# NOTICE OF FILING

## Details of Filing

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| Document Lodged: | Statement of Claim - Form 17 - Rule 8.06(1)(a) |
| Court of Filing | FEDERAL COURT OF AUSTRALIA (FCA) |
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| File Number: | NSD1216/2021 |
| File Title: | GREENSILL BANK AG & ANOR v INSURANCE AUSTRALIA LIMITED ABN 11 000 016 722 & ORS |
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Registrar

## Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 17
Rule 8.05(1)(a)

# Sixth ~~Fifth~~ Amended Statement of Claim

Filed pursuant to leave granted by Moshinsky J on 5 June 2025

No. NSD 1216 of 2021

Federal Court of Australia

District Registry: New South Wales

Division: General

**Greensill Bank AG**

First applicant

**Dr Michael C. Frege in his capacity as Insolvency Administrator of Greensill Bank AG**

Second applicant

**Insurance Australia Limited and others listed in the schedule**

Respondents

## A. PARTIES

1. The first applicant (**Greensill Bank**) at all material times was and is a body corporate incorporated under the laws of the Federal Republic of Germany.

2. Greensill Bank is currently the subject of insolvency proceedings under the German Insolvency Code of 5 October 1994 (the **Insolvenzordnung**).

**Particulars**

Case No. 508 IN 6/21 in the Amtsgericht Bremen (District Court of Bremen), Federal Republic of Germany, opened by order of the Bremen District Court on 16 March 2021.

3. The second applicant, Dr Michael C. Frege:

   a. is the insolvency administrator of Greensill Bank;


| | |
|---|---|
| Filed on behalf of (name & role of party) | Greensill Bank AG and Dr Michael C. Frege in his capacity as Insolvency Administrator of Greensill Bank AG, applicants |
| Prepared by (name of person/lawyer) | Michelle Fox |
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b. was appointed as the insolvency administrator of Greensill Bank by order of the Bremen District Court dated 16 March 2021, which order was made under the Insolvenzordnung;

c. is capable of suing in his capacity as Insolvency Administrator for Greensill Bank; and

d. by virtue of section 80 of the Insolvenzordnung, has the right to enforce the claims of Greensill Bank pleaded in this Statement of Claim.

4. The first respondent , Insurance Australia Limited (**IAL**) at all material times was and is a company registered under the *Corporations Act 2001* (Cth) (**Corporations Act**).

4-1. IAL is and was at all material times a subsidiary of Insurance Australia Group Limited (**IAGL**).

4-2. IAL is and was at all material times the holder of an Australian financial services licence (licence no: 227681), issued under s. 913B of the Corporations Act, permitting IAL to carry on, in Australia, the business of issuing and varying policies of general insurance.

5. Greensill Capital Pty Ltd (**GCPL**) is a company registered under the Corporations Act.

6. The second respondent, BCC Trade Credit Pty Ltd (**BCC**):

a1. at all material times was and is a company duly incorporated under the Corporations Act and capable of being sued;

a. at all material times was and is a wholly owned subsidiary of The Bond and Credit Company Pty Ltd (**Bond**);

b. between 28 July 2016 and 1 August 2017, was an Authorised Representative of CGU Insurance Limited (ABN 27 004 478 371) (**CGU**);

**Particulars**

Agency and Authorised Representative Agreement between CGU Insurance Limited and BCC Trade Credit Pty Ltd dated 28 July 2016 (**CGU AAR Agreement**) [PLE.3000.0001.0675].

c. between 1 August 2017 and 30 June 2019, was an Authorised Representative of IAL and IAG Agencies Pty Limited (ABN 27 004 478 371) (**IAGA**);

**Particulars**

1. CGU AAR Agreement.

2. Agency and Authorised Representative Agreement between IAG Agencies Pty Limited and BCC Trade Credit Pty Ltd (**IAGA AAR Agreement**), undated [PLE.3000.0001.0676].

3. Letter issued by Brad Robson, IAG, and addressed "To whom it may concern", dated 1 August 2017 [PLE.3000.0001.0677].

d. at all material times from 1 August 2017 was a representative of IAL and IAGA as that term was defined in s 910A of the Corporations Act; and/or

**Particulars**

1. The Applicants refer to and repeat paragraphs 6-2 to 6-49 below.

e. at all times from 1 July 2019, was the authorised representative (as that term was defined in s 916A of the Corporations Act) of the fourth respondent, Tokio Marine & Nichido Fire Insurance Co Ltd (**TMNF**), and a representative (as that term was defined in s 910A of the Corporations Act) of TMNF.

**Particulars**

1. ASIC Register of Australian Financial Services Representatives: BCC Trade Credit Pty Ltd (AFS Representative Number 001276628).

2. Agency and Authorised Representative Agreement between Tokio Marine & Nichido Fire Insurance Co Ltd and BCC Trade Credit Pty Ltd (**TMNF AAR Agreement**), dated 28 June 2019 [TMA.0001.0001.0374].

3. Market announcement of Tokio Marine Management (Australia) Pty Ltd's acquisition of BCC, dated 15 April 2019, stating that: "From 1 July 2019, all new and renewal business will be underwritten by TMNF under our current underwriting guidelines" [AGB.0002.0006.0373].

4. Letter issued by Toby Guy, Tokio Marine Management (Australasia) Pty. Ltd., and addressed "To whom it may concern", dated 21 October 2019 [AGB.0002.0003.5145].

6-1. The third respondent, Mr Greg Brereton:

a. between at least 14 July 2016 and 8 July 2020 was employed by Bond;

b. between at least 14 July 2016 and 8 July 2020 held the title of "Head of BCC Trade Credit";

c. between 1 August 2017 and 30 June 2019, was the responsible underwriting officer designated by IAL and an Authorised Representative appointed by IAGA;

**Particulars**

1. Individual Authorisation Agreement and Authorisation Notice from IAGA for Greg Brereton dated 28 July 2017 and effective 1 August 2017 (**Brereton-IAGA Authorisation Agreement**) [PLE.3000.0001.0678].

2. BCC Trade Credit Pty Ltd Underwriting Manual for Trade Credit Insurance, Version 2, dated July 2018, (**Underwriting Manual Version 2.0**), pg 10 [PLE.3000.0001.0679].

3. BCC Trade Credit Pty Ltd Underwriting Manual for Trade Credit Insurance, Version 3, dated February 2019, (**Underwriting Manual Version 3.0**), pg 11 [PLE.3000.0001.0681].

4. Underwriting Manual Version 2.0 and Underwriting Manual Version 3.0 were agreed between BCC and IAL, under the definition of Underwriting Manual in the IAGA AAR Agreement.

c1. between 1 August 2017 and 30 June 2019 had full authority to the level of underwriting authority granted by IAL to BCC;

d. between 8 July 2016 and 1 August 2017, was the responsible underwriting officer designated by CGU and an Authorised Representative appointed by CGU;

**Particulars**

1. Individual Authorisation Agreement and Authorisation Notice from CGU for Greg Brereton, effective 8 July 2016 (**Brereton-CGU Authorisation Agreemen**t) [PLE.3000.0001.0682].

2. BCC Trade Credit Pty Ltd Underwriting Manual for Trade Credit Insurance dated May 2016 (**Underwriting Manual Version 1.0**), pg 9 [BCC.0001.0007.0624].

3. Underwriting Manual Version 1.0 was agreed between BCC and CGU. See the definition of Underwriting Manual in the CGU AAR Agreement.

e. between 28 July 2016 and 1 August 2017, had full authority to the level of underwriting authority granted by CGU to BCC;

f. at all times since 1 August 2017 was a representative of IAL as that term was defined in s 910A of the Corporations Act; and/or

**Particulars**

1. The Applicants refer to and repeat paragraphs 6-2 to 6-49 below.

g. at all material times since 1 July 2019, was a representative of TMNF as that term was defined in s 910A of the Corporations Act.

**Particulars**

1. The Applicants refer to and repeat paragraphs 6e. and 6-1b. above.

2. Clause 5.6(a) of the TMNF AAR Agreement provides for Mr Greg Brereton to be the personnel engaged in, and responsible for, BCC's performance of underwriting under the agreement.

6-1A. The fourth respondent, TMNF, is a foreign registered corporation and general insurer that provides financial services (namely, the issuing of insurance policies) under an Australian Financial Services Licence and is regulated by the Australian Prudential Regulation Authority.

6-1B. At all material times, the Fifth Respondent, Marsh Pty Ltd:

a. was a company duly incorporated under the Corporations Act;

b. was a subsidiary of Marsh & McLennan Companies Inc, a publicly listed company on the New York Stock Exchange;

c. provided insurance broking and risk advisory services under the name "Marsh";

d. was the holder of an Australian financial services licence (licence no: 238983), issued under s. 913B of the Corporations Act, which permitted Marsh Pty Ltd to carry on, in Australia, the business of providing financial product advice for general insurance products and dealing in general insurance products;

e. carried on a financial services business in this jurisdiction within the meaning of s. 911A of the Corporations Act;

f. together with Marsh Limited (**Marsh**), provided broking services to Greensill Bank in respect of insurance policies issued by BCC as authorised representative of IAL, including Policy 3690 (as defined in paragraph 12AA below) (**Marsh Broking Services**) under the name "Marsh";

g. placed Policy 3690 in Australia under the authority of its Australian financial services licence no: 238983; and

h. was the designated "broker of record" and "lead broker" for the placement of Policy 3690.

**Particulars**

1. Marsh Pty Ltd issued invoices and received payment for premium and commission and/or fees payable in respect of Policy 3690.

2. This can be further inferred from the position Marsh adopted in respect of the 2017 Parallel Policy 3690 (as defined in the particulars to paragraph 145 below). See:

    a. Email from Greg Brereton copying *inter alios* Julian Macey-Dare, Edward Smith and Ewan Berkemeier dated 14 December 2017 [AGB.0002.0001.0083].
    b. Email from Julian Macey-Dare to Greg Brereton dated 20 December 2017 [AGB.0002.0009.0947].

c. Email from Edward Smith to Greg Brereton and John Whelan dated 20 December 2017 [AGB.0002.0009.0942].

6-1C. At all times between 2014 and 1 March 2018, and from 1 March 2019 onwards, the Sixth Respondent, Marsh:

a. was a company incorporated under the laws of England and Wales;

b. was a subsidiary of Marsh & McLennan Companies Inc, a company publicly listed on the New York Stock Exchange;

c. provided insurance broking and risk advisory services under the name "Marsh";

d. together with Marsh Pty Ltd provided the Marsh Broking Services to Greensill Bank in respect of insurance policies issued by BCC as authorised representative of IAL, including Policy 3690;

e. provided some of the Marsh Broking Services to Greensill Bank in Australia and some of the Marsh Broking Services to Greensill Bank outside of Australia;

f. to the extent Marsh provided the Marsh Broking Services to Greensill Bank in Australia:

i. Marsh provided some of the Marsh Broking Services directly; and

ii. Marsh procured, requested, instructed or directed Marsh Pty Ltd to provide other parts of the Marsh Broking Services; and

g. in the premises, carried on business in Australia within the meaning of s 5 of the Competition and Consumer Act and s 12AC(1) of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**).

## B. AGENCY ARRANGEMENTS BETWEEN BCC AND IAL

### B1. Agency arrangements between CGU and BCC

6-2. In 2016 and 2017, CGU Insurance Limited (**CGU**) was a subsidiary of IAGL.

6-3. On or about 28 July 2016, CGU and BCC entered into an agreement styled an "Agency & Authorised Representative Agreement" (**CGU AAR Agreement**).

6-4. On or about 28 July 2016, CGU executed and provided BCC with a document styled "Authorisation Notice" (**Authorisation Notice**), which was included as a schedule to the CGU AAR Agreement.

6-5. By the CGU AAR Agreement and the Authorisation Notice, CGU appointed BCC from 28 July 2016:

a. as its agent to provide and perform "Authorised Financial Services" in relation to the "Approved Products" only on behalf of CGU;

b. as its authorised representative for the purposes of Chapter 7 of the Corporations Act.

6-6. The Authorisation Notice was written notice given by CGU to BCC for the purpose of s. 916A of the Corporations Act.

6-7. [Not used]

6-7A. As agent for CGU under the CGU AAR Agreement and the Authorisation Notice, BCC was authorised by CGU to provide the following "Authorised Financial Services":

a. provide general advice (but not personal advice);

b. deal in, arrange, acquire, issue, vary and dispose of Approved Products;

c. collect and deal with client moneys, issue receipts and/or confirmation where a client acquired, varied or cancelled an insurance policy for Approved Products; and

d. issue, negotiate and agree the terms of, insurance policies for Approved Products as agent of CGU.

6-7B. The "Approved Products" in relation to which BCC was authorised to provide "Authorised Financial Services" were contracts of insurance issued or to be issued by CGU of the classes:

a. identified in the Commission Schedule to the CGU AAR Agreement; or

b. otherwise agreed between CGU and BCC in writing.

6-7C. The Commission Schedule to the CGU AAR Agreement specified "Trade Credit Products" as an Approved Product.

6-7D. By reason of the matters set out at paragraphs ~~8 to 14~~ 6.3 to 6.7C above, BCC was authorised by CGU to act as CGU's agent on and from 28 July 2016 to, among other things:

a. deal in, arrange, acquire, issue, vary and dispose of contracts of insurance issued by CGU for trade credit products;

b. collect and deal with client moneys, issue receipts and/or confirmation where a client acquired, varied or cancelled an insurance policy issued by CGU for trade credit products; and

c. issue, negotiate and agree the terms of, contracts of insurance issued or to be issued by CGU.

6-8. It was a term of the CGU AAR Agreement that CGU would pay BCC commission on policies of trade credit insurance issued by BCC on behalf of CGU.

**Particulars**

CGU AAR Agreement, (clause 3.1(a) and Commission Schedule).

6-9. It was a term of the CGU AAR Agreement that BCC would collect and remit to CGU (net of commission) premiums received by BCC on account of policies of trade credit insurance issued by BCC on behalf of CGU, net of BCC's commission.

**Particulars**

CGU AAR Agreement, (clause 8.1; clause 3.1).

6-10. It was a term of the CGU AAR Agreement that BCC would maintain a bordereau (**Bordereaux**) of all Approved Products (including trade credit insurance policies) issued by BCC on behalf of CGU.

**Particulars**

CGU AAR Agreement, (clause 4.5(a)).

6-11. It was a term of the CGU AAR Agreement that BCC would provide a copy of the Bordereaux to CGU within 7 business days of the close of each month during which any transactions were undertaken or moneys received, refunded or paid in relation to Approved Products (including trade credit insurance policies) issued by BCC on behalf of CGU.

**Particulars**

CGU AAR Agreement, (clause 4.5(b).

6-11A. It was a term of the CGU AAR Agreement that CGU and BCC would perform their obligations in accordance with the Underwriting Manual.

**Particulars**

CGU AAR Agreement, clause 7 and definition of Underwriting Manual.

6-11B. Underwriting Manual Version 1.0 contained the following terms concerning the maximum limits BCC could underwrite and accept:

a. the maximum policy limit BCC could underwrite was AUD$50M, although BCC's authority was limited to AUD$35M with a maximum limit of AUD$50M only upon special acceptance by CGU and its insurers; and

b. the indemnity limit was maximum 90% of debt.

**Particulars**

1. Underwriting Manual Version 1.0, section 2, p 9.

2. Underwriting Manual Version 2.0, p 3, shows that Underwriting Manual Version 1.0 was approved on 27 June 2016.

6-12. [Not used]

6-13. [Not used]

6-14. [Not used]

6-15. [Not used]

6-16. [Not used]

**B2. Transfer of CGU's business to IAL**

6-17. On 20 July 2017, the Federal Court made orders under s. 17F of the *Insurance Act 1973* (Cth) (**Insurance Act**) confirming a scheme for the transfer of the insurance business of CGU to IAL, to take effect from 12.01am on 1 August 2017.

6-18. At 12.01am on 1 August 2017, by virtue of the orders of the Federal Court of Australia pleaded in paragraph 6-17 above and by operation of s. 17G of the Insurance Act, the scheme for the transfer of the insurance business of CGU to IAL:

a. became binding on all persons; and

b. took effect.

**B.3 Agency arrangements between BCC and IAL**

6-19. On 1 August 2017, the CGU AAR Agreement was transferred from CGU to IAL.

**Particulars**

1. The terms of the scheme are recorded in Annexure A to the orders of the Honourable Justice Gleeson dated 20 July 2017 in Federal Court of Australia proceedings NSD 1739 of 2016 [PLE.3000.0001.06730].

2. Clause 2 of the scheme provides for the transfer of CGU's business, including the "Business Assets", to IAL.

3. Clause 1 of the scheme defines Business Assets to include CGU's interest in the Business Contracts.

4. Clause 1 of the scheme defines Business Contracts to include any written contracts made by CGU in connection with the Business and subsisting at the Effective Date (including with distributors, authorised representatives, intermediaries and suppliers).

5. Clause 1 of the scheme defines Business as the insurance business carried on by CGU in Australia within the meaning of the Insurance Act.

6. Clause 1 of the scheme defines Effective Date as 1 August 2017.

7. The CGU AAR Agreement is a written contract made by CGU with an authorised representative in connection with the Business and subsisting at the Effective Date, and accordingly, was transferred from CGU to IAL on 1 August 2017.

6-20. On 1 August 2017, the Authorisation Notice was transferred from CGU to IAL.

**Particulars**

1. The applicants refer to and repeat particulars 1, 2, 3, 5 and 6 to paragraph 6-19 above.

2. Clause 1 of the scheme defines Business Contracts to include any arrangements made by CGU in connection with the Business and subsisting at the Effective Date (including with distributors, authorised representatives, intermediaries and suppliers).

3. The Authorisation Notice is an arrangement made by CGU with an authorised representative in connection with the Business and subsisting at the Effective Date, and accordingly, was transferred from CGU to IAL on 1 August 2017.

6-21. By reason of the matters set out at paragraphs 6-17-6-20 above, on and from 1 August 2017, BCC was authorised by IAL to act as IAL's agent to, among other things:

a. deal in, arrange, acquire, issue, vary and dispose of contracts of insurance issued by IAL for trade credit products;

b. collect and deal with client moneys, issue receipts and/or confirmation where a client acquired, varied or cancelled an insurance policy issued by IAL for trade credit products; and

c. issue, negotiate and agree the terms of, contracts of insurance issued or to be issued by IAL.

6-22. On 1 August 2017, BCC was also appointed to act as an Authorised Representative of IAGA.

**Particulars**

1. Agency and Authorised Representative Agreement between Insurance Australia Limited and BCC Trade Credit Pty Ltd, undated.

2. Letter issued by Brad Robson, IAGA, and addressed "To whom it may concern", dated 1 August 2017.

6-23. [Not used]

6-24. [Not used]

6-25. [Not used]

6-26. [Not used]

6-27. [Not used]

6-28. [Not used]

6-29. [Not used]

6-30. [Not used]

6-31. On 1 August 2017, IAL issued a letter (**To Whom It May Concern Letter**) representing that:

a. BCC was acting as agent for IAL in relation to the issue of trade credit insurance;

b. BCC was arranging trade credit insurance under an authority provided by IAL; and

c. BCC was acting as an Authorised Representative of IAGA.

6-32. The To Whom It May Concern Letter did not qualify the representations as to BCC's authority to issue trade credit insurance as the agent of IAL.

6-33. The representations in the To Whom It May Concern Letter were continuing representations.

6-33A. On 12 July 2018, Underwriting Manual Version 2.0 came into effect and increased the maximum limits BCC could underwrite and accept as agent for IAL, as follows:

a. the maximum limit BCC could underwrite was AUD$50M per buyer or policy;

b. policies and buyers with limits up to AUD$75M could be considered by special acceptance;

c. should a special acceptance credit limit be agreed to AUD$75M it would be acceptable for authority to be granted to that level on a single risk for either whole of turnover, major debtor or single risk policies; and

d. the indemnity limit was maximum 95% of debt.

**Particulars**

Underwriting Manual Version 2.0, approved on 12 July 2018, section 2, p 9-10.

6-33B. On 18 March 2019, Underwriting Manual Version 3.0 came into effect and limited BCC's acceptance authority for IAL business effective from 30 June 2019 as follows:

a. BCC was not permitted to quote or bind new business on behalf of IAL after 30 June 2019;

b. new insurance polices issued prior to 30 June 2019 must not exceed a policy term of 12 months;

c. BCC was not permitted to bind renewal business on behalf of IAL with renewal inception after 30 June 2019;

d. BCC was authorised to bind mid-term policy alterations on behalf of IAL provided that such changes were within the terms of Underwriting Manual Version 3.0 and after prudent underwriting judgement was applied; and

e. BCC would continue to manage claims on behalf of IAL under management of Tokio Marine Management (Australasia) Pty Ltd (**Tokio Marine**).

**Particulars**

Underwriting Manual Version 3.0, approved on 18 March 2019, section 1, p 8-9.

6-33C. On or about 9 April 2019, IAL and BCC entered into an agreement styled an "Agency & Authorised Representative Agreement" (**IAL AAR Agreement**).

**Particulars**

IAL AAR Agreement [IAL.500.007.1910].

6-33D. The IAL AAR Agreement provided that:

a. BCC was not permitted to bind any new or renewal Insurance Policies on behalf of IAL after 30 June 2019; and

b. new Insurance Policies issued between 9 April 2019, and 30 June 2019, must not exceed a policy term of 12 months.

**Particulars**

IAL AAR Agreement, clause 2.1(c).

6-33E. Between 9 April 2019 and 30 June 2019, by reason of the IAL AAR Agreement, the CGU AAR Agreement (which remained in effect following its transfer from CGU to IAL on 1 August 2017) and the Authorisation Notice (which remained in effect following its transfer from CGU to IAL on 1 August 2017), IAL continued BCC's appointment:

a. as IAL's agent to provide and perform "Authorised Financial Services" in relation to the "Approved Products" only on behalf of IAL, including the Authorised Financial Services set out at paragraph 6-21 above but subject to the limitations imposed by the IAL AAR Agreement; and

b. as IAL's authorised representative for the purposes of Chapter 7 of the Corporations Act.

6-33F. At all times between 1 August 2017 and 30 June 2019, by reason of the matters set out at paragraphs 6-17- 6-33E above:

a. BCC was the agent of IAL, authorised to issue and vary trade credit insurance on behalf of IAL; and

b. BCC was an authorised representative of IAL for the purposes of Part 7.6 of the Corporations Act.

6-34. [Not used]

6-35. [Not used]

6-36. [Not used]

6-37. [Not used]

6-38. [Not used]

6-39. [Not used]

6-40. [Not used]

6-41. [Not used]

6-42. [Not used]

6-43. [Not used]

6-44. [Not used]

6-45. [Not used]

**B4. Agency arrangements between BCC, IAL and Tokio Marine**

6-46. On or around 9 April 2019, IAL, Tokio Marine, and Bond entered into an agreement styled the "Policy and Claims Administration Outsourcing Deed" (**PACAO**).

**Particulars**

PACAO [PLE.3000.0001.0674].

6-47. By the PACAO, IAL granted BCC authority:

a. to process on behalf of IAL mid-term alterations to trade credit insurance policies arranged by BCC and issued by IAL on or before 30 June 2019 within the rules set out in the Underwriting Guidelines, including Policy 3690 (defined below);

b. to handle on behalf of IAL all claims under trade credit insurance policies arranged by BCC and issued by IAL on or before 30 June 2019 as prescribed in Schedule 4 of the PACAO, including Policy 3690.

**Particulars**

PACAO clauses 2, 5 and 28 and Schedules 4 and 5.

6-48. [Not used]

6-49. [Not used]

6.49A. The authority conferred on BCC by IAL under the PACAO, as pleaded in the previous paragraph, continued after expiry of the IAL AAR Agreement on 30 June 2019.

## B5. BCC administered trade credit insurance policies as agent for IAL

6-50. On and from 1 August 2017, BCC provided iterations of the Bordereaux to IAL.

**Particulars**

1. From time to time, but at least in respect of each month from September 2016, BCC prepared Bordereaux in the form of an excel spreadsheet referred to as a "Written Bordereaux". For each month, more than one version of the Written Bordereaux may have been produced.

2. The Written Bordereaux contained, for the relevant month, at least the following information in respect of each policy of insurance referred to in the Written Bordereaux:

    a. a transaction date and time;

    b. policy number;

    c. name of the insured;

    d. policy term;

    e. effective date;

    f. expiry date;

    g. insured address;

    h. industry description;

    i. policy currency;

    j. deductible;

    k. insured percentage;

    l. maximum policy limit;

    m. payment frequency;

    n. premium;

o. stamp duty;

p. brokerage;

q. GST; and

r. nett payable.

3. From time to time, BCC prepared Bordereaux in the form of an excel spreadsheet referred to as a “Payment Bordereau”.

4. The Payment Bordereaux contained, for the relevant month, at least the following information in respect of each policy of insurance referred to in the Payment Bordereaux:

a. invoice reference;

b. transaction type;

c. policy number;

d. name of the insured;

e. product type;

f. inception date;

g. base premium;

h. levies;

i. duties;

j. commission;

k. GST;

l. remittance;

m. amount banked.

5. From time to time, BCC prepared a Bordereaux in the form of an excel spreadsheet referred to as a “Claims Bordereaux”.

6. The Claims Bordereaux contained, for the relevant month, at least the following information in respect of each policy of insurance referred to in the Claims Bordereaux:

    a. policy type;

    b. policy number;

    c. claim number;

    d. insured;

    e. policy term inception date;

    f. expiry date;

    g. date of loss;

    h. deductible;

    i. insured percentage;

    j. payment amount; and

    k. paid to date.

6-51. The iterations of the Bordereaux that BCC provided to IAL referred to trade credit insurance policies issued by BCC as agent for IAL.

6-52. On and from 1 August 2017, BCC collected premiums for trade credit insurance policies issued by BCC as agent for IAL.

**Particulars**

1. At all material times until 31 June 2019, pursuant to cl 8 of the CGU AAR Agreement and IAGA AAR Agreement, all premia paid to BCC was:

    a. collected by BCC as agent of IAL; and

    b. subject to the amounts due to BCC as commission, held on trust for IAL.

2. Further or alternatively, at all material times from 30 April 2019, all premia paid to BCC was collected as agent of IAL pursuant to cl 3.1 of the PACAO.

6-53. On and from 1 August 2017, BCC remitted premiums to IAL in respect of trade credit insurance policies issued by BCC as agent for IAL.

6-54. On and from 1 August 2017, IAL paid commission to BCC in respect of trade credit insurance policies issued by BCC as agent for IAL.

6-55. On and from 1 August 2017, IAL:

a. permitted BCC to provide general advice in relation to trade credit insurance on IAL's behalf;

b. permitted BCC to deal in, arrange, acquire, issue, vary and dispose of policies of trade credit insurance on IAL's behalf;

c. permitted BCC to deal with client moneys, issue receipts and confirmations where clients acquired, varied or cancelled policies of trade credit insurance on IAL's behalf;

d. permitted BCC to issue, negotiate and agree the terms of policies of trade credit insurance on IAL's behalf;

e. permitted BCC to act in the management of IAL's trade credit insurance business.

