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Form 33
Rule 16.32

Filed pursuant to Order of Thawley J dated 19 August 2026

Defence to Eighth Amended Statement of Claim

No. NSD 169 of 2023

Federal Court of Australia

District Registry: New South Wales

Division: General

CREDIT SUISSE VIRTUOSO SICAV-SIF IN RESPECT OF THE SUB–FUND CREDIT SUISSE (LUX) SUPPLY CHAIN FINANCE FUND

First Applicant

CREDIT SUISSE NOVA (LUX) IN RESPECT OF THE SUB–FUND CREDIT SUISSE NOVA (LUX) SUPPLY CHAIN FINANCE HIGH INCOME FUND

Second Applicant

INSURANCE AUSTRALIA LIMITED (ACN 000 016 722) and others named in the Schedule

First Respondent

In response to the Eighth Amended Statement of Claim filed pursuant to leave granted on 19 August 2026 (**ASOC**) on behalf of the First Applicant (Credit Suisse Virtuoso SICAV-SIF in respect of the Sub–Fund Credit Suisse (Lux) Supply Chain Finance Fund (**Credit Suisse Virtuoso**)) and the Second Applicant (Credit Suisse Nova (Lux) in respect of the Sub–Fund Credit Suisse Nova (Lux) Supply Chain Finance High Income Fund (**Credit Suisse Nova**)) (together, **Credit Suisse**), the Seventh Respondent, Tokio Marine & Nichido Fire Insurance Co., Ltd. (ARBN 000 438 291) (**TMNF**), says as follows:

Preliminary matters:

A. As pleaded further in the document titled "**Annexure A** to the Defences filed by the BCC/TM Parties" in these proceedings (**Annexure A to this Defence**), the Fourth

Filed on behalf of (name & role of party) Tokio Marine & Nichido Fire Insurance Co., Ltd. (ARBN 000 438 291), Seventh Respondent
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Respondent, BCC Trade Credit Pty Ltd (**BCC**), was induced to execute the relevant insurance instruments by non-disclosures and misrepresentations by or on behalf of Greensill Bank AG (**Greensill Bank**), Greensill Capital Pty Ltd (**GCPL**) and Greensill Capital (UK) Ltd (**GCUK**) (together, the **Greensill Group**) as to the risks being presented to it by the Greensill Group for trade credit insurance throughout the relevant period.

B. Nothing in this pleading should be understood as an affirmation of any of the documents referred to herein, or as a waiver of any rights to argue that those documents are void or voidable. In particular, and without limiting the generality of the foregoing, all references in this pleading to the 2019 Policy and to any purported endorsement thereto should be read, where applicable, as though followed by the words 'if valid' in parentheses.

C. Save where expressly stated to the contrary, this pleading adopts the sub-headings and definitions used in the ASOC where appropriate for convenience only.

A NATURE OF THE DISPUTE

1-2. Paragraphs 1 to 2B of the ASOC broadly identify the nature of the dispute, save that TMNF denies or does not know and therefore cannot admit that all of the allegations of fact embedded within those paragraphs are true, as set out in further detail below.

B ISSUES LIKELY TO ARISE

3-8. In addition to the issues identified at paragraphs 3 to 8 of the ASOC, to the extent used, the following issues are likely to arise:

a. whether execution of the 2019 Policy and its endorsements was within the ostensible authority of BCC and Brereton;

b. whether the 2019 Policy and its endorsements are binding on IAL by operation of section 917B or 917C of the *Corporations Act 2001* (Cth) (**Corporations Act**) even if execution of those documents was not within the actual authority of BCC and Brereton;

c. whether IAL is liable by operation of section 917B or 917C of the *Corporations Act* for breach by BCC and Brereton of a warranty of authority in relation to the 2019 Policy and its endorsements and thereby bound to pay the amount of any valid claims under those documents;

d. whether TMNF as a foreign registered company based in Japan, an Australian Financial Services Licensee (**Licensee**) and ultimate parent company of both the Sixth Respondent, Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455) (**TMMA**), and BCC, owes a duty (either at common law or under statute) to warn a third party such as Credit Suisse, with whom TMNF had no contractual or other relationship, of any suspicions it holds that insurance contracts purportedly entered into by an employee of BCC on behalf of the First Respondent, Insurance Australia Limited (**IAL**), may have been written outside of authority and may not therefore be valid and binding;

e. whether there was a common law duty of care on the part of TMNF to take reasonable precautions to avoid Credit Suisse, suffering economic loss and, if so, whether that duty was breached and whether Credit Suisse suffered loss as a result

f. whether the *Corporations Act*, the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) and the *Australian Consumer Law* (**ACL**), insofar as they are relied on to allege TMNF engaged in misleading or deceptive conduct, has extraterritorial application to the conduct of TMNF (based in Japan) towards Credit Suisse (based in Luxembourg);

g. whether TMNF engaged in misleading or deceptive conduct by not disclosing to Credit Suisse any suspicions it had that the Fifth Respondent, Greg Brereton (**Mr Brereton**), may have acted outside of authority;

h. whether TMNF, as Licensee is responsible for the alleged misleading or deceptive conduct of its authorised representative, BCC, pursuant to sections 917B or 917C of the Corporations Act; and

i. whether TMMA and TMNF were "involved" in the sense alleged in any misleading or deceptive conduct of BCC.

C THE PARTIES AND OTHER RELEVENT ENTITIES

9. In response to paragraph 9 of the ASOC, TMNF:

a1. admits paragraph 9(a);

a. says that the Credit Suisse (Lux) Supply Chain Finance Fund was terminated by the Board of Directors of Credit Suisse Virtuoso SICAV-SIF as of 4 March 2021; and

Particulars

Credit Suisse Notice to Shareholders styled, 'Information to the Shareholders of Credit Suisse (Lux) Supply Chain Finance Fund' dated 5 March 2021.

b. otherwise does not know and therefore cannot admit paragraph 9(b); and

c. says that any reference to "the Applicant" or "Credit Suisse Virtuoso" in this Defence is without prejudice to the non-admission at paragraph 9(b).

10. In response to paragraph 10 of the ASOC, TMNF:

a1. admits paragraph 10(a);

a. says that the Credit Suisse Nova (Lux) Supply Chain Finance High Income Fund was terminated by the Board of Directors of Credit Suisse Nova (Lux) as of 4 March 2021; and

Particulars

Credit Suisse Notice to Shareholders styled, 'Information to the Shareholders of Credit Suisse Nova (Lux) Supply Chain Finance High Income Fund and Credit Suisse Nova (Lux) Supply Chain Finance Investment Grade Fund' dated 5 March 2021.

b. otherwise does not know and therefore cannot admit paragraph 10(b); and

c. says that any reference to "the Applicant" or "Credit Suisse Nova" in this Defence is without prejudice to the non-admission at paragraph 10(b).

11. TMNF does not plead to paragraph 11 of the ASOC as it does not make any allegations against it.

12. TMNF does not know and therefore cannot admit paragraph 12 of the ASOC.

13. TMNF admits paragraph 13 of the ASOC.

14. TMNF admits paragraph 14 of the ASOC.

15. TMNF admits paragraph 15 of the ASOC.

16. TMNF admits paragraph 16 of the ASOC.

17. In response to paragraph 17 of the ASOC, TMNF:

    a. says that on 11 March 2016, Greg Brereton (**Mr Brereton**) entered into a contract of employment with Bond & Credit Company Pty Ltd (ACN 609 018 840) (**Bond**) (**the Contract of Employment**);

    b. says that TMNF was not a party to the Contract of Employment, and that Mr Brereton was never an employee of BCC; and

    c. otherwise admits the paragraph.

17A. In response to paragraph 17A of the ASOC, TMNF:

    a. says that TMMA is a wholly owned subsidiary of TMNF;

    b. says that TMMA has been a local agent of TMNF since 20 October 2004; and

    c. otherwise admits the paragraph.

17B. In response to paragraph 17B of the ASOC, TMNF:

    a. says that from 11 March 2004, it has held Australian Financial Services Licence (**AFSL**) number 246548;

    b. says that from 20 October 2004, it has been registered in Australia as a foreign company (overseas);

    c. says that it is in the business of providing non-life insurance; and

    d. otherwise admits the paragraph.

17C. TMNF admits paragraph 17C of the ASOC.

D OTHER RELEVANT ENTITES

D.1 Greensill group of companies

18. TMNF admits paragraph 18 of the ASOC.

19. TMNF admits paragraph 19 of the ASOC.

20. TMNF admits paragraph 20 of the ASOC.

21. In response to paragraph 21 of the ASOC, TMNF:

    a. admits that on 8 March 2021, GCUK applied under s 124 of the *Insolvency Act 1986* (UK) for GCUK to be wound up on the basis that GCUK was unable to pay its debts for the purposes of s 122(1)(f) of the *Insolvency Act 1986* (UK);

    b. admits that there exists a Notice of Administrator's Appointment form appointing Trevor P O'Sullivan of Grant Thornton UK LLP as administrator of GCUK and dated 10 March 2021; and

    c. otherwise does not know and therefore cannot admit the paragraph.

22. In response to paragraph 22 of the ASOC, TMNF:

    a. admits that at least part of the business conducted by the Greensill Group prior to 8 March 2021 answered the description given in paragraph 22 of the ASOC; and

    b. otherwise does not know and therefore cannot admit the paragraph.

D.2 Hoffman

23. TMNF does not know and therefore cannot admit paragraph 23 of the ASOC.

D.3 Lagoon Park

24. TMNF does not know and therefore cannot admit paragraph 24 of the ASOC.

D.4 Wickham

25. TMNF does not know and therefore cannot admit paragraph 25 of the ASOC.

26. [NOT USED]

E AGENT OF THE INSURER

E.1 Agency arrangements between CGU and BCC and Brereton prior to the CGU Scheme

27. TMNF admits paragraph 27 of the ASOC.

28. TMNF admits paragraph 28 of the ASOC.

29. In response to paragraph 29 of the ASOC, TMNF:

    a. says in response to subparagraph (a) that BCC's actual authority to enter into trade credit insurance as CGU's agent was subject to the limitations on that authority contained in the CGU AAR Agreement, including the requirement in clause 2.1(c) that entry into any trade credit insurance be in accordance with the Underwriting Manual;

    b. says subparagraph (b) is a paraphrase of clause 2.1 of the CGU AAR and admits subparagraph (b);

    c. says that subparagraph (c) is a paraphrase of clause 3.1(a) of the CGU AAR Agreement;

    d. says that subparagraph (d) is a paraphrase of clause 8.1 of the CGU AAR Agreement and that the amounts that BCC was permitted to deduct from any payment of Premiums to CGU under clause 8.1 were any amounts due to BCC under clause 3.1, not only commissions;

    e. says that subparagraph (e) is a paraphrase of clause 4.5(a) of the CGU AAR Agreement;

    f. says that subparagraph (f) is a paraphrase of clause 4.5(b) of the CGU AAR Agreement;

    g. says that subparagraphs (g)-(bb) are a paraphrase of the provisions of the CGU AAR Agreement to which they refer;

    h. in relation to subparagraph (m), denies that the Underwriting Manual Version 1.0 and 2.0 fell within the definition of "Guidelines" for the purposes of the CGU AAR Agreement;

i. relies on and refers to the terms of the CGU AAR Agreement and the Authorisation Notice for their full force and effect; and

j. otherwise admits the paragraph.

30. In response to paragraph 30 of the ASOC, TMNF:

a. says that at the time of entry into the CGU AAR Agreement, CGU provided BCC with the BCC Authorisation Notice, which was included as a schedule to the CGU AAR Agreement; and

b. otherwise admits the paragraph.

31. In response to paragraph 31 of the ASOC, TMNF:

a. says that pursuant to the BCC Authorisation Notice, CGU authorised BCC to provide and perform the Authorised Financial Services in relation to the Approved Products on behalf of CGU and for that purpose it appointed BCC as its authorised representative for the purposes of Chapter 7 of the Corporations Act from the Effective Date (being 28 July 2016);

b. relies on the terms of the CGU AAR Agreement and the BCC Authorisation Notice for their full force and effect; and

c. otherwise admits the paragraph.

32. TMNF admits paragraph 32 of the ASOC.

33. In response to paragraph 33 of the ASOC, TMNF:

a. says that BCC was an authorised representative of CGU for the purposes of Part 7.6 of the Corporations Act from 28 July 2016 onwards, not from 1 July 2016; and

b. otherwise admits the paragraph.

34. TMNF admits paragraph 34 of the ASOC.

35. TMNF admits paragraph 35 of the ASOC.

36. In response to paragraph 36 of the ASOC, TMNF:

a. admits that CGU authorised Mr Brereton to act on its behalf pursuant to the CGU AAR Agreement and Brereton Authorisation Agreement in the manner authorised by those instruments;

b. relies on the CGU AAR Agreement, Brereton Authorisation Agreement and Authorisation Notice for their full force and effect; and

c. otherwise admits the paragraph.

36A. In response to paragraph 36A of the ASOC, TMNF:

a. says that (a) to (q) paraphrase the terms of the Underwriting Manual Version 1.0 and relies on the Underwriting Manual Version 1.0 for its full force and effect;

b. denies that the Underwriting Manual Version 1.0 fell within the definition of "Guidelines" for the purposes of the CGU AAR Agreement; and

c. otherwise admits the paragraph.

36B. In response to paragraph 36B of the ASOC, TMNF:

a. denies the allegation in (b) that BCC did not have authority to issue endorsements that were not Approved Endorsements and refers to and repeats paragraph 148 below; and

b. otherwise does not know and therefore cannot admit the paragraph.

36C. TMNF admits paragraph 36C.

36D. TMNF admits paragraph 36D.

36E. In response to paragraph 36E of the ASOC, TMNF:

a. says that (a) to (f) paraphrase the terms of the Underwriting Manual Version 2.0 and relies on the Underwriting Manual Version 2.0 for its full force and effect;

b. denies that the Underwriting Manual Version 2.0 fell within the definition of "Guidelines" for the purposes of the CGU AAR Agreement; and

c. otherwise admits the paragraph.

37. TMNF admits paragraph 37 of the ASOC.

38. In response to paragraph 38 of the ASOC, TMNF:

    a. says that pursuant to the Brereton Authorisation Agreement and the Brereton Authorisation Notice, CGU authorised Mr Brereton to provide and perform the Authorised Financial Services in relation to the Approved Products on behalf of CGU and for that purpose it appointed Mr Brereton as its authorised representative for the purposes of Chapter 7 of the Corporations Act from the Effective Date (being 8 July 2016, not 1 July 2016);

    b. relies on the terms of the CGU AAR Agreement, Brereton Authorisation Agreement and Brereton Authorisation Notice for their full force and effect; and

    c. otherwise admits the paragraph.

E.2 The CGU Scheme

39. In response to paragraph 39 of the ASOC, TMNF:

    a. refers to the order of the Federal Court of Australia made on 20 July 2017, including Annexure A thereto, which contained the terms of the scheme for the transfer of the insurance business of CGU to the First Respondent (**IAL**), for their full force and effect; and

    b. otherwise admits the paragraph.

40. In response to paragraph 40 of the ASOC, TMNF:

    a. refers to and repeats paragraph 39 of this Defence; and

    b. otherwise admits the paragraph.

41. TMNF admits paragraph 41 of the ASOC.

42. In response to paragraph 42 of the ASOC, TMNF:

    a. in response to subparagraph (a), refers to and repeats paragraph 31 of this Defence;

    b. admits subparagraph (b); and

c. otherwise admits the paragraph.

43. TMNF admits paragraph 43 of the ASOC.

44. TMNF admits paragraph 44 of the ASOC.

45. TMNF admits paragraph 45 of the ASOC.

46. In response to paragraph 46 of the ASOC, TMNF:

a. refers to and repeats paragraph 38 of this Defence; and

b. otherwise admits the paragraph.

47. TMNF admits paragraph 47 of the ASOC.

48. TMNF admits paragraph 48 of the ASOC.

49. [NOT USED]

50. [NOT USED]

51. [NOT USED]

E.3 IAL Agencies Agreements

52. In response to paragraph 52 of the ASOC, TMNF:

a. says that on 29 January 2016, IAGA (which at that time was named Allied Global Underwriting Pty Ltd) became a wholly owned subsidiary of CGU;

b. says that at all material times until its deregistration on 15 April 2019, CGU was a subsidiary of Insurance Australia Group Limited; and

c. otherwise admits the paragraph.

53. TMNF does not know and therefore cannot admit paragraph 53 of the ASOC.

54. In response to paragraph 54 of the ASOC, TMNF:

a. says that between 29 August 2017 and 9 April 2019 IAGA owned 50% of BCC's issued shares; and

b. otherwise denies the paragraph.

55. In response to paragraph 55 of the ASOC, TMNF:

a. denies that BCC entered into an agreement titled an "*Agency & Authorised Representative Agreement*" with IAL on or around 28 March 2019;

b. refers to paragraph 28 of this Defence and says that BCC entered the CGU AAR Agreement on 28 July 2016 with CGU, by virtue of which BCC became an authorised representative of CGU;

c. refers to paragraph 39 of this Defence and says that on 1 August 2017, the insurance business of CGU was transferred to IAL pursuant to orders of the Federal Court of Australia under s 17F(1) of the *Insurance Act 1973* (Cth);

d. says that by virtue of that transfer, the CGU AAR Agreement was transferred from CGU to IAL, and BCC became an authorised representative of IAL;

e. says that:

i. on 31 July 2017, Mr Brereton signed a document styled "Individual Authorisation Agreement" (**the IAGA Individual Authorisation Notice**);

ii. the IAGA Individual Authorisation Notice referred to "BCC Trade Credit Pty Ltd [having] entered into an Authorised Representative Agreement with IAGA" (**the IAGA AAR Agreement**); and

iii. it is not aware of the existence of an executed version of the IAGA AAR Agreement;

f. says that on 9 April 2019, BCC and IAL entered into a new Agency & Authorised Representative Agreement (**IAL AAR Agreement**), which by virtue of cl 20.9(a) thereof, superseded the CGU AAR Agreement that had been transferred from CGU to IAL;

g. relies on the IAL AAR Agreement for its full force and effect; and

h. otherwise denies the paragraph.

56. In response to paragraph 56 of the ASOC, TMNF:

a. refers to and repeats paragraph 55 of this Defence;

b. says that paragraphs (a) to (r) paraphrase the terms of the IAL AAR Agreement referred to in paragraph 55 of this Defence and relies on that agreement for its full force and effect; and

c. otherwise admits the paragraph.

56A. In response to paragraph 56A of the ASOC, TMNF:

a. admits that the Underwriting Manual Version 3.0 came into effect on or about 9 April 2019;

b. denies that the Underwriting Manual Version 3.0 fell within the definition of "Guidelines" for the purposes of the IAL AAR Agreement referred to in paragraph 55 of this Defence;

c. relies on the Underwriting Manual Version 3.0 for its full force and effect; and

d. otherwise denies the paragraph.

56B. In response to paragraph 56B of the ASOC, TMNF:

a. says that (a) to (l) paraphrase the terms of the Underwriting Manual Version 3.0 and relies on the Underwriting Manual Version 3.0 for its full force and effect; and

b. otherwise admits the paragraph.

57. [NOT USED]

58. TMNF admits paragraph 58 of the ASOC.

59. TMNF admits paragraph 59 of the ASOC.

60. In response to paragraph 60 of the ASOC, TMNF:

a. refers to and repeats paragraph 55 of this Defence;

b. says that BCC was an authorised representative of IAL for the purposes of Part 7.6 of the Corporations Act from 1 August 2017 to 30 June 2019; and

c. otherwise denies the paragraph.

61. TMNF admits paragraph 61 of the ASOC.

62. TMNF admits paragraph 62 of the ASOC.

63. TMNF admits paragraph 63 of the ASOC.

64. TMNF admits paragraph 64 of the ASOC.

65. In response to paragraph 65 of the ASOC, TMNF:

    a. says that Mr Brereton was the authorised representative of IAL for the purposes of Part 7.6 of the Corporations Act from 1 August 2017 to 30 June 2019; and

    b. otherwise does not know and therefore cannot admit the paragraph.

E.4 Administration of the policies

66. TMNF admits paragraph 66 of the ASOC.

67. In response to paragraph 67 of the ASOC, TMNF:

    a. says that the PACAO also included the following defined terms (cl 1.1):

        i. **Agency Agreements** means: (a) the Bond Agency Agreement between BCC Surety and IAL dated 5 June 2013; (b) the Agency and Authorised Representative Agreement between BCC Trade Credit and CGU dated 28 July 2016 (namely, the CGU AAR Agreement); (c) the Agency & Authorised Representative Extension Agreement between IAL and BCC Trade Credit (namely, the IAL AAR Agreement referred to in paragraph 55 of this Defence); and (d) the Bond Agency Extension Agreement;

        ii. **Claim** means a claim under a Policy, and each of the following is, without limitation, deemed to be a separate Claim: (a) a claim that is lodged but subsequently withdrawn after the end of the month in which it is lodged; (b) a claim that is lodged by a person even though details are incomplete; (c) a claim under statutory cover arising from section 58 of the *Insurance Contracts Act 1984* (Cth) relating to a Policy; (d) a claim that is purportedly lodged under a Policy even though it is subsequently found that no Policy exists or there was no entitlement to lodge a claim; and

iii. **Policy** means: (a) a commercial surety bond arranged or extended by BCC Surety and issued by IAL; or (b) a trade credit insurance product arranged by BCC and issued by IAL, pursuant to an Agency Agreement;

b. refers to the terms of the PACAO for its full force and effect; and

c. otherwise admits the paragraph.

68. TMNF admits paragraph 68 of the ASOC.

69. In response to paragraph 69 of the ASOC, TMNF:

a. refers to and repeats paragraph 67 of this Defence;

b. says that it was a term of the PACAO that, during the term of the PACAO, the Administrator must provide the Services, and do so in accordance with cl 5.1(a)(i)-(v) (cl 5.1(a));

c. admits that, on and from 1 July 2019, and pursuant to the PACAO, BCC acted as IAL's agent to administer Policies issued by IAL and arranged by BCC pursuant to an Agency Agreement on or before 30 June 2019 (with defined terms in this subparagraph having the meaning given to them in the PACAO);

d. otherwise admits the paragraph.

E.5 Conduct of the Insurer's trade credit insurance business

70. [NOT USED]

71. In response to paragraph 71 of the ASOC, TMNF:

a. admits that on and from 1 August 2017, BCC periodically provided IAL with Bordereaux in the form of an Excel spreadsheet providing details of trade credit insurance policies written on behalf of IAL (the **Bordereaux**); and

b. otherwise denies the paragraph.

72. In response to paragraph 72 of the ASOC, TMNF:

a. admits that the Bordereaux from time to time:

i. referred to trade credit insurance policies issued to GCPL but did not refer to GCUK or GBAG; and

ii. referred to TB-03691 and TS-03087, but did not refer to the 2019 Policy;

b. relies on the Bordereaux for their full force and effect; and

c. otherwise denies the paragraph.

73. [NOT USED]

74. [NOT USED]

75. [NOT USED]

76. [NOT USED]

77. In response to paragraph 77 of the ASOC, TMNF:

a. admits the paragraph; and

b. says that, by reason of the matters referred to in paragraph 148 below, the LOS Policy was (subject to any valid avoidance) binding on IAL.

78. [NOT USED]

78A. In response to paragraph 78A of the ASOC, TMNF:

a. admits the paragraph; and

b. says that, by reason of the matters referred to in paragraph 148 below, the 2018 Policy TS-03088 was (subject to any valid avoidance) binding on IAL.

78B. [NOT USED]

79. In response to paragraph 79 of the ASOC, TMNF:

a. admits the paragraph; and

b. says that, by reason of the matters referred to in paragraph 148 below, Policy TS-03088 was (subject to any valid avoidance) binding on IAL.

80. [NOT USED]

81. In response to paragraph 81 of the ASOC, TMNF:

a. refers to and repeats paragraph 77, 78A and 79 of this Defence;

b. says that Mr Brereton's actual authority as Head of Trade Credit allowed him to execute policies on behalf of BCC (including the LOS Policy, the 2018 Policy TS-03088 and Policy TS-03088); and

c. otherwise does not know and therefore cannot admit the paragraph.

82. In response to paragraph 82 of the ASOC, TMNF:

a. refers to and repeats paragraph 81 of the Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

83. In response to paragraph 83 of the ASOC, TMNF:

a. refers to and repeats paragraph 81 of this Defence; and

b. otherwise denies the paragraph.

84. [NOT USED]

84A. [NOT USED]

84B. [NOT USED]

84C. [NOT USED]

85. [NOT USED]

86. [NOT USED]

87. [NOT USED]

88. [NOT USED]

89. [NOT USED]

90. [NOT USED]

91. [NOT USED]

92. TMNF admits paragraph 92 of the ASOC.

93. TMNF admits paragraph 93 of the ASOC.

94. TMNF admits paragraph 94 of the ASOC.

94A. TMNF admits paragraph 94A of the ASOC.

94B. TMNF denies paragraph 94B of the ASOC.

94C. In response to paragraph 94C of the ASOC, TMNF:

a. repeats paragraph 17B of this Defence; and

b. otherwise admits the paragraph.

94D. TMNF admits paragraph 94D of the ASOC.

F FACILITIES

95. In response to paragraph 95 of the ASOC, TMNF:

a. refers to and repeats each of Annexures AA to O to this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

G NOTE PROGRAMMES

G.1 Hoffman

96. In response to paragraph 96 of the ASOC, TMNF:

a. admits that representatives of Hoffman S.àr.l. (**Hoffman**) and Citibank N.A., London Branch (**Citibank**) signed a document styled “Lagoon Farm: Master Trust Deed” dated 13 October 2017 and signed documents described as being “supplemental to the master trust deed dated 13 October 2017” on 21 December 2017, 21 June 2018, 3 September 2018, 21 November 2018, 12 April 2019, 6 August 2019, 19 December 2019 and 5 May 2020 (**Master Trust Deed**);

b. says that the signatures on each of the documents which are alleged to constitute the Master Trust Deed are undated;

c. does not know and therefore cannot admit that the Master Trust Deed or any supplementary deeds or documents were valid, that they were properly executed or that they represented the entire agreement between the parties in relation to the matters they dealt with; and

d. otherwise does not know and therefore cannot admit the paragraph.

97. In response to paragraph 97 of the ASOC, TMNF:

a. admits that Hoffman issued various notes in various compartments at various points in time;

b. refers to and repeats the following paragraphs of this Defence:

i. Annexure AA at paragraph 213;

ii. Annexure B at paragraph 250;

iii. Annexure D at paragraph 317;

iv. Annexure E at paragraph 357;

v. Annexure F at paragraph 393;

vi. Annexure G at paragraph 433;

vii. Annexure I at paragraph 519;

viii. Annexure J at paragraph 543;

ix. Annexure K at paragraph 596;

x. Annexure M at paragraph 662;

xi. Annexure N at paragraph 708; and

xii. Annexure O at paragraph 738;

c. in the premises, does not know and therefore cannot admit that the Hoffman Notes were secured by the Sellers' payment obligations under the Facilities; and

d. otherwise denies the paragraph.

98. In response to paragraph 98 of the ASOC, TMNF:

a. admits that representatives of GCUK, Hoffman and Citibank signed a document styled "Master Assignment Agreement" dated 21 December 2017, with Hoffman as "Initial Purchaser" and Citibank as "Note Trustee" (**MAA**);

b. says that the signatures on the MAA are undated;

c. does not know and therefore cannot admit that MAA was valid, that it was properly executed or that it represented the entire agreement between the parties in relation to the matters it dealt with;

d. subject to paragraph 98c. of this Defence, says that:

i. it was a term of the MAA that GCUK may from time to time offer to assign and sell with full title guarantee the whole, but not part, of any "Payment Obligation" and all of its "Additional Rights" in respect thereof to "Purchaser" and such "Purchaser" at its sole discretion may agree to purchase such "Payment Obligation" and the "Additional Rights" relating thereto from GCUK (cl 2.1); and

ii. it was a term of the MAA that, on the terms and subject to the conditions set forth in the MAA, GCUK hereby sells, transfers, assigns, sets over and otherwise conveys absolutely with full title guarantee to the relevant "Purchaser", and the relevant "Purchaser" hereby purchases, all of GCUK's right, title and interest in, to and under each "Payment Obligation", and all of GCUK's "Additional Rights" relating thereto, which are the subject of an "Acceptance" provide to GCUK in accordance with Clause 2.3, with effect as the date falling on or before the relevant Cut-Off Settlement Time on which GCUK receives the Purchase Price in respect of such "Payment Obligations" and "Additional Rights" (cl 3);

e. says further that:

i. “Payment Obligation” was defined to mean, in respect of any “Offer” or any “Assignment”, a payment obligation owed by the “Relevant Obligor” and having the details and being of the type specified in the relevant “Offer File”; and

ii. there was no “Payment Obligation” in existence unless there was in fact a payment obligation owed by the “Relevant Obligor”; and

f. otherwise does not know and therefore cannot admit the paragraph.

99. In response to paragraph 99 of the ASOC, TMNF:

a. refers to and repeats the following paragraphs of this Defence:

i. Annexure AA at paragraph 214;

ii. Annexure B at paragraph 251;

iii. Annexure D at paragraph 318;

iv. Annexure E at paragraph 358;

v. Annexure F at paragraph at 394;

vi. Annexure G at paragraph 434;

vii. Annexure I at paragraph 520;

viii. Annexure J at paragraph 544;

ix. Annexure K at paragraph 597;

x. Annexure M at paragraph 663;

xi. Annexure N at paragraph 709; and

xii. Annexure O at paragraph 739; and

b. otherwise denies the paragraph.

100. TMNF does not plead to paragraph 100 of the ASOC, which makes no allegations against it but says that it likewise relies upon the whole of the MAA for its full force and effect.

101. In response to paragraph 101 of the ASOC, TMNF:

a. refers to and repeats the following paragraphs of this Defence:

i. Annexure AA at paragraph 215;

ii. Annexure B at paragraph 252;

iii. Annexure D at paragraph 319;

iv. Annexure E at paragraph 359;

v. Annexure F at paragraph 395;

vi. Annexure G at paragraph 435;

vii. Annexure I at paragraph 521;

viii. Annexure J at paragraph 545;

ix. Annexure K at paragraph 598;

x. Annexure M at paragraph 664;

xi. Annexure N at paragraph 710; and

xii. Annexure O at paragraph 740; and

b. otherwise does not know and therefore cannot admit the paragraph.

102. In response to paragraph 102 of the ASOC, TMNF:

a. refers to and repeats the following paragraphs of this Defence:

i. Annexure AA at paragraph 216;

ii. Annexure B at paragraph 253;

iii. Annexure D at paragraph 320;

iv. Annexure E at paragraph 360;

v. Annexure F at paragraph 396;

vi. Annexure G at paragraph 436;

vii. Annexure I at paragraph 522;

viii. Annexure J at paragraph 546;

ix. Annexure K at paragraph 599;

x. Annexure M at paragraph 665;

xi. Annexure N at paragraph 711; and

xii. Annexure O at paragraph 741; and

b. otherwise does not know and therefore cannot admit the paragraph.

G.2 Lagoon Park

103. In response to paragraph 103 of the ASOC, TMNF:

a. says that it has been provided with a document titled "(Receivables Purchase Programmes)" that purports to be a deed between GCUK, Lagoon Park and Citibank (the **Lagoon Park Supply Chain Finance Trust Deed** or **Simec Trust Deed**);

b. says that the Lagoon Park Supply Chain Finance Trust Deed:

i. is dated 26 October 2015; and

ii. appears from the text in the footer to be based on a version of a pro forma trust deed dated 7 October 2015;

c. admits that representatives of GCUK, Lagoon Park and Citibank signed the Lagoon Park Supply Chain Finance Trust Deed;

d. says that the signatures of GCUK and Citibank on the Lagoon Park Supply Chain Finance Trust Deed are undated;

e. does not know and therefore cannot admit that the Lagoon Park Supply Chain Finance Trust Deed or any supplementary deeds or documents were valid, that they were properly executed or that they represented the entire agreement between the parties in relation to the matters they dealt with; and

f. otherwise does not know and therefore cannot admit the paragraph.

104. In response to paragraph 104 of the ASOC, TMNF:

a. says that paragraphs 104(a) and (b) paraphrase various clauses of the Lagoon Park Supply Chain Finance Trust Deed;

b. refers to the terms of the Lagoon Park Supply Chain Finance Trust Deed for their full force and effect; and

c. otherwise does not know and therefore cannot admit the paragraph.

105. In response to paragraph 105 of the ASOC, TMNF:

a. admits that representatives of Lagoon Park, Citibank and TMF Luxembourg SA signed a document titled "Master Trust Deed" dated 19 October 2015 (**Lagoon Park Master Trust Deed**);

b. says that the signatures on the Lagoon Park Master Trust Deed are undated;

c. does not know and therefore cannot admit that the Lagoon Park Master Trust Deed or any supplementary deeds or documents were valid, that they were properly executed or that they represented the entire agreement between the parties in relation to the matters they dealt with; and

d. otherwise does not know and therefore cannot admit the paragraph.

106. In response to paragraph 106 of the ASOC, TMNF:

a. refers to and repeats the following paragraphs of this Defence:

i. Annexure H at paragraph 471; and

ii. Annexure L at paragraph 635; and

b. otherwise denies the paragraph.

107. In response to paragraph 107 of the ASOC, TMNF:

a. refers to and repeats the following paragraphs of this Defence:

i. Annexure H at paragraph 472; and

ii. Annexure L at paragraph 636; and

b. otherwise does not know and therefore cannot admit the paragraph.

108. In response to paragraph 108 of the ASOC, TMNF:

a. refers to and repeats the following paragraphs of this Defence:

i. Annexure H at paragraph 473; and

ii. Annexure L at paragraph 637; and

b. otherwise does not know and therefore cannot admit the paragraph.

G.3 Wickham

109. In response to paragraph 109 of the ASOC, TMNF:

a. admits that representatives of GCUK, Wickham and Citibank signed a document titled "Supply Chain Finance Trust Deed" dated 22 June 2018 (**Wickham Supply Chain Finance Trust Deed**);

b. says that the signatures on the Wickham Supply Chain Finance Deed are either:

i. undated; or

ii. pre-date the apparent date of the agreement, as those signatures are dated 24 January 2018; and

c. does not know and therefore cannot admit that the Wickham Supply Chain Finance Trust Deed was valid, that it was properly executed or that it represented the entire agreement between the parties in relation to the matters it dealt with; and

d. otherwise does not know and therefore cannot admit the paragraph.

110. In response to paragraph 110 of the ASOC, TMNF:

a. says the paragraph paraphrases various clauses of the Wickham Supply Chain Finance Trust Deed;

b. refers to the terms of the Wickham Master Trust Deed for their full force and effect; and

c. otherwise does not know and therefore cannot admit the paragraph.

111. In response to paragraph 111 of the ASOC, TMNF:

a. admits that representatives of Wickham and Citibank signed a document titled "Master Trust Deed" dated 26 April 2017 (**Wickham Master Trust Deed**);

b. says further that TMF Luxembourg SA signed the Wickham Master Trust Deed;

c. says that the signatures on the Wickham Master Trust Deed are undated;

d. does not know and therefore cannot admit that the Wickham Master Trust Deed or any supplementary deeds or documents were valid, that they were properly executed or that they represented the entire agreement between the parties in relation to the matters they dealt with; and

e. otherwise does not know and therefore cannot admit the paragraph.

112. In response to paragraph 112 of the ASOC, TMNF:

a. refers to and repeats Annexure C, paragraphs 292 and 293 of this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

113. In response to paragraph 113 of the ASOC, TMNF:

a. refers to and repeats Annexure C, paragraph 294 of this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

114. In response to paragraph 114 of the ASOC, TMNF:

a. refers to and repeats Annexure C, paragraph 295 of this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

H THE INSURANCE POLICIES

H.1 The 2018 Policy

115. In response to paragraph 115 of the ASOC, TMNF:

a. admits the paragraph; and

a. says that, by reason of the matters referred to in paragraph 148 below, the 2018 Policy was (subject to any valid avoidance) binding on IAL.

116. In response to paragraph 116 of the ASOC, TMNF:

a. says that Endorsement 1 was not an 'Endorsement' within the meaning of the 2018 Policy and did not vary the 2018 Policy validly as:

i. the 2018 Policy permitted only three types of endorsement (Customer Endorsements, Debt Endorsements, and Loss Payee Endorsements), and this document did not purport to be and was not a Customer Endorsement, Debt Endorsement or Loss Payee Endorsement; and

ii. further and alternatively, cl 15.3(a) of the 2018 Policy provided that any variation of the policy could only be effected in writing signed by or on behalf of each party, and Endorsement 1 was not signed on behalf of GCPL or Greensill Bank;

b. says that, in the premises, the 2018 Policy expired on 27 December 2018; and

c. otherwise denies the paragraph.

H.2 The 2019 Policy

117. In response to paragraph 117 of the ASOC, TMNF:

a. admits the paragraph; and

b. says that, by reason of the matters referred to in paragraph 148 below, the 2019 Policy was (subject to any valid avoidance) binding on IAL.

118. In response to paragraph 118 of the ASOC, TMNF:

a. refers to and repeats paragraph 117 of this Defence;

b. says that on the proper construction of the 2019 Policy, IAL agreed, subject to the terms, conditions and limitations of the policy, to indemnify the Insured for the Insured Percentage of all Losses suffered by the Insured and caused by or resulting from the occurrence of an Insured Cause (cl 1.1);

c. says that paragraph 118 is a paraphrase of the clauses of the 2019 Policy to which it refers;

d. refers to the terms of the 2019 Policy for their full force and effect;

e. says, in response to subparagraph (g):

   i. 'Eligible Debt' has the meaning given in Schedule 7 to the 2019 Policy, which provides that all Eligible Debts from which are derived Assets owned by the Insured must satisfy the criteria listed at paragraph 118.g i. to v. of the ASOC at the time of acquisition of the relevant Asset by the Insured;

   ii. 'Debt Endorsement' was defined to mean an endorsement to the 2019 Policy that is substantially in the form of Appendix 2 or such other form as the Insured and Insurer may agree from time to time and that describes the nature of a debt that is after the date of such endorsement able to be a 'Debt' for the purpose of the policy, and which may contain amendments to the terms of the Policy in so far as the policy relates to such 'Debts' and 'Assets' derived therefrom; and

   iii. the Debt Endorsement appended to the 2019 Policy (and incorporated in debt endorsements including Debt Endorsement 1) further required that the Eligible Debt arises under a Customer Agreement that is in full force and effect and to the best of the Insured's knowledge, after reasonable due diligence, constitutes the legal, valid and binding obligation of the Customer enforceable against such Customer in accordance with its terms, subject to no offset, counterclaim, defence or other adverse claim;

f. says that the 2019 Policy also contained the following express written terms:

   i. subject to cl 2, a Loss in respect of an Asset owned by the Insured and derived from an Eligible Debt owed by an Eligible Customer can be the

subject of a Claim under this Policy in the event that, by reason of an Insured Cause, the Insured has failed to receive its Expected Allocation on its Due Date (cl 3.1);

ii. the Insurer's liability to indemnify the Insured for a Loss shall, subject to the terms, conditions and limitations of the policy, apply only in respect of Assets owned by the Insured (or a Loss Payee) during the Policy Period (cl 4.1);

iii. subject to the Insured not exceeding the limits from time to time in force pursuant to the preceding provisions of cl 5, any Asset acquired by the Insured (or a Loss Payee) during a Policy Period shall to the extent the Insured wishes it to be insured under the policy automatically attach to the policy and be on risk under the policy from the time the Insured (or a Loss Payee) acquires the risk in the Asset pursuant to the Transaction Documents (cl 5.5);

iv. that the Insured acknowledges and agrees that it has a duty to the Insurer of fair presentation in respect of the 2019 Policy and the risks insured thereunder (cl 7.1);

v. that the Insurer shall be deemed to have delivered a Stop Asset Acquisition Instruction to the Insured in relation to Assets arising from a Customer or if applicable a Customer Group, where that Customer or any member of the applicable Customer Group has failed to pay a Debt on the relevant Due Date and such failure to pay has not been remedied within 10 Business Days after the Due Date, and that subject to paragraph (b), no Asset (arising from the applicable Customer, or Customer Group) acquired after the delivery of the Stop Asset Acquisition Instruction shall attach to the Policy (cl 8.3);

vi. that the Insurer was not liable to indemnify the Insured in respect of any Loss in respect of which the Insured has failed to comply with its obligations under the policy where such failure has a 'Material Policy Impact' (cl 9.7);

vii. that without prejudice to the other provisions of cl 10, the Insured shall ensure that, following the occurrence of an event that may reasonably be expected to result in a Loss under the Policy, it shall by exercising the Insured's rights under the Transaction Documents, act reasonably and prudently to prevent, mitigate and minimise Losses at all times, and that in doing so, the Insured

shall act as would a reasonable and prudent owner of the Eligible Debt(s) in question without assuming that any Loss may be covered under the 2019 Policy (cl 10.7(a));

viii. that in the event of an Insured's failure to mitigate Loss in accordance with cl 10.7, the Insurer shall remain obliged to indemnify the Insured in respect of such Loss but, to the extent the Insurer is able to prove that a Loss would reasonably be expected to have been lower but for the failure to mitigate, the Insurer shall only be obliged to indemnify the Insured to the extent of that lower amount (cl 10.7(d));

ix. that any variation of the 2019 Policy (except by way of Endorsement as provided in the 2019 Policy) may only be effected in writing signed by or on behalf of each party (cl 15.3(a)); and

x. that if the Insured makes any statement, report or Claim, knowing it to be false or fraudulent, or the Insured knowingly conceals any material fact, the policy may be declared void by the Insurer and all Claims payments hereunder after such false or fraudulent statements reports or Claim shall be forfeited (cl 15.4); and

g. otherwise admits the paragraph.

119. TMNF does not plead to paragraph 119 of the ASOC, which makes no allegations against it.

H.3 Debt Endorsements

120. In response to paragraph 120 of the ASOC, TMNF:

a. admits that Debt Endorsement 1 contained terms broadly to the effect set out in subparagraphs (a) to (d);

b. refers to the terms of Debt Endorsement 1 for their full force and effect;

c. says that Debt Endorsement 1 was not a valid "Debt Endorsement" under the 2019 Policy because, on the proper construction of that Policy:

i. the 2019 Policy did not authorise the issue of a 'Debt Endorsement' which had the effect of varying the meaning of 'Eligible Debt' to incorporate debts arising from supply chain finance; and

ii. the 2019 Policy did not authorise the issue of a "Debt Endorsement" that purported to operate retrospectively.

121. In response to paragraph 121 of the ASOC, TMNF:

a. admits that Debt Endorsement 2 contained terms broadly to the effect set out in subparagraphs (a) to (b) of the ASOC;

b. refers to the terms of Debt Endorsement 2 for their full force and effect; and

c. says that Debt Endorsement 2 was not a valid "Debt Endorsement" under the 2019 Policy because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Debt Endorsement" that purported to operate retrospectively.

122. In response to paragraph 122 of the ASOC, TMNF:

a. admits that Debt Endorsement 2(iii) contained terms broadly to the effect set out in paragraphs 122.a to b. of the ASOC;

b. refers to the terms of Debt Endorsement 2(iii) for their full force and effect; and

c. says that Debt Endorsement 2(iii) was not a valid "Debt Endorsement" under the 2019 Policy because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Debt Endorsement" that purported to operate retrospectively.

123. In response to paragraph 123 of the ASOC, TMNF:

a. admits that Debt Endorsement 2(iv) contained terms broadly to the effect set out in paragraphs 123.a to c. of the ASOC;

b. refers to the terms of Debt Endorsement 2(iv) for their full force and effect; and

c. says that Debt Endorsement 2(iv) was not a valid "Debt Endorsement" under the 2019 Policy because, on the proper construction of the 2019 Policy, the 2019

Policy did not authorise the issue of a "Debt Endorsement" that purported to operate retrospectively.

123A. TMNF admits paragraph 123A of the ASOC.

H.4 Loss Endorsement

124. In response to paragraph 124 of the ASOC, TMNF:

a. admits that "Endorsement 23" contained terms broadly to the effect set out in paragraph 124 of the ASOC;

b. says that Endorsement 23 was not an "Endorsement" within the meaning of the Policy and did not vary the Policy validly as:

i. the 2019 Policy permitted only three types of endorsement (Customer Endorsements, Debt Endorsements, and Loss Payee Endorsements), and this document did not purport to be and was not a Customer Endorsement, Debt Endorsement or Loss Payee Endorsement; and

ii. further and alternatively, cl 15.3(a) of the Policy provided that any variation of the 2019 Policy could only be effected in writing signed by or on behalf of each party, and Endorsement 23 was not signed on behalf of GCPL or Greensill Bank.

H.5 Customer Endorsements

125. In response to paragraph 125 of the ASOC, TMNF:

a. admits that Customer Endorsement 2, Customer Endorsement 2(i) and Customer Endorsement 2(ii) purported to endorse Simec as a Customer under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. as to subparagraph (a), refers to and repeats Annexure L, paragraph 638 of this Defence;

d. as to subparagraph (b), refers to and repeats Annexure L, paragraph 639 of this Defence;

e. as to subparagraph (c), refers to and repeats Annexure L, paragraph 640 of this Defence; and

f. otherwise denies the paragraph.

126. In response to paragraph 126 of the ASOC, TMNF:

a. admits that Customer Endorsement 5 purported to endorse Bluestone Resources as a Customer under the 2019 Policy and that the Customer Endorsements pleaded in paragraph 126(b) purported to endorse the entities named in the particulars as Customers under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. as to subparagraph (a), refers to and repeats Annexure B, paragraph 254 of this Defence;

d. as to subparagraph (b), refers to and repeats Annexure B, paragraph 255 of this Defence;

e. as to subparagraph (c), refers to and repeats Annexure C, paragraph 289 of this Defence; and

f. otherwise denies the paragraph.

