- (b) Accidental loss of or damage to property belonging to third parties occurring in direct connection with erection, construction or testing of the items Insured under the Construction/Erection "All Risks" insurance policy and happening on or in the immediate vicinity of the site during the Period of Cover.

Including costs and expenses of litigation.

INSUREDS

PT Halmahera Persada Lygend as Owner Principal and/or Main Contractors and/or Sub-Contractors of any tiers and/or Suppliers and/or All Consultants and/or any other party for whom the Insured undertakes to insure for their respective rights, interests and liabilities in respect of project activities.

The Security Agent (on behalf of the Finance Parties).

The employees, directors or officers of any of the above.

Each as their respective rights and interests may appear.

PERIOD

Commencement of Works on or after the Notice to Proceed Date or after the unloading of the Works' items at the site, including any preassembly activities offsite;

up to the Module Commercial Operation Date in respect of the Sulphates Module, including testing and commissioning, until the date of issuance of the Provisional Handover Certificate, followed by Maintenance Period of twelve (12) months, *provided that* if the cost of procuring cover for a period of twenty-four (24) months is commercially reasonable, as determined by the Borrower (acting reasonably) and confirmed by the LIA, then the Borrower shall procure cover for a Maintenance Period of twenty-four (24) months instead.

Both dates in local standard time as at the location of the loss, damage or occurrence.

TERRITORY/JURISDICTION

Republic of Indonesia/Worldwide excluding North America

CURRENCY OF PAYMENT

USD

LIMITS OF THE POLICY

USD10,000,000 any one occurrence and USD50,000,000 in the aggregate combined Single Limit for bodily injury and third party property damage and in the aggregate.

MAXIMUM EXCESS

In respect of each and every occurrence or series of occurrences consequent upon or attributable to one source or original cause, the Insured shall be responsible for the first:

- Third Party Bodily Injury: Nil.
- Third Party Property Damage including Vibration, Removal and Weakening of Support: USD10,000.

ADDITIONAL CLAUSES

1. Accidental Pollution Clause
2. Cross Liability Clause
3. Non-Cancellation Clause
4. Waiver of Subrogation (against the Insured and their representatives, subsidiaries, affiliates, directors, officers and employees)
5. Payment on Account Clause twenty-five per cent. (25%) or more as mutually agreed
6. Lenders' Endorsement Clauses

PRINCIPAL EXCLUSIONS

1. Pollution except Sudden and Accidental

2. Liquidated Damages, Fines and Penalties
3. Professional Liability
4. Products Liability
5. Asbestos
6. Toxic Mould
7. Electromagnetic Field
8. War Risks
9. Terrorism
10. Any other exclusion or exceptions which are market standard for the type or size of risk insured under this type of policy (as confirmed by the LIA acting reasonably)

3. Workers' Compensation Insurance

Workers' Compensation insurance in compliance with the laws of Indonesia

2C: CONSTRUCTION INSURANCES IN RELATION TO EXPANSION PROCESSING FACILITIES NAMELY “HPAL PLANT EXTENSION PROJECT (LINE 3 MHP, NICKEL SULFATE, AND COBALT SULFATE)”

1. Construction/Erection “All Risks” Insurance

SCOPE OF COVERAGE	Unforeseen and sudden physical loss or damage from any cause, other than those specifically excluded, to the Project, including permanent and temporary works, temporary buildings, material, spares, machinery and equipment, office equipment, tools, and all other property or equipment of whatsoever nature or description.
INSUREDS	<p>PT Halmahera Persada Lygend as Owner/Principal and/or Main</p> <p>Contractors and/or Sub-Contractors of any tiers and/or Suppliers and/or All Consultants and/or any other party for whom the Insured undertakes to insure for their respective rights, interests and liabilities in respect of project activities.</p> <p>The Security Agent (on behalf of the Finance Parties).</p> <p>The employees, directors or officers of any of the above.</p> <p>Each as their respective rights and interests may appear.</p>
PERIOD	<p>From binding date confirmation of insurer up to 1005 days from 30 August 2020 – 04 May 2023 , inclusive of Cold Testing, and inclusive of Hot Testing and Commissioning Period not exceeding 129 days until the date of issuance of the Provisional Handover Certificate, followed by Maintenance Period of 24 months.</p> <p>Both dates inclusive all dates hereon in local standard time as at the location of ‘the loss, damage or occurrence</p> <p>Any Extension of the period of Insurance required by the Insured shall be allowed by the Insurers without any additional premium for the first 6 months only at terms to be agreed. For any extension period of insurance exceeding 6 months, the additional premium will be calculated on time prorate basis.</p>
TERRITORY	The site shall be all locations at which work is carried out in connection with the project anywhere in Republic of Indonesia including all inland storage and/or inland transit (unless otherwise insured under a marine cargo insurance)
CURRENCY OF PAYMENT	USD
SUM INSURED	A sum equivalent to the full replacement cost of the Plant (comprising the contract price and the value of the Borrower’s works), subject to customary sub-limits for covers as indicated in the Additional Clauses section below.

MAXIMUM DEDUCTIBLES

In respect of each and every occurrence or series of occurrences consequent upon or attributable to one source or original cause, the Insured shall be responsible for the first:

- For loss caused by Earthquake, Tsunami: ten per cent. (10%) of loss minimum of USD250,000 any one incident.
- For Typhoon, windstorm, rainstorm and flood: ten per cent. (10%) of loss minimum USD150,000 any one incident.
- For Works, Fire, Collapse, Faulty Design, Defective Material, Bad Workmanship, Testing & Commissioning and during Maintenance Period: ten per cent. (10%) of loss minimum USD100,000 any one incident.
- All Other Losses: USD25,000 any one accident

PRINCIPAL EXTENSIONS

1. Architects, Surveyors, Consultants and Engineers Clause (Limit USD10,000,000 each and every occurrence)
2. Automatic Escalation of Value fifteen per cent. (15%) of Total Sum Insured
3. Automatic Reinstatement Of Sum Insured Clause (subject to no additional premium)
4. Claim Preparation Costs Clause (Limit USD1,000,000 each occurrence and in the aggregate)
5. Inland Transit for locally supplied material only, subject to Territorial Limits: Sulawesi, Maluku and Ambon (Limit USD15,000,000 per conveyance)
6. Fire Extinguishing & Other Costs Clause (USD5,000,000 each and every occurrence)
7. 50/50 Clause
8. Minimisation of Loss Expenses Clause (USD1,000,000 any one occurrence)
9. Plans and Documents (USD500,000 each and every occurrence in addition to the Sum Insured)
10. Removal of Debris (maximum USD10,000,000 each and every loss and in the aggregate)
11. Repeat Test Clause
12. Time Adjustment Clause (seventy-two (72) hours)
13. Strike, Riot, Malicious Damage and Civil Commotion

14. Non-Cancellation Clause
15. Waiver of Subrogation (against the Insured and their representatives, subsidiaries, affiliates, directors, officers and employees)
16. Payment on Account Clause twenty-five per cent. (25%) or more as mutually agreed
17. Lenders' Endorsement Clauses
18. LEG 2/96 or Equivalent

PRINCIPAL EXCLUSIONS

1. War Risks
2. Terrorism
3. Nuclear Radiation Risks
4. Electronic Date Recognition
5. Aircraft, Watercraft and Mechanically Propelled Vehicles
6. Consequential Loss
7. Any other exclusion or exceptions which are market standard for the type or size of risk insured under this type of policy (as confirmed by the LIA acting reasonably)

2. Third Party Liability Insurance

POLICY COVERAGE

The Insurers shall indemnify the Insured which the Insured shall become legally payable to pay as damages consequent upon:

- (a) Accidental death, bodily injury to/or illness of third parties (whether fatal or not).
- (b) Accidental loss of or damage to property belonging to third parties occurring in direct connection with erection, construction or testing of the items Insured under the Construction/Erection "All Risks" insurance policy and happening on or in the immediate vicinity of the site during the Period of Cover.