6-56. [Not used]

## C. AGENCY ARRANGEMENTS BETWEEN GREG BRERETON, CGU AND IAL

### C1. Agency arrangements between Greg Brereton and CGU

6-56A. On or around 8 July 2016, CGU and Mr Brereton entered into an agreement styled an "Individual Authorisation Agreement and Authorisation Notice for Greg Brereton" (**Brereton CGU Authorisation**).

**Particulars**

Individual Authorisation Agreement and Authorisation Notice for Greg Brereton, effective 8 July 2016.

6-56B. By the Brereton CGU Authorisation, CGU appointed Greg Brereton:

a. as its agent to provide and perform "Authorised Financial Services" in relation to the "Approved Products" only on behalf of CGU; and

b. as its authorised representative for the purposes of Chapter 7 of the Corporations Act.

6-56C. The Brereton CGU Authorisation was written notice given by CGU to Greg Brereton for the purpose of s. 916A of the Corporations Act.

6-56D. As agent for CGU under the Brereton CGU Authorisation, Greg Brereton was authorised by CGU to provide the following "Authorised Financial Services":

a. provide general advice (but not personal advice);

b. deal in, arrange, acquire, issue, vary and dispose of Approved Products;

c. collect and deal with client moneys, issue receipts and/or confirmation where a client acquired, varied or cancelled an Insurance Policy for Approved Products; and

d. issue, negotiate and agree the terms of, Insurance Policies for Approved Products as agent of CGU.

6-56E. The "Approved Products" in relation to which Mr Brereton was authorised to provide "Authorised Financial Services" were contracts of insurance issued or to be issued by CGU of the classes:

a. identified in the Commission Schedule to the CGU AAR Agreement; or

b. otherwise agreed between CGU and BCC in writing.

6-56F. By reason of the matters set out at paragraphs 6-7C and 6-56A to 6-56E above, Mr Brereton was authorised by CGU to act as CGU's agent on and from 8 July 2016 to, among other things:

a. deal in, arrange, acquire, issue, vary and dispose of contracts of insurance issued by CGU for trade credit products;

b. collect and deal with client moneys, issue receipts and/or confirmation where a client acquired, varied or cancelled an insurance policy issued by CGU for trade credit products; and

c. issue, negotiate and agree the terms of, contracts of insurance issued or to be issued by CGU.

6-56G. Underwriting Manual Version 1.0, approved on 27 June 2016, made the following statements concerning Mr Brereton's authority:

a. Mr Brereton was the responsible underwriting officer as designated by CGU; and

b. Mr Brereton had full authority to the level of underwriting authority granted by CGU to BCC.

**Particulars**

1. Underwriting Manual Version 1.0 dated 16 May 2016 but approved on 27 June 2016.

2. Underwriting Manual Version 2.0, approved on 12 July 2018, p 3, shows that Underwriting Manual Version 1.0 was approved on 27 June 2016.

**C2. Agency arrangements between Greg Brereton, IAL and IAGA**

6-56H. On 1 August 2017, the Brereton CGU Authorisation was transferred from CGU to IAL.

**Particulars**

1. The Applicants repeat particulars 1 to 6 of paragraph 6-19 above.

2. The Brereton CGU Authorisation was a written contract made by CGU with an authorised representative in connection with the Business and subsisting at the Effective Date, and accordingly, was transferred from CGU to IAL on 1 August 2017.

6-56I. At all material times, IAGA has been a subsidiary of IAGL.

6-56J. On or around 28 July 2017, IAGA and Mr Brereton entered into an agreement styled "Authorised Representative Agreement: Individual Authorisation Agreement and Authorisation Notice for Greg Brereton" (**Brereton IAGA Authorisation**).

6-56K. The Brereton IAGA Authorisation took effect from 1 August 2017.

6-56L. By the Brereton IAGA Authorisation, IAGA appointed Mr Brereton:

a. as its agent to provide and perform "Authorised Financial Services" in relation to the "Approved Products" only on behalf of IAGA; and

b. as its authorised representative for the purposes of Chapter 7 of the Corporations Act.

6-56M. The Brereton IAGA Authorisation was written notice given by IAGA to Mr Brereton for the purpose of s. 916A of the Corporations Act.

6-56N. As agent for IAGA under the Brereton IAGA Authorisation, Mr Brereton was authorised by IAGA to provide the following "Authorised Financial Services":

a. provide general advice (but not personal advice);

b. deal in, arrange, acquire, issue, vary and dispose of Approved Products;

c. collect and deal with client moneys, issue receipts and/or confirmation where a client acquired, varied or cancelled an Insurance Policy for Approved Products; and

d. issue, negotiate and agree the terms of, Insurance Policies for Approved Products as agent of IAGA.

6-56O. The "Approved Products" in relation to which Mr Brereton was authorised to provide "Authorised Financial Services" after 1 August 2017, under the Brereton IAGA Authorisation, were contracts of insurance issued or to be issued by IAL of the classes:

a. identified in the Commission Schedule to the CGU AAR Agreement; or

b. otherwise agreed between IAL and BCC in writing.

**Particulars**

1. The Individual Authorisation Notice at p 3 of the Brereton IAGA Authorisation states that "Approved Products" has the meaning given to that term in the CGU AAR Agreement.

2. "Approved Products" is defined at p 25 of the CGU AAR Agreement.

3. After 12.01am on 1 August 2017, the reference to CGU in the definition of Approved Product in the CGU AAR Agreement should be read as a reference to IAL.

6-56P. On 1 July 2018, BCC issued a document to Mr Brereton styled "Delegated Authority for Head of Trade Credit effective 1st July 2018", by which BCC granted Mr Brereton authority to, among other things, offer terms on trade credit insurance policies of up to AUD$50 million for any one buyer.

**Particulars**

Delegated Authority for Head of Trade Credit effective 1st July 2018 [TMA.0001.0008.5359].

6-56Q. On 12 July 2018, Underwriting Manual Version 2.0 was approved and made the following statements concerning Mr Brereton's authority:

a. Mr Brereton was the responsible underwriting officer as designated by IAL; and

b. Mr Brereton had full authority to the level of underwriting authority granted by IAL to BCC.

**Particulars**

Underwriting Manual Version 2.0, section 2, p 9-10.

6-56R. The Brereton IAGA Authorisation remained in force until 30 June 2019.

6-56S. By reason of the matters set out at paragraphs 6-17 to 6-18 and 6-56A to 6-56R above, at all times between 1 August 2017 and 30 June 2019, Mr Brereton was authorised to act as IAL and IAGA's agent to, among other things:

a. deal in, arrange, acquire, issue, vary and dispose of contracts of insurance issued by IAL for trade credit products;

b. collect and deal with client moneys, issue receipts and/or confirmation where a client acquired, varied or cancelled an insurance policy issued by IAL for trade credit products; and

c. issue, negotiate and agree the terms of, contracts of insurance issued or to be issued by IAL.

6-57. [Not used]

6-58, [Not used]

6-59. [Not used]

6-60. [Not used]

6-61. [Not used]

6-62. [Not used]

6-63. [Not used]

6-64. [Not used]

6-65. [Not used]

6-66. [Not used]

6-67. [Not used]

6-68. [Not used]

6-69. [Not used]

6-70. [Not used]

6-71. [Not used]

6-72. [Not used]

6-73. [Not used]

6-74. [Not used]

7. [Not used]

8. [Not used]

9. [Not used]

10. [Not used]

11. [Not used]

12. [Not used]

## DA. REGULATORY REQUIREMENTS

### DA1. Membership of the German Deposit Protection Fund

12A. The association of German Banks, the '*Bundesverband deutscher Banken*' *e.V.*' (**BdB**), is a registered association under German law ("*eingetragener Verein*") working as a representative body of private member banks located in Germany.

12B. The BdB administers a customer deposit protection scheme known as the '*Einlagensicherungsfonds'* (**Deposit Protection Fund**).

12C. The auditing institution of the Deposit Protection Fund is the '*Prüfungsverband deutscher Banken e.V'* (**PdB**), also registered as an association under German Law.

12D. The PdB has the power to impose conditions on the participation of banks in the Deposit Protection Fund.

12E. Relevantly between January 2014 and 16 March 2021, Greensill Bank was a member of the BdB.

12F. Relevantly between January 2014 and 16 March 2021, Greensill Bank was a participant in the Deposit Protection Fund.

12G. On or about 18 December 2013, the PdB accepted Greensill Bank's proposed change in business model and relevant business plan, which included key statements that:

a. Greensill Bank should only purchase receivables that had sufficient insurance cover against credit defaults, without a deductible being payable; and

b. the cost of that insurance should be borne by Greensill Capital (UK) Limited (**GCUK**).

**Particulars**

Letter from PdB to Greensill Bank (then known as NordFinanz Bank) dated 18 December 2013 [GBA.0008.0001.0011].

12H. On or about 14 December 2014, the PdB imposed binding conditions on Greensill Bank's participation in the Deposit Protection Fund in the terms of the key statements pleaded in the previous paragraph.

**Particulars**

Letter from PdB to Greensill Bank (then known as NordFinanz Bank) dated 14 March 2014 [GBA.0008.0001.0014].

12I. On or about 1 December 2015, the PdB imposed the following binding conditions on Greensill Bank's participation in the Deposit Protection Fund:

a. Receivables purchased by Greensill Bank were to be fully credit insured ('*vollständig kreditversichert*').

b. Greensill Bank should not bear a deductible under that insurance.

c. The total capital ratio of Greensill Bank for the purposes of Art. 92 of the Capital Requirements Regulation of the EU should be at least 14%.

**Particulars**

PdB's letter to the Board of Directors of Greensill Bank dated 1 December 2015 [GBA.0008.0001.0052].

12J. On or about 1 December 2015, the directors of Greensill Bank confirmed that the Bank would comply with the conditions pleaded in the previous paragraph.

**Particulars**

Letter from Greensill Bank to the PdB dated 1 December 2015 [GBA.0008.0001.0052].

12K. On or about 3 March 2020, the PdB again imposed the following binding conditions on Greensill Bank's participation in the Deposit Protection Fund:

a. Receivables purchased by Greensill Bank were to be fully credit insured ('*vollständig kreditversichert*').

b. Greensill Bank should not bear a deductible under that insurance.

c. The total capital ratio of Greensill Bank for the purposes of Art. 92 of the Capital Requirements Regulation of the EU should be at least 14%.

**Particulars**

PdB's letter to the Board of Directors of Greensill Bank dated 3 March 2020 [GBA.0008.0001.0030].

12L. On or about 5 March 2020, the directors of Greensill Bank confirmed that the Bank would comply with the conditions pleaded in the previous paragraph.

**Particulars**

Letter from Greensill Bank to the PdB dated 5 March 2020 [GBA.0008.0001.0031].

12M. On or about 1 April 2020, the PdB imposed the following binding conditions on Greensill Bank's participation in the Deposit Protection Fund:

a. Receivables purchased by Greensill Bank were to be fully credit insured ('*vollständig kreditversichert*').

b. Greensill Bank should not bear a deductible under that insurance.

c. The adjusted total capital ratio of Greensill Bank for the purposes of Art. 92 of the Capital Requirements Regulation of the EU should be at least 14%.

**Particulars**

PdB's letter to the Board of Directors of Greensill Bank dated 1 April 2020 [GBA.0008.0001.0033].

12N. On or about 3 April 2020, the directors of Greensill Bank confirmed that the Bank would comply with the conditions pleaded in the previous paragraph.

**Particulars**

Letter from Greensill Bank to the PdB dated 3 April 2020 [GBA.0008.0001.0034].

12O. The conditions pleaded in paragraph 12M above were restated by the PdB on 4 November 2020 and 2 February 2021 and the Board of Directors of Greensill Bank confirmed that the Bank would comply with those conditions.

**Particulars**

1. PdB's letter to Board of Directors of Greensill Bank dated 4 November 2020 [GBA.0008.0001.0038].

2. Greensill Bank's letter to the PdB dated 5 November 2020 [GBA.0008.0001.0039].

3. PdB's letter to Board of Directors of Greensill Bank dated 2 February 2021 [GBA.0008.0001.0041].

4. Greensill Bank's letter to the PdB dated 11 February 2021 [GBA.0008.0001.0045].

12P. In the premises, at all material times it was a condition of Greensill Bank's participation in the Deposit Protection Fund:

a. that receivables purchased by Greensill Bank were fully credit insured ('*vollständig kreditversichert*') (**PdB Full Insurance Requirement**); and

b. that Greensill Bank had no deductible under that insurance (**PdB No Deductible Requirement**).

12Q. At all material times, Greensill Bank would not purchase receivables unless Greensill Bank understood them to be insured under trade credit insurance policies in compliance with the PdB Full Insurance Requirement and the PdB No Deductible Requirement.

**Particulars**

1. The Company Manual - Credit Control (08.06) required for loan processing that checks were completed to confirm that insurance existed and the amount of insurance available [GBA.0004.0035.1022].

2. The Company Manual – Credit Business (07.06) required that any credit relationship with a supply chain finance customer

could only be entered if 100% secured by credit insurance [GBA.0004.0035.1021].

## DA2. Capital Requirements Regulation (EU) No. 575/2013

***Capital Regulation Requirements***

12R. The Capital Requirements Regulation (EU) No. 575/2013 (**CRR**) are uniform prudential requirements for certain institutions domiciled within the European Union (**Regulated Institutions**) that regulate, among other matters, Regulated Institutions' capital requirements, exposures, liquidity requirements and reporting and public disclosure requirements.

12S. Bundesanstalt für Finanzdienstleistungsaufsicht (**BaFin**) is the competent authority recognised under German law to supervise the compliance with the CRR of 'less significant' Regulated Institutions domiciled in Germany.

12T. At all material times, Greensill Bank was:

a. a 'less significant' Regulated Institution within the provisions and meaning of the CRR and the European Union Single Supervisory Mechanism;

b. subject to minimum capital ratio requirements under Article 92(1) of the CRR;

c. subject to additional capital requirements under the German Banking Act (**KWG**);

d. required to calculate its capital ratio as a percentage of the ''total risk exposure amount"; and

e. required to calculate its "total risk exposure amount" by reference to the "risk weighted exposure amounts" for credit risks.

**Particulars**

1. Pursuant to Article 4(1)(a) of the CRR, Greensill Bank was a 'credit institution' as it took deposits and other repayable funds from the public and granted credits for its own account.

2. Pursuant to Article 4(1)(3) of the CRR an 'institution' means a credit institution or an investment firm.

3. Pursuant to Article 92(1) of the CRR, Greensill Bank was required to hold minimum capital ratios of 4.5% Common Equity Tier 1, 6% Tier 1 Capital and 8% of total capital.

4. Pursuant to Section 10 of the KWG and provisions of the European Capital Requirements Directive, Greensill Bank was required to hold capital in addition to the minimum set by the CRR to account for capital conservation and countercyclic buffers and the outcome of the Supervisory Review and Evaluation Process (**SREP**).

5. Pursuant to Article 92(2) and (3), Greensill was required to calculate its capital ratio as a percentage of the 'total risk exposure amount' which was in turn calculated, in part, on the basis of the 'risk-weighted exposure amounts'.

***Credit Risk Mitigation***

12U. The CRR allows for Regulated Institutions, when calculating their capital ratios, to amend the 'risk weight' of a credit risk on the basis of a financial instrument validly recognised as a credit risk mitigation technique (**CRM**).

**Particulars**

7. Credit Risk Mitigation is defined under Article 4(57) as 'a technique used by an institution to reduce the credit risk associated with an exposure or exposures which that institution continues to hold'.

8. Pursuant to Article 113(3), a Regulated Institution was entitled, when calculating their risk weighted exposure amount to amend the associated 'risk weight' on the basis of a CRM recognised pursuant to Part 3, Chapter 4 of the CRR.

12V. Greensill Bank relied upon trade credit insurance policies, including Policy 3690, as a CRM pursuant to the CRR.

12W. On 13 June 2019, BaFin confirmed that Policy 3088 could be recognised as a CRM.

**Particulars**

Letter from BaFin to Greensill Bank dated 13 June 2019 [GBA.0004.0029.8700].

12X. For trade credit insurance policies to meet the requirements of a CRM, the policies were required to comply with the conditions in Article 213 of the CRR common to guarantees (and credit derivatives), including:

a. not containing any clause, the fulfilment of which was outside the direct control of Greensill Bank, that:

i. would allow the insurer to cancel the insurance unilaterally;

ii. would increase the effective costs of the insurance as a result of a deterioration in the credit quality of the protected exposure;

iii. could prevent the insurer from being obliged to pay out in a timely manner in the event that the original obligor failed to make any payments due;

iv. could allow the maturity of the credit protection to be reduced by the protection provider; and

b. being legally effective and enforceable.

12Y. At all material times, Greensill Bank believed that it was necessary for trade credit insurance policies, including Policy 3690, to meet the following requirements to comply with the conditions in Article 213 of the CRR:

a. the insurer would not have an unrestricted right of rescission or withdrawal of performance in the event of provision of inaccurate or false information or in the event of a breach of obligations under the policy; and

b. the coverage would not be dependent on third parties' compliance with their obligations under the policy.

12Z. At all material times, Greensill Bank sought to ensure that its trade credit policies were structured to meet the requirements identified in the previous paragraph.

**Particulars**

1. The insurer's right to cancel is limited to failure to pay any premium due under the policy provided that the insured is given notice and opportunity to rectify non payment – Clause 4.5 of Policy 3690.

2. No warranty or responsibility by the insured regarding information provided in information packs provided to the insurer – Clause 7.4 of Policy 3690.

3. No agency agreement in relation to the Servicer's role under the Policy – Clause 7.5(a) of Policy 3690.

4. The Insurer does not have the right to avoid or rescind the Policy for inaccuracy or error in the truth, accuracy of the Proposal, Information Pack or~~f~~ any information given – Clause 7.5(b) of Policy 3690.

5. No avoidance of the Policy – the insured is not liable to have its rights impaired by the failure of the Servicer to provide correct information to the insurer in any material supplied by the servicer – Clause 9.7 of Policy 3690.

## D. POLICY 3690

### D1. Entry into Policy 3690

13. On or about 13 March 2019, Greg Brereton executed a policy of insurance entitled "Comprehensive Trade Credit Insurance Policy, Policy Number TB-03690" with unique market reference B0509FINCW1900009 (**Policy 3690**) for and on behalf of BCC as Corporate Authorised Representative of IAL.

**Particulars**

Policy 3690 [AGB.0004.0001.2781].

13A. On or about 14 March 2019, Greensill Bank executed and entered into Policy 3690, effective from 22 February 2019.

13B. Each of GCPL and Greensill Bank is an insured under Policy 3690 in respect of its separate interests.

13C. IAL is the insurer under Policy 3690.

14. Policy 3690 is a trade credit insurance policy.

14A. The policy period for Policy 3690 when entered into was 22 February 2019 to 1 March 2020.

15. [Not used]

15A. [Not used]

15B. [Not used]

16. [Not used]

17. [Not used]

18. [Not used]

19. [Not used]

20. [Not used]

21. [Not used]

22. [Not used]

23. [Not used]

24. The proper law of Policy 3690 is the law of New South Wales.

25. Policy 3690 is a contract of insurance to which the *Insurance Contracts Act 1984 (Cth)* (**Insurance Contracts Act**) applies.

**D2. Key terms of Policy 3690**

26. The following are terms of Policy 3690:

    a. An "Asset" means either:

        i. a Direct Asset; or

        ii. an indirect beneficial ownership interest in an Eligible Debt acquired by virtue of a participation in the Trust Property held subject to the relevant Participant Trust; or

        iii. a Note relating to Eligible Debt(s) issued by the SPV in order to raise funds to allow the SPV to purchase a participation in the relevant Participant Trust, or Eligible Debts as the case may be.

b. “Backstop Date” means the day 45 days after the earliest of the following to occur:

   i. the Due Date for payment of the Eligible Debt; and

   ii. such other date as the Eligible Debt becomes due and payable under the relevant Origination Documentation.

c. A “Claim Form” means a form in which details required by the Insurer for the purpose of assessing claims under the Policy are included, a pro forma version of which appears at Schedule 3 to Policy 3690.

d. A “Claim Offer Letter” means a letter from the Insurer to the Insured in which the Insured offers to settle a Claim in accordance with terms set out therein, a pro forma version of which appears at Schedule 4 to Policy 3690.

e. A “Customer” means any customer endorsed to Policy 3690 under a Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor.

f. A “Customer Endorsement” means an endorsement to Policy 3690 that is substantially in the form of Appendix 1 to Policy 3690 or such other form as the Insured and the Insurer may agree from time to time.

g. A “Customer Limit” means, in respect of a Customer, the amount recorded in an Endorsement to Policy 3690, and which is the Insurer’s maximum liability for the aggregate of all Losses insured under Policy 3690 for the Customer.

h. A “Debt” means a debt of the type described in the relevant Debt Endorsement.

i. A “Debt Endorsement” means an endorsement to Policy 3690 that is substantially in the form of Appendix 2 or such other form as the Insured and the 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 purposes of Policy 3690, and which may contain amendments to the terms of Policy 3690 in so far as Policy 3690 relates to such Debts and Assets derived therefrom.

j. A “Direct Asset” means a direct ownership interest in an Eligible Debt.

k. An "Eligible Debt" means a Debt that satisfied the eligibility criteria in Schedule 7 of Policy 3690, at the time of acquisition of the relevant Asset by the Insured, which definition was subsequently amended by Endorsement 23 to Policy 3690 as pleaded in paragraph 39I below.

l. An "Expected Allocation" means, where an Asset is:

   i. a Direct Asset, the Face Amount of the relevant Eligible Debt, or to the extent only part of an Eligible Debt comprises the Direct Asset, the amount due to the Insured in relation to such Eligible Debt; or

   ii. neither a Direct Asset or a Note, in relation to any such Asset and the Insured, the expected distribution to the Insured of its entitlement to Trust Property consistent with the Asset acquired by it, as shown from time to time in a Trust Certificate; or

   iii. where an Asset is a Note, in relation to any such Asset and the Insured, the Final Redemption Amount or aggregate of the 'Instalment Amounts' (as set out in the relevant 'Pricing Supplement' as defined in the Master Trust Deed) of the relevant Asset.

m. "Insured Cause" means the failure of the Customer to make payment of an Eligible Debt on or before the Backstop Date for any reason.

n. The "Insured Percentage" in respect of a Customer means the Insured Percentage as stated in the relevant Customer Endorsement.

o. "Loss" means, in respect of an Asset that is a Note owned by the Insured immediately prior to the payment of a Claim (which includes the Expected Allocation of the Insured in respect of each Asset acquired by the Insured from a Loss Payee after the occurrence of the Insured Cause but prior to payment of such Claim) the amount equal to the difference between:

   i. the Expected Allocation of the Insured in respect of such Asset; and

   ii. the Insured's entitlement under the Master Trust Deed,

   which definition was subsequently amended by Endorsement 23 to Policy 3690 as pleaded in paragraph 39H~~I~~ below.

p. A “Master Trust Deed” means, with reference to the applicable SPV, the master trust deed entered into by the SPV, TMF Luxembourg SA and Citibank N.A., London Branch, which sets out the form and terms and conditions of the Notes issued by the SPV and by which the Notes issued by the SPV are constituted.

q. A “Note” means a note constituted by the Master Trust Deed and for the time being outstanding and issued pursuant to the ‘Issue Documents’ as defined in the Master Trust Deed.

r. A “SPV” means either Lagoon Park Capital SA, or Wickham SA, or Hoffman S.a.r.l., (as the case may be) a securitisation company within the meaning of and governed by the Luxembourg Securitisation Act 2004.

s. A “Supplier” means, with respect to each type of Debt, any person that falls within the definition of Supplier given in the relevant Debt Endorsement.

27. [Not used]

28. Pursuant to Policy 3690, IAL agreed, subject to the terms of Policy 3690, 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.

**Particulars**

Policy 3690, clause 1.1 “Indemnity”.

29. It is a term of Policy 3690 that IAL’s liability to indemnify the Insured for a Loss applies (subject to the terms of Policy 3690) only in respect of Assets owned by the Insured or a Loss Payee during the Policy Period.

**Particulars**

Policy 3690, clause 4.1 “Policy Period”.

30. It is a term of Policy 3690 that any Asset acquired before the end of the Policy Period shall, save where clause 4.4 or clause 4.5 applies, remain covered under Policy 3690 after the end of the Policy Period provided it meets the requirements of the relevant Customer Endorsement and Debt Endorsement.

**Particulars**

Policy 3690, clause 4.1 “Policy Period”.

31. It is a term of Policy 3690 that, in order to make a Claim under Policy 3690, the Insured must submit a Claim Form.

**Particulars**

Policy 3690, schedule 1, definitions of “claim” and “claim form”.

32. It is a term of Policy 3690 that, until notified otherwise by IAL, any notice under Policy 3690 may be given to IAL by giving the notice to BCC.

**Particulars**

Policy 3690, clause 14.1 “Addresses for notices”.

33. It is a term of Policy 3690 that, upon receipt of a Claim Form, if IAL (acting reasonably) requires any further information which is reasonably in the power of the Insured to provide, IAL will request that information within 14 days of receipt of the Claim Form.

**Particulars**

Policy 3690, clause 10.6(b).

34. It is a term of Policy 3690 that, no later than:

    a. the date falling 30 days after receipt of the Claim Form; or

    b. if IAL has requested further information – 14 days after receipt of that further information,

    IAL shall either:

    a. accept the Claim by issuing a Claim Offer Letter in respect of Losses that IAL is required to indemnify under Policy 3690; or

    b. notify the Insured that IAL has determined that it is not required to make a payment under Policy 3690.

**Particulars**

Policy 3690, clause 10.6(c).

35. It is a term of Policy 3690 that, subject to the Insured not exceeding the limits from time to time in force pursuant to clause 5 of Policy 3690, any Asset acquired by the Insured or a Loss Payee during the Policy Period shall to the extent the Insured wishes it to be insured under Policy 3690 automatically attach to Policy 3690 and be on risk under Policy 3690 from the time the Insured or a Loss Payee acquires risk in the Asset.

**Particulars**

Policy 3690, clause 5.5 "attachment of assets to this policy".

**D3. BCC had authority to enter into Policy 3690**

**(A) Actual authority**

35A. BCC had actual authority to enter into Policy 3690 on behalf of IAL.

**Particulars**

1. The Applicants refer to and repeat paragraphs 6-19 to 6-33A above.

2. Policy 3690 was within the scope of the actual authority granted to BCC under the CGU AAR Agreement (which applied as at the date of entry into Policy 3690) because:

   (a) Policy 3690 is a contract of insurance for trade credit products; and

   (b) the CGU AAR Agreement authorised BCC to issue, negotiate and agree the terms of contracts of insurance issued by IAL for trade credit products.