127. In response to paragraph 127 of the ASOC, TMNF:

a. admits that Customer Endorsement 16 and Customer Endorsement 16(i) purported to endorse Noviniti Poole as a Customer under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. as to subparagraph (a), refers to and repeats Annexure K, paragraph 600 of this Defence;

d. as to subparagraph (b), refers to and repeats Annexure K, paragraph 601 of this Defence; and

e. otherwise denies the paragraph;

128. In response to paragraph 128 of the ASOC, TMNF:

a. admits that Customer Endorsement 19, Customer Endorsement 19(i) and Customer Endorsement 19(ii) purported to endorse LCL, Liberty Commodities Group and Liberty FE as Customers under the 2019 Policy and that the Customer Endorsements pleaded in paragraph 128(d) purported to endorse the entities named in the particulars as Customers under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. as to subparagraph (a), refers to and repeats Annexure F, paragraph 397 of this Defence; and

d. as to subparagraph (b), refers to and repeats Annexure F, paragraph 398 of this Defence; and

e. as to subparagraph (c), refers to and repeats Annexure F, paragraph 399 of this Defence; and

f. as to subparagraph (d), refers to and repeats Annexure F, paragraph 400 of this Defence; and

g. otherwise denies the paragraph.

129. In response to paragraph 129 of the ASOC, TMNF:

a. admits that Customer Endorsement 34 purported to endorse Catfoss DBT as a Customer under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. refers to and repeats Annexure D, paragraph 325 of this Defence; and

d. otherwise denies the paragraph.

130. In response to paragraph 130 of the ASOC, TMNF:

a. admits that Customer Endorsement 35 purported to endorse Liberty France as a Customer under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. refers to and repeats Annexure G, paragraph 437 of this Defence; and

d. otherwise denies the paragraph.

131. In response to paragraph 131 of the ASOC, TMNF:

a. admits that Customer Endorsement 48 and Customer Endorsement 48(i) purported to endorse Noviniti Colchester as a Customer under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. as to subparagraph (a), refers to and repeats Annexure J, paragraph 555 of this Defence;

d. as to subparagraph (b), refers to and repeats Annexure J, paragraph 556 of this Defence; and

e. otherwise denies the paragraph.

132. In response to paragraph 132 of the ASOC, TMNF:

a. admits that Customer Endorsement 54 purported to endorse the entities named in subparagraph (a) as a Customer under the 2019 Policy, Customer Endorsement 54(i) dated 2 May 2019 purported to endorse the entities named in subparagraph (b) as a Customer under the 2019 Policy, Customer Endorsement 54(i) dated 16 Apil 2020 purported to endorse the entities named in subparagraph (c) as a Customer under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. as to subparagraph (a), refers to and repeats Annexure I, paragraph 509 of this Defence;

d. as to subparagraph (b), refers to and repeats Annexure I, paragraph 510 of this Defence;

e. as to subparagraph (c), refers to and repeats Annexure I, paragraph 511 of this Defence; and

f. otherwise denies the paragraph.

133. In response to paragraph 133 of the ASOC, TMNF:

a. admits that Customer Endorsement 122 purported to endorse Liberty House as a Customer under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. refers to and repeats Annexure H, paragraph 474 of this Defence; and

d. otherwise denies the paragraph.

134. In response to paragraph 134 of the ASOC, TMNF:

a. admits that Customer Endorsement 127 purported to endorse SNG as a Customer under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. refers to and repeats Annexure M, paragraph 669 of this Defence; and

d. otherwise denies the paragraph.

135. In response to paragraph 135 of the ASOC, TMNF:

a. admits that Customer Endorsement 138 purported to endorse Bauer's Intelligent Transport and Kerry Ireland as Customers under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. refers to and repeats Annexure AA, paragraph 221 and Annexure E, paragraph 364 of this Defence; and

d. otherwise denies the paragraph.

136. In response to paragraph 136 of the ASOC, TMNF:

a. admits that Customer Endorsement 139 purported to endorse Westford as a Customer under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. refers to and repeats Annexure O, paragraph 774 of this Defence; and

d. otherwise denies the paragraph.

137. In response to paragraph 137 of the ASOC, TMNF:

a. admits that the document described in paragraph 137 of the ASOC purported to endorse SSUK as a Customer under the 2019 Policy;

b. refers to and repeats paragraph 117 of this Defence;

c. refers to and repeats Annexure N, paragraph 699 of this Defence; and

d. otherwise denies the paragraph.

H.6 Loss Payee Endorsements

138. In response to paragraph 138 of the ASOC, TMNF:

a. admits that the Virtuoso Loss Payee Endorsement endorsed Credit Suisse (Lux) Supply Chain Finance Fund, being the Virtuoso Sub-Fund, as a Loss Payee for the purposes of the 2019 Policy;

b. says that the Virtuoso Loss Payee Endorsement is not valid:

i. to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

ii. to the extent it purported to operate retrospectively;

c. further or alternatively, in circumstances where the Virtuoso Loss Payee Endorsement named the Virtuoso Sub-Fund, and not Credit Suisse Virtuoso, it was ineffective to confer any rights on Credit Suisse Virtuoso to sue under the Policy for any Loss allegedly suffered; and

d. otherwise admits the paragraph.

139. In response to paragraph 139 of the ASOC, TMNF:

a. admits that the Virtuoso Loss Payee Endorsement included terms broadly to the effect pleaded in subparagraphs 139(a) and (b), save that the relevant obligation in subparagraph 139(a) was expressed as being an instruction by the Insured (Greensill Bank and GCPL) to IAL;

b. says that the Virtuoso Loss Payee Endorsement further provided that:

i. the Loss Payee declared that it is fully aware of the terms of the 2019 Policy, and that it was the Insured's obligation to communicate any relevant information and/or contractual amendments to the Loss Payee;

ii. it was understood that the Virtuoso Loss Payee Endorsement does not modify any rights and obligations defined in relation to the 2019 Policy other than as stated therein; and

iii. the Loss Payee acknowledges that it does not have any rights under the 2019 Policy except the payment by IAL of any Claim payment payable under the 2019 Policy in accordance with the Virtuoso Loss Payee Endorsement; and

c. otherwise admits the paragraph.

140. In response to paragraph 140 of the ASOC, TMNF:

a. admits that the Nova Loss Payee Endorsement endorsed Credit Suisse Nova (Lux) Supply Chain Finance High Income Fund, being the Nova Sub-Fund, as a Loss Payee for the purposes of the 2019 Policy;

b. says that the Nova Loss Payee Endorsement is not valid:

i. to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

ii. to the extent it purported to operate retrospectively;

c. further or alternatively, in circumstances where the Nova Loss Payee Endorsement named the Nova Sub-Fund, and not Credit Suisse Nova, it was ineffective to confer any rights on Credit Suisse Nova to sue under the Policy for any Loss allegedly suffered; and

d. otherwise admits the paragraph.

141. In response to paragraph 141 of the ASOC, TMNF:

a. admits that the Nova Loss Payee Endorsement included terms broadly to the effect pleaded in subparagraphs 141(a) and (b), save that the relevant obligation in

subparagraph 139(a) was expressed as being an instruction by the Insured (Greensill Bank and GCPL) to IAL;

b. says that the Nova Loss Payee Endorsement further provided that:

i. the Loss Payee declared that it is fully aware of the terms of the 2019 Policy, and that it was the Insured's obligation to communicate any relevant information and/or contractual amendments to the Loss Payee;

ii. it was understood that the Nova Loss Payee Endorsement does not modify any rights and obligations defined in relation to the 2019 Policy other than as stated therein; and

iii. the Loss Payee acknowledges that it does not have any rights under the 2019 Policy except the payment by IAL of any Claim payment payable under the 2019 Policy in accordance with the Nova Loss Payee Endorsement; and

c. otherwise admits the paragraph.

142. TMNF does not know and therefore cannot admit paragraph 142.

142A. TMNF admits paragraph 142A of the ASOC.

142B. TMNF admits paragraph 142B of the ASOC.

142C. TMNF admits paragraph 142C of the ASOC.

142D. TMNF admits paragraph 142D of the ASOC.

142E. TMNF admits paragraph 142E of the ASOC.

142F. TMNF admits paragraph 142F of the ASOC.

H.7 Other Endorsements

143. In response to paragraph 143 of the ASOC, TMNF:

a. says that subparagraphs (a) to (d) are a paraphrase of the Liberty TCUK Endorsement;

b. relies on the terms of the Liberty TCUK Endorsement for their full force and effect;

c. says that the Liberty TCUK Endorsement was not an Endorsement within the meaning of the 2019 Policy because the 2019 Policy permitted only three types of endorsement (Customer Endorsements, Debt Endorsements, and Loss Payee Endorsements), and this document did not purport to be and was not a Customer Endorsement, Debt Endorsement or Loss Payee Endorsement;

d. says that:

i. clause 15.3(a) of the 2019 Policy provided that any variation of the 2019 Policy could only be effected in writing signed by or on behalf of each party; and

ii. the Liberty TCUK Endorsement was not signed on behalf of GCPL or Greensill Bank, and was not a valid variation of the 2019 Policy;

e. says that to the extent that it is alleged that the *Liberty TCUK Endorsement* was a "Customer Endorsement" within the meaning of the 2019 Policy, it was not a valid endorsement, because, on the proper construction of the 2019 Policy:

i. Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, whereas the Liberty TCUK Endorsement did not express a percentage premium rate (but rather a fixed dollar amount of $1); and

ii. on the proper construction of the 2019 Policy, the Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively; and

f. otherwise admits the paragraph.

144. In response to paragraph 144 of the ASOC, TMNF:

a. admits that on 29 April 2020, Mr Brereton signed a document titled "Endorsement (Liberty Commodities)" (**Liberty Commodities Endorsement**);

b. says that paragraph 144(a) to (e) is a paraphrase of the Liberty Commodities Endorsement;

c. relies on the terms of the Liberty Commodities Endorsement for their full force and effect;

d. says that the Liberty Commodities Endorsement was not an Endorsement within the meaning of the 2019 Policy because the 2019 Policy permitted only three types of endorsement (Customer Endorsements, Debt Endorsements, and Loss Payee Endorsements), and this document did not purport to be and was not a Customer Endorsement, Debt Endorsement or Loss Payee Endorsement;

e. says that:

i. clause 15.3(a) of the 2019 Policy provided that any variation of the 2019 Policy could only be effected in writing signed by or on behalf of each party; and

ii. the Liberty Commodities Endorsement was not signed on behalf of GCPL or Greensill Bank, and was not a valid variation of the 2019 Policy;

f. says that to the extent that it is alleged that the Liberty Commodities Endorsement was a "Customer Endorsement" within the meaning of the 2019 Policy, it was not a valid endorsement, because on the proper construction of the 2019 Policy, the Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively; and

g. otherwise admits the paragraph.

145. In response to paragraph 145 of the ASOC, TMNF:

a. says that subparagraphs (a) to (d) are a paraphrase of the SSUK Endorsement;

b. relies on the terms of the SSUK Endorsement for their full force and effect;

c. says that the SSUK Endorsement was not an Endorsement within the meaning of the 2019 Policy, on the basis that the 2019 Policy permitted only three types of endorsement (Customer Endorsements, Debt Endorsements, and Loss Payee Endorsements), and this document did not purport to be and was not a Customer Endorsement, Debt Endorsement or Loss Payee Endorsement;

d. says that:

i. clause 15.3(a) of the 2019 Policy provided that any variation of the 2019 Policy could only be effected in writing signed by or on behalf of each party; and

ii. says that the SSUK Endorsement was not signed on behalf of GCPL or Greensill Bank, and was not a valid variation of the 2019 Policy;

e. says that to the extent that it is alleged that the SSUK Endorsement was a "Customer Endorsement" within the meaning of the 2019 Policy, it was not a valid endorsement, because:

i. Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, whereas the SSUK Endorsement did not express a percentage premium rate (but rather a fixed dollar amount of $1); and

ii. on the proper construction of the 2019 Policy, the Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively; and

f. otherwise admits the paragraph.

146. In response to paragraph 146 of the ASOC, TMNF:

a. admits that Endorsement 9 included terms broadly to the effect pleaded, save that it expressly applied to "Losses" suffered by Greensill Bank as the "Insured" and did not extend to any "Losses" arising from "Assets" held by any "Loss Payee";

b. says that Endorsement 9 was not an "Endorsement" within the meaning of the 2019 Policy and did not vary the 2019 Policy validly as:

i. the 2019 Policy permitted only three types of endorsement (Customer Endorsements, Debt Endorsements, and Loss Payee Endorsements), and this document did not purport to be and was not a Customer Endorsement, Debt Endorsement or Loss Payee Endorsement; and

ii. further and alternatively, cl 15.3(a) of the 2019 Policy provided that any variation of the policy could only be effected in writing signed by or on behalf

of each party, and Endorsement 9 was not signed on behalf of GCPL or Greensill Bank; and

c. otherwise admits the paragraph.

147. In response to paragraph 147 of the ASOC, TMNF:

a. says that Endorsement 18 was not an "Endorsement" within the meaning of the Policy and did not vary the 2019 Policy validly as:

i. the 2019 Policy permitted only three types of endorsement (Customer Endorsements, Debt Endorsements, and Loss Payee Endorsements), and this document did not purport to be and was not a Customer Endorsement, Debt Endorsement or Loss Payee Endorsement; and

ii. further and alternatively, cl 15.3(a) of the 2019 Policy provided that any variation of the policy could only be effected in writing signed by or on behalf of each party, and Endorsement 18 was not signed on behalf of GCPL or Greensill Bank;

b. says that the 2019 Policy expired on 22 February 2020;

c. says that under cl 15.2 of the 2019 Policy, no legal action arising under the 2019 Policy may be brought against IAL unless such action is commenced within 24 months following the last day of the last Policy Period during which the 2019 Policy was in force; and

d. otherwise admits the paragraph.

147A. TMNF admits paragraph 147A of the ASOC.

147B. TMNF admits paragraph 147B of the ASOC.

I BCC AS AGENT OF THE INSURER

148. In response to paragraph 148 of the ASOC, TMNF:

a. admits the paragraph;

b. says that BCC and Brereton had actual authority to enter into the Loss Payee Endorsements for and on behalf of IAL to the extent they endorsed Credit Suisse Virtuoso and Credit Suisse Nova as loss payees under the 2019 Policy (if issued within authority);

c. says that the conduct of BCC and Brereton in executing each of the documents referred to in paragraphs 148 and 169 of the ASOC was within the ostensible authority of BCC and Brereton;

Particulars

i. IAL held out BCC as its underwriting agent to write trade credit insurance, without any disclosure to intending insureds of any limitations on BCC's authority to write trade credit insurance on its behalf.

ii. IAL held out Brereton as the Head of Trade Credit at BCC to write trade credit insurance, without any disclosure to intending insureds of any limitations on Brereton's authority to write trade credit insurance on its behalf.

iii. IAL appointed BCC and Brereton as its authorised representatives to provide trade credit insurance on its behalf, with those authorisations recorded in the public register maintained by ASIC and which authorisations did not disclose any limitations on BCC's and Brereton's authority to write trade credit insurance on IAL's behalf.

iv. On 1 August 2017, IAL published a statement (**To Whom It May Concern Letter**) which represented to intending insureds or third parties that BCC was authorised to issue trade credit insurance as agent of IAL, which statement was forwarded to Marsh on 10 August 2017 (MAR.0004.0001.0597).

v. The To Whom It May Concern Letter did not qualify the representation of BCC's authority or otherwise disclose any limitation on BCC's authority to write trade credit insurance on IAL's behalf.

vi. The representation made by the To Whom It May Concern Letter was a continuing representation.

vii. Intending insureds could reasonably expect IAL to be aware, through bordereaux reporting, of trade credit insurance written by BCC and could reasonably assume such insurance was written with IAL's authority in the absence of any statement by IAL to the contrary.

viii. Intending insureds could reasonably expect BCC to remit premium to IAL for trade credit insurance written by BCC and could reasonably assume such insurance was written with IAL's authority in the absence of any statement by IAL to the contrary.

ix. On or about 3 June 2020, GBAG made a claim under Policy TS-03088 (**NMC Claim**). In accepting and part-paying the NMC Claim, IAL (through its solicitors) represented that Policy TS-03088 had been issued by BCC on behalf of IAL and that BCC was authorised on behalf of IAL to write trade credit insurance:

A. on the policy wording of Policy TS-03088, which was materially identical to the 2019 Policy;

B. insuring GBAG, being an insured domiciled outside Australia, in respect of customers domiciled outside Australia;

C. for a premium of $1;

D. with no excess payable by GBAG;

E. to which the Virtuoso Sub-Fund was endorsed as a loss payee;

F. with customer limits at least equal to the limits set out in the customer endorsements to Policy TS-03088.

d. says that, if GBAG relied in good faith on the conduct alleged at paragraph 169 of the ASOC, IAL would be bound as between IAL and GBAG (subject to any valid avoidance) by each of the documents referred to in paragraphs 148 and 169 of the ASOC by operation of section 917B or 917C of the *Corporations Act* even if BCC and Brereton acted outside their actual authority in executing those documents;

e. says that if Credit Suisse relied in good faith on the conduct alleged at paragraph 169 of the ASOC, IAL would be bound, as between IAL and Credit Suisse (subject to any valid avoidance), by each of the documents referred to in paragraphs 148 and 169 of the ASOC by operation of section 917B or 917C of the *Corporations Act* even if BCC and Brereton acted outside their actual authority in executing those documents;

f. says that BCC and Brereton, by executing each of the documents referred to in paragraphs 148 and 169 of the ASOC, represented and warranted to the insureds that they were authorised by IAL to execute those documents on IAL's behalf (**Warranty of Authority**);

g. says that if GBAG relied in good faith on the conduct as alleged at paragraph 169 of the ASOC, IAL is responsible by operation of section 917B or 917C of the *Corporations Act* for any breach of BCC's and Brereton's Warranty of Authority given in respect of each of the documents referred to in paragraphs 148 and 169 of the ASOC even if BCC and Brereton acted outside their actual authority in executing those documents;

h. says that if Credit Suisse relied in good faith on the conduct alleged at paragraph 169 of the ASOC, IAL is responsible by operation of section 917B or 917C of the *Corporations Act* for any breach of BCC's and Brereton's Warranty of Authority given in respect of each of the documents referred to in paragraphs 148 and 169 of the ASOC even if BCC and Brereton acted outside their actual authority in executing those documents;

i. says that, by reason of the matters referred to in paragraphs b. to h. above, IAL would be obliged (subject to any valid avoidance and policy coverage defences) to make payment for any Loss falling within the scope of cover provided by the 2019 Policy even if BCC and Brereton acted outside their actual authority in executing those documents; and

j. says that Credit Suisse admits that the 2019 Policy, even if issued within authority, does not respond to losses Credit Suisse claims in these proceedings.

Particulars

Letter dated 30 June 2026 from Gilbert +Tobin to Kennedys.

149. TMNF admits paragraph 149 of the ASOC.

150. In response to paragraph 150 of the ASOC, TMNF:

a. does not know and therefore cannot admit the paragraph; and

b. repeats paragraph 148 above and says that the conduct of BCC and Brereton referred to at paragraphs 148 and 149 of the ASOC was within the ostensible authority of BCC and Brereton and, if relied upon by GBAG and/or Credit Suisse in good faith, was conduct for which, as between IAL and GBAG and/or Credit Suisse respectively, IAL was responsible under section 917B or 917C of the *Corporations Act* even if BCC and Brereton acted outside their actual authority.

151. [NOT USED]

152. [NOT USED]

J POWER OF ATTORNEY

153. In response to paragraph 153 of the ASOC, TMNF:

a. admits that Greensill Bank executed a power of attorney in favour of Credit Suisse Virtuoso;

b. says that the paragraph is a paraphrase of the provisions of the power of attorney to which it refers;

c. refers to the terms of the Power of Attorney for their full force and effect; and

d. says that this proceeding has been brought in the names of Credit Suisse Virtuoso and Credit Suisse Nova, purportedly in their own right, and not in the name of Greensill Bank; and

e. otherwise denies the paragraph.

K PAYMENT FAILURES

154. In response to paragraph 154 of the ASOC, TMNF:

a. refers to and repeats the following paragraphs of this Defence:

i. Annexure AA at paragraph 226;

ii. Annexure B at paragraph 258;

iii. Annexure C at paragraph 297;

iv. Annexure D at paragraph 329;

v. Annexure E at paragraph 371;

vi. Annexure F at paragraph 403;

vii. Annexure G at paragraph 439;

viii. Annexure H at paragraph 476;

ix. Annexure I at paragraph 524;

x. Annexure J at paragraph 561;

xi. Annexure K at paragraph 603;

xii. Annexure L at paragraph 642;

xiii. Annexure M at paragraph 675;

xiv. Annexure N at paragraph 713; and

xv. Annexure O at paragraph 746; and

b. otherwise does not know and therefore cannot admit the paragraph.

155. [NOT USED]

L CLAIMS ON THE 2019 POLICY

156. In response to paragraph 156 of the ASOC, TMNF:

a. says that on various dates, Greensill Bank has submitted documents styled “Claim Form”;

b. refers to and repeats the following paragraphs of this Defence:

i. Annexure AA at paragraph 231;

ii. Annexure B at paragraph 262;

iii. Annexure C at paragraph 301;

iv. Annexure D at paragraph 332;

v. Annexure E at paragraph 374;

vi. Annexure F at paragraph 407;

vii. Annexure G at paragraph 442;

viii. Annexure H at paragraph 479;

ix. Annexure I at paragraph 527;

x. Annexure J at paragraph 565;

xi. Annexure K at paragraph 606;

xii. Annexure L at paragraph 645;

xiii. Annexure M at paragraph 681;

xiv. Annexure N at paragraph 716; and

xv. Annexure O at paragraph 749; and

c. otherwise admits the paragraph.

157. [NOT USED]

M INSURER'S POSITION

158. TMNF admits paragraph 158 of the ASOC.

159. [NOT USED]

160. [NOT USED]

161. [NOT USED]

N CLAIMS RELATING TO BCC AND BRERETON

162. [NOT USED]

163. [NOT USED]

N.1 Knowledge of BCC and Brereton

164. In response to paragraph 164 of the ASOC, TMNF:

a. repeats paragraph 164 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

165. In response to paragraph 165 of the ASOC, TMNF:

a. repeats paragraph 165 of BCC's Defence in these proceedings; and

b. otherwise does not know and cannot admit the paragraph.

166. In response to paragraph 166 of the ASOC, TMNF:

a. repeats paragraph 166 of BCC's Defence in these proceedings; and

b. otherwise admits the paragraph.

167. In response to paragraph 167 of the ASOC, TMNF:

a. repeats paragraph 167 of BCC's Defence in these proceedings; and

b. otherwise does not know and therefore cannot admit the paragraph.

168. In response to paragraph 168 of the ASOC, TMNF:

a. repeats paragraph 168 of BCC's Defence in these proceedings; and

b. otherwise does not know and therefore cannot admit the paragraph.

168A. In response to paragraph 168A of the ASOC, TMNF:

a. refers to and repeats paragraph 168A of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

168B. In response to paragraph 168B of the ASOC, TMNF:

a. refers to and repeats paragraph 168B of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

168C. In response to paragraph 168C of the ASOC, TMNF:

a. refers to and repeats paragraph 168C of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

N.2 BCC/Brereton Conduct

169. In response to paragraph 169 of the ASOC, TMNF:

a. repeats paragraph 169 of BCC's Defence in these proceedings; and

b. otherwise admits the paragraph.

170. [NOT USED]

171. [NOT USED]

172. [NOT USED]

173. [NOT USED]

174. [NOT USED]

175. [NOT USED]

176. [NOT USED]

177. [NOT USED]

N.3 Misleading or deceptive conduct

178. In response to paragraph 178 of the ASOC, TMNF:

a. repeats paragraph 178 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

179. In response to paragraph 179 of the ASOC, TMNF:

a. repeats paragraph 179 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

180. In response to paragraph 180 of the ASOC, TMNF:

a. repeats paragraph 180 of BCC's Defence in these proceedings; and

b. otherwise does not plead to the paragraph, there being no allegation against it.

181. TMNF does not plead to paragraph 181 of the ASOC, there being no allegation against it.

182. In response to paragraph 182 of the ASOC, TMNF:

a. repeats paragraph 182 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

183. In response to paragraph 183 of the ASOC, TMNF:

a. repeats paragraph 183 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

184. In response to paragraph 184 of the ASOC, TMNF:

a. repeats paragraph 184 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

185. In response to paragraph 185 of the ASOC, TMNF:

a. repeats paragraph 185 of BCC's Defence in these proceedings; and

b. otherwise does not plead to the paragraph, there being no allegation against it.

186. In response to paragraph 186 of the ASOC:

a. repeats paragraph 186 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

Particulars

TMNF refers to and relies on the matters set out in the document titled "Annexure C to the BCC/TM Parties' Defence" filed in these proceedings (**BCC/TM's Annexure C**).

187. In response to paragraph 187 of the ASOC:

a. repeats paragraph 187 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

188. In response to paragraph 188 of the ASOC, TMNF:

a. admits that the conduct alleged at paragraph 188 of the ASOC related to the provision of a financial service;

b. does not admit subparagraphs (b) to (d) there being no allegation against it; and

c. in response to subparagraph (e), denies the paragraph and:

i. says that some of the alleged conduct of BCC and Brereton referred to in paragraphs 178 to 185 of the ASOC occurred prior to 1 July 2019 and in BCC's capacity as the corporate authorised representative of IAL, not TMNF;

ii. says that BCC and/or Brereton made a disclosure for the purposes of ss 917D(b) and (c) of the Corporation Act when executing the relevant policies and endorsements, by disclosing that BCC was acting not on behalf of TMNF but on behalf of another Licensee, being IAL; and

iii. denies that the conduct of BCC pleaded in paragraphs 178 to 185 was conduct on which Credit Suisse Virtuoso or Credit Suisse Nova could reasonably be expected to rely on or after 2 July 2020 by reason of BCC's notifications to Greensill and Marsh, of concerns regarding Brereton's authority.

Particulars

i. Voice message from Mark Callahan (Executive Vice President of TMHCC and Director of TMMA) to Angus Ward (Marsh) on around 2 July 2020.

ii. Email from Mark Callahan to Angus Ward and others dated 2 July 2020 with subject line, "BCC on behalf of Tokio Marine" (CSA.0001.0015.0008);

iii. Phone conversation between Toby Guy (CEO of TMMA and Director of TMMA/BCC) and Julian Macey-Dare (Marsh) on around 3 July 2020.

iv. Letter from Toby Guy to GCPL, GCUK and GBAG, copied to Marsh dated 4 August 2020 (CSA.0001.0008.0327).

v. Letter from Mark Callahan to GCPL, GBAG and GCUK dated 28 August 2020 (CSA.0001.0015.0006).

vi. Letter from Toby Guy (TMMA/BCC) on behalf of BCC to GCPL, GBAG and GCUK dated 1 September 2020 (MMC_GCUK08_00022720).

189. TMNF denies paragraph 189 of the ASOC.

Contributory negligence

189A. The loss or damage the subject of Credit Suisse's claim (if any) was at least partly a result of Credit Suisse' own failure to take reasonable care, with the result that, pursuant to s 1041I(1B) of the Corporations Act, s 12GF of the ASIC Act and s 137B of the Competition and Consumer Act, Part 1A, Division 8 of the *Civil Liability Act 2002* (NSW) (**Civil Liability Act**) and at common law, the damages payable by TMNF (if any) should be reduced to the extent to which the court thinks just and equitable having regard to Credit Suisse's share in the responsibility for the alleged loss and damage, on the following grounds:

0a. at all material times, Credit Suisse Asset Management (**CSAM**) and Credit Suisse Fund Management S.A. (**CSFM**) were the agents of Credit Suisse;

Particulars

i. CSAM was the portfolio manager for Credit Suisse (now UBS Asset Management (Europe) SA).

ii. CSFM was the fund manager for Credit Suisse.

iii. Credit Suisse accepts, for the purposes of these proceedings, that the conduct of CSAM and CSFM and their employees in relation to the Notes was the conduct of CSAM and CSFM as agents for Credit Suisse: letter from Credit Suisse's solicitors dated 30 January 2025.

0b. at all material times, Credit Suisse Fund Services (Luxembourg) SA (**CSFS**) was the agent of CSFM;

Particulars

A. TMNF refers to and relies on the service level agreement between CSFS and CSFM referred to in the Affidavit of Guy Reiter sworn on 25 October 2024 (paragraph 30(c)), headed "Intragroup Service Order" (CSA.5000.0003. 3393) (**Service Level Agreement**).

B. Under the Service Level Agreement:

i. the "Service Provider" is CSFS and the "Service Receiver" is CSFM (Service Level Agreement, pp 1 and 5 of 47); and

ii. the "Service Provider [CSFS] will perform on behalf of the Service Receiver [CSFM] 'Fund Administration Services' as further detailed *below with respect to all investment funds and equivalent structures managed by the Service Receiver [CSFM]" (Service Level Agreement, "Scope", p 5 of 47).*

a. at the time at which Credit Suisse acquired each of:

i. the Hoffman Notes as pleaded in Annexures A, B, D to G, I to K and M to O of the ASOC (paragraph 101);

ii. the Lagoon Park Notes as pleaded in Annexures H and L of the ASOC (paragraph 107); and

iii. the Wickham Notes as pleaded in Annexure C of the ASOC (paragraph 113) (collectively, **the Notes**),

Credit Suisse, including (acting by or through CSAM, CSFM, and CSFS) failed to undertake any or adequate, investigations and/or due diligence into:

A. the transactions pursuant to which the Notes were acquired;

B. the purported insurance arrangements (including the 2018 Policy, the 2019 Policy (as applicable) and their purported endorsements); and

C. BCC/Brereton's authority on behalf of IAL as referred to in the ASOC; and

D. the risk of default as between the account debtor/borrower and GCUK (or any assignee from GCUK of the account debtor's payment obligations), including because of the risk that there were no genuine actual or expected accounts receivable and transactions between an underlying supplier and an underlying purchaser.

Particulars

i. In or about late February 2023, the Swiss regulator FINMA concluded its enforcement proceedings against Credit Suisse "in connection with its business relationship with financier Lex Greensill and his companies" and found that Credit Suisse (which included entities to whom Credit Suisse had delegated responsibility for its investment in the Notes and acted with or through, as alleged in this paragraph 189A) "seriously breached" their supervisory duties as asset manager imposed by Swiss banking law as identified in the FINMA Ruling (see below) to adequately identify, limit and monitor risks in the context of their business relationships with Lex Greensill and his companies (including Greensill Bank and GCPL) over a period of years. TMNF refers to and relies upon the investigations and findings as to the conduct of the CSAM, CSFM, and CSFS recorded in:

1. the press release issued by FINMA on 28 February 2023 titled "FINMA concludes "Greensill" proceedings against

Credit Suisse" (**FINMA Press Release [MAR.0008.2000.0013]**).

2. the report commissioned by FINMA and prepared by the Swiss firm, Wenger Plattner Attorneys at Law titled "Credit Suisse Group AG, Credit Suisse AG, Credit Suisse Asset Management (Switzerland) Ltd | FINMA Provisional Ruling of 1 April 2021 Investigation Report" in two parts (Part 1 dated 30 July 2022 and Part 2 dated 21 September 2022) (**Wenger Plattner Report [CSA.0001.0011.7751;CSA.0001.0011.7752]**) (noting that, at the time of preparing this amended pleading, TMNF has been provided with incomplete translations of these documents which are the subject of redactions for claims for privilege and confidentiality); and

3. the ruling issued by FINMA titled "In matters [of] Credit Suisse Group AG, Credit Suisse AG and Credit Suisse Asset Management (Schweiz) AG concerning Greensill Supply Chain Finance Funds; breach of conduct and organisational requirements" dated 9 December 2022 (**FINMA Ruling [CSA.0001.0011.7753]**).

ii. Wall Street Journal, "Long Before Greensill Imploded, Credit Suisse Saw Danger" (4 March 2021).

iii. ABC7 News, "Credit Suisse Missed Many Warnings before Greensill Collapsed" (5 March 2021).

iv. Financial Times, "Credit Suisse Executives 'Overruled' Risk Managers on $160m Loan to Greensill" (11 March 2021).

v. Insurance Business, "Credit Suisse Looking at Fallout from Greensill Debacle" (5 April 2021).

vi. Financial Times, "How Credit Suisse Rolled the Dice on Risk Management – and Lost" (20 April 2021).

vii. Credit Suisse, “Annual General Meeting to Credit Suisse AG: Response to a Request for Information” (4 April 2022).

viii. Wall Street Journal, “Credit Suisse Details More Failings from Greensill Collapse” (4 April 2022).

ix. Archit Bhattacharya and R R Reddy, “Credit Suisse – Greensill Saga: A Case of Risk Management Failure” (Sage Journals, 27 August 2022).

x. Financial Times, “Credit Suisse Accepted Suspicious Invoices for $140mn Greensill Loan” (12 December 2022).

xi. Reuters, “What Happened at Credit Suisse and How Did it Reach Crisis Point?” (18 March 2023).

xii. Law.com, “Japanese Law Firm Files Greensill-Linked Bond Lawsuit Against Credit Suisse” (9 July 2023).

xii1. Publication of administrative sanction by the Luxembourg regulator CSSF on CSFM dated 20 December 2024 titled “*Administrative sanction of 5 December 2024 for non-compliance with professional obligations related to general requirements, organisational requirements, oversight of delegates, disclosure to investors, risk and liquidity management systems, conflicts of interests and valuation.*” (**CSSF Sanction)**

xii2. TMNF repeats the matters described in paragraphs 10A.38 to 10A.40 of Annexure A to this Defence and notes, further, that Michael Degen (the author of the email referred to in paragraph 10A.38) was then head of Credit Suisse Asset Management (Schweiz) AG (**CSAM**).

xii3. On or about 11 July 2020, Cahill Gordon & Reindell LLP issued a report commissioned by Credit Suisse in respect of an internal review of CSAM supply chain finance funds including the Fund (**CG&R Report**, [CSA.5000.0004.8697]), which identified multiple conflicts of interest between CSAM and Greensill Group

as well as other employee conduct which might draw attention from regulators.

xii4. On or about 9 November 2020, FINMA issued a response to *inter alia* CSAM in respect of the CG&R Report which noted that the material provided to FINMA revealed that CSAM had violated obligations to disclose conflicts of interest, ensure appropriate administrative organisation, and provide information under applicable Swiss Law (**FINMA CG&R Response**, [CSA.5000.0004.1328]).

xii5. TMNF relies *inter alia* upon the admission made by CS Group Chairman Audit Committee and Board of Directors (Richard Meddings) by email to CS Group General Counsel and others on 12 July 2020 that "[t]he behaviour of the executives is, I am sorry to say, either negligent or worse" (as reported in the FINMA Ruling at [79]).

xii6. TMNF will seek discovery of the communications between Credit Suisse and the representatives of the Greensill Group in relation to the circumstances in which Credit Suisse acquired notes referrable to the transactions pleaded in the ASOC, related due diligence (if any) undertaken by Credit Suisse and Credit Suisse's internal controls in relation to the notes they acquired, including documents relating to FINMA's and CSSF's respective investigations

xiii1a. Whether conduct (including omissions) was engaged in by Credit Suisse, CSAM, CSFM, or CSFS separately from, or together with, another, or whether one relied on or delegated to another to engage in particular conduct in order to discharge its duties, is a matter necessarily within the knowledge of Credit Suisse and CSAM, CSFM, and CSFS. Further, the conduct (including omissions) that TMNF alleges is attributable to CSAM, CSFM, and CSFS is based on evidence served and documents discovered by Credit Suisse. That material at times fails to distinguish between the acts and omissions of each of CSAM,

CSFM, and CSFS. The material also indicates that there was or may have been an intermeshing of conduct and responsibility and indeed conflicts of interest between CSAM, CSFM, and CSFS.

xiii2. The conduct of CSAM and CSFM (including by its agent, CSFS) and their employees in relation to the Notes was the conduct of CSAM and CSFM and its agent, CSFS as agents for Credit Suisse.

xiii3. Credit Suisse by letter from its solicitors dated 30 January 2025, has undertaken not to contend to the contrary of the position described in particular xiii2 above as it relates to CSAM and CSFM. Further, and for the reasons identified above in paragraph 189A(0b) above and in particulars a to d of paragraph 189A(a1) below, TMNF contends that the undertaking extends to CSFM's delegation to CSFS.

xiii4. TMNF further and otherwise relies upon and repeats the matters set out in the particulars to paragraphs 189A(m) of IAL's defence in these proceedings.

xiii. Further particulars may be provided following discovery.

a1. in addition to the matters alleged in subparagraph 189A0b. above, and without limiting the allegations in that subparagraph, Credit Suisse also relied on, or delegated responsibilities and functions to, CSFS through CSFM (for whom, at all material times, CSFS acted as agent as pleaded in subparagraph 0b. above) with respect to its investment in the notes, namely:

i. the function of fund administrator;

ii. the function of central administrator;

iii. responsibility for monitoring:

a. investment policy limits and restrictions;

b. regulatory investment compliance;

c. risk profiles, internal risk limits, and counterparty concentration risk;

d. compliance with internal investment guidelines;

iv. responsibility for internal auditing;

v. from around 1 July 2019 onwards, post-trade controls and independent cross-checking and confirmation on insurance coverage of notes as required by updates to internal investment guidelines issued by Credit Suisse;

vi. fund administration core services, including:

a. valuation (NAV) and validation related services; and

b. ensuring that securities and cash positions are reconciled against the position held by the custodian of securities (especially for positions not held in custody of Credit Suisse Luxembourg).

Particulars

"Rely" means to depend on or put trust in, and "delegate" means to commit powers or functions to others including agents by way of a formal contractual delegation. In the present case, they include the matters identified in these particulars and those to subparagraph 0b. above.

The extent and nature of Credit Suisse's reliance upon or delegation to CSFS (including the particular acts or omissions of CSFS within that delegation) are matters peculiarly within the knowledge of Credit Suisse (including through CSFM and CSAM). The following particulars, however, arise from evidence served, and documents discovered, by Credit Suisse (and further particulars may be provided following further discovery by Credit Suisse):

a. The affidavit of Guy Reiter sworn 25 October 2024 describes CSFS as having the responsibilities and functions pleaded in these subparagraphs a1.i. to v., including as delegated by CSFM pursuant to the Virtuoso

SICAV-SIF Management Agreement between CSFM and Credit Suisse Virtuoso [CSA.5000.0006.082] and the Nova (Lux) Management Agreement [CSA.5000.0006.0824].

b. The Service Level Agreement describes CSFS as having the responsibilities and functions pleaded in this subparagraph a1.vi. as part of the framework relationship between CSFM and CSFS.

c. Clause IX of the SIF Management Agreement between CSFM and Credit Suisse Virtuoso [CSA.5000.0006.0829] and Clause IX of the Nova (Lux) Management Agreement [CSA.5000.0006.0824] provided that CSFM could only delegate responsibilities with the consent of Credit Suisse Virtuoso and Credit Suisse Nova respectively. It should be inferred that, consistently with each of those clauses, Credit Suisse Virtuoso and Credit Suisse Nova each consented to CSFM's delegations to CSFS and so those delegations are attributable to Credit Suisse Virtuoso and Credit Suisse Nova.

d. Further, the affidavit of Crispian Paul Lynch sworn 17 April 2025 states (at [8] and Exhibit CPL-6 page 1, being a letter from Gilbert and Tobin dated 30 January 2025 on behalf of Credit Suisse) that the conduct of CSFM (the fund manager for Credit Suisse) and CSAM (the portfolio manager for Credit Suisse) and their employees in relation to the relevant notes in these proceedings "was the conduct of CSAM and CSFM as agents for, and thus the conduct of, Credit Suisse" (which position is repeated in Credit Suisse written submissions to this court filed on 22 April 2025). Consistently with that position, CSFM's delegation to CSFS is attributable to Credit Suisse.

e. The Wenger Plattner Report identified *inter alia* CSFS as a legal entity the focus of analysis (see Part 1 at [7]) in the

course of its reporting on the conduct of CSFM, which included findings concerning CSFM's conduct in respect of matters falling within the scope of delegation to CSFS as described in this subparagraph a1..

f. The FINMA Ruling similarly identified *inter alia* CSFS as a "division" of the Credit Suisse Group "involved" in the matters the subject of its ruling (see at [8]) and further identified it (based upon Credit Suisse Group's "own information") as providing services in favour of CSFM in respect of investments in supply chain finance funds (see at [126]).

g. TMNF further and otherwise relies upon and repeats the matters set out in the particulars to paragraph 189A(m) and (ma), of IAL's defence in these proceedings.

b. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, failed to identify, limit and monitor risks in the context of their business relationships with Lex Greensill and his companies (including Greensill Bank and GCPL) over a period of years, by:

i. failing to perform adequate due diligence on portfolio management setup of the Credit Suisse (Lux) Supply Chain Finance Fund (**Fund**), which involved a specific investment process with Greensill;

ii. failing to consider critical aspects and risks in relation to portfolio management of the Fund;

iii. failing to put in place a formalised reporting structure for ongoing service quality monitoring of the delegated portfolio manager;

iv. failing to ensure and verify on a periodic basis that the investment policy, investment strategies and risk diversification limits of the Fund were complied with;

v. failing to verify the existence and nature of the receivables underlying the notes acquired by the Fund;

vi. failing to verify that the notes acquired by the Fund corresponded to the types of investment permitted by the Fund's investment policy and disclosed in the Fund's offering documents;

vii. failing to comply with Fund's investment policy as set out in the Fund's offering documents;

viii. failing to assess the exposure of the Fund to all relevant risks to which the Fund was exposed by reason of investment in Greensill sourced notes;

ix. failing to address all relevant risks to which the Fund was exposed by reason of investment in Greensill sourced notes;

x. failing adequately to address the credit risk of the notes sourced from Greensill, in particular notes backed by future account receivables;

xi. failing adequately to address the risks relating to insurance coverage of the notes;

xii. failing adequately to address the concentration risks arising from exposure of the notes to groups of companies or businesses linked to a common beneficial owner;

xiii. failing adequately to address liquidity risk of notes sourced from Greensill;

xiv. making multiple investments, upon proposal by Greensill, where there was a conflict or potential conflict of interest between the interests of Greensill and the Fund, thereby exposing investors in the Fund to a material risk of damage;

xv. exposing the Fund to the risk that Greensill would not be objective in the sourcing of notes acquired by the Fund;

xvi. failing to put in place any controls for the ongoing valuation of the Fund's investments in Greensill sourced notes;

xvii. failing to conduct regular and comprehensive impairment tests of Greensill sourced notes acquired by the Fund, adapted to the credit risk profile of the notes; and

xviii. failing to ensure and verify on a periodic basis that the Fund's investment policy, investment strategies and risk limits were properly and effectively implemented and complied with; and

xix. inadequately handling conflicts of interest arising from special agreements with investors (including by not having adequate processes in place to identify, limit, and monitor such matters).

Particulars

TMNF repeats the particulars to paragraph 189A.a. of this Defence, including the investigations and findings recorded in the FINMA Press Release, the FINMA Ruling, the Wenger Plattner Report (both in its own right and in support of the matters in the FINMA Ruling), the CG&R Report, the FINMA CG&R Response, and the CSSF Sanction with respect to each of the above matters.

c. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, failed to have in place a system for the periodic review at the executive board level of the most important business relationships of the group, in particular for counterparty risks;

Particulars

A. TMNF repeats the particulars to paragraphs 189Aa. and b. above.

B. TMNF further relies upon the specific findings recorded in the FINMA Ruling at section 5.1.4.

d. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, failed to have in place adequate organisation structures for the identification, review and management of investment risks;

Particulars

A. TMNF repeats the particulars to paragraph 189Aa. and b. above.

B. TMNF further relies upon:

i. the specific findings recorded in the FINMA Ruling at section 5.1; and

ii. the specific findings recorded in the FINMA CG&R Response at section 2.

e. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, failed to have adequate systems for the identification and recording of the responsibilities of its highest-ranking employees;

Particulars

TMNF repeats the particulars to paragraph 189Aa. of this Defence including the findings recorded in the FINMA Press Release, the FINMA Ruling, the Wenger Plattner Report, the CG&R Report, the FINMA CG&R Response, and the CSSF Sanction.

f. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, did not:

i. adequately identify, limit and monitor risks in the context of their business relationships with Lex Greensill and the Greensill Group; or

ii. otherwise sufficiently perform as asset managers or fund managers, by reason of failing to obtain and review valuation reports for the underlying claims in cases where the transaction documentation provided for such reports to be prepared as a precondition to the purchase of a receivable;

Particulars

A. TMNF repeats the particulars to paragraph 189Aa. and b. above;

B. TMNF further relies upon:

i. the specific finding in the FINMA Press Release that "Credit Suisse seriously breached its supervisory obligations … with regard to risk management and appropriate organisational structures"; and

ii. the specific findings recorded in the FINMA Ruling at [261]-[262];

C. TMNF of relies upon the breach of supervisory duties articulated in the first paragraph of the particulars to paragraph 189A(m)(i) of IAL's defence in these proceedings; and

D. The content and breach of the Credit Suisse's (either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS) supervisory duties are otherwise matters for, and to be informed by, expert evidence and so further particulars will be provided by way of that evidence.

g. Credit Suisse delegated the matters described in f. above to an asset management company, namely CSAM, where:

i. CSAM had little knowledge and control over the specific claims that had been securitised and transferred to Credit Suisse; and

ii. Credit Suisse did not adequately monitor CSAM in the performance of its delegated asset management role;

Particulars

A. TMNF repeats the particulars to paragraph 189Aa. and b. above.

B. TMNF further relies upon the specific findings recorded in the FINMA Ruling at [207], Section 5.1.2, and [277].

h. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS did not themselves select or review the specific investments entered into with the Greensill Group, but allowed the Greensill Group to select and review these on their behalf;

Particulars

A. TMNF repeats the particulars to paragraph 189Aa. and b. above.

B. TMNF further relies upon the specific findings recorded in the FINMA Ruling at section 5.2.1.1 and [255].

i. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS delegated all (or all material) decisions related to their investments in the Notes to the Greensill Group itself;

Particulars

A. TMNF repeats the particulars to paragraph 189Ah. above.

B. TMNF further relies upon the FINMA Press Release (under the heading “Structure of the funds”) that “[i]n fact, it was not Credit Suisse as asset manager of the funds that selected and reviewed [securitised claims], but Greensill itself. Credit Suisse also left it to the latter to arrange the insurance cover in its own name”; and

C. Duncan Mavin, “The Pyramid of Lies: Lex Greensill and The Billion-Dollar Scandal” (MacMillan, 2022) p 148.

j. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, did not arrange their own insurance cover, but left it to the Greensill Group to arrange insurance cover in their name;

Particulars

TMNF repeats the particulars to paragraph 189Aa. and b. of this Defence.

k. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, or alternatively CSAM, engaged in conduct or omissions amounting to breaches of Swiss supervisory law.

