

Receivables Acquisition and Servicing Agreement

Forum Finance Pty Limited
ACN 153 301 172

EQWE Pty Ltd
ACN 630 535 554

Societe Generale, Sydney Branch
ABN 71 092 516 286

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Receivables Acquisition and Servicing Agreement

Dated 6 NOVEMBER 2020

Parties

1. **Forum Finance Pty Limited** ACN 153 301 172 (**Seller**).
2. **EQWE Pty Ltd** ACN 630 535 554 (**Servicer**).
3. **Societe Generale, Sydney Branch** ABN 71 092 516 286 (**Purchaser**).

Operative provisions

1. Definitions and interpretation

1.1 Definitions

The following definitions apply in this document.

Acceptance means the purchase made upon acceptance of the offer in an Offer Notice given in accordance with this document (if the offer in the Offer Notice is accepted by the Purchaser).

Acceptance Date means, in the case of the Offered Receivables specified in an Offer Notice, the date the offer in the Offer Notice is accepted.

Accepted Receivable means any of the Receivables and Related Agreements which are offered for sale by the Seller in an Offer Notice and accepted by the Purchaser.

Accounting Standards means, for a person, all accounting standards or principles that it is required to comply with by an Australian law.

Anti-Corruption Laws means all applicable anti-corruption laws including, without limitation, Divisions 141 and 142 of the Criminal Code Act 1995 (Cth) of Australia, the U.S. Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and any similar laws and regulations in any applicable jurisdiction relating to bribery, corruption or any similar practices.

Associate in relation to an entity means:

- (a) a Related Corporation of that entity;
- (b) an entity, or the trustee or manager of a trust, which has a Controlling Interest in that entity, or a Related Corporation of that entity;
- (c) a Related Corporation of an entity included in paragraph (b) or (e);

- (d) a director of that entity or an entity included in paragraph (a) or (c);
- (e) a corporation, or the trustee or manager of a trust, in which one or more entity or person mentioned in paragraph (a), (b), (c), (d), (e), (f) or (g) alone or together has a Controlling Interest;
- (f) the trustee of a discretionary trust of which an entity or person included in paragraph (a), (b), (c), (d), (e) or (g) is a beneficiary (whether or not through one or more other discretionary trusts); or
- (g) an entity of which a director of that entity or a Related Corporation of that entity is also a director.

For the purposes of this definition:

- (i) where a person is a beneficiary of a discretionary trust, that person will be taken to own, and control, all the assets of that trust;
- (ii) director has the meaning given in the Corporations Act; and
- (iii) a person has a Controlling Interest in a corporation or trust if:
 - (A) the corporation or its directors, or the trustee or manager of the trust or its directors, are accustomed, or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person or of that person in concert with others; or
 - (B) the person has Control (as defined in section 50AA of the Corporations Act) of the corporation or trust (in relation to a trust, determined as if units or other interests were shares).

AUD means the lawful currency of the Commonwealth of Australia from time to time.

Authorisation means:

- (a) any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from, by or with a Government Agency; or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Government Agency 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.

Authorised Officer means:

- (a) in respect of the Seller or the Servicer, any director or secretary, or any person from time to time nominated as an Authorised Officer by the Seller or the Servicer, as the case maybe, by a notice to the relevant party accompanied by certified copies of signatures of all new persons so appointed; and
- (b) in respect of the Purchaser or the Back-Up Servicer, any person whose title or acting title includes the word 'Director', 'Manager' or 'Associate' or cognate expressions, or any secretary or director, or any person from time to time nominated as an Authorised Officer by that party by a notice to the relevant party accompanied by certified copies of all signatures of all new persons so appointed.

Back-Up Servicer means the Purchaser or any party appointed by the Purchaser (acting reasonably) to act as temporary stand-in servicer pursuant to clause 10.8(a).

Base Rate means in respect of an Offered Receivable or an Accepted Receivable, the rate determined by the Purchaser for such Offered Receivable or Accepted Receivable.

Banking Code of Practice means the voluntary code of conduct entitled 'Code of Banking Practice' or 'Banking Code of Practice' published by the Australian Banking Association.

Business Day means any day other than a Saturday or Sunday or a day when banks are authorised or required by law to close in Sydney and Hong Kong.

Collection Period means:

- (a) in relation to the first Collection Period, the period commencing on (and including) the date of this document and ending on (and including) the last day of the calendar month in which the date of this document occurs;
- (b) after the initial period referred to in paragraph (a), the period from (and including) the first day of a calendar month to (and including) the last day of that calendar month (or such other period as agreed by the Servicer and the Purchaser); or
- (c) if an Event of Default has occurred and is subsisting, a period selected by the Purchaser, notice of which is given to the Servicer,

however any Collection Period which would otherwise end on a day that is not a Business Day will end on the preceding Business Day.

Collections means, with respect to the Accepted Receivables, all amounts which either are:

- (a) received by the Seller or the Servicer from or on behalf of the related Obligor in payment of any amounts owed in respect of such Accepted Receivable or applied to such amounts owed by such Obligor (including, without limitation, by set off, counterclaim, netting or any similar right or defence) but excluding any GST applicable on any payments made by such Obligor; or
- (b) any amount deemed to be received by the Seller or Servicer under clause 3.2, or any amount paid to the Purchaser under clause 12 which is not in respect of any penalty, fine, Tax or obligation of the Purchaser to any other person.

Commitment Termination Date means the earlier to occur of:

- (a) the Scheduled Commitment Termination Date; and
- (b) the date of termination of the Facility under clause 11.3 or 18(b).

Contract means each Payment Schedule or other contract or agreement between the Seller and an Obligor under which the Seller supplies goods and services to that Obligor, in a form and on terms acceptable to the Purchaser, which gives rise to a Receivable.

Controller has the same meaning as in the Corporations Act.

Credit Margin means, in respect of an Offered Receivable or an Accepted Receivable, the credit margin applicable to such Offered Receivable or Accepted Receivable as determined by the Purchaser.

Corporations Act means the *Corporations Act 2001* (Cth).

Corrupt Act means the deliberate act of (a) giving, offering or promising, directly or indirectly through others such as third party intermediaries, or (b) soliciting or accepting, directly or indirectly through others such as third party intermediaries, any donation, gift, invitation, reward, or anything of value to any person (including any Public Official), for

themselves or for a third party, that would or could be perceived either as an inducement to commit an act of corruption or as a deliberate act of corruption in each case with a view to inducing any person (including a Public Official) to perform their functions improperly or dishonestly and/or getting any undue benefit.

Deed of Release means each of:

- (a) the deed of release dated on or about the date of this document and executed by Octet Finance Pty Limited; and
- (b) the deed of release dated on or about the date of this document and executed by Westlawn Finance Limited.

Dilution means the amount of any reduction in the Original Balance of a Receivable other than:

- (a) due to payment by an Obligor in relation to that Accepted Receivable in accordance with the terms of the related Contract; or
- (b) due to a payment being written off by the Servicer in accordance with the Servicing Guidelines.

Discounted Amount means, in respect of each Offered Receivable the subject of an Offer Notice, the amount payable calculated by reference to the Discounting Method.

Discount Rate means, in respect of each Offered Receivable the subject of an Offer Notice, the rate that is the aggregate of the applicable Credit Margin plus the applicable Base Rate for each such Offered Receivable as determined by the Purchaser and notified to the Seller 2 Business Days before the Acceptance Date in respect of such Offer Notice.

Discount Rate Interest Period means in respect of any Offered Receivable or an Accepted Receivable, the period between the relevant Acceptance Date and Maturity Date for such Offered Receivable or Accepted Receivable.

Discounting Method means the discount to yield monthly compounded at the Discount Rate in respect of the aggregate Outstanding Balance of each Offered Receivable the subject of an Offer Notice, on the exact number of days and on a 365 days per year basis.

Event of Default means each of the events referred to in clause 11.1.

Eligible Receivable means, on the date of any determination under this document which involves, or requires a calculation of, an **Eligible Receivable** a Receivable:

- (a) which is a Receivable denominated and payable only in AUD in Australia;
- (b) is in full force and effect and constitutes the legal, valid and binding obligation of the Obligor of that Receivable enforceable against that Obligor in accordance with its terms;
- (c) which, together with the Contract, does not contravene any laws, rules or regulations and with respect to which no party to the Contract is in violation of any law, rule or regulation if that violation would impair the collectability of such Receivable;
- (d) where, on that date and on the date on which the relevant Contract was entered into, no Insolvency Event has occurred in respect of the relevant Obligor;
- (e) which is fully assignable and any consent or condition to assignment has been obtained and satisfied by the Seller;

- (f) which is not subject to dispute, offset or counterclaim on that date;
- (g) which is specifically identifiable and able to be segregated and marked for purposes of enforcement;
- (h) the Obligor of which is not an Associate or employee of the Seller;
- (i) the Maturity Date of the Receivable is not greater than 5 years;
- (j) where the Seller has a valid and perfected PPS Security Interest in respect of the Equipment the subject of the Receivable;
- (k) where each of the relevant Contracts is governed by the laws of an Australian jurisdiction and is not subject to the National Consumer Credit Protection Laws;
- (l) with regard to which the representations and warranties of the Seller in clause 8.2 are true and correct;
- (m) the sale of a legal and/or equitable interest in which does not contravene or conflict with any law;
- (n) where the goods and/or services supplied under the relevant Contract are supplied within Australia;
- (o) where the relevant Contract, if required to be stamped, has been stamped with all applicable duty;
- (p) where the amount of any payment which the Obligor is required to make in respect of the Receivable may not pursuant to any contractual right of set off be reduced by, or by any income derived by the Obligor on, any money deposited by it with any person (including, without limitation, the Seller);
- (q) which is not subject to any withholding taxes;
- (r) the Contract for which is in the same or substantially the same form as the pro-forma Contract provided to the Purchaser and approved by the Purchaser;
- (s) was originated in good faith and in the ordinary course of business of the Seller;
- (t) the Obligor does not have any set-off rights, rights of combination or rights of counterclaim under the Contract;
- (u) the Contract for which has not been amended, altered or modified in any respect without the consent of the Purchaser (such consent not to be unreasonably withheld or delayed, and the parties agree and acknowledge that the circumstances in which it is not unreasonable for the Purchaser to withhold or delay such consent include, without limitation, where the Purchaser has not been given at least 5 Business Days' notice prior to the date on which the Contract is to be amended, altered or modified in any respect); and
- (v) the Receivable is in the nature of payment instalments to be made by the Obligor in respect of a supply of goods under the Contract.

Equipment means any equipment, goods or other property supplied by the Seller to an Obligor under a Contract.

Facility means the uncommitted receivables purchase facility made available by the Purchaser to the Seller under this document.

Facility Limit means \$100,000,000 or as otherwise agreed by the Seller and the Purchaser.

Financial Indebtedness means any indebtedness, present or future, actual or contingent in respect of money borrowed or raised or any financial accommodation whatever. It includes indebtedness under or in respect of a negotiable or other financial instrument, Guarantee, interest, gold or currency exchange, hedge or arrangement of any kind, redeemable share, share the subject of a Guarantee, discounting arrangement, finance or capital lease, hire purchase, deferred purchase price (for more than 90 days) of an asset or service or an obligation to deliver goods or other property or provide services paid for in advance by a financier or in relation to another financing transaction.

Financial Report means profit and loss accounts, balance sheets and cashflow statements together with any statements, reports (including any directors' and auditors' reports) and notes attached to or intended to be read with any of them for the year or half-year prepared in accordance with the Corporations Act.

Financial Year means the year ending 30 June.

Fixed Rate Agreement means any interest rate swap agreement or other agreement or arrangement entered into or deemed entered into by the Purchaser in connection with this document for the purpose of offering the Discounted Amount to the Seller.

Fixed Rate Termination Payment means, with respect to any Fixed Rate Agreement, the amount of any swap breakage or termination payments (including but not limited to any loss of profit, loss, cost, fee, expense or liability incurred or reasonably expected to be incurred) or swap gain (as the case may be) payable or received or reasonably expected to be payable or received by the Purchaser under such Fixed Rate Agreement as a result of any termination of or amendment to such Fixed Rate Agreement for any reasons whatsoever. For the avoidance of doubt, it shall be sufficient for the Purchaser for the purposes of determining and evidencing any Fixed Rate Termination Payment to demonstrate that such swap breakage, termination payments or swap gain (as the case may be) would have been payable or received by it had it effectively entered into a Fixed Rate Agreement.

Government Agency means:

- (a) multinational, federal, provincial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body, commission, board, bureau or agency, domestic or foreign;
- (b) any subdivision, agent, commission, board or authority of any of the foregoing; or
- (c) any quasi-governmental or private body exercising any executive, legislative, judicial, administrative, regulatory, expropriation, prosecuting or taxing authority under or for the account of any of the foregoing.

GST includes any additional tax, penalty, fine, interest or other charge relating to GST.

GST Law means the same as 'GST law' means in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guarantee means a guarantee, indemnity, letter of credit, performance bond, binding letter of comfort, or other undertaking or obligation (whether conditional or unconditional) to:

- (a) do any one or more of the following in respect of an obligation of another person (whether or not it involves the payment of money):
 - (i) provide funds (including by the purchase of property), or otherwise to make property available, in or towards payment or discharge of that obligation;

- (ii) indemnify against the consequences of default in the payment or performance of that obligation; or
- (iii) be responsible in any other way for that obligation; or
- (b) be responsible for the solvency or financial condition of another person.

Indemnified Amounts means any and all damages, losses, claims, liabilities and related costs and expenses including legal costs and expenses on a full indemnity basis.

Influence Peddling means the deliberate act of (a) giving, offering or promising to any person (including any Public Official), or (b) yielding to any person (including any Public Official) who solicits, at any time, directly or indirectly, any donation, gift, invitation, reward, or anything of value, for themselves or for others, in each case to abuse or for having abused their real or supposed influence with a view to obtaining from a Public Official any favourable decision or undue benefit.

Information has the meaning given in clause 20.

Input Tax Credit has the meaning given to the term under the GST Law.

Insolvency Event means in respect of a person:

- (a)
 - (i) an administrator of the person is appointed;
 - (ii) except for the purpose of a solvent reconstruction or amalgamation previously approved by the Purchaser:
 - (A) an application or an order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting or an application to a court or other steps are taken for:
 - (I) the winding up, dissolution or administration of the person; or
 - (II) the person entering into an arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them;

other than frivolous or vexatious applications, proceedings, notices and steps or applications which have been dismissed within 14 days.
 - (B) the person ceases, suspends or threatens to cease or suspend the conduct of all or substantially all of its business or disposes of or threatens to dispose of substantially all of its assets; or
 - (iii) the person is, or under applicable legislation is taken to be, insolvent (other than as the result of a failure to pay a debt or claim the subject of a good faith dispute) or stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
- (b)
 - (i) a receiver, receiver and manager, administrative receiver or similar officer is appointed to;
 - (ii) a Security Interest is enforced over; or

- (iii) a distress, attachment or other execution is levied, or enforced or applied for over,

all or any of the assets and undertaking of the person unless the relevant action is terminated within 7 days;

- (c) in the case of a party to this document, without the prior consent of the other parties to this document, the person:
 - (i) reduces its capital (including a purchase of its shares but excluding a redemption of redeemable shares);
 - (ii) passes a resolution to reduce its capital or to authorise it to purchase its shares or a resolution under section 254N or 260B of the *Corporations Act 2001* or an equivalent provision, or calls a meeting to consider such a resolution; or
 - (iii) applies to a court to call any such meeting or to sanction any such resolution or reduction;
- (d) anything analogous to anything referred to in paragraphs (a) to (c) inclusive, or having substantially similar effect, occurs with respect to the person under any overseas law or any law which commences or is amended after the date of this document;
- (e) the holder of a Security Interest or any agent on its behalf, appointing a Controller or taking possession of any of the person's property (including seizing the person's property within the meaning of section 123 of the PPSA); or
- (f) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand.