Including costs and expenses of litigation.

INSUREDS

PT Halmahera Persada Lygend as Owner Principal and/or Main Contractors and/or Sub-Contractors of any tiers and/or Suppliers and/or All Consultants and/or any other party for whom the Insured undertakes to insure for their respective rights, interests and liabilities in respect of project activities.

The Security Agent (on behalf of the Finance Parties).

The employees, directors or officers of any of the above.

Each as their respective rights and interests may appear.

PERIOD

From binding date confirmation of insurer up to 1005 days from 30 August 2020 – 04 May 2023, inclusive of Cold Testing, and inclusive of Hot Testing and Commissioning Period not exceeding 129 days until the date of issuance of the Provisional Handover Certificate , followed by Maintenance Period of 24 months.

Both dates inclusive all dates hereon in local standard time as at the location of the loss, damage or occurrence

Any Extension of the period of Insurance required by the Insured shall be allowed by the Insurers without any additional premium for the first 6 months only at terms to be agreed . For any extension period of insurance exceeding 6 months , the additional premium will be calculated on time prorata basis.

TERRITORY/JURISDICTION

This Insurance shall be governed by and construed in accordance with the law of Republic of Indonesia and each party agrees to submit to the exclusive jurisdiction of the courts of Republic Indonesia

CURRENCY OF PAYMENT

USD

LIMITS OF THE POLICY

USD10,000,000 any one occurrence and USD50,000,000 in the aggregate combined Single Limit for bodily injury and third party property damage and in the aggregate.

MAXIMUM EXCESS

In respect of each and every occurrence or series of occurrences consequent upon or attributable to one source or original cause, the Insured shall be responsible for the first:

- Third Party Bodily Injury: Nil.
- Third Party Property Damage including Vibration, Removal and Weakening of Support: USD10,000.

ADDITIONAL CLAUSES

1. Accidental Pollution Clause (USD2,500,000 per occurrence)
2. Cross Liability Clause
3. Non-Cancellation Clause
4. Waiver of Subrogation (against the Insured and their representatives, subsidiaries, affiliates, directors, officers and employees)
5. Payment on Account Clause twenty-five per cent. (25%) or more as mutually agreed
6. Lenders' Endorsement Clauses

PRINCIPAL EXCLUSIONS

1. Pollution except Sudden and Accidental

2. Liquidated Damages, Fines and Penalties
3. Professional Liability
4. Products Liability
5. Asbestos
6. Toxic Mould
7. Electromagnetic Field
8. War Risks
9. Terrorism
10. Any other exclusion or exceptions which are market standard for the type or size of risk insured under this type of policy (as confirmed by the LIA acting reasonably)

3. Workers' Compensation Insurance

Workers' Compensation insurance in compliance with the laws of Indonesia

PART 3

OPERATIONAL INSURANCES

1. “All Risks” of Physical Damage Insurance

SCOPE OF COVERAGE	<p>The plant owned by the Insured or which are in the care, custody and control of the Insured, including but not limited to buildings, structures, machinery, plant, equipment, property in transit which are required to carry out the operations.</p> <p>All Risks of physical loss of or damage to the Property Insured including (but not limited to) those resulting from fire, lightning, explosion, machinery/electrical breakdown and derangement, spontaneous combustion, volcanic eruption, storm, wind, tempest, flood, hurricane, water damage, sprinkler leakage, malicious damage, aircraft, impact, earthquake, tsunami, collapse and/or loss of contents of tanks and bursting and overflowing of tanks, apparatus or pipes or debris removal occurring during the period of insurance by any cause not otherwise excluded.</p> <p>All material property (or part thereof) fixed, mobile (which does not include registered vehicles) or in transit (within premises), of every kind and description not otherwise excluded, either owned, leased, hired or borrowed by any of the Insured (set out below) or held in the care, custody or trust of any of the Insured or for which any of the Insured are responsible or have assumed responsibility all forming part of or in connection with the Project.</p>
INSUREDS	<p>(a) PT Halmahera Persada Lygend as Owner/Principal and/or any subsidiary, and/or parent or sister company.</p> <p>(b) The Borrower and/or its respective Subcontractors and/or direct contractors in connection with the Project.</p> <p>The Security Agent (on behalf of the Finance Parties).</p> <p>The employees, directors or officers of any of the above.</p> <p>Each as their respective rights and interests may appear.</p>
PERIOD	<p>From the first Module Commercial Operation Date to occur and annually renewable thereafter until the Final Discharge Date.</p>
TERRITORY	<p>Indonesia</p>
CURRENCY OF PAYMENT	<p>USD</p>
SUM INSURED	<p>The full replacement value from time to time of the Plant or (at the option of the Borrower) on a maximum foreseeable basis as agreed, in each case, by the Agent (in consultation with the LTA) subject to an independent valuation of the insured property to be carried out every three (3) years or according to Lenders’ approval of the submission of appraisal plan at the cost and expense of the Borrower.</p>

MAXIMUM DEDUCTIBLES

Ten per cent. (10%) of loss or USD500,000, whichever is higher, in the case of each and every occurrence of loss or damage in respect of machinery breakdown.

Ten per cent. (10%) of loss or 0.5% of total sum insured, whichever is higher, each and every occurrence of loss or damage in respect of all other losses.

Twenty per cent. (20%) of loss or USD5,000,000 whichever is higher, in the case of each and every loss in respect of Earthquake, Volcanic Eruption and Tsunami.

PRINCIPAL EXTENSIONS

1. Automatic Reinstatement of Sum Insured
2. Capital Addition
3. Removal of Debris
4. Expediting costs
5. Fire Fighting Expenses
6. Inland Transit
7. Loss or damaged plans, documents and complete record extension
8. Machinery Breakdown
9. Minor Works
10. Non-Cancellation
11. Payment on Account
12. Public Authority
13. Professional fees
14. Subrogation Waiver
15. Temporary Removal
16. Seventy-two (72) Hours Clause
17. Lenders' Endorsement Clauses

Subject if necessary to sub-limits based on prevailing market norms.

PRINCIPAL EXCLUSIONS

Including:

1. War and civil war
2. Terrorism

3. Radioactive contamination
4. Cost of rectifying normal wear and tear and gradual deterioration but not subsequent damage from an ensuing cause that is not otherwise excluded
5. Damage due to construction defects, however this exclusion shall not apply to resulting damage to insured property caused by any peril not otherwise excluded arising from such defects
6. Any other exclusion or exceptions which are market standard for the type or size of risk insured under this type of policy (as confirmed by the LIA acting reasonably)

2. Business Interruption Insurance

SCOPE OF COVERAGE

All debt service (excluding principal repayments) and fixed costs sustained during an interruption caused by an event insured under the “All Risks” of Physical Damage Insurance policy or which would have been insured apart from the application of any deductible beginning on the date of the occurrence of the insured damage and continuing for the period during which the results of the Project are affected during the minimum indemnity period.

Increased cost of working – the additional expenditure necessarily and reasonably incurred for the purpose of avoiding or reducing delay which, without such expenditure would have taken place but not exceeding the reduction in anticipated revenues thereby avoided, less any sums saved during the indemnity period in respect of such costs, as may cease or be reduced in consequence of the delay.

INSURED

PT Halmahera Persada Lygend as Owner/Principal and/or any subsidiary, and/or parent or sister company;

The Security Agent (on behalf of the Finance Documents).

PERIOD

From the Project Commercial Operation Date and annually renewable thereafter until the Final Discharge Date.

CURRENCY OF PAYMENT

USD

SUM INSURED

A sum sufficient to cover the sums that are the subject of the indemnity, for the minimum indemnity period of twelve (12) months.

WAITING PERIOD

Not to exceed forty-five (45) days in respect of each and every loss.