Particulars

A. The breaches of which TMNF is presently aware are those recorded in the FINMA Ruling and FINMA Press Release (and as supported by the investigations comprised in the Wenger Plattner Report) and the FINMA CG&R Response;

B. TMNF repeats the particulars to paragraph 189Aa. and b. above.

C. The findings against CSAM in the FINMA Ruling and FINMA Press Release included that it repeatedly failed in its duties of loyalty, due diligence, and duty to provide information as recorded in the FINMA Ruling at section 5.

D. Further particulars will be provided following expert evidence on questions of foreign law.

k1. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, or alternatively CSFM, engaged in conduct or omissions amounting to breaches of Luxembourg supervisory law.

Particulars

A. The breaches of which TMNF is presently aware are those recorded in the CSSF Sanction and recorded in the CG&R Report.

B. TMNF repeats the particulars to paragraph 189Aa. and b. above.

C. Further particulars will be provided following expert evidence on questions of foreign law.

l. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS failed to realise, and failed to have adequate systems to enable it to realise, that the Greensill Group was financing companies whose creditworthiness was doubtful;

Particulars

A. TMNF repeats the particulars to paragraph 189Aa. and b. above.

B. TMNF further relies upon the specific findings recorded in the FINMA Ruling at sections 5.1.1.6, [211], and section 5.1.2.5.

m. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, failed to obtain any knowledge of, or to exercise any control over, how many accounts receivable in which they were investing were actually contractually owed;

Particulars

A. TMNF repeats the particulars to paragraph 189Aa. and b. above.

B. TMNF further relies upon the specific findings recorded in the FINMA Ruling at sections 5.1.1.6, [211], and section 5.1.2.5.

n. despite receiving critical questions and warnings by media representatives concerning its business relationship with the Greensill Group and the associated risks, Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, failed to act to reduce their exposure to the Greensill Group and to those risks;

Particulars

A. TMNF repeats the particulars to paragraph 189Aa. and b. above.

B. TMNF, further relies upon the findings recorded in the FINMA Press Release (under the heading “Many critical observations, too few appropriate reactions”) that:

i. “[t]he closure of a fund at another fund provider that had also worked with Greensill led to enquiries at Credit Suisse in 2018 about the funds associated with Greensill”;

ii. “media representatives repeatedly approached the Credit Suisse executive board with critical questions and information”;

iii. “FINMA also repeatedly asked critical questions of the banking group’s governing bodies about its business relationship with Greensill and the associated risks”;

iv. “the bank used employees who were themselves responsible for the business relationship with Greensill and were therefore not independent to deal with critical questions or warnings”; and

v. “Credit Suisse even repeatedly asked Lex Greensill himself and relied on his answers for its own statements”,

C. TMNF, further relies upon the findings recorded in the FINMA Ruling at Section Fb.

D. Actions which Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, could have taken to reduce their exposure were:

i. taking the actions which it is alleged in this paragraph 189A they failed to do, and in the case of actions which it is alleged they did do but should not have done, not doing so;

ii. not purchasing any Notes, or purchasing fewer Notes (so that, as distributions on the notes were paid over time, the overall exposure would have decreased);

iii. investing in non-Greensill investments;

iv. not entering into a side-letter that bargained away its ability to buy notes from sources other than Greensill (see sub-paragraph r2. below).

E. Further particulars may be provided following discovery and evidence.

o. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS overruled, or otherwise failed to give effect to, the assessment of their own risk manager responsible for assessing the risk involved in the investments with the Greensill Group, which was to the effect that there were a number of risks in the Greensill business model and that Credit Suisse should not invest further in the Greensill Group;

Particulars

A. TMNF repeats the particulars to paragraph 189Aa. and b. above.

B. TMNF further relies upon:

i. the specific finding recorded in the FINMA Press Release (under the heading "Many critical observations, too few appropriate reactions") that, when Greensill sought a bridging loan from Credit Suisse, "[t]he Credit Suisse risk manager responsible for the loan identified a number of risks in Greensill's business model. He therefore recommended internally at the bank not to grant the loan. A senior manager overruled this recommendation"; and

ii. the findings recorded in the FINMA Ruling at [209].

p. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, delegated decision-making authority in relation to the management of the risks identified in paragraphs 189Aa. and b. of this Defence to employees who were themselves responsible for the business relationship with the Greensill Group and were not sufficiently independent to be able to respond appropriately to critical questions or warnings;

Particulars

A. TMNF repeats the particulars to paragraph 189Aa. and b. above.

B. TMNF further relies upon:

i. the findings recorded in the FINMA Press Release (under the heading “Many critical observations, too few appropriate reactions”) that “the bank used employees who were themselves responsible for the business relationship with Greensill and were therefore not independent to deal with critical questions or warnings”;

ii. the findings recorded in the FINMA Ruling at [208] and section 5.1.4.

q. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, deferred to Lex Greensill himself, and relied on his answers, in making statements to regulators and to the public;

Particulars

A. TMNF repeats the particulars to paragraph 189Aa. and b. above.

B. TMNF further relies upon the findings recorded in the FINMA Press Release (under the heading “Many critical observations, too few appropriate reactions”) that, when responding to questions and warnings by making statements to FINMA, “Credit Suisse even repeatedly asked Lex Greensill himself and relied on his answers for its own statements”.

r. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, failed to ensure that there was regular, consistent engagement with the risks associated with the Greensill Group at the highest level within their organisation;

Particulars

TMNF repeats the particulars to paragraph 189Aa. of this Defence.

r1. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM:

i. knew or suspected that a major customer of Greensill Group was engaged in fraudulent practices; and

ii. therefore knew (or ought to have reasonably known that) there was a risk that that major customer would not repay its debts and, further, that trade credit insurance placed by Greensill Group would not be valid if those fraudulent practices were not disclosed to the insurer,

but despite those matters did not address the risks arising by stopping Credit Suisse's investments in Greensill Group;

Particulars

TMNF repeats the particulars to paragraph 189Aa. above, and specifically particular xii2.

r2. CSAM:

i. entered into a side letter through which it bargained away its ability to buy notes from sources other than Greensill Group; and

ii. knew that Greensill Group was incentivised to act in a manner that may not have been in the best interests of investors;

Particulars

TMNF relies upon the findings in the CG&R Report, including (but not limited to) those in sections IV(B).

s. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, failed to enforce their rights to enforce the debts owed by each Seller and Guarantor (as pleaded to at paragraphs 189D and 189E of this Defence below) to recover the amounts due from each of the Sellers and the Guarantors;

Particulars

A. The rights arose as described in paragraph 189D. a. to d. and 189E. a. to c. below.

B. Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS, could have taken the steps described in paragraph 189D. c. and 189E. b. below (that is, enforcing payment of the debts their described in an action for debt) but have not done

so (whether by Credit Suisse itself, or by steps taken by each of CFAM, CSFM, or CSFS acting for Credit Suisse).

C. Publicly available CSAM disclosures to investors dated 18 July 2022, 22 February 2023, and 27 April 2023 do not refer to any steps of the kind described in B above being taken.

t. further or alternatively, if one or more of the grounds alleged by IAL at paragraph 189A(m)(i) of its defence in these proceedings is established with respect to Credit Suisse (either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS) the Credit Suisse was contributorily negligent for the reasons alleged by IAL in that paragraph; and

u. further or alternatively, TMNF refers to and relies on the matters set out in BCC/TM's Annexure C.

Proportionate liability defences

189B. In further response to paragraphs 178 to 189 and 195F to 195Y of the ASOC, TMNF says that to the extent that Credit Suisse has suffered loss by reason of any alleged contravening conduct by TMNF (which is denied), the claims are apportionable claims for the purposes of s 1041L of the Corporations Act, s 12GP of the ASIC Act, s 87CB of the Competition and Consumer Act or s 34 of the Civil Liability Act.

189C. Without admission and for the purposes only of this Defence, TMNF refers to and repeats the matters pleaded in the following paragraphs of the ASOC:

a. Annexure AA at paragraphs 200 to 205 and 226;

b. Annexure B at paragraphs 241 to 249 and 258;

c. Annexure C at paragraphs 271 to 285 and 297;

d. Annexure D at paragraphs 312 to 315 and 329;

e. Annexure E at paragraphs 342 to 354 and 371;

f. Annexure F at paragraphs 384 to 387, 390 to 391 and 403;

g. Annexure G at paragraphs 418 to 427 and 439;

h. Annexure H at paragraphs 450 to 463 and 476;

i. Annexure I at paragraphs 490 to 506 and 524;

j. Annexure J at paragraphs 538 to 541 and 561;

k. Annexure K at paragraphs 577 to 592 and 603;

l. Annexure L at paragraphs 614 to 627 and 642;

m. Annexure M at paragraphs 654 to 660 and 675;

n. Annexure N at paragraphs 689 to 692 and 713; and

o. Annexure O at paragraphs 725 to 734 and 746.

189D. By virtue of the matters pleaded in paragraph 189C of this Defence, each of the Sellers (as defined in paragraph 95 of the ASOC) is a concurrent wrongdoer, as its acts or omissions in failing to repay the debts owed by it to GCUK caused the damage or loss the subject of the claim:

a. the Seller failed to pay a debt that was owed to, or had been assigned to, GCUK, Hoffman or Wickham;

b. Credit Suisse were beneficiaries of the trust over the rights to enforce each such debt constituted by the Lagoon Park Trust Deed of 13 December 2016, the Wickham Master Trust Deed of 26 April 2017 or the Lagoon Farm Master Trust Deed of 13 October 2017 (as the case may be);

c. by virtue of their status as beneficiaries of each such trust, Credit Suisse were and are entitled to enforce payment of those debts in an action for debt against the relevant Seller; and

d. each Seller is liable to the relevant Applicant in an action for debt in respect of each unpaid debt owed by the Seller as pleaded in the ASOC.

189E. By virtue of the matters pleaded in paragraph 189C of this Defence, each of the guarantors referred to in paragraphs 211, 245, 390, 398 to 399, and 509 to 511 of the ASOC (**Guarantors**) is a concurrent wrongdoer, as their acts or omissions in failing to

make payment of the debts owed by the applicable Seller to GCUK caused the damage or loss the subject of the claim:

a. the Guarantor was and is liable, upon non-payment by the relevant Seller, to make payment of the debt that was owed to, or had been assigned to, GCUK, Hoffman or Wickham;

b. by virtue of their status as beneficiaries of the trusts constituted by the Lagoon Park Trust Deed of 13 December 2016, the Wickham Master Trust Deed of 26 April 2017 or the Lagoon Farm Master Trust Deed of 13 October 2017 (as the case may be), Credit Suisse were and are entitled to enforce payment of those debts in an action for debt against the relevant Guarantor; and

c. each Guarantor is liable to the relevant Applicant in an action for debt in respect of each unpaid debt owed by the Seller as pleaded in the ASOC.

189F. GCUK is a concurrent wrongdoer as its acts or omissions in failing to recover amounts due from each of the Sellers and the Guarantors caused the damage or loss the subject of the claim:

a. by the purchase of each Note, Credit Suisse Virtuoso or Credit Suisse Nova (as the case may be) entered into a contract with, among other parties, GCUK, of which the terms were to be found in the "General Conditions of Notes" section of the Base Memorandum, which in turn incorporated the Cash Collection and Allocation Annex applicable to each tranche of Notes;

b. under the Cash Collection and Allocation Annex applicable to each tranche of Notes, GCUK undertook to perform collection functions in connection with the Purchased Accounts Receivable the subject of the Annex, including collection of the accounts receivable, billing, maintaining records, allocating amounts received to the Noteholders, and "taking such actions and executing and delivering such documents as [GCUK] … deems necessary or advisable to realise the benefits of any Purchased Accounts Receivable";

c. in breach of its obligations pleaded in paragraphs 189Fb. of this Defence, GCUK failed to perform its collection functions under the Cash Collection and Allocation Annex, including taking such actions as were necessary to recover the amounts payable, such as demanding repayment and where necessary bringing

enforcement proceedings, in respect of the Purchased Accounts Receivable underlying each Note;

d. had GCUK performed the functions and taken the steps pleaded in the preceding subparagraph, it would have obtained a recovery in respect of the Purchased Accounts Receivable underlying each Note; and

e. in the premises, GCUK is liable to Credit Suisse for breach of contract.

189G. Lex Greensill, Greensill Bank, GCPL and GCUK are concurrent wrongdoers on the basis that they breached a duty of care owed to Credit Suisse to exercise reasonable skill and care to ensure that Credit Suisse were not misled into believing that the notes which Credit Suisse acquired as pleaded in the ASOC were supported by insurance cover for the debts underlying the notes:

a. TMNF refers to and repeats the allegations in Annexure A to this Defence;

b. Lex Greensill, Greensill Bank, GCPL and GCUK knew that Credit Suisse would reasonably rely on representations made by Lex Greensill, Greensill Bank, GCPL and GCUK in relation to the transactions the subject of these proceedings in deciding whether to acquire the Notes;

c. by reason of their role in procuring, encouraging, promoting and facilitating the above-mentioned investments by Credit Suisse in the Notes, Lex Greensill, Greensill Bank, GCPL and GCUK owed a duty to take reasonable care to ensure that the information they provided to Credit Suisse in connection with those investments was accurate and complete;

d. Lex Greensill, Greensill Bank, GCPL and GCUK breached the duty of care owed by them to Credit Suisse in failing to inform Credit Suisse that Lex Greensill, Greensill Bank, GCPL and GCUK had made the misrepresentations and non-disclosures pleaded in Annexure A to this Defence and that it was likely that the insurance obtained in support of the Notes acquired by Credit Suisse was liable to be avoided;

e. Credit Suisse relied on the accuracy and completeness of the representations and information provided to them by Lex Greensill, Greensill Bank, GCPL and GCUK in deciding whether to acquire the Notes; and

f. in the premises, Lex Greensill, Greensill Bank, GCPL and GCUK are liable to Credit Suisse in the tort of negligence;

Particulars

i. FINMA's press release issued on 28 February 2023 titled "FINMA concludes "Greensill" proceedings against Credit Suisse" states that Credit Suisse left it to Lex Greensill and his related companies to arrange insurance cover.

ii. TMNF was not privy to the communications between Credit Suisse and the representatives of the Greensill Group in relation to insurance cover allegedly obtained for the benefit of Credit Suisse. TMNF will seek discovery of those communications and may provide further particulars thereafter.

iii. Further particulars may be provided following discovery.

189H. Lex Greensill, Greensill Bank, GCPL and GCUK are concurrent wrongdoers on the basis that they misled Credit Suisse (in contravention of s 1041H of the *Corporations Act*, s 18 of the *Australian Consumer Law* and/or s 12DA of the *ASIC Act*) and breached a duty of care to the Applicants to exercise reasonable care and skill by failing to disclose to Credit Suisse that:

a. they had made the misrepresentations and non-disclosures pleaded in Annexure A to this Defence and that it was likely that the insurance obtained in support of the notes acquired by Credit Suisse was liable to be avoided accordingly; and

Particulars

i. TMNF refers to and repeats the misrepresentations and non-disclosures by and on behalf of the Insureds alleged in Annexure A of this Defence.

ii. Lex Greensill, Greensill Bank, GCPL and GCUK misled Credit Suisse by failing to disclose to Credit Suisse that they had made the misrepresentations and non-disclosures pleaded in Annexure A to this Defence and that it was likely that the insurance obtained in support of the notes acquired by Credit Suisse was liable to be avoided accordingly.

b. they had received (either directly or through their agent, Marsh) the correspondence from BCC, TMMA and/or TMNF pleaded or particularised at paragraphs 195B to 195EA of the ASOC and had not disclosed that correspondence to the Applicants, in circumstances where the Applicants allege that they had a reasonable expectation that the matters addressed in that correspondence would be disclosed, that the failure to disclose those matters was misleading or deceptive or likely to mislead and that, but for the non-disclosure of those matters, they would not have purchased the Notes.

Particulars

TMNF refers to and repeats paragraphs 195A to 195M of the ASOC.

189HA. If the matters alleged by the Applicants at paragraphs [195BB] to [195KKKK] of their Statement of Claim are established, then Marsh Ltd is a concurrent wrongdoer for the reasons alleged in those paragraphs.

189HB. Further or alternatively, if the matters alleged by IAL at paragraph [189A(u)] of its Defence are established, then Marsh Ltd and/or Marsh Pty Ltd is a concurrent wrongdoer for the reasons alleged in those paragraphs.

189I. IAL is a concurrent wrongdoer, on the basis that if (which is not admitted) BCC and Brereton were not authorised by IAL to enter into the policies and endorsements the subject of this proceeding, at all material times up to 30 June 2019:

a. BCC and Brereton were representatives of IAL for the purposes of Division 6 of Part 7.6 of the Corporations Act;

b. IAL was responsible for the conduct of BCC and Brereton for the purposes of s 917B of the Corporations Act;

c. IAL engaged in acts or omissions, including (inter alia):

i. failing to ensure that its authorised representatives, BCC and Brereton, acted within the scope of the authority granted to them;

ii. failing to ensure that BCC and Brereton did not purport to enter into the policies and endorsements the subject of this proceeding; and

iii. failing to ensure that BCC provided bordereaux to IAL that contained complete and accurate information in respect in respect of the policies and endorsements the subject of this proceeding;

d. the contravening conduct of BCC and Brereton alleged in Part N of the ASOC which occurred up to 30 June 2019 was conduct for which IAL was responsible for the purposes of s 917B of the Corporations Act;

e. the acts and omissions pleaded in subparagraphs c. and d. of this Defence caused the loss the subject of the claim; and

f. in the premises, IAL is liable to Credit Suisse for the loss suffered by them by reason of the contravening conduct of its representatives.

189IA. Each of CSAM, CSFM and CSFS is a concurrent wrongdoer, on the basis that:

a. in the case of CSAM and CSFM, it voluntarily assumed a responsibility to Credit Suisse to manage the investment in the Notes and, in the case of CSFS, it assumed the responsibilities delegated to it as pleaded and particularised in paragraph 189A(a1) above;

Particulars

TMNF relies upon and repeats the matters set out in the particulars to paragraphs 189A(ma)(i)(A) of IAL's defence in these proceedings.

b. it knew, or ought to have known, that there was a material risk that, if it did not take reasonable precautions in relation to the management of Credit Suisse's investment in the Notes, or, in the case of CSFS, if it did not take reasonable precautions in relation to the responsibilities delegated to it as pleaded and particularised in paragraph 189A.a1. above, Credit Suisse would suffer loss or damage;

Particulars

A. With respect to CSFS:

i. its actual knowledge may be reasonably inferred on the basis that an entity assuming or exercising responsibilities of the kind in

paragraph 189A(a1) above would be aware that that there was a material risk that, if it did not take reasonable precautions in relation to the management of Credit Suisse's investment in the Notes, Credit Suisse would suffer loss or damage; and

ii. its constructive knowledge arises because a reasonable entity delegated responsibilities of the kind in paragraph 189A.a1. above would be aware that that there was a material risk that, if it did not take reasonable precautions in relation to the management of Credit Suisse's investment in the Notes, Credit Suisse would suffer loss or damage.

B. TMNF repeats what is said at particular xiii1a to paragraph189A(a) above, as well as the fifth paragraph of the particulars to paragraph 189A(m)(i)(C) and in paragraph (ma)(D)-(H) of IAL's defence in these proceedings, and says subject to that qualification, that the precautions that a reasonable person or entity in the position of each of the CSAM, CSFM, and CSFS would have taken includes:

i. undertaking adequate investigations and/or due diligence of the kind pleaded in paragraph 188(a) of this Defence and paragraph 189A(m)(i) of IAL's defence (as referred to in paragraph 189A(t) of this Defence);

ii. identifying, limiting, and monitoring risks of the kind pleaded in paragraph 189A(b) of this Defence, by doing things including the things which it is alleged CSAM, CSFM, and CSFS failed to do in paragraph 189A(b)(i) to (xiii) and (xvi) to (xviii), and not doing the things which it is alleged they did do in paragraph 189A(b)(xiv) and (xv).

iii. having in place a system for the periodic review at the executive board level of the most important business relationships of the group, in particular for counterparty risks (which it is alleged in paragraph 189A.c. of this Defence they did not do);

iv. having in place adequate organisation structures for the identification, review and management of investment risks (which

it is alleged in paragraph 189A. d. of this Defence they did not do);

v. having in place adequate systems for the identification and recording of the responsibilities of its highest-ranking employees (which it is alleged in paragraph 189A. e. of this Defence they did not do);

vi. obtaining and reviewing valuation reports for the underlying claims in cases where the transaction documentation provided for such reports to be prepared as a precondition to the purchase of a receivable (which it is alleged in paragraph 189A.f. of this Defence they did not do in the sufficient performance of their role as asset managers or fund managers);

vii. not accepting responsibility for delegate supervisory duties as an asset manager without (a) having sufficient knowledge about and control over the specific claims that had been securitised and transferred to Credit Suisse or (b) being subject to adequate monitoring (as is alleged in paragraph 189A.g. of this Defence was the case in respect of CSAM);

vii1. selecting or reviewing themselves the specific investments entered into with the Greensill Group (which it is alleged in paragraph 189A.h. of this Defence they did not do) rather than allowing the Greensill Group to do so on their behalf (as is alleged in the same that they did);

viii. not delegating all (or all material) decisions related to their investments in the Notes to the Greensill Group itself (as is alleged in paragraph 189A.i. of this Defence they did);

ix. arrange their own insurance cover (which it is alleged in paragraph 189A.j. of this Defence they did not do), rather than leave it to the Greensill Group to do so for their benefit (as is alleged in the same that they did);

x. not engage in breaches of Swiss supervisory law (as is alleged in paragraph 189A.k. of this Defence they did);

xi. not engage in breaches of Luxembourg supervisory law (as is alleged in paragraph 189A.k1. of this Defence they did);

xii. realising (including by having in place adequate systems to enable them to realise) that the Greensill Group was financing companies whose creditworthiness was doubtful (which it is alleged in paragraph 189A.l. of this Defence they did not do);

xiii. obtaining knowledge of, and exercising control over, how many accounts receivable in which they were investing were actually contractually owed (which it is alleged in paragraph 189A.m. of this Defence they did not do);

xiv. acting to reduce exposure to the Greensill Group related risks after being questioned and warned about those matters (which it is alleged in paragraph 189A.n. of this Defence they did not do);

xv. giving effect to the assessment of their own risk manager (which it is alleged in paragraph 189A.o. of this Defence they did not do);

xvi. not delegating decision-making authority in relation to the management of relevant risks to employees who were themselves responsible for the business relationship with the Greensill Group and were not sufficiently independent to be able to respond appropriately to critical questions or warnings (was is alleged in paragraph 189A.p. of this Defence they did);

xvii. not deferring to Lex Greensill (as is alleged in paragraph 189A.q. of this Defence they did);

xviii. ensuring that there was regular, consistent engagement with the risks associated with the Greensill Group at the highest level within their organisation (which it is alleged in paragraph 189A.r. of this Defence they did not do);

xix. not stopping investments in the Greensill Group in light of the risks identified in paragraph 189A.r1. of this Defence; and

xx. enforcing their rights to enforce the debts owed by Sellers and Guarantor to recover the amounts due from each of Sellers and the Guarantors (which it is alleged in paragraph 189A.s. of this Defence they did not do).

C. Further particulars may be provided following discovery and evidence.

D. TMNF further and otherwise relies upon and repeats the matters set out in the particulars to paragraphs 189A(m)(i)(B) of IAL's defence in these proceedings.

c. further or alternatively, TMNF refers to and relies on the matters set out in BCC/TM's Annexure C;

d. in the premises, it owed a duty to Credit Suisse to exercise reasonable care in relation to the management of Credit Suisse's investment in the Notes; or, in the case of CSFS, in relation to the responsibilities delegated to it as pleaded and particularised in paragraph 189A.a1. above;

Particulars

A. With respect to CSFS, the premises include those set out in paragraphs 189A,a1. and 189IA.a. to c. of this Defence.

B. TMNF repeats paragraphs 189A.k., k1. and 189A.n. of this Defence.

e. by reason of the acts and omissions pleaded in paragraphs 189A.a. to s. of this Defence, it breached that duty to Credit Suisse;

Particulars

The acts and omissions pleaded in paragraphs 189A(a) to (t) constituted a failure to take the reasonable precautions described in the particulars to paragraph 189IA(b) of this Defence

f. further or alternatively, if one or more of the grounds alleged by IAL in the following paragraphs of its defence in these proceedings is established, then CSAM, CSFM, and CSFS breached their duty to Credit Suisse for the reasons so alleged by IAL:

i. with respect to CSAM, CSFM, and CSFS in paragraph 189A(ma)(i)(I) of IAL's defence (including as subject to the qualifications stated at paragraph 189A(ma)(i)(D)-(H) of the same);

ii. with respect to CSAM, in paragraph 189A(mb)-(mf) of IAL's defence;

iii. with respect to CSFM (including CSFS acting as its agent), in paragraph 189A(mg)-(mk) of IAL's defence;

iv. with respect to CSFS, in paragraph 189A(ml) of IAL's defence.

g. those acts and omissions caused the loss the subject of the claim because 'but for' those matters, Credit Suisse, either by itself or alternatively through its agents CSAM or CSFM and its agent CSFS; and

i. in respect of paragraphs 189A(a) to (r2) and (t), would not have purchased the Notes either at all or to the same extent that it did; and

ii. in respect of paragraph 189A (s), would have avoided or reduced the loss by enforcing the debts owed by Sellers and Guarantor;

h. n the premises, it is liable to Credit Suisse for the loss claimed in this proceeding.

189J. In the premises, the liability of TMNF to Credit Suisse in relation to its claim is limited to an amount reflecting that proportion of the damage or loss claimed that the court considers just having regard to the extent of TMNF's responsibility for the damage or loss, and the court may give judgment against TMNF for not more than that amount, pursuant to s 1041N of the Corporations Act, s 12GR of the ASIC Act, s 87CD of the Competition and Consumer Act and/or s 35 of the Civil Liability Act.

N.4 Section 1041E Claim

190. In response to paragraph 190 of the ASOC, TMNF:

a. repeats paragraph 190 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

191. In response to paragraph 191 of the ASOC, TMNF:

a. repeats paragraph 191 of BCC's Defence in these proceedings; and

b. otherwise does not admit the paragraph, there being no allegation against it.

192A. In response to paragraph 192A of the ASOC, TMNF:

a. repeats paragraph 192A of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

192B. In response to paragraph 192B of the ASOC, TMNF:

a. repeats paragraph 192B of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

192. In response to paragraph 192 of the ASOC, TMNF:

a. repeats paragraph 192 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

Particulars

TMNF refers to and relies on the matters set out in BCC/TM's Annexure C.

193. In response to paragraph 193 of the ASOC:

a. repeats paragraph 193 of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

194. In response to paragraph 194 of the ASOC, TMNF:

a. admits that the conduct alleged at paragraphs 178, 180 and 190 to 192B of the ASOC related to the provision of a financial service within the meaning of s 917A of the Corporations Act;

b. does not admit subparagraphs (b) to (e), there being no allegation against it;

c. in further response to subparagraph (e) denies the paragraph and:

i. says that some of the alleged conduct of BCC and Brereton referred to in paragraphs 178, 180 and 190 to 192B of the ASOC (which arises from the execution of the documents pleaded in paragraph 169 of the ASOC) occurred prior to 1 July 2019 and in BCC's capacity as the corporate authorised representative of IAL, not TMNF; and

ii. repeats paragraph 188(c)(ii)-(iii) of this Defence, which apply mutatis mutandis to the conduct.

195. TMNF denies paragraph 195 of the ASOC.

N.5. Deceit

0195AA. In response to paragraph 0195AA of the ASOC, TMNF:

a. repeats paragraph 0195AA of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

0195AB. In response to paragraph 0195AB of the ASOC, TMNF:

a. repeats paragraph 0195AB of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

0195AC. In response to paragraph 0195AC of the ASOC, TMNF:

a. repeats paragraph 0195AC of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

0195AD. In response to paragraph 0195AD of the ASOC, TMNF:

a. repeats paragraph 0195AD of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

0195AE. TMNF denies paragraph 0195AE of the ASOC.

0195AF. In response to paragraph 0195AF of the ASOC, TMNF:

a. repeats paragraph 0195AF of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

0195AG. In response to paragraph 0195AG of the ASOC, TMNF:

a. repeats paragraph 0195AG of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

Particulars

TMNF refers to and relies on the matters set out in BCC/TM's Annexure C.

0195AH. In response to paragraph 0195AH of the ASOC, TMNF:

a. repeats paragraph 0195AH of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

Particulars

TMNF refers to and relies on the matters set out in BCC/TM's Annexure C.

0195AI. In response to paragraph 0195AI of the ASOC, TMNF:

a. repeats paragraph 0195AI of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

0195AJ. In response to paragraph 0195AJ of the ASOC, TMNF:

a. repeats paragraph 0195AJ of BCC's Defence in these proceedings;

b. does not plead to those allegations which are not made against it; and

c. otherwise denies the paragraph.

0195AK. In response to paragraph 0195AK of the ASOC, TMNF:

a. repeats paragraph 0195AK of BCC's Defence in these proceedings; and

b. otherwise denies the paragraph.

N.6 [NOT USED]

0195AL. [NOT USED]

0195AM. [NOT USED]

0195AN. [NOT USED]

0195AO. [NOT USED]

O CLAIMS RELATING TO TOKIO MARINE AND BCC

O.1 Knowledge of BCC, TMMA, TMNF and the Insurer

195A In response to paragraph 195A of the ASOC, TMNF:

a. repeats paragraph 17A of this Defence; and

b. otherwise admits the paragraph.

195B. In response to paragraph 195B of the ASOC, TMNF:

a. insofar as the paragraph makes allegations as to what BCC, TMMA and IAL knew, does not admit the paragraph;

b. says that, as at 3 June 2020, it was not aware of the existence of the 2019 Policy or its endorsements; and

c. otherwise denies the paragraph.

195C. In response to paragraph 195C of the ASOC, TMNF:

a. insofar as the paragraph makes allegations as to what BCC, TMMA and IAL knew, does not admit the paragraph;

b. repeats paragraph 195B of this Defence; and

c. otherwise denies the paragraph.

195D. In response to paragraph 195D of the ASOC, TMNF:

a. insofar as the paragraph makes allegations as to what BCC, TMMA and IAL knew, does not admit the paragraph;

b. repeats paragraphs 195B and 195C of this Defence;

c. admits that, on 4 August 2020, BCC had informed GCPL, GCUK, GBAG and Marsh that it had become aware that Mr Brereton had sought to bind BCC to limits in relation to customers of Greensill Capital in circumstances where the customer limit sought to be approved was in excess of Mr Brereton's delegated authority, and that BCC had commenced an investigation in relation to inter alia endorsements issued in relation to TS-03088, TS-03087, the 2019 Policy and TB-03690;

d. admits subparagraph (a); and

e. otherwise denies the paragraph.

195E. In response to paragraph 195E of the ASOC, TMNF:

a. insofar as the paragraph makes allegations as to what BCC, TMMA and IAL knew, does not plead to the paragraph; and

b. otherwise denies the paragraph.

195EA. TMNF does not plead to paragraph 195EA of the ASOC, there being no allegations made against it.

O.2 Misleading or deceptive conduct

195F. In response to paragraph 195F of the ASOC, TMNF:

a. insofar as the paragraph makes allegations against IAL, does not plead to the paragraph;

b. repeats paragraphs 195B to 195E of this Defence;

c. says that it notified GCPL, GBAG and GCUK through Marsh, of concerns regarding Mr Brereton's authority;

Particulars

TMNF repeats the particulars to paragraph 188(c)(iii) above.

d. admits that it did not disclose directly to Credit Suisse Virtuoso the matters pleaded in subparagraphs 195F(a) and (b) of the ASOC; and

e. otherwise denies the paragraph.

195G. In response to paragraph 195G of the ASOC, TMNF:

a. insofar as the paragraph makes allegations against IAL, does not plead to the paragraph;

b. otherwise denies the paragraph;

c. repeats paragraph 195F of this Defence; and

d. says that it did not enter into any relationship or have any direct interactions with Credit Suisse Virtuoso and/or Credit Suisse Nova.

195H. In response to paragraph 195H of the ASOC, TMNF:

a. says that sections 1041H of the Corporations Act, 12DA of the ASIC Act and 18 of the ACL (**Misleading or Deceptive Conduct Provisions**) apply to conduct that take place within Australia or between a place in Australia and a place outside of Australia;

b. says that it is a Japanese company, having its head office at 2-6-4 Otemachi, Chiyoda-ku, Tokyo, Japan 100-8050, and not a resident of Australia;

c. says that Credit Suisse Virtuoso is incorporated in Luxembourg;

d. says that, in respect of TMNF, the alleged 2020 Omissions by TMNF are constituted by the alleged knowledge of TMNF and the alleged failure by TMNF to act upon that knowledge to warn Credit Suisse Virtuoso which concern alleged omissions that took place wholly outside of Australia;

e. says that, in the premises of subparagraph d. of this Defence, the Misleading or Deceptive Conduct Provisions do not apply to the alleged 2020 Omissions; and

f. otherwise denies the paragraph.

195I. In response to paragraph 195I of the ASOC, TMNF:

a. insofar as the paragraph makes allegations against IAL, does not plead to the paragraph;

b. repeats paragraphs 195F to 195H of this Defence; and

c. otherwise denies the paragraph.

195J. In response to paragraph 195J of the ASOC, TMNF:

a. repeats paragraphs 195F to 195I of this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

195K. In response to paragraph 195K of the ASOC, TMNF:

a. insofar as the paragraph makes allegations against IAL, does not plead to the paragraph;

b. repeats paragraphs 195F to 195J of this Defence; and

c. otherwise denies the paragraph.

195KA. TMNF admits paragraph 195KA of the ASOC.

195KB. In answer to paragraph 195KB of the ASOC, TMNF:

a. admits that from 2 July 2020 Williams received reports from BCC and TMMA concerning apparent exceedance of limits; and

b. otherwise denies the paragraph.

195KC. TMNF denies paragraph 195KC of the ASOC.

195KD. In response to paragraph 195KD of the ASOC, TMNF:

a. admits that Chris Williams conducted negotiations with Lex Greensill in the period from about August 2020 to February 2021 regarding, amongst other things, the risks the subject of the Policies; and

b. otherwise denies the paragraph.

195KE. In response to paragraph 195KE of the ASOC, TMNF:

a. says that Lex Greensill did, with Williams' knowledge, communicate with third parties, including Credit Suisse, in relation to matters which had been the subject of communications between Williams and Lex Greensill; and

b. otherwise denies the paragraph.

195KF. TMNF denies paragraph 195KF of the ASOC.

195KG. In response to paragraph 195KG of the ASOC, TMNF:

a. refers to and repeats paragraph 195F of this Defence;

b. says that Williams was under no obligation to himself disclose or cause BCC, TMMA or TMNF to disclose the substance of the 2020 Omissions case to the Applicants; and

c. otherwise denies the paragraph.

195KH. TMNF denies paragraph 195KH of the ASOC.

195L. In response to paragraph 195L of the ASOC, TMNF:

a. repeats paragraphs 195F to 195K of this Defence;

b. does not plead to subparagraph (a), which makes no allegations against it;

c. denies subparagraph (b);

d. in response to subparagraphs (c)-(d):

i. denies that the alleged failures by TMNF to disclose the 2020 Omissions to Credit Suisse Virtuoso was conduct that related to the provision of a financial service within the meaning of s 917A of the Corporations Act;

ii. denies subparagraph (c)(ii); and

iii. otherwise, does not know and therefore cannot admit the paragraphs;

e. does not plead to subparagraph (e), which makes no allegation against it; and

f. denies subparagraph (f).

195M. In response to paragraph 195M of the ASOC, TMNF:

a. insofar as the paragraph makes allegations against IAL, does not plead to the paragraph;

b. repeats paragraphs 195F to 195L of this Defence; and

c. otherwise denies the paragraph.

O.2A [NOT USED]

195MA-195MD. [NOT USED]

O.3 Negligence

Risk of harm

195N. In response to paragraph 195N of the ASOC, TMNF:

a. repeats paragraphs 195F to 195M and 195Q(d) of this Defence;

b. says that Credit Suisse admit that any loss or damage that they may have suffered by acquiring Notes is not loss to which the 2019 Policy responds;

Particulars

Letter from Gilbert + Tobin to Kennedys of 30 June 2026.

c. says therefore that Credit Suisse could not suffer any loss or damage from non-payment or delayed payment of any insurance proceeds under the 2019 Policy; and

d. otherwise denies the paragraph.

195O. In response to paragraph 195O of the ASOC, TMNF:

a. repeats paragraph 195N of this Defence;

b. insofar as the paragraph makes allegations against IAL, does not plead to the paragraph; and

c. otherwise denies the paragraph.

195P. In response to paragraph 195P of the ASOC, TMNF:

a. repeats paragraphs 195N and 195O of this Defence; and

b. otherwise denies the paragraph.

Duty of care

195Q. In response to paragraph 195Q of the ASOC, TMNF:

a. repeats paragraphs 195N to 195P of this Defence;

b. insofar as the paragraph makes allegations against IAL, does not plead to the paragraph;

c. otherwise denies the paragraph; and

d. says further that:

i. TMNF did not enter into any agreements with Credit Suisse Virtuoso and did not have any direct dealings with it;

ii. Credit Suisse could have arranged its own insurance in respect of its investment in the Assets but instead elected to rely on GBAG's insurance;

iii. Credit Suisse Virtuoso could have, but did not, seek, as a condition of its purchase of the Notes, contractual protections or warranties regarding BCC's authority to enter the Policy and endorsements; and

iv. Credit Suisse could have, but did not, seek confirmation or other information from BCC or IAL as to BCC's authority to enter the Policy and its endorsements.

Reasonable precautions

195R. In response to paragraph 195R of the ASOC, TMNF:

a. repeats paragraphs 195N to 195Q of this Defence; and

b. otherwise denies the paragraph.

195S. In response to paragraph 195S of the ASOC, TMNF:

a. repeats paragraphs 195N to 195Q of this Defence; and

b. otherwise denies the paragraph.

195T. In response to paragraph 195T of the ASOC, TMNF:

a. repeats paragraphs 195N to 195Q of this Defence; and

b. otherwise denies the paragraph.

195U. TMNF does not plead to paragraph 195U of the ASOC, as no allegation is made against it.

195V. In response to paragraph 195V of the ASOC, TMNF:

a. repeats paragraphs 195N to 195Q and 195R of this Defence; and

b. otherwise denies the paragraph.

195W. In response to paragraph 195W of the ASOC, TMNF:

a. repeats paragraphs 195N to 195Q and 195S of this Defence; and

b. otherwise denies the paragraph.

195X. In response to paragraph 195X of the ASOC, TMNF:

a. repeats paragraphs 195N to 195Q and 195T of this Defence; and

b. otherwise denies the paragraph.

195Y. TMNF does not plead to paragraph 195Y of the ASOC, as no allegation is made against it.

Loss and Damage

195Z. In response to paragraph 195Z of the ASOC, TMNF:

a. repeats paragraphs 195N to 195Y of this Defence;

b. insofar as the paragraph makes allegations against IAL, does not plead to the paragraph; and

c. otherwise does not know and therefore cannot admit the paragraph.

195AA. In response to paragraph 195AA of the ASOC, TMNF:

a. repeats paragraphs 195N to 195Z of this Defence;

b. insofar as the paragraph makes allegations against IAL, does not plead to the paragraph; and

c. otherwise denies the paragraph.

195BA. In response to paragraph 195BA of the ASOC, TMNF:

a. does not admit subparagraph (a), there being no allegation against it;

b. denies subparagraph (b);

c. in response to subparagraph (c):

i. repeats paragraph 195L(d)(i) of this Defence;

ii. denies subparagraphs (c)(ii)-(iii);

iii. does not admit subparagraph (c)(iv), there being no allegation against it;

iv. denies subparagraph (c)(v).

195BAA. In further answer to the whole of paragraphs 195A to 195BA of the ASOC, TMNF:

a. says that each of the claims against TMNF pleaded in paragraphs 195A to 195BA of the ASOC is, on a proper application of Australian choice of law rules, governed by Japanese law;

b. says that as a matter of Japanese law:

i. each of the claims pleaded against TMNF in paragraphs 195A to 195BA of the ASOC is one that falls to be determined by considering whether the alleged conduct gives rise to any liability on the part of TMNF under article 709 of the Japanese Civil Code;

ii. on the proper construction of article 709 of the Japanese Civil Code, where any such claim seeks damages for pure economic loss, the claim cannot succeed unless the defendant intentionally inflicted harm on the plaintiff;

iii. further and additionally, on the proper construction of article 709 of the Japanese Civil Code, such a claim cannot succeed unless the defendant owed a duty of disclosure to the plaintiff;

iv. TMNF did not owe any duty of disclosure to Credit Suisse as a matter of Japanese law;

c. says that the ASOC does not allege that TMNF intentionally inflicted harm on Credit Suisse; and

d. says that, in the circumstances, the claims against TMNF pleaded in paragraphs 195A to 195BA of the ASOC are not maintainable on a proper application of Japanese law; and

e. says that, in the circumstances, the claims against TMNF pleaded in paragraphs 106C to 106CC of the ASOC must be dismissed.

195BAB. The allegation in paragraph 106CCA above that the claims against TMNF are governed by Japanese law represents TMNF's primary position. To the extent that, contrary to this paragraph, Australian law governs Credit Suisse's claims against

TMNF, TMNF's allegations based on Australian law in the balance of this Defence are pleaded in the alternative.

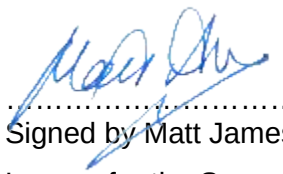
P CLAIMS AGAINST MARSH

195BB-195KKKK. TMNF does not plead to paragraphs 195BB to 195KKKK, there being no allegations against it.

Q THE RELIEF SOUGHT

196. In response to paragraph 196 of the ASOC, TMNF admits that Credit Suisse Virtuoso and Credit Suisse Nova seek the relief referred to but denies that they are entitled to that relief.

Date: 16 September 2026



……
Signed by Matt James Andrews,
Lawyer for the Seventh Respondent

This pleading was prepared by Peter Braham SC, Justin Williams SC, James Hutton SC, Julie Granger, Jerome Entwisle, Daniel Reynolds and Stephen Thomson of counsel.

Certificate of lawyer

I, Matt James Andrews, certify to the Court that, in relation to the Defence filed on behalf of the Seventh Respondent, the factual and legal material available to me at present provides a proper basis for:

(a) each allegation in the pleading; and
(b) each denial in the pleading; and
(c) each non admission in the pleading.

Date: 16 September 2026

Signed by Matt James Andrews
Lawyer for the Seventh Respondent

AA. BAUER'S INTELLIGENT TRANSPORTATION

197D. This Annexure AA to TMNF's Defence responds to Annexure A to the ASOC.

AA.1 Bauer's Intelligent Transportation and other relevant parties

197. TMNF admits paragraph 197.

198. TMNF does not know and therefore cannot admit paragraph 198.

199. TMNF admits paragraph 199.

AA.2 The Instalment Payment Agreement and Program Side Agreement

200A. In respect of paragraphs 200-213 and 227 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 200-213 and 227 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 200-213 and 227 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

200. TMNF admits paragraph 200 of the ASOC.

201. In response to paragraph 201 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Instalment Payment Agreement between Bauer's Intelligent Transportation (**Bauer**) and Greensill Capital Investments Limited (**GCIL**) dated 16 December 2019 (**Bauer's Intelligent Transportation IPA**) to which it refers;

b. refers to the relevant terms of the Bauer's Intelligent Transportation IPA for their full force and effect; and

c. otherwise admits the paragraph.

202. In response to paragraph 202 of the ASOC, TMNF:

    a. says that the paragraph is a paraphrase of the clauses of the Bauer's Intelligent Transportation IPA to which it refers;

    b. refers to the relevant terms of the Bauer's Intelligent Transportation IPA for their full force and effect; and

    c. otherwise admits the paragraph.

203. TMNF does not plead to paragraph 203 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Bauer's Intelligent Transportation IPA for its full force and effect.

204. TMNF admits paragraph 204 of the ASOC.

205. In response to paragraph 205 of the ASOC, TMNF:

    a. says that the reference to USD 28,250,000 in paragraph 205(a) should be USD 27,000,000;

    b. says, in response to paragraph 205(l), "Commitment" was also defined to include the obligation of GCIL to make Rolls to the Company pursuant to section 2.04 of the Program Side Agreement entered into by Bauer and GCIL on 19 December 2019 (**PSA**);

    c. says that the paragraph is otherwise a paraphrase of parts of the clauses of the PSA to which it refers, as amended;

    d. refers to the relevant terms of the PSA as amended for their full force and effect; and

    e. otherwise admits the paragraph.

206. TMNF does not plead to paragraph 206 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the PSA as amended for its full force and effect.

AA.3 Assignment from GCIL to GCUK

207. TMNF admits paragraph 207 of the ASOC.

208. In response to paragraph 208 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Participation Agreement entered into by GCIL and GCUK on 19 December 2019 (**Participation Agreement**) to which it refers;

b. refers to the relevant terms of the Participation Agreement for their full force and effect;

c. says that, under cl 5 of the Participation Agreement, the parties acknowledged and agreed that:

i. each Participation granted by GCIL to GCUK in the amount of any Participation Amount pursuant to the Participation Agreement represented a contractual right of GCUK to be paid by GCIL an amount equal to all amounts received by GCIL in respect of the relevant Participated Payment Obligation and any Related Rights relating thereto; and

ii. in granting any such Participation, GCIL does not transfer or assign any rights or obligations under the Bauer's Intelligent Transportation IPA to GCUK and GCUK will have no proprietary interest in the benefit of any Participated Payment Obligation, any related rights, or the Bauer's Intelligent Transportation IPA or in any amount received by GCIL under or in relation to any Participated Payment Obligation, any Related Rights or the Bauer's Intelligent Transportation IPA.

d. having regard to the definitions of "Payment Obligation" and "Transaction Documents", says that GCUK's rights under the Participation Agreement were only in respect of amounts owing by Bauer under the Bauer's Intelligent Transportation IPA, and not any amounts owing under the PSA as amended from time to time; and

e. otherwise admits the paragraph.