Material Adverse Effect means, with respect to any event or circumstance, a material adverse effect in the reasonable opinion of the Purchaser on:

- (a) the business assets or the financial condition of the Seller or Servicer or any Consolidated Group that includes the Seller or Servicer;
- (b) the amount or timing of a payment to be made to the Purchaser under any Transaction Document;
- (c) the ability of the Seller or Servicer to meet its payment obligations under the Transaction Documents or perform its other obligations under any Transaction Document;
- (d) the rights or benefits available to the Purchaser under any Transaction Document;
- (e) the validity or enforceability of:
 - (i) the whole or any material part of any Transaction Document;
 - (ii) a material proportion of the Accepted Receivables; or
 - (iii) any Contract relating to a material proportion of the Accepted Receivables; or
- (f) the status, existence, perfection or priority of the Purchaser's interest in a material proportion of the Accepted Receivables.

Maturity Date means, in respect of an Offered Receivable or an Accepted Receivable, the date specified in the relevant Contract as the last date on which payment of an instalment is due under that Contract.

Money Laundering Laws means all applicable financial recordkeeping and reporting requirements and the anti-money laundering statutes, and the guidelines, rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Agency including, without limitation, the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), the Charter of the United Nations Act 1945 (Cth), the Charter of the United Nations (Dealing with Assets) Regulations 2008 (Cth) and Autonomous Sanctions Act 2011 (Cth) of Australia, or any other jurisdiction in which it carries on any business including, without limitation, the USA Patriot Act of 2001.

National Consumer Credit Protection Laws means each of

- (a) the *National Consumer Credit Protection Act 2009* (Cth) and the National Credit Code set out in schedule 1 of that Act;
- (b) the National Consumer Credit Protection Regulations 2010;
- (c) the *National Consumer Credit Protection (Fees) Act 2009* (Cth);
- (d) the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (Cth);
- (e) Division 2 of Part 2 of the Australian Securities and Investments Commission Act 2001, so far as it relates to the obligations in respect of an Australian Credit Licence issued under the National Consumer Credit Protection Laws; and

any regulations made under or in respect of any of the acts set out in paragraphs (a) - (d) above.

Notice of Assignment means a notice of assignment in a form consistent with Annexure E.

Obligor means Veolia or such other companies or legal entities agreed by the Seller and the Purchaser in writing from time to time.

OFAC means the Office of Foreign Assets Control of the United States Department of the Treasury.

Offer Notice means a notice substantially in the form of Annexure A or in such other form as the Purchaser and the Seller may agree but otherwise complying with clause 2.1.

Offered Receivables has the meaning given to the term 'Offered Receivables' in an Offer Notice.

Original Balance means, at the time a Receivable is offered for sale, the then unpaid amount payable (whether actually or contingently) under that Receivable.

Outstanding Balance means, at any time, in relation to any Offered Receivable or Accepted Receivable, the amount then owing and unpaid (whether or not then due and payable) under that Offered Receivable or Accepted Receivable (as applicable).

Payment Date means:

- (a) the last Business Day of each month; or

- (b) if an Event of Default has occurred and is subsisting, such other date or dates selected by the Purchaser, notice of which is given to the Servicer.

Payment Schedule means a document entitled "Payment Schedule" entered into between the Seller and the relevant Obligor including any annexure to that document and any certificate of acceptance of delivery signed by that Obligor in respect of that document.

Potential Event of Default means any event which, with the giving of notice or lapse of time, or both, would become an Event of Default.

PPS Register means the Personal Property Securities Register established under the PPSA.

PPS Security Interest means a security interest that is subject to the PPSA.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Program Change means any change in, any making of, or any change in the interpretation or application of, or compliance with any change in, any law, or any official directive or request of a Government Agency, in each case occurring after the date of this document. A Program Change includes any such making of, or change in:

- (a) any law, official directive or request with respect to taxation (but not including changes in respect of Taxes upon or measured by net income or capital gain) or reserve, liquidity, capital adequacy, special deposit or similar requirements; and
- (b) any official directive or request of the Reserve Bank of Australia, Australian Prudential Regulation Authority or any other Government Agency which does not have the force of law where it is the practice of responsible persons in the position of the Purchaser to comply with it.

Program Costs means, for any Payment Date, the amount which the Purchaser certifies in good faith is necessary to compensate the Purchaser for the relevant Collection Period for:

- (a) any cost attributable to goods and services or similar tax that the Purchaser incurs an obligation to pay in respect of any payment under any Related Agreement, as reduced by any Input Tax Credit or Reduced Input Tax Credit to which the Purchaser is entitled in respect of that payment; or
- (b) any of the following as a result of a Program Change:
 - (i) any reduction, direct or indirect, in the amount of any payment made or payable by or for the account of the Purchaser or received by any of them in connection with this document;
 - (ii) any reduction, direct or indirect, in the effective return of the Purchaser, in connection with this document (other than any reduction as a result of an increase in amounts payable by the Purchaser to another person as a result (direct or indirect) of any change of the rate of GST); or
 - (iii) any imposition, direct or indirect, of any cost on the Purchaser as a result of its participation in the transactions contemplated by any Transaction Document including, without limitation, its funding the acceptance of the Accepted Receivables (other than any cost arising (directly or indirectly) as a result of any change in the rate of GST),

which reduction or cost occurs, is incurred or first calculated in or in respect of that Collection Period. If the increased cost or reduction is indirect, the Program Cost is the proportion which the Purchaser reasonably determines to be fairly attributable to the acceptance of the Accepted Receivables under this document.

Public Officials includes all elected officials, dignitaries, candidates for public office, members of royal families, magistrates, officials or employees, regardless of their grade, or any person belonging to or acting on behalf of:

- (a) a government (foreign, national or local) including any department, agency, regulator or one of their bodies or instrumentalities;
- (b) a government department or public authority (including but not limited to customs or tax authorities, embassies and all bodies issuing permits);
- (c) a local or regional public service;
- (d) a state-owned or controlled enterprise (including but not limited to public hospitals, universities, sovereign investment funds or any other state-sponsored entity);
- (e) a political party; or
- (f) an international court or public organisation (e.g. United Nations).

Purchaser's Investment means:

- (a) subject to paragraph (b), at any time an amount equal to the sum of all Discounted Amounts less the sum of all reductions in the Purchaser's Investment under clause 3.1(b).
- (b) the Purchaser's Investment will not be reduced by any distribution of Collections:
 - (i) until that distribution is received by the Purchaser in immediately available funds; or
 - (ii) if at any time that distribution is rescinded or must otherwise be returned for any reason.

Receivable means any right, title, benefit and interest in, to, under or derived from a Contract, including the purchase price instalments payable under that Contract.

Receivable Retention Amount has the meaning given to that term in clause 2.1(i).

Reduced Input Tax Credit means an Input Tax Credit for a reduced credit acquisition (as defined in the GST Law).

Related Agreement means any Guarantee, mortgage, charge, encumbrance, lien, trade credit insurance policy or other agreement or arrangement of whatever character from time to time supporting or securing payment of each Receivable whether pursuant to any Contract related to such Receivable or otherwise but does not include a Guarantee facility deed or chattel mortgage given by an Obligor where that deed or mortgage is expressed to secure obligations of the Obligor in addition to a Receivable.

Related Corporation has the meaning given to Related Body Corporate in the Corporations Act.

Repurchase Date in respect of a Repurchase Offer, means the date specified as such in the Repurchase Offer.

Repurchase Offer means a notice substantially in the form of Annexure D.

Repurchase Price in respect of Accepted Receivables means the price specified as such in the Repurchase Offer for such Accepted Receivables.

Sanction Laws and Regulations means:

- (a) the Autonomous Sanctions Act 2011 (Cth) of Australia; and
- (b) any sanctions administered by OFAC or any other U.S. governmental unit;
- (c) any sanction or requirements imposed by, or based upon the obligations or authorisations set forth in, the United States Trading with the Enemy Act, the United States International Emergency Economic Powers Act, the United States United Nations Participation Act or the United States Syria Accountability and Lebanese Sovereignty Act, all as amended, or any foreign assets control regulations of the United States Department of the Treasury (including but not limited to 31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto; or
- (d) any sanctions, requirements or measures imposed by the United Nations Security Council, the United Kingdom, Australia, the European Union or any other applicable jurisdictions.

Servicing Guidelines means the guidelines of the Servicer in connection with the servicing, collection and administration of Receivables, including, without limitation, the following responsibilities:

- (a) arranging for Receivables to be entered into by the Seller and the relevant Obligor;
- (b) liaising with the Seller in relation to Offer Notices to be prepared and given to the Purchaser;
- (c) prepare, review and arrange for execution by the Seller and the relevant Obligor of the relevant Contract for any Receivable;
- (d) prepare any credit assessment required by the Seller in connection with an Obligor that proposes to enter into a Receivable with the Seller;
- (e) liaising with the Purchaser in connection with any matter relating to any Accepted Receivable;
- (f) produce model calculating any amounts required to be paid by the Seller under this document;
- (g) obtain executed documents and notifications in connection with any Receivable;
- (h) prepare settlement package in connection with any Receivable;
- (i) make and maintain any registrations required to be made on the PPS Register in connection with any Receivable;
- (j) conduct regular due diligence and monitoring of the Equipment the subject of any Receivable;
- (k) monitoring of the Facility generally including notification to the Seller for each Collection Period of payments made by Obligors under Accepted Receivables;
- (l) ensuring appropriate insurance is entered into and maintained for Equipment the subject of any Accepted Receivable; and
- (m) monitoring Events of Default, any Dilutions or any events of insolvency or similar credit events in relation to any Obligor.

Scheduled Commitment Termination Date means the date which is one year from the date of this document, as may be extended by agreement between the parties.

Security Interest means:

- (a) a PPS Security Interest;
- (b) any other mortgage, pledge, lien or charge; or
- (c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.

Servicer Fee means, on any date, the amount of any fee due and payable by the Purchaser to the Servicer with respect to its servicing role as at that date in accordance with a fee letter agreed between the Purchaser and the Servicer.

Servicer Termination Event means any of the events specified in clause 11.2.

Successor Notice means a notice from the Purchaser to the Seller appointing the Back-Up Servicer as the new Servicer in accordance with clause 10.3.

Tax means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.

Transaction Document means:

- (a) this document;
- (b) each Deed of Release;
- (c) any other document entered into by the Seller or the Servicer and the Purchaser arising out of or related to this document, or the ownership or funding of the Accepted Receivables or in respect of any Receivable or Contract;
- (d) any document or agreement that the parties agree in writing is to be a Transaction Document for the purposes of this document;
- (e) any document or agreement that is entered into under any of the above;
- (f) any document or agreement that amends, supplements, replaces or novates any of the above;
- (g) any undertaking (whether or not in writing) by or to a party or its lawyers that is given under or relates to any of the above; and
- (h) any other document or agreement entered into by the Purchaser and any Back-Up Servicer appointed under clause 10.3 in relation to any of the above.

Veolia means Veolia Environmental Services (Australia) Pty Ltd ACN 051 316 584.

1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:

- (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (v) Australian dollars, AUD, dollars, \$ or A\$ is a reference to the lawful currency of Australia;
 - (vi) a time is to Sydney time; and
 - (vii) anything (including a right, obligation or concept) includes each part of it and any part of it.
- (b) A singular word includes the plural, and vice versa.
 - (c) A word which suggests one gender includes the other genders.
 - (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
 - (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
 - (f) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
 - (g) The expression **this document** includes the agreement, arrangement, understanding or transaction recorded in this document.
 - (h) An Event of Default 'continues' until the Purchaser notifies the Seller that it has been:
 - (i) remedied to the satisfaction of the Purchaser; or
 - (ii) waived by the Purchaser.
 - (i) The words **subsidiary**, **holding company** and **related body corporate** have the same meanings as in the Corporations Act.
 - (j) Unless otherwise defined in this document, words that are defined in an applicable Accounting Standard have the same meaning in this document.
 - (k) Unless otherwise defined in this document, words defined in the GST Law have the same meaning in clauses concerning GST.
 - (l) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.

- (m) A reference to 'Know Your Customer' requirements is to all necessary identification and verification checks or other similar checks under all applicable laws and regulations, including checks (but not limited to) to be carried out by the Purchaser pursuant to anti-money laundering, terrorist financing and sanctions and embargoes laws and regulations with regard to the transactions contemplated in the Transaction Documents.

1.3 PPSA terms

In this document, unless the context requires otherwise, terms defined in the PPSA have the meanings given to them in the PPSA.

1.4 GST terms

Terms defined in the GST Law have the same meaning in this clause/document unless the context otherwise requires.

1.5 Non Business Days

If the day on or by which a person must do something under this document is not a Business Day, the person must do it on or by the next Business Day.

2. Facility

2.1 Offer notice

- (a) Subject to clauses 2.1(d) and 7, the Seller may offer to sell Offered Receivables to the Purchaser by delivering an Offer Notice to the Purchaser during the period on and from the date of this document to (but excluding) the Commitment Termination Date. The Offer Notice must relate to the Offered Receivables with an aggregate Outstanding Balance of not less than \$5,000,000. The offer contained in the Offer Notice must only be accepted in relation to all the Receivables detailed in the Offer Notice.
- (b) An Offer Notice given under this document will (unless otherwise agreed by the parties in writing) be delivered to the Purchaser not later than 11.00 am on the fifth Business Day before the date of the proposed Acceptance (which must also be a Business Day). The Offer Notice will be in substantially the form set out in Annexure A and must annex to it the Contract corresponding to each Offered Receivable.
- (c) The Seller will certify in an Offer Notice whether or not the limit in clause 2.2 would be breached if the Purchaser accepts the Offered Receivables described in the Offer Notice.
- (d) An offer in an Offer Notice is irrevocable.
- (e) Without prejudice to clause 2.1(f), the Purchaser may in its absolute discretion accept the offer contained in an Offer Notice by, and only by, the payment by the Purchaser to the Seller of the Discounted Amount in the manner described in clause 2.1(h).
- (f) Notwithstanding any other provision of any Transaction Document, the Facility is uncommitted and the Purchaser has no obligation to accept an Offer Notice or otherwise purchase an Offered Receivable.