PRINCIPAL EXTENSIONS

1. Suppliers’/Utilities’/Customers’ extension in respect of named suppliers/utilities/customers for FLEXA perils only
2. Denial of Access
3. Non- Cancellation
4. Payment on Account Clause

5. Waiver of Subrogation

6. Lenders' Endorsement Clause

Sub-limits, where applicable will apply in accordance with prevailing market practice.

PRINCIPAL EXCLUSIONS

1. War Risks

2. Terrorism

3. Nuclear Radiation Risks

4. Lack of Funds to Repair or Replace Loss or Damage

5. Any other exclusion or exceptions which are market standard for the type or size of risk insured under this type of policy (as confirmed by the LIA acting reasonably)

3. Third-Party Liability Insurance

POLICY COVERAGE

Legal liability for third party, accidental death or bodily injury, illness or disease or for damage to third party property arising through or in connection with the Insured's Business.

INSUREDS

The Borrower.

The Security Agent (on behalf of the Finance Parties).

The employees, directors or officers of any of the above

Each as their respective rights and interests may appear.

PERIOD

From the first Module Commercial Operation Date to occur and annually renewable thereafter until the Final Discharge Date.

TERRITORY/JURISDICTION

The Republic of Indonesia but on a worldwide basis (excluding the US and Canada) for temporary overseas visits in connection with the Project.

CURRENCY OF PAYMENT

USD

LIMITS OF THE POLICY

USD10,000,000 any one occurrence and USD50,000,000 in the aggregate combined Single Limit for bodily injury and third party property damage and in the aggregate.

MAXIMUM EXCESS

In respect of each and every occurrence or series of occurrences consequent upon or attributable to one source or original cause, the Insured shall be responsible for the first:

Third Party Bodily Injury: Nil

Third Party Property Damage including Vibration, Removal and Weakening of Support: USD25,000

ADDITIONAL CLAUSES

1. Cross Liability
2. Fire/Explosion/Smoke/Water Damage Legal Liability
3. Food & Drinks
4. Non-cancellation
5. Overseas Visits excluding North America
6. Waiver of Subrogation
7. Lenders' endorsement clauses

PRINCIPAL EXCLUSIONS

1. Fines, penalties and punitive indemnity
2. Professional indemnity
3. Consequential Loss
4. War Risk
5. Terrorism
6. Intentional acts or gross negligence of the insurance applicant, the Insured and their representatives
7. Any other exclusion or exceptions which are market standard for the type or size of risk insured under this type of policy (as confirmed by the LIA acting reasonably)

4. Workers' Compensation Insurance

Workers' Compensation insurance in compliance with the laws of Indonesia.

PART 4

ENDORSEMENTS AND ACKNOWLEDGEMENTS UNDER DIRECT INSURANCES

In addition to any other endorsements that may be required in any of the foregoing Parts of this Schedule 13, each direct insurance policy (except workers' compensation, automobile vehicle liability and waterborne craft liability) shall contain the following endorsements and acknowledgements:

1. In this endorsement, it is agreed that:

Agent means [●] and its successors or any replacement appointed pursuant to the provisions of the Facility Agreement.

Borrower means [●].

Fiducia Security of Receivables and Insurances means the fiducia security agreement over receivables and insurance claims granted by the Borrower in favour of the Security Agent governed under Indonesian law.

Finance Parties means the Agent, the Security Agent and the banks and other institutions who are co-Insured hereunder and are involved in providing funding, financing, financial accommodation and hedging facilities to the Borrower in relation to the Project. The phrase shall include any agent, assignee, transferee, successor or novated, replacement or additional creditor of or in relation to any of the foregoing.

General Security Assignment means the general security assignment over the assets of the Borrower, including the Insurances in favour of the Security Agent governed under English law.

Insurances means all contracts and policies of insurance of any kind which are from time to time taken out by the Borrower.

Insured Parties means, severally, the Insureds named in the insurance policy, including any additional co-Insured under the insurance policy and, for the avoidance of doubt, includes each of the Finance Parties.

Insurer means the relevant Insurer under this insurance contract.

Limits of Indemnity has the meaning given in the insurance contract.

Onshore Account Bank means [●] and its successors.

Security Agent means [●] and its successors.

Security Agreements means each of the Fiducia Security of Receivables, Insurances and Intellectual Property Rights and the General Security Assignment.

USD means the lawful currency of the United States of America.

2. Until such time as the Security Agent shall have notified the Insurer in writing to the contrary, all proceeds which become payable under the terms and conditions of the Insurances arising in connection with an Insured claim shall be applied as follows, subject to all applicable laws, regulations and court orders:
 - (a) for all such proceeds payable for or in respect of third party liability, employer's liability, automobile third party liability and workers' compensation insurance to the extent that the

same are not paid to or on behalf of the Borrower in accordance with the terms of the Insurances: to be paid directly to the third party to whom that liability is owed; and

- (b) to the extent that paragraph (a) above does not apply, or where payments have not been made to the third party as contemplated therein, all amounts payable by the Insurers:
 - (i) in respect of the Insurances other than delay in start-up insurance or business interruption insurance, to be paid to the account designated "Insurance and Compensation Account" maintained in the name of the Borrower with the Onshore Account Bank, Account Number [●]; and
 - (ii) in respect of any delay in start-up insurance, or business interruption insurance, to be paid to the account designated "Revenue Account" maintained in the name of the Borrower with the Onshore Account Bank, Account Number [●],

provided that, after such notification has been received by the Insurer from the Security Agent, all such proceeds shall be paid to the order of the Security Agent until the Insurer is notified by the Security Agent to the contrary. For the avoidance of doubt, this paragraph 2 shall not apply to any losses to the extent that payments for such losses have already been made by the Insurer to the Insured Parties hereon.

A payment made by the Insurer in accordance with this paragraph 2 shall discharge the liability of the Insurer to the Insured Parties to the extent of that payment.

The Insurer agrees that this paragraph 2 shall not be altered, modified or cancelled except in the manner provided in this insurance contract, while this insurance contract is in force.

- 3. The Insurer:
 - (a) acknowledges that it has been notified that the Borrower has assigned by way of first ranking security pursuant to each of the Security Documents to the Finance Parties all of its right, title and interest in this insurance and in the subject matter of the insurance; and
 - (b) confirms that it has not been notified of any other assignment of or security interest in the Borrower's interest in this insurance.
- 4. The Insurer acknowledges that the Finance Parties are each additional insureds under the insurance policy.
- 5. The sums Insured and risks covered under the Insurances may not be reduced in any way without the prior written consent of the Agent.
- 6. Other than specifically provided elsewhere, the Insurer agrees that the insurance cover provided by this insurance policy shall be primary to and not excess to any other insurance policy (except in respect of layers or contributing with any other insurance policy maintained by the Insured Parties). The Insurer waives all rights of contribution against any other insurance policy effected by the Finance Parties.
- 7. The Insurer hereby agrees that claims are payable, subject to the other requirements stated herein, despite:
 - (a) the negligence of the Borrower;