209. TMNF does not plead to paragraph 209 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Participation Agreement for its full force and effect.

210. In response to paragraph 210 of the ASOC, TMNF:

a. says that the paragraph paraphrases certain clauses of the power of attorney;

b. refers to the relevant terms of the power of attorney for their full force and effect;

c. refers to and repeats paragraph 208.d of this Defence and says that GCUK's rights under the power of attorney were only in respect of amounts owing by Bauer under the Bauer's Intelligent Transportation IPA, and not any amounts owing under the PSA as amended from time to time; and

d. otherwise admits the paragraph.

AA.4 Group guarantee and security

211. TMNF admits paragraph 211 of the ASOC.

212. In response to paragraph 212 of the ASOC, TMNF:

a. says that under cl 8 of the Guarantee and Security Agreement entered into on 16 December 2019 (**GSA**), the Bauer Guarantors and Bauer assigned to GCIL, and granted GCIL a continuing security interest in, all of their rights, title and interest in the property referred to in that clause;

b. says that the paragraph otherwise paraphrases certain clauses of the GSA;

c. refers to the relevant terms of the GSA for their full force and effect; and

d. otherwise admits the paragraph.

AA.5 Bauer's Intelligent Transportation Note Programme

213. In response to paragraph 213 of the ASOC, TMNF:

a. admits that Hoffman issued the notes particularised;

b. denies the notes were secured by rights and interests of GCUK described in paragraph 213, because those rights and interests were never validly assigned to Hoffman for the reasons pleaded at paragraph 214 of this Defence;

c. refers to and repeats paragraph 208.c and d. of this Defence and says that, to the extent any of GCUK's rights or interests were validly transferred to Hoffman, it was only GCUK's contractual rights against GCIL in respect of amounts owing under the

Bauer's Intelligent Transportation IPA, not any amounts owed under the PSA as amended from time to time; and

d. otherwise denies the paragraph.

214. In response to paragraph 214 of the ASOC, TMNF:

a. refers to and repeats paragraph 213 of this Defence;

b. denies that GCUK's rights and interests referred to in paragraph 213 of the ASOC were assigned to Hoffman, validly or at all;

c. says that the assignment of "payment obligations" by GCUK to Hoffman was relevantly governed by the MAA, as amended by the Product Schedule: Participations in Obligor IPUs (including Elevation Rights); IPA Funding Facility Origination Model B (**Participations Product Schedule**) (if valid), which relevantly provided that:

i. GCUK could from time to time offer to assign and sell with full title guarantee the whole, but not part, of any Payment Obligation and all of its Additional Rights in respect thereof to Hoffman and that Hoffman at its sole direction may agree to purchase such Payment Obligation and the Additional Rights relating thereto from GCUK (cl 2.1);

ii. each offer of a Payment Obligation and its Additional Rights to Hoffman pursuant to clause 2.1 in respect of any Business Day shall be made by GCUK delivering an Offer File in respect of such Payment Obligation (and containing the relevant details thereof) to Hoffman attached to an e-mail from an Authorised User and password protected at any time before the relevant Cut-Off Offer Time on such Business Day (an "**Offer**") (cl 2.2);

iii. an Offer could be accepted by Hoffman at any time before the relevant Cut-Off Acceptance Time at which time, if not accepted, the Offer will lapse. Acceptance of an offer shall be effected by Hoffman (prior to the Offer lapsing) returning the Offer File to GCUK attached to an e-mail from an Authorised User and password protected, marked as "Accepted" (an **"Acceptance"**) (cl 2.3);

iv. “Offer File” was defined to mean, in respect of any Payment Obligation that GCUK proposes to assign to a Compartment of the Purchaser hereunder, an electronic file or data feed identifying (i) the Compartment of the Purchaser to which the electronic file or data feed is to be delivered and subsequent Offer made, and (ii) such Payment Obligation, which shall include the following information in respect of such Payment Obligation:

1. Maturity Amount;
2. Currency;
3. Maturity Date;
4. Relevant Obligor;
5. Intermediary Party;
6. Settlement Date;
7. Purchase Price;
8. Identifier; and
9. Product Code

in the form set out in Schedule 2 (cl 1.2, definition of “Offer File”);

v. “Payment Obligation” was defined to mean, in respect of any Offer or any Assignment, a Participation in respect of an IPU and its Related Rights having the details set out in the relevant Offer File;

vi. “Relevant Obligor” was defined to mean, in respect of the IPU underlying any Payment Obligation, each entity that is liable for the payment of such IPU, as identified in the Offer File relating to such Payment Obligation; and

vii. “Intermediary Party” was defined, in respect of any Payment Obligation, as an affiliate of GCUK or such other entity as may be specified as such in the relevant Offer File, which grants the Payment Obligation in the relevant underlying IPU to GCUK pursuant to an Intermediary Participation Agreement;

d. does not know and therefore cannot admit that cl 2.1 to 2.3 of the MAA (as amended by the Participations Product Schedule, if valid) were followed in respect of the assignment referred to at paragraph 214, on the basis that:

   i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as "Notes Offer Reports";

   ii. it does not appear that these Notes Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer; and

   iii. it does not appear that the Notes Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance;

e. alternatively, denies that cl 2.1 to 2.3 of the MAA (as amended by the Participations Product Schedule, if valid) were followed, on the basis that:

   i. the Notes Offer Reports do not identify the Compartment of Hoffman to which the electronic file or data feed was to be delivered and subsequent Offer made;

   ii. none of the relevant Notes Offer Reports contain the name of the "Intermediary Party", which in this case was GCIL; and

   iii. the Notes Offer Report in respect of Bauer_2_6 and Bauer_0_15 (items 1 and 2 in Table 1.1 in Annexure P to the ASOC) does not contain a Maturity Date or Settlement Date;

f. says that the "Notes Offer Reports" failed to identify the underlying payment obligations to which they related in a manner consistent with the requirements of the MAA, or at all;

g. says further, as a result, neither Credit Suisse nor Greensill Bank holds an interest in GCUK's rights or interests referred to at paragraph 213 of the ASOC, and accordingly cannot have suffered a Loss in respect of those obligations within the meaning of the 2019 Policy;

h. alternatively, does not know and therefore cannot admit that the Participations Product Schedule was validly executed, or that it was notified in writing from GCUK to each Purchaser as required by the definition of "Product Schedule" in the MAA, and says that if the Participations Product Schedule did not take effect, then:

i. a “Payment Obligation” would be defined as, in respect of any Offer or any Assignment, a payment obligation owed by the Relevant Obligor and having the details and being of the type specified in the relevant Offer File;

ii. the “Relevant Obligor” would be defined as, in respect of any Payment Obligation, each entity that is liable for payment of such Payment Obligation, as identified as such in the Offer File relating to such Payment Obligation (here, being Bauer);

iii. refers to and repeats paragraph 208.c of this Defence and says that under the Participation Agreement GCUK did not acquire any Payment Obligations as defined at paragraph 214(h)(i) from GCIL, but acquired only a contractual right to be paid by GCIL an amount equal to all amounts received by GCIL in respect of the relevant Participated Payment Obligation and any Related Rights relating thereto (as defined in the Participation Agreement); and

iv. in the premises, the MAA is ineffective to assign GCUK’s contractual rights under the Participation from GCUK to Hoffman; and

i. otherwise denies the paragraph.

215. TMNF does not know and therefore cannot admit paragraph 215 of the ASOC.

216. TMNF does not know and therefore cannot admit paragraph 216 of the ASOC.

AA.6 Correspondence between the Insured and the Insurer

217. In response to paragraph 217 of the ASOC, TMNF:

a. refers to and repeats paragraph 26 of this Defence and says that Marsh sent the email and attachments as agent for the Greensill Group;

b. says that, in procuring Customer Endorsement 138, Marsh and/or the Greensill Group did not disclose:

i. the fact that Bauer had agreed under cl 3.01(i)(i) of the Program Side Agreement to pay a fee of USD 300,000 to GCIL from the proceeds of the Initial Advance on the date of the Initial Advance; and

c. otherwise admits the paragraph.

218. In response to paragraph 218 of the ASOC, TMNF:

a. admits that on or around 28 May 2020, Craig Pinnington of GCUK sent Mr Brereton and Mr Edward Smith of Marsh an email;

b. admits that the email requested additional insurance of USD 9.5 million in respect of Bauer and said this was "needed to bring is [sic] back of this Defence the current SOL with a buffer of circa USD500k for FX fluctuations";

c. admits the excel spreadsheet attached to the email described the Bauer product type as "Buyer Centric Supply Chain Finance";

d. relies on the terms of the email and its attachment for their full force and effect;

e. otherwise denies the paragraph; and

f. says further that the Greensill Group's representation that the Bauer product was for "Supply Chain Finance" was a misrepresentation in circumstances where:

i. under the Bauer's Intelligent Transportation IPA, the PAUF was to set out the Drawdown Amounts "which Customer intends to use to pay Payables or other obligations";

ii. "Payables" was defined in the IPA as "payments which Customer may wish to make from time to time to repay certain outstanding indebtedness and for its general corporate purposes";

iii. the Drawdown Amounts could have been used to pay debts other than those owing by Bauer to suppliers in return for goods or services; and

iv. accordingly, the Bauer product was in the nature of a lending facility rather than a supply chain finance facility.

219. TMNF admits paragraph 219 of the ASOC.

220. In response to paragraph 220 of the ASOC, TMNF:

a. admits that on or around 18 June 2020, Mr Brereton sent an email to Marsh stating that he could "ok" the limit of USD 11 million for Bauer (along with the limits for other customers) "on the basis of 15 mill first loss"; and

b. otherwise denies the paragraph.

221. In response to paragraph 221 of the ASOC, TMNF:

a. says that Bauer was not endorsed as a customer for the purposes of Customer Endorsement 138 in circumstances where:

i. on 28 May 2020, Marsh had sent Mr Brereton an email attaching an Excel sheet titled 'HIF shortfall obligors 28-05-2020' which identified Bauer as the purported Customer, which sheet Mr Brereton did not sign and return;

ii. on 19 June 2020, Marsh had sent Mr Brereton an email attaching the draft Customer Endorsement 138, as well as an excel sheet entitled "Deductible Portfolio Limits" (the **Excel Sheet**), and indicated that the Excel Sheet also needed to be signed;

iii. on 25 June 2020, Mr Brereton emailed Marsh the signed Customer Endorsement 138 from Mr Brereton, but without the Excel Sheet;

iv. on 25 June 2020, Marsh emailed Mr Brereton again requesting that the Excel Sheet be signed;

v. on 2 July 2020, Marsh emailed Mr Brereton and stated that Marsh still needed Mr Brereton to return documents including the 'HIF Limits File' (ie the Excel Sheet) and asked Mr Brereton to see to this as a matter of urgency; and

vi. Mr Brereton never signed the Excel Sheet.

b. says that the purported endorsement of Customer Endorsement 138 on 25 June 2020 was invalid in circumstances where the 2019 Policy had already expired;

c. alternatively, says that Customer Endorsement 138 was invalid because Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate (of greater than Nil), whereas Customer Endorsement 138 specified a percentage premium rate of "Nil";

d. alternatively, says that Customer Endorsement 138 was not a valid "Customer Endorsement" under the 2019 Policy because:

i. “Customer” was defined to mean any “Customer” endorsed to the 2019 Policy under the Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor;

ii. “Debt” was defined to mean, as the context requires, a debt of the type described in the relevant Debt Endorsement; and

iii. there were no Debts of the type described in any Debt;

e. alternatively, says that Customer Endorsement 138 was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

f. says that Customer Endorsement 138 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a “Customer Endorsement” that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 138 was valid, it did not have any effectiveness or operation prior to prior to 25 June 2020; and

g. alternatively, neither Credit Suisse Virtuoso nor Greensill Bank has suffered any loss or damage by reason of the matters alleged against TMNF, because, by reason of the non-disclosures and misrepresentations referred to at paragraphs 217(c)-(d) and 218(f) of this Defence, and 364(i)(i)(4)(b) of this Defence (in relation to Kerry Ireland):

i. pursuant to s 28(3) of the ICA:

A. each of the misrepresentations and non-disclosures referred to at paragraphs 217(c)-(e) and 218(f) of this Defence, and 362(c) of this Defence (in relation to Kerry Ireland) was a failure to disclose to IAL a matter that a reasonable person in the circumstances could be expected to know was a matter relevant to IAL’s decision whether to accept the risk and, if so, on what terms:

B. accordingly, each of those misrepresentations and non-disclosures was a failure by Greensill Bank and/or GCPL to comply with the duty of disclosure; and

C. (assuming Customer Endorsement 138 was otherwise valid and enforceable) IAL would not have entered into Customer Endorsement

138 for the same premium and on the same terms and conditions, or at all, if any of those misrepresentations or failures to comply with the duty of disclosure had not occurred;

D. in particular, BCC would not have entered into Customer Endorsement 138 for the same premium and on the same terms and conditions, or at all, had it known at the time that:

a. the PSA as amended provided for amounts to be "rolled"; and/or

b. amounts owing by Bauer to GCIL had in fact been "rolled", such that Bauer was not required to make, and did not make, principal instalments on the payment instalment dates on which they were due, and the maximum tenor of the underlying Notes exceeded 1 year; and/or

c. the Bauer product was in the nature of a lending facility, not a supply chain finance facility; and/or

d. the matters identified at paragraph 364(i)(i)(4)(b) of this Defence (in relation to Kerry Ireland); and/or

e. Bauer had agreed under cl 3.01(i)(i) of the PSA to pay a fee of USD 300,000 to GCIL from the proceeds of the Initial Advance on the date of the Initial Advance;

E. accordingly, any right Credit Suisse Virtuoso or Greensill Bank has to indemnity is reduced to the amount that would place IAL in the position it would have been had the foregoing misrepresentations and non-disclosures not been made, that amount being nil; and

ii. further or alternatively, pursuant to cl 9.7 of the Policy:

A. each of the misrepresentations and non-disclosures referred to at paragraph 217(b) and 218.f of this Defence and 362(c) of this Defence was a failure by Greensill Bank and/or GCPL to comply with its duty of fair presentation pursuant to cl 7.1 of the Policy; and

B. and those failures together or separately had a 'Material Policy Impact' as defined in Schedule 1 to the 2019 Policy in that they:

a. materially increased the likelihood of the alleged Loss the subject of these proceedings occurring;

b. materially increased the amount of such Loss;

c. materially decreased the likely amount of any recovery in respect of such Loss; or

d. any combination of the of this Defence;

C. as such, IAL has no liability to indemnify Credit Suisse Virtuoso or Greensill Bank for the loss claimed in the proceedings; and

b. otherwise denies the paragraph.

222. [NOT USED]

223. [NOT USED]

224. [NOT USED]

AA.7 Payment failures

225. In response to paragraph 225 of the ASOC, TMNF:

a. admits that between 17 March 2020 and 21 January 2021, GCUK created documents that purported to be PAUFs for the purposes of the Bauer's Intelligent Transportation IPA and PSA;

b. says that the PAUFs identified the Supplier for each advance as "Bauer";

c. says that, under the Bauer's Intelligent Transportation IPA, the PAUF was required to specify, inter alia, the "Drawdown Date", meaning, in relation to the Drawdown Amount, the date on which payment of such Drawdown Amount to the Designated Account is effected by GCIL;

d. says that the PAUFs failed to specify the Drawdown Date as required by the Bauer's Intelligent Transportation IPA;

e. says that, under the PSA, GCIL was required to make the PAUFs available to Bauer, and then Bauer was required to submit the PAUFs to GCIL in accordance with section 2.03 of the PSA, but does not know and therefore cannot admit that this occurred; and

f. otherwise does not know and therefore cannot admit the paragraph.

226. In response to paragraph 226 of the ASOC, TMNF:

a. refers to and repeats paragraph 225 of this Defence;

b. says that paragraph 227 of the ASOC pleads that GCUK entered into a settlement and release agreement whereby Bauer and the Bauer Guarantors agreed to pay USD 18,629,000 to GCUK;

c. says further that the debts set out in Table 1.1 of Annexure P to the ASOC were not covered by the 2019 Policy; and

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

d. otherwise, does not know and therefore cannot admit the paragraph.

227. In response to paragraph 227 of the ASOC, TMNF:

a. admits that on or around 11 October 2022, Bauer, the Bauer Guarantors, and GCIL and GCUK and its administrators entered into a settlement and release agreement (**SRA**);

b. says that the release related to Bauer's and the Bauer Guarantors' obligations under the Financing Documents or any Financing Document Obligation (as defined in the SRA), but does not know and therefore cannot admit that this was a release of all of their obligations owed to GCIL and GCUK;

c. says that the paragraph otherwise paraphrases clauses of the SRA;

d. refers to the relevant terms of the SRA for their full force and effect; and

e. otherwise admits the paragraph.

228. TMNF does not know and therefore cannot admit paragraph 228 of the ASOC.

229. [NOT USED]

230. [NOT USED]

AA.8 Claims on the 2019 Policy

231. In response to paragraph 231 of the ASOC, TMNF:

    a. refers to and repeats paragraph 226 of this Defence; and

    b. otherwise admits the paragraph.

232. [NOT USED]

AA.9 Breach of 2019 Policy by Insurer

233. TMNF admits paragraph 233 of the ASOC and says that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 231 of the ASOC.

234. [NOT USED]

235. [NOT USED]

236. [NOT USED]

B. BLUESTONE MULTI-OBLIGOR

B.1 Bluestone Resources and other relevant parties

237. TMNF admits paragraph 237 of the ASOC.

238. TMNF does not know and therefore cannot admit paragraph 238 of the ASOC.

239. TMNF does not know and therefore cannot admit paragraph 239 of the ASOC.

240. TMNF does not know and therefore cannot admit paragraph 240 of the ASOC.

B.2 The Receivables Purchase Agreement

241A. In respect of paragraphs 241 to 253 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse Virtuoso and/or Credit Suisse Nova do not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 241 to 253 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 241 to 253 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

241. TMNF admits paragraph 241 of the ASOC.

242. In response to paragraph 242 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Receivables Purchase Agreement between GCUK and Bluestone Coal Sales Corporation (**Bluestone Coal**) dated 26 September 2018 (**the Bluestone RPA**) to which it refers;

b. refers to the relevant terms of the Bluestone RPA for their full force and effect;

c. says further (with defined terms having the meaning assigned in the Bluestone RPA), that:

i. clause 1(a) provided that the Buyer shall and hereby does purchase the Seller's right, title and interest with respect to its Proposed Receivables subject to satisfaction of the conditions precedent set forth in section 1(b);

ii. clause 1(b) provided that the Buyer shall not, and shall have no commitment or obligation to, purchase the Proposed Receivables unless the Conditions Precedent were satisfied, or were waived by the Buyer;

iii. clause 1(b)(i) provided that one such Condition Precedent was that the Buyer has received, at least three (3) Business Days prior to any purchase of Proposed Receivables, a Request in substantially the form of Schedule I attached to the Bluestone RPA (or in such other format (which may be electronic) agreed to by the Seller and Buyer on such proposed Purchase Date) with respect to the Proposed Receivables, together with such additional supporting documentation that the Buyer may reasonably have requested;

iv. clause 1(h) provided for the Seller to propose to the Buyer account debtors of Receivables to be accepted as Account Debtors under the Agreement; and

v. clause 10(a) provided that no provision of this Agreement may be amended or waived except by a writing signed by the Buyer, the Servicer and the Seller Representative on behalf of each applicable Seller; and

d. otherwise admits the paragraph.

243. In response to paragraph 243 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Bluestone RPA to which it refers;

b. refers to the relevant terms of the Bluestone RPA for their full force and effect; and

c. otherwise admits the paragraph.

244. TMNF does not plead to paragraph 244 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Bluestone RPA for its full force and effect.

245. TMNF admits paragraph 245 of the ASOC.

246. TMNF admits paragraph 246 of the ASOC.

247. In response to paragraph 247 of the ASOC, TMNF:

a. says that the capitalised term “Accounts Receivable” is not defined in the ASOC and that it is unclear what is intended to be conveyed by its use in this paragraph;

b. denies that Bluestone Coal and/or Blackstone Energy Limited (**Blackstone**) sold any accounts receivable to GCUK between September 2020 and February 2021, and relies in that respect on what it says at paragraphs 53A.53 to 53A.55 in Annexure A to this Defence;

c. says that the paragraph does not sufficiently identify the material facts upon which Credit Suisse Virtuoso and/or Credit Suisse Nova relies to establish that Bluestone Coal and/or Blackstone sold each Account Receivable to GCUK pursuant to the Bluestone RPA, including the identification of each particular alleged account receivable, the date on which Bluestone Coal and/or Blackstone made a Request that GCUK purchase that account receivable in accordance with the Bluestone RPA, and the date on which GCUK accepted that Request in accordance with the Bluestone RPA, and says that the paragraph is accordingly embarrassing and liable to be set aside;

d. says that, at least until 17 December 2020, it does not appear from the material presently available to TMNF that the contractual procedure provided in the Bluestone RPA for the purchase of accounts receivable by GCUK from Bluestone Coal and/or Blackstone was followed in respect of the accounts receivable alleged to have been purchased in that period, because it does not appear that any Request was sent by Bluestone Coal and/or Blackstone to GCUK, or that any acceptance of any such Request was sent by GCUK to Bluestone Coal and/or Blackstone, in relation to those alleged accounts receivable; and

e. accordingly TMNF does not know and therefore cannot admit that each purported sale of accounts receivable from Bluestone Coal and/or Blackstone to GCUK between September 2020 and February 2021 was done in a manner consistent with the requirements of the Bluestone RPA or at all; and

f. otherwise denies the paragraph.

248. [NOT USED]

249. [NOT USED]

B.3 Bluestone Multi-Obligor Note Programme

250. In response to paragraph 250 of the ASOC, TMNF:

a. admits that Hoffman issued the notes particularised;

b. denies that any notes of the kind referred to in paragraph 250 were secured by the Bluestone Multi-Obligor Payment Obligations, as they were never validly assigned to Hoffman for the reasons pleaded at paragraph 251 of this Defence; and

c. otherwise denies the paragraph.

251. In response to paragraph 251 of the ASOC, TMNF:

a. denies that the benefit of the Bluestone Multi-Obligor Payment Obligations were assigned to Hoffman, validly or at all;

b. says that the assignment of payment obligations by GCUK to Hoffman was relevantly governed by the MAA, which relevantly provided that:

i. GCUK could from time to time offer to assign and sell with full title guarantee the whole, but not part, of any Payment Obligation and all of its Additional Rights in respect thereof to Hoffman and that Hoffman at its sole direction may agree to purchase such Payment Obligation and the Additional Rights relating thereto from GCUK (cl 2.1);

ii. each offer of a Payment Obligation and its Additional Rights to Hoffman pursuant to clause 2.1 in respect of any Business Day shall be made by GCUK delivering an Offer File in respect of such Payment Obligation (and containing the relevant details thereof) to Hoffman attached to an e-mail from an Authorised User and password protected at any time before the relevant Cut-Off Offer Time on such Business Day (an "**Offer**") (cl 2.2);

iii. an Offer could be accepted by Hoffman at any time before the relevant Cut-Off Acceptance Time at which time, if not accepted, the Offer will lapse. Acceptance of an offer shall be effected by Hoffman (prior to the Offer lapsing) returning the Offer File to GCUK attached to an e-mail from an Authorised User and password protected, marked as "Accepted" (an **"Acceptance"**) (cl 2.3);

iv. "Offer File" was defined to mean, in respect of any Payment Obligation that GCUK proposes to assign to a Compartment of the Purchaser hereunder, an electronic file or data feed identifying (i) the Compartment of the Purchaser to which the electronic file or data feed is to be delivered and subsequent Offer made, and (ii) such Payment Obligation, which shall include the following information in respect of such Payment Obligation:

1. Maturity Amount;
2. Currency;
3. Maturity Date;
4. Relevant Obligor;
5. Related Party (if applicable);
6. Intermediary Party (if applicable);
7. Settlement Date;
8. Purchase Price;
9. Identifier;
10. Invoice Ref; and
11. Product Code

in the form set out in Schedule 2 (cl 1.2, definition of "Offer File");

v. "Relevant Obligor" was defined to mean, in respect of any Payment Obligation, each entity that is liable for payment of such Payment

Obligation, as identified as such in the Offer File relating to such Payment Obligation (cl 1.2, definition of "Relevant Obligor"); and

vi. "Identifier" was defined to mean, in respect of a Payment Obligation, the unique reference identifying such Payment Obligation and identifiable as such by the Relevant Obligor, as specified in the relevant Offer File (cl 1.2, definition of "Identifier");

c. does not admit that cl 2.1 to 2.3 of the MAA were followed, on the basis that:

i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as "Note Offer Reports";

ii. it does not appear that these Note Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer;

iii. it does not appear that the Note Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance;

iv. even if the Note Offer Reports had been so emailed, they do not contain the name of "Relevant Obligor" (being the name of the entity liable for payment of the Payment Obligation) as required by the MAA; and

v. the Note Offer Reports do not contain an "Identifier" for the underlying Payment Obligation (being a unique reference identifying such Payment Obligation and identifiable as such by the Relevant Obligor) as required by the MAA;

d. says that the "Note Offer Reports" failed to identify the underlying payment obligations to which they related in a manner consistent with the requirements of the MAA, or at all;

e. says further, as a result, that Credit Suisse Virtuoso or Credit Suisse Nova (as the case may be) does not hold an interest in the Bluestone Multi-Obligor Payment Obligations, and accordingly cannot have suffered a Loss in respect of those obligations within the meaning of the 2019 Policy; and

f. otherwise denies the paragraph.

252. TMNF does not know and therefore cannot admit paragraph 252 of the ASOC.

253. TMNF does not know and therefore cannot admit paragraph 253 of the ASOC.

B.4 The Bluestone Multi-Obligor Customers under the 2019 Policy

254. In response to paragraph 254 of the ASOC, TMNF:

a. admits that a document entitled Customer Endorsement 5 was purportedly executed by BCC on 13 March 2019 (**Customer Endorsement 5**) and which contained terms broadly to the effect pleaded;

b. says that Appendix 1 of the Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 5 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. says that, insofar as Customer Endorsement 5 purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy (including, without limitation, by purporting to provide for the indefinite resetting of the Aggregate Customer Limit and of the Maximum Limit of Liability);

d. denies that Customer Endorsement 5, to the extent it was valid (if at all) was capable, consistently with the terms of the 2019 Policy, of operating retrospectively so as to be effective from 1 March 2019; and

e. says further that if it is found that:

i. Mr Brereton;

ii. BCC; and/or

iii. IAL;

entered into Customer Endorsement 5, and IAL or BCC thereby assumed any risk or liability under the 2019 Policy or Customer Endorsement 5, Mr Brereton, BCC and/or IAL (through its agents Mr Brereton and BCC) entered into that endorsement and/or assumed that risk or liability by reason of the misrepresentations and non-disclosures by the Greensill Group pleaded at

paragraphs 53A.5 to 53A.75, 53A.77, 53A.78 to 53A.101 and 53A.103 of Annexure A to this Defence (the **Initial Bluestone Misrepresentations and Non-Disclosures**) with the consequence that the 2019 Policy and endorsements purportedly entered into under that policy are liable to be avoided ; and

f. otherwise denies the paragraph.

255. In response to paragraph 255 of the ASOC, TMNF:

a. admits that the documents particularised were purportedly executed by BCC from time to time on the dates stated in those documents;

b. says that Appendix 1 of the Policy required a Customer Endorsement to express a percentage premium rate, and that none of the documents referred to at paragraph 255(a) were valid Customer Endorsements because they did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. says that, insofar as any document referred to at paragraph 255.a of this Defence purported to be a “Customer Endorsement” within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

d. denies that any document referred to at paragraph 255.a of this Defence, to the extent it was valid, was capable, consistently with the terms of the 2019 Policy, of operating retrospectively so as to be effective from the date from which it purported to be effective (where earlier than the date of execution);

e. says further that if it is found that:

i. Mr Brereton;

ii. BCC; and/or

iii. IAL;

entered into the Customer Endorsements the subject of paragraph 255 of the ASOC, and IAL or BCC thereby assumed any risk or liability under the 2019 Policy or Customer Endorsement 5, Mr Brereton, BCC and/or IAL (through its agents Mr

Brereton and BCC) entered into each such endorsement and/or assumed each such risk or liability by reason of the Initial Bluestone Misrepresentations and Non-Disclosures with the consequence that the 2019 Policy and endorsements purportedly entered into under that policy are liable to be avoided; and

f. otherwise denies the paragraph.

B.5 Payment failures

256. In response to paragraph 256 of the ASOC, TMNF:

a. denies that the entities defined in paragraph 255 of the ASOC as "Account Debtor Customers" owed debts to Bluestone Coal and/or Blackstone in the amount of the Bluestone Purchased Receivables;

b. denies that the Bluestone Purchased Receivables were valid or enforceable debts owed by the Account Debtor Customers to Bluestone Coal and/or Blackstone;

c. refers to and repeats paragraphs 247.c and d of this Defence;

d. says that the Bluestone Purchased Receivables were not genuinely expected future debts which would become owing by Account Debtor Customers to Bluestone Coal and/or Blackstone within 180 days based on an existing business relationship, but rather were invented by GCUK, including as to:

i. the identity of the Account Debtor Customer; and

ii. the amount and maturity date of the Bluestone Purchased Receivable,

without input from Bluestone Coal and/or Blackstone and based on the perceived attractiveness of those matters to an insurer;

e. says that, in the premises, it was not possible for the Account Debtor Customers to have failed to pay the Bluestone Purchased Receivables, as the Bluestone Purchased Receivables were never real debts owed by the Account Debtor Customers; and

f. otherwise denies the paragraph.

257. TMNF admits paragraph 257 of the ASOC.

258. In relation to paragraph 258:

a. TMNF does not know and therefore cannot admit paragraph 258 of the ASOC; and

b. TMNF says further that the debts set out in tables 2.1 and 2.3 of Annexure P to the ASOC were not covered by the 2019 Policy.

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

259. [NOT USED]

260. In response to paragraph 260 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the agreements to which it refers;

b. relies on those agreements for their full terms and effect;

c. says that it does not know and therefore cannot admit the extent to which Credit Suisse has made recoveries under the agreements to which paragraph 260 of the ASOC refers (or otherwise) in respect of any alleged accounts receivable over which it claims to have a beneficial interest, but says that any loss claimable by Credit Suisse will be reduced by the amount of any such recoveries; and

d. otherwise admits the paragraph.

261. [NOT USED]

B.6 Claims on the 2019 Policy

262. TMNF refers to and repeats paragraph 258 of this Defence and otherwise admits paragraph 262 of the ASOC.

263. [NOT USED]

B.7 Insurer has failed to pay

264. TMNF admits paragraph 264 of the ASOC and says that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 262 of the ASOC.

265. [NOT USED]

266. [NOT USED]

267. [NOT USED]

C. BLUESTONE RESOURCES SINGLE-OBLIGOR

C.1 Bluestone Resources and other relevant parties

268. TMNF admits paragraph 268 of the ASOC.

269. TMNF does not know and therefore cannot admit paragraph 269 of the ASOC.

270. In respect of paragraph 270 of the ASOC, TMNF:

a. admits that Bramid Outsource Limited (**Bramid**) was at all material times a company incorporated under the law of Bermuda; and

b. otherwise does not know and therefore cannot admit the paragraph.

C.2 The Master Supplier Agreement

271A. In respect of paragraphs 271–288, 290–295 and 299 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse Virtuoso does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 271–288, 290–295 and 299 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 271–288, 290–295 and 299 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

271. TMNF admits paragraph 271 of the ASOC.

272. In response to paragraph 272 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Master Supplier Agreement between GCUK and Bramid dated 10 August 2016 (**Master Supplier Agreement**) to which it refers;

b. refers to the relevant terms of the Master Supplier Agreement for their full force and effect;

c. says further (with defined terms having the meaning assigned in the Master Supplier Agreement), that:

i. clause 2.4 provided that in the event that GCUK does not pay the relevant Net FI Amount prior to the date falling three Business Days after the Advance Date, the applicable Account Receivable shall be automatically Transferred back to Bramid and the Liability of GCUK to pay the relevant Net FI Amount shall be extinguished; and

ii. cl 1.1 defined "FI Fee" to mean the finance fee payable by Bramid to GCUK in respect of each Account Receivable Transferred by Supplier to Financial Institution calculated as: Certified Amount x Discount Rate x Tenor / (360 or 365, as the case may be for the applicable currency of the Certified Amount);

d. says that the chapeau to paragraph 272 is a paraphrase of paragraph A of Master Supplier Agreement, and refers to that paragraph for its full force and effect;

e. denies that any transactions concluded between Bramid and Bluestone Resources constituted "commercial trade transactions with [Bramid] for the sale of goods and/or the supply of services" (Paragraph A), so as to fall within the scope of the Master Supplier Agreement; and

f. otherwise admits the paragraph.

273. In response to paragraph 273 of the ASOC, TMNF:

a. refers to and repeats paragraph 272 of this Defence; and

b. otherwise admits the paragraph.

274. TMNF does not plead to paragraph 274 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Master Supplier Agreement for its full force and effect.

C.3 The Re-Invoicing Service Agreement

275. TMNF admits paragraph 275 of the ASOC.

276. In response to paragraph 276 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Re-Invoicing Service Agreement between Bramid and Bluestone Resources dated 13 June 2018 (**Re-Invoicing Service Agreement**) to which it refers;

b. refers to the relevant terms of the Re-Invoicing Service Agreement for their full terms and effect; and

c. otherwise admits the paragraph.

277. In response to paragraph 277 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the Re-Invoicing Service Agreement;

b. refers to the relevant terms of the Re-Invoicing Service Agreement for their full terms and effect;

c. denies "Supplier Invoice" in the Re-Invoicing Service Agreement means an invoice raised by Bramid and says that "Supplier Invoice" means an invoice raised by a "Supplier" in relation to an "Account Receivable", where:

i. "Supplier" means an entity to which Bluestone Resources wishes payment to be made under the Re-Invoicing Service Agreement;

ii. "Account Receivable" means the right to receive any and all present and future payments of money due and payable, whether due now or payable in the future, as a result of the "Supply Agreement"; and

iii. "Supply Agreement" means the agreement between Supplier and Bluestone Resources for the sale, supply and purchase of goods and/or services and pursuant to which Account Receivables arise;

d. says therefore that the only accounts receivable able to be settled and re-invoiced under the Re-Invoicing Service Agreement are accounts receivable arising from the sale or supply of goods and/or services from a Supplier to

Bluestone Resources where Bluestone Resources is the account debtor and the Supplier is the account creditor; and

e. otherwise admits the paragraph.

278. TMNF does not plead to paragraph 278 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Re-Invoicing Service Agreement for its full force and effect.

C.4 The Bluestone Resources Customer Agreement

279. In response to paragraph 279 of the ASOC, TMNF:

a. admits that GCUK and Bluestone Resources entered into a Customer Agreement on 14 June 2018 (**Bluestone Resources Customer Agreement**);

b. admits that the Bluestone Resources Customer Agreement was amended from time to time;

c. says that it does not know and therefore cannot admit whether the particulars to paragraph 279 of the ASOC exhaustively identify the amendments that were made to the Bluestone Resources Customer Agreement; and

d. otherwise admits the paragraph.

280. TMNF admits paragraph 280 of the ASOC.

281. In response to paragraph 281 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the Bluestone Resources Customer Agreement;

b. refers to the relevant terms of the Bluestone Resources Customer Agreement for their full terms and effect;

c. says that the Bluestone Resources Customer Agreement provided that:

i. Bluestone Resources and its Affiliates may enter into commercial trade transactions with 'Suppliers' for the sale of goods and/or the supply of services (Introduction, para A);

ii. a 'Supplier' means any person with whom a 'Supplier Agreement' is in force (cl 1.1);

iii. a 'Supplier Agreement means an agreement between an FI Group Member and a 'Supplier' that regulates 'Transfers' to an FI Group Member (cl 1.1);

iv. a 'Transfer' means the sale, assignment or transfer of an 'Account Receivable' (cl 1.1);

v. an 'Account Receivable' means the right to receive payments of money due and payable as a result of an 'Underlying Relationship' (cl 1.1);

vi. an 'Underlying Relationship' means a business relationship between Bluestone Resources and a Supplier (cl 1.1);' and

vii. Bluestone Resources shall only submit PAUFs in respect of genuine and lawful trade transactions arising in the ordinary course of business for the sale, supply and purchase of goods and/or services (cl 3.1); and

d. otherwise admits the paragraph.

282. In response to paragraph 282 of the ASOC, TMNF:

a. refers to and repeats paragraph 281 of this Defence;

b. denies that there was a business relationship between Bramid and Bluestone Resources pursuant to which Bluestone Resources entered into commercial trade transactions with Bramid;

c. denies that Bluestone Resources entered into any genuine and lawful trade transactions with Bramid arising in the ordinary course of business for the sale, supply and purchase of goods and/or services; and

d. in the premises, denies the paragraph.

283. In response to paragraph 283 of the ASOC, TMNF:

a. refers to and repeats paragraph 282 of this Defence; and

b. otherwise denies the paragraph.

284. In response to paragraph 284 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the Bluestone Resources Customer Agreement;

b. refers to the relevant terms of the Bluestone Resources Customer Agreement for their full terms and effect;

c. says further that (with defined terms having the meaning assigned in the Bluestone Resources Customer Agreement) cl 3.2 provided that Bluestone Resources shall, and shall procure that each Affiliated Company will, maintain sufficient records of all transactions with respect to the Underlying Relationship (or associated disputes) to which the relevant Customer is a party; and

d. otherwise admits the paragraph.

285. TMNF does not plead to paragraph 285 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Bluestone Resources Customer Agreement for its full force and effect.

286. [NOT USED]

287. [NOT USED]

288. [NOT USED]

C.5 Bluestone Resources as a Customer under the 2019 Policy

289. In response to paragraph 289 of the ASOC, TMNF:

a. admits that a document entitled Customer Endorsement 44 was purportedly executed by BCC on 13 March 2019 (**Customer Endorsement 44**) and which contained terms broadly to the effect pleaded;

b. says that Customer Endorsement 44 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 44 was valid, it did not have any effectiveness or operation prior to 13 March 2019;

c. says that Appendix 1 of the Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 44 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1).

d. says further that if it is found that:

i. Mr Brereton;

ii. BCC; and/or

iii. IAL;

entered into Customer Endorsement 44, and IAL or BCC thereby assumed any risk or liability under the 2019 Policy or Customer Endorsement 44, Mr Brereton, BCC and/or IAL (through its agents Mr Brereton and BCC) entered into that endorsement and/or assumed that risk or liability by reason of the Initial Bluestone Misrepresentations and Non-Disclosures with the consequence that the 2019 Policy and endorsements purportedly entered into under that policy are liable to be avoided; and

e. otherwise denies the paragraph.

C.6 Bluestone Resources Single-Obligor Note Programme

290. In response to paragraph 290 of the ASOC, TMNF:

a. refers to and repeats paragraph 111 of this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

291. TMNF admits paragraph 291 of the ASOC.

292. In response to paragraph 292 of the ASOC, TMNF:

a. says that recital (a) of the Amended and Restated Master Funded Participation Agreement between GCUK, Citibank N.A. and Wickham SA dated 26 November 2018 (**MFPA**) recorded that GCUK purchases accounts receivable payable by an Obligor from time to time, and acquires the benefit of an unconditional and irrevocable payment undertaking from the relevant Obligor with respect to those accounts receivable;

b. says that recital (b) of the MFPA recorded that GCUK intends to declare a separate trust in favour of Citibank N.A. in each case over the Eligible Accounts Receivable relating to each particular Obligor (each a "Grantor Trust");

c. says that recital (c) of the MFPA recorded that in respect of all Eligible Accounts Receivable in relation to a particular Obligor, Citibank N.A. intends to declare a separate trust (each a "Trust") over its beneficial interest in the relevant Grantor Trust, over the proceeds of such Eligible Accounts Receivable and over the balance from time to time standing to the credit of the Trust Account that Citibank N.A. maintains in respect of that Obligor;

d. says that recital (d) of the MFPA recorded that Citibank N.A. intends to declare each Trust in favour of, amongst others, GCUK and Wickham SA pursuant to the relevant Trust Deed;

e. says that recital (f) of the MFPA recorded that each Trust and each Grantor Trust separate from each other Trust and each other Grantor Trust, and shall include interests in Eligible Accounts Receivable issued by more than one Obligor;

f. says that recital (e) of the MFPA recorded that the MFPA and the relevant Trust Deed allowed Wickham to increase its percentage entitlement in the relevant Trust Property by payment of certain monies to GCUK and the percentage entitlement of GCUK in the relevant Trust Property to be correspondingly adjusted;

g. says that cl 2.1(b) of the MFPA provided that GCUK shall from time to time offer to Wickham SA the right to purchase by means of a Funded Participation such part of GCUK's then beneficial entitlement to the Trust Property relating to an Obligor as GCUK may in its sole discretion specify;

h. says that cl 2.1(d) of the MFPA provided that acceptance of such offer shall be effected by Wickham SA delivering to GCUK (copied to Citibank N.A.) the Participation, duly signed by Wickham SA and dated on before the Settlement Date;

i. does not know and therefore cannot admit that this procedure for the offer and acceptance of the purchase of a Funded Participation was ever followed;

j. accordingly, says that, in relation to any Grantor Trust and any Trust in respect of the alleged accounts receivable set out at Table 3.1 of Annexure P of the ASOC, TMNF does not know and therefore cannot admit that GCUK's beneficial interest in any such Trust was ever purchased by Wickham SA by means of a Funded Participation;

k. accordingly, does not know and therefore cannot admit that Wickham SA ever acquired any part of GCUK's beneficial interest in any such Trust; and

l. in the premises, does not know and therefore cannot admit that any Notes issued by Wickham SA were in any way secured by the alleged accounts receivable set out at Table 3.1 of Annexure P of the ASOC.

293. In response to paragraph 293 of the ASOC, TMNF:

a. refers to and repeats paragraph 292 of this Defence;

b. denies that the documents particularised at paragraph 293 themselves effect the declaration of any Trust or the declaration of any Grantor Trust or the purchase of any Funded Participation (each within the meaning of the MFPA), and accordingly denies that those documents effected the performance of the steps necessary for Wickham SA to acquire a beneficial interest in any of the alleged accounts receivable set out at Table 3.1 of Annexure P of the ASOC; and

c. otherwise does not know and therefore cannot admit the paragraph.

294. In response to paragraph 294 of the ASOC, TMNF:

a. refers to and repeats paragraphs 292 and 293 of this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

295. TMNF does not know and therefore cannot admit paragraph 295 of the ASOC.

C.7 Payment failures

296. In response to paragraph 296 of the ASOC, TMNF does not know and therefore cannot admit the paragraph.

297. In relation to paragraph 297:

    a. TMNF does not know and therefore cannot admit paragraph 297 of the ASOC; and

    b. says further that the debts set out in Table 3.1 of Annexure P to the ASOC were not covered by the 2019 Policy.

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

298. [NOT USED]

299. In response to paragraph 299 of the ASOC, TMNF:

    a. says that the paragraph is a paraphrase of the agreements to which it refers;

    b. relies on those agreements for their full terms and effect;

    c. says that it does not know and therefore cannot admit the extent to which Credit Suisse Virtuoso or Credit Suisse Nova, as the case may be, has made recoveries under the agreements to which paragraph 299 of the ASOC refers (or otherwise) in respect of any alleged accounts receivable over which it claims to have a beneficial interest, but says that any loss claimable by Credit Suisse Virtuoso will be reduced by the amount of any such recoveries; and

    d. otherwise admits the paragraph.

300. [NOT USED]

C.8 Claims on the 2019 Policy

301. TMNF admits paragraph 301 of the ASOC.

302. [NOT USED]

C.9 Breach of 2019 Policy by Insurer

303. TMNF admits paragraph 303 of the ASOC and says that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 301 of the ASOC.

304. [NOT USED]

305. [NOT USED]

306. [NOT USED]

D. CATFOSS DBT

D.1 Catfoss DBT and other relevant parties

307. In response to paragraph 307 of the ASOC, TMNF:

a. says that Catfoss DBT was incorporated under the laws of the United Kingdom on 14 December 2018;

b. admits that Catfoss DBT remained incorporated under the laws United Kingdom from that date and at all material times thereafter; and

c. otherwise admits the paragraph.

308. TMNF admits paragraph 308 of the ASOC.

309. TMNF admits paragraph 309 of the ASOC.

310. TMNF admits paragraph 310 of the ASOC.

311. TMNF does not know and therefore cannot admit paragraph 311 of the ASOC.

D.2 The Instalment Payment Agreement

311A. In respect of paragraphs 312 to 320 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse Virtuoso does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 312 to 320 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 312 to 320 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

312. In response to paragraph 312 of the ASOC, TMNF:

a. admits that GCUK entered into a written agreement styled "Instalment Payment Agreement" with Catfoss DBT dated 19 December 2018 per page 1 of the agreement (**Catfoss DBT IPA**);

b. says that the signature of:

i. the "Customer", Ben Foreman (Director and Authorised Signatory for Catfoss DBT) is undated; and

ii. the "Funder", is dated 19 December 2018;

c. does not know what date the Catfoss DBT IPA was executed by Catfoss DBT; and

d. otherwise denies the paragraph.

313. In response to paragraph 313 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Catfoss DBT IPA to which it refers;

b. refers to the relevant terms of the Catfoss DBT IPA for their full force and effect;

c. says that the obligation on Catfoss DBT to make the Repayment Amount pleaded in paragraph 21(c) was an obligation to make payment into the Designated Funder Account on the applicable Maturity Date, being an account notified in writing by an authorised representative of GCUK to Catfoss DBT from time to time;

d. says that the Catfoss DBT IPA formed part of a suite of documents pleaded at paragraph 315A of this Defence regulating the relationship between GCUK, Catfoss DBT and Chosen 44 Limited (known as Catfoss Investments Limited from on or around 27 February 2019 onwards) (**S44/Catfoss Investments**); and

e. otherwise admits the paragraph.