- (g) No contract for the sale or acceptance of any Receivables or Related Agreements detailed in an Offer Notice will arise unless and until the Purchaser accepts the offer contained in the Offer Notice in accordance with this clause.
- (h) Subject to clause 2.1(i), if the Purchaser accepts an offer in an Offer Notice, the Purchaser must make payment of the Discounted Amount in respect of that Offer Notice in AUD in immediately available funds to the following bank account of the Seller (or as the Seller directs):

BSB No: 082 080

Account Name: Forum Finance Pty Limited

Account No. 848483695

- (i) The Seller agrees that, in respect of each Offered Receivable the subject of that Offer Notice, the Purchaser may retain an amount from the Discounted Amount in respect of that Offer Notice equal to the net present value (as calculated using the Discount Rate) of the aggregate of the last 3 payments to be made by the relevant Obligor in respect of that Offered Receivable (each, a **'Receivable Retention Amount'**), to be released to the Seller by the Purchaser only once the Purchaser has received (including, without limitation, from Collections in respect of that Offered Receivable but excluding Collections in respect of any other Offered Receivable) an amount equal to the excess of:

- (i) the value on the relevant date of the Receivable Retention Amount for that Offered Receivable; over

- (ii) the Outstanding Balance of the Discounted Amount,

with such Receivable Retention Amount reduced as and when any of the final 3 payment instalments pursuant to that Offered Receivable are paid by the relevant Obligor and any other amount becomes payable to the Purchaser under this document (including, without limitation, any deemed Collection payable by the Seller to the Purchaser pursuant to clause 3.2 and any Fixed Rate Termination Payment payable to the Purchaser) which are each deemed to be have been received by the Purchaser without any actual transfer of any such amount to the Purchaser to the extent the Receivable Retention Amount is not less than zero immediately following any such reduction.

The Seller agrees that to the extent any reduction in the Receivable Retention Amount for any Offered Receivable occurs under the paragraph above, the Seller will promptly and in any event, within 2 Business Days of such reduction, pay to the Purchaser an amount necessary to reinstate such Receivable Retention Amount to its original amount.

- (j) Nothing in clause 2.1(h) confers on the Seller any right or interest in any Receivable, Related Agreement or Collections (other than in each case as trustee), each party acknowledging that no Security Interest arises from an Acceptance and that each Acceptance is intended to take effect as a legal assignment that is absolute and not by way of security.

2.2 Limit

Without prejudice to any other provision of this document, under no circumstances will the Purchaser make an Acceptance to the extent that, after giving effect to the Acceptance, the Purchaser's Investment would exceed the Facility Limit.

2.3 Extension of Scheduled Commitment Termination Date

- (a) If the Seller wants an extension of the Scheduled Commitment Termination Date, the Seller will give a written request to the Purchaser not later than 90 days before the Scheduled Commitment Termination Date, or as otherwise agreed between the Seller and the Purchaser. If the Purchaser agrees, it will give a written notice of acceptance to the Seller no later than 45 days after the request has been delivered to the Purchaser.
- (b) The Scheduled Commitment Termination Date may be extended by the Purchaser for a further period.

3. Collection

3.1 Collection of Receivables

- (a) On each day the Seller or Servicer receives any payment from an Obligor on account of Accepted Receivables the Seller or Servicer (as applicable) will receive that payment on trust for and on behalf of the Purchaser.
- (b) On each Payment Date, the Seller and Servicer must pay all Collections that it holds on trust for and on behalf of the Purchaser to the Purchaser to the following bank account (or as it directs) towards application by the Purchaser to reduce the Purchaser's Investment:

Account with bank: Commonwealth Bank of Australia

Swift code: CTBAAU2S

Beneficiary: Societe Generale Sydney

Swift code: SOGEAU2S

Account No. 06796710008564

3.2 Deemed Collections

- (a) For the purposes of this document:
 - (i) if on any day the Outstanding Balance of any Accepted Receivable is:
 - (A) the subject of a Dilution;
 - (B) reduced or adjusted as a result of any defective, rejected, repossessed or returned goods or services or any cash discount or other adjustment made by the Seller;
 - (C) reduced or cancelled as a result of a set off or by agreement in respect of any claim by the Obligor or any other person against the Seller or any other person (whether such claim arises out of the same or another transaction); or
 - (D) not paid because of any change in the due date for payment of any such Accepted Receivable otherwise than with the prior consent of the Purchaser,

the Seller will be deemed to have received on such day a Collection of such Accepted Receivable in the amount reflected in the books and

records of the Seller or the Servicer as the amount of such reduction, adjustment or cancellation, or in relation to paragraph (D), the Outstanding Balance of the Accepted Receivables;

- (ii) without limiting the generality or effect of any other provision of this document if:
 - (A) an Accepted Receivable is not paid when due;
 - (B) the Servicer takes all reasonable steps in accordance with the Servicing Guidelines to collect the Accepted Receivable; and
 - (C) the Accepted Receivable is not collected in full solely by reason of any fact or circumstance the occurrence of which constitutes a breach of any of the Seller's or the Servicer's representations or obligations under this document,

the Seller will be deemed to have collected an amount equal to the Outstanding Balance at the time that breach is first detected by the Seller (however, for the avoidance of doubt, neither the Seller nor the Servicer guarantees the performance of the Accepted Receivables);

- (iii) if:
 - (A) an Accepted Receivable together with the Contract or any Related Agreement, is in contravention of any law or with respect to which a party to the Contract related thereto is in violation of any law and the Receivable becomes unenforceable, the Seller will be deemed to have collected an amount equal to the Outstanding Balance at the time that contravention or violation is first detected by the Seller; or
 - (B) any of the representations or warranties contained in clause 8.2 prove to have been incorrect in relation to an Accepted Receivable when made at the time the Receivables are accepted by the Purchaser, the Seller will be deemed to have received a Collection of such Accepted Receivable equal to its Outstanding Balance, at the time the relevant circumstances are first detected by the Seller,

then the Seller will be deemed to have received a Collection equal to that amount at the time the contravention, violation or circumstances (as the case may be) are first detected by the Seller.

- (b) The Seller will promptly pay to the Purchaser the amount of any deemed Collection pursuant to clauses 3.2(a)(i) to 3.2(a)(iii) (inclusive).
- (c) Any deemed Collection under this clause 3.2 will be accounted for and applied by the Purchaser in accordance with clause 3.1(b) on the Payment Date immediately following the date on which that deemed Collection is deemed to have occurred, and any failure to pay by an Obligor which gave rise to that deemed Collection is taken to be remedied.

3.3 Return of Distribution

No amount payable in respect of an Acceptance or pursuant to the Transaction Documents will be considered paid, and the Purchaser's Investment will not be reduced by any distribution of Collections pursuant to the Transaction Documents, if at any time such payment or distribution is rescinded by any law relating to preferential payments in the event of a bankruptcy or insolvency or must otherwise be returned.

3.4 Interpretation

All references in this document to the Seller accounting to the Purchaser for Collections made in respect of Accepted Receivables will mean, in relation to deemed Collections where no money may have been actually received by the Servicer from, or for the account of, the relevant Obligor, the payment by the Seller to the Servicer (to be held by the Servicer in accordance with clause 10.2) no later than the time for application of deemed Collections specified in clause 3.2(b) of an amount or amounts equal to the deemed Collections.

4. Payments

4.1 Payments and Computations, etc.

- (a) The Seller and the Servicer will make all payments to the Purchaser under a Transaction Document:
 - (i) without set off or counterclaim and without deduction, except any compulsory deduction with respect to Taxation; and
 - (ii) by paying or depositing it in accordance with the terms of the relevant Transaction Document by no later than 11.00 am (or such other time as the parties agree in writing) on the day when due in same day funds to such bank account in Australia, or in such other manner as the Purchaser may specify from time to time.
- (b) All computations of interest and any fees under each Transaction Document will be made on the basis of a year of 365 days for the actual number of days (including the first day but excluding the last day) elapsed.

4.2 Additional payments

Whenever the Seller or the Servicer is obliged to make a deduction in respect of Tax from any payment to the Purchaser under any Transaction Document:

- (a) it will promptly pay the amount deducted to the appropriate Government Agency;
- (b) within 30 days of the end of the month in which the deduction is made, it will deliver to the Purchaser official receipts (or, if no official receipt issues at such time, promptly after issue of an official receipt) or other documentation acceptable to the Purchaser evidencing payment of that amount; and
- (c) unless the Tax is a tax on overall net income, it will pay the Purchaser on the due date of the payment any additional amounts necessary (as determined by the Purchaser) to ensure that the Purchaser receives when due a net amount (after payment of any Taxes in respect of those additional amounts) in the relevant currency equal to the full amount which it would have received had a deduction not been made. It will indemnify the Purchaser on demand against the Tax and any amounts recoverable from the Purchaser in respect of the Tax.

The Seller and the Servicer each waives any statutory right to recover from the Purchaser any amount paid under this clause.

The obligations of the Seller and the Servicer under this clause survive the repayment of the Purchaser's Investment and the termination of this document.

5. Repurchase of Accepted Receivables

5.1 Seller may make request

The Seller may, not more than once per calendar week (or as otherwise agreed by the Seller and the Purchaser), make a written request to the Purchaser to repurchase Accepted Receivables referable to specific Contracts which were originated by the Seller and purchased by the Purchaser pursuant to clause 2.1.

5.2 Seller must provide information

The Seller which has made a written request pursuant to clause 5.1 must:

- (a) at the time such request is made, provide to the Purchaser:
 - (i) details of, and a list of, the Accepted Receivables the subject of such request (identifying whether any of them are Relevant Receivables); and
 - (ii) the Repurchase Date and the Repurchase Price in respect of the Accepted Receivables the subject of such request; and
- (b) promptly provide to the Purchaser any other information requested by the Purchaser in respect of such Accepted Receivables (including, without limitation, copies of the Contract to which such Accepted Receivables relate).

5.3 Requirements for a repurchase by Seller

The Purchaser may (in its absolute discretion), following receipt of a written request from the Seller pursuant to clause 5.1 and all details, copies and information required to be provided by the Seller pursuant to clause 5.2, make an offer to sell to the Seller the Accepted Receivables the subject of such written request by way of a Repurchase Offer delivered by the Purchaser to the Seller by no later than 2:00pm (or as otherwise agreed by the Seller and the Purchaser) on the relevant Repurchase Date. Once given, the Repurchase Offer constitutes an offer by the Purchaser to assign to the Seller with effect from commencement of business on the relevant Repurchase Date, the Purchaser's right, title and interest in and to:

- (a) each specific Contract identified in the Repurchase Offer;
- (b) each Accepted Receivable referable to each specific Contract which is identified in the Repurchase Offer;
- (c) the Collections under or derived from each such Accepted Receivable; and
- (d) each Related Agreement (if any) of each specific Contract identified in the Repurchase Offer,

(the **Repurchased Assets**).

5.4 No obligation to make Repurchase Offer

Nothing in this document obliges the Purchaser to make any Repurchase Offer.

5.5 Payment of Repurchase Price

The Seller which has received a Repurchase Offer from the Purchaser pursuant to clause 5.3 may only accept the Repurchase Offer by paying the Repurchase Price (in cleared funds) to the Purchaser by no later than 4:00pm (or as otherwise agreed by the Seller and the Purchaser) on the relevant Repurchase Date. The payment of such

Repurchase Price by the Seller to the Purchaser will be made to an account nominated by the Purchaser.

5.6 Binding agreement

Acceptance of a Repurchase Offer by the Seller in accordance with clause 5.5 will constitute:

- (a) a legal, valid and binding agreement between the Seller and the Purchaser on the terms contained in this document and the relevant Repurchase Offer; and
- (b) without any further act or instrument by the parties, an immediate assignment or extinguishment (as applicable) of the Purchaser's entire right, title and interest in each of the Repurchased Assets such that with effect from the relevant Repurchase Date the Repurchased Assets cease to be assets of the Purchaser and become assets of the Seller.

6. Fees

6.1 Changes in law

When there is a change in law that will result in Program Costs the Purchaser will use best endeavours to mitigate the effect of such change in law, failing which the Purchaser and the Seller will negotiate in good faith to avoid or reduce the effect of such change. If that also fails the Seller will from time to time pay to the Purchaser upon demand such amounts as necessary to compensate the Purchaser for such Program Costs on and from the date that they are incurred or suffered.

The Seller's obligations under this clause survive the termination of this document.

6.2 Program Costs

The Purchaser agrees to notify the Seller as soon as it becomes aware of Program Costs.

6.3 Hedging breakage costs

The Seller will pay to the Purchaser and indemnify the Purchaser against, on demand by the Purchaser, any Fixed Rate Termination Payment incurred or reasonably expected to be incurred by the Purchaser in connection with the Fixed Rate Agreement entered into or deemed entered into by the Purchaser in relation to its interest rate exposure incurred from entering into and/or performing its obligations under this document, including, without limitation, as a consequence of:

- (a) the Discounted Amount not being paid under clause 2.1(h) on the date or for the amount specified under clause 2.1(h) for any reason other than a default by the Purchaser;
- (b) any failure (for whatever reason) by the Seller or the Servicer to make payment of any amount due under this document on the due date or, if so payable, on demand;
- (c) any Repurchase Offer made and delivered to the Seller by the Purchaser in accordance with clause 5 of this document;
- (d) the repayment of the whole or any part of the payment under this document otherwise than in accordance with this document;

- (e) any prepayment, cancellation, or restructuring of any Collections and/or any change in Payment Date, any Collection Period or the Commitment Termination Date;
- (f) the early termination of this document for any reason whatsoever (including, without limitation, the termination of the Facility under clause 11.3 or 18(b)); or
- (g) any Obligor failing to make any payment in accordance with the relevant Payment Schedule.

To the extent only that the Fixed Rate Termination Payment consists of a swap gain for the Purchaser, the Purchaser will pay such swap gain (after deduction of all out-of-pocket costs and expenses, if any) to the Seller.