3. BCC's actual authority to enter into Policy 3690 as the Corporate Representative of IAL may also be inferred from the following facts:

   (a) IAL accepted premium payments for the related insurance policy entitled "Comprehensive Trade Credit Insurance Policy, Policy Number TB-03691" with unique market reference B0509FINCW1900011 executed by Greg Brereton on or about 5 March 2019 and effective from 22 February 2019

(**Policy 3691**) and each endorsement to Policy 3691 [AGB.0004.0001.2304].

(b) BCC had actual authority from IAL to execute a materially similar policy on behalf of IAL, namely, Comprehensive Trade Credit Insurance Policy TS-03088 with unique market reference B0509FINCW1900008 (**Policy 3088**), executed by Greg Brereton on or around 6 March 2019, and effective from 1 March 2019 [AGB.0002.0002.1923].

(c) IAL accepted and paid a claim under Policy 3088 and made various representations in doing so:

i. On or about 3 June 2020, Greensill Bank made a claim under Policy 3088 [PLE.3000.0001.0686].

ii. Greensill Bank made that claim by submitting a claim form to BCC.

iii. On or around 8 October 2020, BCC sent a letter to Greensill Bank, offering to pay USD 14,733,471.04 in settlement of Greensill Bank's claim [PLE.3000.0001.0687].

iv. The letter was sent by BCC with the knowledge and authority of IAL.

v. The letter was a Claim Offer Letter under Policy 3088.

vi. On or after 8 October 2020, IAL paid USD 14,733,471.04 in respect of Greensill Bank's claim under Policy 3088.

vii. On 26 February 2021, Clyde & Co, lawyers for IAL, by letter sent to Herbert Smith Freehills, represented that IAL had entered into Policy 3088 by IAL's authorised representative BCC [PLE.3000.0001.0689].

viii. The representation pleaded in the previous paragraph was made with the knowledge and authority of IAL.

ix. On 6 July 2021, Clyde & Co, by letter sent to Herbert Smith Freehills, again represented that IAL had entered into Policy 3088 by IAL's authorised representative BCC [PLE.3000.0001.0688].

x. The representation pleaded in the previous paragraph was made with the knowledge and authority of IAL.

4. Further particulars may be provided following discovery.

**(B) Ostensible authority**

*The Proposed Greensill Policy Structure and Proposed Greensill Policy Wording*

35AA. On or about 15 September 2017, BCC sent to IAL a "special acceptance request" in respect of a policy of insurance (the **Greensill Policy Proposal**).

**Particulars**

1. Email from Scott Newland of BCC to Twain Abbott, Phuong Ly, Brad Robson, Emily Cook, and Andrew McKinnon of IAL (amongst others) dated 15 September 2017 [IAL.500.008.0249], attaching:

    a. Master Risk Participation (MRPA) Facility – Structure Wording Variation prepared by Greg Brereton and dated 12 September 2017 [IAL.500.008.0250].

    b. Master Risk Participation Agreement (MRPA) Questions [IAL.500.008.0251].

    c. Special Acceptance for Liberty Group (formerly ArriumOneSteel) – Master Risk Participation Agreement dated 11 September 2017 [IAL.500.008.0252].

35AB. The Greensill Policy Proposal stated the following matters regarding the proposed insurance:

a. the purpose of the policy was to underwrite supply to Liberty Onesteel (MDR) Pte Ltd (the **Liberty Onesteel Transaction**);

b. the purpose of the proposal was to:

    i. present detail on GCUK and their proven trade credit policy status;

    ii. reflect that the policy structure was encompassed within BCC and IAL's reinsurance arrangements;

    iii. highlight the variations to the proposed wording and structure as set out in the proposal documents in order for IAL to accept the proposed wording and structure;

c. the proposal was for IAL and reinsurers to agree with BCC that the proposed structure was acceptable for BCC's use in order to facilitate trade credit transactions with GCUK in the future, whether for the Liberty Onesteel Transaction or other Australian domiciled transactions;

d. the "Greensill Capital Trade Credit Policy Structure" was set out in the following terms:

    i. GCUK would acquire the invoice liabilities from each supplier, with GCUK meeting the initial payment commitment to the suppliers by acquiring the ownership of the invoices;

    ii. GCUK would fund these initial outlays via Greensill Bank, and potentially other bankers or funders;

    iii. in order to meet the requirements of the banks, including Greensill Bank, that would fund the initial outlays, the structure of the trade credit insurance policies would be in two conjoined layers, being:

        1. the first layer in the form of a master policy that would provide for the terms and structure of the policy between GCUK and the underwriter;

        2. a second but fully aligned layer in the form of a policy that would mirror the credit limits and indemnity terms of the "master policy", but where the aggregate first loss (AFL) is provided for

by the master policy and could therefore be written at 100% indemnity (a parallel policy);

iv. commercial premium would be payable under the master policy in respect of Assets (as defined in the template policies) that were insured under the parallel policies;

**Particulars**

1. Schedule 5 of the Proposed Greensill Policy Wording (as defined in paragraph 35AC below) for each of the template master and parallel policies.

v. provided that GCUK and GCPL would be the insureds for the master policy;

vi. provided that Greensill Bank and GCPL would be the insureds for the parallel policy,

(the **Proposed Greensill Policy Structure**).

35AC. On about 15 September 2017, BCC sent to IAL a copy of the proposed wording for the master policy, the parallel policy, customer endorsement, loss payee endorsement, and various debt endorsements (the **Proposed Greensill Policy Wording**) with the Greensill Policy Proposal.

**Particulars**

1. Loss Payee Endorsement - Endorsement 2 (parallel policy) [BCC.0001.0007.1172].

2. Customer Endorsement No 1 (parallel policy) [BCC.0001.0007.1166].

3. Endorsement 1 – Debt Endorsement (parallel policy) [BCC.0001.0007.1170].

4. Endorsement 1 – Debt Endorsement (master policy) [BCC.0001.0007.1179].

5. Master policy [BCC.0001.0007.1185].

6. Parallel policy [BCC.0001.0007.1176].

35AD. At a time presently unknown to the Applicants, but at least at a time before 5 October 2017, IAL was aware that Scor Reinsurance Asia-Pacific Pte Ltd (**Scor Re**), the lead re-insurer for IAL, received a copy of the Greensill Policy Proposal, including the Proposed Greensill Policy Wording.

**Particulars**

1. On 25 September 2017, Scott Newland of BCC sent emails to Ewan Berkemeier of Marsh Pty Ltd first referring to a meeting with Scor Re at 4pm that day, and that Scor Re required further information, and second, a telephone call with Scor Re and IAG, and a collated list of questions would be sent later that evening [BCC.0001.0003.0131].

2. Email from Twain Abbott of IAG to Greg Brereton and Toby Guy of BCC dated 5 October 2017, attaching a version of the master policy with comments from Benjamin Gan of Scor Re [BCC.0001.0004.0540].

3. Email from Twain Abbott of IAL to Scott Newland and Greg Brereton of BCC, copying Brad Robson of IAL, dated 3 October 2017, stating that "I confirm Scor have provided support for the program… subject to acceptable policy wording, terms and conditions" [IAL.500.007.1114].

4. On 5 October 2017, Twain Abbott of IAL sent an email to Scott Newland of BCC, copying Greg Brereton and Toby Guy of BCC, and Brad Robson of IAL, attaching the proposed support for the opportunity, and that with respect to the wording "Base Marsh proposed wording with variations as marked up in the attached" [BCC.0001.0004.0540].

5. Further particulars may be provided prior to trial.

35AE. In the period between the receipt by IAL of the Greensill Policy Proposal and the Proposed Greensill Policy Wording until approximately 21 November 2017, GCUK,

Marsh, Marsh Pty Ltd, BCC, IAL and Scor Re continued to negotiate the Greensill Policy Proposal for the Liberty Onesteel Transaction.

**Particulars**

1. The particulars to paragraph 35AD are repeated.

2. The documents referred to in the particulars to paragraph 6-57(g)(ii) of IAL's Amended Defence to the Second Amended Statement of Claim in this proceeding (**IAL's EHG Defence**).

3. Further particulars may be provided prior to trial.

35AF. By reason of the matters pleaded at paragraphs 35AA to 35AE above, by about October 2017, IAL was aware that:

a. GCUK sought to enter into one or more contracts of insurance with BCC on behalf of IAL that included the Proposed Greensill Policy Structure and with the Proposed Greensill Policy Wording, or with a structure and wording materially similar to the Proposed Greensill Policy Structure and with the Proposed Greensill Policy Wording; and

b. GCUK required any such contracts of insurance to have the Proposed Greensill Policy Structure and the Proposed Greensill Policy Wording, or a structure and wording materially similar to the Proposed Greensill Policy Structure and with the Proposed Greensill Policy Wording.

**Particulars**

1. The particulars to paragraph 35AD above are repeated.

2. Further particulars may be provided prior to trial.

*The 2017 LOS Policies*

35AG. On or about 15 December 2017, Greg Brereton executed Comprehensive Trade Credit Insurance Policies TW-03137 (**2017 LOS Master Policy**) and TW-02924 (**2017 LOS Parallel Policy**) for and on behalf of BCC as Corporate Authorised Representative of IAL.

**Particulars**

1. The unique market references for the 2017 LOS Master Policy and the 2017 LOS Parallel Policy were B0509FINCW1700133 and B0509FINCW1700134 respectively [AGB.0002.0002.5354 and GBA.0004.0029.7294].

2. GCUK and GCPL were insureds under the 2017 LOS Master Policy in respect of their separate interests.

3. Greensill Bank and GCPL were insureds under the 2017 LOS Parallel Policy in respect of their separate interests.

4. The 2017 LOS Master Policy and the 2017 LOS Parallel Policy are collectively defined as the "**2017 LOS Policies**".

35AH. On or about 15 December 2017 GBAG executed and entered into the 2017 LOS Parallel Policy.

35AI. The 2017 LOS Master Policy and 2017 LOS Parallel Policy:

a. are substantially similar in structure and wording to the Proposed Greensill Policy Structure and the Proposed Greensill Policy Wording;

b. gave effect to the matters pleaded in paragraphs 35AF.a and 35AF.b above.

35AJ. At a time presently unknown to the Applicants, one of either GCPL or GCUK paid an instalment of premia of AUD 1,819,890.88 (excluding broker commission, GST and Stamp Duty) to BCC due under the 2017 LOS Master Policy and in respect of the 2017 LOS Parallel Policy.

**Particulars**

1. Cl 6.2 and Sch 5, 2017 LOS Master Policy.

2. Payment of premia under the 2017 LOS Master Policy was made through Marsh Pty Ltd.

3. Closing tax Invoice issued by Marsh Pty Ltd to BCC dated 5 April 2018 [BCC.0001.0001.0717].

35AK. From time to time, GCUK paid BCC premia under the 2017 LOS Master Policy in respect of Assets insured under the 2017 LOS Parallel Policy.

**Particulars**

1. The premium reconciliation exercise undertaken by BCC in October 2020 identifies a Gross Written Premium of AUD Equiv. 6,284,898 and Net Premium of AUD Equiv. 6,287,781 being paid between Q2 of 2018 and Q4 of 2019 in respect of the 2017 LOS Master Policy and 2018 LOS Master Policy (as defined at paragraph 35BQ below) [BCC.0001.0005.6357].

2. Further particulars may be provided prior to trial.

35AL. BCC remitted the premia referred to in paragraphs 35AJ and 35AK to IAL.

**Particulars**

1. The premia remitted to IAL did not include amounts retained by BCC by way of commission or amounts payable in respect of tax obligations.

2. The premia remitted to IAL were recorded in monthly “payment bordereaux”, referrable to the applicable insurance policy that premia were being paid under. For the months following execution of the 2017 LOS Master Policy and prior to execution of the 2018 LOS Master Policy (as defined at paragraph 35BQ below):

    a. AUD 501,160.19 is recorded as being remitted to IAL by BCC in respect of policy "TW-02924" in the June 2018 payment bordereaux [IAL.500.005.0533].

    b. AUD 1,002.320.38 is recorded as being remitted to IAL by BCC in respect of policy "TW-02924" (across two entries) in the September 2018 payment bordereaux [IAL.500.005.0161].

3. On a monthly basis, BCC remitted to IAL amounts due in respect of premia as recorded in the “Virtual Account Data”.

4. Further particulars may be provided prior to trial.

35AM. From time to time, BCC prepared written and payment bordereaux that referred to the 2017 LOS Master Policy and contained the information set out in the particulars to paragraph 6-50 above in respect of the 2017 LOS Master Policy.

35AN. IAL:

a. received the premia pleaded in paragraph 35AL above;

b. received the written and payment bordereaux pleaded in paragraph 35AM above; and

c. failed at all material times:

i. to assert that the policies to which those premia related were not validly issued by or on behalf of IAL and/or that IAL was not entitled to the premia; or

ii. to raise any other objection to the receipt of the premia.

35AO. At all material times, IAL knew or ought to have known of the matters pleaded in paragraphs 35AG to 35AN above.

**Particulars**

1. IAL's knowledge may be inferred from:

a. the matters in the particulars to paragraph 35A above;

b. the matters pleaded at paragraphs 35AA to 35AF above; and

c. the matters pleaded at paragraphs 35AJ to 35AN above.

2. IAL's knowledge may also be inferred from the following emails and documents received by or sent from officers of IAL:

a. emails dated 23 January 2018 between Mr Brereton and Mr Robson of IAL (amongst others) concerning GST and stamp duty exemptions for Greensill

policies [IAL.500.008.1088];

b. email dated 24 January 2018 from Greg Brereton to Sonia Spiropoulos and Brad Robson of IAL, copying Toby Guy and Scott Newland of BCC, stating that "Greensill Pty Ltd has booked a trade credit policy in Australia. The primary insured also has a joint-insured that is Greensill AG" [IAL.500.008.1088];

c. emails between Mr Brereton and Mr Robson of IAL (amongst others) dated 16 February 2018 concerning the aggregate limits of policies referred to in the bordereaux, including policies on which GCUK was the insured [BCC.0001.0004.1050];

d. email dated 21 February 2018 from Roger Florance (Senior Reinsurance Specialist of IAGA) to Brad Robson of IAL, and copied to Anthony David (Specialist, Agency Operations of IAGA), Troy Jasinski (Manager, Process & Proposition of IAGA) and Byron Stewart (CGU) stating that a policy of $600 million for "Greenhill" (which, in context, is a typographical error, and was meant to be a reference to "Greensill") were pended in January [IAL.500.009.0074];

e. email from Toby Guy of BCC to Brad Robson and Phuong Ly of IAL dated 21 May 2018 stating that the LOS Policies are "up and running" and that premium had been remitted [BCC.0001.0004.1292];

f. email from Greg Brereton to Phuong Ly of IAL, and copied to Toby Guy and Scott Newland of BCC, dated 3 December 2018, stating that BCC was insuring risks on behalf of IAL related to Liberty Onesteel through "Greensill" and the renewal of the existing "Greensill accounts receivable policy [was] due 15/12/2018" [IAL.500.007.1877];

g. email from Greg Brereton to Troy Jasinski of IAL, and Toby Guy and Craig Marshall of BCC dated 29 April 2019 that IAL was on risk for Policy TW-02924, incepted on 15 December 2017 with a quarterly premium of AUD 462,000, which had been renewed in December 2018 [IAL.500.005.0648].

3. Further particulars may be provided prior to trial.

*2018 Excess Policies*

35AP. On or about 20 April 2018, Greg Brereton executed Comprehensive Trade Credit Insurance Policies TS-3087 (**2018 Master Excess Policy**) and TS-03088 (**2018 Parallel Excess Policy**) for and on behalf of BCC as Corporate Authorised Representative of IAL.

**Particulars**

1. The unique market references for the 2018 Master Excess and the 2018 Parallel Excess Policy were B0509FINCW1800020 and B0509FINCW1800019 respectively [MAR.0002.0001.0246] and [AGB.0002.0002.0292].

2. GCUK and GCPL were insureds under the 2018 Master Excess Policy in respect of their separate interests.

3. Greensill Bank and GCPL were insureds under the 2018 Parallel Excess Policy in respect of their separate interests.

4. Collectively, the 2018 Master Excess Policy and the 2018 Parallel Excess Policy are referred to as the "**2018 Excess Policies**".

35AQ. GBAG executed and entered into the 2018 Excess Parallel Policy on or about 23 April 2018.

35AR. The 2018 Excess Master Policy and 2018 Excess Parallel Policy:

a. are substantially similar in structure and wording to the Proposed Greensill Policy Structure and the Proposed Greensill Policy Wording;

b. gave effect to the matters pleaded in paragraphs 35AF.a and 35AF.b above.

35AS. At a time presently unknown to the Applicants, one of either GCPL or GCUK paid an instalment of premia of USD 93,090.36 (excluding broker commission, GST and Stamp Duty) to BCC due under the 2018 Excess Master Policy and in respect of the 2018 Excess Parallel Policy.

**Particulars**

1. Cl 6.2 and Sch 5, Excess Master Policies.

2. Payment of premia under the 2018 Excess Master Policy was made through Marsh Pty Ltd.

3. Closing tax invoice issued by Marsh Pty Ltd to BCC dated 31 July 2018 [BCC.0001.0001.0733].

35AT. From time to time, one of either GCPL or GCUK paid BCC premia under the 2018 Excess Master Policy in respect of Assets insured under the 2018 Excess Parallel Policy.

**Particulars**

1. The premium reconciliation exercise undertaken by BCC in October 2020 identifies a Gross Written Premium of AUD Equiv. 2,400,664 and Net Premium of AUD Equiv. 2,474,333 being paid between Q3 of 2018 and Q3 of 2020 in respect of the 2018 Excess Master Policy and Policy 3087 (as defined at paragraph 35CI below) [BCC.0001.0005.6357].

2. Further particulars may be provided prior to trial.

35AU. BCC remitted the premia referred to in paragraphs 35AS and 35AT to IAL.

**Particulars**

1. The premia remitted to IAL did not include amounts retained by BCC by way of commission or amounts payable in respect of tax obligations.

2. The premia remitted to IAL were recorded in monthly payment bordereaux, referrable to the applicable insurance policy that premia were being paid under. For the months following execution of the 2018 Excess Master Policy and prior to execution of Policy 3087 (as defined at paragraph 35CI below), AUD 80,647.46 is recorded as being remitted to IAL by BCC in respect of policy "TS-03087" (across three entries) in the February 2019 payment bordereaux [IAL.500.005.0288]

3. On a monthly basis, BCC remitted to IAL amounts due in respect of premia as recorded in the “Virtual Account Data”.

4. Further particulars may be provided prior to trial.

35AV. From time to time, BCC prepared written and payment bordereaux that referred to the 2018 Excess Master Policy and contained the information set out in the particulars to paragraph 6-50 above in respect of the 2018 Excess Master Policy.

35AW. IAL:

a. received the premia pleaded in paragraph 35AU above;

b. received the written and payment bordereaux pleaded in paragraph 35AV above; and

c. failed at all material times:

i. to assert that the policies to which those premia related were not validly issued by or on behalf of IAL and/or that IAL was not entitled to the premia; or

ii. to raise any other objection to the receipt of the premia.

35AX. At all material times, IAL knew or ought to have known of the matters pleaded in paragraphs 35AP to 35AW above.

**Particulars**

1. The particulars to paragraph 35AE above are repeated.

2. IAL’s knowledge may be inferred from:

a. the matters in the particulars to paragraph 35A above;

b. the matters pleaded at paragraphs 35AA to 35AF above;

c. the matters pleaded at paragraphs 35AJ to 35AO above; and

d. the matters pleaded at paragraphs 35AS and 35AW above.

3. Particular 2 to paragraph 35AO above is repeated.

4. Further particulars may be provided prior to trial.

*Sub-Direct Policies*

35AY. On or about 18 May 2018, Greg Brereton executed Comprehensive Trade Credit Insurance Policies TW-03546 (**Sub-Direct Master Policy**) and TW-03547 (**Sub-Direct Parallel Policy**) for and on behalf of BCC as Corporate Authorised Representative of IAL.

**Particulars**

1. The unique market references for the Sub-Direct Master Policy and the Sub-Direct Parallel Policy were B0509FINCW1800032 and B0509FINCW1800033 respectively [AGB.0002.0009.1186] and [GBA.0004.0006.0582].

2. GCUK and GCPL were insureds under the Sub-Direct Master Policy in respect of their separate interests.

3. Greensill Bank and GCPL were insureds under the Sub-Direct Parallel Policy in respect of their separate interests.

4. Collectively, the Sub-Direct Master Policy and the Sub-Direct Parallel Policy are referred to as the "**Sub-Direct Policies**".

35AZ. GBAG executed and entered into the Sub-Direct Parallel Policy on or about 22 May 2018.

35BA. The Sub-Direct Master Policy and Sub-Direct Parallel Policy:

a. are substantially similar in structure and wording to the Proposed Greensill Policy Structure and the Proposed Greensill Policy Wording;

b. gave effect to the matters pleaded in paragraphs 35AF.a and 35AF.b above.

35BB. At a time presently unknown to the Applicants, one of either GCPL or GCUK paid an instalment of premia of USD 78,000 (excluding broker commission, GST and Stamp Duty) to BCC due under the Sub-Direct Master Policy and in respect of the Sub-Direct Parallel Policy.

**Particulars**

1. Cl 6.2 and Sch 5, Sub-Direct Master Policy.

2. Payment of premia under the Sub-Direct Master Policy was made through Marsh Pty Ltd.

3. Closing tax invoice issued by Marsh Pty Ltd to BCC dated 27 July 2018 [BCC.0001.0001.0709].

35BC. From time to time, one of either GCPL or GCUK paid BCC premia under the Sub-Direct Master Policy in respect of Assets insured under the Sub-Direct Parallel Policy:

**Particulars**

1. The premium reconciliation exercise undertaken by BCC in October 2020 identifies a Gross Written Premium of AUD Equiv. 136,370 and Net Premium of AUD Equiv. 106,368 being paid between Q3 of 2018 and Q4 of 2019 in respect of the Sub-Direct Master Policy [BCC.0001.0005.6357].

2. Further particulars may be provided prior to trial.

35BD. BCC remitted the premia referred to in paragraphs 35BB and 35BC to IAL.

**Particulars**

1. The premia remitted to IAL did not include amounts retained by BCC by way of commission or amounts payable in respect of tax obligations.

2. The premia remitted to IAL were recorded in monthly payment bordereaux, referrable to the applicable insurance policy that premia were being paid under. For the months following execution of the Sub-Direct Master Policy, AUD 84,664.10 is recorded as being remitted to IAL by BCC in respect of policy "TW-03546" in the June 2019 payment bordereaux [IAL.500.001.0168].

3. On a monthly basis, BCC remitted to IAL amounts due in respect of premia as recorded in the “Virtual Account Data”.

4. Further particulars may be provided prior to trial.

35BE. From time to time, BCC prepared written and payment bordereaux that referred to the Sub-Direct Master Policy and contained the information set out in the particulars to paragraph 6-50 above in respect of the Sub-Direct Master Policy.

35BF. IAL:

a. received the premia pleaded in paragraph 35BD above;

b. received the written and payment bordereaux pleaded in paragraph 35BE above; and

c. failed at all material times:

i. to assert that the policies to which those premia related were not validly issued by IAL or on behalf of IAL and/or that IAL was not entitled to the premia; or

ii. to raise any other objection to the receipt of the premia.

35BG. At all material times, IAL knew or ought to have known of the matters pleaded in paragraphs 35AY to 35BF above.

**Particulars**

1. The particulars to paragraph 35AE above are repeated.

2. IAL's knowledge may be inferred from:

    a. the matters in the particulars to paragraph 35A above;

    b. the matters pleaded at paragraphs 35AA to 35AF above;

    c. the matters pleaded at paragraphs 35AJ to 35AO above;

    d. the matters pleaded at paragraphs 35AS and 35AX above; and

    e. the matters pleaded at paragraphs 35BB to 35BF above.

3. Particular 2 to paragraph 35AO above is repeated.

4. Further particulars may be provided prior to trial.

*2017 Standalone Policies*

35BH. On or about 15 June 2018, Greg Brereton executed Comprehensive Trade Credit Insurance Policies TB-03691 (**2017 Master Policy 3691**) and TB-03690 (**2017 Parallel Policy 3690**) for and on behalf of BCC as Corporate Authorised Representative of IAL.

**Particulars**

1. The unique market references for the 2017 Master Policy 3691 and 2017 Parallel Policy 3690 were B0509FINCW1800044 and B0509FINCW1800045 respectively [AGB.0002.0002.0872] and [GBA.0004.0009.4397].

2. GCUK and GCPL were insureds under the 2017 Master Policy 3691 in respect of their separate interests.

3. Greensill Bank and GCPL were insureds under the 2017 Parallel Policy 3690 in respect of their separate interests.

4. Collectively, the 2017 Master Policy 3691 and the 2017 Parallel Policy 3690 are referred to as the "**2017 Standalone Policies**".

35BI. GBAG executed and entered into the 2017 Parallel Policy 3690 on or about 20 June 2018.

35BJ. The 2017 Master Policy 3691 and 2017 Parallel Policy 3690:

a. are substantially similar in structure and wording to the Proposed Greensill Policy Structure and the Proposed Greensill Policy Wording;

b. gave effect to the matters pleaded in paragraphs 35AF.a and 35AF.b above.

35BK. At a time presently unknown to the Applicants, one of either GCPL or GCUK paid an instalment of premia of AUD 149,819.52 and USD 215,200 (excluding broker commission, GST and Stamp Duty) to BCC due under the 2017 Master Policy 3691 and in respect of the 2017 Parallel Policy 3690.

**Particulars**

1. The best particulars the Applicants can give as to payment is that it was made in September 2018, payment being recorded in the September 2018 payment bordereaux [IAL.500.005.0161].

2. Cl 6.2 and Sch 5, 2018 Master Policy 3691.

3. Closing tax invoices issued by Marsh Pty Ltd to BCC dated 3 July 2018 [BCC.0001.0001.0663], [BCC.0001.0001.0664], [BCC.0001.0001.0665] and [BCC.0001.0001.0666].

35BL. From time to time, one of either GCPL or GCUK paid BCC premia under the 2017 Master Policy 3691 in respect of Assets insured under the 2017 Parallel Policy 3690.

**Particulars**

1. The premium reconciliation exercise undertaken by BCC in October 2020 identifies a Gross Written Premium of AUD Equiv. 26,377,972 and Net Premium of AUD Equiv. 22,806,009 being paid between Q3 of 2018 and Q3 of 2020

in respect of the 2017 Master Policy 3691 and Policy 3691 (as defined in particular 3.a to paragraph 35A above) [BCC.0001.0005.6357].

2. Further particulars may be provided prior to trial.

35BM. BCC remitted the premia referred to in paragraphs 35BK and 35BL to IAL.

**Particulars**

1. The premia remitted to IAL did not include amounts retained by BCC by way of commission or amounts payable in respect of tax obligations.