314. In response to paragraph 314 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Catfoss DBT IPA to which it refers;

b. refers to the relevant terms of the Catfoss DBT IPA for their full force and effect;

c. says that GCUK's obligation to give 30 days' written notice of Default under cl 6 did not apply where the Default was under cl 5(a) or (c);

d. says that the Catfoss DBT IPA also contained other terms, including terms to the following effect (with defined terms having the meaning assigned to them in the Catfoss DBT IPA):

i. Catfoss DBT or GCUK could terminate the IPA at any time by giving 30 days written notice of an intention to terminate (chapeau);

ii. Catfoss DBT had independently entered into underlying business relationships with relevant third parties prior to the applicable Payable being due for discharge and the submission of the relevant PAUF (cl 3);

iii. Catfoss DBT agreed to provide GCUK with copies of its financial statements or such other financial information as GCUK may reasonably request (cl 4); and

iv. the Catfoss DBT IPA and the Side Letter (defined to mean the Catfoss DBT Side Letter, as defined at paragraph 315A.b.ii of this Defence) constitutes the entire agreement between Catfoss DBT and GCUK (cl 7);

e. does not know and therefore cannot admit that Catfoss DBT had independently entered into underlying business relationships with relevant third parties prior to any relevant Payable being due for discharge and the submission of any relevant PAUF;

f. says that the Catfoss DBT IPA formed part of a suite of documents pleaded at paragraph 315A of this Defence regulating the relationship between GCUK, Catfoss DBT and S44/Catfoss Investments; and

g. otherwise admits the paragraph.

315. In answer to paragraph 315 of the ASOC, TMNF:

a. does not plead to the paragraph which contains no allegation against it; and

b. says that it likewise relies upon the whole of the Catfoss DBT IPA for its full force and effect; and

c. says that the Catfoss DBT IPA formed part of a suite of documents pleaded at paragraph 315A of this Defence regulating the relationship between GCUK, Catfoss DBT and S44/Catfoss Investments.

315A. In further answer to paragraphs 312 to 315 of the ASOC, TMNF says that:

a. prior to 18 December 2018, GCUK and S44/Catfoss Investments discussed financing in connection with certain proposed modular construction projects that S44/Catfoss Investments and its affiliates were undertaking, or would undertake, with certain National Health Service (**NHS**) trusts, including but not limited to Poole Hospital NHS Foundation Trust, Derby Teaching Hospitals NHS Foundation Trust, East Suffolk and North Essex NHS Foundation Trust, Northamptonshire Healthcare NHS Trust and Keele University (each referred to as **Projects**);

Particulars

The discussions are referred to in the preamble to the Exclusivity and Fee Agreement, pleaded below.

b. the Catfoss DBT IPA formed part of a suite of contracts between GCUK, S44/Catfoss Investments and Catfoss DBT which also included:

i. an "**Exclusivity and Fee Letter**" between GCUK and S44/Catfoss Investments dated 20 December 2018; and

ii. a "Side Letter" between GCUK, Catfoss DBT and S44/Catfoss Investments dated 20 December 2018 (the **Catfoss DBT Side Letter**);

iii. a "Debenture Deed" between GCUK and Catfoss DBT dated 20 December 2018 (the **Catfoss DBT Debenture Deed**);

iv. a "Supplemental Side Letter" between GCUK and Catfoss DBT dated 9 December 2020 (the **Catfoss DBT Supplemental Side Letter**); and

v. a "Supplemental Fee Letter" between GCUK and Catfoss dated 31 December 2020 (the **Catfoss DBT Supplemental Side Letter**),

(together, the **Catfoss DBT Side Agreements**);

c. the Exclusivity and Fee Letter contained terms to the following effect:

i. GCUK agreed to provide a short-term Working Capital Facility of up to two years (the form of which may include but not be limited to an instalment payment facility or a reinvoicing facility) and a long-dated Lease Financing Facility of up to thirty years in respect of each Project as requested from time to time by S44/Catfoss Investments or its affiliates (referred to as the Facilities) (cl 1);

ii. GCUK agreed to provide the Facilities on the basis that it was granted a right of first refusal to provide financing to each Project (cl 2); and

iii. as consideration for the provision of the Facilities, S44/Catfoss Investments agreed to pay GCUK a structuring fee of GBP 10,400,000 (the **Fee**), payable:

a. pursuant to drawdowns under the Working Capital Facility to be entered into on 20 December 2018 between GCUK and Catfoss DBT; or

b. to the extent not paid under the Catfoss DBT Working Capital Facility, in quarterly instalments of GBP 650,000 for a period of four years (cl 3);

iv. upon the initial funding of a Lease Financing Facility for a Project, the proceeds of such funding shall be first applied to repay in full all amounts then outstanding under any Working Capital Facility provided by GCUK and then, after such repayment, one-third of the remaining initial proceeds shall be retained by GCUK and applied towards repayment of the outstanding Fee (cl 3);

d. the Catfoss DBT Side Letter provided that, in consideration of the entry into and/or continuation of the Catfoss DBT IPA and the facilities afforded thereby, Catfoss DBT undertook and covenanted with GCUK that:

i. it shall apply an amount in the sum of GBP 10,400,000 in aggregate taken solely from the Drawdown Amounts it receives under the Catfoss DBT IPA to be used by S44/Catfoss Investments to pay the Fee to GCUK under the Exclusivity and Fee Letter (cl 1 and 2);

ii. Catfoss DBT will not incur Debt in favour of any person or entity other than GCUK at any time, other than trade debt incurred in the ordinary and usual course of business (cl 3); and

iii. Catfoss DBT will provide to GCUK annual and half-yearly financial statements for itself and its consolidated Group (cl 4);

e. The Catfoss DBT Side Letter further provided that:

i. the discount rate under the Catfoss DBT IPA shall be tenor-matched LIBOR +2.25% per annum; and

ii. the Catfoss DBT IPA would be a Working Capital Facility as defined in, and in accordance with, the Exclusivity and Fee Agreement;

f. the Catfoss DBT Debenture Deed provided that Catfoss DBT (as Chargor) provided GCUK (as Chargee) with an all assets debenture as security for the due performance of its obligations under the Catfoss DBT IPA;

g. the Catfoss DBT Supplemental Side Letter provided that, on and from 9 December 2020, the discount rate payable under the Catfoss DBT IPA shall be 0% p.a;

h. the Catfoss DBT Supplemental Fee Letter provided that:

i. the parties agreed that GCUK had received an amount equal to GBP 9,997,049.02 (the **Prepayment Amount**) towards (i) instalments of the Fee which had accrued and fallen due since the date of the Exclusivity and Fee Letter in an amount equal to GBP 5,850,000, and (ii) partial payment of the Repayment Amounts due and payable under the Catfoss DBT IPA on the relevant Maturity Dates in an amount equal to GBP 376,852.49;

ii. the parties agreed that the balance of the prepayment amount (equal to GBP 3,770,195.53 shall be applied by GCUK towards quarterly instalments of the Fee and/or, in its sole discretion, following a Prepayment Event (defined to mean a Default under the Catfoss DBT IPA or any failure to pay interest under the Side Letter); and

iii. in the event that all liabilities of Catfoss DBT under the Exclusivity and Fee Letter and the Catfoss DBT IPA are irrevocably and finally satisfied in full, GCUK shall return the Prepayment Amount (or the balance thereof, following any application therefore pursuant to the terms of this letter) to Catfoss DBT; and

i. in the premises, the effect of the Catfoss DBT Side Agreements was to convert the Catfoss DBT IPA into an arrangement whereby:

i. GCUK provided Catfoss DBT with working capital facility of up to GBP 15,300,000 with a term of up to two years; and

ii. the majority of the amount advanced was paid back to GCUK by way of the Fee, nominally in return for GCUK structuring facilities for S44/Catfoss Investments and its affiliates (including Catfoss DBT) to undertake the Projects.

316. [NOT USED]

D.3 Catfoss DBT Note Programme

317. In response to paragraph 317 of the ASOC, TMNF:

a. admits that Hoffman issued notes in compartment KP on 25 February 2021 and 26 February 2021, being the same dates that the alleged Eligible Debts are alleged to have been issued;

b. denies that any notes of the kind referred to in paragraph 317 of the ASOC were secured by any payment obligations owed by Catfoss DBT to GCUK, as they were never validly assigned to Hoffman for the reasons pleaded at paragraph 318 of this Defence; and

c. otherwise denies the paragraph.

318. In response to paragraph 318 of the ASOC, TMNF:

a. denies that the benefit of any payment obligations owed by Catfoss DBT to GCUK were assigned to Hoffman, validly or at all;

b. refers to and repeats paragraph 251.b of this Defence concerning the relevant provisions of the MAA;

c. does not admit that cl 2.1 to 2.3 of the MAA were followed, on the basis that:

   i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as “Note Offer Reports”;

   ii. it does not appear that these Note Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer; and

   iii. it does not appear that the Note Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance;

d. says further that:

   i. the payment obligations in relation to Catfoss DBT were assigned the product code “PAB” in the Note Offer Reports;

   ii. by virtue of that designation, the Product Schedule for “Customer IPU Origination, Extinguishment Model” applied to the Catfoss DBT Payment Obligations;

   iii. pursuant to that Product Schedule, the Payment Obligations were to be originated using the “Extinguishment Model” which involved GCUK, or an Intermediary Party, extinguishing Accounts Receivable payable by a Relevant Obligor, or a Related Party of that Relevant Obliger, to a Supplier, by settling or agreeing to settle such Accounts Receivable; and

   iv. the alleged Catfoss DBT Payment Obligations were not originated using the “Extinguishment Model” as defined, including because the majority of those obligations related to payments that Catfoss DBT was required to make to GCUK itself under the Exclusivity and Fee Letter;

e. says further that, as a result, Credit Suisse Virtuoso does not hold an interest in any payment obligations of Catfoss DBT, and accordingly cannot have suffered a Loss in respect of those obligations within the meaning of the 2019 Policy; and

f. otherwise denies the paragraph.

319. TMNF does not know and therefore cannot admit paragraph 319 of the ASOC.

320. TMNF does not know and therefore cannot admit paragraph 320 of the ASOC.

D.4 Correspondence between GCUK and the Insurer

321. In response to paragraph 321 of the ASOC, TMNF:

a. admits that on 18 December 2018, Lex Greensill sent an email to Mr Brereton that contained statements to the effect pleaded in that paragraph;

b. says that the email was sent by Lex Greensill on behalf of the Greensill Group.

c. says that in that email Lex Greensill further stated that:

i. construction was underway and will be completed by April 2019;

ii. GCUK, in addition to having full security over Catfoss DBT, had the right to collect the proceeds of the NHS IPUs; and

iii. to make the risk completely comfortable to Mr Brereton, he proposed to provide a significant first loss deductible of GBP 10,000,000;

d. refers to the email for its full force and effect; and

e. otherwise denies the paragraph.

322. In response to paragraph 322 of the ASOC, TMNF:

a. says that:

i. on 19 December 2018, Mr Brereton sent an email to Lex Greensill replying to the email pleaded in paragraph 321; and

ii. the email stated “Thanks as discussed… I will support”;

b. says that the email was received by Lex Greensill on behalf of the Greensill Group;

c. refers to the email for its full force and effect; and

d. otherwise denies the paragraph.

323. In response to paragraph 323 of the ASOC, TMNF:

a. says that:

i. on 19 December 2018, Lex Greensill sent a further email to Mr Brereton copying various GCUK employees and Marsh representatives; and

ii. the email stated that the premium rate should be that same as the Noviniti Poole cover;

b. says that the email was sent by Lex Greensill on behalf of the Greensill Group;

c. refers to the email for its full force and effect; and

d. otherwise denies the paragraph.

324. In response to paragraph 324 of the ASOC, TMNF:

a. admits that on 20 December 2018, Mr Brereton signed a document which was styled as a "Customer Endorsement" bearing the number 63 and which purported to endorse Catfoss DBT as a Customer to the 2018 Policy (**Customer Endorsement 63**);

b. says that Appendix 1 of the Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 63 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. further or alternatively, says that says that Customer Endorsement 63 was not a valid "Customer Endorsement" under the 2018 Policy because:

i. "Customer" was defined to mean any "Customer" endorsed to the 2018 Policy under a Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor;

ii. "Debt" was defined to mean, as the context requires, a debt of the type described in the relevant Debt Endorsement; and

iii. the alleged Catfoss DBT Payment Obligations were not Debts of the type described in Part C of Debt Endorsement 1, or any other relevant part of

any Debt Endorsement, for the reasons pleaded at paragraph 349 of this Defence; and

d. further or alternatively, says that, if (which is denied) the Customer Endorsement 63 was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2018 Policy or prescribe new terms inconsistent with those in the 2018 Policy; and

e. otherwise denies the paragraph.

325. In response to paragraph 325 of the ASOC, TMNF:

a. admits that on 13 March 2019, Mr Brereton signed a document which was styled as a "Customer Endorsement" bearing the number 34 and which purported to endorse Catfoss DBT as a Customer to the 2019 Policy effective from 1 March 2019 (**Customer Endorsement 34**);

b. says that Customer Endorsement 34 was not a valid "Customer Endorsement" under the 2019 Policy;

c. further or alternatively, says that Customer Endorsement 34 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 34 was valid, it did not have any effectiveness or operation prior to 13 March 2019;

d. further or alternatively, says that, if (which is denied) Customer Endorsement 34 was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

e. says further that if it is found that:

i. Mr Brereton;

ii. BCC; and/or

iii. IAL;

f. entered into Customer Endorsement 34, and IAL or BCC thereby assumed any risk or liability under the 2019 Policy or Customer Endorsement 34, Mr Brereton, BCC and/or IAL (through its agents Mr Brereton and BCC) entered into that endorsement and/or assumed that risk or liability by reason of the misrepresentations and non-disclosures by the Greensill Group pleaded at paragraphs 75AB.1 to 75AB.70 of Annexure A to this Defence (the **Catfoss DBT/Noviniti Misrepresentations and Non-Disclosures**) with the consequence that the 2019 Policy and endorsements purportedly entered into under that policy are liable to be avoided; and

g. otherwise denies the paragraph.

326. [NOT USED]

327. [NOT USED]

328. [NOT USED]

D.5 Payment failures

329. In response to paragraph 329 of the ASOC, TMNF:

a. says that the paragraph is embarrassing in that it fails to identify any transactions which are alleged to give rise to any obligation to pay the Repayment Amounts and fails to identify in relation to each invoice set out in Table 4.1 of Annexure P to the ASOC the information necessary to determine whether any obligation incurred by Catfoss DBT under the Catfoss DBT IPA in respect of such invoice is a Debt within the meaning of Part C of Debt Endorsement 1, including:

i. the goods or services supplied to Catfoss DBT to which the invoice relates; and

ii. the identity of the Supplier who issued to the invoice;

b. says that the debts set out in Table 4.1 of Annexure P to the ASOC were not covered by the 2019 Policy; and

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

c. otherwise does not know and therefore cannot admit the paragraph.

330. [NOT USED]

331. [NOT USED]

D.6 Claims on the 2019 Policy

332. In response to paragraph 332 of the ASOC, TMNF:

a. admits that Greensill Bank submitted a claim to BCC with respect to non-payments which purportedly constituted Insured Causes under the 2019 Policy; and

b. otherwise denies the paragraph.

333. [NOT USED]

D.7 Breach of 2019 Policy by Insurer

334. TMNF admits paragraph 334 of the ASOC and says further that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 332 of the ASOC.

335. [NOT USED]

336. [NOT USED]

337. [NOT USED]

E. KERRY IRELAND

E.1 Kerry Ireland and other relevant parties

338. In response to paragraph 338 of the ASOC, TMNF:

a. says that Kerry Leeds Investments Limited (**Kerry Leeds**) changed its name to M.I.S. Motorsport Limited on 14 December 2020; and

b. otherwise admits paragraph 338 of the ASOC.

339. In response to paragraph 339 of the ASOC, TMNF does not know and therefore cannot admit whether, and if so to what extent, Kerry Leeds carried on any business beyond its involvement in the transactions the subject of the ASOC.

340. TMNF admits paragraph 340 of the ASOC.

341. In response to paragraph 341 of the ASOC, TMNF:

a. says that Kerry Ireland Investments Limited (**Kerry Ireland**) held all of the issued shares in Kerry Leeds prior to 20 December 2021;

b. says that Christopher Tyrrell, a director of Kerry Leeds and the sole director of Kerry Ireland, purchased all of the issued shares in Kerry Leeds on 20 December 2021; and

c. otherwise does not know and therefore cannot admit the paragraph.

E.2 The SPD, the PUD and the Commercial Terms Letter

341A. In response to paragraphs 342-355 and 357 of the ASOC, TMNF says that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 342 to 355 and 357 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 342 to 355 and 357 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

342. In response to paragraph 342 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Sub-Participation Deed between Kerry Leeds and GCUK (as amended and restated from time to time) (**Kerry SPD**) to which it refers;

b. refers to the relevant terms of the Kerry SPD for their full force and effect; and

c. otherwise admits the paragraph.

343. In response to paragraph 343 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Kerry SPD to which it refers;

b. refers to the relevant terms of the Kerry SPD for their full force and effect; and

c. otherwise admits the paragraph.

344. In response to paragraph 344 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Kerry SPD to which it refers;

b. refers to the relevant terms of the Kerry SPD for their full force and effect; and

c. says further that it was a term of the Deed of Amendment and Restatement with respect to the Kerry SPD executed on 2 July 2020 (CSA.0001.0008.4278) that:

i. Kerry Leeds agreed to transfer by novation to Kerry Ireland, and Kerry Ireland agreed to accept the transfer by novation of, all the rights, liabilities, duties and obligations of Kerry Leeds under and in respect of each Participation pursuant to the SPD ("**Kerry SPD Novation**") (cl 3(a));

ii. GCUK agreed to accept Kerry Ireland as its sole counterparty with respect to the Participations following the Kerry SPD Novation (cl 3(b)); and

iii. Kerry Leeds and GCUK each agreed to release and discharge, as a result and to the extent of the Kerry SPD Novation, their respective obligations under and in respect of each Participation (cl 3(c); and

d. otherwise admits the paragraph.

345. TMNF does not plead to paragraph 345 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Kerry SPD for its full force and effect.

346. In response to paragraph 346 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Payment Undertaking Deed (as amended and restated from time to time) (**Kerry PUD**) to which it refers;

b. refers to the relevant terms of the Kerry PUD for their full terms and effect; and

c. otherwise admits the paragraph.

347. In response to paragraph 347 of the ASOC, TMNF:

a. refers to and repeats paragraph 346 of this Defence; and

b. otherwise admits the paragraph.

348. TMNF does not plead to paragraph 348 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Kerry PUD for its full terms and effect.

349. TMNF admits paragraph 349 of the ASOC.

350. In response to paragraph 350 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Commercial Terms Letter in relation to Sub-Participation Deed (**Kerry Commercial Terms Letter**) to which it refers;

b. refers to the relevant terms of the Kerry Commercial Terms Letter for their full force and effect;

c. says that it was also a term of the Kerry Commercial Terms Letter that, in consideration for GCUK's entry into the Transaction Documents and purchase of each Participation under the Kerry SPD, Kerry Ireland would pay or procure payment to GCUK of an upfront fee of GBP 250,000, which at GCUK's election could be deducted from the proceeds of the first Purchase Amount that would otherwise have been paid to Kerry Leeds;

d. says that Kerry Leeds deducted an upfront fee of GBP 250,000 from the proceeds of the Purchase Amount of the first offer file Kerry Leeds sent to GCUK on or around 6 January 2020 (which comprised Payment Obligation References MIS-1-01 to MIS-1-19);

e. says further that, on or around 2 July 2020, Kerry Leeds, Kerry Ireland and Mr Hanafin entered into a further letter agreement styled "Fee Letter in relation to Sub-Participation Deed" (**Kerry Success Fee Letter**), pursuant to which Kerry Leeds, Kerry Ireland and Mr Hanafin promised to pay a success fee in an amount equal to 20 per cent of the equity value of the Kerry Leeds group (comprising Kerry Leeds, Kerry Ireland and each of their subsidiaries), which was to become due and payable upon any of the following events: each occasion all or part of any member of the group or its assets was sold or agreed to be sold, a Change of Control (as defined in the Kerry PUD) occurred; Mr Hanafin ceasing to be an appointed director of any Obligor (as defined in the Kerry SPD); no Payment Obligations being outstanding under the Transaction Documents as defined in the Kerry SPD (the "Termination Date"); or a Default Event (as defined in the Kerry SPD) occurred; and

f. otherwise admits the paragraph.

351. In response to paragraph 351 of the ASOC, TMNF:

a. refers to and repeats paragraph 350 of this Defence; and

b. otherwise admits the paragraph.

352. TMNF admits paragraph 352 of the ASOC.

353. In response to paragraph 353 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Security Agreement (**Kerry Security Agreement**) to which it refers;

b. refers to the relevant terms of the Kerry Security Agreement for their full force and effect;

c. says that the definition of Receivables in the Kerry Security Agreement excluded rights to receive money from Kerry Leeds' bank accounts; and

d. otherwise admits the paragraph.

354. In response to paragraph 354 of the ASOC, TMNF:

a. refers to and repeats paragraphs 353 of this Defence;

b. says that the definition of Receivables in the Kerry Security Agreement excluded rights to receive money from Kerry Ireland's bank accounts; and

c. otherwise admits the paragraph.

355. [NOT USED]

356. [NOT USED]

E.3 Kerry Ireland Note Programme

357. In response to paragraph 357 of the ASOC, TMNF:

a. admits that Hoffman issued the notes particularised (**Kerry Ireland Notes**);

b. denies the Kerry Ireland Notes were secured by rights and interests of GCUK described in paragraph 357, because those rights and interests were never validly assigned to Hoffman for the reasons pleaded at paragraph 358 of this Defence; and

c. otherwise denies the paragraph.

358. In response to paragraph 358 of the ASOC, TMNF:

a. says, in relation to the assignment of obligations identified at items 1 to 31 in Table 5.1 at Annexure P of the ASOC, and in relation to which Hoffman issued the Kerry Ireland Notes identified at items 1 to 3 and 9 to 14 in Table 5.2 at Annexure P of the ASOC (**Kerry PAA Assignments**), the assignment of "payment obligations" by GCUK to Hoffman was relevantly governed by the MAA (as defined in paragraph 98 of this Defence), as amended by the Product Schedule: Customer IPU

Origination, Purchase Model, Product Code: PAA (**PAA Product Schedule**), which relevantly provided for assignment on the same terms as set out in Annexure AA, paragraph 214.c of this defence, save that:

i. "Offer File" was defined to mean, in respect of any Payment Obligation that GCUK proposed to assign to a Compartment of Hoffman pursuant to the MAA, an electronic file or data feed (i) identifying the Compartment of Hoffman to which the electronic file or data feed was to be delivered and subsequent Offer made, and (ii) identifying such Payment Obligation, which was to include the following information in respect of such Payment Obligation:

(A) Maturity Amount;

(B) Currency;

(C) Maturity Date;

(D) Relevant Obligor;

(E) Related Party (if applicable);

(F) Intermediary Party (if applicable);

(G) Settlement Date;

(H) Purchase Price;

(I) Identifier;

(J) Invoice Ref; and

(K) Product Code,

in the form set out in Schedule 2 (Form of Offer File) (MAA, cl 1.2); and

ii. "Intermediary Party" was defined to mean, in respect of a Payment Obligation, an affiliate of GCUK or such other entity as may be specified as such in the relevant Offer File, which receives the Payment Obligation directly from the Relevant Obligor (or acquires the Payment Obligation from

another Intermediary Party which has received the Payment Obligation either directly from the Relevant Obligor or from another Intermediary Party) and transfers such Payment Obligation to GCUK pursuant to an Intermediary Party Assignment Agreement (MAA, cl 1.2);

iii. "Payment Obligation" was defined to mean, in respect of any Offer or any Assignment, a payment obligation owed by the Relevant Obligor and having the details and being of the type specified in the relevant Offer File (MAA, cl 1.2); and

iv. "Relevant Obligor" was defined to mean, in respect of any Payment Obligation, each entity that was liable for payment of such Payment Obligation, as identified as such in the Offer File relating to such Payment Obligation (MAA, cl 1.2);

b. does not know and therefore cannot admit that cl 2.1 to 2.3 of the MAA (as amended by the PAA Product Schedule) were followed in respect of the of the Kerry PAA Assignments, on the basis that:

i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as "Notes Offer Reports";

ii. it does not appear that these Notes Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer; and

iii. it does not appear that the Notes Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance;

c. alternatively, denies that cl 2.1 to 2.3 of the MAA (as amended by the PAA Product Schedule) were followed in respect of the Kerry PAA Assignments, on the basis that:

i. the purported Offer Files did not identify the Compartment of Hoffman to which the electronic file or data feed was to be delivered and subsequent Offer made;

ii. the identifiers MIS-1-08 to MIS-1-18 in Notes Offer Report XS2055954734 were each used more than once, and so were not unique "Identifiers" as required by cl 1.2 of the MAA; and

iii. no assignment occurred in relation to:

A. Notes Offer Report with reference XS2055954817 (item 24 of the obligations set out at Table 5.1 of Annexure P), which purported to assign a debt with Identifier MIS -2-01 to Hoffman; and

B. Notes Offer Report with reference XS2055955202 (item 25 of the obligations set out at Table 5.1 of Annexure P), which purported to assign a debt with Identifier MIS-1-20 to Hoffman,

because no relevant Kerry Payment Obligation had such an identifier.

d. says, in relation to the assignment of obligations identified at items 32 to 36 in Table 5.1 at Annexure P of the ASOC, and in relation to which Hoffman issued the Kerry Ireland Notes identified at items 4 to 8 in Table 5.2 at Annexure P of the ASOC (**Kerry PAV Assignments**), the assignment of "payment obligations" by GCUK to Hoffman was relevantly governed by the MAA, as amended by the Product Schedule: Seller IPU, Seller IPU Cashflow Origination Model (**PAV Product Schedule**), which relevantly provided for assignment on the same terms as set out in paragraph 358.a. of this defence, save that:

i. "Offer File" was defined to mean, in respect of any Payment Obligation that GCUK proposed to assign to Hoffman under the MAA, an electronic file or data feed identifying (i) the Compartment of the Purchaser to which the electronic file or data feed is to be delivered and subsequent Offer made, and (ii) such Payment Obligation, which was to include the following information in respect of such Payment Obligation:

(A) Maturity Amount;

(B) Currency;

(C) Maturity Date;

(D) Relevant Obligor;

(E) Settlement Date;

(F) Purchase Price;

(G) Identifier; and

(H) Product Code,

in the form set out in Schedule 2 (Form of Offer File) adjusted accordingly to the above; and

ii. "Relevant Obligor" was defined to mean, in respect of any Payment Obligation, each entity that is liable for payment of such Payment Obligation, as identified as such in the Offer File relating to such Payment Obligation; and

e. does not know and therefore cannot admit that cl 2.1 to 2.3 of the MAA (as amended by the PAV Product Schedule) were followed in respect of the of the Kerry PAV Assignments, on the basis that:

i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as “Notes Offer Reports”;

ii. it does not appear that these Notes Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer;

iii. it does not appear that the Notes Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance; and

f. denies that cl 2.1 to 2.3 of the MAA (as amended by the PAV Product Schedule) were followed in respect of the of the Kerry PAV Assignments, on the basis that even if the Notes Offer Reports had been so emailed, the purported Offer Files did not identify the Compartment of Hoffman to which the electronic file or data feed was to be delivered and subsequent Offer made.

359. TMNF does not know and therefore cannot admit paragraph 359 of the ASOC.

360. TMNF does not know and therefore cannot admit paragraph 360 of the ASOC.

E.4 Correspondence between GCUK and the Insurer

361. In response to paragraph 361 of the ASOC, TMNF:

a. admits that on or around 28 May 2020, Craig Pinnington of the Greensill Group sent Mr Brereton and Mr Edward Smith of Marsh an email on behalf of each of GCUK, Greensill Bank and GCPL;

b. relies on the terms of the email and its attachment for their full force and effect; and

c. otherwise denies the paragraph.

362. In response to paragraph 362 of the ASOC, TMNF:

a. admits that on 18 June 2020, Edward Smith of Marsh sent an email to Mr Brereton and will refer to the email for its full force and effect;

b. says that Marsh acted as agent for the Greensill Group in sending the email; and

c. says that, in procuring the purported Customer Endorsement 138, Marsh and/or the Greensill Group did not disclose to BCC that the Kerry Payment Obligations proposed to be insured pursuant to the 2019 Policy included an upfront fee of GBP 250,000 payable to GCUK pursuant to the Kerry Commercial Terms Letter.

363. In response to paragraph 363 of the ASOC, TMNF:

a. refers to and repeats paragraphs 69, 117 and 148 of this Defence;

b. admits that on or around 18 June 2020, Mr Brereton sent an email to Marsh stating that he could “ok” the limit of USD 3 million for Kerry Ireland (along with the limits for other customers) “on the basis of 15 mill first loss” and will refer to the email for its full force and effect; and

c. otherwise denies the paragraph.

364. In response to paragraph 364 of the ASOC, TMNF:

a. admits that Mr Brereton signed Customer Endorsement 138;

b. refers to and repeats paragraphs 117 and 148 of this Defence;

c. says that Kerry Ireland was not endorsed as a customer for the purposes of Customer Endorsement 138 in the circumstances where:

i. on 28 May 2020, Marsh had sent Mr Brereton an email attaching an Excel sheet titled 'HIF shortfall obligors 28-05-2020' which identified Kerry Leeds as the purported Customer, which sheet Mr Brereton did not sign and return;

ii. on 19 June 2020, Marsh had sent Mr Brereton an email attaching the draft Customer Endorsement 138, as well as the Excel Sheet (as defined in Annexure AA, paragraph 221 of this Defence), and indicated that the Excel Sheet also needed to be signed;

iii. on 25 June 2020, Mr Brereton emailed Marsh the signed Customer Endorsement 138 from Mr Brereton, but without the Excel Sheet;

iv. on 25 June 2020, Marsh emailed Mr Brereton again requesting that the Excel Sheet be signed;

v. on 2 July 2020, Marsh emailed Mr Brereton and stated that Marsh still needed Mr Brereton to return documents including the "HIF Limits File" (i.e. the Excel Sheet) and asked Mr Brereton to see to this as a matter of urgency; and

vi. Mr Brereton never signed the Excel Sheet.

d. refers to and repeats paragraph 147 of this Defence and says that the purported endorsement of Customer Endorsement 138 on 25 June 2020 was invalid in circumstances where the 2019 Policy had already expired;

e. alternatively, says that Customer Endorsement 138 was invalid because Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate (of greater than Nil), whereas Customer Endorsement 138 specified a percentage premium rate of "Nil";

f. alternatively, says that Customer Endorsement 138 was not a valid "Customer Endorsement" under the 2019 Policy because:

i. "Customer" was defined to mean any "Customer" endorsed to the 2019 Policy under the Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor;

ii. "Debt" was defined to mean, as the context requires, a debt of the type described in the relevant Debt Endorsement; and

iii. there were no Debts of the type described in Part E of Debt Endorsement 1 for the reasons pleaded at paragraph 356 of this Defence;

g. alternatively, says that Customer Endorsement 138 was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

h. says that Customer Endorsement 138 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 138 was valid, it did not have any effectiveness or operation prior to 25 June 2020;

i. alternatively, neither Credit Suisse Nova nor Greensill Bank has suffered any loss or damage by reason of the matters alleged against TMNF, because, by reason of any or all of the non-disclosures or misrepresentations referred to at Annexure AA, paragraph 217 of this Defence (in relation to Bauer's Intelligent Transportation) and paragraph 362.c. of this Defence:

i. pursuant to s 28(3) of the ICA:

A. each of the non-disclosures or misrepresentations referred to at paragraph 217 of this Defence (in relation to the Bauer) and paragraph 362.c of this Defence was a failure to disclose to IAL a matter that a reasonable person in the circumstances could be expected to know was a matter relevant to IAL's decision whether to accept the risk, and if so, on what terms;

B. accordingly, each of those non-disclosures or misrepresentations was a failure by Greensill Bank and/or GCPL to comply with the duty of disclosure;

C. (assuming Customer Endorsement 138 is a valid Customer Endorsement), IAL would not have entered into Customer

Endorsement 138 for the same premium and on the same terms and conditions, or at all, if any of those misrepresentations or failures to comply with the duty of disclosure had not occurred;

D. in particular, BCC would not have entered into Customer Endorsement 138 for the same premium and on the same terms and conditions, or at all, had it known at the time:

a. the true position in relation to the issues identified at paragraph 217 of this Defence; and

b. that the Kerry Payment Obligations proposed to be insured pursuant to the 2019 Policy included an upfront fee of GBP 250,000 payable to GCUK pursuant to the Kerry Commercial Terms Letter;

E. accordingly, any right Credit Suisse Nova or Greensill Bank has to indemnity is reduced to the amount that would place IAL in the position it would have been had the foregoing non-disclosures not been made, that amount being nil; and

ii. further or alternatively, pursuant to cl 9.7 of the 2019 Policy:

A. each of the non-disclosures or misrepresentations referred to at Annexure AA, paragraph 217 of this Defence (in relation to Bauer's Intelligent Transportation) and paragraph 362.c of this Defence was a failure by Greensill Bank and/or GCPL to comply with its duty of fair presentation pursuant to cl 7.1 of the 2019 Policy;

B. those failures together or separately had a 'Material Policy Impact' as defined in Schedule 1 to the 2019 Policy in that they:

a. materially increased the likelihood of the alleged Loss the subject of these proceedings occurring;

b. materially increased the amount of such Loss;

c. materially decreased the likely amount of any recovery in respect of such Loss; or

d. any combination of the above, and

C. as such IAL has no liability to indemnify Credit Suisse Nova or Greensill Bank for the loss claimed in the proceedings; and

j. otherwise denies the paragraph.

365. [NOT USED]

366. [NOT USED]

367. [NOT USED]

E.5 Payment failures

368. In response to paragraph 368 of the ASOC, TMNF:

a. admits that between 23 December 2019 and 2 June 2020 (inclusive), Kerry Leeds issued documents that purported to be Offer Notices and attached purported Offer Files pursuant to the Kerry SPD;

b. admits that on 2 July 2020 and 5 February 2021, Kerry Ireland issued documents that purported to be Offer Notices and attached purported Offer Files pursuant to the Kerry SPD;

c. says that, between 5 August 2020 and 4 January 2021, despite no longer being a party to the Kerry SPD and Kerry PUD (both as amended and restated), Kerry Leeds and not Kerry Ireland issued documents that purported to be Offer Notices and attached purported Offer Files pursuant to the Kerry SPD;

d. says that accordingly the purported Offer Notices and purported Offer Files sent between 5 August 2020 and 4 January 2021 were not effective pursuant to the Kerry SPD;

e. says that pursuant to the Kerry SPD, GCUK could only accept an offer to acquire a Participation if it had received an Offer File together with a corresponding Offer Notice (cl 2.2);

f. says that the Kerry PUD made no provision for the acceptance of Offer Notices;

g. in the premises, denies that on 5 August 2020 and 4 January 2021 Kerry Ireland submitted valid Offer Notices (or Offer Files) that were capable of acceptance by GCUK pursuant to the Kerry SPD or the Kerry PUD;

h. in the alternative, does not know and therefore cannot admit whether GCUK accepted the Offer Notices; and

i. otherwise denies the paragraph.

369. TMNF does not know and therefore cannot admit paragraph 369 of the ASOC.

370. TMNF does not know and therefore cannot admit paragraph 370 of the ASOC.

371. In relation to paragraph 371:

a. TMNF does not know and therefore cannot admit paragraph 371 of the ASOC; and

b. TMNF says further that the debts set out in Table 5.1 of Annexure P to the ASOC were not covered by the 2019 Policy.

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

372. [NOT USED]

373. [NOT USED]

E.6 Claims on the 2019 Policy

374. In response to paragraph 374 of the ASOC, TMNF:

a. denies the existence of the Kerry Ireland Insured Causes; and

b. otherwise admits the paragraph.

375. [NOT USED]

E.7 Breach of 2019 Policy by Insurer

376. TMNF admits paragraph 376 of the ASOC and says further that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 374 of the ASOC.

377. [NOT USED]

378. [NOT USED]

379. [NOT USED]

F. LIBERTY COMMODITIES

F.1 Liberty Commodities and other relevant parties

380. TMNF admits paragraph 380 of the ASOC.

381. As to paragraph 381 of the ASOC, TMNF:

a. admits that Liberty Commodities Limited (**LCL**) is a company that was incorporated and registered in England and Wales with company number 03349135; and

b. otherwise does not know and therefore cannot admit the paragraph.

382. TMNF admits paragraph 382 of the ASOC.

383. TMNF does not know and therefore cannot admit paragraph 383 of the ASOC.

F.2 The Receivables Purchase Deed

384A. In respect of paragraphs 384 to 396 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse Virtuoso does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 384 to 396 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 384 to 396 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

384. In response to paragraph 384 of the ASOC, TMNF:

a. says that the Liberty Commodities RPA (as defined in the ASOC) was entered into between GCUK, LCL, Liberty Commodities Group Pte Ltd (**Liberty Commodities Group**), and from at least the time of the Deed of Amendment and Restatement dated 27 February 2019 onwards, also with Liberty FE Trade DMCC (**Liberty FE**);

b. says that the Liberty Commodities RPA was accompanied by a side letter dated 29 October 2018 executed by GCUK, LCL and Liberty Commodities Group, which set out terms additional to those set out in the Liberty Commodities RPA and which as between the parties prevailed over any conflicting terms of the Liberty Commodities RPA; and

c. otherwise admits the paragraph.

385. In response to paragraph 385 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Liberty Commodities RPA to which it refers;

b. refers to the relevant terms of the Liberty Commodities RPA for their full force and effect; and

c. otherwise admits the paragraph.

386. In response to paragraph 386 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Liberty Commodities RPA to which it refers;

b. refers to the relevant terms of the Liberty Commodities RPA for their full force and effect; and

c. otherwise admits the paragraph.

387. TMNF does not plead to paragraph 387 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Liberty Commodities RPA for its full force and effect.

388. [NOT USED]

389. [NOT USED]

F.3 Group guarantee

390. In response to paragraph 390 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the deed of guarantee between Liberty Commodities Group, Liberty FE and GCUK dated 29 October 2018 (**Liberty Commodities Group Guarantee**) to which it refers;

b. refers to the relevant terms of the Liberty Commodities Group Guarantee for their full force and effect; and

c. otherwise admits the paragraph.

391. In response to paragraph 391 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of Deed of Amendment and Restatement between GCUK, LCL, Liberty Commodities Group and Liberty FE dated 6 December 2019 (**Deed of Amendment and Restatement**);

b. refers to the relevant terms of the Deed of Amendment and Restatement for their full force and effect; and

c. otherwise admits the paragraph.

392. [NOT USED]

F.4 Liberty Commodities Note Programme

393. In response to paragraph 393 of the ASOC, TMNF:

a. admits that Hoffman issued various notes in compartment JY over the period 8 December 2020 to 25 February 2021;

b. denies that any notes of the kind referred to in paragraph 393 of the ASOC were secured by the Liberty Commodities Payment Obligations, as they were never validly assigned to Hoffman for the reasons pleaded at paragraph 394 of this Defence; and

c. otherwise denies the paragraph.

394. In response to paragraph 394 of the ASOC, TMNF:

a. denies that the benefit of the Liberty Commodities Payment Obligations were assigned to Hoffman, validly or at all;

b. refers to and repeats paragraph 251.b of this Defence concerning the relevant provisions of the MAA;

c. says that that agreement was relevantly amended in the case of notes designated by the Product Code "PAO" by the product schedule entitled 'Product Schedule: Accounts Receivable Purchase Model B (Limited Seller Resource; Undisclosed); 2 (Accounts Receivable Purchase Model B)' executed on 21 November 2018, relevantly by replacing the definition of Offer File with the following definition: "**Offer File**" means, in respect of any Payment Obligation that GCUK proposes to assign to a Compartment of the Purchaser hereunder, an electronic file or data feed identifying (i) the Compartment of the Purchaser to which the electronic file or data feed is to be delivered and subsequent Offer made, and (ii) such Payment Obligation, which shall include the following information in respect of such Payment Obligation:

(A) Currency;

(B) Maturity Date;

(C) Relevant Obligor;

(D) Relevant AR Seller;

(E) Intermediary Party (if applicable);

(F) Settlement Date;

(G) Purchase Price;

(H) Identifier;

(I) Invoice Ref;

(J) Product Code; and

(K) Maturity Amount,

in the form set out in Schedule 2 (Form of Offer File) (the "General Offer File") as may be supplemented by an offer file supplement identifying the Compartment of the Purchaser to which the supplement is to be delivered and subsequent Offer

made and which shall include the information required by the Purchaser to determine:

(A) Maturity Amount; and

(B) Expected Amount,

In each case, in respect of such Payment Obligation, in the form set out in Schedule 5A (Form of Offer File Supplement) or as otherwise agreed between the Purchase and GCUK from time to time (the "Offer File Supplement");

d. does not know and therefore cannot admit that cl 2.1 to 2.3 of the MAA were followed, on the basis that:

i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as "Note Offer Reports";

ii. it does not appear that these Note Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer;

iii. it does not appear that the Note Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance;

iv. even if the Note Offer Reports had been so emailed, they do not contain the name of "Relevant Obligor" (being the name of the entity liable for payment of the Payment Obligation) as required by the MAA; and

v. the Note Offer Reports do not contain an "Identifier" for the underlying Payment Obligation (being a unique reference identifying such Payment Obligation and identifiable as such by the Relevant Obligor) as required by the MAA;

e. says that the "Note Offer Reports" relating to the Liberty Commodities Payment Obligations failed to identify the underlying payment obligations to which they related in a manner consistent with the requirements of the MAA, or at all;

f. says further that, as a result, Credit Suisse Virtuoso does not hold an interest in the Liberty Commodities Payment Obligations, and accordingly cannot have suffered a Loss in respect of those obligations within the meaning of the 2019 Policy; and

g. otherwise denies the paragraph.

395. TMNF does not know and therefore cannot admit paragraph 395 of the ASOC.

396. TMNF does not know and therefore cannot admit paragraph 396 of the ASOC.

F.5 The Liberty Commodities Customers under the 2019 Policy

397. In response to paragraph 397 of the ASOC, TMNF:

a. says that Customer Endorsement 19 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 19 was valid, it did not have any effectiveness or operation prior to 13 March 2019;

b. says that Appendix 1 of the Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 19 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. says that, insofar as the instrument entitled "Customer Endorsement 19" purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy (including, without limitation, by purporting to provide for the indefinite resetting of the Aggregate Customer Limit and of the Maximum Limit of Liability); and

d. otherwise denies the paragraph.

398. In response to paragraph 398 of the ASOC, TMNF:

a. says that Customer Endorsement 19(i) is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 19(i) was valid, it did not have any effectiveness or operation prior to 29 January 2020;

b. says that Appendix 1 of the Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsements 19(i) is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. says that, insofar as the instrument entitled "Customer Endorsement 19(i)" purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy (including, without limitation, by purporting to provide for the indefinite resetting of the Aggregate Customer Limit and of the Maximum Limit of Liability); and

d. otherwise denies the paragraph.

399. In response to paragraph 399 of the ASOC, TMNF:

a. says that Customer Endorsement 19(ii) is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 19(ii) was valid, it did not have any effectiveness or operation prior to 29 April 2020;

b. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 19(ii) is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. says that, insofar as the instrument entitled "Customer Endorsement 19(ii)" purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy (including, without limitation, by purporting to provide for the indefinite resetting of the Aggregate Customer Limit and of the Maximum Limit of Liability); and

d. otherwise denies the paragraph.

400. In response to paragraph 400 of the ASOC, TMNF:

a. admits that the documents particularised were purportedly executed by Mr Brereton from time to time on the dates stated in those documents;

b. says that none of the documents referred to at paragraph 400.a were valid Customer Endorsements, as Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, whereas the documents referred to at paragraph 400.a each specified an amount of $1, which is not a percentage premium rate;

c. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that none of the documents referred to at paragraph 400.a are valid Customer Endorsements because they did not express a percentage premium rate (but rather a fixed dollar amount of $1);

d. says that, insofar as any document referred to at paragraph 400.a of this Defence purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

e. denies that any document referred to at paragraph 400.a of this Defence, to the extent it was valid, was capable, consistently with the terms of the 2019 Policy, of operating retrospectively so as to be effective from the date from which it purported to be effective (where earlier than the date of execution); and

f. says further that each of the purported customer endorsements pleaded in paragraph 400 of the ASOC was submitted in draft by Marsh, acting on behalf of GCPL and Greensill Bank (and GCUK to the extent that a corresponding customer endorsement was being proposed for the Master Policy), to Mr Brereton, with a view to that endorsement being accepted and signed by Mr Brereton on behalf of BCC as authorised representative of IAL;

Particulars

The relevant emails and draft endorsements include:

TOK.001.00096093, TOK.001.00107372, TOK.001.00094883, TOK.001.00100171, TOK.001.00103575, TOK.001.00103808,

TOK.001.00072887, TOK.001.00094883, TOK.001.00076472, TOK.001.00096668, TOK.001.00085548

g. says that each such submissions of a proposed customer endorsement constituted a representation by Marsh, made on behalf of the Greensill Group, that each customer referred to in the draft customer endorsement was, or was about to become, a customer of LCL;

h. says that the representations pleaded at paragraph 400.f of this Defence were false at the time that they were made;

i. says further that, generally, each covering email sent by Marsh on behalf of GCPL and Greensill Bank (and GCUK to the extent that a corresponding customer endorsement was being proposed for the Master Policy) attaching a proposed customer endorsement (including but not limited to the customer endorsements pleaded at paragraph 400 of the ASOC) also included a statement to the effect that the Greensill Group had confirmed that the customer in question had "NKORL", meaning "no known or reported losses";

j. says that each such statement was a representation that the Greensill Group had in fact considered or reviewed the customer's trading history with LCL in a way that enabled them to confirm that the trading history did not include any defaults by the relevant customer;

k. says that, in the premises of paragraph 400.g of this Defence, the representations pleaded at paragraph 400.i of this Defence were false at the time that they were made, as the customers had no trading history with LCL at all;

Particulars

TMNF refers to and repeats the particulars to paragraph 400.g of this Defence.