7. Conditions to Acceptances

7.1 Conditions precedent

The right of the Seller to give an Offer Notice will be subject to the following conditions precedent being, in the Purchaser's absolute discretion, satisfied or waived on or before the date the Offer Notice is given:

- (a) in respect of the first Offer Notice only:
 - (i) **(verification certificate)** a certificate in relation to the Seller and the Servicer given by a director of the Seller and the Servicer (as applicable) substantially in the form of Annexure B with the attachments referred to and dated at or about the date the Offer Notice is given;
 - (ii) **(Servicing Guidelines)** a certified copy of the current Servicing Guidelines (unless previously provided to the Purchaser and there has been no change made to those Servicing Guidelines);
 - (iii) **(Enforceability opinion)** a legal opinion from Dentons as to, among other things, the validity and enforceability of the Transaction Documents and true sale of the Accepted Receivables;
 - (iv) **(due authorisation and due execution – Seller)** a legal opinion from legal counsel acting for the Seller as to, among other things, due authorisation and due execution by the Seller in respect of the Transaction Documents;
 - (v) **(due authorisation and due execution – Servicer)** a legal opinion from Thomson Geer as to, among other things, due authorisation and due execution by the Servicer in respect of the Transaction Documents;
 - (vi) **(Power of Attorney)** the Seller has provided to the Purchaser a power of attorney in a form consistent with clause 13;
 - (vii) **(Know Your Customer)** any information required by the Purchaser to enable the Purchaser to meet its internal 'Know Your Customer' requirements and normal operating procedures; and
 - (viii) **(Deed of Release)** a copy of each Deed of Release duly executed by each party thereto.
- (b) in respect of each Offer Notice:

- (i) **(Contract)** a copy of the fully executed Contract in respect of each Offered Receivable the subject of each such Offer Notice;
- (ii) **(Notice of Assignment)** the Seller has provided to the Purchaser an executed copy of a Notice of Assignment given by the Seller to the relevant Obligor and acknowledged by such Obligor in respect of each Offered Receivable the subject of each such Offer Notice;
- (iii) **(documents)** unless previously provided to the Purchaser, an executed original of each Transaction Document together with all documents that the Purchaser requires to enable the Purchaser to register or stamp any of the Transaction Documents with any Government Agency;
- (iv) **(Registration of security interests)** evidence that all relevant Security Interests arising under the Transaction Document to be registered in accordance with the Transaction Documents have been registered (including, without limitation, in respect of the sale of Receivables from the Seller to the Purchaser);
- (v) **(PPS registration in respect of Equipment)** the Seller has provided to the Purchaser evidence that the Seller has registered its PPS Security Interest in respect of the Equipment the subject of each Offered Receivable in that Offer Notice;
- (vi) **(certifications)** certification (which the Seller will by virtue of giving an Offer Notice be deemed to have given to the Purchaser) that:
 - (A) the representations and warranties in clause 8.1 and clause 8.2 are true as of such day as though they have been made at that date in respect of the facts and circumstances then subsisting;
 - (B) the Seller is not in breach of any of its obligations under any Transaction Document;
 - (C) no Event of Default or Potential Event of Default is subsisting under this document or would result from the giving of each such Offer Notice, or accepting of each such Offer Notice; and
 - (D) after the Purchaser pays the Discounted Amount in respect of each such Offer Notice clause 2.2 will not be breached; and
- (vii) **(Additional legal opinions)** any additional or updated legal opinion from a reputable law firm as requested by the Purchaser (acting reasonably and only in relation to a change in law) as to any additional matters relating to the transactions contemplated by the Transaction Documents.

8. Representations and Warranties

8.1 Representations and warranties

Each of the Seller and the Servicer makes the following representations and warranties:

- (a) **(Status)** It is a corporation validly existing under the laws of the place of its incorporation specified in this document.
- (b) **(Power)** It has the power to enter into and perform its obligations under the Transaction Documents to which it is expressed to be a party to carry out the

transactions contemplated by those documents and to carry on its business substantially as now conducted or contemplated.

- (c) **(Corporate authorisations)** It has taken all necessary corporate action to authorise the entry into and performance of the Transaction Documents to which it is expressed to be a party and to carry out the transactions contemplated by those documents.
- (d) **(Authorisations)** It holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute the Transaction Documents to which it is a party and to carry out the transactions that they contemplate;
 - (ii) ensure that the Transaction Documents to which it is a party are legal, valid, binding and admissible in evidence; or
 - (iii) enable it to properly carry on its business as it is now being conducted,and it is complying with any conditions to which any of these Authorisations is subject which if not complied with would have a Material Adverse Effect.
- (e) **(Documents effective)** the Transaction Documents to which it is a party constitute its legal, valid and binding obligations, enforceable against it in accordance with their terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), and each Security is an effective Security Interest over the property that is stated to be subject to it with the priority that it contemplates, subject to any necessary stamping or registration.
- (f) **(Ranking)** Its payment obligations under the Transaction Documents to which it is a party rank at least equally with all its other unsecured and unsubordinated payment obligations (whether present or future, actual or contingent), other than obligations that are mandatorily preferred by law.
- (g) **(Transactions permitted)** The execution and performance by it of the Transaction Documents to which it is expressed to be a party and each transaction contemplated under those documents did not and will not:
 - (i) contravene any law to which it or any of its property or the Secured Property is subject or any order any order of any Government Agency that is binding on it or any of its property;
 - (ii) contravene any Authorisation;
 - (iii) contravene any agreement binding on it or any of its property;
 - (iv) contravene its constitution or the powers or duties of its directors; or
 - (v) require it to make any payment or delivery in respect of any Financial Indebtedness before it would otherwise be obliged to,and, except as provided or permitted by the Transaction Documents, did not and will not create or impose a Security Interest on any of the Accepted Receivables.
- (h) **(Financial reports)**
 - (i) The Financial Reports and any other financial statements and reports that it has given to the Purchaser have been prepared in accordance with the Corporations Act and the Accounting Standards;

- (ii) The Financial Reports that it has given to the Purchaser give a true and fair view of its financial condition as at the date to which they are made up and of the results of its operations for the period that they cover; and
 - (iii) There has been no change since the date of the most recent Financial Reports that it has given to the Purchaser that could have a Material Adverse Effect; and
 - (iv) All material Financial Indebtedness and other material contingent liabilities are disclosed in those accounts.
- (i) **(No litigation)** No litigation, arbitration, Tax claim, dispute or administrative or other proceeding is current or, to its knowledge, pending or threatened, which could have a Material Adverse Effect.
- (j) **(No default)**
 - (i) No breach of obligation, Event of Default, or Potential Event of Default is subsisting under this document.
 - (ii) It is not in default or breach under a document or agreement other than the Transaction Documents (including an Authorisation) binding on it or its assets which relates to Financial Indebtedness and which could have a Material Adverse Effect.
 - (iii) Nothing has occurred which constitutes an event of default, review event, potential event of default, amortisation event, potential amortisation event, cancellation event, prepayment event or similar event (in each case howsoever described) under any other material agreements, whether immediately or after notice or lapse of time or both where in any such case the default could have a Material Adverse Effect.
- (k) **(No misrepresentation)** All information provided by it to the Purchaser is true in all material respects at the date of this document or, if later, when provided. Neither that information nor its conduct and the conduct of anyone on its behalf in relation to the transactions contemplated by Transaction Documents, was or is misleading, by omission or otherwise, in any material respect.
- (l) **(Agreements disclosed)** Each document or agreement which has the effect of varying a Transaction Document has been disclosed to the Purchaser in writing.
- (m) **(Copies of documents)** All copies of documents (including its latest audited accounts and all Authorisations) given by it or on its behalf to the Purchaser are true and complete copies.
- (n) **(Law)** It has complied with all laws binding on it where breach could have a Material Adverse Effect.
- (o) **(Trust)** It does not hold any Receivables or enter into any Transaction Documents as the trustee for any trust.
- (p) **(Solvency)** It is solvent and able to pay its indebtedness as it falls due. No proceedings are contemplated by it or any Related Corporation, or to the best of its knowledge threatened by others with respect to it or a Related Corporation, for the commencement of liquidation proceedings or for the appointment of a receiver.
- (q) **(Taxes)** It has filed all Tax returns which it is (or has been) required to file and has paid all Taxes as shown on such returns and on all assessments received by it to the extent that such Taxes have become due, but:

- (i) it need not pay Taxes for which it has set aside sufficient reserves and which are being contested in good faith, except where failure to pay those Taxes could have a Material Adverse Effect; and
 - (ii) it will pay contested Taxes which it is liable to pay on the final determination or settlement of the contest.
- (r) **(Knowledge)** It is not aware of any fact which could have a Material Adverse Effect on its ability to perform its obligations under the Transaction Documents.
- (s) **(Accurate Reports)** To the best of its knowledge and belief (after reasonable investigation) no information, exhibit, financial statement, document, book, record or report furnished or to be furnished by the Seller or the Servicer to the Purchaser in connection with a Transaction Document is inaccurate in any material respect as of the date it is dated or (except as otherwise disclosed to the Purchaser, as the case may be, at that time) as of the date so furnished, or contains any material misstatement of fact or omission or omits to state a material fact or any fact necessary to make the statements contained therein not materially misleading.
- (t) **(Commercial benefit)** The execution by it of the Transaction Documents to which it is a party, and the carrying out of the transactions that the Transaction Documents contemplate, is for its corporate benefit and in its commercial interests.
- (u) **(Other information)**
 - (i) the other information and reports (if any) that it has given to the Purchaser in connection with the Transaction Documents to which it is a party are true and accurate in all material respects and not misleading in any material respect (including by omission); and
 - (ii) any forecasts, projections and opinions in them are fair and reasonable (and were made or formed on the basis of recent historical information and reasonable assumptions after due inquiry and consideration by appropriate officers of that entity),

as at the date of this document or, if given later, when given.
- (v) **(Disclosure of relevant information)** It has disclosed to the Purchaser all the information that could be material to an assessment by the Purchaser of the risks that it assumes by entering into the Transaction Documents.
- (w) **(Related party)** It has not contravened and it will not contravene section 208 of the Corporations Act by entering into any Transaction Document to which it is a party or by carrying out any transaction contemplated by it.
- (x) **(No Controller)** No Controller is currently appointed in relation to any of its property or the Secured Property.
- (y) **(Money Laundering Laws)** Its and any of its affiliates' operations, are and have been conducted at all times in compliance in all respects of the Money Laundering Laws and no action, suit or proceeding by or before any court or Governmental Agency, authority or body or any arbitrator involving it with respect to the Money Laundering Laws is pending or, to the best of its knowledge, threatened or contemplated.
- (z) **(Sanctions)**
 - (i) None of the sale of any Receivables, the execution, delivery and performance of this document and the other Transaction Documents, the consummation of any other transactions contemplated hereby or thereby,

or the provision of services contemplated by this document to it will result in a violation of any Sanction Laws and Regulations; and

- (ii) Neither it, nor, to the best of its knowledge, any of its director, officer, agent, employee or affiliates is:
 - (A) in breach or currently the subject of any of the Sanction Laws and Regulations;
 - (B) located or organised under the laws of, operating or resident in, a country or territory that is the subject of country or country-wide sanctions (including without limitation, Cuba, Iran, Libya, North Korea, Sudan, Syria and the Crimea Region of Ukraine) or owned or controlled directly or indirectly by any person which is a designated target of country or country-wide sanctions; or
 - (C) listed on the "Specially Designated Nationals and Blocked Persons" list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by Her Majesty's Treasury in the United Kingdom, or any similar list maintained by, or public announcement of sanctions designation made under any Sanction Laws and Regulations. There have been no transactions or connections between it, on the one hand, and the Purchaser on the other hand, any country, person or entity in those countries that are subject to any United States sanctions administered by OFAC or any other Sanction Laws and Regulations or who perform contracts in support of projects in or for the benefit of those countries. It will not directly or indirectly use the proceeds of the offering of any Receivables or any Collections, or lend, contribute or otherwise make available such proceeds to subsidiaries, affiliates, joint venture partners, or any other person or entity, for the purpose of financing, directly or indirectly, any activities in or involving any country or territory, or with or involving any person or entity that is subject to any United States sanctions administered by OFAC or any other Sanction Laws and Regulations or in any other manner that will result in a violation of any Sanction Laws and Regulations by an individual or entity (including any individual or entity participating in the offering, whether as underwriter, adviser, investor or otherwise).

(aa) **(Anti-corruption)** At any time during the term of the Transaction Documents:

- (i) it has knowledge of, and is committed to complying with, the laws and regulations relating to anti-bribery, corruption and Influence Peddling applicable to the execution of any Transaction Document; and
- (ii) neither it nor, to the best of its knowledge, any person within its control (including any director, officer or employee, each a "**Controlled Person**"), and, if any, its agents and intermediaries it has mandated for the purpose of executing each Transaction Document:
 - (A) has committed any Corrupt Act or Influence Peddling;
 - (B) is prohibited (or is treated as such), by a Governmental Agency, from responding to requests for proposals or to contract or work with that Governmental Agency because of any proven or alleged Corrupt Act or Influence Peddling; or
 - (C) offered to pay, paid, promised to pay, or authorised the payment of any money, or offered to give, given, promised to give, or

authorised the giving of any gift, directly or indirectly, to or for the use or benefit of any person, where this violates or would violate, or creates or would create liability for it or any other person under the Anti-Corruption Laws.

8.2 Representations and warranties in relation to the Receivables

As at the relevant Acceptance Date, the Seller makes the following representations and warranties:

- (a) **(Eligible Receivables)** Each Receivable offered for sale to the Purchaser is an Eligible Receivable and each Accepted Receivable identified as an Eligible Receivable is an Eligible Receivable.
- (b) **(Compliance with laws)** Each Accepted Receivable complies with, and was originated in compliance with, all applicable laws.
- (c) **(Enforceability)** Each Accepted Receivable is the legal, valid, binding and enforceable obligation of the relevant Obligor, enforceable in accordance with its terms.
- (d) **(No preference)** The sale of each Accepted Receivable will not constitute a transaction at an undervalue, a fraudulent conveyance or a voidance preference under any law relating to insolvency.
- (e) **(Servicing Guidelines)** The Servicer has complied and will comply in all material respects with the Servicing Guidelines in respect of the Accepted Receivables.
- (f) **(Valid Sale)** Each Acceptance will constitute a valid sale, by way of legal assignment of the Accepted Receivables to the Purchaser, enforceable against creditors of, and purchasers from the Seller.
- (g) **(Quality of Title)** Each Receivable offered for sale to the Purchaser is legally and beneficially owned by the Seller free and clear of any Security Interest (including, without limitation, any 'purchase money security interest' (as defined in the PPSA) of any third party).
- (h) **(No Security Interests)** The Seller created or acquired title to the Receivables in good faith, without notice of any adverse claim.
- (i) **(No Fraudulent Conveyance)** To the best of its knowledge, no circumstances exist by reason of which any transfer of any Accepted Receivable from the Seller to the Purchaser would be held by a court of competent jurisdiction to constitute under value transfers or otherwise as preferential, fraudulent or uncommercial transactions.
- (j) **(Not Assets of the Seller)** It intends that no Accepted Receivable will be considered by it to be an asset legally or beneficially owned by the Seller in the event of any receivership or liquidation proceedings against it under applicable law.
- (k) **(Entire documents)** Each Contract contains all of the terms of the arrangements between the Seller and the Obligor in respect of matters covered by those documents and there are no other documents or agreements which have the effect of varying or discharging any of those documents. Those documents constitute all the documents necessary to enforce the provisions of the Contract.

8.3 Reliance on representations and warranties

The Seller and Servicer acknowledges that the Purchaser has entered into this document, and will accept the offer in an Offer Notice (if in its absolute discretion it elects to do so)

and thereafter pay the applicable Discounted Amount in accordance with clause 2.1, in reliance on the representations and warranties in clauses 8.1 and 8.2.