- (b) any enforcement or related proceedings (other than proceedings relating to insurance) in respect of the Borrower or the Project; or
 - (c) any change of legal or beneficial ownership in the assets that are Insured or any revenues from such assets for any period.
8. The Insurer hereby waives all rights of subrogation which it may have or may acquire against any of the Borrower or the Finance Parties or their affiliates, consultants, officers, directors and employees, and any other party to the extent required by contract.
 9. The Insurer acknowledges that the Finance Parties are not liable for payment of any premium payable in respect of this insurance. The Insurer shall not be entitled to offset any sums payable to the Finance Parties or the Borrower against premium or other moneys owing to the Insurer.
 10. It is noted and agreed that the Insured Parties hereunder comprise more than one party, each operating as a separate and distinct entity, and that cover hereunder shall apply in the same manner and to the same extent as if individual policies had been issued to each such Insured Party; provided the total liability of the Insurer to all of the Insured Parties collectively shall not exceed the sums Insured and the Limits of Indemnity, including any inner limits set by memorandum or endorsement, stated in the insurance contract.
 11. It is understood and agreed that any payment or payments by the Insurer to any one or more such Insured Parties shall reduce to the extent of that payment or payments the Insurer's liability to all such parties arising from any one occurrence giving rise to a claim under this insurance contract and (if applicable) in the aggregate.
 12. It is further understood that the Insured Parties (other than under the Finance Documents) will at all times preserve and enforce the various contractual agreements entered into by the Insured Parties and the contractual remedies of such parties in the event of any loss or damage.
 13. It is further understood and agreed that the Insurer shall be entitled to avoid liability under the insurance contract, or (as may be appropriate) claim damages from, any of the Insured Parties in circumstances of fraud, fraudulent misrepresentation, material non-disclosure or wilful breach of any warranty or condition of this policy committed by that Insured Party (each referred to in this condition as a **Vitiating Act**).
 14. It is however agreed that a Vitiating Act committed by one Insured Party shall not affect the liability of the Insurer to any other Insured Party who has a severable insurable interest and who has not committed a Vitiating Act.
 15. The Insurer hereby agrees to waive all rights of subrogation which it may have or acquire against any Insured Party or any of their affiliates, consultants, officers, directors or employees in respect of damage or claims Insured hereunder except where the rights of subrogation or recourse are acquired in consequence or otherwise following a Vitiating Act, in which circumstances the Insurer may enforce such rights notwithstanding the continuing or former status of the vitiating party as an Insured Party; but provided always that the Insurer will not exercise any such rights of subrogation howsoever arising against or in competition with or to the prejudice of the rights of the Finance Parties in respect of their interest in the policy or in moneys secured thereon.
 16. The Insurer hereby agrees that, until such time as the Agent, for and on behalf of the Finance Parties, shall have notified the Insurer in writing to the contrary, it shall:
 - (a) advise the Agent of any proposed cancellation or notice of cancellation, reduction in coverage, material alteration, termination or expiry of any insurance coverage or policy at least thirty

(30) days before such cancellation, notice of cancellation, material alteration, termination or expiry takes effect (except with regard to cancellation for strikes or war risks, in which case the notice period shall be seven (7) days (or forty-eight (48) hours with regard to the United States of America));

- (b) promptly advise the Agent of any default by the Borrower in the payment of any premium, or the failure by the Borrower to renew any existing insurance coverage or policy, and give the Agent not less than thirty (30) days' notice prior to cancelling such insurance coverage or policy to allow the Agent to pay any outstanding or defaulted premium or to renew any existing insurance coverage or policy; and
- (c) promptly advise the Agent of:
 - (i) any act or omission or any event of which any Insurer has knowledge and which such Insurer considers might invalidate or render unenforceable in whole or in part any related insurance or insurance coverage;
 - (ii) any restriction or reduction in the scope or amount of cover (including any increase in deductible or any addition to the exclusions); and
 - (iii) any claim exceeding USD[5,000,000] or its equivalent in any other currency.

17. All notices or other communications under or in connection with this policy will be given in writing or by e-mail or fax. Any such notice will be deemed to be given as follows:

- (a) if in writing, when delivered;
- (b) if by e-mail, when received in legible form by the recipient; and
- (c) if by fax, when transmitted but only if, immediately after the transmission, the sender's fax machine records the correct answerback.

The address, e-mail and fax number of the Agent for all notices under or in connection with this policy are those notified from time to time by the Agent for this purpose to the Borrower's broker at the relevant time. The initial address, e-mail and fax of the Agent are as follows:

The Agent: [●]
Attn: [●]
Telephone: [●]
Facsimile: [●]
E-mail: [●]

18. The Finance Parties shall have no duty of disclosure to the Insurer.

19. This endorsement overrides any conflicting provision in this insurance policy.

PART 5

ENDORSEMENTS AND ACKNOWLEDGEMENTS UNDER REINSURANCES

In addition to any other endorsements that may be required in any of the foregoing Parts of this Schedule 13, each reinsurance contract shall contain the following endorsements and acknowledgements:

1. In this endorsement, it is agreed that:

Agent means [●] and its successors or any replacement appointed pursuant to the provisions of the Facility Agreement.

Borrower means [●].

Fiducia Security of Receivables, Insurances and Intellectual Property Rights means the fiducia security agreement over receivables, insurance claims and all intellectual property rights, including copyrights, design registrations and know-how necessary for the implementation of the Project which is owned by the Borrower granted by the Borrower in favour of the Security Agent governed under Indonesian law.

Facility Agreement means the term and revolving facility agreement entered into on [●] between the Borrower and the Finance Parties.

IDR means the lawful currency of the Republic of Indonesia.

Insured Parties means, severally, the Insurer and the other insureds named in the original insurance policy, including any additional co-insured under the original insurance policy and, for the avoidance of doubt, includes each of the Finance Parties.

Insurer means the relevant insurer or insurers reinsured under this reinsurance contract.

[Limits of Indemnity] has the meaning given in the reinsurance contract.

Offshore Assignment of Reinsurances means the English law security assignment over reinsurances held by the Borrower, including the Reinsurances, granted in favour of the Security Agent.

Onshore Account Bank means [●] and its successors.

Reinsurances means all contracts and policies of facultative reinsurance of any kind which are from time to time taken out by the Insurer on behalf of the Borrower.

Reinsurer means the reinsurers with whom the Reinsurances are placed from time to time in accordance with the Facility Agreement.

Security Agent means [●] and its successors.

Security Document means the Fiducia Security of Receivables, Insurances and Intellectual Property Rights and the Offshore Assignment of Reinsurances.

USD means the lawful currency of the United States of America.

2. Until such time as the Security Agent shall have notified the Reinsurer in writing to the contrary, all proceeds which become payable under the terms and conditions of the Reinsurances as a result of liability of the Insured Parties arising in connection with an insured claim shall be applied as follows subject to all applicable laws, regulations and court orders:

- (a) for all such proceeds payable for or in respect of third party liability, employer's liability, automobile third party liability and workers' compensation insurance to the extent that the same are not paid to or on behalf of the Borrower in accordance with the terms of the Reinsurance, to be paid directly to the third party to whom that liability is owed; and
- (b) to the extent that paragraph (a) above does not apply, or where payments have not been made to the third party as contemplated therein, all amounts payable by the Reinsurer:
 - (i) in respect of the Reinsurances other than delay in start-up reinsurance or business interruption reinsurance, to be paid to the account designated "Insurance and Compensation Account" maintained in the name of the Borrower with the Onshore Account Bank, Account Number [●]; and
 - (ii) in respect of any delay in start-up reinsurance, or business interruption reinsurance, to be paid to the account designated "Revenue Account" maintained in the name of the Borrower with the Onshore Account Bank, Account Number [●],

provided that after such notification has been received by the Reinsurer from the Security Agent, all such proceeds shall be paid to the order of the Security Agent until the Reinsurer is notified by the Security Agent to the contrary. For the avoidance of doubt, this paragraph 2 shall not apply to any losses to the extent that payments for such losses have already been made by the Reinsurer to the Insurer hereon.

A payment made by the Reinsurer in accordance with this paragraph 2 shall discharge the liability of the Reinsurer to the Insurer and the Insured Parties to the extent of that payment.

The Reinsurer agrees that this paragraph 2 shall not be altered, modified or cancelled except in the manner provided in this reinsurance contract, while this reinsurance contract is in force.