2. The premia remitted to IAL were recorded in monthly payment bordereaux, referrable to the applicable insurance that policy premia were being paid under. For the months following execution of the 2017 Master Policy 3691 and prior to execution of Policy 3691 (as defined in particular 3a. to paragraph 35A above):

    a. AUD 927,805.18 is recorded as being remitted to IAL by BCC in respect of policy "TB-03691" (across three entries) in the September 2018 payment bordereaux [IAL.500.005.0161].

    b. AUD 93,391.91 is recorded as being remitted to IAL by BCC in respect of policy "TB-03691" in the October 2018 payment bordereaux [IAL.500.006.0148].

    c. AUD 1,589,548.70 is recorded as being remitted to IAL by BCC in respect of policy "TB-03691" in the February 2019 payment bordereaux [IAL.500.005.0288].

    d. AUD 16,263.81 is recorded as being remitted to IAL by BCC in respect of policy "TB-03691" in the March 2019 payment bordereaux [IAL.500.001.0159].

3. On a monthly basis, BCC remitted to IAL amounts due in respect of premia as recorded in the “Virtual Account Data”.

4. Further particulars may be provided prior to trial.

35BN. From time to time, BCC prepared written and payment bordereaux that referred to the 2017 Master Policy 3691 and contained the information set out in the particulars to paragraph 6-50 above in respect of the 2017 Master Policy 3691.

35BO. IAL:

a. received the premia pleaded in paragraph 35BM above;

b. received the written and payment bordereaux pleaded in paragraph 35BN above; and

c. failed at all material times:

i. to assert that the policies to which those premia related were not validly issued by or on behalf of IAL and/or that IAL was not entitled to the premia; or

ii. to raise any other objection to the receipt of the premia.

35BP. At all material times, IAL knew or ought to have known of the matters pleaded in paragraphs 35BH to 35BO above.

**Particulars**

1. The particulars to paragraph 35AE above are repeated.

2. IAL's knowledge may be inferred from:

a. the matters in the particulars to paragraph 35A above;

b. the matters pleaded at paragraphs 35AA to 35AF above;

c. the matters pleaded at paragraphs 35AJ to 35AO above;

d. the matters pleaded at paragraphs 35AS and 35AX above;

e. the matters pleaded at paragraphs 35BB to 35BG

above; and

f. the matters pleaded at paragraphs 35BK to 35BO above.

3. Particular 2 to paragraph 35AO above is repeated.

4. Further particulars may be provided prior to trial.

*2018 LOS Policies*

35BQ. On or about 13 December 2018, Greg Brereton executed Comprehensive Trade Credit Insurance Policies TW-03137 (**2018 LOS Master Policy**) and TW-02924 (**2018 LOS Parallel Policy**) for and on behalf of BCC as Corporate Authorised Representative of IAL.

**Particulars**

1. The unique market references for the 2018 LOS Master Policy and 2018 LOS Parallel Policy were B0509FINCW1800109 and B0509FINCW1800108 respectively [AGB.0002.0003.5867] and [AGB.0002.0002.1549].

2. GCUK and GCPL were insureds under the 2018 LOS Master Policy in respect of their separate interests.

3. Greensill Bank and GCPL were insureds under the 2018 LOS Parallel Policy in respect of their separate interests.

4. Collectively, the 2018 LOS Master Policy and the 2018 LOS Parallel Policy are referred to as the "**2018 LOS Policies**".

35BR. On or about 14 December 2018, GBAG executed and entered into the 2018 LOS Parallel Policy.

35BS. The 2018 LOS Master Policy and 2018 LOS Parallel Policy:

a. are substantially similar in structure and wording to the Proposed Greensill Policy Structure and the Proposed Greensill Policy Wording;

b. gave effect to the matters pleaded in paragraphs 35AF.a and 35AF.b above.

35BT. At a time presently unknown to the Applicants, one of either GCPL or GCUK paid an instalment of premia of AUD 3,757,467.79 (excluding broker commission, GST and Stamp Duty) to BCC due under the 2018 LOS Master Policy and in respect of the 2018 LOS Parallel Policy.

**Particulars**

1. Cl 6.2 and Sch 5, 2018 LOS Master Policy.

2. Payment of premia under the 2018 LOS Master Policy was made through Marsh Pty Ltd.

3. Closing tax invoices issued by Marsh Pty Ltd to BCC dated 21 March 2019 [BCC.0001.0001.2481].

35BU. From time to time, one of either GCPL or GCUK paid BCC premia under the 2018 LOS Master Policy in respect of Assets insured under the 2018 LOS Parallel Policy:

**Particulars**

1. The premium reconciliation exercise undertaken by BCC in October 2020 identifies a Gross Written Premium of AUD Equiv. 6,284,898 and Net Premium of AUD Equiv. 6,287,781 being paid between Q2 of 2018 and Q4 of 2019 in respect of both the 2017 LOS Master Policy and 2018 LOS Master Policy [BCC.0001.0005.6357].

2. Further particulars may be provided prior to trial.

35BV. BCC remitted the premia referred to in paragraphs 35BT and 35BU to IAL.

**Particulars**

1. The premia remitted to IAL did not include amounts retained by BCC by way of commission or amounts payable in respect of tax obligations.

2. The premia remitted to IAL were recorded in monthly payment bordereaux, referrable to the applicable insurance policy that

premia were being paid under. For the months following the execution of the 2018 LOS Master Policy:

a. AUD 394,903.90 is recorded as being remitted to IAL by BCC in respect of policy "TW-02924" (across three entries) in the February 2019 payment bordereaux [IAL.500.005.0288].

b. AUD 216,280.31 is recorded as being "banked" by IAL in respect of policy "TW-02924" in the June 2019 payment bordereaux ~~[IAL.500.005.0168]~~ [IAL.500.001.0168].

c. AUD 28,842.03 is recorded as being remitted to IAL in respect of policy "TW-02924" in the July 2019 payment bordereaux [IAL.500.005.0626].

d. AUD 3,614,442.93 is recorded as being remitted to IAL in respect of policy "TW-02924" in the August 2019 payment bordereaux [IAL.500.005.0640].

3. On a monthly basis, BCC remitted to IAL amounts due in respect of premia as recorded in the "Virtual Account Data".

4. Further particulars may be provided prior to trial.

35BW. From time to time, BCC prepared written and payment bordereaux that referred to the 2018 LOS Master Policy and contained the information set out in the particulars to paragraph 6-50 above in respect of the 2018 LOS Master Policy.

35BX. IAL:

a. received the premia pleaded in paragraph 35BV;

b. received the written and payment bordereaux pleaded in paragraph 35BW above; and

c. failed at all material times:

i. to assert that the policies to which those premia related were not validly issued by or on behalf of IAL and/or that IAL was not entitled to the premia; or

ii. to raise any other objection to the receipt of the premia.

35BY. At all material times, IAL knew or ought to have known of the matters pleaded in paragraphs 35BQ to 35BX above.

**Particulars**

1. The particulars to paragraph 35AE above are repeated.
2. IAL's knowledge may be inferred from:
    a. the matters in the particulars to paragraph 35A above;
    b. the matters pleaded at paragraphs 35AA to 35AF above;
    c. the matters pleaded at paragraphs 35AJ to 35AO above;
    d. the matters pleaded at paragraphs 35AS and 35AX above;
    e. the matters pleaded at paragraphs 35BB to 35BG above;
    f. the matters pleaded at paragraphs 35BK to 35BP above; and
    g. the matters pleaded at paragraphs 35BT to 35BX above;
3. Particular 2 to paragraph 35AO above is repeated.
4. Further particulars may be provided prior to trial.

*Nokia Policies*

35BZ. On or about 9 January 2019, Greg Brereton executed Comprehensive Trade Credit Insurance Policies TB-04584 (**Nokia Master Policy**) and TB-04585 (**Nokia Parallel Policy**) for and on behalf of BCC as Corporate Authorised Representative of IAL.

**Particulars**

1. The unique market references for the Nokia Master Policy and the Nokia Parallel Policy were B0509FINCW1800119 and B0509FINCW1800120 respectively [AGB.0002.0009.1866] and [GBA.0004.0020.6119].

2. GCUK and GCPL were insureds under the Nokia Master Policy in respect of their separate interests.

3. Greensill Bank and GCPL were insureds under the Nokia Parallel Policy in respect of their separate interests.

4. Collectively, the Nokia Master Policy and the Nokia Parallel Policy are referred to as the "**Nokia Policies**".

35CA. GBAG executed and entered into the Nokia Parallel Policy on or about 17 January 2019.

35CB. The Nokia Master Policy and Nokia Parallel Policy:

a. are substantially similar in structure and wording to the Proposed Greensill Policy Structure and the Proposed Greensill Policy Wording;

b. gave effect to the matters pleaded in paragraphs 35AF.a and 35AF.b above.

35CC. At a time presently unknown to the Applicants, one of either GCPL or GCUK paid an instalment of premia of USD 599,112.50 (excluding broker commission, GST and Stamp Duty) to BCC due under the Nokia Master Policy and in respect of the Nokia Parallel Policy.

**Particulars**

1. Cl 6.2 and Sch 5, Nokia Master Policy.

2. Payment of premia under the Nokia Master Policy was made through Marsh Pty Ltd.

3. Closing tax invoice issued by Marsh Pty Ltd to BCC dated 29 Jan 2019 [BCC.0001.0001.1634].

35CD. From time to time, one of either GCPL or GCUK paid BCC premia under the Nokia Master Policy in respect of Assets insured under the Nokia Parallel Policies:

**Particulars**

1. The premium reconciliation exercise undertaken by BCC in October 2020 identifies a Gross Written Premium of AUD Equiv. 1,013,171 and Net Premium of AUD Equiv. 845,998 being paid between Q2 of 2019 and Q1 of 2020 in respect of the Nokia Master Policy [BCC.0001.0005.6357].

2. Further particulars may be provided prior to trial.

35CE. BCC remitted the premia referred to in paragraphs 35CC and 35CD to IAL.

**Particulars**

1. The premia remitted to IAL did not include amounts retained by BCC by way of commission or amounts payable in respect of tax obligations.

2. The premia remitted to IAL were recorded in monthly payment bordereaux, referrable to the applicable insurance policy that premia were being paid under. For the months following execution of the Nokia Master Policy:

    a. AUD 607,464.90 is recorded as being remitted to IAL by BCC in respect of policy "TB-04584" in the July 2019 payment bordereaux [IAL.500.005.0626].

    b. AUD 149,186.61 is recorded as being remitted to IAL by BCC in respect of policy "TB-04584" in the October 2019 payment bordereaux [IAL.500.001.0180].

    c. AUD 71,960.47 is recorded as being remitted to IAL by BCC in respect of policy "TB-04584" (across two entries) in the December 2019 payment bordereaux [IAL.500.006.0181].

d. AUD 151,866.23 is recorded as being remitted to IAL by BCC in respect of policy "TB-04584" (across two entries) in the January 2020 payment bordereaux [IAL.500.001.0204].

3. On a monthly basis, BCC remitted to IAL amounts due in respect of premia as recorded in the “Virtual Account Data”.

4. Further particulars may be provided prior to trial.

35CF. From time to time, BCC prepared written and payment bordereaux that referred to the Nokia Master Policy and contained the information set out in the particulars to paragraph 6-50 above in respect of the Nokia Master Policy.

35CG. IAL:

a. received the premia pleaded in paragraph 35CE;

b. received the written and payment bordereaux pleaded in paragraph 35CF above; and

c. failed at all material times:

i. to assert that the policies to which those premia related were not validly issued by or on behalf of IAL and/or that IAL was not entitled to the premia; or

ii. to raise any other objection to the receipt of the premia.

35CH. At all material times, IAL knew or ought to have known of the matters pleaded in paragraphs 35BZ to 35CG above.

**Particulars**

1. The particulars to paragraph 35AE above are repeated.

2. IAL’s knowledge may be inferred from:

a. the matters in the particulars to paragraph 35A above;

b. the matters pleaded at paragraphs 35AA to 35AF above;

c. the matters pleaded at paragraphs 35AJ to 35AO above;

d. the matters pleaded at paragraphs 35AS and 35AX above;

e. the matters pleaded at paragraphs 35BB to 35BG above; and

f. the matters pleaded at paragraphs 35BK to 35BP above;

g. the matters pleaded at paragraphs 35BT to 35BY above; and

h. the matters pleaded at paragraphs 35CC to 35CG above;

3. Particular 2 to paragraph 35AO above is repeated.

4. Further particulars may be provided prior to trial.

*2019 Excess Policies*

35CI. On or about 6 March 2019, Greg Brereton executed Comprehensive Trade Credit Insurance Policy TS-3087 (**Policy 3087**) and Policy 3088 (as defined in particular 3b. to paragraph 35A above) for and on behalf of BCC as Corporate Authorised Representative of IAL.

**Particulars**

1. The unique market reference for Policy 3087 was B0509FINCW1900010.

2. GCUK and GCPL were insureds under Policy 3087 in respect of their separate interests.

3. Greensill Bank and GCPL were insureds under Policy 3088 in respect of their separate interests.

4. Collectively, Policy 3087 and Policy 3088 are referred to as the "**2019 Excess Policies**".

35CJ. GBAG executed and entered into the Policy 3088 on or about 20 March 2019.

35CK. The Policy 3087 and Policy 3088:

a. are substantially similar in structure and wording to the Proposed Greensill Policy Structure and the Proposed Greensill Policy Wording;

b. gave effect to the matters pleaded in paragraphs 35AF.a and 35AF.b above.

35CL. At a time presently unknown to the Applicants, one of either GCPL or GCUK paid an instalment of premia of USD 275,141.78 (excluding broker commission, GST and Stamp Duty) to BCC due under Policy 3087 and in respect of Policy 3088.

**Particulars**

1. Cl 6.2 and Sch 5, Policy 3087.

2. Payment of premia under Policy 3087 was made through Marsh Pty Ltd.

3. Closing tax invoices issued by Marsh Pty Ltd to BCC dated 24 June 2019 [BCC.0001.0005.1121].

35CM. From time to time, one of either GCPL or GCUK paid BCC premia under the Policy 3087 in respect of Assets insured under Policy 3088.

**Particulars**

1. The premium reconciliation exercise undertaken by BCC in October 2020 identifies a Gross Written Premium of AUD Equiv. 2,400,664 and Net Premium of AUD Equiv. 2,474,333 being paid between Q3 of 2018 and Q3 of 2020 in respect of the 2018 Excess Master Policy and Policy 3087 [BCC.0001.0005.6357].

2. Further particulars may be provided prior to trial.

35CN. BCC remitted the premia referred to in paragraphs 35CL and 35CM to IAL.

**Particulars**

1. The premia remitted to IAL did not include amounts retained by BCC by way of commission or amounts payable in respect of tax obligations.

2. The premia remitted to IAL were recorded in monthly payment bordereaux, referrable to the applicable insurance policy that premia were being paid under. For the months after the inception of Policy 3087:

    a. AUD 26,882.52 is recorded as being remitted to IAL by BCC in respect of policy "TS-03087" in the June 2019 payment bordereaux ~~[IAL.500.005.0168]~~ [IAL.500.001.0168].

    b. AUD 200,943.24 is recorded as being remitted to IAL by BCC in respect of policy "TS-03087" in the October 2019 payment bordereaux [IAL.500.001.0180].

    c. AUD 204,191.72 is recorded as being remitted to IAL by BCC in respect of policy "TS-03087" in the January 2020 payment bordereaux [IAL.500.001.0204].

3. On a monthly basis, BCC remitted to IAL amounts due in respect of premia as recorded in the “Virtual Account Data”.

4. Further particulars may be provided prior to trial.

35CO. From time to time, BCC prepared written and payment bordereaux that referred to the Policy 3087 and contained the information set out in the particulars to paragraph 6-50 above in respect of the Policy 3087.

35CP. IAL:

a. received the premia pleaded in paragraph 35CN above;

b. received the written and payment bordereaux pleaded in paragraph 35CO above; and

c. failed at all material times:

i. to assert that the policies to which those premia related were not validly issued by or on behalf of IAL and/or that IAL was not entitled to the premia; or

ii. to raise any other objection to the receipt of the premia.

35CQ. At all material times, IAL knew or ought to have known of the matters pleaded in paragraphs 35CI to 35CP above.

**Particulars**

1. The particulars to paragraph 35AE above are repeated.

2. IAL's knowledge may be inferred from:

   a. the matters in the particulars to paragraph 35A above;

   b. the matters pleaded at paragraphs 35AA to 35AF above;

   c. the matters pleaded at paragraphs 35AJ to 35AO above;

   d. the matters pleaded at paragraphs 35AS and 35AX above;

   e. the matters pleaded at paragraphs 35BB to 35BG above;

   f. the matters pleaded at paragraphs 35BK to 35BP above;

   g. the matters pleaded at paragraphs 35BT to 35BY above;

   h. the matters pleaded at paragraphs 35CC to 35CH above; and

   i. the matters pleaded at paragraphs 35CL to 35CP above.

3. Particular 2 to paragraph 35AO above is repeated.

4. Further particulars may be provided prior to trial.

*2019 Standalone Policies*

35CR. Policy 3690 and Policy 3691:

a. are substantially similar in structure and wording to the Proposed Greensill Policy Structure and the Proposed Greensill Policy Wording;

b. gave effect to the matters pleaded in paragraphs 35AF.a and 35AF.b above.

35CS. At all material times, IAL knew or ought to have known of the matters pleaded in paragraphs 13, 13A, particular 3.a of paragraphs 35A and 35CR above.

**Particulars**

1. The particulars to paragraph 35AE above are repeated.

2. IAL's knowledge may be inferred from:

a. the matters in the particulars to paragraph 35A above;

b. the matters pleaded at paragraphs 35AA to 35AF above;

c. the matters pleaded at paragraphs 35AJ to 35AO above;

d. the matters pleaded at paragraphs 35AS and 35AX above;

e. the matters pleaded at paragraphs 35BB to 35BG above;

f. the matters pleaded at paragraphs 35BK to 35BP above;

g. the matters pleaded at paragraphs 35BT to 35BY above;

h. the matters pleaded at paragraphs 35CC to 35CH above; and

i. the matters pleaded at paragraphs 35CL to 35CQ above.

3. Particular 2 to paragraph 35AO above is repeated.

4. Further particulars may be provided prior to trial.

35B. Further or in the alternative to paragraph 35A above, BCC had ostensible authority to enter into Policy 3690 on behalf of IAL and BCC because:

a. IAL represented that BCC had authority to enter on IAL's behalf into a contract of the kind of Policy 3690;

**Particulars**

1. The Applicants repeat paragraphs 6-31 to 6-33 and particulars 3(b) and 3(c) to paragraph 35A above.

2. The Applicants repeat paragraphs 35AA to 35CS above.

b. the representations by IAL referred to at paragraph 35B.a. above were made by people who had actual authority to manage IAL's business in respect of BCC's authority to act as a Corporate Authorised Representative of IAL;

**Particulars**

The Applicants repeat paragraphs 6-31 to 6-33 and particulars 3(b) and 3(c) to paragraph 35A above.

c. between 1 August 2017 to 30 June 2019, IAL put BCC in a position, and allowed BCC, to represent that BCC was the Corporate Authorised Representative of IAL in relation to trade credit insurance;

**Particulars**

A. IAL put BCC in a position, and allowed BCC, to represent that BCC was the corporate authorised representative of IAL in relation to trade credit insurance by:

1. accepting the transfer of the CGU AAR Agreement and the Authorisation Notice from CGU to IAL on 1 August 2017;

2. entering into the IAL AAR Agreement;

3. allowing BCC to execute policies of insurance as the corporate authorised representative of IAL;

4. allowing BCC to administer policies of insurance as the corporate authorised representative of IAL;

5. allowing BCC to collect premiums for trade credit insurance policies issued by BCC as the corporate authorised representative for IAL;

6. accepting premiums remitted by BCC to IAL in respect of trade credit insurance policies issued by BCC as the corporate authorised representative for IAL; and

7. paying commission to BCC in respect of trade credit insurance policies issued by BCC as the corporate authorised representative for IAL.

B. The Applicants repeat:

1. Paragraphs 35AJ to 35AL, 35AN.a, 35AN.c, 35AS to 35AU, 35AW.a, 35AW.c, 35BB to 35BD, 35BF.a, 35BF.c, 35BK to 35BM, 35BO.a, 35BO.c, 35BT to 35BV, 35BX.a, 35BX.c, 35CC to 35CE, 35CG.a, 35CG.c, 35CL to 35CN, 35CP.a and 35CP.c above.

d. between 1 August 2017 to 30 June 2019, IAL put BCC in a position, and allowed BCC, to represent that BCC had authority to sign trade credit insurance policies as the Corporate Authorised Representative of IAL, and therefore bind IAL to those terms of insurance;

**Particulars**

The Applicants repeat the particulars to paragraph 35Bc. above.

e. between 1 August 2017 and 30 June 2019, IAL put BCC in a position, and allowed BCC to represent, to Greensill Bank that BCC had authority to enter into a contract of the kind of Policy 3690, in its capacity as Corporate Authorised Representative of IAL, by allowing BCC in its capacity as Corporate Authorised Representative of IAL to bind IAL to other policies of insurance with Greensill Bank which were of a similar kind to Policy 3690:

**Particulars**

1. The Applicants repeat the particulars to paragraph 35Bc. above.

2. The parallel policies that BCC executed as Corporate Authorised Representative of IAL include:

   (a) the 2017 LOS Parallel Policy;

   (b) the 2017 Parallel Policy 3690;

   (c) the 2018 Parallel Excess Policy;

   (d) the Sub-Direct Parallel Policy;

   (e) Comprehensive Trade Credit Insurance Policy TB-04278 with unique market reference B0509FINCW1800089, executed by Greg Brereton on or around 8 October 2018, and effective from that date.

   (f) the 2018 LOS Parallel Policy;

   (g) the Nokia Parallel Policy;

   (h) Policy 3088;

   (i) Comprehensive Trade Credit Insurance Policy TB-05369 with unique market reference B0509FINCW1900040, executed by Greg Brereton on or around 25 June 2019, and effective from 26 June 2019 (**Delta Parallel Policy**); and

   (j) Comprehensive Trade Credit Insurance Policy TW-05412 with unique market reference B0509FINCW1900042, executed by Greg Brereton on or around 25 July 2019, and effective from 30 June 2019 (**MSC Parallel Policy**).

3. The Applicants repeat paragraphs 35AA to 35AF, 35AG, 35AP, 35AY, 35BH, 35BQ, 35BZ and 35CI above.

f. on 13 March 2019, IAL put BCC in a position, and allowed BCC, to represent to Greensill Bank that BCC had authority to enter into Policy 3690 in its capacity as Corporate Authorised Representative of IAL, and therefore bind IAL to the terms of Policy 3690; and

**Particulars**

That IAL put BCC in a position, and allowed BCC, to make this representation is to be inferred from:

1. The matters set out at paragraphs 35Bc. to 35Be. above.

2. IAL's acceptance of premium payments for related Policy 3691 and each endorsement to Policy 3691.

g. Greensill Bank was induced by IAL's conduct:

i. referred to in particular B to paragraph 35Bc.; and/or

ii. in putting BCC in a position, and allowing BCC, to make the representations pleaded at paragraphs 35Ba. and 35Bc. to 35Bf. above to enter into Policy 3690.

**(C) Statutory responsibility**

35C. Further or in the alternative to paragraphs 35A to 35B above, pursuant to s. 917B, or alternatively s. 917C, of the Corporations Act, IAL is responsible as between IAL and Greensill Bank for the conduct of BCC in entering into Policy 3690 because BCC's conduct was:

a. conduct of a representative of a financial services licensee (that is, IAL);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

**D4. Greg Brereton had authority to enter into Policy 3690**

35D. Mr Brereton had actual authority to execute Policy 3690 on behalf of IAL through its Corporate Authorised Representative BCC.

**Particulars**

The Applicants repeat paragraphs 6-1c., 6-1d., 6-56H to 6-56R, and 35A above.

35E. Further or in the alternative to paragraph 35D above, Greg Brereton had ostensible authority to execute Policy 3690 on behalf of IAL through its Corporate Authorised Representative BCC because:

a. IAL put Mr Brereton in a position, and allowed Mr Brereton, to represent to Greensill Bank that he had authority to execute contracts of the kind of Policy 3690 on behalf of IAL through its Corporate Authorised Representative BCC, by putting Mr Brereton in a position, and allowing Mr Brereton, to execute other policies of insurance with Greensill Bank on behalf of IAL through its Corporate Authorised Representative BCC, which policies were of a similar kind to Policy 3690:

**Particulars**

The Applicants repeat the particulars to paragraphs 35Bc. to 35B.e. above.

b. on 13 March 2019, IAL put Mr Brereton in a position, and allowed Mr Brereton, to represent to Greensill Bank that he had authority to execute Policy 3690 on behalf of IAL through its Corporate Authorised Representative BCC, and therefore bind IAL to the terms of Policy 3690; and

**Particulars**

That IAL put Mr Brereton in a position, and allowed Mr Brereton, to make this representation is to be inferred from:

1. The matters set out at paragraphs 35Bc. to 35Be. and 35Ea. above.

2. IAL's acceptance of premium payments for related Policy 3691 and each endorsement to Policy 3691.

c. Greensill Bank was induced by IAL's conduct in putting Mr Brereton in a position, and allowing Mr Brereton, to make the representations pleaded at paragraphs 35Ea. and 35Eb. above to enter into Policy 3690.

35F. Further or in the alternative to paragraphs 35D and 35E above, pursuant to s. 917B, or alternatively s. 917C, of the Corporations Act, IAL is responsible as between IAL and Greensill Bank for the conduct of Mr Brereton in entering into Policy 3690 on behalf of IAL because Mr Brereton's conduct was:

a. conduct of a representative of a financial services licensee (that is, IAL);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

**D5. Endorsements 9, 17 and 18 to Policy 3690**

35G. On or about 13 March 2019, IAL, Greensill Bank and GCPL entered into Endorsement 9 to Policy 3690 (**Endorsement 9**).

**Particulars**

Endorsement 9 [GBA.0004.0006.4967].

35H. Greg Brereton signed Endorsement 9 on behalf of BCC in its capacity as Corporate Authorised Representative of IAL.

35I. Endorsement 9 was effective from 22 February 2019.

35J. By Endorsement 9:

a. Greensill Bank as Insured was entitled to make a Claim for any Loss under the Policy at any time after such Loss arose; and

b. IAL agreed to pay any such Claim, in full up to the amount of the Relevant Loss, within 5 Business Days of such Claim being made by Greensill Bank without the need for any further requirement to be met.

36. [Not used]

36A. On or about 21 June 2019, IAL, Greensill Bank and GCPL entered into Endorsement 17 to Policy 3690 (**Endorsement 17**).

**Particulars**

Endorsement 17 [PLE.3000.0001.0700].

36B. [Not used]

36C. Greg Brereton signed Endorsement 17 on behalf of BCC in its capacity as Corporate Authorised Representative of IAL.

36D. Endorsement 17 was effective from 10 June 2019.

36E. By Endorsement 17, the Policy Period of Policy 3690 was extended to 1 March 2021.