A. each of the representations pleaded at paragraph 400.f and 400.i of this Defence was a misrepresentation by the Greensill Group entitling IAL under s 28(3) of the *Insurance Contracts Act 1984* (Cth) to reduce the amount of the claims the subject of these proceedings to the amount that would place it in a position in which it would have been if the failure had not occurred, which is

that the Customer Endorsements pleaded in paragraph 400 of the ASOC would not have been executed;

B. had IAL or BCC been aware of the true position as pleaded in subparagraphs (g) or (j) above, it would not have agreed to insure the LCL risk;

C. each such misrepresentation was also a breach of clause 7.1 of the 2019 Policy, and one that had a Material Policy Impact within the meaning of the 2019 Policy, with the result that by operation of clause 9.7 of the 2019 Policy, the Insurer is not liable to indemnify the Insured for any Loss arising therefrom; and

D. says that, in the premises, IAL is not liable to indemnify Greensill Bank (or Credit Suisse Virtuoso) for any of the alleged losses claimed in Annexure F to the ASOC; and

Particulars

i. The letter from Allen & Overy dated 7 May 2021 to Taylor Wessing LLP, as particularised at paragraph 67 of the Amended Statement of Claim in *White Oak Commercial Finance Europe (Non-Levered) Limited v Insurance Australia Limited* (NSD 1039/2021), indicates that, as at 7 May 2021, many of the putative Eligible Customers of LCL either had no amounts owing to LCL or that that they had no recent trade with LCL.

ii. If the customers named in the Customer Endorsements particularised at 400 of the ASOC did not have a trading relationship with LCL in 2021, such that the debts said to be owed by those customers were non-existent debts, it is to be inferred such a practice was deployed by LCL throughout the policy period

l. otherwise denies the paragraph.

401. In response to paragraph 401 of the ASOC, TMNF:

a. admits that emails broadly to the effect pleaded were sent between Edward Smith (**Mr Smith**) of Marsh and Mr Brereton of BCC on the dates particularised;

b. says that the email sent by Mr Smith proposed the addition of "3 account debtors on the Liberty facility", namely LS-Nikko Copper Inc., LG International Corp, and Sorin Corporation, to which Mr Brereton agreed;

c. says that, in the event, Mr Smith and Mr Brereton decided to execute customer endorsements in respect of LG International Corp and of Sorin Corporation only;

Particulars

LG International Corp TB-03690 Customer Endorsement No. 135 dated 2 July 2020; Sorin Corporation TB-03690 Customer Endorsement No. 136 dated 2 July 2020.

d. says that LS-Nikko Copper Inc. was never endorsed as a "Customer" to the 2019 Policy;

e. says that, in the premises, LS-Nikko Copper Inc. never became a "Customer" within the meaning of the 2019 Policy; and

f. otherwise denies the paragraph.

F.6 Payment failures

402. In response to paragraph 402 of the ASOC, TMNF:

a. denies that GCUK purchased any genuine accounts receivable from LCL between December 2020 and February 2021, and says that the debts purportedly purchased by GCUK in this period were Non-Existent LCL Receivables that had been fabricated through the creation of fictitious invoices;

b. does not know whether and therefore cannot admit that each purported sale of accounts receivable from LCL to GCUK between December 2020 and February 2021 was effected in a manner consistent with the requirements of the Liberty Commodities RPA in any event, including because, as to the majority of occasions when LCL submitted a Form of Request to LCL to GCUK, there is no evidence that GCUK ever accepted the offer by executing a Buyer Acceptance form (as it in fact did on a minority of occasions); and

c. otherwise denies the paragraph.

403. In response to paragraph 403 of the ASOC, TMNF:

a. refers to and repeats paragraphs 388, 389, 392, 394, 397, 398, 399, 400, 401 and 402 of this Defence; and

b. says further that the debts set out in Table 6.1 of Annexure P to the ASOC were not covered by the 2019 Policy; and

Particulars

Letter dated 30 June 2026 from Gilbert +Tobin to Kennedys.

c. otherwise does not know and therefore cannot admit the paragraph.

404. [NOT USED]

405. In response to paragraph 405 of the ASOC, TMNF:

a. refers to and repeats paragraphs 117, 118, 121, 122, 123, 128, 138, 144, 147, 388, 389, 392, 393, 394, 397, 398, 399, 400, 401, 402 and 404, of this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

406. [NOT USED]

F.7 Claims on the 2019 Policy

407. TMNF admits paragraph 407 of the ASOC.

408. [NOT USED]

F.8 Breach of 2019 Policy by Insurer

409. TMNF admits paragraph 409 of the ASOC and says further that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 407 of the ASOC.

410. [NOT USED]

411. [NOT USED]

412. [NOT USED]

G. LIBERTY FRANCE

G.1 Liberty France and other relevant parties

413. TMNF admits paragraph 413 of the ASOC.

414. TMNF admits paragraph 414 of the ASOC.

415. In response to paragraph 415 of the ASOC, TMNF:

a. admits that Liberty France, Liberty House and related entities were part of a related group of companies;

b. says that this group of companies was known as the "Gupta Family Group Alliance" or "GFG Alliance" (as pleaded at paragraph 489 of the ASOC); and

c. otherwise does not know and therefore cannot admit paragraph 415 of the ASOC.

416. In response to paragraph 416 of the ASOC, TMNF:

a. admits that Westford was at all material times a company incorporated under the laws of Hong Kong;

b. says that Westford was an entity that had a close business relationship with the "GFG Alliance" and/or Sanjeev Gupta; and

c. otherwise says that it does not know and therefore cannot admit the paragraph.

Particulars

The relationship between Westford and the "GFG Alliance" is demonstrated by the following facts:

A. the personal guarantee provided by Sanjeev Gupta and dated 17 April 2020, which guaranteed debts incurred by Westford;

B. the arrangements between GCUK, Westford and Liberty House pleaded in paragraph 733A of this Defence, which arrangements involved Westford drawing down on its facility with GCUK to notionally make a US$40,000,000 loan to Liberty House which money was then held by GCUK as collateral for debts owed by the "GFG Alliance" to GCUK.

Further particulars may be provided following discovery.

417. In response to paragraph 417 of the ASOC, TMNF:

a. says that Westford changed its name from Westford Trade Services Limited to Westford Limited at a time presently unknown to TMNF between 24 May 2019 and 24 September 2019; and

b. otherwise admits the paragraph.

G.2 The Westford Supplier Agreement and Liberty France Customer Agreement

417A. In respect of paragraphs 418 to 436 and 468 to 473 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 418 to 436 and 468 to 473 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 418 to 436 and 468 to 473 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

418. TMNF admits paragraph 418 of the ASOC.

419. In response to paragraph 419 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Liberty France Customer Agreement to which it refers;

b. refers to the relevant terms of the Liberty France Customer Agreement for their full force and effect;

c. says that the Liberty France Customer Agreement provided that:

i. Liberty France and its Affiliates may enter into commercial trade transactions with 'Suppliers' for the sale of goods and/or the supply of services (Introduction, para A);

ii. a 'Supplier' means any person with whom a 'Supplier Agreement' is in force (cl 1.1);

iii. a 'Supplier Agreement' means an agreement between an FI Group Member and a 'Supplier' that regulates 'Transfers' to an FI Group Member (cl 1.1);

iv. a 'Transfer' means the sale, assignment or transfer of an 'Account Receivable' (cl 1.1);

v. an 'Account Receivable' means the right to receive payments of money due and payable as a result of an 'Underlying Relationship' (cl 1.1);

vi. an 'Underlying Relationship' means a business relationship between Liberty France and a Supplier (cl 1.1); and

vii. Liberty France shall only submit PAUFs in respect of genuine and lawful trade transactions arising in the ordinary course of business for the sale, supply and purchase of goods and/or services (cl 3.1); and

d. otherwise admits the paragraph.

420. In response to paragraph 420 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the Introduction to the Liberty France Customer Agreement;

b. refers to the relevant terms of the Introduction to the Liberty France Customer Agreement for their full force and effect; and

c. otherwise admits the paragraph.

421. TMNF does not plead to paragraph 421 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Liberty France Customer Agreement for its full force and effect.

422. In response to paragraph 422 of the ASOC, TMNF:

a. does not admit the authenticity of the document referred to in the particulars to paragraph 422 of the ASOC; and

b. in the premises, does not know and therefore cannot admit the paragraph.

423. In response to paragraph 423 of the ASOC, TMNF:

a. refers to and repeats paragraph 422 of this Defence;

b. says that the paragraph is a paraphrase of the clauses of the Westford Supplier Agreement to which it refers;

c. says that the Westford Supplier Agreement purported to provide for the transfer of Westford's rights or purported rights to receive from a Customer present and future payments of money due and payable, whether due now or payable in the future (including any entitlement to late payment interest) as a result of the business relationship, or purported business relationship between a Customer and Westford;

d. refers to the relevant terms of the Westford Supplier Agreement for their full force and effect (if any);

e. says further that:

i. Liberty France was a non-operational holding company;

ii. Westford purported to carry on a business as a "commodities trading house" that "provided trade finance lending";

iii. it denies that there was a business relationship between Westford and Liberty France pursuant to which Liberty France entered into commercial trade transactions with Westford; and

iv. it denies that Liberty France entered into any genuine and lawful trade transactions with Westford arising in the ordinary course of business for the sale, supply and purchase of goods and/or services; and

f. otherwise admits the paragraph.

424. TMNF does not plead to paragraph 424 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Westford Supplier Agreement for its full force and effect (if any).

425. In response to paragraph 425 of the ASOC, TMNF:

    a. refers to and repeats paragraphs 422 and 423 of this Defence; and

    b. otherwise denies the paragraph.

426. In response to paragraph 426 of the ASOC, TMNF:

    a. refers to and repeats paragraph 422 and 423 of this Defence; and

    b. otherwise denies the paragraph.

427. In response to paragraph 427 of the ASOC, TMNF:

    a. refers to and repeats paragraphs 422 and 423 of this Defence;

    b. says that:

        i. a ‘Customer’ under the Westford Supplier Agreement means the entity(ies) identified in a Customer Agreement who submit PAUFs under a Customer Agreement (cl 1.1); and

        ii. it does not know and therefore cannot admit that Liberty France submitted any PAUF meeting the criteria in the Liberty France Customer Agreement, or at all, so as to be a ‘Customer’ within the meaning of the Westford Supplier Agreement;

    c. says that:

        i. ‘Account Receivable” under the Westford Supplier Agreement means, relevantly, the right to receive from a ‘Customer’ payments of money due and payable as a result of the ‘Underlying Relationship’, meaning a business relationship between a ‘Customer’ and ‘Supplier’ (cl 1.1); and

        ii. it denies that there was any business relationship between Westford and Liberty France; and

d. otherwise denies the paragraph.

428. [NOT USED]

429. [NOT USED]

430. [NOT USED]

431. [NOT USED]

432. [NOT USED]

G.3 Liberty France Note Program

433. In response to paragraph 433 of the ASOC, TMNF:

a. admits that Hoffman issued notes in compartment KR on the dates alleged;

b. says that the capitalised term "Liberty House Guarantee" is not defined in the ASOC, it is unclear what is intended to be conveyed by its use in this paragraph, and the pleading is embarrassing;

c. denies that any notes of the kind referred to in paragraph 433 of the ASOC were secured by any payment obligations of Liberty France under the Liberty France Customer Agreement, as they were never validly assigned to Hoffman for the reasons pleaded at paragraph 434 of this Defence; and

d. otherwise denies the paragraph.

434. In response to paragraph 434 of the ASOC, TMNF:

a. refers to and repeats paragraph 433.b of this Defence;

b. denies that the benefit of any payment obligations of Liberty France were assigned to Hoffman, validly or at all;

c. says that the assignment of "payment obligations" by GCUK to Hoffman was governed by the MAA, as amended by the Product Schedule for "Customer IPU Origination; Purchase Model" dated 21 December 2017 (**Purchase Model Product Schedule**), which applied to any payment obligations of Liberty France by virtue of the designation of the product code "PAA" in the Liberty France Offer Reports;

d. says that the Purchase Model Schedule provided that legal title to the "payment obligations" would remain with GCUK until the occurrence of specified events, including (adopting the definitions used in the Purchase Model Product Schedule) after a Notification Event had occurred and notice of the assignment or acquisition of the "payment obligations" had been delivered to a Relevant Obligor;

e. denies that cl 2.1 to 2.3 of the MAA were followed, on the basis that:

i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as "Note Offer Reports";

ii. it does not know and therefore cannot admit that these Note Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer; and

iii. it does not know and therefore cannot admit that the Note Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance;

f. says that the "Note Offer Reports" relating to any payment obligations of Liberty France failed to identify the underlying payment obligations to which they related in a manner consistent with the requirements of the MAA, or at all;

g. says that TMNF does not know, and therefore cannot admit, that the requirements pleaded at paragraph 434.d of this Defence were satisfied;

h. says further that, as a result, Credit Suisse Virtuoso does not hold an interest in any payment obligations of Liberty France, and accordingly cannot have suffered a Loss in respect of those obligations within the meaning of the 2019 Policy; and

i. otherwise denies the paragraph.

435. TMNF does not know and therefore cannot admit paragraph 435 of the ASOC.

436. TMNF does not know and therefore cannot admit paragraph 436 of the ASOC.

G.4 Liberty France as a Customer under the 2019 Policy

437. In response to paragraph 437 of the ASOC, TMNF:

a. admits that on 13 March 2019, Mr Brereton signed a document which was styled as a "Customer Endorsement" bearing the number 35 and which purported to endorse Liberty France as a Customer to the 2019 Policy effective from 1 March 2019 (**Customer Endorsement 35**);

b. says that Appendix 1 of the Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 35 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. further or alternatively, says that says that Customer Endorsement 35 was not a valid "Customer Endorsement" under the 2019 Policy because:

i. "Customer" was defined to mean any "Customer" endorsed to the 2019 Policy under a Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor;

ii. "Debt" was defined to mean, as the context requires, a debt of the type described in the relevant Debt Endorsement; and

iii. Liberty France's obligations under the Liberty France Customer Agreement were not Debts of the type described in Part A of Debt Endorsement 1, or any other relevant part of any Debt Endorsement, for the reasons pleaded at paragraphs 423, 427, 428 and 432 of this Defence;

d. further or alternatively, says that Endorsement 35 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively and says that if (which is denied) Customer Endorsement 35 was valid, it did not have any effectiveness or operation prior to 13 March 2019;

e. further or alternatively, says that, if (which is denied) Customer Endorsement 35 was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

f. says further that if it is found that:

i. Mr Brereton;

ii. BCC; and/or

iii. IAL;

entered into Customer Endorsement 35, and IAL or BCC thereby assumed any risk or liability under the 2019 Policy or Customer Endorsement 35, Mr Brereton, BCC and/or IAL (through its agents Mr Brereton and BCC) entered into that endorsement and/or assumed that risk or liability by reason of the misrepresentation and non-disclosures by the Greensill Group pleaded at paragraphs 78A.7 to 78A.33 of Annexure A to this Defence (the **Liberty France Non-Disclosures**) with the consequences pleaded in paragraph 197.a to c of this Defence; and

g. otherwise denies the paragraph.

G.5 Payment failures

438. In response to paragraph 438 of the ASOC, TMNF:

a. says that the PAUFs submitted to GCUK under the Customer Agreement identified future dated invoices that had not been issued at the time the PAUF was provided to GCUK;

b. does not know and therefore cannot admit that the invoices referred to in the PAUFs existed or were genuine invoices or that Westford had any right or purported right to payment from Liberty France in respect of those invoices;

c. does not know and therefore cannot admit that any of the invoices identified in the PAUFs related to the provision of goods and/or services from Westford to Liberty France or arose from any business relationship or purported business relationship between Westford and Liberty France; and

d. otherwise denies the paragraph.

439. In response to paragraph 439 of the ASOC, TMNF:

a. refers to and repeats 438 of this Defence;

b. says further that the debts set out in Table 7.1 of Annexure P to the ASOC were not covered by the 2019 Policy; and

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

c. otherwise does not know and therefore cannot admit the paragraph.

440. [NOT USED]

441. [NOT USED]

G.6 Claims on the 2019 Policy

442. In response to paragraph 442 of the ASOC, TMNF:

a. admits that Greensill Bank submitted a claim to BCC with respect to non-payments which purportedly constituted Insured Causes under the 2019 Policy; and

b. otherwise denies the paragraph.

443. [NOT USED]

G.7 Insurer has failed to pay

444. TMNF admits paragraph 444 of the ASOC and says further that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 442 of the ASOC.

445. [NOT USED]

446. [NOT USED]

447. [NOT USED]

H. LIBERTY HOUSE

H.1 Liberty House and other relevant parties

448. In response to paragraph 448 of the ASOC, TMNF:

a. admits that Liberty House was at all material times a company incorporated under the laws of Singapore;

b. admits that Liberty House is the parent or holding company of the group of companies known as the "GFG Alliance" associated with Mr Sanjeev Gupta; and

c. otherwise does not know and therefore cannot admit the paragraph.

449. In response to paragraph 449 of the ASOC, TMNF:

a. admits that Bramid was at all material times a company incorporated under the law of Bermuda; and

b. otherwise does not know and therefore cannot admit the paragraph.

H.2 The Origination Documentation

449A. In respect of paragraphs 450 to 473 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 450 to 473 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 450 to 473 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

450. TMNF admits paragraph 450 of the ASOC.

451. In response to paragraph 451 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of paragraph B of the Introduction to the Liberty House Customer Agreement;

b. refers to the relevant terms of the Introduction to the Liberty House Customer Agreement for their full force and effect;

c. says that paragraph A of the Introduction to the Liberty House Customer Agreement noted that from time to time Liberty House may enter into commercial trade transactions with Suppliers (as defined) for the sale of goods and/or the supply of services to Liberty House; and

d. otherwise admits the paragraph.

452. In response to paragraph 452 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Liberty House Customer Agreement to which it refers;

b. refers to the relevant terms of the Liberty House Customer Agreement for their full force and effect; and

c. says that the Liberty House Customer Agreement provided that:

i. Liberty House and its Affiliates may enter into commercial trade transactions with 'Suppliers' for the sale of goods and/or the supply of services (Introduction, para A);

ii. a 'Supplier' means any person with whom a 'Supplier Agreement' is in force (cl 1.1);

iii. a 'Supplier Agreement' means an agreement between an FI Group Member and a 'Supplier' that regulates 'Transfers' to an FI Group Member (cl 1.1);

iv. a 'Transfer' means the sale, assignment or transfer of an 'Account Receivable' (cl 1.1);

v. an 'Account Receivable' means the right to receive payments of money due and payable as a result of an 'Underlying Relationship' (cl 1.1);

vi. an ‘Underlying Relationship’ means a business relationship between Liberty House and a Supplier (cl 1.1);

vii. Liberty House shall only submit PAUFs in respect of genuine and lawful trade transactions arising in the ordinary course of business for the sale, supply and purchase of goods and/or services (cl 3.1);

viii. says further that cl 3.3 provided that Liberty House shall provide GCUK with management accounts, half yearly management accounts and audited annual accounts within the time periods specified therein; and

ix. otherwise admits the paragraph.

453. TMNF does not plead to paragraph 453 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Liberty House Customer Agreement for its full force and effect.

454. TMNF admits paragraph 454 of the ASOC.

455. In response to paragraph 455 of the ASOC, TMNF:

a. denies that the Liberty House RSA provided for Bramid to “finance settlement of invoices submitted by Liberty House to Bramid”;

b. says that the Liberty House RSA was expressed to provide for Bramid to provide a settlement and re-invoicing service to Liberty House on the terms of the Liberty House RSA;

c. says that the paragraph is otherwise a paraphrase of the clauses of the Liberty House RSA to which it refers;

d. refers to the relevant terms of the Liberty House RSA for their full force and effect;

e. says that the Liberty House RSA provided that:

i. Liberty House could submit to Bramid a request for settlement of a ‘Supplier Invoice’ (cl 2.1(a));

ii. a ‘Supplier Invoice’ means an invoice raised by a Supplier in respect of an ‘Account Receivable’ (cl 1.1);

iii. an ‘Account Receivable’ means a right to receive payments of money due and payable as a result of a ‘Supply Agreement’ (cl 1.1);

iv. a ‘Supply Agreement’ means an agreement between Liberty House and a Supplier for the sale, supply and purchase of goods and/or services pursuant to which an Account Receivable arises (cl 1.1); and

v. Liberty House shall only submit Suppler Invoices in respect of genuine and lawful trade transactions arising in the ordinary course of business for the sale, supply and purchase of goods and/or services between Liberty House and the Supplier (cl 3.1); and

f. otherwise admits the paragraph.

456. TMNF does not plead to paragraph 456 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Liberty House RSA for its full force and effect.

457. TMNF admits paragraph 457 of the ASOC.

458. TMNF admits paragraph 458 of the ASOC.

459. In response to paragraph 459 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Master Supplier Agreement to which it refers;

b. refers to the relevant terms of the Master Supplier Agreement for their full force and effect;

c. refers to and repeats paragraph 272 of this Defence;

d. denies that any transactions concluded between Bramid and Liberty House constituted “commercial trade transactions with Bramid for the sale of goods and/or the supply of services” (Paragraph A), so as to fall within the scope of the Master Supplier Agreement; and

e. otherwise admits the paragraph.

460. TMNF does not plead to paragraph 460 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Master Supplier Agreement for its full force and effect.

461. In response to paragraph 461 of the ASOC, TMNF:

a. refers to and repeats paragraph 452 of this Defence;

b. denies that there was a business relationship between Bramid and Liberty House pursuant to which Liberty House entered into commercial trade transactions with Bramid;

c. denies that Liberty House entered into any genuine and lawful trade transactions with Bramid arising in the ordinary course of business for the sale, supply and purchase of goods and/or services; and

d. in the premises, denies the paragraph.

462. In response to paragraph 462 of the ASOC, TMNF:

a. refers to and repeats paragraph 461 of this Defence; and

b. otherwise denies the paragraph.

463. In response to paragraph 463 of the ASOC, TMNF:

a. admits subparagraph 463.a;

b. says that a ‘Customer’ under the Master Supplier Agreement means the entity(ies) identified in a Customer Agreement who submit PAUFs under a Customer Agreement (cl 1.1); and

c. does not know and therefore cannot admit that Liberty House submitted any PAUF meeting the criteria in the Liberty House Customer Agreement, or at all, so as to be a ‘Customer’ within the meaning of the Master Supplier Agreement;

d. says that ‘Account Receivable” under the Master Supplier Agreement means, relevantly, the right to receive from a ‘Customer’ payments of money due and payable as a result of the ‘Underlying Relationship’, meaning a business relationship between a ‘Customer’ and ‘Supplier’ (cl 1.1);

e. refers to and repeats paragraph 461 of this Defence and denies that there was any business relationship between Bramid and Liberty House; and

f. otherwise denies the paragraph.

464. [NOT USED]

465. [NOT USED]

466. [NOT USED]

467. [NOT USED]

H.3 Liberty House Note Programme

468. In response to paragraph 468 of the ASOC, TMNF:

a. says that it has been provided with a document titled "Supply Chain Finance Trust Deed" that purports to be a deed between GCUK, Lagoon Park and Citibank (the **Liberty House Trust Deed**);

b. says that the Liberty House Trust Deed:

i. is dated 25 September 2017;

ii. was signed by Citibank on 13 December 2016; and

iii. was signed by GCUK and Lagoon Park on an unspecified date; and

c. otherwise does not know and therefore cannot admit the paragraph.

469. In response to paragraph 469 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Liberty House Trust Deed;

b. refers to the relevant terms of the Liberty House Trust Deed for their full force and effect;

c. says that "Eligible Accounts Receivable" meant the benefit of an unconditional undertaking given by Liberty House under the Liberty House Customer Agreement to or for the benefit of GCUK "as Supplier's Transferee";

d. says that “Supplier” meant a party who has entered into an agreement for the Transfer of receivables in respect of which the Obligor has undertaken in the Customer Agreement to pay an amount equal to the amount of such receivable;

e. refers to and repeats paragraphs 452 and 461 of this Defence and denies that Bramid was a Supplier within the meaning of the Liberty House Customer Agreement, and therefore denies that any undertakings given by Liberty House under the Liberty House Customer Agreement to GCUK as Bramid’s transferee were “Eligible Accounts Receivable” within the meaning of the Liberty House Trust Deed; and

f. otherwise does not know and therefore cannot admit the paragraph.

469B. TMNF admits paragraph 469B of the ASOC.

469C. TMNF does not know and therefore cannot admit paragraph 469C of the ASOC.

470. In response to paragraph 470 of the ASOC, TMNF:

a. refers to and repeats paragraph 105 of this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

471. In response to paragraph 471 of the ASOC, TMNF:

a. refers to and repeats paragraph 104 of this Defence;

b. admits that Lagoon Park issued notes in compartment GG on the dates alleged; and

c. otherwise denies the paragraph.

472. TMNF does not know and therefore cannot admit paragraph 472 of the ASOC.

473. TMNF does not know and therefore cannot admit paragraph 473 of the ASOC.

H.4 Liberty House as a Customer under the 2019 Policy

474. In response to paragraph 474 of the ASOC, TMNF:

a. admits that on 16 March 2020, Mr Brereton signed a document which was styled as a “Customer Endorsement” bearing the number 122 and which purported to endorse

Liberty House as a Customer to the 2019 Policy effective from 11 March 2020 (**Customer Endorsement 22**);

b. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 122 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. further or alternatively, says that says that Customer Endorsement 122 was not a valid "Customer Endorsement" under the 2019 Policy because:

i. "Customer" was defined to mean any "Customer" endorsed to the 2019 Policy under a Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor;

ii. "Debt" was defined to mean, as the context requires, a debt of the type described in the relevant Debt Endorsement; and

iii. Liberty House's obligations under the Liberty House RSA and/or the Liberty House Customer Agreement were not Debts of the type described in Part A or B of Debt Endorsement 1, or any other relevant part of any Debt Endorsement, for the reasons pleaded at paragraph 467 of this Defence; and

d. further or alternatively, says that Endorsement 122 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively says that if (which is denied) Customer Endorsement 122 was valid, it did not have any effectiveness or operation prior to 16 March 2020;

e. further or alternatively, says that, if (which is denied) Customer Endorsement 122 was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

f. otherwise denies the paragraph.

H.5 Payment failures

475. In response to paragraph 475 of the ASOC, TMNF:

a. says that the paragraph does not sufficiently identify the material facts upon which Credit Suisse relies to establish that Bramid sold each account receivable to GCUK pursuant to the Master Supplier Agreement, including the identification of each particular alleged account receivable, the date on which Bramid submitted an offer to GCUK purchase that account receivable in accordance with the Master Supplier Agreement (i.e. by way of Irrevocable Election as defined therein), and the date on which GCUK accepted that offer in accordance with the Master Supplier Agreement, and says that the paragraph is accordingly embarrassing and liable to be set aside;

b. otherwise does not know and therefore cannot admit whether Bramid sold any accounts receivable to GCUK pursuant to the Master Supplier Agreement;

c. says that:

i. Liberty House is the parent or holding company of the group of companies known as the "GFG Alliance" associated with Mr Sanjeev Gupta;

ii. Liberty House does not appear to have had any trading activities;

iii. Liberty House did not have any business relationship or purported business relationship with Bramid;

iv. Liberty House did not enter into commercial trade transactions with Bramid for the sale of goods and/or the supply of services to Liberty House; and

v. the invoices related to the debts in Table 8.1 of Annexure P to the ASOC were not in any event issued by Bramid, such that no payment obligations could be created under the Liberty House Customer Agreement in respect of such invoices;

d. in the premises, there was no Underlying Relationship with a Supplier as required under the Liberty House Customer Agreement so as to give rise to a payment obligation owed by Liberty House to GCUK, and no such payment obligation arose; and

e. otherwise denies the paragraph.

476. In response to paragraph 476 of the ASOC, TMNF:

a. refers to and repeats paragraph 475 of this Defence;

b. says that the debts set out in Table 8.1 of Annexure P to the ASOC were not covered by the 2019 Policy; and

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

c. otherwise does not know and therefore cannot admit the paragraph.

477. [NOT USED]

478. [NOT USED]

H.6 Claims on the 2019 Policy

479. In response to paragraph 479 of the ASOC, TMNF:

a. admits that Greensill Bank submitted a claim to BCC with respect to non-payments which purportedly constituted Insured Causes under the 2019 Policy; and

b. otherwise denies the paragraph.

480. [NOT USED]

H.7 Breach of the 2019 Policy by Insurer

481. TMNF admits paragraph 481 of the ASOC and says further that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 479 of the ASOC.

482. [NOT USED]

483. [NOT USED]

484. [NOT USED]

I. LIBERTY TCUK

I.1 Liberty TCUK and other relevant parties

485. TMNF admits paragraph 485 of the ASOC.

486. TMNF admits paragraph 486 of the ASOC.

487. TMNF admits paragraph 487 of the ASOC.

488. TMNF admits paragraph 488 of the ASOC.

489. In response to paragraph 489 of the ASOC, TMNF:

a. admits the paragraph; and

b. says that the group was also known as the GFG Alliance.

I.2 The Receivables Purchase Deeds

490A. In respect of paragraphs 490 to 506 and 519 to 522 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 490 to 506 and 519 to 522 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 490 to 506 and 519 to 522 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

490. In response to paragraph 490 of the ASOC, TMNF:

a. admits that the Amended Underlying Seller RPA (as defined in the ASOC) was entered into between Liberty TCUK (as Buyer) and SSUK (as both Seller and Seller Representative);

b. says that the Amended Underlying Seller RPA was entered into on an unknown date, as the date field of the executed deed was left blank; and

c. otherwise does not know and therefore cannot admit the paragraph.

491. In response to paragraph 491 of the ASOC, TMNF:

a. admits that the Amended Underlying Seller RPA was amended and restated on the three occasions pleaded; and

b. otherwise admits the paragraph.

492. TMNF admits paragraph 492 of the ASOC.

493. TMNF admits paragraph 493 of the ASOC.

494. TMNF admits paragraph 494 of the ASOC.

495. In response to paragraph 495 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Amended Underlying Seller RPA to which it refers;

b. says that paragraph 495(c) of the ASOC refers to two distinct steps in the contractual procedure for the sale of Eligible Receivables, being the steps provided for by each of cl 2.1(d) and cl 2.1(e) of the Amended Underlying Seller RPA respectively;

c. refers to the relevant terms of the Amended Underlying Seller RPA for their full force and effect; and

d. otherwise admits the paragraph.

496. TMNF does not plead to paragraph 496 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Amended Underlying Seller RPA for its full force and effect.

497. TMNF admits paragraph 497 of the ASOC.

498. In response to paragraph 498 of the ASOC, TMNF:

a. admits that the Ultimate Buyer RPA was amended and restated on the three occasions pleaded; and

b. otherwise admits the paragraph.

499. TMNF admits paragraph 499 of the ASOC.

500. TMNF admits paragraph 500 of the ASOC.

501. TMNF admits paragraph 501 of the ASOC.

502. In response to paragraph 502 of the ASOC, TMNF:

a. admits that the Amended Ultimate Buyer RPA answered the description of the document referred to in Recital B of the Amended Underlying Seller RPA; and

b. otherwise does not know and therefore cannot admit the paragraph.

503. In response to paragraph 503 of the ASOC, TMNF:

a. admits that Recital C of the Amended Underlying Seller RPA provided that "[t]he parties hereto wish to enter into this Agreement to document the terms on which each Seller will sell Receivables to the Buyer for on-sale to the Ultimate Buyer under the Ultimate Buyer RPA"; and

b. otherwise does not know and therefore cannot admit the paragraph.

504. In response to paragraph 504 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Amended Ultimate Buyer RPA to which it refers;

b. says that paragraph 504(c) of the ASOC refers to two distinct steps in the contractual procedure for the sale of Eligible Receivables, being the steps provided for by each of cl 2.1(d) and cl 2.1(e) of the Amended Ultimate Buyer RPA respectively;

c. says that clause 14 of the Amended Ultimate Buyer RPA provided that time is of the essence with regard to all obligations under the Amended Ultimate Buyer RPA;

d. refers to the relevant terms of the Amended Ultimate Buyer RPA for their full force and effect; and

e. otherwise admits the paragraph.

505. In response to paragraph 505 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Amended Ultimate Buyer RPA to which it refers;

b. refers to the relevant terms of the Amended Ultimate Buyer RPA for their full force and effect; and

c. otherwise admits the paragraph.

506. TMNF does not plead to paragraph 506 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Amended Ultimate Buyer RPA for its full force and effect.

I.3 Correspondence between GCUK and the Insurer

507. In response to paragraph 507 of the ASOC, TMNF:

a. refers to and repeats paragraphs 148 to 152 of this Defence;

b. admits that an email was sent by John Whelan of GCUK on behalf of the Greensill Group to Mr Brereton of BCC on 14 April 2020 containing attachments generally answering the description pleaded;

c. says that the paragraph is a paraphrase of the email to which it refers;

d. refers to the relevant terms of the email for its full force and effect; and

e. otherwise does now know and therefore cannot admit the paragraph.

508. In response to paragraph 508 of the ASOC, TMNF:

a. refers to and repeats paragraph 148 to 152 of this Defence;

b. admits that the instruments pleaded were purportedly executed by Mr Brereton on 16 April 2020 and were provided to Marsh; and

c. otherwise does not know and therefore cannot admit the paragraph.

509A. In further answer to paragraphs 507 and 508 of the ASOC, and consequently to the entirety of the claim the subject of Annexure I of the ASOC, TMNF says as follows:

a. when the concept of a future accounts receivable facility was presented by the Greensill Group to Mr Brereton, the Greensill Group represented to Mr Brereton that under such a facility GCUK would purchase future accounts receivable from a Seller where:

i. there was an existing commercial relationship between the Seller and the Account Debtors;

ii. GCUK would lend against inventory to be sold to pre-determined Account Debtors under existing sales contracts, with the borrowing base of available inventory to be tested monthly;

iii. the borrowing base of existing inventory able to be sold to Account Debtors under existing sales contracts would be valued by an independent third-party valuer by way of a desktop audit report within 30 days of the end of each month and an on-site audit report within 75 days of the end of each half-year;

iv. GCUK would enter into a receivables purchase agreement with the Seller under which the accounts receivable to be created under the existing sales contracts with the Account Debtors by the sale of existing inventory to the Account Debtors would be assigned to GCUK; and

v. when the Seller requests a loan from GCUK it will provide a utilisation request indicating details of the Account Debtors to whom the existing inventory will be sold and in what amounts;

(together, **the Future AR Facility Representations**);

Particulars

i. PowerPoint presentation presented by the Greensill Group to Mr Brereton in or about February 2019 entitled “Future Receivables Financing for Liberty OneSteel (Primary) UK Ltd” [TOK.502.00000052].

ii. Further particulars to be provided after discovery and evidence.

b. when the Greensill Group presented the updated Liberty TCUK risk to Mr Brereton in April 2020, it did not inform Mr Brereton that the future accounts receivable facility between GCUK and Liberty TCUK operated, or was intended to operate, in any manner different from that represented by the Future AR Facility Representations;

Particulars

Email from John Whelan of GCUK on behalf of the Greensill Group to Mr Brereton dated 15 April 2020 at 7.51am [TOK.018.00051063].

c. by reason of the matters pleaded in subparagraphs a. and b. above, the Greensill Group represented that, to the extent GCUK may lend funds to Liberty TCUK against future accounts receivable, the facility would be operated in the manner represented by the Future AR Facility Representations (**Liberty TCUK Future AR Facility Representations**);

d. the Liberty TCUK Future AR Facility Representations were continuing representations;

e. the Liberty TCUK Future AR Facility Representations were misrepresentations at the time they were made and during the life of the Liberty TCUK facility, as GCUK did not intend to operate, and did not operate, the TCUK facility in the manner pleaded in subparagraph a. above;

Particulars

i. GCUK did not intend to, and did not, require that Account Debtors under the Liberty TCUK facility be parties to existing sales contracts with an Underlying Seller.

ii. GCUK did not intend to, and did not, require that the amounts of future accounts receivable financed under the Liberty TCUK facility be supported at the time of drawdown by existing inventory valued on a monthly basis by a third party independent valuer.

iii. No Valuation Reports in respect of any of the alleged debts in Table 9.1 of Annexure P to the ASOC have been provided to the Insurer despite requests.

iv. It may be inferred from the fact that none of the alleged debts in Table 9.1 of Annexure P to the ASOC became the subject of an actual account receivable owing by an Account Debtor that GCUK did not intend to operate, and did not operate, the TCUK facility in the manner pleaded in subparagraph a. above.

f. in the premises then Credit Suisse has not suffered any loss or damage by reason of the matters alleged against BCC, because, by reason of the foregoing misrepresentations:

i. pursuant to s 28(3) of the ICA:

A. the Liberty TCUK Future AR Facility Representations were misrepresentations made to BCC (and, therefore, to IAL) before the 16 April 2020 Customer Endorsement 54(i) (as pleaded in paragraph 511 of this Defence) was entered into;

B. BCC (and, therefore, IAL) would not have entered into the 16 April 2020 Customer Endorsement 54(i) for the same premium and on the same terms and conditions, or at all, if the true position had been disclosed;

C. accordingly, any right Greensill Bank has to indemnity is reduced to the amount that would place IAL in the position it would have been had the Liberty TCUK Future AR Facility Representations not been made, that amount being nil;

ii. had BCC been aware of the true position as pleaded in subparagraph e. above, it would not have agreed on behalf of IAL to insure any future accounts receivable risk presented by the Greensill Group, and in particular, it would not have agreed to execute the 16 April 2020 Customer Endorsement 54(i); and

iii. further or alternatively, pursuant to cl 9.7 of the 2019 Policy:

A. the Liberty TCUK Future AR Facility Representations constituted a failure by Greensill Bank and/or GCPL to comply with its duty of fair presentation pursuant to cl 7.1 of the 2019 Policy; and

B. that failure had a 'Material Policy Impact' as defined in Schedule 1 to the 2019 Policy in that it:

a. materially increased the likelihood of the alleged Loss the subject of Annexure I of the ASOC occurring;

b. materially increased the amount of such Loss;

c. materially decreased the likely amount of any recovery in respect of such Loss; or

d. any combination of the above, and

C. as such IAL has no liability to indemnify Greensill Bank for the loss claimed in Annexure I of the ASOC.

I.4 Liberty TCUK Customers under the 2019 Policy

509. In response to paragraph 509 of the ASOC, TMNF:

a. admits that the instrument pleaded (**Customer Endorsement 54**) was purportedly executed by Mr Brereton on 4 April 2019;

b. says that Endorsement 54 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively;

c. in the premises, denies that Customer Endorsement 54 had any effectiveness or operation prior to 4 April 2019;

d. says that, insofar as the instrument purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

e. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 54 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1); and

f. otherwise admits the paragraph.

510. In response to paragraph 510 of the ASOC, TMNF:

a. admits that the instrument pleaded (**the 2 May 2019 Customer Endorsement 54(i)**) was purportedly executed by Mr Brereton on 2 May 2019;

b. says that Endorsement 54(i) is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively;

c. in the premises, denies that the 2 May 2019 Customer Endorsement 54(i) had any effectiveness or operation prior to 2 May 2019;

d. says that, insofar as the instrument purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

e. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 54(i) is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1); and

f. otherwise admits the paragraph.

511. In response to paragraph 511 of the ASOC, TMNF:

a. admits that the instrument pleaded (**the 16 April 2020 Customer Endorsement 54(i)**) was purportedly executed by Mr Brereton on 16 April 2020;

b. says that, insofar as the instrument purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

c. says that Appendix 1 of the Policy required a Customer Endorsement to express a percentage premium rate, and that the 16 April 2020 Customer Endorsement 54(i)

is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

d. says that, insofar as the 16 April 2020 Customer Endorsement 54(i) purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

e. otherwise admits the paragraph.

I.5 [NOT USED]

512. [NOT USED]

513. [NOT USED]

514. [NOT USED]

515. [NOT USED]

516. [NOT USED]

517. [NOT USED]

518. [NOT USED]

I.6 Liberty TCUK Note Programme

519. In response to paragraph 519 of the ASOC, TMNF:

a. admits that Hoffman issued various notes in compartment HK over the period 11 December 2020 to 26 February 2021;

b. denies that any notes of the kind referred to in paragraph 519 of the ASOC were secured by the payment obligations of Liberty TCUK and Liberty House under the Amended Ultimate Buyer RPA (if any) (**Liberty TCUK Payment Obligations**), as they were never validly assigned to Hoffman for the reasons pleaded at paragraph 520 of this Defence; and

c. otherwise denies the paragraph.

520. In response to paragraph 520 of the ASOC, TMNF:

a. denies that the benefit of any Liberty TCUK Payment Obligations were assigned to Hoffman, validly or at all;

b. refers to and repeats paragraph 251.b of this Defence concerning the relevant provisions of the MAA;

c. says that that agreement was relevantly amended in the case of notes designated by the Product Code "PAC" by the product schedule entitled 'Product Schedule: Accounts Receivable Purchase Model A (Limited Seller Resource; Undisclosed) (the 'Accounts Receivable Purchase Model A)', relevantly by replacing the definition of Offer File with the following definition: "**Offer File**" means, in respect of any Payment Obligation that GCUK proposes to assign to a Compartment of the Purchaser hereunder, an electronic file or data feed identifying (i) the Compartment of the Purchaser to which the electronic file or data feed is to be delivered and subsequent Offer made, and (ii) such Payment Obligation, which shall include the following information in respect of such Payment Obligation:

(A) Currency;

(B) Maturity Date;

(C) Relevant Obligor;

(D) Relevant AR Seller;

(E) Intermediary Party (if applicable);

(F) Settlement Date;

(G) Purchase Price;

(H) Identifier;

(I) Invoice Ref; and

(J) Product Code,

in the form set out in Schedule 2 (Form of Offer File) (the "General Offer File") as supplemented by an offer file supplement identifying the Compartment of the Purchaser to which the supplement is to be delivered and subsequent Offer made and which shall include the information required by the Purchaser to determine:

(A) Maturity Amount;

(B) Expected Amount; and

(C) Initial Purchase Price,

in each case, in respect of such Payment Obligation, in the form set out in Annex 2 (Form of Offer File Supplement) or as otherwise agreed between the Purchaser and GCUK from time to time (the "Offer File Supplement");

d. does not admit that cl 2.1 to 2.3 of the MAA were followed, on the basis that:

i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as "Note Offer Reports";

ii. it does not appear that these Note Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer;

iii. it does not appear that the Note Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance;

iv. even if the Note Offer Reports had been so emailed, they do not contain the name of a "Relevant Obligor" (being the name of the entity liable for payment of the Payment Obligation) as required by the MAA;

v. the Note Offer Reports do not contain the name of a "Relevant AR Seller" as required by the MAA; and

vi. the Note Offer Reports do not contain an "Identifier" for the underlying Payment Obligation (being a unique reference identifying such Payment Obligation and identifiable as such by the Relevant Obligor) as required by the MAA;

e. says that the "Note Offer Reports" relating to any Liberty TCUK Payment Obligations failed to identify the underlying payment obligations to which they related in a manner consistent with the requirements of the MAA, or at all;

f. says further that, as a result, Credit Suisse does not hold an interest in any Liberty TCUK Payment Obligations, and accordingly cannot have suffered a Loss in respect of those obligations within the meaning of the 2019 Policy; and

g. otherwise denies the paragraph.

521. TMNF does not know and therefore cannot admit paragraph 521 of the ASOC.

522. In response to paragraph 522 of the ASOC, TMNF:

a. says that neither Credit Suisse Virtuoso nor Credit Suisse Nova has suffered any Loss if, as is alleged in paragraph 522 of the ASOC, they have transferred the Liberty TCUK Notes to Greensill Bank; and

b. otherwise does not know and therefore cannot admit the paragraph.

I.7 Payment failures

523. In response to paragraph 523 of the ASOC, TMNF:

a. denies that GCUK purchased any genuine accounts receivable from Liberty TCUK between December 2020 and February 2021;

b. says that the ASOC does not plead facts which would establish that each purported sale of accounts receivable from Liberty TCUK to GCUK between December 2020 and February 2021 was effected in a manner consistent with the requirements of the Amended Ultimate Buyer RPA in any event, including:

i. that Liberty TCUK provided GCUK with a Valuation Report in respect of each such purported sale, as required by clause 2.1(b)(B);

ii. that GCUK provided Liberty TCUK with a Request and Offer File in respect of each such purported sale, as required by clause 2.1(c); or

iii. that GCUK accepted a signed Request returned to it by Liberty TCUK in respect of each such purported sale (pursuant to clause 2.1(d)) by

countersigning such Request within two Business Days of receipt, as required by clause 2.1(e); and

says that the claims made in Annexure I to the ASOC are liable to be struck out as a result;

c. says that the evidence that has been provided by Credit Suisse to BCC to date does not establish that the requirements in subparagraph b. above were complied with in respect of the alleged debts the subject of Annexure I of the ASOC; and

d. otherwise denies the paragraph.

524. TMNF does not know and therefore cannot admit paragraph 524 of the ASOC and says further that the debts set out in Table 9.1 of Annexure P are not covered by the 2019 Policy.

Particulars

Letter dated 30 June 2019 from Gilbert + Tobin to Kennedys.

525. [NOT USED]

526. [NOT USED]

I.8 Claims on the 2019 Policy

527. In response to paragraph 527 of the ASOC, TMNF:

a. admits that Greensill Bank submitted a claim to BCC with respect to non-payments which purportedly constituted Insured Causes under the 2019 Policy; and

b. otherwise denies the paragraph.

528. [NOT USED]

I.9 Breach of 2019 Policy by Insurer

529. TMNF admits paragraph 529 of the ASOC and says further that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 527 of the ASOC.

530. [NOT USED]

531. [NOT USED]

532. [NOT USED]

J. NOVINITI COLCHESTER

J.1 Noviniti Colchester and other relevant parties

533. In response to paragraph 533 of the ASOC, TMNF:

a. says that Noviniti Colchester (Company Number 11248796), then named Noviniti Hire Ltd, was incorporated under the laws of the United Kingdom on 11 March 2018;

b. says that Noviniti Hire Ltd changed its name to Noviniti Colchester on or around 22 August 2018;

c. says that Noviniti Colchester changed its name to Catfoss Colchester Limited on 11 April 2023;

d. admits that Noviniti Colchester (under the name Noviniti Hire Ltd in the period 11 March 2018 to 22 August 2018, and under the name Catfoss Colchester Limited from 11 April 2023 to date) remained incorporated under the laws United Kingdom from 11 March 2018 and at all material times thereafter; and

e. otherwise admits the paragraph.