3. The Reinsurer:

- (a) acknowledges that it has been notified that the Insurer has assigned by way of first ranking security to the Finance Parties all of its right, title and interest in this reinsurance and in the subject matter of the reinsurance;
- (b) acknowledges that it has been notified that the Borrower has assigned by way of first ranking security pursuant to each of the Security Documents to the Finance Parties all of its right, title and interest in the underlying direct insurance that is the subject of this reinsurance contract and in the subject matter of the direct insurance that is the subject of this reinsurance contract; and
- (c) confirms that it has not been notified of any other assignment of or security interest in the Insurer's interest in this reinsurance or the Borrower's interest in the underlying direct insurance.

4. The Reinsurer acknowledges that the Finance Parties are each additional insureds under the underlying direct insurance policy and their interests are endorsed as such under the underlying direct insurance policy and on this reinsurance contract.

5. The sums insured and risks covered under the Insurances may not be reduced in any way without the prior written consent of the Agent.

6. Other than specifically provided elsewhere, the Reinsurer agrees that the insurance cover provided by this reinsurance policy shall be primary to and not excess to any other reinsurance policy (except in

respect of excess layers maintained by the Insured Parties) or contributing with other insured maintained by the Insured Parties. The Reinsurer waives all rights of contribution against any other reinsurance policy effected by the Finance Parties.

7. The Reinsurer hereby agrees that claims are payable, subject to the other requirements stated herein, despite:
 - (a) the negligence of the Borrower;
 - (b) any enforcement or related proceedings (other than proceedings relating to insurance) in respect of the Borrower or the Project; or
 - (c) any change of legal or beneficial ownership in the assets that are insured or any revenues from such assets for any period.
8. The Reinsurer hereby waives all rights of subrogation which it may have or may acquire against any of the Borrower or the Finance Parties or their affiliates, consultants, officers, directors and employees, and any other party to the extent required by contract.
9. The Reinsurer acknowledges that the Finance Parties are not liable for payment of any premium payable in respect of this reinsurance. The Reinsurer shall not be entitled to offset any sums payable to the Finance Parties or the Borrower against premium or other moneys owing to the Reinsurer (other than any premium outstanding from the Insured in respect of the Insurance Policy).
10. It is noted and agreed that the Insured Parties hereunder comprise more than one party each operating as a separate and distinct entity, and that cover hereunder shall apply in the same manner and to the same extent as if individual policies had been issued to each such Insured Party; provided the total liability of the Reinsurer to all of the Insured Parties collectively shall not exceed the sums insured and the [Limits of Indemnity], including any inner limits set by memorandum or endorsement, stated in the reinsurance contract.
11. It is understood and agreed that any payment or payments by the Reinsurer to any one or more such Insured Parties shall reduce to the extent of that payment or payments the Reinsurer's liability to all such parties arising from any one occurrence giving rise to a claim under this reinsurance contract and (if applicable) in the aggregate.
12. It is further understood that the Insured Parties (other than under the Finance Documents) will at all times preserve and enforce the various contractual agreements entered into by the Insured Parties and the contractual remedies of such parties in the event of any loss or damage.
13. It is further understood and agreed that the Reinsurer shall be entitled to avoid liability under the reinsurance contract, or (as may be appropriate) claim damages from, any of the Insured Parties in circumstances of fraud, fraudulent misrepresentation, material non-disclosure or wilful breach of any warranty or condition of this policy committed by that Insured Party (each referred to in this condition as a **Vitiating Act**).
14. It is however agreed that a Vitiating Act committed by one Insured Party shall not affect the liability of the Insurer to any other Insured Party who has a severable insurable interest and who has not committed a Vitiating Act.
15. The Reinsurer hereby agrees to waive all rights of subrogation which it may have or acquire against any Insured Party or any of their affiliates, consultants, officers, directors or employees in respect of damage or claims insured hereunder except where the rights of subrogation or recourse are acquired in consequence or otherwise following a Vitiating Act, in which circumstances the Reinsurer may

enforce such rights notwithstanding the continuing or former status of the vitiating party as an Insured Party; but provided always that the Reinsurer will not exercise any such rights of subrogation howsoever arising against or in competition with or to the prejudice of the rights of the Finance Parties in respect of their interest in the policy or in moneys secured thereon.

16. The Reinsurer hereby agrees that, until such time as the Agent, for and on behalf of the Finance Parties, shall have notified the Insurer in writing to the contrary, it shall:
- (a) advise the Agent of any proposed cancellation or notice of cancellation, reduction in coverage, material alteration, termination or expiry of any insurance coverage or policy at least thirty (30) days before such cancellation, notice of cancellation, material alteration, termination or expiry takes effect (except with regard to cancellation for strikes or war risks, in which case the notice period shall be seven (7) days (or forty-eight (48) hours with regard to the United States of America));
 - (b) promptly advise the Agent of any default by the Borrower in the payment of any premium, or the failure by the Borrower to renew any existing insurance coverage or policy, and give the Agent not less than thirty (30) days' notice prior to cancelling such insurance coverage or policy to allow the Agent to pay any outstanding or defaulted premium or to renew any existing insurance coverage or policy; and
 - (c) promptly advise the Agent of:
 - (i) any act or omission or any event of which any Reinsurer has knowledge and which such Reinsurer considers might invalidate or render unenforceable in whole or in part any related insurance or reinsurance coverage;
 - (ii) any restriction or reduction in the scope or amount of cover (including any increase in deductible or any addition to the exclusions); and
 - (iii) any claim exceeding USD5,000,000 or its equivalent in any other currency.

17. All notices or other communications under or in connection with this policy will be given in writing or by e-mail or fax. Any such notice will be deemed to be given as follows:
- (a) if in writing, when delivered;
 - (b) if by e-mail, when received in legible form by the recipient; and
 - (c) if by fax, when transmitted but only if, immediately after the transmission, the sender's fax machine records the correct answerback.

The address, e-mail and fax number of the Agent for all notices under or in connection with this policy are those notified from time to time by the Agent for this purpose to the Borrower's broker at the relevant time. The initial address, e-mail and fax of the Agent are as follows:

The Agent: [●]
Attn: [●]
Telephone: [●]
Facsimile: [●]
E-mail: [●]

18. The Finance Parties shall have no duty of disclosure to the Reinsurer.
19. This endorsement overrides any conflicting provision in this reinsurance policy.

PART 6

FORM OF BROKER'S LETTER OF UNDERTAKING

To: [●] (the **Agent**)
as agent for the Finance Parties

[Date]

Dear Sirs,

The construction, ownership, operation and maintenance of a [*insert description of the Project*]

1. We confirm that we are insurance and reinsurance brokers to [●] (the **Borrower**) in respect of the Insurances/Reinsurances (as defined below), arranged by us in relation to this Project. We have been requested by the Borrower, to provide you certain confirmations relating to the Insurances.
2. Accordingly, in our reasonable opinion as insurance brokers, we hereby confirm to you in accordance with the terms of this letter:
 - (a) that the insurances and/or, to the extent placed by us, the reinsurances and/or retrocessions summarised in Appendix 1 attached to this letter (the **Insurances/Reinsurances**) have been arranged by us and will be, on or before the first Utilisation Date, in full force and effect in respect of the risks and liabilities they cover, as evidenced by the attached cover notes/policies in Appendix 2 attached to this letter;
 - (b) all premiums due to date in respect of the Insurances/Reinsurances are paid. We do not, however, make any representations regarding the reputation or financial position of any captive insurer with whom the Insurances/Reinsurances are placed, nor regarding any insurer's or reinsurer's current or future solvency or ability to pay claims;
 - (c) that a notice of assignment of insurances or reinsurances as relevant (Notice of Assignment), in substantially the form attached to this letter as Appendix 3 has been served on each Insurer or Reinsurer (as relevant) in respect of each of the Insurances/Reinsurances referenced in Parts [●] to [●] of Schedule 13 (Project Insurances) to the Facility Agreement dated [●] among the Borrower, the Agent, the other agents party thereto and the financial institutions named therein (the **Facility Agreement**). Further, we confirm that the endorsements to the Insurance policies attached to this letter as Appendix 4 (the **Endorsements**) have also been made in respect of the Insurance policies;
 - (d) we have arranged the Insurances/Reinsurances on the basis of information and instructions given by the Borrower. We have not made any particular or special enquiries regarding the Insurances/Reinsurances beyond those that we normally make in the ordinary course of arranging such insurances on behalf of our insurance broking clients. We do not represent that the Insurances/Reinsurances are suitable or sufficient to meet the needs of the Finance Parties, who must take their own advice as they consider necessary to protect their own position; and
 - (e) the confirmations set out in this paragraph 2 are given by reference to our state of knowledge at the date hereof.