37. On or about 21 June 2019, IAL, Greensill Bank and GCPL entered into Endorsement 18 to Policy 3690 (**Endorsement 18**).

**Particulars**

Endorsement 18 [AGB.0002.0009.0064].

38. [Not used]

38A. Greg Brereton signed Endorsement 18 on behalf of BCC in its capacity as Corporate Authorised Representative of IAL.

38B. Endorsement 18 was effective from 10 June 2019.

39. By Endorsement 18, the Policy Period of Policy 3690 was extended to 1 March 2021.

**D6. BCC had authority to execute Endorsements 9, 17 and 18**

39A. BCC had actual authority to execute Endorsement 9, Endorsement 17 and Endorsement 18 on behalf of IAL.

**Particulars**

1. The Applicants refer to and repeat paragraphs 6-33B to 6-33E above and the particulars to paragraph 35A above.

2. Further particulars may be provided following discovery.

39B. Further or in the alternative to paragraph 39A above, pursuant to s. 917B, or alternatively s. 917C, of the Corporations Act, IAL is responsible as between IAL and Greensill Bank for the conduct of BCC in entering into Endorsement 9, Endorsement 17 and Endorsement 18 because BCC's conduct was:

a. conduct of a representative of a financial services licensee (that is, IAL);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

**D7. Greg Brereton had authority to execute Endorsements 9, 17 and 18**

39C. Greg Brereton had actual authority to execute Endorsement 9, Endorsement 17 and Endorsement 18 on behalf of IAL through its Corporate Authorised Representative BCC.

**Particulars**

1. The Applicants repeat paragraphs 6-1c., 6-1d., 6-56H to 6-56R, and paragraph 35D above.

2. Further particulars may be provided following discovery.

39D. Further or in the alternative to paragraph 39C above, pursuant to s. 917B, or alternatively s. 917C, of the Corporations Act, IAL is responsible as between IAL and Greensill Bank for the conduct of Greg Brereton in executing Endorsement 9, Endorsement 17 and Endorsement 18 on behalf of IAL through its Corporate Authorised Representative BCC because Mr Brereton's conduct was:

a. conduct of a representative of a financial services licensee (that is, IAL);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

**D8. Endorsement 23 to Policy 3690**

39E. On or about 5 February 2020, IAL, Greensill Bank and GCPL entered into Endorsement 23 to Policy 3690 (**Endorsement 23**).

**Particulars**

Endorsement 23 [GBA.0004.0011.4136].

39F. Greg Brereton signed Endorsement 23 on behalf of BCC in its capacity as Corporate Authorised Representative of IAL.

39G. Endorsement 23 was effective from 22 February 2019.

39H. Endorsement 23 amended the definition of "Loss", part III, in the Policy to mean, in respect of an Asset (which is a Note) owned by the Insured immediately prior to the

payment of a Claim (which for the avoidance of doubt includes the Expected Allocation of the Insured in respect of each Asset acquired by the Insured from a Loss Payee after the occurrence of the Insured Cause but prior to payment of such Claim) the amount equal to the difference between:

a. the Expected Allocation of the Insured in respect of such Asset; and

b. the Insured's entitlement under the Master Trust Deed in respect of any amounts actually paid by the Customer or on its behalf in respect of the Eligible Debt from which such Asset is derived.

39I. Endorsement 23 also amended the first sentence of the Eligibility Criteria in Schedule 7 to Policy 3690 to read: "All Eligible Debts from which are derived Assets owned by the Insured, must satisfy the following eligibility criteria at the time of acquisition of the relevant Asset by the Insured (or where applicable the Loss Payee)".

**D9. BCC had authority to execute Endorsement 23**

39J. BCC had actual authority to execute Endorsement 23 on behalf of IAL.

**Particulars**

1. Clause 28.1(a) and Schedule 5, clause 2.2 (table 1) of the PACAO permitted BCC, as the delegate of Bond, to modify a Policy within the Underwriting Guidelines without IAL's prior written approval.

2. Clause 1(a)(3) (p 9) of the Underwriting Manual Version 3.0 authorised BCC to bind mid-term policy alterations where IAL was the insurer providing that such changes were permitted by Underwriting Manual Version 3.0 and after prudent underwriting judgment was exercised.

3. The execution of Endorsement 23 did not contravene any limit on BCC's authority prescribed by Underwriting Manual Version 3.0, section 1(a) (p 8 and 9).

4. Further particulars may be provided following discovery.

39K. Further or in the alternative to paragraph 39J above, pursuant to s. 917B, or alternatively s. 917C, of the Corporations Act, IAL is responsible as between IAL and Greensill Bank for the conduct of BCC in entering into Endorsement 23 because BCC's conduct was:

a. conduct of a representative of a financial services licensee (that is, IAL);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

39L. Further or in the alternative to paragraph 39K above, pursuant to s. 917B, or alternatively s. 917C (by operation of s. 917C(4)), of the Corporations Act, TMNF is responsible as between TMNF and Greensill Bank for the conduct of BCC in entering into Endorsement 23 because BCC's conduct was:

a. conduct of a representative of a financial services licensee (that is, TMNF);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

**D10. Greg Brereton had authority to execute Endorsement 23**

39M. Greg Brereton had actual authority to execute Endorsement 23 on behalf of IAL.

**Particulars**

1. The Applicants repeat particulars 1 to 3 paragraph 39J.

2. Underwriting Manual Version 3.0 identified Greg Brereton as the responsible underwriting officer as designated by IAL.

3. Further particulars may be provided following discovery.

39N. Further or in the alternative to paragraph 39M above, pursuant to s. 917B, or alternatively s. 917C, of the Corporations Act, IAL is responsible as between IAL and Greensill Bank for the conduct of Greg Brereton in executing Endorsement 23 on behalf of IAL through BCC because Mr Brereton's conduct was:

a. conduct of a representative of a financial services licensee (that is, IAL);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

39O. Further or in the alternative to paragraph 39N above, pursuant to s. 917B, or alternatively s. 917C (by operation of s. 917C(4)), of the Corporations Act, TMNF is responsible as between TMNF and Greensill Bank for the conduct of Greg Brereton in executing Endorsement 23 because Mr Brereton's conduct was:

a. conduct of a representative of a financial services licensee (that is, TMNF);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

## E. THE EHG TRANSACTION

### E1. Parties to the transaction

40. Emirates Hospitals Group LLC (**EHG**) is a company incorporated in Dubai, United Arab Emirates.

41. DEMICA Limited (**DEMICA**) is a company incorporated in England.

42. GCUK is a company incorporated in England.

### E2. EHG Independent Payment Undertakings

43. On or around 23 January 2019, EHG and DEMICA entered into a Buyer Tracking and Settlement Service Agreement.

**Particulars**

Buyer Tracking and Settlement Service Agreement [GBA.0004.0029.2260].

44. Under the Buyer Tracking and Settlement Service Agreement, EHG agreed, subject to the terms of the Agreement, that if GCUK accepted an advance payment request in respect of a debt owed by EHG to one of its suppliers then EHG gave an independent, irrevocable, assignable undertaking in favour of GCUK that EHG would pay or procure the payment of the amount of that debt into a designated account on its due date (**Independent Payment Undertaking**).

45. GCUK accepted an advance payment request in respect of each of the following debts owed by EHG to one of its suppliers:

| | **Supplier** | **Invoice date** | **Due date** | **Amount (USD)** |
|---|---|---|---|---|
| 1 | Alam Al Madina General Trading LLC | 20/08/2019 | 17/02/2020 | 903,715 |
| 2 | Alam Al Madina General Trading LLC | 26/10/2019 | 23/04/2020 | 831,021 |
| 3 | Alam Al Madina General Trading LLC | 27/11/2019 | 25/05/2020 | 1,263,051 |
| 4 | Alam Al Madina General Trading LLC | 11/12/2019 | 08/06/2020 | 938,623 |
| 5 | Alam Al Madina General Trading LLC | 24/12/2019 | 22/06/2020 | 1,240,471 |
| 6 | Foralis Trading Pte Ltd | 21/08/2019 | 17/02/2020 | 1,190,124 |
| 7 | Foralis Trading Pte Ltd | 30/09/2019 | 30/03/2020 | 1,410,773 |
| 8 | Foralis Trading Pte Ltd | 03/10/2019 | 31/03/2020 | 756,145 |
| 9 | Foralis Trading Pte Ltd | 09/10/2019 | 06/04/2020 | 874,510 |
| 10 | Foralis Trading Pte Ltd | 14/10/2019 | 13/04/2020 | 1,251,206 |
| 11 | Foralis Trading Pte Ltd | 17/10/2019 | 14/04/2020 | 914,251 |
| 12 | Foralis Trading Pte Ltd | 26/10/2019 | 23/04/2020 | 703,619 |
| 13 | Foralis Trading Pte Ltd | 26/10/2019 | 23/04/2020 | 767,823 |
| 14 | Foralis Trading Pte Ltd | 08/11/2019 | 06/05/2020 | 1,257,314 |
| 15 | Foralis Trading Pte Ltd | 09/11/2019 | 07/05/2020 | 1,002,181 |
| 16 | Foralis Trading Pte Ltd | 25/11/2019 | 25/05/2020 | 1,092,194 |
| 17 | Foralis Trading Pte Ltd | 08/12/2019 | 08/06/2020 | 1,263,912 |
| 18 | Foralis Trading Pte Ltd | 11/12/2019 | 08/06/2020 | 1,202,715 |
| 19 | Foralis Trading Pte Ltd | 19/12/2019 | 16/06/2020 | 1,134,861 |
| 20 | Foralis Trading Pte Ltd | 19/12/2019 | 16/06/2020 | 1,351,684 |
| 21 | Foralis Trading Pte Ltd | 23/12/2019 | 22/06/2020 | 1,274,015 |

| | Supplier | Invoice date | Due date | Amount (USD) |
|---|---|---|---|---|
| 22 | Foralis Trading Pte Ltd | 30/12/2019 | 29/06/2020 | 506,381 |
| 23 | Foralis Trading Pte Ltd | 16/01/2020 | 14/07/2020 | 940,731 |
| 24 | Foralis Trading Pte Ltd | 26/01/2020 | 24/07/2020 | 824,835 |
| 25 | Modular Concepts LLC | 03/09/2019 | 02/03/2020 | 915,311 |
| 26 | SD International DWC LLC | 05/09/2019 | 03/03/2020 | 865,125 |
| 27 | SD International DWC LLC | 09/09/2019 | 09/03/2020 | 825,153 |
| 28 | SD International DWC LLC | 12/09/2019 | 10/03/2020 | 802,130 |
| 29 | SD International DWC LLC | 16/09/2019 | 16/03/2020 | 875,125 |
| 30 | SD International DWC LLC | 18/09/2019 | 16/03/2020 | 654,000 |
| 31 | SD International DWC LLC | 24/09/2019 | 23/03/2020 | 785,413 |
| 32 | SD International DWC LLC | 06/10/2019 | 06/04/2020 | 1,280,773 |
| 33 | SD International DWC LLC | 10/10/2019 | 07/04/2020 | 981,018 |
| 34 | SD International DWC LLC | 02/02/2020 | 03/08/2020 | 1,392,605 |
| 35 | Trident Global Trading FZE | 27/10/2019 | 27/04/2020 | 725,918 |
| | | | | **34,998,726** |

46. The acceptance by GCUK of advance payment requests in respect of the debts pleaded in the previous paragraph gave rise to Independent Payment Undertakings (**EHG Independent Payment Undertakings**) in favour of GCUK and any transferee taking a transfer from GCUK.

**E3. Endorsements for insuring the EHG Independent Payment Undertakings**

*Debt Endorsement 1*

47. On or around 13 March 2019, IAL, Greensill Bank and GCPL entered into Debt Endorsement 1 to Policy 3690.

**Particulars**

Debt Endorsement 1 was in writing and was executed by Greg Brereton for and on behalf of BCC as agent and Corporate Authorised Representative of IAL.

48. [Not used]

48A. Further or in the alternative to paragraph 47 above, pursuant to s. 917B, or alternatively s. 917C, of the Corporations Act, IAL is responsible as between IAL and Greensill Bank for the conduct of BCC and Greg Brereton in entering into Debt Endorsement 1 on behalf of IAL because BCC and/or Mr Brereton's conduct was:

a. conduct of a representative of a financial services licensee (that is, IAL);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

*Customer Endorsements*

49. On or around 13 March 2019, IAL, Greensill Bank and GCPL entered into Customer Endorsement 37 to Policy 3690.

**Particulars**

Customer Endorsement 37 was in writing and was executed by Greg Brereton for and on behalf of BCC as agent and Corporate Authorised Representative of IAL [AGB.0003.0001.0368].

50. [Not used]

51. By Customer Endorsement 37, EHG was endorsed as a Customer for the purpose of Policy 3690.

52. Pursuant to Customer Endorsement 37, the Insured Percentage for EHG was 100%.

53. Pursuant to Customer Endorsement 37:

a. The Customer Limit for EHG was USD 20 million.

b. Debt Endorsement 1 was amended so that the maximum tenor of a Debt for the purpose of an Independent Payment Undertaking given by EHG was 180 days from the date GCUK acquired the Independent Payment Undertaking.

54. On or around 4 September 2019, IAL, Greensill Bank and GCPL entered into Customer Endorsement 37(i) to Policy 3690.

**Particulars**

Customer Endorsement 37(i) was in writing and was executed by Greg Brereton for and on behalf of BCC as agent and Corporate Authorised Representative of IAL [AGB.0002.0010.0173].

55. [Not used]

56. By Customer Endorsement 37(i), the Customer Limit for EHG was increased to USD 21 million.

57. On or around 18 September 2019, IAL, Greensill Bank and GCPL entered into Customer Endorsement 37(ii) to Policy 3690.

**Particulars**

Customer Endorsement 37(ii) was in writing and was executed by Greg Brereton for and on behalf of BCC as agent and Corporate Authorised Representative of IAL [AGB.0002.0004.0617].

58. [Not used]

59. By Customer Endorsement 37(ii), the Customer Limit for EHG was increased to USD 35 million.

59A. Further or in the alternative to paragraphs 49, 54 and 57, pursuant to s. 917B, or alternatively s. 917C, of the Corporations Act, IAL is responsible as between IAL and Greensill Bank for the conduct of BCC and Greg Brereton in entering into Customer Endorsement 37, Customer Endorsement 37(i) and Customer Endorsement 37(ii) on behalf of IAL because BCC and/or Mr Brereton's conduct was:

a. conduct of a representative of a financial services licensee (that is, IAL);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

59B. Further or in the alternative to paragraph 59A above, pursuant to s. 917B, or alternatively s. 917C (by operation of s. 917C(4)), of the Corporations Act, TMNF is responsible as between TMNF and Greensill Bank for the conduct of BCC and Greg Brereton in entering into Customer Endorsement 37(i) and Customer Endorsement 37(ii) because BCC and/or Mr Brereton's conduct was:

a. conduct of a representative of a financial services licensee (that is, TMNF);

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on; and

d. conduct on which Greensill Bank in fact relied in good faith.

60. Each EHG Independent Payment Undertaking was a Debt for the purposes of Debt Endorsement 1 as amended by Customer Endorsement 37, Customer Endorsement 37(i) and Customer Endorsement 37(ii).

61. Each EHG Independent Payment Undertaking was an Eligible Debt for the purpose of Policy 3690.

**E4. Notes program**

62. Hoffman S.à.r.l. (**Hoffman**) is a company incorporated in Luxembourg.

63. Hoffman is a special purpose vehicle (**SPV**) for the purpose of Policy 3690.

63A. On or about 13 October 2017, Hoffman and Citibank N.A., London Branch (**Citibank**) entered into a Master Trust Deed entitled "Lagoon Farm: Master Trust Deed" (**Hoffman Master Trust Deed**) and a Base Memorandum, pursuant to which Hoffman could issue Notes secured by Relevant Claims and Citibank was appointed Note Trustee.

**Particulars**

1. Hoffman Master Trust Deed and Base Memorandum dated 13 October 2017 [PLE.3000.0001.1000] and [PLE.3000.0001.1037].

63B. The Hoffman Master Trust Deed and Base Memorandum were supplemented over time including by way of a Supplemental Trust Deed which provided the key features of the Notes issued by Hoffman pursuant to the Hoffman Master Trust Deed.

**Particulars**

1. First Supplement dated 21 December 2017 to the Base Memorandum [PLE.3000.0001.1038].

2. Supplemental Master Trust Deed dated 21 December 2017 [PLE.3000.0001.1011].

63C. Relevant Claim was defined in the Hoffman Master Trust Deed (as supplemented) as "in respect of any Tranche of Notes issued by any Issuer under its Programme, any payment obligation of a Relevant Claim Type owed by a Relevant Obligor that has been acquired by such Issuer pursuant to arrangements entered into between such Issuer and a Relevant Claims Seller pursuant to a Master Assignment Agreement and linked to such Tranche of Notes, as specified in the relevant Pricing Supplement", which definition included Payment Obligations acquired by Hoffman from a Relevant Claims Seller pursuant to a Master Assignment Agreement.

**Particulars**

1. Supplemental Master Trust Deed, clause 10, definition of "Relevant Claim" [PLE.3000.0001.1011].

2. Series Supplement No. 1 dated 29 January 2019 to the Base Memorandum (**Series Supplement No. 1**): Compartment JL [PLE.3000.0001.1016].

63D. At all material times GCUK was a Relevant Claims Seller for the purposes of the Hoffman Master Trust Deed (as supplemented).

**Particulars**

GCUK is a Relevant Claims Seller by reason of it being a party to the Hoffman MAA for the purposes of assigning Relevant Claims to Hoffman and is specified as the Relevant Claims Seller in the following supplements referred to at paragraphs 63B and 63C above:

1. Supplemental Master Trust Deed dated 21 December 2017 [PLE.3000.0001.1011].

2. Series Supplement No. 1: Compartment JL [PLE.3000.0001.1016].

63E. On or about 21 December 2017, GCUK, Hoffman and Citibank entered into a Master Assignment Agreement (**Hoffman MAA**) pursuant to which Hoffman could purchase and have assigned to it various Payment Obligations from GCUK where "Payment Obligation" was defined in the Hoffman MAA 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".

**Particulars**

Hoffman MAA, clauses 2 and 3 [PLE.3000.0001.0973].

63F. At all material times, the purchase and assignment of each Payment Obligation under the Hoffman MAA included the purchase and assignment of the whole, but not part of any Payment Obligation and all of GCUK's Additional Rights in respect thereof where "Additional Rights" was defined as "in respect of any Payment Obligation, all of GCUK's rights relating to such Payment Obligation, including, but not limited to, (a) if applicable, where the related Accounts Receivable has been acquired by GCUK, all of GCUK's rights under such Accounts Receivable and (b) all other rights of GCUK under the relevant Finance Documentation (insofar as such rights relate to such Payment Obligation), in each case to the extent that such rights are assignable by GCUK".

**Particulars**

Hoffman MAA clauses 1.2 and 2.1 [PLE.3000.0001.0973].

63G. Pursuant to the Hoffman Master Trust Deed (as supplemented) and Base Memorandum, Hoffman issued Notes that were secured by the Payment Obligations assigned pursuant to the Hoffman MAA to Hoffman by GCUK.

**Particulars**

Supplemental Master Trust Deed dated 21 December 2017, clauses 11 and 18.1A(1) [PLE.3000.0001.1011].

## E5. EHG Notes

64. GCUK assigned the EHG Independent Payment Undertakings to Hoffman.

65. Hoffman issued notes (**EHG Notes**) under the Hoffman Master Trust Deed (as supplemented) that were secured by the EHG Independent Payment Undertakings.

**Particulars**

| No. | International Securities Identification Numbers | Origination date | Maturity date | Expected Allocation (USD) | EHG Notes (Document ID) |
|---|---|---|---|---|---|
| 1 | XS1915435561 | 24/09/2019 | 10/03/2020 | 2,997,808 | [AGB.0003.0007.0142] |
| 2 | XS1915435645 | 30/09/2019 | 23/03/2020 | 3,179,663 | [AGB.0003.0007.0143] |
| 3 | XS1915435728 | 15/10/2019 | 06/04/2020 | 1,630,655 | [AGB.0003.0007.0144] |
| 4 | XS1915435991 | 21/10/2019 | 14/04/2020 | 3,576,230 | [AGB.0003.0007.0145] |
| 5 | XS1915436023 | 24/10/2019 | 06/04/2020 | 1,280,773 | [AGB.0003.0007.0146] |
| 6 | XS1915436296 | 30/10/2019 | 07/04/2020 | 981,018 | [AGB.0003.0007.0147] |
| 7 | XS1915436379 | 06/11/2019 | 27/04/2020 | 725,918 | [AGB.0003.0007.0148] |
| 8 | XS1915436619 | 26/11/2019 | 23/04/2020 | 3,692,683 | [AGB.0003.0007.0149] |
| 9 | XS1915436700 | 05/12/2019 | 07/05/2020 | 1,002,181 | [AGB.0003.0007.0150] |
| 10 | XS1915436965 | 12/12/2019 | 25/05/2020 | 4,316,178 | [AGB.0003.0007.0151] |
| 11 | XS1915437005 | 17/12/2019 | 08/06/2020 | 2,466,627 | [AGB.0003.0007.0152] |
| 12 | XS1915437187 | 23/12/2019 | 16/06/2020 | 1,134,861 | [AGB.0003.0007.0153] |
| 13 | XS1915437260 | 30/12/2019 | 22/06/2020 | 3,564,322 | [AGB.0003.0007.0154] |
| 14 | XS1915437344 | 03/01/2020 | 22/06/2020 | 1,240,471 | [AGB.0003.0007.0155] |
| 15 | XS1915437427 | 14/01/2020 | 29/06/2020 | 506,381 | [AGB.0003.0007.0156] |
| 16 | XS1915437690 | 22/01/2020 | 14/07/2020 | 940,731 | [AGB.0003.0007.0157] |
| 17 | XS1915437773 | 03/02/2020 | 24/07/2020 | 824,835 | [AGB.0003.0007.0158] |

| No. | International Securities Identification Numbers | Origination date | Maturity date | Expected Allocation (USD) | EHG Notes (Document ID) |
|---|---|---|---|---|---|
| 18 | XS1915437856 | 06/02/2020 | 03/08/2020 | 1,392,605 | [AGB.0003.0007.0159] |

65A. Each of the EHG Notes was secured by one or more EHG Independent Payment Undertakings.

**Particulars**

| | Supplier | Invoice date | Due date | Outstanding amount (USD) | ISIN of Pricing Supplement | EHG Notes (Document ID) |
|---|---|---|---|---|---|---|
| 1 | Alam Al Madina General Trading LLC | 20/08/2019 | 17/02/2020 | 903,715 | XS1915436619 | [AGB.0003.0007.0149] |
| 2 | Alam Al Madina General Trading LLC | 26/10/2019 | 23/04/2020 | 831,021 | XS1915436619 | [AGB.0003.0007.0149] |
| 3 | Alam Al Madina General Trading LLC | 27/11/2019 | 25/05/2020 | 1,263,051 | XS1915436965 | [AGB.0003.0007.0151] |
| 4 | Alam Al Madina General Trading LLC | 11/12/2019 | 08/06/2020 | 938,623 | XS1915437260 | [AGB.0003.0007.0154] |
| 5 | Alam Al Madina General Trading LLC | 24/12/2019 | 22/06/2020 | 1,240,471 | XS1915437344 | [AGB.0003.0007.0155] |

| | Supplier | Invoice date | Due date | Outstanding amount (USD) | ISIN of Pricing Supplement | EHG Notes (Document ID) |
|---|---|---|---|---|---|---|
| 6 | Foralis Trading Pte Ltd | 21/08/2019 | 17/02/2020 | 1,190,124 | XS1915436619 | [AGB.0003.0007.0149] |
| 7 | Foralis Trading Pte Ltd | 30/09/2019 | 30/03/2020 | 1,410,773 | XS1915435991 | [AGB.0003.0007.0145] |
| 8 | Foralis Trading Pte Ltd | 03/10/2019 | 31/03/2020 | 756,145 | XS1915435728 | [AGB.0003.0007.0144] |
| 9 | Foralis Trading Pte Ltd | 09/10/2019 | 06/04/2020 | 874,510 | XS1915435728 | [AGB.0003.0007.0144] |
| 10 | Foralis Trading Pte Ltd | 14/10/2019 | 13/04/2020 | 1,251,206 | XS1915435991 | [AGB.0003.0007.0145] |
| 11 | Foralis Trading Pte Ltd | 17/10/2019 | 14/04/2020 | 914,251 | XS1915435991 | [AGB.0003.0007.0145] |
| 12 | Foralis Trading Pte Ltd | 26/10/2019 | 23/04/2020 | 703,619 | XS1915436965 | [AGB.0003.0007.0151] |
| 13 | Foralis Trading Pte Ltd | 26/10/2019 | 23/04/2020 | 767,823 | XS1915436619 | [AGB.0003.0007.0149] |
| 14 | Foralis Trading Pte Ltd | 08/11/2019 | 06/05/2020 | 1,257,314 | XS1915436965 | [AGB.0003.0007.0151] |

| | Supplier | Invoice date | Due date | Outstanding amount (USD) | ISIN of Pricing Supplement | EHG Notes (Document ID) |
|---|---|---|---|---|---|---|
| 15 | Foralis Trading Pte Ltd | 09/11/2019 | 07/05/2020 | 1,002,181 | XS1915436700 | [AGB.0003.0007.0150] |
| 16 | Foralis Trading Pte Ltd | 25/11/2019 | 25/05/2020 | 1,092,194 | XS1915436965 | [AGB.0003.0007.0151] |
| 17 | Foralis Trading Pte Ltd | 08/12/2019 | 08/06/2020 | 1,263,912 | XS1915437005 | [AGB.0003.0007.0152] |
| 18 | Foralis Trading Pte Ltd | 11/12/2019 | 08/06/2020 | 1,202,715 | XS1915437005 | [AGB.0003.0007.0152] |
| 19 | Foralis Trading Pte Ltd | 19/12/2019 | 16/06/2020 | 1,134,861 | XS1915437187 | [AGB.0003.0007.0153] |
| 20 | Foralis Trading Pte Ltd | 19/12/2019 | 16/06/2020 | 1,351,684 | XS1915437260 | [AGB.0003.0007.0154] |
| 21 | Foralis Trading Pte Ltd | 23/12/2019 | 22/06/2020 | 1,274,015 | XS1915437260 | [AGB.0003.0007.0154] |
| 22 | Foralis Trading Pte Ltd | 30/12/2019 | 29/06/2020 | 506,381 | XS1915437427 | [AGB.0003.0007.0156] |
| 23 | Foralis Trading Pte Ltd | 16/01/2020 | 14/07/2020 | 940,731 | XS1915437690 | [AGB.0003.0007.0157] |

| | Supplier | Invoice date | Due date | Outstanding amount (USD) | ISIN of Pricing Supplement | EHG Notes (Document ID) |
|---|---|---|---|---|---|---|
| 24 | Foralis Trading Pte Ltd | 26/01/2020 | 24/07/2020 | 824,835 | XS1915437773 | [AGB.0003.0007.0158] |
| 25 | Modular Concepts LLC | 03/09/2019 | 02/03/2020 | 915,311 | XS1915435561 | [AGB.0003.0007.0142] |
| 26 | SD International DWC LLC | 05/09/2019 | 03/03/2020 | 865,125 | XS1915435645 | [AGB.0003.0007.0143] |
| 27 | SD International DWC LLC | 09/09/2019 | 09/03/2020 | 825,153 | XS1915435561 | [AGB.0003.0007.0142] |
| 28 | SD International DWC LLC | 12/09/2019 | 10/03/2020 | 802,130 | XS1915435561 | [AGB.0003.0007.0142] |
| 29 | SD International DWC LLC | 16/09/2019 | 16/03/2020 | 875,125 | XS1915435645 | [AGB.0003.0007.0143] |
| 30 | SD International DWC LLC | 18/09/2019 | 16/03/2020 | 654,000 | XS1915435645 | [AGB.0003.0007.0143] |
| 31 | SD International DWC LLC | 24/09/2019 | 23/03/2020 | 785,413 | XS1915435645 | [AGB.0003.0007.0143] |
| 32 | SD International DWC LLC | 06/10/2019 | 06/04/2020 | 1,280,773 | XS1915436023 | [AGB.0003.0007.0146] |

| | Supplier | Invoice date | Due date | Outstanding amount (USD) | ISIN of Pricing Supplement | EHG Notes (Document ID) |
|---|---|---|---|---|---|---|
| 33 | SD International DWC LLC | 10/10/2019 | 07/04/2020 | 981,018 | XS1915436296 | [AGB.0003.0007.0147] |
| 34 | SD International DWC LLC | 02/02/2020 | 03/08/2020 | 1,392,605 | XS1915437856 | [AGB.0003.0007.0159] |
| 35 | Trident Global Trading FZE | 27/10/2019 | 27/04/2020 | 725,918 | XS1915436379 | [AGB.0003.0007.0148] |

66. The EHG Notes were Notes for the purpose of Policy 3690.

66A. The EHG Notes were Assets for the purpose of Policy 3690.