8.4 Repetition

The Seller and Servicer (as applicable) each makes the representations and warranties:

- (a) subject to paragraph (b) below, in the case of the representations in clauses 8.1 and 8.2, on:
 - (i) the date of this document;
 - (ii) each day an Offer Notice is delivered; and
 - (iii) each Acceptance Date; and
- (b) in the case of the representations in clauses 8.1(y), 8.1(z) and 8.1(aa), on each day until the termination of this document,

in each case as if made on each such date with reference to the facts and circumstances then existing.

9. Undertakings

9.1 General undertakings

Each of the Seller and the Servicer undertake to the Purchaser as follows unless the Purchaser otherwise consents.

- (a) **(maintain status)** It will maintain its status as a company limited by shares incorporated under the Corporations Act.
- (b) **(Compliance with law)** It will comply fully with all laws binding on it.
- (c) **(Pay Taxes)** It will pay all Taxes payable by it when due, but:
 - (i) it need not pay Taxes for which it has sufficient resources to pay and which are being contested in good faith, except where failure to pay those Taxes could have a Material Adverse Effect; and
 - (ii) to the extent liable, it will pay those Taxes on the final determination or settlement of the contest.
- (d) **(Corporate reporting and information)** It will provide the Purchaser:
 - (i) **(annual accounts)** as soon as practicable (but within 120 days) after the close of each of its Financial Years copies of its Financial Report in respect of that Financial Year;
 - (ii) **(semi-annual reports)** as soon as practicable (but within 30 days) after each half year of its Financial Year, copies of its Financial Report in respect of that half year showing actual figures for that half year and (in the case of the second half year) for the whole Financial Year;
 - (iii) **(Government Agency)** promptly, any notice, order or correspondence from or with a Government Agency relating to the Accepted Receivables which could have a Material Adverse Effect;

- (iv) **(Security Interests)** promptly after becoming aware, notice in reasonable detail of any Security Interest asserted against any of the Accepted Receivables;
 - (v) **(litigation)** promptly after becoming aware, written particulars of any litigation, arbitration, tax claim, dispute or administrative or other proceeding in relation to it involving a claim exceeding A\$1,000,000 or its equivalent other than a claim for worker's compensation and claims the Purchaser has already been notified of in writing referencing this paragraph;
 - (vi) **(other information)** promptly, from time to time, such other information, documents, records or reports relating to the Accepted Receivables or the conditions or operations, financial or otherwise, of the Seller as the Purchaser may from time to time reasonably request in order to protect the interests of the Purchaser under any Transaction Document; and
 - (vii) **(Transaction Documents)** promptly, details of any variation of a Transaction Document or of any actual or purported termination of a Transaction Document.
- (e) **(Accounting principles)** It will ensure that each balance sheet and account provided under paragraph (d):
- (i) complies with the Accounting Standards applied in the applicable jurisdictions except to the extent disclosed in them and with all applicable laws; and
 - (ii) gives a true and fair view of the matters with which they deal;
- (f) **(Authorisations)** It will ensure that each Authorisation required for:
- (i) the execution, delivery and performance by it of the Transaction Documents to which it is expressed to be a party and the transactions contemplated by those documents;
 - (ii) the validity and enforceability of those documents; and
 - (iii) the carrying on by it of a material part of the business as now conducted or contemplated,
- is obtained and promptly renewed and maintained in full force and effect. It will pay all applicable fees for them. It will provide copies of the Authorisations referable to sub-paragraphs (i) and (ii) promptly to the Purchaser when they are obtained or renewed and in the case of Authorisations referable to sub-paragraph (iii) after request from the Purchaser promptly when they are obtained or renewed;
- (g) **(Notice to the Purchaser)** It will notify the Purchaser as soon as it becomes aware of
- (i) any Event of Default or Potential Event of Default;
 - (ii) any Accepted Receivable that is not an Eligible Receivable;
 - (iii) any proposal by a Government Agency to acquire compulsorily the whole or substantial part of its assets or business which could have a Material Adverse Effect;
 - (iv) any substantial dispute between it and a Government Agency which could have a Material Adverse Effect;

- (v) any change in its Authorised Officers, giving specimen signatures of any new Authorised Officer appointed, and, where reasonably requested by the Purchaser, evidence satisfactory to the Purchaser of the authority of any Authorised Officer; and
 - (vi) any impending change in the regulation of its business by any Government Agency of which it is aware and where that change could have a Material Adverse Effect or may impair the ability to recover any amount under an Accepted Receivable.
- (h) **(Disposal of assets)** It will not sell or otherwise dispose of, part with possession of, or create an interest in:
 - (i) any Accepted Receivable or related Contract; or
 - (ii) either:
 - (A) all of its assets; or
 - (B) a part of its assets, where to do so could have a Material Adverse Effect,

or agree or attempt to do so (whether in one or more related or unrelated transactions) except as contemplated by this document.
- (i) **(Negative pledge)** It will not create or allow to exist a Security Interest over any Accepted Receivable other than a lien arising by operation of law in the ordinary course of day-to-day trading and not securing Financial Indebtedness where it duly pays the indebtedness secured by that lien other than indebtedness contested in good faith for a period not exceeding 30 days.
- (j) **(Corporate existence)** It will do everything necessary to maintain its corporate existence in good standing. It will not transfer its jurisdiction of incorporation or enter any merger or consolidation.
- (k) **(Compliance and enforcement of Transaction Documents)** It will:
 - (i) comply fully with its obligations under the Transaction Documents;
 - (ii) enforce each Transaction Document to which it is a party and exercise its rights, authorities and discretions under those documents prudently and vigorously in order to avoid a Material Adverse Effect; and
 - (iii) use its best endeavours to keep Transaction Documents valid and enforceable, where a failure to take such action would be likely to have a Material Adverse Effect.
- (l) **(Variation of Transaction Documents)** It will not do any thing which has the effect of:
 - (i) amending or varying, or consenting to any amendment or variation of,
 - (ii) avoiding, releasing, surrendering, terminating, rescinding, discharging (other than by performance) or accept the repudiation of;
 - (iii) expressly or implicitly waiving, or extending or granting any time or indulgence in respect of, any provision of or obligation under; or
 - (iv) do or permit anything which would enable or give grounds to another party to do anything referred to in sub-paragraphs (i), (ii) or (iii) in relation to,

a Transaction Document.

- (m) **(Commercial dealings)** It will not deal in any way with any person except at arm's length in the ordinary course of business for valuable commercial consideration provided that, to the extent this undertaking relates to the conduct of its subsidiary, it will only apply to material dealings of that subsidiary.
- (n) **(Change of business or Servicing Guidelines)**
 - (i) It will not cease or materially change its business carried on in connection with any Accepted Receivable without the consent of the Purchaser (which must not be unreasonably withheld or delayed).
 - (ii) It will not make any change to the Servicing Guidelines, or its policy in respect of writing off amounts owing under Receivables, that would impact recoverability or affect the collectability of the Receivables (other than any change reasonably required in the ordinary course of business) without the consent of the Purchaser (which must not be unreasonably withheld or delayed).
 - (iii) It will not take action whether by acquisition or otherwise which alone or in aggregate would materially alter the nature of its business taken as a whole and that would impact recoverability or affect the collectability of the Receivables without the consent of the Purchaser (which must not be unreasonably withheld or delayed).
 - (iv) It will not dissolve, liquidate, consolidate with or merge with, or otherwise acquire all or any substantial portion of the ownership interest, assets, or properties of any corporation, partnership, limited liability company or other entity if to do so could have a Material Adverse Effect.
- (o) **(Take proceedings)** It will take or defend all legal proceedings which are necessary or which the Purchaser reasonably requires to protect or recover any right, title or interest in, to, under or derived from the Accepted Receivables.
- (p) **(Nothing prejudicial)** It will not do or wilfully or negligently omit to do anything which might render the rights of the Purchaser in the Accepted Receivables liable to forfeiture, cancellation, avoidance or loss or might otherwise prejudicially affect the rights of the Purchaser in the Accepted Receivables or the value of the Accepted Receivables.
- (q) **(Notices)** It will promptly deliver to the Purchaser copies of all notices and other documents received by it in its capacity as a party to the Accepted Receivables or relating in any way to the Accepted Receivables which materially affect the collectability of any of the Accepted Receivables.
- (r) **(Records)** In the case of the Seller, it will, at its own cost and expense retain:
 - (i) the ledger and documentation relating to it as a master record of the Accepted Receivables; and
 - (ii) copies of all documents relating to each Accepted Receivable as custodian for the Purchaser.
- (s) **(Amending Receivables)**
 - (i) It will not:
 - (A) release, discharge, rescind or cancel;

(B) grant any waiver or modify;

(C) extend any term or provision of,

any Accepted Receivable or any Contract without the prior written consent of the Purchaser (which must not be unreasonably withheld or delayed), except in the ordinary course of business and consistent with the provisions of the Servicing Guidelines.

(ii) It will not consent to the creation of any Security Interest over any Accepted Receivable without the prior written consent of the Purchaser.

(t) **(PPS Registration in respect of Equipment)** In the case of the Seller only, it will do all things necessary or appropriate to maintain a valid and perfected PPS Security Interest in respect of the Equipment the subject of each Accepted Receivable (including, without limitation, in respect of the registration of such PPS Security Interest on the PPS Register).

(u) **(Administrative procedures)** In the case of the Servicer only, it will maintain administrative and operating procedures (including an ability to recreate records evidencing the Accepted Receivables in the event of the destruction of the originals) and keep and maintain all documents, books, records and other information reasonably necessary or customary for the collection of all Accepted Receivables (including records adequate to permit the daily identification of each new Accepted Receivable and all Collections of and adjustments to each existing Accepted Receivable).

(v) **(Inspection)** At any other time and from time to time during regular business hours, it will permit the Purchaser, or its agents or representatives, upon two Business Days' notice:

(i) to examine and make copies of and abstracts from all books, records and documents (including, without limitation, computer tapes and disks) in the possession or under the control of the Seller or Servicer (as applicable) relating to the relevant Accepted Receivables including, without limitation, the related Contracts and other agreements; and

(ii) to visit the offices and properties of the Seller or Servicer (as applicable) at reasonable times not more than once in any 6-month period for the purpose of examining such materials described in paragraph (i) above, and to discuss matters relating to the Accepted Receivables or the Seller's or the Servicer's performance under any Transaction Document with any of the officers or employees of the Seller or the Servicer having knowledge of such matters, provided that the Purchaser, or its agents or representatives comply with reasonable directions of the Seller or Servicer (as applicable) in respect of such visits and do not disrupt the business or working processes of the Seller or Servicer (as applicable),

in each case to the extent to which it and the Purchaser may lawfully do so.

(w) **(Performance and Compliance with Receivables and Contracts)** At its expense, it will timely and fully perform and comply with all material provisions, covenants and other promises required to be observed by it under or in connection with the Accepted Receivables and the related Contracts and other agreements related to such Accepted Receivables and, in the case of the Servicer only, will comply in all material respects with all of the provisions of the Servicing Guidelines.

(x) **(Change in Payment Instructions to Obligors)** It will not make any change in its instructions to Obligors regarding payments to be made to the Seller unless the Purchaser has approved such change.

- (y) **(Audits)** On reasonable notice from the Purchaser, it will permit the Purchaser and its respective officers and agents at the Purchaser's expense to audit its records and systems at reasonable times not more than once in any 6-month period and provided that the Purchaser, or its respective officers comply with reasonable directions of the Seller or Servicer (as applicable) in respect of such audit and do not disrupt the business or working processes of the Seller or Servicer (as applicable) (unless an Event of Default is subsisting) in such reasonable detail that the Purchaser may establish whether or not it is complying with its obligations under any Transaction Document and ensure that any such auditor has full access to its premises and all of its records, accounts and other information for the purposes of conducting such audit.
- (z) **(Investigative Accountants)** If an Event of Default is subsisting, it will within 5 Business Days after receiving notice from the Purchaser, appoint an investigative accountant approved by the Purchaser, to report on such matters relating to it as the Purchaser may specify and the reasonable cost of such investigative accountant will be for its account.
- (aa) **(Accepted Receivables)** In the case of the Servicer only, ensure that each Accepted Receivable is serviced in accordance with the Servicing Guidelines.
- (bb) **(Anti-corruption)**
 - (i) It will not directly or indirectly use the proceeds of the offering of any Receivables or any Collections for any purpose which would breach any Anti-Corruption Laws;
 - (ii) It will maintain, if required by laws and regulations applicable to the execution of each Transaction Document, and in a form and manner appropriate for a business of its size and resources:
 - (A) reasonably detailed books, records and accounts in respect of the execution of each Transaction Document, in a form and manner appropriate for a business of its size and resources; and
 - (B) appropriate rules and procedures, aiming at preventing any Corrupt Act and Influence Peddling from being committed;
 - (iii) It shall take all reasonable and prudent steps to ensure that each of its agents, directors, employees and officers comply with such laws; and promptly upon becoming aware of them, shall supply to the Purchaser the following:
 - (A) the details of any actual or potential violation by, or creation of liability for, it or any agent, director, employee or officer of it or in relation to any Anti-Corruption Laws, or of any investigation or proceedings relating to the same;
 - (B) copies of any correspondence delivered to, or received from, any regulatory authorities in relation to any matter referred to in paragraph (A) above at the same time as they are dispatched or promptly upon receipt (as the case may be); and
 - (C) such further information relating to any matter referred to in paragraphs (A) and (B) above as such recipient of information may reasonably require;
 - (iv) It acknowledges and agrees that the Purchaser shall have the right to terminate the Transaction Documents at any time, in writing and delivered in person or by courier or by certified or registered mail (return receipt

requested), sent to the Seller with immediate effect and without payment notwithstanding any other provisions of the Transaction Documents or related and ancillary documents or any other agreement between the parties, if it has committed any Corrupt Act or Influence Peddling, or is otherwise in breach of its obligations hereunder or its representations and warranties are no longer true (whether or not such breach is capable of remedy);

- (v) It acknowledges and agrees that the Purchaser may immediately suspend without notice or indemnity any payment, promise to pay, or authorisation of any payment (or giving anything of value) to it, if the Purchaser has reasonable grounds to suspect that any other party has committed any Corrupt Act or Influence Peddling in relation to any Transaction Document or related and ancillary document. Reasonable grounds shall include, but not be limited to, publicly available reports of Corrupt Acts or Influence Peddling. Such suspension shall be maintained only for the time necessary to investigate those grounds in order either to confirm or dispel the suspicions; and
- (vi) It will not directly or indirectly use the proceeds of the offering of any Receivables or any Collection for any purpose which would breach any Anti-Corruption Laws.
- (cc) **(Notice of default)** In the case of the Seller only, it will promptly notify the Servicer and the Purchaser if any default (however defined or described) occurs under any Accepted Receivable, the related Contracts or any other agreements related to such Accepted Receivable and such default could have a Material Adverse Effect on the amount or timing of a payment to be made by the relevant Obligor in respect of such Accepted Receivable.