3. We hereby confirm:

- (a) as soon as reasonably possible after being requested to do so by you, to notify all insurers and reinsurers of the Insurances/Reinsurances, of a Notice of Assignment of the Insurances/Reinsurances and to use our reasonable endeavours to procure that each insurer and reinsurer acknowledges such Notice of Assignment as soon as possible and in any event within seven (7) working days of us sending it to them; and
- (b) as soon as reasonably possible after being requested to do so by you, to use our best endeavours to procure that each insurer and reinsurer of the Insurances/Reinsurances, referenced in Parts [●] to [●] of Schedule 13 (Project Insurances) to the Facility Agreement, endorses the relevant Insurance policy/Reinsurance contract with the Endorsements,

in each case, except as already provided under paragraph 2(c) above.

4. We hereby further agree to notify you as soon as reasonably possible:

- (a) being at least thirty (30) days prior to the natural expiry of any Insurance/Reinsurance, with details of any information reasonably available to us regarding renewal arrangements, including premiums, insurers/reinsurers, and terms and conditions of renewal cover or alternatively, if this is the case, to notify you of the fact that no such renewal arrangements have been put in place;
- (b) when we are informed by an insurer or reinsurer of any changes in the terms of any Insurance/Reinsurance which we reasonably believe, if effected, would result in any material reduction in limits or alteration in coverage (including those resulting from extensions) or material increase in deductibles, exclusions or exceptions;
- (c) if any premium due has not been paid when due, or if any insurer or reinsurer gives notice of cancellation, non-renewal or avoidance of any Insurance/Reinsurance;
- (d) of any act or omission or of any event of which we have been notified by the Borrower and which might reasonably be foreseen as invalidating any Insurance/Reinsurance or rendering it void, avoidable or unenforceable in whole or in part;
- (e) of any incident or event of which we have been notified of a claim amount exceeding USD5,000,000 or its equivalent in any other currency by the Borrower; and
- (f) after giving or receiving notice of termination of our appointment as insurance broker in relation to the Insurances/Reinsurances.

5. The above undertakings are subject to our continuing appointment as insurance, reinsurance and retrocession broker to the Borrower in relation to the Insurances/Reinsurances and following termination of such appointment we shall be immediately released from all future obligations set out in this letter.

6. For the avoidance of doubt, all undertakings and other confirmations given in this letter relate solely to the Insurances/Reinsurances. They do not apply to any other insurances or reinsurances and nothing in this letter should be taken as providing any undertakings or confirmations in relation to any insurance or reinsurance that ought to have been placed or may at some future date be placed by other brokers.

The above undertakings are given subject to our lien, if any, on the Insurances/Reinsurances for premiums due under the Insurances/Reinsurances and subject to our right of cancellation (if any) following default in excess

of thirty (30) days in payment of such premiums but subject to our continuing to be the brokers to the Borrower. We agree to notify you as soon as practicable if any such premiums are not paid to us by the due date and use best endeavours to give you a reasonable opportunity of paying such outstanding premiums before notification of cancellation.

This letter has been prepared exclusively for the use of the addressee for the specific purpose of the lending by the Finance Parties. No responsibility is accepted to any third party for the whole or any part of its contents and in the event that it is disclosed to a third party any and all liability howsoever arising to such third party is hereby expressly excluded.

It is understood and agreed that nothing in this letter shall override our obligations at law which cannot be waived or overridden by agreement to place the interests of our client the Borrower before all other considerations. Nothing in this letter shall require us to act in breach of our regulatory duties or obligations from time to time.

This letter is given by us on the instructions of the Borrower and with the Borrower's full knowledge and consent as to its terms.

Please countersign and return a copy of this letter to indicate that you accept its terms, failing which you should not reply upon the contents of this letter and we disclaim any duty of care to you.

By signing you also warrant that you have authority to and do so bind yourself and any third parties for whom you are agent to the terms of this letter.

Save as provided in this letter, it is to be understood by the Security Agent and the Finance Parties that they may not rely on any advice which we have given to the Borrower, and they must take such steps and advice of their own as they consider necessary in order to protect their own position.

Except to the extent that liability may not be so limited or excluded under applicable laws and save in respect of fraud, death or personal injury, our aggregate liability we shall not be liable to the Finance Parties and/or the Borrower under or in connection with this letter, howsoever caused and whether arising under tort, contract or otherwise, shall in any and all events be limited to the sum of USD500,000.

The capitalised terms used herein but not otherwise defined shall have the meanings ascribed to them in the Facility Agreement.

[This letter shall be governed by and shall be construed in accordance with English law and any dispute as to its terms shall be submitted to the exclusive jurisdiction of the courts of England and Wales.]

Yours faithfully,

For and on behalf of
[Borrower in the case of an Insurance Broker Letter of Undertaking]

[Direct insurer in case of Reinsurance Broker Letter of Undertaking]

[Reinsurer in case of Retrocession Broker Letter of Undertaking]

Acknowledged and agreed by:

For and on behalf of the Borrower

- Appendix 1 List of insurances/reinsurances
- Appendix 2 Cover notes/policies
- Appendix 3 Notice of assignment
- Appendix 4 Finance Parties' Endorsements

SCHEDULE 14

BANKING CASE TIMETABLE

Clause 21.4(a) (Preparatory steps)	Thirty (30) Business Days prior to each Scheduled Review Date or each Interim Review Date.
Clause 21.4(b) (Preparatory steps)	Twenty (20) Business Days prior to each Scheduled Review Date or each Interim Review Date.
Clause 21.5(b) (Draft Banking Case)	Fifteen (15) Business Days prior to each Scheduled Review Date.
Clause 21.8(b) (Lenders do not approve)	To be agreed between the Borrower and the Majority Lenders prior to the date falling five (5) Business Days after each Schedule Review Date.

SCHEDULE 15

FORM OF RATIO CALCULATION STATEMENT

To: [] as Agent and [] as Technical Bank

From: [*Borrower*]

Dated:

Dear Sirs

PT HALMAHERA PERSADA LYGEND – US\$[●] Facility Agreement dated 22 February 2021 as amended and restated by an amendment and restatement deed dated [●] 2023 (the Facility Agreement)

1. We refer to the Facility Agreement. This is a Ratio Calculation Statement. Terms used in the Facility Agreement shall have the same meaning in this Ratio Calculation Statement.
2. We confirm that:
 - (a) the Historic DSCR for the Historic Period ending on the Calculation Date is [●];
 - (b) the Projected DSCR for the Projected Period starting from the day following that Calculation Date is [●];
 - (c) the Minimum DSCR is: [●]; and
 - (d) the LLCR is [●].