67. Credit Suisse Virtuoso SICAV-SIF (**CS Virtuoso**) is a company incorporated in Luxembourg.

68. On or around 13 March 2019, IAL, Greensill Bank and GCPL entered into Loss Payee Endorsement 3 to Policy 3690.

**Particulars**

Loss Payee Endorsement 3 dated 13 March 2019 [GBA.0004.0024.6562].

69. IAL entered into Loss Payee Endorsement 3 by its agent, BCC.

70. By Loss Payee Endorsement 3, CS Virtuoso was endorsed as a Loss Payee for the purpose of Policy 3690.

71. The EHG Notes were acquired by CS Virtuoso.

## Particulars

| No. | International Securities Identification Numbers | Date acquired by CS Virtuoso | Custody Statement (Document ID) |
|---|---|---|---|
| 1. | XS1915435561 | 24/09/2019 | AGB.0005.0001.0001 |
| 2. | XS1915435645 | 30/09/2019 | AGB.0005.0001.0002 |
| 3. | XS1915435728 | 15/10/2019 | AGB.0005.0001.0003 |
| 4. | XS1915435991 | 21/10/2019 | AGB.0005.0001.0004 |
| 5. | XS1915436023 | 24/10/2019 | AGB.0005.0001.0005 |
| 6. | XS1915436296 | 30/10/2019 | AGB.0005.0001.0006 |
| 7. | XS1915436379 | 06/11/2019 | AGB.0005.0001.0007 |
| 8. | XS1915436619 | 26/11/2019 | AGB.0005.0001.0008 |
| 9. | XS1915436700 | 05/12/2019 | AGB.0005.0001.0009 |
| 10. | XS1915436965 | 12/12/2019 | AGB.0005.0001.0010 |
| 11. | XS1915437005 | 17/12/2019 | AGB.0005.0001.0011 |
| 12. | XS1915437187 | 23/12/2019 | AGB.0005.0001.0012 |
| 13. | XS1915437260 | 30/12/2019 | AGB.0005.0001.0013 |
| 14. | XS1915437344 | 03/01/2020 | AGB.0005.0001.0014 |
| 15. | XS1915437427 | 14/01/2020 | AGB.0005.0001.0015 |
| 16. | XS1915437690 | 22/01/2020 | AGB.0005.0001.0016 |
| 17. | XS1915437773 | 03/02/2020 | AGB.0005.0001.0017 |
| 18. | XS1915437856 | 06/02/2020 | AGB.0005.0001.0018 |

**E6. EHG default and claim by Greensill Bank under Policy 3690**

72. EHG failed to pay the amount of the amount of the debt pleaded in item 1 of the table at paragraph 45 above into the designated account by its due date of 17 February 2020.

73. The failure to pay pleaded in the previous paragraph constituted a default by EHG under the terms of the Buyer Tracking and Settlement Service Agreement.

74. Pursuant to the terms of the Buyer Tracking and Settlement Service Agreement, by virtue of the default pleaded in the previous paragraph, on 18 February 2020 EHG became immediately liable to pay Hoffman (alternatively, GCUK) the full amount of each debt pleaded at paragraph 45 above.

75. In breach of its obligations under the EHG Independent Payment Undertakings, EHG failed to pay any of the amounts pleaded at paragraph 45 above by 3 April 2020 (being the day falling 45 days after 18 February 2020) (**EHG Default**).

76. The EHG Default was an Insured Cause under Policy 3690.

77. As at 12 May 2020, IAL had not notified Greensill Bank, for the purpose of the term pleaded at paragraph 32 above, that notices to IAL under Policy 3690 could not be given to BCC.

78. On or around 12 May 2020, Greensill Bank submitted a Claim Form in respect of the EHG Default to BCC.

**Particulars**

Claim Form dated 12 May 2020 [GBA.0004.0029.2262].

79. The Claim Form identified CS Virtuoso as the holder of the EHG Notes.

80. By virtue of the definition of Loss (pleaded at subparagraph 26.o. above) and the insuring clause of Policy 3690 (pleaded at paragraph 28 above), as at the time of submitting the Claim Form, Greensill Bank had a right to be indemnified (subject to the terms of the policy) if Greensill Bank acquired the EHG Notes from CS Virtuoso prior to payment of the claim by IAL.

81. Throughout the period from 12 May 2020 to 15 July 2020:

    a. the Expected Allocation of the EHG Notes was USD 34,998,726;

b. the value of the entitlements, under the Hoffman Master Trust Deed (as supplemented), of a holder of the EHG Notes was nil.

82. At the time of submitting the Claim Form, Greensill Bank had a right under Policy 3690 to be indemnified by IAL in the amount of USD 34,998,726, upon acquiring the EHG Notes from CS Virtuoso.

**E7. Acceptance of the claim and entry into Recovery Proposal Letter**

83. On or around 18 June 2020, GCUK and IAL entered into an agreement (**Recovery Proposal Letter**).

**Particulars**

Recovery Proposal Letter dated 18 June 2020 [PLE.3000.0001.1034].

84. IAL entered into the Recovery Proposal Letter by its agent, BCC.

85. Pursuant to the Recovery Proposal Letter:

a. GCUK agreed to fund IAL's payment of Greensill Bank's claim in the amount of USD 34,998,726.

b. GCUK agreed to use its best endeavours to obtain recoveries from EHG.

c. IAL agreed to pay the amount of USD 34,998,726, less any recoveries, by 15 June 2021:

i. to GCUK; or

ii. if, at the date of payment, the EHG Independent Payment Undertakings (or rights relating to them) which were the subject of the claim made by Greensill Bank were held by Greensill Bank – to Greensill Bank.

86. The benefit of IAL's promise in subparagraph 85.c. above was held by GCUK on trust for both itself and Greensill Bank.

87. On or around 19 June 2020, IAL issued a Claim Offer Letter in relation to the Claim Form that had been submitted by Greensill Bank.

**Particulars**

Claim Offer Letter dated 19 June 2020 [PLE.3000.0001.1035].

88. IAL issued the Claim Offer Letter by its agent, BCC.

89. By the Claim Offer Letter, IAL agreed to pay Greensill Bank's claim in full on or before 10 July 2020.

90. On or about 3 July 2020, GCUK and Greensill Bank entered into an agreement (**Assignment Agreement**).

**Particulars**

Assignment Agreement date 3 July 2020 [GBA.0004.0032.3230].

91. Pursuant to the Assignment Agreement:

    a. Greensill Bank agreed to pay GCUK the amount of USD 34,802,291.42.

    b. GCUK assigned to Greensill Bank all of its rights under the Recovery Proposal Letter (amongst other rights).

92. By virtue of the assignment pleaded in the previous paragraph, Greensill Bank is entitled to enforce the Recovery Proposal Letter against IAL.

## F. CLAIMS

### F1. Claim under the Recovery Proposal Letter

93. After entering into the Recovery Proposal Letter on or around 18 June 2020, GCUK obtained no recoveries from EHG.

94. As at 15 June 2021 (and at all times since), the EHG Notes have been held by Greensill Bank.

95. The EHG Notes are rights relating to the EHG Independent Payment Undertakings, which rights were the subject of the claim made by Greensill Bank.

96. Pursuant to the Recovery Proposal Letter, IAL was obliged to pay the amount of USD 34,998,726 to Greensill Bank by 15 June 2021.

97. In breach of its obligations under the Recovery Proposal Letter, IAL has not paid the amount of USD 34,998,726 to Greensill Bank by 15 June 2021 or at all.

98. Greensill Bank has suffered loss by virtue of the breach pleaded in the previous paragraph.

99. Alternatively, damages would be an inadequate remedy for IAL's breach pleaded in paragraph 97 and there should be an order in the nature of specific performance requiring IAL to perform its obligations under the Recovery Proposal Letter by paying USD 34,998,726 plus interest to Greensill Bank.

**F2. Claim under Policy 3690**

100. In the alternative to paragraphs 83 to 86 and 90 to 99 above:

a. By virtue of having issued the Claim Offer Letter, IAL is liable to idemnify Greensill Bank in respect of its claim in the amount of USD 34,998,726.

b. IAL has failed to pay that amount to Greensill Bank.

c. On and from 15 June 2021, it was unreasonable for IAL to withhold payment of the amount pleaded in the previous subparagraph.

101. In the further alternative to paragraphs 83 to 100 above:

a. On or around 10 July 2020, CS Virtuoso transferred the EHG Notes to Greensill Bank.

b. Greensill Bank's Expected Allocation in respect of the EHG Notes is USD 34,998,726.

c. The value of Greensill Bank's entitlements, under the Hoffman Master Trust Deed (as supplemented), in respect of the EHG Notes is nil.

d. Greensill Bank has suffered Loss of USD 34,998,726 caused by or resulting from the Insured Cause pleaded at paragraph 76 above.

e. Pursuant to the term of Policy 3690 pleaded at paragraph 28 above, as at 10 July 2020, IAL is liable to indemnify Greensill Bank in respect of the Loss of USD 34,998,726 pleaded in the previous subparagraph.

f. IAL has failed to pay that amount to Greensill Bank.

g. On and from 15 June 2021, it was unreasonable for IAL to withhold payment of the amount pleaded in the previous subparagraph.

102. By virtue of section 80 of the German Insolvenzordnung, the second applicant has the right to enforce the claims of Greensill Bank pleaded above and below.

**F1A. Misleading or deceptive conduct by IAL**

*The 2017 LOS Authority Representations*

102A. By reason of the matters pleaded at paragraphs 6-50, 35B, and 35AG to 35AN above, at all material times from when the 2017 LOS Master Policy and 2017 LOS Parallel Policy were executed, including each time IAL received the premia pleaded in paragraph 35AN.a above, IAL represented that:

a. BCC had actual authority to enter on IAL's behalf into:

i. 2017 LOS Master Policy and 2017 LOS Parallel Policy; and

ii. contracts of the kind of the 2017 LOS Master Policy and 2017 LOS Parallel Policy, including policies that were structured according to the Proposed Greensill Policy Structure and based on the Proposed Greensill Policy Wording, or with a substantially similar structure and wording; and/or

b. IAL believed, on reasonable grounds, that the matters pleaded in subparagraph a. above were true.

(the **2017 LOS Policy Authority Representations**).

102B. The 2017 LOS Policy Authority Representations were continuing representations and not withdrawn or corrected at any time during the period of the 2017 LOS Master Policy and 2017 LOS Parallel Policy.

102C. Further or alternatively to paragraphs 102A and 102B above, IAL failed at all material times to assert that the matters pleaded in subparagraphs a. and b. of paragraph 102A above were inaccurate.

*2018 Excess Policy Representations*

102D. By reason of the matters pleaded at paragraphs 6-50, 35B, 35AG to 35AN, and 35AP to 35AW above, at all material times from when the 2018 Excess Master

Policy and 2018 Excess Parallel Policy were executed, including each time IAL received the premia pleaded in paragraph 35AW.a above, IAL represented that:

a. BCC had actual authority to enter on IAL's behalf into:

   i. the 2018 Excess Master Policy and 2018 Excess Parallel Policy; and

   ii. contracts of the kind of the 2018 Excess Master Policy and 2018 Excess Parallel Policy, including policies that were structured according to the Proposed Greensill Policy Structure and based on the Proposed Greensill Policy Wording, or with a substantially similar structure and wording; and/or

b. IAL believed, on reasonable grounds, that the matters pleaded in subparagraph a. above were true,

(the **2018 Excess Policy Authority Representations**).

102E. The 2018 Excess Policy Authority Representations were continuing representations and not withdrawn or corrected at any time during the period of the 2018 Excess Master Policy and 2018 Excess Parallel Policy.

102F. Further or alternatively to paragraphs 102D and 102E above, IAL failed at all material times to assert that the matters pleaded in subparagraphs a. and b. of paragraph 102D above were inaccurate.

*Sub-Direct Policy Authority Representations*

102G. By reason of the matters pleaded at paragraphs 6-50, 35B, 35AG to 35AN, 35AP to 35AW, and 35AY to 35BF above, at all material times from when the Sub-Direct Master Policy and Sub-Direct Parallel Policy were executed, including each time IAL received the premia pleaded in paragraph 35BF.a above, IAL represented that:

a. BCC had actual authority to enter on IAL's behalf into:

   i. the Sub-Direct Master Policy and Sub-Direct Parallel Policy; and

   ii. contracts of the kind of the Sub-Direct Master Policy and Sub-Direct Parallel Policy, including policies that were structured according to the Proposed Greensill Policy Structure and based on the Proposed

Greensill Policy Wording, or with a substantially similar structure and wording; and/or

b. IAL believed, on reasonable grounds, that the matters pleaded in subparagraph a. above were true,

(the **Sub-Direct Policy Authority Representations**).

102H. The Sub-Direct Policy Authority Representations were continuing representations and not withdrawn or corrected at any time during the period of the Sub-Direct Master Policy and Sub-Direct Parallel Policy.

102I. Further or alternatively to paragraphs 102G and 102H above, IAL failed at all material times to assert that the matters pleaded in subparagraphs a. and b. of paragraph 102G above were inaccurate.

*2017 Standalone Policy Representations*

102J. By reason of the matters pleaded at paragraphs 6-50, 35B, 35AG to 35AN, 35AP to 35AW, 35AY to 35BF and 35BH to 35BO above, at all material times from when the 2017 Master Policy 3691 and 2017 Parallel Policy 3690 were executed, including each time IAL received the premia pleaded in paragraph 35BO.a above, IAL represented that:

a. BCC had actual authority to enter on IAL's behalf into:

i. the 2017 Master Policy 3691 and 2017 Parallel Policy 3690; and

ii. contracts of the kind of the 2017 Master Policy 3691 and 2017 Parallel Policy 3690, including policies that were structured according to the Proposed Greensill Policy Structure and based on the Proposed Greensill Policy Wording, or with a substantially similar structure and wording; and/or

b. IAL believed, on reasonable grounds, that the matters pleaded in subparagraph a. above were true,

(the **2017 Standalone Policy Authority Representations**).

102K. The 2017 Standalone Authority Representations were continuing representations and not withdrawn or corrected at any time during the period of the 2017 Master Policy 3691 and 2017 Parallel Policy 3690.

102L. Further or alternatively to paragraphs 102J and 102K above, IAL failed at all material times to assert that the matters pleaded in subparagraphs a. and b. of paragraph 102J above were inaccurate.

*2018 LOS Policy Representations*

102M. By reason of the matters pleaded at paragraphs 6-50, 35B, 35AG to 35AN, 35AP to 35AW, 35AY to 35BF, 35BH to 35BO, and 35BQ to 35BX above, at all material times from when the 2018 LOS Master Policy and 2018 LOS Parallel Policy were executed, including each time IAL received the premia pleaded in paragraph 35BX.a above, IAL represented that:

a. BCC had actual authority to enter on IAL's behalf into:;

   i. the 2018 LOS Master Policy and 2018 LOS Parallel Policy; and

   ii. contracts of the kind of the 2018 LOS Master Policy and 2018 LOS Parallel Policy, including policies that were structured according to the Proposed Greensill Policy Structure and based on the Proposed Greensill Policy Wording, or with a substantially similar structure and wording; and/or

b. IAL believed, on reasonable grounds, that the matters pleaded in subparagraph a. above were true,

(the **2018 LOS Policy Authority Representations**).

102N. The 2018 LOS Policy Authority Representations were continuing representations and not withdrawn or corrected at any time during the period of the 2018 LOS Master Policy and 2018 LOS Parallel Policy.

102O. Further or alternatively to paragraphs 102M and 102N above, IAL failed at all material times to assert that the matters pleaded in subparagraphs a. and b. of paragraph 102M above were inaccurate.

*Nokia Policy Representations*

102P. By reason of the matters pleaded at paragraphs 6-50, 35B, 35AG to 35AN, 35AP to 35AW, 35AY to 35BF, 35BH to 35BO, 35BQ to 35BX, and 35BZ to 35CG above, at all material times from when the Nokia Master Policy and Nokia Parallel Policy were

executed, including each time IAL received the premia pleaded in paragraph 35CG.a above, IAL represented that:

a. BCC had actual authority to enter on IAL's behalf into:

i. the Nokia Master Policy and Nokia Parallel Policy; and

ii. contracts of the kind of the Nokia Master Policy and Nokia Parallel Policy, including policies that were structured according to the Proposed Greensill Policy Structure and based on the Proposed Greensill Policy Wording, or with a substantially similar structure and wording; and/or

b. IAL believed, on reasonable grounds, that the matters pleaded in subparagraph a. above were true,

(the **Nokia Policy Authority Representations**).

102Q. The Nokia Policy Authority Representations were continuing representations and not withdrawn or corrected at any time during the period of the Nokia Master Policy and Nokia Parallel Policy.

102R. Further or alternatively to paragraphs 102P and 102Q above, IAL failed at all material times to assert that the matters pleaded in subparagraphs a. and b. of paragraph 102Q above were inaccurate.

*2019 Excess Policy Representations*

102S. By reason of the matters pleaded at paragraphs 6-50, 35B, 35AG to 35AN, 35AP to 35AW, 35AY to 35BF, 35BH to 35BO, 35BQ to 35BX, 35BZ to 35CG, and 35CI to 35CP above, at all material times from when Policy 3087 and Policy 3088 were executed, including each time IAL received the premia pleaded in paragraph 35CP.a above, IAL represented that:

a. BCC had actual authority to enter on IAL's behalf into:

i. Policy 3087 and Policy 3088; and

ii. contracts of the kind of Policy 3087 and Policy 3088, including policies that were structured according to the Proposed Greensill Policy

Structure and based on the Proposed Greensill Policy Wording, or with a substantially similar structure and wording; and/or

b. IAL believed, on reasonable grounds, that the matters pleaded in subparagraph a. above were true,

(the **2019 Excess Policy Authority Representations**).

102T. The 2019 Excess Policy Authority Representations were continuing representations and not withdrawn or corrected at any time during the period of Policy 3087 and Policy 3088.

102U. Further or alternatively to paragraphs 102S and 102T above, IAL failed at all material times to assert that the matters pleaded in subparagraphs a. and b. of paragraph 102S above were inaccurate.

*The 2019 Standalone Representations*

102V. By reason of the matters pleaded at paragraphs 6-50, particular 3 to paragraph 35A, paragraphs 35B, 35AG to 35AN, 35AP to 35AW, 35AY to 35BF, 35BH to 35BO, 35BQ to 35BX, 35BZ to 35CG, 35CI to 35CP, and 35CR, at the time Policy 3690 and Policy 3691 were executed, IAL:

a. made the representation pleaded in paragraph 35B.a above; and/or

b. represented that IAL believed on reasonable grounds that BCC had authority to enter on IAL's behalf into Policy 3690 and Policy 3691,

(the **2019 Standalone Policy Authority Representations**).

102W. The 2019 Standalone Policy Authority Representations were continuing representations and not withdrawn or corrected at any time during the period of Policy 3690 and Policy 3691.

102X. Further or alternatively to paragraphs 102V and 102W above, IAL failed at all material times to assert that the matters pleaded in subparagraphs a. and b. of paragraph 102V above were inaccurate.

*Misleading or Deceptive Conduct*

102Y. IAL's:

a. conduct in making the:

i. 2017 LOS Policy Authority Representations;

ii. 2018 Excess Policy Authority Representations;

iii. Sub-Direct Policy Authority Representations;

iv. 2017 Standalone Policy Authority Representations;

v. 2018 LOS Policy Authority Representations;

vi. Nokia Policy Authority Representations;

vii. 2019 Excess Policy Authority Representations;

viii. 2019 Standalone Policy Authority Representations;

b. was conduct:

i. in relation to a financial service within the meaning of s 1041H of the Corporations Act;

ii. in trade or commerce within the meaning of s 18 of the Australian Consumer Law; and/or

iii. in trade or commerce and in relation to financial services within the meaning of s 12DA of the ASIC Act.

102Z. If, which is denied, IAL were to establish that the entry into Policy 3690 on IAL's behalf was not authorised, including (without limitation) by reason of any of the matters pleaded at paragraph 13 of IAL's EHG Defence, then the:

a. 2017 LOS Parallel Policy;

**Particulars**

1. With respect to BCC's authority to enter into the 2017 LOS Parallel Policy, and solely for the purpose of its alternative claims against IAL set out in this Part F1A (such matters being otherwise denied), Greensill Bank:

a. repeats subparagraphs 29ZZ(a) to (e) of IAL's

Defence to the Fourth Amended Statement of Claim in proceeding no. 106/2022 (**IAL's Catfoss Defence**); and

b. says that in the premises, Underwriting Manual Version 1.0 and Underwriting Manual Version 2.0 are relevantly in materially identical terms in respect of the matters on which IAL relies at paragraph 13 of IAL's EHG Defence.

b. 2018 Excess Parallel Policy;

**Particulars**

1. The 2018 Excess Parallel Policy is materially identical to Policy 3088.

2. In the premises, with respect to BCC's authority to enter into the 2018 Excess Parallel Policy, and solely for the purpose of its alternative claims against IAL set out in this Part F1A (such matters being otherwise denied), Greensill Bank repeats the particulars to subparagraph g. below mutuatis mutandis.

c. Sub-Direct Parallel Policy;

**Particulars**

1. The Sub-Direct Parallel Policy are materially identical to Policy 3690.

2. With respect to BCC's authority to enter into the Sub-Direct Parallel Policy, and solely for the purpose of its alternative claims against IAL set out in this Part F1A (such matters being otherwise denied), Greensill Bank:

   a. repeats paragraph 13(b) to (f) of IAL's EHG Defence; and

b. says that the matters pleaded therein applied mutatis mutandis to the Sub-Direct Parallel Policy at all relevant times.

d. 2017 Parallel Policy 3690;

**Particulars**

1. With respect to BCC's authority to enter into the 2017 Parallel Policy 3690, and solely for the purpose of its alternative claims against IAL set out in this Part F1A (such matters being otherwise denied), Greensill Bank:

   a. repeats particular 1.a. to sub-paragraph a. above; and

   b. repeats paragraph 30(a) to (f) of IAL's Catfoss Defence.

e. 2018 LOS Parallel Policy;

**Particulars**

1. The 2018 LOS Parallel Policy is materially identical to the 2017 LOS Parallel Policy.

2. In the premises, with respect to BCC's authority to enter into the 2017 LOS Parallel Policy, and solely for the purpose of its alternative claims against IAL set out in this Part F1A (such matters being otherwise denied), Greensill Bank repeats the particulars to subparagraph a. above mutatis mutandis.

f. Nokia Parallel Policy;

**Particulars**

1. The Nokia Parallel Policy are materially identical to Policy 3690.

2. With respect to BCC's authority to enter into the Nokia Parallel Policy, and solely for the purpose of its alternative

claims against IAL set out in this Part F1A (such matters being otherwise denied), Greensill Bank:

a. repeats paragraph 13(b) to (f) of IAL's EHG Defence; and

b. says that the matters pleaded therein applied mutatis mutandis to the Nokia Parallel Policy at all relevant times.

g. Policy 3088;

**Particulars**

1. With respect to BCC's authority to enter into Policy 3088, and solely for the purpose of its alternative claims against IAL set out in this Part F1A below (such matters being otherwise denied), Greensill Bank repeats paragraph 35ZZC(a) to (e) of IAL's Amended Defence to the Fifth Amended Statement of Claim in proceeding no. NSD110/2022 (**IAL's NMC Defence**).

were entered into by BCC without IAL's authority and/or IAL did not believe on reasonable grounds that they were entered into with IAL's authority.

102AA. If, which is denied, IAL were to establish that the entry into Policy 3690 on IAL's behalf was not authorised, including (without limitation) by reason of any of the matters pleaded at paragraph 13 of IAL's EHG Defence, then the:

a. 2017 LOS Policy Authority Representations;

b. 2018 Excess Policy Authority Representations;

c. Sub-Direct Policy Authority Representations;

d. 2017 Standalone Policy Authority Representations;

e. 2018 LOS Policy Authority Representations;

f. Nokia Policy Authority Representations;

g. 2019 Excess Policy Authority Representations; and/or

h. 2019 Standalone Policy Authority Representations;

(collectively, the **Misleading Authority Representations**),

amounted to conduct that was misleading or deceptive, or likely to mislead or deceive and IAL thereby engaged in conduct in contravention of s 1041H of the Corporations Act, s 18 of the Australian Consumer Law, and/or s 12DA of the ASIC Act.

102AB. Further or alternatively, in the circumstances pleaded in paragraphs 35AO, 35AX, 35BG, 35BP, 35BY, 35CH and 35CQ if, which is denied, the:

a. 2017 LOS Policies;

b. 2018 Excess Policies;

c. Sub-Direct Policies;

d. 2017 Standalone Policies;

e. 2018 LOS Policies;

f. Nokia Policies;

g. 2019 Excess Policies;

h. 2019 Standalone Policies;

were not entered into with the actual authority of IAL, that was a matter that GCUK and/or Greensill Bank would have reasonably expected IAL to disclose.