10. Administration, Servicing, Collection and Back-up Servicing

10.1 Appointment

- (a) Subject to clause 10.3, the Seller and the Purchaser each appoints the Servicer as its agent to enforce its rights and interests in and under the Accepted Receivables and the Contracts with respect to the Accepted Receivables with all powers expressly delegated to it by this document together with all other powers reasonably incidental to those powers.
- (b) The Purchaser agrees to pay the Servicer Fee to the Servicer in consideration of the Servicer's performance of its duties under clause 10.2.
- (c) The Servicer may not subcontract with any other person or appoint any agent or delegate for servicing, administering or collecting the Accepted Receivables.
- (d) The Servicer's appointment under this document will terminate on the date after the Commitment Termination Date when the Purchaser's Investment is zero and all other amounts owed by the Seller to the Purchaser under the Transaction Documents have been fully and finally paid or when the Servicer is replaced under clause 10.3.

10.2 Duties of the Servicer

- (a) **(Collection of Receivables)** The Servicer will take or cause to be taken all such actions to collect each Accepted Receivable from time to time in accordance with the Servicing Guidelines, applicable laws, rules and regulations and otherwise, with

reasonable care and diligence exercising the same standard of care that a prudent company carrying on a similar business as the Servicer would adopt.

- (b) **(Servicer's Records)** The Servicer will ensure its records and accounts are such that it will always be able to determine what Collections it has received and in respect of which Accepted Receivables, and such records and accounts will be provided to the Purchaser on request.

10.3 Replacement of the Servicer

- (a) If a Servicer Termination Event is subsisting, the Purchaser may remove the Servicer from office by giving the Servicer a Successor Notice.
- (b) Upon removal of a Servicer the Purchaser has the right to appoint the Back-Up Servicer who accepts the appointment.
- (c) Subject to the appointment of the Back-Up Servicer, the Servicer may resign at any time by giving not less than 1 months' notice to the Purchaser.
- (d) On its appointment the Back-Up Servicer will have all the rights, powers and obligations under this document of the retiring Servicer. The retiring Servicer will be discharged from its rights, powers and obligations under this document.
- (e) The retiring Servicer will execute and deliver all documents and agreements which the Purchaser reasonably believes are necessary or desirable to effect the appointment of the Back-Up Servicer.

10.4 Rights of the Purchaser

- (a) **(Notice to Obligor)** If a Servicer Termination Event is subsisting the Purchaser may notify any Obligor of an Accepted Receivable of the Purchaser's ownership of the Accepted Receivables.
- (b) **(Rights on Event of Default)** If an Event of Default is subsisting, the Purchaser may notify the Seller and the Servicer to take the action required under clause 11.3.
- (c) **(Rights on Servicer Termination Event)** At any time a Servicer Termination Event is subsisting:
 - (i) the Purchaser may direct the Obligors of Accepted Receivables, or any of them, to pay all amounts payable under any Accepted Receivable directly to the Purchaser or its designee;
 - (ii) the Seller will, at the Purchaser's request and at the Seller's expense, give notice of the Purchaser's ownership of the Accepted Receivables to each Obligor and direct that payments be made directly to the Purchaser or its designee;
 - (iii) each of the Seller and the outgoing Servicer will, at the Purchaser's request:
 - (A) assemble all Contracts and copies of the other documents, instruments and other records (including computer programs, tapes and disks) held by the Seller or the Servicer (as the case may be) which evidence the Accepted Receivables, or which are otherwise necessary or desirable to collect such Accepted Receivables, and will make the same available to the Purchaser at a place selected by the Purchaser or its designee; and

- (B) segregate all cash, cheques and other instruments received by it from time to time constituting Collections of Accepted Receivables in a manner acceptable to the Purchaser and will, promptly upon receipt, remit all such cash, cheques and instruments, duly endorsed or with duly executed instruments of transfer, to the Purchaser or its designee; and
- (iv) the Seller authorises the Purchaser to take any and all steps in the Seller's name and on behalf of the Seller which are necessary or desirable, in the determination of the Purchaser, to collect all amounts due under any and all Accepted Receivables, including, without limitation, endorsing the Seller's name on cheques and other instruments representing Collections and enforcing such Accepted Receivables and the related Contract.

10.5 Responsibilities of the Seller

The following provisions apply despite any other term of any Transaction Document:

- (a) the Seller will perform all of its obligations under the Contracts related to the Accepted Receivables and other agreements to the same extent as if the Accepted Receivables had not been sold and the exercise by the Purchaser of its rights will not relieve the Seller from such obligations; and
- (b) the Purchaser will not have any obligation or liability with respect to the Accepted Receivables or the Contracts related to those Accepted Receivables, nor will it be obligated to perform any of the obligations of the Seller under those agreements.

10.6 Further action evidencing acceptance

The Seller agrees that from time to time, at its expense, it will promptly execute and deliver all further instruments and documents, and take all further action that the Purchaser may reasonably request in order to perfect, protect or more fully evidence the Acceptance under this document, or to enable the Purchaser to exercise or enforce any of their respective rights under this document. Without limitation, the Seller will upon the request of the Purchaser execute such instruments or notices, as may be necessary or appropriate to indicate the Purchaser's title in the Accepted Receivables.

10.7 Application of Collections

- (a) Any payment by an Obligor in respect of any indebtedness owed by it to the Seller in relation to a Contract will, except as otherwise specified by such Obligor or otherwise required by contract or law and unless the Purchaser instructs otherwise, be applied as a Collection of any Accepted Receivable of such Obligor to the extent of any amounts then due and payable under such Accepted Receivable before such payment is applied to any other indebtedness of such Obligor.
- (b) The Seller's obligation under clause 10.7(a) is purely personal, and does not create any Security Interest.

10.8 Back-Up Servicer

- (a) If the Purchaser becomes entitled to replace or remove a Servicer as servicer then the Purchaser may request the Back-Up Servicer to act as temporary stand-in servicer. If the Purchaser makes a request of the Back-Up Servicer under this clause then the Purchaser will be deemed to have represented and warranted to the Back-Up Servicer that it is entitled to appoint the Back-Up Servicer as temporary stand-in servicer in accordance with that request.
- (b) The Back-Up Servicer must comply with any request made under clause 10.8(a), but only if the Back-Up Servicer is satisfied that:

- (i) it has been or will be provided with access to all the systems, data and documentation that the Back-Up Servicer believes necessary to perform its duties as temporary stand-in servicer; and:
 - (ii) it will be adequately indemnified for each liability which it will or may incur as a result of complying with that request.
- (c) The Seller must use its reasonable endeavours to procure that the Back-Up Servicer is provided with the systems, data and documentation referred to above as soon as is practicable after a request is made.
- (d) If the Back-Up Servicer complies with a request made under clause 10.8(a) then it must act as temporary stand-in servicer until the appointment of the Back-Up Servicer.
- (e) Whilst the Back-Up Servicer acts as temporary stand-in servicer it must service the Accepted Receivables:
 - (i) in accordance with the standards of an appropriately qualified and prudent servicer of receivables similar to those receivables which constitute the Accepted Receivables; and
 - (ii) in a manner which is not materially adversely different from the manner in which the previous Servicer serviced the Accepted Receivables;
- (f) The Back-Up Servicer may appoint a third party to undertake any of its functions or responsibilities.

11. Event of Defaults; Servicer Termination Events; termination

11.1 Event of Defaults

The occurrence and continuation of any one of the following events will be an Event of Default (in each case whether or not it is in the control of the Seller):

- (a) **(payments)** the failure on the part of the Seller to make any payments within 2 Business Days of its due date under any Transaction Document;
- (b) **(covenants)** the failure on the part of the Seller to observe or perform any other term, undertaking, covenant, condition or agreement provided for in this document or any Transaction Document where such failure will have a Material Adverse Effect and if the failure can be remedied, the Seller does not remedy the failure within 10 days of the Seller becoming aware of the failure.
- (c) **(representations and warranties)** any representation or warranty made or deemed to be made by the Seller under or in connection with any Transaction Document or other information, report or statement delivered under any Transaction Document is not, in the opinion of the Purchaser, true in any material respect when made or repeated;
- (d) **(Insolvency Event)** the occurrence of an Insolvency Event with respect to the Seller;
- (e) **(Adverse audit report)** any periodic audit (including any audit by the Purchaser or an external auditor) has, as determined by the Purchaser, potential or actual negative implications for the Seller, and where the adverse result is capable of remedy, the adverse result is not remedied to the Purchaser's satisfaction (acting

reasonably), within 30 days of the Purchaser requiring the relevant entity to rectify such result;

- (f) **(Financial Indebtedness)** the Seller or any Related Corporation fails to pay any Financial Indebtedness in excess of \$100,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) and such failure continues after the applicable grace period, if any, specified in the agreement or instrument relating to such Financial Indebtedness;
- (g) **(material adverse effect)** any event or circumstance relating to or caused by the Seller occurs which has a Material Adverse Effect;
- (h) **(regulatory requirements)** the Seller fails to observe or comply with any law or official directive or request (including one with respect to reserve, liquidity, capital adequacy, special deposit or similar requirements) where that failure might wholly or partially render illegal, prevent or restrict the performance or effectiveness of the Transaction Documents or where that failure could have a Material Adverse Effect and does not remedy that failure within 10 days of the Seller becoming aware of that failure;
- (i) **(inability to perform)** if the Seller ceases for any reason to be able lawfully to carry out any of its obligations under a Transaction Document; and
- (j) **(provisions void)** if all or any material provision of a Transaction Document relating to the Seller is or becomes void, voidable, illegal or unenforceable or of limited force (other than because of equitable principles or laws affecting creditors' rights generally), or the Seller claims this to be the case.

11.2 Servicer Termination Event

The occurrence and continuation of any one of the following events will be a **Servicer Termination Event** (in each case whether or not it is in the control of the Servicer):

- (a) **(payments)** the failure on the part of the Servicer to make any payments within 2 Business Days of its due date;
- (b) **(covenants)** the failure on the part of the Servicer to observe or perform any other term, undertaking, covenant, condition or agreement provided for in this document or any Transaction Document where such failure will have a Material Adverse Effect and if the failure can be remedied, the Servicer does not remedy the failure within 10 days of the Servicer becoming aware of the failure;
- (c) **(representations and warranties)** any representation or warranty made or deemed to be made by the Servicer under or in connection with any Transaction Document or other information, report or statement delivered under any Transaction Document is not true in any material respect when made or repeated;
- (d) **(Insolvency Event)** the occurrence of an Insolvency Event with respect to the Servicer;
- (e) **(Adverse audit report)** any periodic audit (including any audit by the Purchaser or an external auditor) has, as determined by the Purchaser, potential or actual negative implications for the Servicer, and where the adverse result is capable of remedy, the adverse result is not remedied to the Purchaser's satisfaction (acting reasonably), within 30 days of the Purchaser requiring the relevant entity to rectify such result;
- (f) **(Financial Indebtedness)** the Servicer or any Related Corporation fails to pay any Financial Indebtedness in excess of \$100,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) and such

failure continues after the applicable grace period, if any, specified in the agreement or instrument relating to such Financial Indebtedness;

- (g) **(material adverse effect)** any event or circumstance relating to or caused by the Servicer occurs which has a Material Adverse Effect;
- (h) **(regulatory requirements)** the Servicer fails to observe or comply with any law or official directive or request (including one with respect to reserve, liquidity, capital adequacy, special deposit or similar requirements) where that failure might wholly or partially render illegal, prevent or restrict the performance or effectiveness of the Transaction Documents or where that failure could have a Material Adverse Effect and does not remedy that failure within 10 days of the Servicer becoming aware of that failure;
- (i) **(inability to perform)** if the Servicer ceases for any reason to be able lawfully to carry out any of its obligations under a Transaction Document; and
- (j) **(provisions void)** if all or any material provision of a Transaction Document relating to the Servicer is or becomes void, voidable, illegal or unenforceable or of limited force (other than because of equitable principles or laws affecting creditors' rights generally), or the Servicer claims this to be the case.

11.3 Consequences of an Event of Default

If an Event of Default occurs, the Purchaser may exercise any or all of the remedies specified below (in addition to all other rights and remedies under any Transaction Document (other than this document)).

- (a) **(Optional liquidation)** the Purchaser may by notice to the Seller declare the Commitment Termination Date to have occurred.
- (b) **(Additional remedies)** Upon any termination of the Facility under this clause 11.3, the Purchaser will, in addition to all other rights and remedies under any Transaction Document or otherwise, have all other rights and remedies provided under applicable laws, which rights will be cumulative. Without limitation, the occurrence of an Event of Default will not deny to the Purchaser any remedy in addition to termination of the Facility to which the Purchaser may be otherwise appropriately entitled, whether at law or in equity.
- (c) **(Redirect payments)** The Purchaser may direct the Obligors of Accepted Receivables, or any of them, to pay all amounts payable under any Accepted Receivable directly to the Purchaser or its designee.

11.4 Notice of an Event of Default

The Purchaser will be taken not to be aware of an Event of Default unless:

- (a) it receives notice in writing from another party stating that an Event of Default has occurred and describing it; or
- (b) its officers who have responsibility for the transaction become actually aware of it.

12. Indemnification

12.1 Seller indemnity

Without limiting any other rights which any such person may have under any Transaction Document or under applicable law, the Seller agrees to indemnify the Purchaser,

separately from and independently of any indemnifiable amounts under Clause 6.3, on demand, from and against any and all Indemnified Amounts that the Purchaser may sustain or incur as a direct or indirect consequence of:

- (a) the breach of any representation or warranty made by the Seller (or any of its officers) under or in connection with any Transaction Document or any other information or report delivered by the Seller under any Transaction Document, which breach renders such representation or warranty false or incorrect when made or deemed made;
- (b) any Event of Default or Potential Event of Default;
- (c) the failure by the Seller to comply with any applicable law, rule or regulation with respect to any Accepted Receivable or the related Contract, or the non-conformity of any Accepted Receivable or the related Contract with any such applicable law, rule or regulation;
- (d) the failure by the Seller to vest and maintain vested in the Purchaser the beneficial interest in respect of the Accepted Receivables, free and clear of any Security Interest, other than a Security Interest arising solely as a result of an act of the Purchaser, whether existing at the time of the Acceptance or at any time after that;
- (e) any dispute, claim, offset (including the setting off of deposits against any amount owing and unpaid under any Obligor's Accepted Receivable) or defence of the Obligor to the payment of any Accepted Receivable (including a defence based on such Receivables or the related Contracts not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms), or other claim resulting from services related to such Receivable or the furnishing or failure to furnish such services;
- (f) any failure of the Seller to perform its duties or obligations in accordance with the provisions of clause 9 or 10;
- (g) any cost attributable to any perfection of the Purchaser's title and interest in and to the Accepted Receivables and Related Agreements or any Security Interest granted to the Purchaser under a Transaction Document; or
- (h) any cost attributable to goods and services or similar tax that the Purchaser may be required to pay in respect of any payment by the Purchaser under any Related Agreement.