Signed:
Director
of
PT HALMAHERA PERSADA LYGEND

.....
Director
of
PT HALMAHERA PERSADA LYGEND

SCHEDULE 16

FORM OF INCREASE CONFIRMATION

To: [●] agent of the other Finance Parties (the **Agent**)

[●] for itself and each of the other parties to the Facility Agreement referred to below (the **Security Agent**)

PT HALMAHERA PERSADA LYGEND (the **Borrower**), a limited liability company established under the laws of Indonesia, domiciled at Gedung Panin Bank 5th Floor, Jl. Jenderal Sudirman, Senayan, Tanah Abang, Kelurahan Gelora, Kecamatan Tanah Abang Kota, Central Jakarta, Indonesia as borrower;

From: [the *Increase Lender*] (the **Increase Lender**)

Dated: [●]

PT HALMAHERA PERSADA LYGEND – USD[●] Facility Agreement (with an option to increase to up to USD[●] Facility Agreement)
dated [●] (as amended and/or amended and restated from time to time) (the Facility Agreement)

1. We refer to the Facility Agreement. This agreement (the **Agreement**) shall take effect as an Increase Confirmation for the purpose of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to Clause 2.2 (Increase) of the Facility Agreement.
3. The Increase Lender agrees to assume and will assume all of the obligations corresponding to the Commitment specified in the Schedule (the **Relevant Commitment**) as if it were an Original Lender under the Facility Agreement.
4. The proposed date on which the increase, in relation to the Increase Lender and the Relevant Commitment is to take effect (the **Increase Date**), is [].
5. On the Increase Date, the Increase Lender becomes party to the relevant Finance Documents as a Lender.
6. The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 38 (Notices) are set out in the Schedule.
7. The Increase Lender expressly acknowledges the limitations on the Lenders' obligations referred to Clause 2.2(f) (Increase).
8. This 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 Agreement.
9. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
10. This Agreement has been entered into on the date stated at the beginning of this Agreement.

Note: The execution of this Increase Confirmation may not be sufficient for the Increase Lender to obtain the benefit of the Transaction Security in all jurisdictions. It is the responsibility of the Increase Lender to ascertain whether any other documents or other formalities are required to obtain the benefit of the Transaction Security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

THE SCHEDULE

Relevant Commitment/rights and obligations to be assumed by the Increase Lender

[insert relevant details for Facility A and Facility B]

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

[Increase Lender]

By:

This Agreement is accepted as an Increase Confirmation for the purposes of the Facility Agreement by the Agent and the Security Agent, and the Increase Date is confirmed as [].

[Agent]

By:

[Security Agent]

By:

SCHEDULE 17

MATERIAL AUTHORISATIONS

PART 1

MATERIAL AUTHORISATIONS TO BE DELIVERED AS CONDITIONS PRECEDENT

[Satisfied by Financial Close. Part 1, Schedule 16 has been retained for information purposes only.]

	Authorisation	Issuing Authority	Timeframe
1.	Mining Licence Specifically for Refinery and Processing or <i>Izin Usaha Pertambangan Khusus Pengolahan dan Pemurnian</i>	Investment Coordination Board	By Financial Close
2.	Industrial Licence or <i>Izin Usaha Industri</i>	Online Single Submission System	By Financial Close
3.	Business Registration Number or <i>Nomor Induk Berusaha</i>	Online Single Submission System	By Financial Close
4.	IPPKH	Ministry of Forestry	By Financial Close
5.	Environmental Permit or <i>Izin Lingkungan</i> and AMDAL	North Maluku Governor	By Financial Close
6.	Special Terminal Licence or <i>Izin Pengoperasian Terminal Khusus</i>	Directorate General of Sea Transportation	By Financial Close
7.	Licence to Build or <i>Izin Mendirikan Bangunan</i> for filter press and pumping station	South Halmahera Regent	By Financial Close
8.	Evidence of the credit rating of minimum BB- of HJR as required by Bank Indonesia Regulation No. 16/21/PBI/2014 on the Prudential Principle in Managing Offshore Loans for Non-Bank Companies as further amended by Bank Indonesia Regulation No. 18/4/PBI/2016, dated 21 April 2016 is fulfilled.		By Financial Close
9.	Liquid Waste to Water Surface Disposal Licence at the Nickel Ore Mining Activities or <i>Izin Pembuangan Limbah Cair ke Air Permukaan Pada Kegiatan Penambangan Bijih Nikel</i>	South Halmahera Regent	By Financial Close

10.	Storage of Hazardous and Toxic Waste Licence or Izin Penyimpanan Limbah Bahan Berbahaya dan Beracun (B3)	South Halmahera Regent	By Financial Close
11.	The Enterprise Borrower Foreign Debt Filing Registration Certificate (企业借用外债备案登记证明) in respect of this Agreement or other evidence that proves the completion of the National Development and Reform Commission 2044 filing.	National Development and Reform Commission of the PRC	By Financial Close
12.	Evidence that the Commitments in the aggregate amount of USD625,000,000 has been approved by the MEMR in compliance with MEMR Regulation No. 11 of 2018 on Procedures on Granting of Area, Licences and Reporting in Mineral and Coal Sectors as lastly amended by MEMR Regulation No. 51 of 2018 on Second Amendment of MEMR Regulation No. 11 of 2018.	MEMR	Prior to the utilisation of USD625,000,000

PART 2

MATERIAL AUTHORISATIONS TO BE DELIVERED AS CONDITIONS SUBSEQUENT

	Authorisation	Issuing Authority	Timeframe
1.	Operating Licence or <i>Izin Operasi</i>	North Maluku Governor	No later than the Project Commercial Operation Date
2.	The Neibaowaidai Registration Sheet (内保外贷登记表) or other evidence of completion of the SAFE filing in respect of the Completion Guarantee (Lygend).	SAFE of the PRC	Six (6) Months after Financial Close
3.	Permit for wastewater discharge to the sea	Ministry of Environment	No later than the Project Commercial Operation Date
4.	Hazardous waste utilization permit	Ministry of Environment	No later than the Project Commercial Operation Date
5.	Commissioning approval from MEMR	MEMR	No later than the Project Commercial Operation Date
6.	Extension of Special Terminal Licence or <i>Izin Pengoperasian Terminal Khusus</i>	Directorate Generate of Sea Transportation	No later than 16 April 2027

SCHEDULE 18

MATERIAL EPC CONTRACTS

Contract Number	Contract Name	Vendor
HPL20181227-292	Acid Plant Purchasing 酸厂采购	Jiangsu Qingfeng 江苏庆峰
HPL20190308-713	Material Supply Contract (Section V) 物资供货合同 (五标段)	MCC Overseas Ltd 中冶海外工程有限公司
HPL20190308-713-ADD-1	Material Supply Contract (Section V) 物资供货合同 (五标段)	MCC Overseas Ltd 中冶海外工程有限公司
HPL20190220-484	Construction Contract 建设工程施工合同	Metallurgical Corporation of China Ltd
HPL20190308-714	Construction Contract (Section V) 物资供货合同 (五标段)	Metallurgical Corporation of China Ltd
HPL20190308-714-ADD-1	Construction Contract (Section V) 物资供货合同 (五标段)	Metallurgical Corporation of China Ltd
HPL20181114-088, HPL20181114-088-ADD01	Autoclave 高压釜采购	Ningbo Yiwei Mining Co., Ltd 宁波毅威矿业有限公司
HPL20181205-206	Power Plant Purchasing 电厂采购	Ningbo Yiwei Mining Co., Ltd 宁波毅威矿业有限公司
HPL20190318-760	Construction Engineering of Terminal Khusus PT. Tri megah Bangun Persada TBP 特殊用途港口建设工程	PT. China Communications Construction Engineering Indonesia
HPL20181227-293	Acid Plant Civil Work 酸厂土建	PT. Indo Fudong Konstruksi 富东
HPL20181227-294	Acid Plant Installation 酸厂安装	PT. Indo Fudong Konstruksi 富东
HPL20181115-108	2x30MV High Temperature High Pressure Fluidized Bed Power Plant Project 2X30MW 高温高压循环流化床发电新 建工程土建工程施工合同	PT. Jiangxi Thermal Power Construction 江西省力建泽 (印尼) 有限公司
HPL20190220-483	Material Supply Contract (Section I & III) 物资供货合同 (一, 三标段)	Shanghai Baoye Metallurgical Engineering Co., Ltd 上海宝冶冶金工程有限公司
HPL20190220-482	Project Construction Contract 建设工程施工合同	The Sixth Chemical Engineering Construction
HPL20190220-481	Material Supply Contract (Section II) 物资供货合同 (二标段)	The Sixth Construction Company Ltd of China National Chemical Engineering Corporation 中国化学工程第六建设有限公司
HPL20200323-176	Nickel Sulfate Plant of OBI Nickel & Cobalt Project - Material Supply (Section I)	China National Chemical Engineering Sixth Construction Co., Ltd 中国化学工程第六建设有限公司