102AC. If, which is denied, IAL were to establish that the entry into Policy 3690 on IAL's behalf was not actually authorised, including (without limitation) by reason of any of the matters pleaded at paragraph 13 of IAL's EHG Defence, then in the circumstances pleaded at paragraphs 102Y to 102AB above, the omissions pleaded in paragraphs 102C, 102F, 102I, 102L, 102O, 102R, 102U and 102X above (the **Misleading Authority Omissions**) amounted to conduct that was misleading or deceptive, or likely to mislead or deceive and IAL thereby engaged in conduct in contravention of s 1041H of the Corporations Act, s 18 of the Australian Consumer Law, and/or s 12DA of the ASIC Act.

*Causation and Loss*

102AD. GCUK was aware of the matters pleaded in paragraphs 6-31 to 6-33, 13 to 13A, 35AG to 35AL, 35AN.a and 35AN.c, 35AP to 35AU, 35AW.a and 35AW.c, 35AY to 35BD, 35BF.a and 35BF.c, 35BH to 35BM, 35BO.a and 35BO.c, 35BQ to 35BV, 35BX.a and 35BX.c, 35BZ to 35CE, 35CP.a and 35CP.c, 35CI to 35CN, 35CP.a and 35CP.c.

102AE. In the premises pleaded in paragraph 102AD above, GCUK was induced by the Misleading Authority Representations and/or Misleading Authority Omissions to propose to BCC the instruments pleaded at paragraph 103 below in GCUK's capacity as Servicer under Policy 3690.

102AF. Further or in the alternative to paragraph 102AE above, Greensill Bank was:

a. aware:

i. at all material times during the periods of the policies referred to in paragraphs 35AA to 35CS above, that GCUK had paid, and was continuing to pay, premium in respect of the pleaded master policies in respect of assets that were insured under the pleaded parallel policies;

ii. that IAL had failed at all material times:

1. to assert that the policies to which those premia related were not validly issued by IAL or on behalf of IAL and/or that IAL was not entitled to the premia; or

2. to raise any other objection to the receipt of the premia; and

b. induced to enter the instruments pleaded at paragraph 103 below and to acquire the EHG Notes.

102AG. By reason of the matters pleaded in Part DA and paragraphs 102AD to 102AF above, but for IAL's conduct in making the Misleading Authority Representations and Misleading Authority Omissions:

a. GCUK would not have arranged for BCC to issue and/or Greensill Bank would not have entered into the instruments pleaded in paragraph 103 below; and/or

b. Greensill Bank would not have entered into the Assignment Agreement and acquired the EHG Notes.

102AH. IAL's contraventions pleaded in paragraphs 102AA and 102AC above, and in the circumstances of paragraphs 102AD to 102AG, caused Greensill Bank to suffer loss.

**Particulars**

Greensill Bank's loss is the amount of EUR 30,855,256.19 that it paid out on 7 July 2020, less the amount (if any) that it recovers from IAL plus any costs incurred to recover or attempt to recover the relevant EHG Notes and interest.

## F3. Claims against BCC

*Breach of Warranty of Authority*

103. BCC represented that it had authority to enter into the following instruments on behalf of IAL, and thereby gave a warranty in respect of its authority to enter into each instrument on behalf of IAL:

a. Policy 3690;

b. Endorsement 17;

c. Endorsement 18;

d. Debt Endorsement 1;

e. Customer Endorsement 37;

f. Loss Payee Endorsement 3;

g. Customer Endorsement 37(i);

h. Customer Endorsement 37(ii);

i. the Claim Offer Letter;

j. the Recovery Proposal Letter;

k. Endorsement 9;

l. Endorsement 23,

(individually and together, the **BCC Warranties of Authority**).

104. If, which is denied, BCC did not have authority to enter into the instruments pleaded in sub-paragraphs 103.a. to l. above, or any of them, on behalf of IAL, then BCC breached the BCC Warranties of Authority.

105. The BCC Warranties of Authority in each of the instruments pleaded in sub-paragraphs 103.a. to h., k. and l. induced Greensill Bank to enter into each of those instruments.

106. The BCC Warranties of Authority in each of the instruments pleaded in sub-paragraphs 103.a. to l. induced Greensill Bank to:

a. enter into the Assignment Agreement;

b. pay EUR 30,855,256.19 to GCUK on 7 July 2020 pursuant to clause 2 of the Assignment Agreement; and

c. acquire the EHG Notes and related rights from CS Virtuoso.

107. If, which is denied, BCC did not have authority to enter into the instruments pleaded in sub-paragraphs 103.a. to l. above, or any of them, on behalf of IAL, then Greensill Bank has suffered loss by reason of BCC's breach of the BCC Warranties of Authority.

**Particulars**

Greensill Bank's loss is the amount of USD 34,998,726, which amount Greensill Bank would have been entitled to receive from IAL but for BCC's breach of the BCC Warranties of Authority, less the amount (if any) that Greensill Bank recovers from IAL plus any costs incurred to recover or attempt to recover the relevant EHG Notes and interest.

107A. The conduct of BCC pleaded at paragraph 103 was:

a. conduct of a representative of a financial services licensee;

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on;

d. conduct on which Greensill Bank in fact relied in good faith;

e. conduct for which IAL is responsible, as between IAL and Greensill Bank, by operation of:

i. to the extent the conduct occurred prior to 1 July 2019, s. 917B, or alternatively, s. 917C of the Corporations Act;

ii. to the extent the conduct occurred after 1 July 2019, s. 917C (by operation of s 917C(4)), or alternatively s. 917B, of the Corporations Act;

f. further or alternatively, to the extent the conduct occurred on or after 1 July 2019, conduct for which TMNF is responsible as between TMNF and Greensill Bank, pursuant to s. 917C (by operation of s 917C(4)), or alternatively s. 917B, of the Corporations Act.

*Misleading or Deceptive Conduct*

108. BCC represented that it had authority to enter into each of the instruments pleaded at paragraph 103.a. to l. above on the dates each of those documents were signed for and on behalf of BCC (individually and together, the **BCC Authority Representations**).

109. The BCC Authority Representations were continuing representations and not withdrawn or corrected at any time during the Policy Period.

110. BCC's conduct in making the BCC Authority Representations was conduct:

a. in relation to a financial service within the meaning of s 1041H of the Corporations Act;

b. in trade or commerce within the meaning of s 18 of the Australian Consumer Law; and/or

c. in trade or commerce and in relation to financial services within the meaning of s 12DA of the ASIC Act.

111. If, which is denied, BCC lacked authority to enter into one or more of the instruments pleaded in sub-paragraphs 103.a. to l. above, then the BCC Authority Representations were misleading or deceptive.

112. If, which is denied, BCC lacked authority to enter into one or more of the instruments pleaded in sub-paragraphs 103.a. to l. above, in making the BCC Authority Representations, BCC engaged in conduct in contravention of s 1041H of the Corporations Act, s 18 of the Australian Consumer Law, and/or s 12DA of the ASIC Act, for the reasons pleaded in paragraphs 108 to 111 above.

113. The BCC Authority Representations in each of the instruments pleaded in sub-paragraphs 103.a. to h., k. and l. above induced Greensill Bank to enter into each of those instruments.

114. BCC's conduct in making the BCC Authority Representations in each of the instruments pleaded in sub-paragraphs 103.a. to l. above induced Greensill Bank to:

a. enter into the Assignment Agreement;

b. pay EUR 30,855,256.19 to GCUK on 7 July 2020 pursuant to cl 2 of the Assignment Agreement; and

c. acquire the EHG Notes and related rights from CS Virtuoso.

115. By reason of the matters pleaded in paragraphs 113 and 114 above, but for BCC's conduct in making the BCC Authority Representations, Greensill Bank would not have:

a. entered into the instruments pleaded in sub-paragraphs 103a. to h., k. and l. above;

b. entered into the Assignment Agreement;

c. paid EUR 30,855,256.19 to GCUK on 7 July 2020 pursuant to cl 2 of the Assignment Agreement; or

d. acquired the EHG Notes from CS Virtuoso.

116. By reason of the matters pleaded in Part DA and paragraphs 114 and 115 above, BCC's contraventions pleaded in paragraph 112 above caused Greensill Bank to suffer loss.

**Particulars**

Greensill Bank's loss is the amount of EUR 30,855,256.19 that it paid out on 7 July 2020, less the amount (if any) that it recovers from IAL plus any costs incurred to recover or attempt to recover the relevant EHG Notes and interest.

116A. The conduct of BCC pleaded at paragraphs 108 to 110 was:

a. conduct of a representative of a financial services licensee;

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on;

d. conduct on which Greensill Bank in fact relied in good faith;

e. conduct for which IAL is responsible, as between IAL and Greensill Bank, by operation of:

i. to the extent the conduct occurred prior to 1 July 2019, s. 917B, or alternatively s. 917C, of the Corporations Act;

ii. to the extent the conduct occurred after 1 July 2019, s. 917C (by operation of s. 917C(4)), or alternativley s. 917B, of the Corporations Act;

f. further or alternatively, to the extent the conduct occurred on or after 1 July 2019, conduct for which TMNF is responsible as between TMNF and Greensill Bank, pursuant to s. 917C (by operation of s 917C(4)), or alternatively s. 917B, of the Corporations Act.

*Section 1041E Claim*

117. If, which is denied, BCC lacked authority to enter into one or more of the instruments pleaded in sub-paragraphs 103.a. to l. above, then the BCC Authority

Representations were false in a material particular or materially misleading, because BCC lacked authority to enter into those instruments on behalf of IAL.

118. If, which is denied, BCC lacked authority to enter into one or more of the instruments pleaded in sub-paragraphs 103.a. to l. above, then BCC ought reasonably to have known that the BCC Authority Representations were false in a material particular or materially misleading at the time those Representations were made because BCC ought to have been aware of the express and implied limits of its own authority to act as IAL's agent.

119. In the premises, BCC contravened s 1041E of the Corporations Act by:

a. making the BCC Authority Representations;

b. failing to correct the BCC Authority Representations at any relevant time.

120. Greensill Bank relied upon the BCC Authority Representations as pleaded in paragraphs 113 to 115 above.

121. If the BCC Authority Representations were false in a material particular or materially misleading as pleaded in paragraph 117 above, then, by reason of the matters pleaded in paragraph 120 above, BCC's contraventions pleaded in paragraph 119 above caused Greensill Bank to suffer loss.

**Particulars**

Greensill Bank's loss is the amount of EUR 30,855,256.19 that it paid out on 7 July 2020, less the amount (if any) that it recovers from IAL plus any costs incurred to recover or attempt to recover the relevant EHG Notes and interest.

121A. The conduct of BCC pleaded at paragraphs 117 to 119 was:

a. conduct of a representative of a financial services licensee;

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on;

d. conduct on which Greensill Bank in fact relied in good faith;

e. conduct for which IAL is responsible, as between IAL and Greensill Bank, by operation of:

   i. to the extent the conduct occurred prior to 1 July 2019, s. 917B, or alternatively s. 917C, of the Corporations Act;

   ii. to the extent the conduct occurred after 1 July 2019, s. 917C (by operation of s. 917C(4)), or alternatively s. 917B, of the Corporations Act;

f. further or alternatively, to the extent the conduct occurred on or after 1 July 2019, conduct for which TMNF is responsible, as between TMNF and Greensill Bank, pursuant to s. 917C (by operation of s. 917C(4)), or alternatively s. 917B, of the Corporations Act, whether or not BCC acted within the scope of its authority.

**F4. Claims against Greg Brereton**

*Breach of Warranty of Authority*

122. [Not used]

123. Mr Brereton represented that he had authority to enter into each of the instruments pleaded in sub-paragraphs 103.a. to l. above on behalf of BCC, and thereby gave a warranty in respect of his authority to enter into each of those instruments on behalf of BCC (together the **Brereton Warranties of Authority**).

124. If, which is denied, Mr Brereton did not have authority to enter into the instruments pleaded in sub-paragraphs 103.a. to l. above on behalf of BCC, then Mr Brereton breached the Brereton Warranties of Authority.

125. The Brereton Warranties of Authority in each of the instruments pleaded in sub-paragraphs 103.a. to h., k. and l. above induced Greensill Bank to enter into each of those instruments.

126. The Brereton Warranties of Authority in each of the instruments pleaded in sub-paragraphs 103a. to l. above induced Greensill Bank to:

   a. enter into the Assignment Agreement;

b. pay EUR 30,855,256.19 to GCUK on 7 July 2020 pursuant to cl 2 of the Assignment Agreement; and

c. acquire the EHG Notes and related rights from CS Virtuoso.

127. By reason of the matters pleaded in paragraphs 125 and 126 above, if Mr Brereton breached the Brereton Warranties of Authority as pleaded in paragraph 124 above, then, Mr Brereton's breach of the Brereton Warranties of Authority caused Greensill Bank to suffer loss.

**Particulars**

Greensill Bank's loss is the amount of USD 34,998,726, which amount Greensill Bank would have been entitled to receive from IAL or BCC but for Mr Brereton's breach of the Brereton Warranties of Authority, less the amount (if any) that Greensill Bank recovers from IAL and BCC plus any costs incurred to recover or attempt to recover the relevant EHG Notes and interest.

127A. The conduct of Mr Brereton pleaded at paragraph 123 was:

a. conduct of a representative of a financial services licensee;

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on;

d. conduct on which Greensill Bank in fact relied in good faith;

e. conduct for which IAL is responsible, as between IAL and Greensill Bank, by operation of:

i. to the extent the conduct occurred prior to 1 July 2019, s. 917B, or alternatively s. 917C, of the Corporations Act;

ii. to the extent the conduct occurred after 1 July 2019, s. 917C (by operation of s. 917C(4)), or alternatively s.917B, of the Corporations Act;

f. further or alternatively, to the extent the conduct occurred on or after 1 July 2019, conduct for which TMNF is responsible, as between TMNF and Greensill Bank, pursuant to s. 917C (by operation of s. 917C(4)), or alternatively s. 917B, of the Corporations Act.

*Misleading or Deceptive Conduct*

128. Mr Brereton represented that he had authority to enter into each of the instruments pleaded at paragraph 103a. to l. above on the dates each of those documents were signed for and on behalf of BCC (individually and together, the **Brereton Authority Representations**).

129. The Brereton Authority Representations were continuing representations.

130. Mr Brereton's conduct in making the Brereton Authority Representations was conduct:

a. in relation to a financial service within the meaning of s 1041H of the Corporations Act;

b. in trade or commerce within the meaning of s 18 of the Australian Consumer Law; and/or

c. in trade or commerce and in relation to financial services within the meaning of s 12DA of the ASIC Act.

131. If, which is denied, Mr Brereton lacked authority to enter into one or more of the instruments pleaded in sub-paragraphs 103a. to l. above, then the Brereton Authority Representations were misleading or deceptive, because Mr Brereton did not have authority to enter into one or more of the instruments pleaded in sub-paragraphs 103a. to l. above.

132. If, which is denied, Mr Brereton lacked authority to enter into one or more of the instruments pleaded in sub-paragraphs 103a. to l. above, in making the Brereton Authority Representations, Mr Brereton engaged in conduct in contravention of s 1041H of the Corporations Act, s 18 of the Australian Consumer Law, and/or s 12DA of the ASIC Act, for the reasons pleaded in paragraphs 128 to 131 above.

133. The Brereton Authority Representations in each of the instruments pleaded in sub-paragraphs 103a. to h., k. and l. above induced Greensill Bank to enter into each of those instruments.

134. Mr Brereton's conduct in making the Brereton Authority Representations in each of the instruments pleaded in sub-paragraphs 103a. to l. above induced Greensill Bank to:

a. enter into the Assignment Agreement;

b. pay EUR 30,855,256.19 to GCUK on 7 July 2020 pursuant to cl 2 of the Assignment Agreement; and

c. acquire the EHG Notes and related rights from CS Virtuoso, which Greensill Bank believed were insured under Policy 3690.

135. By reason of the matters pleaded in Part DA and paragraphs 133 and 134 above, but for Mr Brereton's conduct in making the Brereton Authority Representations, Greensill Bank would not have:

a. entered into the instruments pleaded in sub-paragraphs 103a. to h., k. and l. above;

b. entered into the Assignment Agreement;

c. paid EUR 30,855,256.19 to GCUK on 7 July 2020 pursuant to cl 2 of the Assignment Agreement; or

d. acquired the EHG Notes from CS Virtuoso.

136. By reason of the matters pleaded in paragraphs 133 to 135 above, Mr Brereton's contraventions pleaded in paragraph 132 above caused Greensill Bank to suffer loss.

**Particulars**

Greensill Bank's loss is the amount of EUR 30,855,256.19 that it paid out on 7 July 2020, less the amount (if any) that it

recovers from IAL and BCC plus any costs incurred to recover or attempt to recover the relevant EHG Notes and interest.

136A. The conduct of Mr Brereton pleaded at paragraphs 128 to 130 was:

a. conduct of a representative of a financial services licensee;

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on;

d. conduct on which Greensill Bank in fact relied in good faith;

e. conduct for which IAL is responsible, as between IAL and Greensill Bank, by operation of:

i. to the extent the conduct occurred prior to 1 July 2019, s. 917B, or alternatively s. 917C, of the Corporations Act;

ii. to the extent the conduct occurred after 1 July 2019, s. 917C (by operation of s. 917C(4)), or alternatively s. 917B, of the Corporations Act;

f. further or alternatively, to the extent the conduct occurred on or after 1 July 2019, conduct for which TMNF is responsible, as between TMNF and Greensill Bank, pursuant to s. 917C (by operation of s. 917C(4)), or alternatively s. 917B, of the Corporations Act.

*Section 1041E Claim*

137. If, which is denied, Mr Brereton lacked authority to enter into one or more of the instruments pleaded in sub-paragraphs 103.a. to l. above, then the Brereton Authority Representations were false in a material particular or materially misleading, because Mr Brereton lacked authority to enter into those instruments on behalf of BCC.

138. If, which is denied, Mr Brereton lacked authority to enter into one or more of the instruments pleaded in sub-paragraphs 103.a. to l. above, then Mr Brereton ought reasonably to have known that the Brereton Authority Representations were false in a material particular or materially misleading at the time those Representations were

first made, because Mr Brereton ought to have been aware of the express and implied limits of his own authority to act as BCC's agent.

139. By reason of the matters pleaded in paragraphs 137 and 138 above, Mr Brereton contravened s 1041E of the Corporations Act by:

a. making the Brereton Authority Representations;

b. failing to correct the Brereton Authority Representations.

140. Greensill Bank relied upon the Brereton Authority Representations as pleaded in paragraphs 133 to 135 above.

141. If the Brereton Authority Representations were false in a material particular or materially misleading as pleaded in paragraph 137 above, then, by reason of the matters pleaded in paragraph 140 above, Mr Brereton's contraventions pleaded in paragraph 139 above caused Greensill Bank to suffer loss.

**Particulars**

Greensill Bank's loss is the amount of EUR 30,855,256.19 that it paid out on 7 July 2020, less the amount (if any) that it recovers from IAL and BCC plus any costs incurred to recover or attempt to recover the relevant EHG Notes and interest.

141A. The conduct of Mr Brereton pleaded at paragraphs 137 to 139 was:

a. conduct of a representative of a financial services licensee;

b. conduct that relates to the provision of a financial service;

c. conduct that Greensill Bank could reasonably be expected to rely on;

d. conduct on which Greensill Bank in fact relied in good faith;

e. conduct for which IAL is responsible, as between IAL and Greensill Bank, by operation of:

i. to the extent the conduct occurred prior to 1 July 2019, s. 917B, or alternatively s. 917C, of the Corporations Act;

ii. to the extent the conduct occurred after 1 July 2019, s. 917C (by operation of s. 917C(4)), or alternatively, s. 917B, of the Corporations Act; and

f. further or alternatively, to the extent the conduct occurred on or after 1 July 2019, conduct for which TMNF is responsible, as between TMNF and Greensill Bank, pursuant to s. 917C (by operation of s. 917C(4)), alternatively s. 917B, of the Corporations Act.

**F5. Claims against Marsh Limited and Marsh Pty Ltd**

**(AA) Scope of claims against Marsh**

141B. From 2014 onwards, GCUK and Marsh entered into a series of Letters of Engagement, which were addressed to GCUK and signed by an officer of GCUK, and which incorporated standard form Terms of Engagement (the **GCUK Letters of Engagement**).

**Particulars**

1. Letter dated 3 March 2017 from Julian Macey-Dare of Marsh to Lex Greensill of GCUK, with attachments [MAR.0003.0001.0371].

2. Letter dated 27 March 2018 from Julian Macey-Dare of Marsh to Lex Greensill of GCUK, with attachments [MAR.0006.0001.0451].

3. Letter dated 27 March 2019 from Julian Macey-Dare of Marsh to Lex Greensill of GCUK, with attachments [MAR.0004.0002.1344].

4. Letter dated 1 March 2020 from Julian Macey-Dare of Marsh to Lex Greensill of GCUK, with attachments [MAR.0004.0004.4954].

141C. On or around 27 April 2018, Greensill Bank and Marsh entered into a separate Letter of Engagement (the **GBAG Letter of Engagement**).

**Particulars**

Letter dated 18 April 2018 from Julian Macey-Dare of Marsh to Danyon Lloyd, executed by Jutta Baalmann and Markus Nunnerich on 27 April 2018 [GBA.0004.0025.5715].

141D. The term of the GBAG Letter of Engagement commenced on 1 March 2018 and continued for an exclusive period of 12 months.

**Particulars**

Clause 3.1 of the GBAG Letter of Engagement.

141E. By order of the High Court of England and Wales dated 11 December 2024, Greensill Bank and Dr Frege are enjoined from taking any steps to initiate or bring any claim(s) against Marsh Limited in Australia, related to the Engagement contained in or evidenced by the GBAG Letter of Engagement and any non-contractual obligations arising out of or in connection with that Engagement (**Anti-Suit Order**).

141F. The purpose and intent of the Anti-Suit Order is to enforce by way of injunctive relief clause 13 of the GBAG Letter of Engagement, which provides:

> "This Engagement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law and any disputes related thereto shall be subject to the exclusive jurisdiction of the English court."

141G. For the avoidance of any doubt and notwithstanding anything else in this Statement of Claim, while the Anti-Suit Order remains in place, Greensill Bank and Dr Frege: (a) do not bring any claim(s) against Marsh related to the GBAG Letter of Engagement and any non-contractual obligations arising out of or in connection with that Engagement (within the meaning of the Anti-Suit Order); and (b) accordingly, do not seek to enforce by this Statement of Claim any contractual or non-contractual obligation falling within the scope of the Anti-Suit Order.

**(A) Provision of Marsh Broking Services**

142. The Marsh Broking Services were provided to Greensill Bank by employees of both Marsh and Marsh Pty Ltd.

**Particulars**

The Marsh Broking Services were principally provided by Julian Macey-Dare (Marsh), Edward Smith (Marsh), Angus Ward (Marsh) and Ewan Berkemeier (Marsh Pty Ltd).

143. The Marsh Broking Services were provided by Marsh and by Marsh Pty Ltd:

a. to the same entity (Greensill Bank);

b. in respect of the same policies of insurance (being the insurance policies issued by BCC as authorised representative of IAL, including Policy 3690);

c. under a single corporate name ("Marsh"); and

d. for a common commercial benefit (the receipt of commissions).

144. To the extent Marsh Pty Ltd provided the Marsh Broking Services to Greensill Bank, Marsh Pty Ltd did so:

a. as the "lead broker" and "broker of record" in respect of the insurance policies issued by BCC as authorised representative of IAL, including Policy 3690; and

b. under the authority of its Australian financial services licence no. 238983.

**(BA) Prior conduct in respect of LOS Policy**

144A. Between around 6 September 2017 and 15 December 2017, employees of Marsh and Marsh Pty Ltd negotiated the terms of, and placed, the LOS Policy with BCC on behalf of IAL.

144B. The LOS Policy was:

a. the first Greensill Bank parallel policy underwritten by BCC on behalf of IAL; and

b. substantively similar to Policy 3690 in its structure and content.

144C. Marsh and Marsh Pty Ltd took steps prior to 15 December 2017 to confirm BCC and Mr Brereton's authority to bind IAL to the LOS Policy, debt endorsements, loss payee endorsement and customer endorsements to the LOS Policy that were executed by Mr Brereton on 15 December 2017.

**Particulars**

The steps taken by Marsh and Marsh Pty Ltd were:

1. The steps taken by either or both of Marsh and Marsh Pty Ltd to set up BCC as an approved underwriting agent on the Marsh internal billing system.

2. Ewan Berekemeier's request to Greg Brereton on 14 December 2017 for a Letter of Authority from IAL and stating that the letter would be required prior to finalisation of the LOS Policy (under which Greensill Bank was the Insured) and endorsements ~~[AGB.0002.0002.3542]~~ [AGB.0002.0002.5342].

3. Marsh and Marsh Pty Ltd's subsequent receipt of the To Whom It May Concern Letter on 14 December 2017 [AGB.0002.0004.0002].

4. Further particulars may be added after discovery and evidence.

144D. By reason of the matters set out at paragraphs 144A to 144C above, either or both of Marsh and Marsh Pty Ltd represented to Greensill Bank that:

a. BCC and Mr Brereton had authority to bind IAL to the LOS Policy and the debt endorsements, loss payee endorsement and customer endorsements to the LOS Policy that were executed by Mr Brereton on 15 December 2017; and

b. BCC and Mr Brereton had authority to bind IAL to other policies of insurance that were substantively similar to the LOS Policy in their structure and content,

(the **LOS Policy Representations**).

144E. The LOS Policy Representations were:

a. continuing representations; and

b. not withdrawn or corrected at any material time.

**(B) Representations as to authority and validity**

145. [Not used]

146. [Not used]

147. [Not used]

148. [Not used]

149. [Not used]

150. On 13 March 2019, Angus Ward on behalf of Marsh sent an executed copy of Policy

3690 by email to Greensill Bank.

**Particulars**

Email from Angus Ward to scf@greensill-bank.com dated 13 March 2019 attaching a copy of Policy 3690 [AGB.0002.0010.0083]

151. The copy of Policy 3690 sent by Marsh to Greensill Bank on 13 March 2019:

a. bore the signature of Mr Brereton; and

b. stated that Mr Brereton's signature was for and on behalf of BCC Trade Credit Pty Ltd Corporate Authorised Representative of Insurance Australia Ltd.

152. Mr Ward did not inform Greensill Bank in his email of 13 March 2019 that (without any admission as to the below):

a. BCC did not, or might not, have authority to execute Policy 3690 on behalf of IAL as its corporate authorised representative; or

b. Mr Brereton did not, or might not, have authority to execute Policy 3690 on behalf of BCC as the corporate authorised representative of IAL.

152A. On or around 14 March 2019:

a. Greensill Bank entered into Policy 3690; and

b. Marsh assigned unique market reference B0509FINCW1900009 to Policy 3690.