12.2 Servicer indemnity

Without limiting any other rights which any such person may have under any Transaction Document or under applicable law, the Servicer agrees to indemnify the Purchaser, on demand, from and against any and all Indemnified Amounts that the Purchaser may sustain or incur as a direct or indirect consequence of:

- (a) the breach of any representation or warranty made by the Servicer (or any of its officers) under or in connection with any Transaction Document or any other information or report delivered by the Servicer under any Transaction Document, which breach renders such representation or warranty false or incorrect when made or deemed made;
- (b) any Servicer Termination Event;
- (c) the failure by the Servicer to comply with any applicable law, rule or regulation with respect to any Accepted Receivable or the related Contract, or the non-conformity of any Accepted Receivable or the related Contract with any such applicable law, rule or regulation;

- (d) any dispute, claim, offset (including the setting off of deposits against any amount owing and unpaid under any Obligor's Accepted Receivable) or defence of the Obligor to the payment of any Accepted Receivable (including a defence based on such Receivables or the related Contracts not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms), or other claim resulting from services related to such Receivable or the furnishing or failure to furnish such services; or
- (e) any failure of the Servicer to perform its duties or obligations in accordance with the provisions of clause 9 or 10.

13. Power of attorney

13.1 Seller Appointment

- (a) The Seller irrevocably appoints each Authorised Officer of the Purchaser severally its attorney to do anything which:
 - (i) the Seller is obliged, authorised or empowered to do under or in relation to any Transaction Document or any Contract (including enforcing any Accepted Receivable); or
 - (ii) the Purchaser is authorised or empowered to do under any Transaction Document, any Contract or any law but only at the times that the Purchaser would have been able to do it.
- (b) An attorney may only act under this power if an Event of Default has occurred.
- (c) Without limitation, the attorney may at any time delegate his powers (including delegation).
- (d) No attorney appointed under this document may act inconsistently with this document.

13.2 Servicer Appointments

- (a) The Servicer appoints each Authorised Officer of the Purchaser severally its attorney to do anything which:
 - (i) the Servicer is obliged, authorised or empowered to do under or in relation to any Contract (including enforcing any Accepted Receivable); or
 - (ii) the Servicer and Purchaser are authorised or empowered to do under any Contract or any law but only at the times that the Servicer and Purchaser would have been able to do it.
- (b) An attorney may only act under this power if a Servicer Termination Event has occurred.
- (c) Without limitation, the attorney may at any time delegate his powers (including delegation), or appoint a sub-attorney.
- (d) No attorney appointed under this document may act inconsistently with this document.

14. Agent and Associates

The Purchaser and any of its Associates may generally engage in any kind of business with the Seller, the Servicer or any Obligor, any of their respective Associates and any person who may do business with or own securities of the Seller, the Servicer or any Obligor or any of their respective Associates, all as if the Purchaser were not the Purchaser and without any duty to account to the Purchaser or any other holder of an interest in Accepted Receivables.

15. Assignment

- (a) Each of the Seller and the Servicer must not assign its rights under any Transaction Document without the prior written consent of the Purchaser.
- (b) The Purchaser may assign or grant security over its rights under any Transaction Document and its interest in the Accepted Receivables, or transfer its obligations under any Transaction Document to any party, without the prior written consent of the Seller or the Servicer.

16. Interest on overdue amounts

16.1 Accrual

Interest accrues on each unpaid amount which is due and payable by the Seller or the Servicer under or in respect of any Transaction Document (including interest payable under this clause):

- (a) on a daily basis up to the date of actual payment from (and including) the due date or, in the case of an amount payable by way of reimbursement or indemnity, the date of disbursement or loss, if earlier;
- (b) both before and after judgment (as a separate and independent obligation); and
- (c) at a rate which is 2% per annum plus the weighted average Discount Rate for all Accepted Receivables.

16.2 Payment

The Seller and the Servicer will pay interest accrued under this clause on demand by the Purchaser.

17. PPSA clauses

17.1 PPS Security Interests

- (a) The Seller acknowledges that the Transaction Documents give rise, or may give rise, to one or more PPS Security Interests.
- (b) To the extent that any such PPS Security Interest can be perfected by control, the Seller must do anything required by the Purchaser to enable it to perfect that PPS Security Interest by control.
- (c) To the extent that any such PPS Security Interest is over personal property of a type referred to in section 340(5) of the PPSA, the Seller must do anything required

by the Purchaser to enable it to control that property for the purposes of section 340(2)(b) of the PPSA.

17.2 Acknowledgment of no subordination

The Seller acknowledges that the Purchaser has not agreed to subordinate any Security Interest provided for by the Transaction Documents in favour of any other person, except to the extent (if any) expressly provided by a Transaction Document.

17.3 Security Interest continues despite dealing

If, in breach of any Transaction Document, the Seller attempts to dispose of or otherwise deal with any personal property that is subject to a Security Interest in favour of the Purchaser, the Seller acknowledges that, despite the disposal or dealing:

- (a) the Purchaser has not authorised the disposal or agreed that the dealing would extinguish the Purchaser's Security Interest; and
- (b) the Purchaser's Security Interest continues in that property.

17.4 Authority to register and take action

The Seller acknowledges that the Purchaser may, at the Seller' cost, register one or more financing statements or take any other action to perfect any PPS Security Interests provided for by the Transaction Documents.

17.5 Exercise of rights by the Purchaser

If the Purchaser exercises a power, right, discretion or remedy in connection with this document, that exercise is taken not to be an exercise of a power, right, discretion or remedy under the PPSA unless the Purchaser states otherwise at the time of exercise. However, this clause does not apply to a power, right, discretion or remedy which can only be exercised under the PPSA.

17.6 Exclusion of PPSA provisions

- (a) The Seller and the Purchaser agrees that to the full extent permitted by law, any provision of the PPSA or its subordinate legislation which at any time directly or indirectly:
 - (i) lessens, varies or affects in favour of the Seller, any obligation of the Seller under a Transaction Document; or
 - (ii) delays, prevents or prejudicially affects the exercise by the Purchaser, controller (as defined in the Corporations Act) or attorney of the Purchaser of any power,is excluded from the Transaction Document.
- (b) To the extent permitted by any law, in respect of the PPSA:
 - (i) the parties contract out of each provision which section 115(1) or 115(7) permits them to contract out, other than:
 - (A) sections 117 and 118 (relationship with land laws);
 - (B) sections 128 and 129 (disposal of collateral); and
 - (C) sections 134(1) and 135 (retention of collateral);

- (ii) the Seller waives any right it has to receive a notice which section 144 or 157(3) permits it to waive;
- (iii) the Seller waives its rights to receive anything from the Purchaser under section 275 and agrees not to make any request of the Purchaser under that section; and
- (iv) any disposal or other exercise of powers under any Transaction Document or otherwise will only be taken to be under a provision listed in sub-paragraph (i) if the Purchaser so elects.

18. Illegality

If any event occurs (including, but not limited to, any change in, or the introduction, implementation, operation or taking effect of, any law, regulation, treaty, order or official directive, or in their interpretation or application by any Government Agency) which makes it unlawful for the Purchaser to continue to accept Receivables from the Seller or for the Purchaser to perform its obligations under this document then:

- (a) **(Suspension)** the Purchaser's obligations under this document are immediately suspended for the duration of such illegality; and
- (b) **(Termination)** the Purchaser may, by notice in writing to the other parties, appoint a day as the Commitment Termination Date.

19. Miscellaneous

19.1 Notices

Unless otherwise provided in this document, all notices, requests, demands, consents, approvals, agreements or other communications to or by a party to this document:

- (a) must be in writing;
- (b) must be signed by an Authorised Officer of the sender; and
- (c) will be taken to be duly given or made:
 - (i) (in the case of delivery in person or by post or facsimile transmission) when delivered, received or left at the address of the recipient shown in this document or to any other address which it may have notified the sender; or
 - (ii) (in the case of email) when the email (including any attachment) is sent to the receiving party at that email address, unless the sending party receives a notification of delivery failure within 24 hours of the email being sent,

but if delivery or receipt is on a day on which business is not generally carried on in the place to which the communication is sent or is later than 4 pm (local time), it will be taken to have been duly given or made at the commencement of business on the next day on which business is generally carried on in that place.

19.2 Severability clause

Any provisions of any Transaction Document other than clause 16 (and similar provisions in the other Transaction Documents) which are prohibited or unenforceable in any jurisdiction are ineffective to the extent of the prohibition or unenforceability. That does not

invalidate the remaining provisions of that Transaction Document nor affect the validity or enforceability of that provision in any other jurisdiction.

19.3 Governing Law and jurisdiction

- (a) Each Transaction Document is governed by the laws of New South Wales. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there.
- (b) Each party irrevocably waives:
 - (i) any objection to the venue of any proceedings on the ground that they have been brought in an inconvenient forum; and
 - (ii) any immunity from set off, suits, proceedings and execution to which it or any of its property may now or in the future be entitled under any applicable law.

19.4 Survival of representations and indemnities

- (a) All representations and warranties in a Transaction Document survive the execution and delivery of the Transaction Documents.
- (b) Unless otherwise stated each indemnity reimbursement or similar obligation in any Transaction Document:
 - (i) is a continuing obligation;
 - (ii) is a separate and independent obligation;
 - (iii) is payable on demand; and
 - (iv) survives termination or discharge of this document.

19.5 Costs and expenses

- (a) **(Costs and expenses)** On demand the Seller will reimburse the Purchaser for all expenses (including legal expenses) of the Purchaser in relation to:
 - (i) the preparation, execution and completion of the initial Transaction Documents or any subsequent consent, approval, waiver or amendment; and
 - (ii) any actual or contemplated enforcement of any Transaction Document, the actual or contemplated exercise, preservation or consideration of any rights, powers or remedies under any Transaction Document or in relation to the Accepted Receivables; and
 - (iii) any inquiry by a Government Agency concerning the Seller or the Servicer or a transaction or activity the subject of any Transaction Document,including expenses reasonably incurred in retaining consultants to evaluate matters of material concern to the Purchaser on a full indemnity basis.
- (b) **(Stamp duty)**
 - (i) In addition, the Seller will, subject to this clause 19.5(b), pay all stamp, transaction, registration and similar Taxes (including fines and penalties) which may be payable or determined to be payable in relation to the execution, delivery, performance or enforcement of any Transaction

Document or any payment or receipt or any other transaction contemplated by any Transaction Document.

- (ii) Those Taxes include financial institutions duty, debits tax or other Taxes payable by return and Taxes passed on to the Purchaser by a bank or financial institution but, for the avoidance of doubt, do not include GST.
- (iii) On demand the Seller will indemnify the Purchaser against any liability resulting from delay or omission to pay those Taxes except to the extent the liability results from failure by the Purchaser to pay any Tax after having been put in funds to do so by the Seller.

19.6 Waivers; remedies cumulative

- (a) No failure on the part of the Purchaser to exercise and no delay in exercising any right, power or remedy under any Transaction Document operates as a waiver. Nor does any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.
- (b) The rights, powers and remedies provided to the Purchaser in the Transaction Documents are in addition to, and do not exclude or limit, any right, power or remedy provided by law.

19.7 Know Your Customer requirements

Each of the Seller and the Servicer must promptly upon the request of the Purchaser supply such documentation as is reasonably requested by the Purchaser in order for the Purchaser to carry out and be satisfied that it has complied with all relevant "Know Your Customer" requirements and normal operating procedures.

20. Confidentiality

20.1 Confidentiality

- (a) Each party to this document (other than the Purchaser) acknowledges that the Purchaser regards the structure of the transactions contemplated by the Transaction Documents to be proprietary, and each party to this document (other than the Purchaser) severally agrees that:
 - (i) subject to paragraph (ii), it will not disclose without the prior consent of the Purchaser:
 - (A) any information regarding, or copies of, any Transaction Document or any transaction contemplated by any Transaction Document;
 - (B) any information regarding the organisation or business of the Purchaser generally; or
 - (C) any information regarding the Purchaser which information is furnished by the Purchaser to such party and which is designated by the Purchaser to such party in writing or otherwise as confidential or not otherwise available to the general public,

(the information referred to in clauses (A), (B) and (C) is collectively referred to as the **Information**); and
 - (ii) such party may disclose any such Information:

- (A) to any other party to this document for the purposes contemplated by this document;
 - (B) as may be required by any Government Agency;
 - (C) in order to comply with any law, order, regulation, regulatory request or ruling applicable to such party (including, without limitation, any request or requirement of the Australian Stock Exchange);
 - (D) in the event such party is legally compelled (by interrogatories, requests for information or copies, subpoena, civil investigative demand or similar process) to disclose any such Information; or
 - (E) to the extent it is publicly available or becomes publicly available other than as a result of breach of this clause 20.1;
- (iii) it will use the Information solely for the purposes of evaluating, administering and enforcing the transactions contemplated by Transaction Documents and making any necessary business judgments with respect thereto; and
 - (iv) it will, upon demand, return (and cause each of its representatives to return) to the Purchaser all documents or other written material received from the Purchaser in connection with (a)(i)(A) above and all copies thereof made by such party which contain the Information.
- (b) This clause 20 will be inoperative as to such portions of the Information which are or become generally available to the public or such party on a non-confidential basis from a source other than the Purchaser or were known to such party on a non-confidential basis prior to its disclosure by the Purchaser.
 - (c) In the event that any party or anyone to whom such party or its representatives transmits the Information is requested or becomes legally compelled (by interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any of the Information, such party will:
 - (i) provide the Purchaser with prompt written notice so that the Purchaser may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this clause 20;
 - (ii) unless the Purchaser waives compliance by such party with the provisions of this clause 20, make a timely objection to the request or confirmation to provide such Information on the basis that such Information is confidential and subject to the agreements contained in this clause 20, provided that such party is not required to make such an objection if:
 - (A) the objection has no reasonable prospect of success; or
 - (B) that party is not indemnified to its satisfaction in respect of those costs by the Purchaser; and
 - (iii) comply with any protective order or other appropriate remedy.

In the event that such protective order or other remedy is not obtained, or the Purchaser waives compliance with the provisions of this clause 20, such party will furnish only that portion of the Information which it is legally required to furnish and will exercise such party's best efforts to obtain reliable assurance that confidential treatment will be accorded the Information.

- (d) The Purchaser may, acting reasonably and without the consent of any other party to this document, disclose any information about the Seller, the Servicer, the Obligors, the Contracts, the Accepted Receivables, the Related Agreements and the Transaction Documents as the Purchaser considers appropriate in its absolute discretion, to any of its affiliates and any other person including, without limitation:
 - (i) to, with or through whom the Purchaser assigns, novates, transfers, encumbers, declares a trust in favour of or otherwise deals (or may potentially do any of the foregoing) all or any of its rights and/or obligations under this document and/or under any other Transaction Document;
 - (ii) to, with or through whom the Purchaser enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments may be made by reference to, this document and/or any other Transaction Document and/or the Seller;
 - (iii) to the Purchaser's professional advisers, auditors, insurers, potential insurers, re-insurers and potential re-insurers;
 - (iv) to rating agencies to the extent required by them; or
 - (v) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation.
- (e) This clause 20 will survive termination of this document and the Transaction Documents.