534. In response to paragraph 534 of the ASOC, TMNF:

a. says that between 22 August 2018 and 1 January 2019 Noviniti Colchester was wholly owned by Noviniti Limited; and

b. otherwise denies the paragraph.

535. In response to paragraph 535 of the ASOC, TMNF:

a. says that from 1 January 2019, Noviniti Colchester was wholly owned by Catfoss Investments; and

b. otherwise denies the paragraph.

536. TMNF admits paragraph 536 of the ASOC.

537. TMNF does not know and therefore cannot admit paragraph 537 of the ASOC.

J.2 The Instalment Payment Agreement

537A. In response to paragraphs 538 to 546 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse Virtuoso does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 538 to 546 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 538 to 546 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

538. In response to paragraph 538 of the ASOC, TMNF:

a. admits that GCUK entered into a written agreement styled "Instalment Payment Agreement" with Noviniti Colchester dated 27 March 2019 per page 1 of the agreement (**Noviniti Colchester IPA**);

b. says that the signature on behalf of:

i. the "Customer", Ben Foreman (Director and Authorised Signatory for Noviniti Colchester) is undated; and

ii. the "Funder", appears to be dated 27 March 2019;

c. does not know what date the Noviniti Colchester IPA was executed by Noviniti Colchester; and

d. otherwise denies the paragraph.

539. In response to paragraph 539 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Noviniti Colchester IPA to which it refers;

b. refers to the relevant terms of the Noviniti Colchester IPA for their full force and effect;

c. says that the obligation on Noviniti Colchester to make the Repayment Amount pleaded in paragraph 539(c) was an obligation to make payment into the Designated Funder Account on the applicable Maturity Date, being an account notified in writing by an authorised representative of GCUK to Noviniti Colchester from time to time;

d. says that the Noviniti Colchester IPA formed part of a suite of documents pleaded at paragraph 541A of this Defence regulating the relationship between GCUK, Noviniti Colchester and S44/Catfoss Investments; and

e. otherwise denies the paragraph.

540. In response to paragraph 540 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Noviniti Colchester IPA to which it refers;

b. refers to the relevant terms of the Noviniti Colchester IPA for their full force and effect;

c. says that the Noviniti Colchester IPA contained other terms, including terms to the following effect (with defined terms having the meaning assigned to them in the Noviniti Colchester IPA):

i. Noviniti Colchester or GCUK could terminate the Noviniti Colchester IPA at any time by giving 30 days written notice of an intention to terminate (chapeau); and

ii. Noviniti Colchester has independently entered into underlying business relationships with relevant third parties prior to the applicable Payable being due for discharge and the submission of the relevant PAUF (cl 3);

iii. Noviniti Colchester agreed to provide GCUK with copies of its financial statements or such other financial information as GCUK may reasonably request (cl 4); and

iv. the Noviniti Colchester IPA and the Noviniti Colchester Side Letter (defined to mean the side letter dated on or around the date of the Noviniti Colchester IPA and made between GCUK and Noviniti Colchester, which is ancillary to the Noviniti Colchester IPA) constitutes the entire agreement between Noviniti Colchester and GCUK (cl 7);

d. says that the Noviniti Colchester IPA formed part of a suite of documents pleaded at paragraph 541A of this Defence regulating the relationship between GCUK, Noviniti Colchester and S44/Catfoss Investments; and

e. otherwise denies the paragraph.

541. In answer to paragraph 541 of the ASOC, TMNF:

a. does not plead to the paragraph which contains no allegation against it;

b. says that it likewise relies upon the whole of the Noviniti Colchester IPA for its full force and effect; and

c. says that the Noviniti Colchester IPA formed part of a suite of documents pleaded at paragraph 541A of this Defence regulating the relationship between GCUK, Noviniti Colchester and S44/Catfoss Investments.

541A. In further answer to paragraphs 539 to 541 of the ASOC, TMNF:

a. refers to and repeats paragraph 315A of this Defence;

b. says that the Noviniti Colchester IPA formed part of a suite of documents regulating the relationship between GCUK, S44/Catfoss Investments and Noviniti Colchester which also included:

i. the Exclusivity and Fee Letter referred to at paragraph 315A.b of this Defence;

ii. a "**Noviniti Colchester Side Letter**" between GCUK, Noviniti Colchester and S44/Catfoss Investments dated 27 March 2019;

iii. a "**Noviniti Colchester Debenture Deed**" between GCUK and Noviniti Colchester dated 27 March 2019; and

iv. a "**Noviniti Colchester Supplemental Side Letter**" between GCUK, Noviniti Colchester and S44/Catfoss Investments dated 9 December 2020.

(together, the **Noviniti Colchester Side Agreements**);

c. the Exclusivity and Fee Letter contained terms to the effect pleaded at paragraph 315A.c of this Defence;

d. the Noviniti Colchester Side Letter provided that, in consideration of the entry into and/or continuation of the Noviniti Colchester IPA and the facilities afforded thereby, Noviniti Colchester undertook and covenanted with GCUK that:

i. Noviniti Colchester will not incur Debt in favour of any person or entity other than GCUK at any time, other than trade debt incurred in the ordinary and usual course of business (cl 1(a)); and

ii. Noviniti Colchester will provide to GCUK annual and hall-yearly financial statements for itself and its consolidated Group (cl 2);

e. the Noviniti Colchester Side Letter further provided that:

i. the discount rate under the Noviniti Colchester IPA shall be tenor-matched LIBOR +2.25% per annum; and

ii. the Noviniti Colchester IPA would be a Working Capital Facility as defined in, and in accordance with, the Exclusivity and Fee Agreement;

f. the Noviniti Colchester Debenture Deed provided that Noviniti Colchester (as Chargor) provided GCUK (as Chargee) with an all assets debenture as security for the due performance of its obligations under the Noviniti Colchester IPA; and

g. the Noviniti Colchester Supplemental Side Letter provided that, on and from 9 December 2020, the discount rate payable under the Noviniti Colchester IPA shall be 0% p.a.; and

h. in the premises, says that the effect of the Noviniti Colchester Side Agreements was to convert the Noviniti Colchester IPA into an arrangement whereby:

i. GCUK provided Noviniti Colchester with working capital facility with a term of up to two years; and

ii. GCUK was paid the Fee (as defined at paragraph 315A.c of this Defence) of GBP 10,400,000 out of the Catfoss DBT IPA, nominally in return for GCUK structuring facilities for S44/Catfoss Investments and its affiliates (including Noviniti Colchester) to undertake the Projects (as defined at paragraph 315A.a of this Defence).

542. [NOT USED]

J.3 Noviniti Colchester Note Programme

543. In response to paragraph 543 of the ASOC, TMNF:

a. admits that Hoffman issued notes in compartment LC on the dates alleged;

b. denies that any notes of the kind referred to in paragraph 543 of the ASOC were secured by any payment obligations owed by Noviniti Colchester to GCUK, as they were never validly assigned to Hoffman for the reasons pleaded at paragraph 544 of this Defence; and

c. otherwise denies the paragraph.

544. In response to paragraph 544 of the ASOC, TMNF:

a. denies that the benefit of any payment obligations owed by Noviniti Colchester to GCUK were assigned to Hoffman, validly or at all;

b. refers to and repeats paragraph 251.b of this Defence concerning the relevant provisions of the MAA;

c. says that the “Note Offer Reports” relating to Noviniti Colchester failed to identify the underlying payment obligations to which they related in a manner consistent with the requirements of the MAA, or at all;

d. says further that, as a result, Credit Suisse Virtuoso does not hold an interest in any payment obligations of Noviniti Colchester, and accordingly cannot have suffered a Loss in respect of those obligations within the meaning of the 2019 Policy; and

e. otherwise denies the paragraph.

545. TMNF does not know and therefore cannot admit paragraph 545 of the ASOC.

546. TMNF does not know and therefore cannot admit paragraph 546 of the ASOC.

J.4 Correspondence between GCUK and the Insurer

547. In response to paragraph 547 of the ASOC, TMNF:

a. admits that on 3 December 2018, Lex Greensill sent an email to Mr Brereton that contained statements to the effect pleaded in subparagraphs (b), (c), (d), (e) and (f);

b. says that the email was sent by Lex Greensill on behalf of the Greensill Group;

c. says that in the email Lex Greensill:

i. represented that GCUK had the right to collect funds advanced to Noviniti Poole from the UK National Health Service (**NHS**); and

ii. proposed cover on a basis that the first loss deductible would be GBP 5,000,000 against a limit of cover in the same amount given the Greensill Group's confidence in the ultimate obligation of the NHS to pay;

d. refers to the email for its full force and effect; and

e. otherwise denies the paragraph.

548. In response to paragraph 548 of the ASOC, TMNF:

a. admits that on 4 December 2018, Mr Brereton sent an email to Lex Greensill, replying to the email pleaded in paragraph 547;

a1. says that the email was received by Lex Greensill on behalf of the Greensill Group;

b. says that, in that email, Mr Brereton stated "*I can commit to this one. Two reasons, there is a company that we can attach the risk to, ex of the NHS. Equally it is small*"; and

c. otherwise denies the paragraph.

549. In response to paragraph 549 of the ASOC, TMNF:

a. admits that on 18 March 2019, Sophie Dyke sent an email to Marsh that contained statements to the effect pleaded in 549(c), save that the reference at 549(c)(ii) should read "and emergency department *for*"; and

b. says that the email was not sent to or received by BCC; and

c. otherwise denies the paragraph.

550. In response to paragraph 550 of the ASOC, TMNF:

a. admits that on 18 March 2019, Marsh sent an email to Mr Brereton that contained statements to the effect pleaded in subparagraph (c);

b. says that the email was sent by Marsh as agent for the Greensill Group;

c. says that the email represented that the proposed arrangement between GCUK and Noviniti Colchester was essentially the same as the arrangement between GCUK and Noviniti Poole;

d. refers to the email for its full force and effect; and

e. otherwise denies the paragraph.

551. In response to paragraph 551 of the ASOC, TMNF:

a. admits that on 18 March 2019, Mr Brereton sent an email to Marsh replying to the email pleaded in paragraph 550;

b. says further that the email was received by Marsh as agent for the Greensill Group;

c. says that, in the email, Mr Brereton stated "*That will be ok…*"; and

d. otherwise denies the paragraph.

552. In response to paragraph 552 of the ASOC, TMNF:

a. admits that on 18 March 2019, Marsh sent an email to Sophie Dyke;

b. says that the email was not sent to or received by BCC;

c. says that the email stated that "*BC have agreed to the cover here at the same terms and conditions as the existing Poole deal. Pricing is 0.5%*"; and

d. otherwise denies the paragraph.

553. In response to paragraph 553 of the ASOC, TMNF:

a. admits that on 19 March 2019, Marsh sent an email to Sophie Dyke;

b. says that the email was not sent to or received by BCC;

c. says that, in the email, Marsh stated:

i. that it had attached endorsements; and

ii. that it looked forward to receiving confirmation of "*KNORL*"; and

d. otherwise denies the paragraph.

554. In response to paragraph 554 of the ASOC, TMNF:

a. admits that on 19 March 2019, Sophie Dyke sent an email to Marsh replying to the email pleaded at paragraph 553;

b. says that the email was not sent to or received by BCC;

c. says that, in the email, Sophie Dyke stated "*I confirm NKORL. Please bind*"; and

d. otherwise denies the paragraph.

555. In response to paragraph 555 of the ASOC, TMNF:

a. says that:

i. on 19 March 2019, Marsh (as agent for the Greensill Group) sent an email to Mr Brereton attaching the proposed customer endorsements for Noviniti Colchester and stating that "*Greensill have confirmed NKORL and given us their order to bind*";

ii. on or around 27 March 2019, Mr Brereton signed a document which was styled as a "Customer Endorsement" bearing the number 48 and which purported to endorse Noviniti Colchester as a Customer to the 2019 Policy (**Customer Endorsement 48**); and

iii. on 28 March 2019, Mr Brereton sent a copy of Customer Endorsement 48 to Marsh;

b. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 48 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. further or alternatively, says that says that Customer Endorsement 48 was not a valid "Customer Endorsement" under the 2019 Policy because:

i. "Customer" was defined to mean any "Customer" endorsed to the 2019 Policy under a Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor;

ii. "Debt" was defined to mean, as the context requires, a debt of the type described in the relevant Debt Endorsement; and

iii. the alleged Noviniti Colchester Payment Obligations were not Debts of the type described in Part C of Debt Endorsement 1, or any other relevant part of any Debt Endorsement, for the reasons pleaded at paragraph 349 of this Defence; and

d. further or alternatively, says that, if (which is denied) Customer Endorsement 48 was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

e. says further that if it is found that:

i. Mr Brereton;

ii. BCC; and/or

iii. IAL;

entered into Customer Endorsement 48, and IAL or BCC thereby assumed any risk or liability under the 2019 Policy or Customer Endorsement 48, Mr Brereton, BCC and/or IAL (through its agents Mr Brereton and BCC) entered into that

endorsement and/or assumed that risk or liability by reason of the Catfoss DBT/Noviniti Misrepresentations and Non-Disclosures with the consequence that the 2019 Policy and endorsements purportedly entered into under that policy are liable to be avoided; and

f. otherwise denies the paragraph.

556. In response to paragraph 556 of the ASOC, TMNF:

a. refers to and repeats paragraph 555 of this Defence;

b. further or alternatively, says that Customer Endorsement 48 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 48 was valid, it did not have any effectiveness or operation prior to 27 March 2019; and

c. otherwise denies the paragraph.

557. In response to paragraph 557 of the ASOC, TMNF:

a. admits that on 1 October 2019, Mr Brereton signed a document which was styled as a "Customer Endorsement" bearing the number 48(i) and which purported to endorse Noviniti Colchester as a Customer to the 2019 Policy effective from 27 September 2019 (**Customer Endorsement 48(i)**);

b. refers to and repeats paragraph 555.b and 555.c of this Defence and says that Customer Endorsement 48(i) was not a valid "Customer Endorsement" under the 2019 Policy for the same reasons;

c. further or alternatively says that Customer Endorsement 48(i) is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 48(i) was valid, it did not have any effectiveness or operation prior to 1 October 2019;

d. further or alternatively, says that, if (which is denied) Customer Endorsement 48(i) was valid, it was valid only to the extent that it identified a Customer, and not to the

extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

e. says further that if it is found that:

i. Mr Brereton;

ii. BCC; and/or

iii. IAL;

entered into Customer Endorsement 48(i), and IAL or BCC thereby assumed any risk or liability under the 2019 Policy or Customer Endorsement 48(i), Mr Brereton, BCC and/or IAL (through its agents Mr Brereton and BCC) entered into that endorsement and/or assumed that risk or liability by reason of the Catfoss DBT/Noviniti Misrepresentations and Non-Disclosures with the consequence that the 2019 Policy and endorsements purportedly entered into under that policy are liable to be avoided; and

f. otherwise denies the paragraph.

558. [NOT USED]

559. [NOT USED]

560. [NOT USED]

J.5 Payment failures

561. In response to paragraph 561 of the ASOC, TMNF:

a. says that the paragraph is embarrassing in that it fails to identify any transactions which are alleged to give rise to any obligation to pay the Repayment Amounts and fails to identify in relation to each invoice set out in Table 10.1 of Annexure P to the ASOC the information necessary to determine whether any obligation incurred by Noviniti Colchester under the Noviniti Colchester IPA in respect of such invoice is a Debt within the meaning of Part C of Debt Endorsement 1, including:

i. the goods or services supplied to Noviniti Colchester to which the invoice relates; and

ii. the identity of the Supplier who issued to the invoice;

b. says that the invoices set out in Table 10.1 of Annexure P to the ASOC are not invoices for goods or services supplied to Noviniti Colchester for the purpose of the construction of a new entrance and emergency department for the Colchester Hospital as the Colchester Hospital development completed in or around November 2019 and the invoices are dated between 23 September 2020 and 26 February 2021;

c. says further that the debts in Table 10.1 in Annexure P to the ASOC were not covered by the 2019 Policy; and

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

d. otherwise does not know and therefore cannot admit the paragraph.

562. TMNF does not know and therefore cannot admit paragraph 562 of the ASOC.

563. [NOT USED]

564. [NOT USED]

J.6 Claims on the 2019 Policy

565. In response to paragraph 565 of the ASOC, TMNF:

a. admits that Greensill Bank submitted a claim to BCC with respect to non-payments which purportedly constituted Insured Causes under the 2019 Policy; and

b. otherwise denies the paragraph.

566. [NOT USED]

J.7 Breach of 2019 Policy by Insurer

567. TMNF admits paragraph 567 of the ASOC and says further that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 565 of the ASOC.

568. [NOT USED]

569. [NOT USED]

570. [NOT USED]

K. NOVINITI POOLE

K.1 Noviniti Poole and other relevant parties

571. In response to paragraph 571 of the ASOC, TMNF:

a. says that Noviniti Poole (Company Number 1110351), then named Noviniti Stoke Ltd, was incorporated under the laws of the United Kingdom on 3 January 2018;

b. says that Noviniti Stoke Ltd changed its name to Noviniti Poole on 25 May 2018;

c. says that Noviniti Poole changed its name to Catfoss Poole Limited on 11 April 2023;

d. admits that Noviniti Poole (under the name Noviniti Stoke Ltd in the period 3 January 2018 to 25 May 2018, and under the name Catfoss Poole Limited from 11 April 2023 to date) remained incorporated under the laws of the United Kingdom from 3 January 2018 and at all material times thereafter; and

e. otherwise admits the paragraph.

572. TMNF admits paragraph 572 of the ASOC.

573. TMNF admits paragraph 573 of the ASOC.

574. TMNF admits paragraph 574 of the ASOC.

575. TMNF does not know and therefore cannot admit paragraph 575 of the ASOC.

576. In response to paragraph 576 of the ASOC, TMNF:

a. admits that Bramid was at all material times a company incorporated under the law of Bermuda; and

b. otherwise does not know and therefore cannot admit the paragraph.

K.2 The Master Supply Agreement

576A. In respect of paragraphs 577 to 599 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 577 to 599 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 577 to 599 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

577. TMNF admits paragraph 577 of the ASOC.

578. In response to paragraph 578 of the ASOC, TMNF:

a. refers to and repeats paragraphs 272.a., b., and c. of this Defence.

b. says that the chapeau to paragraph 578 is a paraphrase of paragraph A of Master Supplier Agreement, and refers to that paragraph for its full force and effect;

c. denies that any transactions concluded between Bramid and Noviniti Poole constituted "commercial trade transactions with [Bramid] for the sale of goods and/or the supply of services" (Recital A), so as to fall within the scope of the Master Supplier Agreement; and

d. otherwise admits the paragraph.

579. In response to paragraph 579 of the ASOC, TMNF:

a. refers to and repeats paragraph 578 of this Defence; and

b. otherwise admits the paragraph.

580. TMNF does not plead to paragraph 580 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Master Supplier Agreement for its full force and effect.

K.3 The Noviniti Poole Re-Invoicing Service Agreement

581. TMNF admits paragraph 581 of the ASOC.

582. In response to paragraph 582 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Noviniti Poole RSA to which it refers;

b. refers to the relevant terms of the Noviniti Poole RSA for their full force and effect; and

c. says that the Noviniti Poole RSA provided that:

i. Noviniti Poole could submit to Bramid a request for settlement of a 'Supplier Invoice' (cl 2.1(a));

ii. a 'Supplier Invoice' means an invoice raised by a Supplier in respect of an 'Account Receivable' (cl 1.1);

iii. an 'Account Receivable' means a right to receive payments of money due and payable as a result of a 'Supply Agreement' (cl 1.1);

iv. a 'Supply Agreement' means an agreement between Noviniti Poole and a Supplier for the sale, supply and purchase of goods and/or services pursuant to which an Account Receivable arises (cl 1.1); and

v. Noviniti Poole shall only submit Suppler Invoices in respect of genuine and lawful trade transactions arising in the ordinary course of business for the sale, supply and purchase of goods and/or services between Noviniti Poole and the Supplier (cl 3.1);

d. otherwise admits the paragraph.

583. In response to paragraph 583 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Noviniti Poole RSA to which it refers;

b. refers to the relevant terms of the Noviniti Poole RSA for their full force and effect; and

c. otherwise admits the paragraph.

584. In answer to paragraph 584 of the ASOC, TMNF:

a. does not plead to the paragraph which contains no allegation against it;

b. says that it likewise relies upon the whole of the Noviniti Poole RSA for its full force and effect; and

c. says that the Noviniti Poole RSA formed part of a suite of documents pleaded at paragraph 592A of this Defence regulating the relationship between GCUK, Noviniti Poole and S44/Catfoss Investments.

K.4 The Noviniti Poole Customer Agreement

585. TMNF admits paragraph 585 of the ASOC.

586. TMNF admits paragraph 586 of the ASOC.

587. In response to paragraph 587 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Noviniti Poole Customer Agreement to which it refers;

b. refers to the relevant terms of the Noviniti Poole Customer Agreement for their full force and effect; and

c. says that the Noviniti Poole Customer Agreement provided that:

i. Noviniti Poole and its Affiliates may enter into commercial trade transactions with 'Suppliers' for the sale of goods and/or the supply of services (Introduction, para A);

ii. a 'Supplier' means any person with whom a 'Supplier Agreement' is in force (cl 1.1);

iii. a 'Supplier Agreement' means an agreement between an FI Group Member and a 'Supplier' that regulates 'Transfers' to an FI Group Member (cl 1.1);

iv. a 'Transfer' means the sale, assignment or transfer of an 'Account Receivable' (cl 1.1);

v. an ‘Account Receivable’ means the right to receive payments of money due and payable as a result of an ‘Underlying Relationship’ (cl 1.1);

vi. an ‘Underlying Relationship’ means a business relationship between Noviniti Poole and a Supplier (cl 1.1); and

vii. Noviniti Poole shall only submit PAUFs in respect of genuine and lawful trade transactions arising in the ordinary course of business for the sale, supply and purchase of goods and/or services (cl 3.1); and

d. otherwise admits the paragraph.

588. In response to paragraph 588 of the ASOC, TMNF:

a. refers to and repeats paragraph 587 of this Defence;

b. denies that there was a business relationship between Bramid and Noviniti Poole pursuant to which Noviniti Poole entered into commercial trade transactions with Bramid;

c. denies that Noviniti Poole entered into any genuine and lawful trade transactions with Bramid arising in the ordinary course of business for the sale, supply and purchase of goods and/or services; and

d. in the premises, denies the paragraph.

589. In response to paragraph 589 of the ASOC, TMNF:

a. refers to and repeats paragraph 588 of this Defence; and

b. otherwise denies the paragraph.

590. In response to paragraph 590 of the ASOC, TMNF:

a. refers to and repeats paragraph 588 of this Defence; and

b. otherwise denies the paragraph.

591. In response to paragraph 591 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Noviniti Poole Customer Agreement to which it refers;

b. refers to the relevant terms of the Noviniti Poole Customer Agreement for their full force and effect;

c. says further that (with defined terms having the meaning assigned in the Noviniti Poole Customer Agreement) cl 3.2 provided that Noviniti Poole shall, and shall procure that each Affiliated Company will, maintain sufficient records of all transactions with respect to the Underlying Relationship (or associated disputes) to which the relevant Customer is a party; and

d. otherwise admits the paragraph.

592. In answer to paragraph 592 of the ASOC, TMNF:

a. does not plead to the paragraph which contains no allegation against it;

b. says that it likewise relies upon the whole of the Noviniti Poole Customer Agreement for its full force and effect; and

c. says that the Noviniti Poole Customer Agreement formed part of a suite of documents pleaded at paragraph 595A of this Defence regulating the relationship between GCUK, Noviniti Poole and S44/Catfoss Investments.

592A. In further answer to paragraphs 581 to 592 of the ASOC, TMNF:

a. refers to and repeats paragraph 315A of this Defence;

b. says that the Master Supply Agreement, Noviniti Poole RSA and Noviniti Poole Customer Agreement formed part of a suite of documents regulating the relationship between GCUK, S44/Catfoss Investments and Noviniti Poole, which also included:

i. the Exclusivity and Fee Letter referred to at paragraph 315A.b of this Defence;

ii. a "**Noviniti Poole Debenture Deed**" between GCUK and Noviniti Poole dated 31 October 2018 which provided that Noviniti Poole (as Chargor) provided

GCUK (as Chargee) with an all assets debenture as security for the due performance of Noviniti Poole's obligations under the Noviniti Poole Customer Agreement; and

iii. a "**Noviniti Poole Transaction Rate Side Letter"** from GCUK to Noviniti Poole dated 30 October 2018 by which GCUK notified Noviniti Poole that the Transaction Rate as defined in the Noviniti Poole RSA was 0%, with effect from the date of the Noviniti Poole RSA (i.e. 31 October 2018);

c. the Exclusivity and Fee Letter contained terms to the effect pleaded at paragraph 315A.c of this Defence; and

d. in the premises, says that the effect of the Exclusivity and Fee Letter was to convert the Noviniti Poole Customer Agreement into an arrangement whereby:

i. GCUK provided Noviniti Poole with a working capital facility with a term of up to two years; and

ii. GCUK was paid the Fee (as defined at paragraph 315.c of this Defence) of GBP 10,400,000 out of the Catfoss DBT IPA, nominally in return for GCUK structuring facilities for S44/Catfoss Investments and its affiliates (including Noviniti Colchester) to undertake the Projects (as defined in paragraph 315A.a of this Defence).

593. [NOT USED]

594. [NOT USED]

595. [NOT USED]

K.5 Noviniti Poole Note Programme

596. In response to paragraph 596 of the ASOC, TMNF:

a. admits that Hoffman issued notes in compartment JX on the dates alleged;

b. denies that any notes of the kind referred to in paragraph 596 of the ASOC were secured by the any payment obligations owed by Noviniti Poole to GCUK, as they were never validly assigned to Hoffman for the reasons pleaded at paragraph 597 of this Defence; and

c. otherwise denies the paragraph.

597. In response to paragraph 597 of the ASOC, TMNF:

a. denies that the benefit of any payment obligations owed by Noviniti Poole to GCUK were assigned to Hoffman, validly or at all;

b. says that the assignment of "payment obligations" by GCUK to Hoffman was governed by the MAA, as amended by the Purchase Model Product Schedule, which applied to Noviniti Poole by virtue of the designation of the product code "PAA" in the Noviniti Poole Note Offer Reports;

c. says that the Purchase Model Product Schedule provided that legal title to the "payment obligations" would remain with GCUK until the occurrence of specified events, including (adopting the definitions used in the Purchase Model Product Schedule) after a Notification Event had occurred and notice of the assignment or acquisition of the "payment obligations" had been delivered to a Relevant Obligor;

d. says that TMNF does not know and therefore cannot admit that the requirements pleaded at paragraph 597.c of this Defence were satisfied;

e. denies that cl 2.1 to 2.3 of the MAA were followed, on the basis that:

i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as "Note Offer Reports";

ii. it does not appear that these Note Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer; and

iii. it does not appear that the Note Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance;

f. says that the "Note Offer Reports" relating to Noviniti Poole failed to identify the underlying payment obligations to which they related in a manner consistent with the requirements of the MAA, or at all;

g. says further that, as a result, Credit Suisse Virtuoso does not hold an interest in any payment obligations of Noviniti Poole, and accordingly cannot have suffered a Loss in respect of any such obligations within the meaning of the 2019 Policy; and

h. otherwise denies the paragraph.

598. TMNF does not know and therefore cannot admit paragraph 598 of the ASOC.

599. TMNF does not know and therefore cannot admit paragraph 599 of the ASOC.

K.6 Noviniti Poole as a Customer under the 2019 Policy

600. In response to paragraph 600 of the ASOC, TMNF:

a. admits that on 13 March 2019, Mr Brereton signed a document which was styled as a "Customer Endorsement" bearing the number 16 and which purported to endorse Noviniti Poole as a Customer to the 2019 Policy effective from 1 March 2019 (**Customer Endorsement 16**);

b. says that Mr Brereton signed the document on the basis of the representations made to him by Lex Greensill on behalf of the Greensill Group as pleaded at paragraphs 75AB.1 to 75AB.21 of Annexure A of this Defence;

c. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 16 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

d. further or alternatively, says that says that Customer Endorsement 16 was not a valid "Customer Endorsement" under the 2019 Policy because:

i. "Customer" was defined to mean any "Customer" endorsed to the 2019 Policy under a Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor;

ii. "Debt" was defined to mean, as the context requires, a debt of the type described in the relevant Debt Endorsement; and

iii. Noviniti Poole's obligations under the Noviniti Poole RSA and/or the Noviniti Poole Customer Agreement were not Debts of the type described in Part B of Debt Endorsement 1, or any other relevant part of any Debt Endorsement, for the reasons pleaded at paragraph 595 of this Defence; and

e. further or alternatively, says that Customer Endorsement 16 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 16 was valid, it did not have any effectiveness or operation prior to 13 March 2019;

f. further or alternatively, says that, if (which is denied) Customer Endorsement 16 was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

g. says further that if it is found that:

   i. Mr Brereton;

   ii. BCC; and/or

   iii. IAL;

   entered into Customer Endorsement 16, and IAL or BCC thereby assumed any risk or liability under the 2019 Policy or Customer Endorsement 16, Mr Brereton, BCC and/or IAL (through its agents Mr Brereton and BCC) entered into that endorsement and/or assumed that risk or liability by reason of the Catfoss DBT/Noviniti Misrepresentations and Non-Disclosures with the consequence that the 2019 Policy and endorsements purportedly entered into under that policy are liable to be avoided; and

h. otherwise denies the paragraph.

601. In response to paragraph 601 of the ASOC, TMNF:

a. admits that on 1 October 2019, Mr Brereton signed a document which was styled as a "Customer Endorsement" bearing the number 16(i) and which purported to endorse Noviniti Poole as a Customer to the 2019 Policy effective from 27 September 2019 (**Customer Endorsement 16(i)**);

b. refers to and repeats paragraph 600.c and 600.d of this Defence and says that Customer Endorsement 16(i) was not a valid "Customer Endorsement" under the 2019 Policy for the same reasons.

c. further or alternatively, says that Customer Endorsement 16(i) is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 16(i) was valid, it did not have any effectiveness or operation prior to 1 October 2019;

d. further or alternatively, says that, if (which is denied) Customer Endorsement 16(i) was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

e. says further that if it is found that:

i. Mr Brereton;

ii. BCC; and/or

iii. IAL;

entered into Customer Endorsement 16(i), and IAL or BCC thereby assumed any risk or liability under the 2019 Policy or Customer Endorsement 16(i), Mr Brereton, BCC and/or IAL (through its agents Mr Brereton and BCC) entered into that endorsement and/or assumed that risk or liability by reason of the Catfoss DBT/Noviniti Misrepresentations and Non-Disclosures with the consequence that the 2019 Policy and endorsements purportedly entered into under that policy are liable to be avoided; and

f. otherwise denies the paragraph.

K.7 Payment failures

602. In response to paragraph 602 of the ASOC, TMNF:

a. says that:

i. Noviniti Poole purported to provide PAUFs to GCUK under a series of authorisation letters dated between 7 September 2020 and 2 February 2021; and

ii. the PAUFs that purported to be enclosed with these letters were not created on the date represented in the letters and, in some cases, were created after the date of the letter; and

Particulars

A. As part of its claim submission, Greensill Bank provided the insurer with copies of the PAUFs and associated authorisation letters. TMNF does not know and does not admit whether those letters or PAUFs are authentic and/or whether they were ever sent to GCUK. The following particulars are without prejudice to that position.

B. By a series of letters dated 7 September 2020, Noviniti Poole purported to provide GCUK with the following PAUFs:

1. a PAUF with file name "Noviniti Poole PAUF 17092020" dated 17 August 2020;

2. a PAUF with file name "Noviniti Poole PAUF 22092020" dated 22 August 2020;

3. a PAUF with file name "Noviniti Poole PAUF 23092020" dated 23 August 2020; and

4. a PAUF with file name "Noviniti Poole PAUF 24092020" dated 24 August 2020;

C. TMNF has not been provided with any PAUFs bearing these dates.

D. The PAUFs with the file names specified in the letter were, according to their respective metadata, created on 8 September 2020 (the day after the letter was sent) and last modified on 13 October 2021, by Sophie Dyke, an employee of GCUK.

b. otherwise denies the paragraph.

603. In response to paragraph 603 of the ASOC, TMNF:

a. says that the paragraph is embarrassing in that it fails to identify any transactions which are alleged to give rise to any alleged Payment Obligations (which term is not defined) and fails to identify in relation to each invoice set out in Table 11.1 of Annexure P to the ASOC the information necessary to determine whether any obligation incurred by Noviniti Poole under the Noviniti Poole Customer Agreement in respect of such invoice is a Debt within the meaning of Part B of Debt Endorsement 1, including:

   i. the goods or services supplied to Noviniti Poole to which the invoice relates; and

   ii. the identity of the Original Supplier who issued to the invoice;

b. says that the invoices set out in Table 11.1 of Annexure P to the ASOC do not relate to goods or services supplied to Noviniti Poole for the purpose of the construction of a new main entrance foyer together with a centralised canopy corridor at the main hospital building for the Poole Hospital as the Poole Hospital development completed in or around June 2019 and the invoices are dated between 17 September 2020 and 8 February 2021;

c. says further that the debts in Table 11.1 of Annexure P to the ASOC were not covered by the 2019 Policy; and

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

d. otherwise does not know and therefore cannot admit the paragraph.

604. [NOT USED]

605. [NOT USED]

K.8 Claims on the 2019 Policy

606. In response to paragraph 606 of the ASOC, TMNF:

a. admits that Greensill Bank submitted a claim to BCC with respect to non-payments which purportedly constituted Insured Causes under the 2019 Policy; and

b. otherwise denies the paragraph.

607. [NOT USED]

K.9 Breach of 2019 Policy by Insurer

608. TMNF admits paragraph 608 of the ASOC and says further that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 606 of the ASOC.

609. [NOT USED]

610. [NOT USED]

611. [NOT USED]

L. SIMEC

L.1 Simec and other relevant parties

612. In response to paragraph 612 of the ASOC, TMNF:

a. admits that Simec was at all material times a company incorporated under the law of Hong Kong;

b. admits that Simec was related to entities in the Gupta Family Group Alliance and says that this group was also known as the GFG Alliance; and

c. otherwise does not know and therefore cannot admit the paragraph.

613. In response to paragraph 613 of the ASOC, TMNF:

a. admits that Bramid was at all material times a company incorporated under the law of Bermuda; and

b. otherwise does not know and therefore cannot admit the paragraph.

L.2 The Origination Documentation

613A. In respect of paragraphs 614 to 637 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 614 to 637 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 614 to 637 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

614. TMNF admits paragraph 614 of the ASOC.

615. In response to paragraph 615 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of paragraph B of the Introduction to the Simec Customer Agreement;

b. refers to the relevant terms of the Introduction to the Simec Customer Agreement for their full force and effect;

c. says that paragraph A of the Introduction to the Simec Customer Agreement noted that from time to time Simec may enter into commercial trade transactions with Suppliers (as defined) for the sale of goods and/or the supply of services to Simec; and

d. otherwise admits the paragraph.

616. In response to paragraph 616 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Simec Customer Agreement to which it refers;

b. refers to the relevant terms of the Simec Customer Agreement for their full force and effect;

c. says that the Simec Customer Agreement provided that:

i. Simec and its Affiliates may enter into commercial trade transactions with 'Suppliers' for the sale of goods and/or the supply of services (Introduction, para A);

ii. a 'Supplier' means any person with whom a 'Supplier Agreement' is in force (cl 1.1);

iii. a 'Supplier Agreement' means an agreement between an FI Group Member and a 'Supplier' that regulates 'Transfers' to an FI Group Member (cl 1.1);

iv. a 'Transfer' means the sale, assignment or transfer of an 'Account Receivable' (cl 1.1);

v. an 'Account Receivable' means the right to receive payments of money due and payable as a result of an 'Underlying Relationship' (cl 1.1);

vi. an ‘Underlying Relationship’ means a business relationship between Simec and a Supplier (cl 1.1);

vii. Simec shall only submit PAUFs in respect of genuine and lawful trade transactions arising in the ordinary course of business for the sale, supply and purchase of goods and/or services (cl 3.1); and

viii. Simec shall, and shall procure that each Affiliated Company will, maintain sufficient records of all transactions with respect to the Underlying Relationship (or associated disputes) to which the relevant Customer is a party (cl 3.2);

d. does not know and therefore cannot admit that the Simec Customer Agreement accurately recorded the terms, or all of the terms, which governed the relationship between GCUK and Simec; and

Particulars

i. the letter from Simec to GCUK dated 27 September 2021 in which Simec states “*GCUK is well aware of its arrangements with SGL and the manner in which the parties operated the Customer Agreement*”;

ii. the letter from Simec to GCUK dated 13 April 2022 in which Simec states: ““*GCUK is well aware of its arrangements with SGL and the manner in which the parties operated the Customer Agreement*” and that “*SGL has reason to believe that GCUK is not the Supplier’s Transferee within the written terms of the Customer Agreement*”; and

e. otherwise admits the paragraph.

617. TMNF does not plead to paragraph 617 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Simec Customer Agreement for its full force and effect.

618. TMNF admits paragraph 618 of the ASOC.

619. In response to paragraph 619 of the ASOC, TMNF:

a. denies that Simec RSA provided for "Bramid to finance settlement of invoices submitted by Simec to Bramid";

b. says that the Simec RSA was expressed to provide for Bramid to provide a "settlement and re-invoicing service" to Simec on the terms of the Simec RSA;

c. says that the paragraph is otherwise a paraphrase of the clauses of the Simec RSA to which it refers;

d. refers to the relevant terms of the Simec RSA for their full force and effect;

e. says that the Simec RSA provided that:

i. Simec could submit to Bramid a request for settlement of a 'Supplier Invoice' (cl 2.1(a));

ii. a 'Supplier Invoice' means an invoice raised by a Supplier in respect of an 'Account Receivable' (cl 1.1);

iii. an 'Account Receivable' means a right to receive payments of money due and payable as a result of a 'Supply Agreement' (cl 1.1);

iv. a 'Supply Agreement' means an agreement between Simec and a Supplier for the sale, supply and purchase of goods and/or services pursuant to which an Account Receivable arises (cl 1.1); and

v. Simec shall only submit Suppler Invoices in respect of genuine and lawful trade transactions arising in the ordinary course of business for the sale, supply and purchase of goods and/or services between Simec and the Supplier (cl 3.1); and

f. otherwise admits the paragraph.

620. TMNF does not plead to paragraph 620 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Simec RSA for its full force and effect.

621. TMNF admits paragraph 621 of the ASOC.

622. TMNF admits paragraph 622 of the ASOC.

623. In response to paragraph 623 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Master Supplier Agreement to which it refers;

b. refers to the relevant terms of the Master Supplier Agreement for their full force and effect;

c. refers to and repeats paragraph 272 of this Defence;

d. denies that any transactions concluded between Bramid and Simec constituted "commercial trade transactions with [Bramid] for the sale of goods and/or the supply of services" (Paragraph A), so as to fall within the scope of the Master Supplier Agreement; and

e. otherwise admits the paragraph.

624. TMNF does not plead to paragraph 624 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Master Supplier Agreement for its full force and effect.

625. In response to paragraph 625 of the ASOC, TMNF:

a. refers to and repeats paragraph 616 of this Defence;

b. denies that there was a business relationship between Bramid and Simec pursuant to which Simec entered into commercial trade transactions with Bramid;

c. denies that Simec entered into any genuine and lawful trade transactions with Bramid arising in the ordinary course of business for the sale, supply and purchase of goods and/or services; and

d. in the premises, denies the paragraph.

626. In response to paragraph 626 of the ASOC, TMNF:

a. refers to and repeats paragraph 625 of this Defence; and

b. otherwise denies the paragraph.

627. In response to paragraph 627 of the ASOC:

a. admits subparagraph 627(a);

b. says that a 'Customer' under the Master Supplier Agreement means the entity(ies) identified in a Customer Agreement who submit PAUFs under a Customer Agreement (cl 1.1); and

c. does not know and therefore cannot admit that Simec submitted any PAUF meeting the criteria in the Customer Agreement, or at all, so as to be a 'Customer' within the meaning of the Master Supplier Agreement;

d. says that 'Account Receivable" under the Master Supplier Agreement means, relevantly, the right to receive from a 'Customer' payments of money due and payable as a result of the 'Underlying Relationship', meaning a business relationship between a 'Customer' and 'Supplier' (cl 1.1);

e. refers to and repeats paragraph 625 of this Defence and denies that there was any business relationship between Bramid and Simec; and

f. otherwise denies the paragraph.

628. [NOT USED]

629. [NOT USED]

630. [NOT USED]

631. [NOT USED]

L.3 Simec Note Programme

632. In response to paragraph 632 of the ASOC, TMNF:

a. says that it has been provided with a document titled "(Receivables Purchase Programmes)" that purports to be a deed between GCUK, Lagoon Park and Citibank (the **Lagoon Park Supply Chain Finance Trust Deed)**, as defined at paragraph 103.a of this Defence, being document CAS.001.0006.7363 and defined in the ASOC as both the "Lagoon Park Supply Chain Finance Trust Deed" (at paragraph 103 of the ASOC) and the "Simec Trust Deed" (at paragraph 632 of the ASOC);

b. refers to and repeats paragraph 103.b of this Defence; and

c. otherwise does not know and therefore cannot admit the paragraph.

633. In response to paragraph 633 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Lagoon Park Supply Chain Finance Trust Deed to which it refers;

b. refers to the relevant terms of the Lagoon Park Supply Chain Finance Trust Deed for their full force and effect;

c. says that "Eligible Accounts Receivable" meant the benefit of an unconditional undertaking given by Simec under the Simec Customer Agreement to or for the benefit of GCUK "as Supplier's Transferee";

d. says that "Supplier" meant a party who has entered into an agreement for the Transfer of receivables in respect of which the Obligor has undertaken in the Customer Agreement to pay an amount equal to the amount of such receivable;

e. refers to and repeats paragraph 625 of this Defence and denies that Bramid was a Supplier within the meaning of the Simec Customer Agreement, and therefore denies that any undertakings given by Simec under the Simec Customer Agreement to GCUK as Bramid's transferee were "Eligible Accounts Receivable" within the meaning of the Lagoon Park Supply Chain Finance Trust Deed; and

f. otherwise does not know and therefore cannot admit the paragraph.

633A. TMNF does not know and therefore cannot admit paragraph 633A of the ASOC.

634. In response to paragraph 634 of the ASOC, TMNF:

a. refers to and repeats paragraph 105 of this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

635. In response to paragraph 635 of the ASOC, TMNF:

a. admits that Lagoon Park issued notes in compartment CW on the dates alleged; and

b. otherwise denies the paragraph.

636. TMNF does not know and therefore cannot admit paragraph 636 of the ASOC.

637. TMNF does not know and therefore cannot admit paragraph 637 of the ASOC.

L.4 Simec as a Customer under the 2019 Policy

638. In response to paragraph 638 of the ASOC, TMNF:

a. admits that on 13 March 2019, Mr Brereton signed a document which was styled as a "Customer Endorsement" bearing the number 2 and which purported to endorse Simec as a Customer to the 2019 Policy effective from 1 March 2019 with a Maximum Limit of Liability and Aggregate Customer Limit of USD 25 million (**Customer Endorsement 2**);

b. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 2 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. further or alternatively, says that says that Customer Endorsement 2 was not a valid "Customer Endorsement" under the 2019 Policy because:

i. "Customer" was defined to mean any "Customer" endorsed to the 2019 Policy under a Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor;

ii. "Debt" was defined to mean, as the context requires, a debt of the type described in the relevant Debt Endorsement; and

iii. Simec's obligations under the Simec RSA and/or the Simec Customer Agreement were not Debts of the type described in Part B of Debt Endorsement 1, or any other relevant part of any Debt Endorsement, for the reasons pleaded at paragraph 631 of this Defence; and

d. further or alternatively, says that Customer Endorsement 2 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively and says that if (which is denied) Customer Endorsement 2 was valid, it did not have any effectiveness or operation prior to 13 March 2019;

e. further or alternatively, says that, if (which is denied) Customer Endorsement 2 was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

f. otherwise denies the paragraph.

639. In response to paragraph 639 of the ASOC, TMNF:

a. admits that on 24 April 2019, Mr Brereton signed a document which was styled as a "Customer Endorsement" bearing the number 2(i) and which purported to endorse Simec as a Customer to the 2019 Policy effective from 9 April 2019 with an increased Maximum Limit of Liability and Aggregate Customer Limit of USD 45 million (**Customer Endorsement 2(i)**);

b. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 2(i) is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. further or alternatively, says that says that Customer Endorsement 2(i) was not a valid "Customer Endorsement" under the 2019 Policy and refers to and repeats paragraph 638.c of this Defence;

d. further or alternatively, says that Endorsement 2(i) is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively and says that if (which is denied) Customer Endorsement 2(i) was valid, it did not have any effectiveness or operation prior to 24 April 2019;

e. further or alternatively, says that, if (which is denied) Customer Endorsement 2(i) was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

f. otherwise denies the paragraph.

640. In response to paragraph 640 of the ASOC, TMNF:

a. admits that on 31 January 2020, Mr Brereton signed a document which was styled as a "Customer Endorsement" bearing the number 2(ii) and which purported to endorse Simec as a Customer to the 2019 Policy effective from 30 January 2020 with an increased Maximum Limit of Liability and Aggregate Customer Limit of USD 95 million (**Customer Endorsement 2(ii)**);

b. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 2(ii) is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. further or alternatively, says that says that Customer Endorsement 2(ii) was not a valid "Customer Endorsement" under the 2019 Policy and refers to and repeats paragraph 638.c of this Defence;

d. further or alternatively, says that Endorsement 2(ii) is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively and says that if (which is denied) Customer Endorsement 2(ii) was valid, it did not have any effectiveness or operation prior to 31 January 2020;

e. further or alternatively, says that, if (which is denied) Customer Endorsement 2(ii) was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

f. otherwise denies the paragraph.