HPL20200609-329	Nickel Sulfate Plant of OBI Nickel & Cobalt Project - Material Supply (Section II)	China National Chemical Engineering Sixth Construction Co., Ltd 中国化学工程第六建设有限公司
HPL20181227-292-A1	SULFURIC ACID PLANT 印尼北马鲁古省奥比岛 2X 500Kt 硫磺制酸项目	JIANGSU QINGFENG ENGINEERING GROUP CO., LTD 江苏庆峰工程集团有限公司
HPL20200331-204	Nickel Sulfate Plant of OBI Nickel & Cobalt Project - Construction (Section I)	PT. The Sixth Chemical Engineering Construction
HPL20200609-330	Nickel Sulfate Plant of OBI Nickel & Cobalt Project - Construction (Section II)	PT. The Sixth Chemical Engineering Construction
HPL20190220-481ADD2	Material Supply Contract (Section II) 物资供货合同 (二标段)	The Sixth Construction Company Ltd of China National Chemical Engineering Corporation 中国化学工程第六建设有限公司

SCHEDULE 19

REFERENCE RATE TERMS

Cost of funds as a fallback

Cost of funds will apply as a fallback.

Definitions

Additional Business Days

An RFR Banking Day.

Break Costs:

The amount (if any) equal to the loss, liability or cost which a Lender determines will be or has been suffered by it as a result of all or any part of a Loan or unpaid sum being paid by the Borrower on a day other than on the last day of an Interest Period for that Loan or unpaid sum.

Business Day Conventions (definition of “Month” and Clause 12.3 (Cost of funds)):

- (a) If any period is expressed to accrue by reference to a Month or any number of Months then, in respect of the last Month of that period:
 - (i) subject to paragraph (iii) 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;
 - (ii) 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
 - (iii) 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.
- (b) 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).

Central Bank Rate:

- (a) The short-term interest rate target set by the US Federal Open Market Committee as published by the Federal Reserve Bank of New York from time to time; or

- (b) if that target is not a single figure, the arithmetic mean of:
 - (i) the upper bound of the short-term interest rate target range set by the US Federal Open Market Committee and published by the Federal Reserve Bank of New York; and
 - (ii) the lower bound of that target range.

Or, in each case, any such successor rate to, or replacement rate for that rate as designated by the Agent from time to time.

Central Bank Rate Adjustment:

In relation to the Central Bank Rate prevailing at close of business on any RFR Banking Day, the 20 per cent. trimmed arithmetic mean (calculated by the Agent) of the Central Bank Rate Spreads for the five most immediately preceding RFR Banking Days for which SOFR is available.

For this purpose, **Central Bank Rate Spread** means, in relation to any RFR Banking Day, the difference (expressed as a percentage rate per annum) calculated by the Agent between:

- (a) SOFR for that RFR Banking Day; and
- (b) the Central Bank Rate prevailing at close of business on that RFR Banking Day.

Credit Adjustment Spread

In relation to a Loan, the percentage rate per annum specified under the column labelled “**Credit Adjustment Spread**” in the table below corresponding with the Interest Period of that Loan.

Length of Interest Period	Credit Adjustment Spread (% p.a.)
Spot/Next/Overnight	0.00644
1 Week	0.03839
1 Month	0.11448
2 Months	0.18456
3 Months	0.26161
6 Months	0.42826

The Credit Adjustment Spread is fixed and shall apply for the term of the Facilities. The Credit Adjustment Spread applicable on each day of a relevant Interest Period shall be that which applies from the commencement of that Interest Period.

Daily Rate:	<p>The Daily Rate for any RFR Banking Day is:</p> <ul style="list-style-type: none"> (a) the RFR for that RFR Banking Day; (b) if the RFR is not available for that RFR Banking Day, the percentage rate per annum which is the aggregate of: <ul style="list-style-type: none"> (i) the Central Bank Rate for that RFR Banking Day; and (ii) the applicable Central Bank Rate Adjustment; or (c) if paragraph (b) above applies but the Central Bank Rate for that RFR Banking Day is not available, the percentage rate per annum which is the aggregate of: <ul style="list-style-type: none"> (i) the most recent Central Bank Rate for a day which is no more than five RFR Banking Days before that RFR Banking Day; and (ii) the applicable Central Bank Rate Adjustment, <p>rounded, in either case, to five decimal places and if, in either case, the aggregate of that rate and the applicable Credit Adjustment Spread is less than zero, the Daily Rate shall be deemed to be such a rate that the aggregate of the Daily Rate and the applicable Credit Adjustment Spread is zero.</p>
Lookback Period:	Five RFR Banking Days.
Market Disruption Rate:	<p>The percentage rate per annum which is the aggregate of:</p> <ul style="list-style-type: none"> (a) the Cumulative Compounded RFR Rate for the Interest Period of the relevant Loan; and (b) the applicable Credit Adjustment Spread.
Relevant Market:	The market for overnight cash borrowing collateralised by US Government securities.
Reporting Day:	The Business Day which follows the day which is the Lookback Period prior to the last day of the Interest Period.
RFR:	The secured overnight financing rate (SOFR) administered by the Federal Reserve Bank of New York (or any other person which takes over the administration of that rate) published by the Federal Reserve Bank of New York (or any other person which takes over the publication of that rate).
RFR Banking Day:	Any day other than:

- (c) a Saturday or Sunday; and
- (d) a day on which the Securities Industry and Financial Markets Association (or any successor organisation) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in US Government securities.

Reporting Times

<p>Deadline for Lenders to report market disruption in accordance with Clause 12.2 (Market disruption)</p>	<p>Close of business in Jakarta on the Reporting Day for the relevant Loan.</p>
<p>Deadline for Lenders to report their cost of funds in accordance with Clause 12.3 (Cost of funds)</p>	<p>Close of business on the date falling two (2) Business Days after the Reporting Day for the relevant Loan (or, if earlier, on the date falling two (2) Business Days before the date on which interest is due to be paid in respect of the Interest Period for that Loan).</p>

SCHEDULE 20

[NOT USED]

SCHEDULE 21

CUMULATIVE COMPOUNDED RFR RATE

The **Cumulative Compounded RFR Rate** for any Interest Period for a Loan is the percentage rate per annum calculated as set out below:

$$\left[\prod_{i=1}^{d_0} \left(1 + \frac{\text{DailyRate}_{i-LP} \times n_i}{\text{dcc}} \right) - 1 \right] \times \frac{\text{dcc}}{d}$$

where:

d₀ means the number of RFR Banking Days during the Interest Period;

i means a series of whole numbers from one to **d₀**, each representing the relevant RFR Banking Day in chronological order during the Interest Period;

DailyRate_{i-LP} means for any RFR Banking Day “**i**” during the Interest Period, the Daily Rate for the RFR Banking Day which is the Lookback Period prior to that RFR Banking Day “**i**”;

n_i means, for any RFR Banking Day “**i**”, the number of calendar days from, and including, that RFR Banking Day “**i**” up to, but excluding, the following RFR Banking Day;

dcc means 360 or, in any case where market practice in the Relevant Market is to use a different number for quoting the number of days in a year, that number; and

d means the number of calendar days during that Interest Period.

SIGNATURE PAGES

[Signature pages have been omitted.]