20.2 No request

The Seller agrees not to exercise its rights to make any request of the Purchaser under section 275 of the PPSA, to authorize the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

20.3 Counterparts

This document may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

21. GST

21.1 GST pass on

If GST is or will be payable on a supply made under or in connection with a Transaction Document, to the extent that the consideration otherwise provided for that supply under that Transaction Document is not stated to include an amount in respect of GST on the supply:

- (a) the consideration otherwise provided for that supply under that Transaction Document is increased by the amount of that GST; and
- (b) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided, within 7 days of receiving a written demand from the supplier.

21.2 Later adjustment to price or GST

If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier within 14 days of becoming aware of the adjustment event:

- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving 7 days written notice; or
- (b) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply to the extent that the supplier is entitled to a refund or credit from the Commissioner of Taxation; and
- (c) must issue an adjustment note or tax invoice reflecting the adjustment event in relation to the supply to the recipient within 28 days of the adjustment event except where the recipient is required to issue an adjustment note or tax invoice in relation to the supply.

21.3 Tax invoices/adjustment notes

The right of the supplier to recover any amount in respect of GST under a Transaction Document on a supply is subject to the issuing of the relevant tax invoice or adjustment note to the recipient except where the recipient is required to issue the tax invoice or adjustment note.

21.4 Change in the GST Law

If the GST Law changes after the date of this document to change the amount of GST on a supply, any consideration that expressly includes GST must be adjusted to reflect the change in the GST Law.

21.5 Reimbursements/Indemnities

- (a) Costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party or used as the basis for calculation of consideration for a supply under a Transaction Document must exclude the amount of GST referable to the cost to the extent to which an entitlement arises or would arise to claim an input tax credit and in relation to revenue must exclude any amount in respect of GST referable to the revenue.
- (b) The parties each indemnify the other against all GST, and losses, liabilities and expenses (including legal liabilities on a full indemnity basis) that the other incurs (directly or indirectly) as a result of a breach of a warranty or other provision in the Transaction Documents relating to GST.

22. Banking Code of Practice

The Code of Banking Practice does not apply to any Transaction Document or any transaction or service under any Transaction Document.

Signing page

Executed as an agreement.

PURCHASER

SIGNED for and on behalf of **SOCIETE GENERALE, SYDNEY BRANCH ABN 71 092 516 286** by:

Signature of authorised signatory

Name of authorised signatory

Signature of authorised signatory

Name of authorised signatory

SELLER

SIGNED by **FORUM FINANCE PTY LIMITED ACN 153 301 172** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by authority of its directors:

Signature of director

Name of director

Signature of director / company secretary

Name of director / company secretary

SERVICER

SIGNED by **EQWE PTY LTD ACN 630 535 554** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by authority of its directors:

Signature of director

Name of director

Signature of director / company secretary

Name of director / company secretary

Signing page

Executed as an agreement.

PURCHASER

SIGNED for and on behalf of **SOCIETE GENERALE, SYDNEY BRANCH ABN 71 092 516 286** by:

Signature of authorised signatory

Signature of authorised signatory

Name of authorised signatory

Name of authorised signatory

SELLER

SIGNED by **FORUM FINANCE PTY LIMITED ACN 153 301 172** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by authority of its directors:



Signature of director



Signature of director / company secretary

BASIL PAPAIMITRIOU


Name of director

Vince Tesoriero

Name of director / company secretary

SERVICER

SIGNED by **EQWE PTY LTD ACN 630 535 554** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by authority of its directors:



Signature of director



Signature of director / company secretary

M.A. SHIKHAN

Name of director

Luke Price

Name of director / company secretary

Annexure A - Offer Notice from the Seller

TO: Societe Generale, Sydney Branch ABN 71 092 516 286 (the **Purchaser**)
[•]
SYDNEY NSW 2000

Attention: [•]

FROM: Forum Finance Pty Limited ACN 153 301 172 (the **Seller**)

DATE:

Dear Sirs

Receivables Acquisition and Servicing Agreement

We refer to the Receivables Acquisition and Servicing Agreement (the **RASA**) dated [•] 2020 between the Seller, the Purchaser and another, as amended from time to time.

1. Definitions and interpretation

1.1 Definitions

Terms defined in the RASA will have the same meaning in this Offer Notice unless the context otherwise requires except that:

Offered Receivables means, in relation to the Seller, all of the Seller's right, title, benefit and interest in, to, under or derived from:

- (a) the Receivables corresponding to each Contract as set out in the Annexure to this Offer Notice;
- (b) any Related Agreement that relates to those Receivables; and
- (c) the Collections under or derived from all those Receivables.

1.2 Interpretation

The provisions of the RASA will apply to any contract formed if the offer contained in this Offer Notice is accepted.

2. Offer

Subject to the terms and conditions of this Offer Notice, the Seller, as legal and beneficial owner, offers to sell and assign the legal and beneficial interest in all Offered Receivables to the Purchaser.

3. Acceptance

- (a) The offer in clause 2 is irrevocable.
- (b) The Purchaser may (in its absolute discretion and subject to the conditions precedent in clause 7.1 of the RASA being satisfied or waived in the Purchaser's absolute discretion) accept the offer contained in this Offer Notice by, and only by,

the payment by the Purchaser to the Seller (or as it directs) of the aggregate Discounted Amount for all Offered Receivables of \$[•] in immediately available funds in accordance with clause 2.1(h) of the RASA, subject to an aggregate Receivable Retention Amount in respect of such Offered Receivables of \$[•] to be retained by the Purchaser.

- (c) No contract for the sale or acceptance of any Offered Receivables detailed in this Offer Notice will arise unless and until the Purchaser accepts the offer contained in this Offer Notice in accordance with this clause.
- (d) The offer contained in this Offer Notice may only be accepted in relation to all the Offered Receivables offered under this Offer Notice.
- (e) Upon acceptance of the offer in this Offer Notice and delivery of a Notice of Assignment to the relevant Obligor in respect of all the Offered Receivables, the Purchaser will acquire the legal and beneficial interest in the Offered Receivables.

4. Consideration

Upon acceptance of the offer in this Offer Notice, the Purchaser accepts the offer of the sale of the Offered Receivables then the Purchaser will pay the Seller the aggregate Discounted Amount less the Receivable Retention Amount for all Offered Receivables as consideration for the acceptance of the Offered Receivables.

5. Acknowledgement

The Seller acknowledges, agrees and confirms to the Purchaser that:

- (a) **(RASA binding on it)** the RASA is a valid and binding obligation of the Seller enforceable in accordance with its terms subject to any necessary stamping and registration, general principles of equity and laws relating to insolvency;
- (b) **(repeat representations)** the Seller repeats the representations and warranties made by it in clause 8.1 and 8.2 of the RASA.
- (c) **(description of Receivables)** the description of Receivables as of the date of this Offer Notice (as set out in each corresponding Payment Schedule) is true and correct in every respect;
- (d) **(no default)** no Event of Default or Potential Event of Default is subsisting as at the date of this Offer Notice nor, if the offer is accepted, will there be any Event of Default or Potential Event of Default subsisting at the date the offer is accepted or the date the aggregate Discounted Amount for all Offered Receivables is paid nor will any Event of Default result from the offer evidenced by this Offer Notice or the transfer of the Offered Receivables;
- (e) **(limits)** the limit in clause 2.2 of the RASA will not be breached in relation to the initial sale if the Purchaser agrees to accept the Offered Receivables;
- (f) **(Authorisations)** all necessary Authorisations for the offer evidenced by this Offer Notice and the transfer of the Offered Receivables have been taken, or as the case may be, obtained; and
- (g) **(no Insolvency Event)** no Insolvency Event has occurred in respect of the Seller and there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable.

6. Governing Law

This Offer Notice is governed by the laws of New South Wales.

In witness the Seller has executed this offer notice.

SIGNED for **FORUM FINANCE PTY
LIMITED ACN 153 301 172** by its
Authorised Officer:

Signature

Name of Authorised Officer

ANNEXURE

[Annex copy of each Contract relating to each Offered Receivable the subject of this Offer Notice]

Annexure B - Form of Verification Certificate

To: Societe Generale, Sydney Branch ABN 71 092 516 286 (the **Purchaser**).

RECEIVABLES ACQUISITION AND SERVICING AGREEMENT

I [name] am a [director] of [company] (the **Company**) of [address].

I refer to the Receivables Acquisition and Servicing Agreement (the **Agreement**) dated [•] between the Company as Seller, the Purchaser and another, as amended from time to time.

Definitions in the Agreement apply in this certificate except where the context otherwise requires.

I **CERTIFY** as follows.

1. Attached to this certificate is a complete and up to date copy of the constitution of the Company (marked **A**).
2. The following are signatures of the Authorised Officers of the Company, any two of whom have been authorised to sign each Transaction Document to which it is expressed to be a party and to give notices and communications under or in connection with the Transaction Documents.

Authorised Officers

Name	Position	Signature
[•]	[•]	
[•]	[•]	
[•]	[•]	

3. No Insolvency Event has occurred in respect of the Company and there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable.

Signed on behalf of [company]:

Signature of director

Name

Annexure C - Form of Power of Attorney for the Seller

THIS DOCUMENT is made on [•]

By

Forum Finance Pty Limited ACN 153 301 172 (the **Principal**)

In favour of

Societe Generale, Sydney Branch ABN 71 092 516 286 (the **Purchaser**).

1. Interpretation

Terms defined in:

- (a) the Receivables Acquisition and Servicing Agreement between the Principal, the Purchaser and another dated on or around the date of this deed, as amended (the **RASA**); and
- (b) each Offer Notice between the Principal and the Purchaser dated on or around the date of this Deed, as amended (each an **Offer Notice**),

have the same meaning when used in this deed.

In the event of any conflict between the provisions of the RASA and an Offer Notice, the Offer Notice will prevail.

2. Appointment

The Principal irrevocably appoints the Purchaser and each Authorised Officer of the Purchaser (each an **Attorney**) severally as the Principal's attorney.

3. Powers

- (a) Each Attorney may do anything in the Principal's name or in its own name as the act of the Principal which:
 - (i) the Principal is obliged, authorised or empowered to do under or in relation to any Offer Notice, and any Contract (including enforcing any Receivable);
 - (ii) the Principal is authorised or empowered to do under any Offer Notice, any Contract or any law but only at the times that the Principal would have been able to do it;
 - (iii) is required to transfer the interest of the Principal in a Receivable to the Purchaser;
 - (iv) it considers necessary to protect and/or perfect its security interest and its right, title and interest in any Receivable; and
 - (v) it considers necessary to exercise the powers given to the Attorney under this clause (including signing transfers, releases, instruments and other documents).
- (b) An Attorney may only act under this power if an Event of Default is subsisting.

- (c) Without limitation, each Attorney may at any time appoint sub-attorneys.
- (d) No Attorney appointed under this Deed may act inconsistently with this deed.

4. Ratification

The Principal will ratify anything done by an Attorney under this deed.

5. Delegation

This deed applies to a sub-attorney. An Attorney may execute any document on behalf of the Principal even if it contains a power of attorney or other delegation.

6. Conflict of Interest

An Attorney may execute a document or do anything (and that document or thing will be valid) even if the Attorney is in any way:

- (a) interested in the document or thing; or
- (b) connected with a person who is in any way interested in the document or thing.

7. Indemnity

The Principal will indemnify each Attorney against any loss, cost, charge, liability or expense the Attorney may sustain or incur as a direct or indirect consequence of the exercise of any power under this deed.

8. Revocation

This power of attorney is irrevocable until all money owing in respect of the Receivables have been paid in full.

9. Personal Liability and No Warranty

An Attorney's exercise of any power under this deed does not involve, on the part of the Attorney, any partner of the Attorney or any entity of which the Attorney is an employee:

- (a) any personal liability in connection with that exercise or its consequences; or
- (b) an express or implied warranty as to the validity of this deed or the Attorney's authority to exercise the power.

10. Governing Law

This deed is governed by the laws of New South Wales.

Executed as a deed.

**EXECUTED by FORUM FINANCE PTY
LIMITED ACN 153 301 172** in accordance
with section 127(1) of the *Corporations Act
2001* (Cth) by authority of its directors:

Signature of director

Signature of director / company secretary

Name of director

Name of director / company secretary

Annexure D - Form of Repurchase Offer

To: [Forum Finance Pty Limited ACN 153 301 172] (**Seller**)

[insert date]

Repurchase Offer – Receivables Acquisition and Servicing Agreement

The Purchaser gives notice as follows:

1. this is a Repurchase Offer in respect of the Receivables Acquisition and Servicing Agreement dated [●] 2020 (as amended from time to time) between the Purchaser and others (**Receivables Acquisition and Servicing Agreement**);
2. the spreadsheet annexed to this Repurchase Offer sets out the details of each specific Contract offered by the Purchaser for sale to the Seller.
3. the Repurchase Date is [●];
4. the Repurchase Price is \$[●];
5. the Repurchase Price is to be paid to the following account:

[insert relevant account details]

Capitalised terms used in this Repurchase Offer not defined in this document have the meaning given to that term in the Receivables Acquisition and Servicing Agreement.

Signed on behalf of the Purchaser:

Authorised Officer

Name

ANNEXURE

[Attach spreadsheet of Contracts]

Annexure E – Notice of Assignment

To: [Insert name and ABN/ACN] (**Debtor**)
From: Forum Finance Pty Limited ACN 153 301 172 (**Seller**)

Date:

We refer to the [Payment Schedule] dated [*insert*] between the Debtor and Seller (as amended from time to time) (**Contract**).

1. Notice of Assignment of Receivables

The Seller hereby notifies the Debtor that it has assigned to Societe Generale, Sydney Branch ABN 71 092 516 286 (**Purchaser**) of all its rights, title, benefit and interest in and to the account receivables evidenced by the invoices [set out below] / [set out in the attached spreadsheet], together with any obligation of the Debtor to pay default or other interest, to pay finance charges or to satisfy other liabilities under the Contract (**Receivables**):

Payment Schedule Number	Payment Schedule Date	Face Value of Payment Schedule	Maturity Date

2. Payment direction

As assignee of the Receivables, the Purchaser is therefore entitled to collect or recover for its own account the sums due by the Debtor in respect of each such Receivable and the Debtor is hereby irrevocably instructed to pay all sums becoming due and payable under or in connection with the Receivables to the Seller, unless otherwise instructed to the Debtor by the Purchaser (which may be given by the Purchaser to the Debtor in the Purchaser's absolute discretion and for any reason whatsoever).

3. Revocation of notice and payment direction

Without prejudice to paragraph 2 above, the Purchaser may at any time give the Debtor notice that the Purchaser has not proceeded to purchase or has re-assigned any of the Receivables to the Seller (such Receivables being the **Re-assigned Receivables**).

From the date of receipt of such notice, this Notice of Assignment (including, without limitation, the payment direction in paragraph 2 above) will no longer apply to any Re-assigned Receivable and

the Debtor must pay all amounts in respect of the Re-assigned Receivables to the Seller in accordance with the Contract or as directed by the Seller in writing.

Signed for and on behalf of

Forum Finance Pty Limited ACN 153 301 172

by its authorised signatory:

Name

Acknowledged for and on behalf of

[Insert name and ABN/ACN]

by its authorised signatory:

Name