L.5 Payment failures

641. In response to paragraph 641 of the ASOC, TMNF:

a. does not know and therefore cannot admit whether Bramid sold any accounts receivable to GCUK pursuant to the Master Supplier Agreement;

b. says that Simec did not enter into commercial trade transactions with Bramid for the sale of goods and/or the supply of services to Simec; and

c. the invoices related to the debts in Table 12.1 of Annexure P to the ASOC were not in any event issued by Bramid, such that no payment obligations could be created under the Simec Customer Agreement in respect of such invoices;

d. the debts set out in Table 12.1 of Annexure P to the ASOC were not covered by the 2019 Policy; and

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

e. otherwise denies the paragraph.

642. In response to paragraph 642 of the ASOC, TMNF:

a. refers to and repeats paragraph 641 of this Defence; and

b. otherwise does not know and therefore cannot admit the paragraph.

643. [NOT USED]

644. [NOT USED]

L.6 Claims on the 2019 Policy

645. In response to paragraph 645 of the ASOC, TMNF:

a. admits that Greensill Bank submitted a claim to BCC with respect to non-payments which purportedly constituted Insured Clauses under the 2019 Policy; and

b. otherwise denies the paragraph.

646. [NOT USED]

L.7 Breach of the 2019 Policy by Insurer

647. TMNF admits paragraph 647 of the ASOC and says further that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 645 of the ASOC.

648. [NOT USED]

649. [NOT USED]

650. [NOT USED]

M. SPECIAL NEEDS GROUP

M.1 Special Needs Group and other relevant parties

651. TMNF admits paragraph 651 of the ASOC.

652. TMNF admits paragraph 652 of the ASOC.

653. TMNF does not know and therefore cannot admit paragraph 653 of the ASOC.

M.2 The Instalment Payment Agreement and Side Letter

654A. In respect of paragraphs 654-660 and 662–665 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse do not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 654-660 and 662-665 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 654-660 and 662-665 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

654. In respect of paragraph 654 of the ASOC, TMNF:

a. admits that GCUK entered into a written agreement styled “Instalment Payment Agreement” with SNG bearing the date 21 June 2018 (**SNG IPA**);

b. says that the signature of:

i. the “Customer”, Barnabas Borbely (Solicitor/Director) is undated; and

ii. the “Funder”, is not legible but is dated 21 June 2018;

c. does not know what date the SNG IPA was executed by the persons referred to in paragraph 654.b of this Defence;

d. admits that the SNG IPA was amended and supplemented from time to time;

e. says that it does not know whether the particulars to paragraph 654 of the ASOC exhaustively identify the amendments that were made to the SNG IPA; and

f. otherwise does not know and therefore cannot admit the paragraph.

655. In response to paragraph 655 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the SNG IPA (as amended) to which it refers;

b. refers to the relevant terms of the SNG IPA for their full force and effect;

c. says further (with defined terms having the meaning assigned in the SNG IPA), that:

i. the SNG IPA defines a Payable as meaning payments which SNG may wish to make from time to time with respect of certain of its business transactions;

ii. the SNG IPA defines a PAUF as a payment assurance upload file created in respect of each such Payable; and

iii. clause 1 required that the Drawdown Amounts set out in any PAUF be used to discharge one or more Payables; and

d. otherwise admits the paragraph.

656. In response to paragraph 656 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the SNG IPA (as amended) to which it refers;

b. refers to the relevant terms of the SNG IPA for their full force and effect;

c. admits that the SNG IPA contained terms broadly to the effect pleaded in paragraphs 656(a) to (d) of the ASOC, save that GCUK's obligation to give 30 days' written notice of Default under cl 6 did not apply where the Default was under cl 5(a) or (c);

d. says that the SNG IPA also contained other provisions, including terms to the following effect:

i. SNG or GCUK could terminate the IPA at any time by giving 30 days' written notice of an intention to terminate (chapeau); and

ii. SNG represented that it had independently entered into underlying business relationships with relevant third parties prior to the applicable Payable being due for discharge and the submission of the relevant PAUF (cl 3); and

iii. SNG agreed to provide GCUK with copies of its financial statements or such other financial information as GCUK may reasonably request (cl 4); and

e. otherwise admits the paragraph.

657. TMNF does not plead to paragraph 657 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the SNG IPA for its full force and effect.

658. In relation to paragraph 658 of the ASOC, TMNF:

a. admits that the side letter described therein was amended from time to time (**SNG Side Letter**);

b. says that it does not know whether the particulars to paragraph 658 of the ASOC exhaustively identify the amendments that were made to the SNG Side Letter;

c. says that, pursuant to cl 1.1 of the SNG Side Letter, SNG was to submit a first PAUF which was required to include the following details:

i. the “Drawdown Date”, which was to be agreed between the parties;

ii. “Drawdown Amounts”, which were to be 26 amounts each in the sum of GBP 192,307;

iii. “Maturity Dates”, which were to be 26 dates starting on the date falling 14 days after the Drawdown Date, and the dates falling every 14 days thereafter; and

iv. “Repayment Amounts”, which were to be 26 equal instalments of GBP 192,307 (each an “Instalment Amount” as referred to in paragraph 659 of the ASOC) to be paid on each Maturity Date; and

d. says further that, on 22 June 2018, SNG and GCUK entered into a letter agreement styled “Fee Letter”, pursuant to which SNG agreed to pay GCUK an arrangement fee of GBP 100,000 plus VAT and GBP 25,000 plus VAT in respect of legal costs,

such amounts to be deducted by GCUK from the first Drawdown Amount (**SNG Fee Letter**); and

e. otherwise admits the paragraph.

659. In relation to paragraph 659 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the SNG Side Letter (as amended) to which it refers;

b. refers to the relevant terms of the SNG Side Letter for their full force and effect; and

c. otherwise admits the paragraph.

660. TMNF does not plead to paragraph 660 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the SNG Side Letter for its full force and effect.

661. [NOT USED]

M.3 SNG Note Programme

662. In response to paragraph 662 of the ASOC, TMNF:

a. admits that Hoffman issued the note particularised;

b. denies that the note referred to in paragraph 662 was secured by the alleged SNG Payment Obligations, as:

i. no such obligations existed, for the reason pleaded at paragraph 349 of this Defence; and

ii. no such obligations were validly assigned to Hoffman for the reasons pleaded at paragraph 663 of this Defence;

c. says that the note particularised does not constitute a Note for the purposes of the 2019 Policy because it was not secured over corresponding Repayment Obligations pursuant to the SNG IPA and therefore was not backed by payment obligations acquired by Hoffman as required by the Master Trust Deed and the Issue Documents (both as defined in the 2019 Policy); and

d. otherwise denies the paragraph.

663. In response to paragraph 663 of the ASOC, TMNF:

a. denies the existence of the SNG Payment Obligations, for the reason pleaded at paragraph 661 of this Defence; and

b. alternatively, denies that the benefit of any SNG Payment Obligations was assigned to Hoffman, validly or at all;

c. refers to and repeats paragraph 251.b of this Defence concerning the relevant provisions of the MAA;

d. does not know and therefore cannot admit that cl 2.1 to 2.3 of the MAA were followed, on the basis that:

i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as “Notes Offer Reports”;

ii. it does not appear that these Notes Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer;

iii. it does not appear that the Notes Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance; and

e. denies that cl 2.1 to 2.3 of the MAA were followed, on the basis that the Notes Offer Report for the SNG Note did not identify the Compartment of Hoffman to which the electronic file or data feed was to be delivered and subsequent Offer made;

f. says that the “Notes Offer Report” relating to the alleged SNG Payment Obligations failed to identify the underlying payment obligations to which it related in a manner consistent with the requirements of the MAA, or at all;

g. says further that, as a result, Credit Suisse Virtuoso does not hold an interest in the SNG Payment Obligations, and accordingly cannot have suffered a Loss in respect of those obligations within the meaning of the 2019 Policy; and

h. otherwise denies the paragraph.

664. TMNF does not know and therefore cannot admit paragraph 664 of the ASOC.

665. TMNF does not know and therefore cannot admit paragraph 665 of the ASOC.

M.4 Correspondence between the Insured and the Insurer

666. In response to paragraph 666 of the ASOC, TMNF:

a. admits that on 12 May 2020, Craig Pinnington of GCUK sent an email to Edward G Smith and Angus Ward, both of Marsh, containing statements and attaching documents to the effect pleaded in that paragraph;

b. does not know and therefore cannot admit the content of the alleged conversation between Mr Lex Greensill and Mr Brereton;

c. relies on the terms of the email and its attachments for their full force and effect; and

d. otherwise admits the paragraph.

667. In response to paragraph 667 of the ASOC, TMNF:

a. admits that on 12 May 2020, Angus Ward of Marsh sent an email to Mr Brereton, attaching documents to the effect pleaded in that paragraph;

b. refers to and repeats paragraphs 117 and 148 of this Defence;

c. refers to and repeats paragraph 26 of this Defence and says that Marsh sent the email and attachments as agent for the Greensill Group; and

d. otherwise denies the paragraph.

668. In response to paragraph 668 of the ASOC, TMNF:

a. says that on 12 May 2020 at 10:57pm GMT, Mr Brereton sent an email to Mr Ward of Marsh, which attached a scanned copy of each of:

i. the document entitled Customer Endorsement No. 127 dated 13 May 2020 referred to at paragraph 134 of this Defence; and

ii. a document entitled Customer Endorsement No. 127 dated 13 May 2020 purportedly made in relation to the purported BCC Policy TB-03691; and

b. otherwise denies the paragraph.

669. In response to paragraph 669 of the ASOC, TMNF:

a. admits that a document entitled Customer Endorsement 127 was signed by Mr Brereton on 13 May 2020 (**Customer Endorsement 127**) and contained terms broadly to the effect pleaded;

b. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 127 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. further or alternatively says that Customer Endorsement 127 was not a valid "Customer Endorsement" under the 2019 Policy, because:

i. "Customer" was defined to mean any 'Customer' endorsed to the 2019 Policy under a Customer Endorsement, being a debtor in respect of a Debt of the type described in the relevant Debt Endorsement and including any successor in title or at law to such a debtor;

ii. "Debt" was described to mean, as the context requires, a debt of the type described in the relevant Debt Endorsement; and

iii. the alleged SNG Payment Obligations were not Debts of the type described in Part C of Debt Endorsement 1, or any other relevant Debt Endorsement, for the reasons set out in paragraph 661 of this Defence; and

d. says that, insofar as Customer Endorsement 127 purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy; and

e. otherwise denies the paragraph.

670. [NOT USED]

671. [NOT USED]

672. [NOT USED]

M.5 Payment failures

673. In response to paragraph 673 of the ASOC, TMNF:

    a. admits that on or around 25 February 2021, SNG submitted to GCUK a document that purported to be a PAUF for the purposes of the SNG IPA;

    b. denies that the document was a valid PAUF for the purposes of the SNG IPA, because the PAUF was not created in respect of one or more Payables but was instead created in respect of repayments of a loan already owing by SNG to GCUK; and

    c. otherwise denies the paragraph.

674. TMNF admits paragraph 674 of the ASOC.

675. TMNF does not know and therefore cannot admit paragraph 675 of the ASOC.

676. TMNF does not know and therefore cannot admit paragraph 676 of the ASOC.

677. TMNF does not know and therefore cannot admit paragraph 677 of the ASOC.

678. In response to paragraph 678 of the ASOC, TMNF:

    a. says that it does not know the extent to which Credit Suisse Virtuoso has made recoveries from the alleged sale to which paragraph 677 of the ASOC refers (or otherwise) in respect of any alleged debts over which it claims to have a beneficial interest, but says that any loss claimable by Credit Suisse Virtuoso (if any) will be reduced by the amount of any such recoveries; and

    b. otherwise does not know and therefore cannot admit paragraph 678 of the ASOC.

679. [NOT USED]

680. [NOT USED]

M.6 Claims on the 2019 Policy

681. In response to paragraph 681 of the ASOC, TMNF:

a. admits that Greensill Bank submitted a claim to BCC with respect to non-payments which purportedly constituted Insured Causes under the 2019 Policy; and

b. otherwise denies the paragraph.

682. [NOT USED]

M.7 Breach of 2019 Policy by Insurer

683. TMNF admits paragraph 683 of the ASOC and says that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 681 of the ASOC.

684. [NOT USED]

685. [NOT USED]

686. [NOT USED]

N. SSUK

N.1 SSUK and other relevant parties

687. TMNF admits paragraph 687 of the ASOC.

688. In response to paragraph 688 of the ASOC, TMNF:

a. says that SSUK and Liberty House were both part of the GFG Alliance (also known as the Gupta Family Group Alliance); and

b. otherwise admits the paragraph.

N.2 Receivables Purchase Agreement

689A. In respect of paragraphs 689 to 692 and 708 to 711 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 689 to 692 and 708 to 711 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 689 to 692 and 708 to 711 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

689. In response to paragraph 689 of the ASOC, TMNF:

a. admits that on 9 April 2019, the SSUK RPA (as defined in the ASOC) was entered into between GCUK (as Buyer) and SSUK (as Company, Seller Representative, Servicer and Seller);

b. admits that a document styled as a side letter was executed by GCUK and SSUK that same day; and

c. otherwise does not know and therefore cannot admit the paragraph.

690. In response to paragraph 690 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the SSUK RPA to which it refers;

b. says further that cl 2.2 of the SSUK RPA provided that, if the Seller Representative delivered a list of Eligible Receivables available for purchase, it would also deliver to the Buyer a Valuation Report including such Eligible Receivables that are being made available for purchase, together with the Valuation Report Value of those Eligible Receivables;

c. says that paragraph 690(c) of the ASOC refers to two distinct steps in the contractual procedure for the sale of Eligible Receivables, being the steps provided for by each of cl 2.4 and cl 2.5 of the SSUK RPA respectively;

d. refers to the relevant terms of the SSUK RPA for their full force and effect; and

e. otherwise admits the paragraph.

691. In response to paragraph 691 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the SSUK RPA to which it refers;

b. refers to the relevant terms of the SSUK RPA for their full force and effect; and

c. otherwise admits the paragraph.

692. TMNF does not plead to paragraph 692 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the SSUK RPA for its full force and effect.

N.3 Correspondence between GCUK and the Insurer

693. In response to paragraph 693 of the ASOC, TMNF:

a. refers to and repeats paragraphs 148 to 150 of this Defence;

b. admits that an email was sent by Craig Pinnington of GCUK on behalf of the Greensill Group to Mr Brereton of BCC on 8 April 2019 containing an attachment generally answering the description pleaded;

c. says that the paragraph is a paraphrase of the email to which it refers;

d. refers to the relevant terms of the email for its full force and effect; and

e. otherwise does now know and therefore cannot admit the paragraph.

694. In response to paragraph 694 of the ASOC, TMNF:

a. refers to and repeats paragraphs 148 to 150 of this Defence;

b. admits that an email was sent by Craig Pinnington of GCUK on behalf of the Greensill Group to Mr Brereton of BCC on 8 April 2019 containing attachments generally answering the description pleaded;

c. says that the paragraph is a paraphrase of the email to which it refers; and

d. refers to the relevant terms of the email for its full force and effect;

e. otherwise does not know and therefore cannot admit the paragraph.

695. In response to paragraph 695 of the ASOC, TMNF:

a. admits that an email was sent on 9 April 2019 by Lex Greensill to Mr Brereton of BCC on 9 April 2019 containing attachments generally answering the description pleaded;

b. says that the paragraph is a paraphrase of the email to which it refers;

c. refers to the relevant terms of the email for its full force and effect; and

d. otherwise does not know and therefore cannot admit the paragraph.

696. In response to paragraph 696 of the ASOC, TMNF:

a. admits that an email was sent on 9 April 2019 by Mr Brereton of BCC to Lex Greensill;

b. says that the paragraph is a paraphrase of the email to which it refers;

c. refers to the relevant terms of the email for its full force and effect; and

d. otherwise does not know and therefore cannot admit the paragraph.

697. In response to paragraph 697 of the ASOC, TMNF:

a. admits that an email was sent on 3 June 2019 by Angus Ward of Marsh to Mr Brereton of BCC;

b.

c. says that the paragraph is a paraphrase of the email to which it refers;

d. refers to the relevant terms of the email for its full force and effect; and

e. otherwise does not know and therefore cannot admit the paragraph.

698. In response to paragraph 698 of the ASOC, TMNF:

a. admits that an email was sent on 10 June 2019 by Angus Ward of Marsh to Sophie Dyke of GCUK containing attachments generally answering the description pleaded;; and

b. otherwise does not know and therefore cannot admit the paragraph.

N.4 SSUK Customers under the 2019 Policy

699. In response to paragraph 699 of the ASOC, TMNF:

a. admits that the instrument pleaded (**the Unnumbered Customer Endorsement**) was purportedly executed by Mr Brereton on 10 June 2019;

b. says that the Unnumbered Customer Endorsement is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a “Customer Endorsement” that purported to operate retrospectively, and, in the premises, denies that the Unnumbered Customer Endorsement had any effectiveness or operation prior to 10 June 2019;

c. says that, insofar as the Unnumbered Customer Endorsement purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

d. says that Appendix 1 of the Policy required a Customer Endorsement to express a percentage premium rate, and that the Unnumbered Customer Endorsement is invalid because it did not express a percentage premium rate (but rather a fixed pound amount of £1); and

e. otherwise admits the paragraph.

700. In response to paragraph 700 of the ASOC, TMNF:

a. says that says that the SSUK Endorsement was not an Endorsement within the meaning of the 2019 Policy, on the basis that the 2019 Policy permitted only three types of endorsement (Customer Endorsements, Debt Endorsements, and Loss Payee Endorsements), and this document did not purport to be and was not a Customer Endorsement, Debt Endorsement or Loss Payee Endorsement;

b. says that the SSUK Endorsement therefore was not effective to vary the Maximum Tenor of 120 days specified in Part B of Debt Endorsement 2(iv);

c. says that, insofar as the SSUK Endorsement purported to be a "Customer Endorsement" within the terms of the 2019 Policy, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

d. says that clause 15.3(a) of the 2019 Policy provided that any variation of the 2019 Policy could only be effected in writing signed by or on behalf of each party;

e. says that the SSUK Endorsement was not signed on behalf of GCPL or Greensill Bank, and was not a valid variation of the Policy;

f. says that, insofar as the SSUK Endorsement purported to be a "Customer Endorsement" within the terms of the 2019 Policy, Appendix 1 of the Policy required a Customer Endorsement to express a percentage premium rate, and that the SSUK

Endorsement is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

g. says that the SSUK Endorsement was purportedly executed by Mr Brereton on 10 June 2019;

h. refers to and repeats paragraph 145.f.ii of this Defence;

i. in the premises, denies that the SSUK Endorsement had any effectiveness or operation prior to 10 June 2019;

j. says that the SSUK Endorsement was invalid for the further reason that it purported to provide that Customer Limits could be written in a Customer Endorsement "or otherwise made available to view by the Insured on the platform the Insurer uses for recording and showing insurance limits", contrary to the terms of the 2019 Policy, in which "Customer Limit" was defined to mean, "in respect of a Customer, the amount recorded in an Endorsement to this Policy", thereby requiring that any Customer Limit in fact be stated in the relevant endorsement itself, which the SSUK Endorsement did not do;

k. refers to the SSUK Endorsement for its full force and effect; and

l. otherwise denies the paragraph.

N.5 [NOT USED]

701. [NOT USED]

702. [NOT USED]

703. [NOT USED]

704. [NOT USED]

705. [NOT USED]

706. [NOT USED]

707. [NOT USED]

N.6 SSUK Rehbein Note Programme

708. In response to paragraph 708 of the ASOC, TMNF:

a. admits that Hoffman issued various notes in compartment LF over the period 8 June 2020 to 4 February 2021;

b. denies that any notes of the kind referred to in paragraph 708 of the ASOC were secured by the payment obligations of SSUK under the SSUK RPA (if any) (**SSUK Payment Obligations**), as they were never validly assigned to Hoffman for the reasons pleaded at paragraph 709 of this Defence; and

c. otherwise denies the paragraph.

709. In response to paragraph 709 of the ASOC, TMNF:

a. denies that the benefit of any SSUK Payment Obligations were assigned to Hoffman, validly or at all;

b. refers to and repeats paragraph 251.b of this Defence concerning the relevant provisions of the MAA;

c. does not admit that cl 2.1 to 2.3 of the MAA were followed, on the basis that:

i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as “Note Offer Reports”;

ii. it does not appear that these Note Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer;

iii. it does not appear that the Note Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance;

iv. even if the Note Offer Reports had been so emailed, they do not contain the name of a “Relevant Obligor” (being the name of the entity liable for payment of the Payment Obligation) as required by the MAA;

v. the Note Offer Reports do not contain an “Identifier” for the underlying Payment Obligation (being a unique reference identifying such Payment

Obligation and identifiable as such by the Relevant Obligor) as required by the MAA; and

vi. the Note Offer Reports do not contain an "Invoice Ref" for the underlying Payment Obligation (being the Supplier invoice reference number relating to the account receivable) as required by the MAA;

d. says that the "Note Offer Reports" relating to any SSUK Payment Obligations failed to identify the underlying payment obligations to which they related in a manner consistent with the requirements of the MAA, or at all;

e. says further that, as a result, Credit Suisse does not hold an interest in any SSUK Payment Obligations, and accordingly cannot have suffered a Loss in respect of those obligations within the meaning of the 2019 Policy; and

f. otherwise denies the paragraph.

710. TMNF does not know and therefore cannot admit paragraph 710 of the ASOC.

711. In response to paragraph 711 of the ASOC, TMNF:

a. says that neither Credit Suisse Virtuoso nor Credit Suisse Nova has suffered any Loss if, as is alleged in paragraph 711 of the ASOC, they have transferred the SSUK Rehbein Notes to Greensill Bank; and

b. otherwise does not know and therefore cannot admit the paragraph.

N.7 Payment failures

712. In response to paragraph 712 of the ASOC, TMNF:

a. denies that GCUK purchased any genuine accounts receivable from SSUK between June 2020 and February 2021;

b. says that the ASOC does not plead facts which would establish that each purported sale of accounts receivable from SSUK between June 2020 and February 2021 was effected in a manner consistent with the requirements of the SSUK RPA in any event, including:

i. that SSUK provided GCUK with a Valuation Report in respect of each such purported sale, as required by clause 2.2(b);

ii. that GCUK provided SSUK with a Request and Offer File in respect of each such purported sale, as required by clause 2.3; or

iii. that GCUK accepted a signed Request returned to it by SSUK in respect of each such purported sale (pursuant to clause 2.4) by countersigning such Request within two Business Days of receipt, as required by clause 2.5; and

says that the claims made in Annexure N to the ASOC are liable to be struck out as a result;

c. says that the evidence that has been provided by Credit Suisse to BCC to date does not show that the requirements in subparagraph b. above were complied with in respect of the alleged debts the subject of Annexure N of the ASOC; and

d. otherwise denies the paragraph.

713. TMNF does not know and therefore cannot admit paragraph 713 of the ASOC and says further that the debts set out in Table 14.1 of Annexure P to the ASOC were not covered by the 2019 Policy.

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

714. [NOT USED]

715. [NOT USED]

N.8 Claims on the 2019 Policy

716. In response to paragraph 716 of the ASOC, TMNF:

a. admits that Greensill Bank submitted a claim to BCC with respect to non-payments which purportedly constituted Insured Causes under the 2019 Policy; and

b. otherwise denies the paragraph.

717. [NOT USED]

N.9 Breach of 2019 Policy by Insurer

718. TMNF admits paragraph 718 of the ASOC and says that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 716 of the ASOC.

719. [NOT USED]

720. [NOT USED]

721. [NOT USED]

O. WESTFORD

O.1 Westford and other relevant parties

722. TMNF admits paragraph 722 of the ASOC.

723. In response to paragraph 723 of the ASOC, TMNF:

a. says that Westford was an entity that had a close business relationship with the "Gupta Family Group Alliance" or "GFG Alliance" and/or Sanjeev Gupta; and

b. otherwise says that it does not know and therefore cannot admit the paragraph.

Particulars

The particulars to paragraph 416 of this Defence are repeated.

724. In response to paragraph 724 of the ASOC, TMNF:

a. admits that Bramid was at all material times a company incorporated under the law of Bermuda; and

b. otherwise does not know and therefore cannot admit the paragraph.

O.2 Re-Invoicing Service Agreement

724A. In respect of paragraphs 725 to 741 of the ASOC, TMNF says generally that:

a. TMNF was not, and is not alleged to be, a party to the documents identified in those paragraphs;

b. Credit Suisse does not allege (and TMNF would not be in a position to admit, in any event) that paragraphs 725 to 741 of the ASOC exhaustively identify the documents that govern the relationship that exists between the parties to those documents; and

c. TMNF will seek disclosure in relation to the matters the subject of paragraphs 725 to 741 of the ASOC at an appropriate point in the proceedings and reserves its right to amend its Defence upon a review of any documents produced.

725. TMNF admits paragraph 725 of the ASOC.

726. In response to paragraph 726 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Westford RSA to which it refers;

b. refers to the relevant terms of the Westford RSA for their full force and effect;

c. says that the Westford RSA provided that:

i. Westford could submit to Bramid a request for settlement of a 'Supplier Invoice' (cl 2.1(a));

ii. a 'Supplier Invoice' means an invoice raised by a Supplier in respect of an 'Account Receivable' (cl 1.1);

iii. an 'Account Receivable' means a right to receive payments of money due and payable as a result of a 'Supply Agreement' (cl 1.1);

iv. a 'Supply Agreement' means an agreement between Westford and a Supplier for the sale, supply and purchase of goods and/or services pursuant to which an Account Receivable arises (cl 1.1); and

v. Westford shall only submit Suppler Invoices in respect of genuine and lawful trade transactions arising in the ordinary course of business for the sale, supply and purchase of goods and/or services between Westford and the Supplier (cl 3.1); and

d. otherwise admits the paragraph.

727. In response to paragraph 727 of the ASOC, TMNF:

a. refers to and repeats paragraph 726 of this Defence;

b. says that the paragraph is a paraphrase of the clauses of the Westford RSA to which it refers;

c. refers to the relevant terms of the Westford RSA for their full force and effect; and

d. otherwise admits the paragraph.

728. TMNF does not plead to paragraph 728 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Westford RSA for its full force and effect.

O.3 The Customer Agreement with Westford

729. TMNF admits paragraph 729 of the ASOC.

730. In response to paragraph 730 of the ASOC, TMNF:

a. refers to the relevant terms of the Westford Customer Agreement for their full force and effect: and

b. otherwise admits the paragraph.

731. In response to paragraph 731 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Westford Customer Agreement to which it refers;

b. refers to the relevant terms of the Introduction to the Westford Customer Agreement for their full force and effect;

c. says that the Westford Customer Agreement provided that:

i. Westford and its Affiliates may enter into commercial trade transactions with 'Suppliers' for the sale of goods and/or the supply of services (Introduction, para A);

ii. a 'Supplier' means any person with whom a 'Supplier Agreement' is in force (cl 1.1);

iii. a 'Supplier Agreement' means an agreement between an FI Group Member and a 'Supplier' that regulates 'Transfers' to an FI Group Member (cl 1.1);

iv. a 'Transfer' means the sale, assignment or transfer of an 'Account Receivable' (cl 1.1);

v. an 'Account Receivable' means the right to receive payments of money due and payable as a result of an 'Underlying Relationship' (cl 1.1);

vi. an ‘Underlying Relationship’ means a business relationship between Westford and a Supplier (cl 1.1);

vii. Westford shall only submit PAUFs in respect of genuine and lawful trade transactions arising in the ordinary course of business for the sale, supply and purchase of goods and/or services (cl 3.1); and

viii. Westford shall, and shall procure that each Affiliated Company will, maintain sufficient records of all transactions with respect to the Underlying Relationship (or associated disputes) to which the relevant Customer is a party (cl 3.2);

d. refers to the relevant terms of the Introduction to the Westford Customer Agreement for their full force and effect; and

e. otherwise admits the paragraph.

732. In response to paragraph 732 of the ASOC, TMNF:

a. says that the paragraph is a paraphrase of the clauses of the Westford Customer Agreement to which it refers;

b. refers to the relevant terms of the Introduction to the Westford Customer Agreement for their full force and effect; and

c. otherwise admits the paragraph.

733. TMNF does not plead to paragraph 733 of the ASOC, which contains no allegation against it, but says that it likewise relies upon the whole of the Westford Customer Agreement for its full force and effect.

733A. In further answer to paragraphs 729 to 733 of the ASOC, TMNF says that:

a. on a date presently unknown to TMNF in around August 2020, Westford executed a letter agreement with GCUK (the **Westford Letter Agreement**), that contained terms to the effect that:

i. Westford shall deliver a PAUF dated 25 August 2020 (**Applicable PAUF**) to GCUK under the terms of the Westford Customer Agreement, which among

other items, shall include a Certified Amount in the sum of US$40,000,000 (the **Applicable Certified Amount**);

ii. GCUK understands there is a loan agreement between Westford, as lender, and Liberty House, as borrower, for an amount of at least US$40,000,000 that has been entered into or will be entered into on or prior to the date of the letter agreement (the **Loan Agreement**);

iii. GCUK understands that Westford intends to meet its obligation to lend to Liberty House on 25, 26, 27 and 28 August 2020 using monies it receives from GCUK following delivery of the Applicable PAUF;

iv. separately, Liberty House intends to pay GCUK an amount of US$40,000,000 as collateral for monies, debts and liabilities of any nature from time to time due or owing from a "GFG Group Member" to GCUK or any company, partnership or other entity directly or indirectly controlled by GCPL (the **Cash Collateral**);

v. Westford acknowledges and agrees that upon acceptance of the Applicable PAUF and the processing thereof, GCUK shall retain an amount equal to the Applicable Certified Amount as the Cash Collateral, which shall satisfy (i) GCUK's obligation to pay any Net FI Amount (as that term is defined in any applicable Supplier Agreement); (ii) Westford's lending of US$40,000,000 to Liberty House under the terms of the Loan Agreement; and (iii) Liberty's payment of the Cash Collateral; and

vi. GCUK and Westford agree that GCUK shall earn a fee (**Fee**) in an amount of US$525,000 payable no later than 25 August 2020 into a Designated Account, to be notified by GCUK to Westford;

b. on a date presently unknown to TMNF in around August 2020, GCUK prepared a letter agreement between itself and Liberty House (the **Liberty House Letter Agreement**), that contained terms to the effect that:

i. GCUK understands that under the terms of the Loan Agreement, Liberty House has to repay Westford an amount of at least US$40,000,000 on 23 November 2023; and

ii. upon that understanding, GCUK may therefore, at its discretion, release the Cash Collateral and apply the Cash Collateral as repayment by Westford of amounts drawn down under the Westford Customer Agreement on their maturity dates of 20 and 23 November 2020, and accordingly Liberty House agree that upon such payment US$40,000,000 will be deducted from the amounts Liberty House owe to Westford under the Loan Agreement;

c. in accordance with the terms of the Westford Letter Agreement and Liberty House Agreement, in around late August 2020:

i. Westford submitted PAUFs for an amount totalling US$40,000,000;

ii. GCUK paid that amount into its own internal treasury account and not into the designated account under the Westford Customer Agreement;

iii. GCUK paid itself the Fee from those funds; and

iv. GCUK retained the balance as Cash Collateral for amounts owing to GCUK from Liberty House and other members of the "GFG Group".

Particulars

Emails from Gaurav Sanan (Senior Director Origination, Greensill) to Adelin Nkurunziza (Greensill Support Operations) and others, with the subject "Re: DEALS TO BE UPLOADED - WESTFORD", dated 25 August 2020 and 10 November 2020. Mr Sanan's email of 10 November 2020 at 07:13, in particular, refers to GCUK continuing to retain ~US$39.4m as Cash Collateral (being the US$40m amount less the Fee of $525,000).

734. In response to paragraph 734 of the ASOC, TMNF:

a. refers to and repeats paragraphs 731 and 733A of this Defence;

b. denies that there was a business relationship between Bramid and Westford pursuant to which Westford entered into commercial trade transactions with Bramid;

c. denies that Westford entered into any genuine and lawful trade transactions with Bramid arising in the ordinary course of business for the sale, supply and purchase of goods and/or services; and

d. in the premises, denies the paragraph.

735. [NOT USED]

736. [NOT USED]

737. [NOT USED]

O.4 Westford Note Programme

738. In response to paragraph 738 of the ASOC, TMNF:

a. admits that Hoffman issued notes 1 to 7 in Table 15.2 of Appendix P in compartment HI on the dates alleged:

b. says that it is not alleged that notes 8 to 12 in Table 15.2 of Appendix P are the subject of any relevant insurance;

c. denies that any notes of the kind referred to in paragraph 738 of the ASOC were secured by any payment obligations owed by Westford to GCUK, as they were never validly assigned to Hoffman for the reasons pleaded at paragraph 739 of this Defence; and

d. otherwise denies the paragraph.

739. In response to paragraph 739 of the ASOC, TMNF:

a. denies that the benefit of any payment obligations owed by Westford to GCUK were assigned to Hoffman, validly or at all;

b. says that the assignment of “payment obligations” by GCUK to Hoffman was governed by the MAA, as amended by the Purchase Model Product Schedule, which applied to Westford by virtue of the designation of the product code “PAA” in the Westford Note Offer Reports;

c. says that the Purchase Model Schedule provided that legal title to the "payment obligations" would remain with GCUK until the occurrence of specified events, including (adopting the definitions used in the Purchase Model Product Schedule) after a Notification Event had occurred and notice of the assignment or acquisition of the "payment obligations" had been delivered to a Relevant Obligor;

d. says that TMNF does not know and therefore cannot admit, that the requirements pleaded at paragraph 739.c of this Defence were satisfied;

e. denies that cl 2.1 to 2.3 of the MAA were followed, on the basis that:

i. there were prepared from time to time a number of Greensill-branded spreadsheets styled as "Note Offer Reports";

ii. it does not appear that these Note Offer Reports were emailed by GCUK in accordance with cl 2.2 of the MAA by way of Offer; and

iii. it does not appear that the Note Offer Reports were emailed from Hoffman back to GCUK in accordance with cl 2.3 of the MAA by way of Acceptance;

f. says that the "Note Offer Reports" relating to any payment obligations of Westford failed to identify the underlying payment obligations to which they related in a manner consistent with the requirements of the MAA, or at all;

g. says further that, as a result, Credit Suisse Virtuoso does not hold an interest in any payment obligations of Westford, and accordingly cannot have suffered a Loss in respect of any such obligations within the meaning of the 2019 Policy; and

h. otherwise denies the paragraph.

740. TMNF does not know and therefore cannot admit paragraph 740 of the ASOC.

741. TMNF does not know and therefore cannot admit paragraph 741 of the ASOC.

O.5 Westford as a Customer under the 2019 Policy

742. In response to paragraph 742 of the ASOC, TMNF:

a. says that:

i. on or around 20 June 2020, Lex Greensill sent an email to Mr Brereton with the subject "*Westford*" in which he stated "*Just to confirm what we just discussed: $51mm cover; First Loss - $40mm (given collateral we hold) – Therefore effectively reinstating the $11mm of cover you previously provided*"; and

ii. the email was sent by Lex Greensill on behalf of the Greensill Group;

b. otherwise denies the paragraph.

743. In response to paragraph 743 of the ASOC, TMNF:

a. says that on or around 2 July 2020, Mr Ward of Marsh sent an email to Craig Pinnington which purported to attach a document dated 2 July 2020 and styled as a "Customer Endorsement" bearing the number 139 and which purported to endorse Westford as a Customer to the 2019 Policy effective from 22 June 2020 (**Customer Endorsement 139**);

b. does not know and therefore cannot admit whether the attachment to the email was in the form pleaded, as TMNF does not have a copy of the original email;

c. refers to the email chains for their full force and effect; and

d. otherwise denies the paragraph.

744. In response to paragraph 744 of the ASOC, TMNF:

a. admits that on 2 July 2020, Mr Brereton signed Customer Endorsement 139, as defined at paragraph 743 of this Defence;

b. says that Appendix 1 of the 2019 Policy required a Customer Endorsement to express a percentage premium rate, and that Customer Endorsement 139 is invalid because it did not express a percentage premium rate (but rather a fixed dollar amount of $1);

c. further or alternatively, says that says that Customer Endorsement 139 was not a valid "Customer Endorsement" under the 2019 Policy because:

i. "Customer" was defined to mean any "Customer" endorsed to the 2019 Policy under a Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor;

ii. "Debt" was defined to mean, as the context requires, a debt of the type described in the relevant Debt Endorsement; and

iii. Westford's obligations under the Westford RSA and/or the Westford Customer Agreement were not Debts of the type described in Part B of Debt Endorsement 1, or any other relevant part of any Debt Endorsement, for the reasons pleaded at paragraph 737 of this Defence;

d. further or alternatively, says that Customer Endorsement 139 is not valid because, on the proper construction of the 2019 Policy, the 2019 Policy did not authorise the issue of a "Customer Endorsement" that purported to operate retrospectively, and says that if (which is denied) Customer Endorsement 139 was valid, it did not have any effectiveness or operation prior to 2 July 2020;

e. further or alternatively, says that, if (which is denied) Customer Endorsement 139 was valid, it was valid only to the extent that it identified a Customer, and not to the extent that it purported to vary the terms of the 2019 Policy or prescribe new terms inconsistent with those in the 2019 Policy;

f. further or alternatively, say that:

i. the Greensill Group did not disclose to Mr Brereton (or any other representative of BCC) at any time that:

A. GCUK intended to enter into (or had entered into) the arrangements pleaded in paragraph 733A of this Defence;

B. that US$40,000,000 of the amount advanced under the Westford facility was to be held by GCUK as security for debts owed by members of the "GFG group" to GCUK; and

C. at the time those arrangements were proposed, entities within the "GFG group" had already defaulted on making repayments to GCUK (as pleaded at paragraph 404);

(the **Westford Loan Agreement Non-Disclosures**);

ii. the Westford Loan Agreement Non-Disclosures were material to Mr Brereton's decision to enter into Customer Endorsement 139 and underwrite the Westford risks;

Particulars

A. The Westford Loan Agreement Non-Disclosures bore directly on the risk of Westford being unable to repay the amounts advanced to it and thus upon the risks insured.

B. The effect of the arrangements that were not disclosed is that US$40,000,000 of the amounts being advanced by GCUK under the insured facility would not be used for supply chain finance but would be held by GCUK as security for other debtors, some of whom had already defaulted.

iii. the Westford Loan Agreement Non-Disclosures were deliberate and, in the premises, constitutes a fraudulent non-disclosure;

Particulars

A. Lex Greensill, on behalf of the Greensill Group, knew that the matters would be material and acted deliberately on behalf of the Greensill Group not to disclose them is Lex Greensill.

B. Deliberate non-disclosure is to be inferred from the significance of the matters that were not disclosed, the nature of Lex Greensill's communications with Mr Brereton (pleaded above) and Lex Greensill's experience in commercial financing and in dealing with underwriters.

g. says further that if it is found that:

i. Mr Brereton;

ii. BCC; and/or

iii. IAL;

entered into Customer Endorsement 139, and IAL or BCC thereby assumed any risk or liability under the 2019 Policy or Customer Endorsement 139, Mr Brereton, BCC and/or IAL (through its agents Mr Brereton and BCC) entered into that endorsement and/or assumed that risk or liability by reason of the Westford Loan Agreement Non-Disclosure with the consequence that the 2019 Policy and endorsements purportedly entered into under that policy are liable to be avoided; and

h. otherwise denies the paragraph.

O.6 Payment failures

745. In response to paragraph 745 of the ASOC, TMNF:

a. says that:

i. Westford did not have any business relationship or purported business relationship with Bramid;

ii. TMNF does not know and therefore cannot admit whether Bramid sold any accounts receivable to GCUK pursuant to the Master Supplier Agreement;

iii. Westford did not enter into commercial trade transactions with Bramid for the sale of goods and/or the supply of services to Westford;

iv. the invoices purported related to the debts in Table 15.1 of Annexure P to the ASOC were not in any event issued by Bramid, such that no payment obligations could be created under the Westford Customer Agreement in respect of such invoices; and

v. the invoices purportedly related to the debts in Table 15.1 of Annexure P to the ASOC included invoices from Resurs Middle East Trading FZE, Secant Trading DMCC, and Paradigm Resources DMCC, each of which had a relationship with Sanjeev Gupta and/or the "GFG Alliance"; and

Particulars

A. The invoice purportedly issued by Resurs Middle East Trading FZE includes the email address vlada@unibros.com, which is the email address of Vladimir Delic of Unibros. Mr Delic has said publicly that he has been an associate of Sanjeev Gupta for several decades.

B. The invoice purportedly issued by Secant Trading DMCC lists its address as Unit No: 3O-01-3207, Jewellery & Gemplex 3, Dubai, UAE. Secant Trading DMCC is described as the UAE branch of Metallics Trading Pte Ltd, a company established by A.K. Tandon. Mr Tandon previously worked a director of Berkely Commodities Limited, a company previously owned by Sanjeev Gupta.

C. The invoice purportedly issued by Paradigm Resources DMCC lists its address as Unit No: 3724, DMCC Business Centre, Level No. 1, Jewellery & Gemplex 3, Dubai, UAE. Paradigm Resources DMCC is described as the UAE branch of Novelle Resources, a group of companies established by Tejash Shah. Mr Shah is reported to have worked for one of the Liberty entities.

D. The invoice purportedly issued by Iconic Middle East DMCC (which is in the same format as the Paradigm Resources DMCC invoice) lists its address as Unit No: 3537, DMCC Business Centre, Level No. 1, Jewellery & Gemplex 3, Dubai, UAE. Paradigm Resources DMCC is described as the UAE branch of Evershine Group, a group of companies established by Vikrant Sharma. Mr Sharma was previously the President of Liberty Steel UK.

b. otherwise denies the paragraph.

746. In response to paragraph 746 of the ASOC, TMNF:

a. refers to and repeats paragraph 745 of this Defence;

b. says further that the debts set out in Table 15.1 of Annexure P to the ASOC were not covered by the 2019 Policy; and

Particulars

Letter dated 30 June 2026 from Gilbert + Tobin to Kennedys.

c. otherwise does not know and therefore cannot admit the paragraph.

747. [NOT USED]

748. [NOT USED]

O.7 Claims on the 2019 Policy

749. In response to paragraph 749 of the ASOC, TMNF:

a. admits that Greensill Bank submitted a claim to BCC with respect to non-payments which purportedly constituted Insured Causes under the 2019 Policy; and

b. otherwise denies the paragraph.

750. [NOT USED]

O.8 Breach of 2019 Policy by Insurer

751. TMNF admits paragraph 751 of the ASOC and says that IAL has no liability to indemnify or pay any amount to GBAG or Credit Suisse Virtuoso because the 2019 Policy does not respond to the claim referred to in paragraph 749 of the ASOC.

752. [NOT USED]

753. [NOT USED]

754. [NOT USED]

Schedule

No. NSD 169 of 2023

Federal Court of Australia

District Registry: New South Wales

Division: General

Respondents

Greensill Bank AG
Second Respondent

Michael Frege in his capacity as Insolvency Administrator for Greensill Bank AG
Third Respondent

BCC Trade Credit Pty Ltd
Fourth Respondent

Greg Brereton
Fifth Respondent

Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455)
Sixth Respondent

Tokio Marine & Nichido Fire Insurance Co., Ltd. (ARBN 000 438 291)
Seventh Respondent

Marsh Limited
Eighth Respondent

GREENSILL CROSS-CLAIM

Greensill Bank AG
First Cross-Claimant

Michael Frege in his capacity as Insolvency Administrator for Greensill Bank AG
Second Cross-Claimant

Insurance Australia Limited (ACN 000 016 722)
Cross-Respondent

BCC CROSS-CLAIM

BCC Trade Credit Pty Ltd (ACN 608 296 233)
Cross-Claimant

Greensill Capital (UK) Ltd
First Cross-Respondent

Greensill Bank AG
Second Cross-Respondent

Greensill Capital Pty Ltd (in liquidation)
Third Cross-Respondent

BCC/TMMA/TMNF FIRST CROSS-CLAIM

BCC Trade Credit Pty Ltd (ACN 608 296 233)
First Cross-claimant

Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455)
Second Cross-claimant

Tokio Marine & Nichido Fire Insurance Co., Ltd. (ARBN 000 438 291)
Third Cross-claimant

Marsh Limited
First Cross-Respondent

Marsh Pty Ltd (ACN 004 651 512)
Second Cross-respondent

BCC/TMMA/TMNF SECOND CROSS-CLAIM

BCC Trade Credit Pty Ltd (ACN 608 296 233)
First Cross-claimant

Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455)
Second Cross-claimant

Tokio Marine & Nichido Fire Insurance Co., Ltd. (ARBN 000 438 291)
Third Cross-claimant

Insurance Australia Limited (ACN 000 016 722)
Cross-Respondent

BCC/TMMA/TMNF THIRD CROSS-CLAIM

BCC Trade Credit Pty Ltd (ACN 608 296 233)
First Cross-claimant

Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455)
Second Cross-claimant

Tokio Marine & Nichido Fire Insurance Co., Ltd. (ARBN 000 438 291)
Third Cross-claimant

UBS Asset Management (Europe) S.A.
First Cross-Respondent

UBS Asset Management Switzerland AG
Second Cross-Respondent

UBS Fund Administration Services Luxembourg S.A.
Third Cross-Respondent

MARSH LIMITED'S FIRST CROSS-CLAIM

Marsh Limited
Cross-claimant

UBS Asset Management (Europe) S.A
First Cross-respondent

UBS Asset Management Switzerland AG
Second Cross-respondent

MARSH LIMITED'S SECOND CROSS-CLAIM

Marsh Limited
Cross-claimant

BCC Trade Credit Pty Ltd (ACN 608 296 233)
First Cross-respondent

Greg Brereton
Second Cross-respondent

Insurance Australia Limited (ACN 000 016 722)
Third Cross-respondent

Tokio Marine & Nichido Fire Insurance Co., Ltd. (ARBN 000 438 291)
Fourth Cross-respondent

Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455)
Fifth Cross-respondent

IAL CROSS-CLAIM

Insurance Australia Limited (ACN 000 016 722)
Cross-claimant

Marsh Limited
First Cross-respondent

Marsh Pty Ltd
Second Cross-respondent

UBS Asset Management (Europe) S.A.
Third Cross-respondent

UBS Asset Management Switzerland AG
Fourth Cross-respondent

UBS Fund Administration Services Luxembourg S.A.
Fifth Cross-respondent

Tokio Marine & Nichido Fire Insurance Co., Ltd. (ACN 000 438 291)
Sixth Cross-respondent