152B. At no point before the entry into Policy 3690 by Greensill Bank did Marsh Pty Ltd inform Greensill Bank that (without any admission as to the below):

a. BCC did not, or might not, have authority to execute Policy 3690 on behalf of IAL as its corporate authorised representative;

b. Mr Brereton did not, or might not, have authority to execute Policy 3690 on behalf of BCC as the corporate authorised representative of IAL;

c. Greensill Bank was required to pay a premium (or a commercial premium) to BCC in order for Policy 3690 to be valid and binding; or

d. there was a risk that if Greensill Bank did not pay a premium (or a commercial premium) to BCC, Policy 3690 would not be valid and binding.

152C. At no point between 1 March 2019 and the entry into Policy 3690 by Greensill Bank did Marsh inform Greensill Bank that (without any admission as to the below):

a. BCC did not, or might not, have authority to execute Policy 3690 on behalf of IAL as its corporate authorised representative;

b. Mr Brereton did not, or might not, have authority to execute Policy 3690 on behalf of BCC as the corporate authorised representative of IAL;

c. Greensill Bank was required to pay a premium (or a commercial premium) to BCC in order for Policy 3690 to be valid and binding; or

d. there was a risk that if Greensill Bank did not pay a premium (or a commercial premium) to BCC, Policy 3690 would not be valid and binding.

153. Between 13 March 2019 and 5 February 2020, Mr Brereton signed each of Endorsement 9, Endorsement 17, Endorsement 18, Endorsement 23, Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii) using a signature block that included the words:

a. “Signed for and on behalf of the Insurer”; and

b. “BCC Trade Credit Pty Ltd, Corporate Authorised Representative of Insurance Australia Ltd”.

154. Mr Brereton’s signature on each of Endorsement 9, Endorsement 17, Endorsement 18, Endorsement 23 Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii) was accompanied by a stamp bearing the corporate seal of BCC.

155. At no point prior to the entry into any of the endorsements pleaded at paragraphs 153 and 154 above did Marsh Pty Ltd inform Greensill Bank that (without any admission as to the below):

a. BCC did not, or might not, have had authority to execute Policy 3690 or any endorsements to Policy 3690 on behalf of IAL as its corporate authorised representative; or

b. Mr Brereton did not, or might not, have had authority to execute Policy 3690 or any endorsements to Policy 3690 on behalf of BCC as the corporate authorised representative of IAL; or

c. that any endorsements to Policy 3690 may be invalid and not binding or enforceable against IAL by being inconsistent with the terms of Policy 3690.

155A. At no point after 1 March 2019 and prior to the entry into any of the Endorsements pleaded at paragraphs 153 and 154 above did Marsh inform Greensill Bank that (without any admission as to the below):

a. BCC did not, or might not, have authority to execute Policy 3690 or any endorsements to Policy 3690 on behalf of IAL as its corporate authorised representative;

b. Mr Brereton did not, or might not, have authority to execute Policy 3690 or any endorsements to Policy 3690 on behalf of BCC as the corporate authorised representative of IAL; or

c. any endorsements to Policy 3690 may be invalid and not binding or enforceable against IAL by being inconsistent with the terms of Policy 3690.

156. Between 13 March 2019 and 5 February 2020, representatives of Marsh sent executed copies of Endorsement 9, Endorsement 18, Endorsement 23, Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii) to Greensill Bank via email.

**Particulars**

Endorsement 9 emailed on 13 March 2019 [AGB.0002.0004.2992]; Debt Endorsement 1 and Loss Payee Endorsement 3 emailed on 13 March 2019 [AGB.0002.0010.0083]; Customer Endorsement 37 emailed on 13 March 2019 [AGB.0002.0004.3020]; Endorsement 18 emailed on 27 June 2019 [AGB.0002.0009.2152]; Customer Endorsement 37(i) emailed on 4 September 2019 [AGB.0002.0010.0169]; and Customer Endorsement 37(ii) emailed on 17 September 2019 [AGB.0002.0010.0174]; Endorsement 23 emailed on 5 February 2020 [AGB.0002.0004.3756].

157. Except for Customer Endorsement 37(ii), each of the endorsements particularised at 156 above and emailed to Greensill Bank:

a. bore the signature of Mr Brereton;

b. stated that the endorsement was "Signed for and on behalf of the Insurer";

c. stated that Mr Brereton's signature was for and on behalf of BCC Trade Credit Pty Ltd Corporate Authorised Representative of Insurance Australia Ltd; and

d. bore the corporate seal of BCC.

**Particulars**

Greensill Bank repeats the particulars to paragraph 156.

158. Customer Endorsement 37(ii) was emailed to Greensill Bank on 17 September 2019:

a. missing the second page of Customer Endorsement 37(ii); and

b. with the covering email stating "Please see bound endorsement attached".

**Particulars**

Greensill Bank repeats the email on 17 September 2019 in the particulars to paragraph 156.

159. Neither Marsh nor Marsh Pty Ltd informed Greensill Bank in any of the emails particularised at paragraph 156 above informed Greensill Bank that (without any admission as to the below):

a. BCC did not, or might not, have had authority to execute Policy 3690 or any endorsements to Policy 3690 on behalf of IAL as its corporate authorised representative;

b. Mr Brereton did not, or might not, have had authority to execute Policy 3690 or any endorsements to Policy 3690 on behalf of BCC as the corporate authorised representative of IAL; and/or

c. any of the endorsements to Policy 3690 contained terms that were inconsistent with the terms of Policy 3690 and/or not contemplated by Policy 3690, such that they were invalid, of no effect and not binding or enforceable against IAL.

160. On 30 July 2019, Mr Markus Nünnerich, spokesman of the Management Board of Greensill Bank, sent an email to John Whelan of GCUK concerning the acquisition of

BCC by Tokio Marine which:

a. said there was "ongoing uncertainty about the current structure of BCC and the existing and future policies";

b. asked whether IAG was the current insurer for signed policies;

c. asked whether Tokio Marine was the future insurer for next periods or policies; and

d. asked for clarification because Greensill Bank "need some reliable information for our risk report and ongoing risk assessment".

161. On 30 July 2019 and again on 6 August 2019, John Whelan forwarded Mr Nünnerich's email of 30 July 2019 (pleaded at paragraph 160 above) to Edward Smith of Marsh.

162. On 6 August 2019, Edward Smith responded to John Whelan's email of 6 August 2019 pleaded at paragraph 161 above, stating:

a. the current insurer for signed policies was "BCC but under IAL/IAG";

b. Tokio Marine was the future insurer for next periods and policies "but only for new policies issued after July 1st"; and

c. "any new limits to existing multi-year policies are still picked up under the old security".

163. On 6 August 2019:

a. John Whelan forwarded Edward Smith's email of 6 August 2019 (pleaded at paragraph 162 above) to Markus Nünnerich; and

b. Markus Nünnerich forwarded Edward Smith's email of 6 August 2019 to others within Greensill Bank.

**Particulars**

Email correspondence between Markus Nünnerich and John Whelan and John Whelan and Edward Smith between 30 July 2019 and 6 August 2019 [GBA.0004.0024.9216].

164. Mr Smith did not inform Greensill Bank through his email of 6 August 2019 that (without any admission as to the below):

a. BCC did not, or might not, have authority to execute Policy 3690 or any endorsements to Policy 3690 on behalf of IAL as its corporate authorised representative;

b. Mr Brereton did not, or might not, have had authority to execute Policy 3690 or any endorsements to Policy 3690 on behalf of BCC as the corporate authorised representative of IAL; and/or

c. that any of the endorsements contained terms that were inconsistent with the terms of Policy 3690 and/or not contemplated by Policy 3690, such that they were, or might be, invalid, of no effect and not binding or enforceable against IAL.

165. On 12 May 2020, Greensill Bank submitted a Claim Form in respect of the EHG Default to BCC.

166. By at least 13 May 2020, Marsh and Marsh Pty were aware that the Claim Form had been submitted to BCC, as pleaded in paragraph 165 above.

**Particulars**

Email from Birte Kuhlmann to Edward Smith, Julian Macey-Dare and Ewan Berkemeier dated 13 May 2020 [AGB.0002.0002.3843].

167. On 18 June 2020 and 19 June 2020, Mr Brereton signed the Recovery Proposal Letter and the Claim Offer Letter using a signature block that included the words: “For and on behalf of BCC Trade Credit Pty Ltd (acting as corporate authorized representative of Insurance Australia Ltd)”.

168. Mr Brereton’s signature on each of the Recovery Proposal Letter and Claim Offer Letter was accompanied by a stamp bearing the corporate seal of BCC.

169. By at least 18 June 2020, Marsh and Marsh Pty Ltd:

a. were aware that the Recovery Proposal Letter and the Claim Offer Letter were to be signed by Mr Brereton for and on behalf of BCC as corporate authorised representative of IAL; and

b. were aware, or ought reasonably to have been aware, that GBAG would rely on the Recovery Proposal Letter and the Claim Offer Letter in acquiring the EHG Notes.

**Particulars**

Email from Ewan Berkemeier to Edward Smith and Greg Brereton dated 19 June 2020 [AGB.0002.0002.3989]; Email from John Whelan to Markus Nunnerich dated 19 June 2020 [GBA.0004.0029.7451]; Email from Lex Greensill to Edward Smith dated 26 June 2020, copying Ewan Berkemeier and Greg Brereton [AGB.0002.0009.2671].

170. Neither Marsh nor Marsh Pty Ltd informed Greensill Bank at any material time, and at least not before Greensill Bank entered into the Assignment Agreement pleaded at paragraphs 90 and 91 above, that (without any admission as to the below):

a. BCC did not, or might not, have authority to enter into the Recovery Proposal Letter and/or Claim Offer Letter as the corporate authorised representative of IAL; and/or

b. Mr Brereton did not, or might not, have authority to enter into the Recovery Proposal Letter and/or Claim Offer Letter on behalf of BCC as the corporate authorised representative of IAL.

*Authority representations*

171. Marsh Pty Ltd either knew or ought to have known that Marsh engaged in the conduct pleaded at paragraphs 144A to 144E and 150 to 170 above.

**Particulars**

Marsh Pty Ltd knew or ought to have known these matters as:

1. the “lead broker” and “broker of record” in respect of Policy 3690;
2. the entity that placed Policy 3690 under the authority of its Australian financial services licence no. 238983; and
3. the entity that placed Policy 3690, having been procured, requested, instructed or directed by Marsh to do so.

172. Marsh Pty Ltd did not inform Greensill Bank at any time that (without any admission as to the below):

a. BCC did not, or might not, have had authority to execute Policy 3690 or any endorsements to Policy 3690 on behalf of IAL as its corporate authorised representative;

b. Mr Brereton did not, or might not, have had authority to execute Policy 3690 or any endorsements to Policy 3690 on behalf of BCC as the corporate authorised representative of IAL;

c. BCC did not, or might not, have had authority to enter into the Recovery Proposal Letter and/or Claim Offer Letter as the corporate authorised representative of IAL; and/or

d. Mr Brereton did not, or might not, have had authority to enter into the Recovery Proposal Letter and/or Claim Offer Letter on behalf of BCC as the corporate authorised representative of IAL.

173. By Marsh engaging in the conduct pleaded at paragraphs 144A to 144E and 150 to 170 above, Marsh represented to Greensill Bank that:

a. BCC had actual express authority to execute Policy 3690 on behalf of IAL as its corporate authorised representative;

b. Mr Brereton had actual express authority to execute Policy 3690 on behalf of BCC as the corporate authorised representative of IAL;

c. BCC had actual express authority to execute Endorsement 9, Endorsement 17, Endorsement 18, Endorsement 23 Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii) on behalf of IAL as its corporate authorised representative;

d. Mr Brereton had actual express authority to execute Endorsement 9, Endorsement 17, Endorsement 18, Endorsement 23 Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii) on behalf of BCC as the corporate authorised representative of IAL;

e. BCC had actual express authority to settle claims under Policy 3690 as the corporate authorised representative of IAL, including to enter into the Claim Offer Letter and Recovery Proposal Letter;

f. Mr Brereton had actual express authority to settle claims under Policy 3690 on behalf of BCC as the corporate authorised representative of IAL, including to enter into the Claim Offer Letter and Recovery Proposal Letter; and

g. Marsh had taken reasonable steps to confirm the matters in paragraphs a. to f. above,

(**Marsh Authority Representations**).

173A. By Marsh Pty Ltd engaging in the conduct pleaded at paragraphs 144A to 144E and 172 above (in the premises of paragraph 171), Marsh Pty Ltd represented to Greensill Bank that:

a. BCC had actual express authority to execute Policy 3690 on behalf of IAL as its corporate authorised representative;

b. Mr Brereton had actual express authority to execute Policy 3690 on behalf of BCC as the corporate authorised representative of IAL;

c. BCC had actual express authority to execute Endorsement 9, Endorsement 17, Endorsement 18, Endorsement 23, Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii) on behalf of IAL as its corporate authorised representative;

d. Mr Brereton had actual express authority to execute Endorsement 9, Endorsement 17, Endorsement 18, Endorsement 23, Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii) on behalf of BCC as the corporate authorised representative of IAL;

e. BCC had actual express authority to settle claims under Policy 3690 as the corporate authorised representative of IAL, including to enter into the Claim Offer Letter and Recovery Proposal Letter;

f. Mr Brereton had actual express authority to settle claims under Policy 3690 on behalf of BCC as the corporate authorised representative of IAL, including to enter into the Claim Offer Letter and Recovery Proposal Letter; and

g. Marsh Pty Ltd had taken reasonable steps to confirm the matters in paragraphs a. to f. above,

(**Marsh Pty Ltd Authority Representations**).

174. The Marsh Authority Representations and the Marsh Pty Ltd Authority Representations were:

a. continuing representations; and

b. were not withdrawn or corrected at any material time.

175. As pleaded at paragraph 90 above, and in the circumstances pleaded in Part DA above, Greensill Bank entered into the Assignment Agreement and acquired the EHG Notes in reliance upon the Marsh Authority Representations and the Marsh Pty Ltd Authority Representations.

*Validity representations*

176. Greensill Bank repeats the allegation at paragraph 171 above.

177. Marsh Pty Ltd did not inform Greensill Bank at any time that (without any admission) Policy 3690 or any endorsements to Policy 3690 were not, or may not be, valid, effective, binding and enforceable against IAL.

177A. On and from 1 March 2019, Marsh did not inform Greensill Bank at any time that (without any admission) Policy 3690 or any endorsements to Policy 3690 were not, or may not be, valid, effective, binding and enforceable against IAL.

178. By Marsh engaging in the conduct pleaded at paragraphs 144A to 144E, 150 to 170 and 177A above, Marsh represented to Greensill Bank that Policy 3690, Endorsement 9, Endorsement 17, Endorsement 18, Endorsement 23, Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii) were valid, effective, binding and enforceable against IAL (**Marsh Validity Representations**).

178A. By Marsh Pty Ltd engaging in the conduct pleaded at paragraphs 144A to 144E and 177 above (in the premises of paragraph 176), Marsh Pty Ltd represented to Greensill Bank that Policy 3690, Endorsement 9, Endorsement 17, Endorsement 18, Endorsement 23, Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii) were valid, effective, binding and enforceable against IAL (**Marsh Pty Ltd Validity Representations**).

179. The Marsh Validity Representations and the Marsh Pty Ltd Validity Representations were:

a. continuing representations; and

b. were not withdrawn or corrected at any material time.

180. As pleaded at paragraph 90 above, and in the circumstances pleaded in Part DA above, Greensill Bank entered into the Assignment Agreement and acquired the EHG Notes in reliance upon the Marsh Validity Representations and Marsh Pty Ltd Validity Representations.

181. If, which is denied, any of the Marsh Authority Representations, the Marsh Pty Ltd Authority Representations, the Marsh Validity Representations, or the Marsh Pty Ltd Validity Representations was/were incorrect, Greensill Bank makes claims in the alternative against Marsh and Marsh Pty Ltd as set out at paragraphs 182 to 203I and 204 to 209 below.

**(C) Authority Claims**

182. Solely for the purposes of its alternative claims set out at paragraphs 183 to 192 below, and without admission, and solely to the extent the allegations relate to:

a. BCC and/or Mr Brereton's authority (or lack thereof) to bind risks on behalf of IAL, including in respect of Policy 3690 and the endorsements to Policy 3690;

b. what Marsh and/or Marsh Pty Ltd knew or ought to have as to the authority arrangements between BCC and/or Mr Brereton and IAL; or

c. the steps Marsh and/or Marsh Pty Ltd ought to have taken to confirm the authority arrangements between BCC and/or Mr Brereton and IAL;

Greensill Bank repeats the following allegations set out in IAL's Defence filed 20 December 2024:

d. on a date presently unknown but prior to 2017, either or both of Marsh and Marsh Pty Ltd set up BCC as an approved underwriting agent on the Marsh internal billing system;

**Particulars**

Paragraph 102E(v)(i)(A) of IAL's Amended Defence to the Second Amended Statement of Claim.

e. at the time of first setting up BCC as an approved underwriting agent, both

Marsh and Marsh Pty Ltd ought to have obtained, and reasonably satisfied themselves of, the terms of the CGU AAR Agreement confirming the existence, duration of agreement and related limits to ensure that it was aware of the limitations on BCC's authority;

**Particulars**

Paragraph 102E(v)(ii)(D) of IAL's Amended Defence to the Second Amended Statement of Claim.

f. [not used]

g. between 5 September 2017 and 13 December 2017, there was a series of communications involving either or both of Marsh and Marsh Pty Ltd, in the context of negotiating a proposed insurance policy in 2017, during which either or both of Marsh and Marsh Pty Ltd were informed that:

   i. before BCC and Mr Brereton could agree to an insurance policy which departed from approved wording, it was necessary for the departure to be approved by IAL and Scor Re (as a reinsurer of IAL);

   ii. the insurance policy wording proposed by GCUK was not approved by IAL and Scor Re, and in fact IAL and Scor Re disagreed in numerous respects with the wording;

**Particulars**

Paragraph 6-57(g)(i)-(ii) of IAL's Amended Defence to the Second Amended Statement of Claim.

h. since September 2017, IAL and Scor Re have not communicated to either Marsh or Marsh Pty Ltd that the matters referred to in paragraph 182g. above had changed;

**Particulars**

Paragraph 6-57(h) of IAL's Amended Defence to the Second Amended Statement of Claim.

i. [not used]

j. [not used]

ja. at the time Greensill Bank entered into each of Policy 3690, Endorsement 9, Endorsement 17, Endorsement 18, Endorsement 23, Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii), both Marsh and Marsh Pty Ltd ought to have:

i. ensured, or reasonably satisfied themselves, that their employees and representatives were aware of and understood the terms of any agency agreement between IAL and BCC, and the limitation on BCC's authority;

**Particulars**

Paragraph 102E(v)(ii)(D)-(E) of IAL's Amended Defence to the Second Amended Statement of Claim.

ii. ensured, or reasonably satisfied themselves, that their employees and representatives were aware of and understood the terms of any authority arrangement between IAL and Mr Brereton, and the limitation on Mr Brereton's authority;

**Particulars**

Paragraph 102E(v)(ii)(F) of IAL's Amended Defence to the Second Amended Statement of Claim.

jb. it was at all material times beyond BCC and Mr Brereton's authority to:

i. issue policies for insureds who were not domiciled in Australia;

ii. issue policies with a premium of less than $10,000;

iii. agree to an indemnity limit beyond a maximum 95% of Debt;

iv. issue policies with limits in excess of AUD50 million;

v. issue policies with limits or terms in excess of AUD50 million; and

vi. insure credit terms in excess of 180 days;

vii. issue policies which did not have a minimum excess of 0.75% of the policy limit; and

viii. issue any new insurance policy prior to 30 June 2019 with a policy term in excess of 12 months;

**Particulars**

Paragraphs 6.57(d)(ii) and 6.57(e)(iii) of IAL's Amended Defence to the Second Amended Statement of Claim.

k. at the time Greensill Bank entered into each of Policy 3690, Endorsement 9, Endorsement 17, Endorsement 18, Endorsement 23, Debt Endorsement 1, Customer Endorsement 37, Loss Payee Endorsement 3, Customer Endorsement 37(i) and Customer Endorsement 37(ii):

i. BCC was only permitted to underwrite trade credit insurance and Policy 3690 was not trade credit insurance;

**Particulars**

Paragraph 102E(v)(ii)(B) of IAL's Amended Defence to the Second Amended Statement of Claim.

ii. before BCC and Mr Brereton could agree to Policy 3690 and any endorsements issued pursuant to that policy, it was necessary for IAL and Scor Re to agree to their terms and structure;

**Particulars**

Paragraph 102E(v)(ii)(C)a. of IAL's Amended Defence to the Second Amended Statement of Claim.

iii. IAL and Scor Re did not approve of the wording and structure of Policy 3690 or any endorsements issued pursuant to that policy as IAL's agent or otherwise on its behalf;

**Particulars**

Paragraph 102E(v)(ii)(C)b. of IAL's Amended Defence to the Second Amended Statement of Claim.

iv. IAL and Scor Re had not given authority to BCC and Mr Brereton to enter into Policy 3690 or any endorsements issued pursuant to that policy as IAL's agent or otherwise on its behalf;

**Particulars**

Paragraph 102E(v)(ii)(C)c. of IAL's Amended Defence to the Second Amended Statement of Claim.

v. either or both of Marsh and Marsh Pty Ltd knew, or ought to reasonably have known, the matters in subparagraphs ii. to iv. above.

**Particulars**

Paragraph 102E(v)(ii)(C) of IAL's Amended Defence to the Second Amended Statement of Claim.

l. at the time Mr Brereton signed Endorsement 17 and Endorsement 18:

i. BCC and Mr Brereton's authority to write risks on behalf of IAL was to cease at the time of, or shortly after, the sale of BCC to TMMA;

**Particulars**

Paragraph 102E(v)(ii)(C)d. of IAL's Amended Defence to the Second Amended Statement of Claim.

ii. BCC and Mr Brereton would cease to be authorised representatives of IAL for the purposes of Part 7.6 of the Corporations Act on and after 1 July 2019;

**Particulars**

Paragraph 102E(v)(ii)(C)e. of IAL's Amended Defence to the Second Amended Statement of Claim.

iii. Mr Brereton's authority and that of BCC on behalf of IAL would terminate on 30 June 2019;

**Particulars**

Paragraph 36A(n)(i) of IAL's Amended Defence to the Second Amended Statement of Claim.

iv. existing IAL policies would end at their natural expiry date, which for Policy 3690 was 1 March 2020;

**Particulars**

Paragraph 36A(n)(ii) of IAL's Amended Defence to the Second Amended Statement of Claim.

v. BCC and Mr Brereton did not have authority to extend Policy 3690 beyond 1 March 2020;

**Particulars**

Paragraph 36A(n)(iii) of IAL's Amended Defence to the Second Amended Statement of Claim.

vi. either or both of Marsh and Marsh Pty Ltd knew or ought reasonably to have known that BCC and Brereton's authority to write risks on behalf of IAL would cease at the time of, or shortly after, the sale of BCC to TMMA;

**Particulars**

Paragraph 102E(v)(ii)(C)d. of IAL's Amended Defence to the Second Amended Statement of Claim.

m. at the time Mr Brereton signed each of Endorsement 23, Customer Endorsement 37(i) and Customer Endorsement 37(ii) (**Post 1 July 2019 Endorsements**):

i. BCC did not have authority to write new policies or risks on behalf of IAL;

ii. BCC did not have authority to extend the term or scope of existing policies issued by IAL;

iii. neither BCC nor Mr Brereton were authorised representatives or representatives of IAL for the purposes of Part 7.6 of the Corporations Act;

iv. neither BCC nor Mr Brereton had authority to enter into any of the Post 1 July 2019 Endorsements on behalf of IAL;

v. either or both of Marsh and Marsh Pty Ltd knew or ought reasonably to have known that BCC and Brereton's authority to write risks on

behalf of IAL would cease at the time of, or shortly after, the sale of BCC to TMMA; and

vi. either or both of Marsh and Marsh Pty Ltd knew or ought reasonably to have known that BCC and Brereton ceased to be authorised representatives of IAL for the purposes of Division 6 of Part 7.6 of the Corporations Act on and after 1 July 2019;

**Particulars**

Paragraphs 54(c) and 102E(v)(ii)(C)d-e of IAL's Amended Defence to the Second Amended Statement of Claim.

n. BCC and Mr Brereton did not have authority to:

i. settle a claim of the kind described in the Recovery Proposal Letter and Claim Offer Letter on behalf of IAL; and

ii. enter into an agreement of the kind proposed by the Recovery Proposal Letter and Claim Offer Letter.

**Particulars**

Paragraph 83(c) and 87(c) of IAL's Amended Defence to the Second Amended Statement of Claim.

o. BCC and Mr Brereton's authority to manage claims on Policy 3690 on behalf of IAL ceased at the time of the sale of BCC to TMMA;

**Particulars**

Paragraph A29 of IAL's Amended Defence to the Second Amended Statement of Claim.

p. on and from 1 July 2019, the "Administrators" under the PACAO (being Bond and TMMA) had authority to manage all claims for the life of IAL's run-off policies, including Policy 3690;

**Particulars**

Paragraph A29 of IAL's Amended Defence to the Second Amended Statement of Claim.

q. under the terms of the PACAO, the "Administrators" were to report in writing to IAL upon notice of:

i. any new claim deemed to be a "Contentious Claim", which included any high value claims (PACAO Schedule 4, clause 3.1);

ii. any claim where the Claim amount was equal to or greater than AUD 500,000 (PACAO Schedule 4, clause 3.3);

**Particulars**

Paragraph A29 of IAL's Amended Defence to the Second Amended Statement of Claim.

r. insofar as the "Claim Offer Letter" and the "Recovery Proposal Letter" were entered into by BCC and/or Mr Brereton in June 2020, BCC and/or Mr Brereton did not have authority to manage or accept claims with a value above AUD 500,000 on behalf of IAL at that time.

**Particulars**

Paragraph A34 of IAL's Amended Defence to the Second Amended Statement of Claim.

*Misleading or deceptive conduct*

183. If, which is denied, IAL proves that BCC and/or Brereton did not have actual express authority to execute Policy 3690, the Endorsements referred to in paragraphs 173 and 173A above, the Claim Offer Letter and Recovery Proposal Letter, then by making the Marsh Authority Representations and the Marsh Pty Ltd Authority Representations, either or both of Marsh and Marsh Pty Ltd engaged in conduct:

a. in trade or commerce;

b. that was misleading or deceptive, or likely to mislead or deceive;

c. in contravention of s 18 of the Australian Consumer Law.

184. Further or alternatively, if, which is denied, IAL proves that BCC and/or Brereton did not have actual express authority to execute Policy 3690, the Endorsements referred to in paragraphs 173 and 173A above, the Claim Offer Letter and Recovery Proposal Letter, then by making the Marsh Authority Representations and the Marsh Pty Ltd

Authority Representations, either or both of Marsh and Marsh Pty Ltd engaged in conduct:

a. in relation to a financial service;

b. that was misleading or deceptive, or likely to mislead or deceive;

c. in contravention of s 12DA of the ASIC Act.

185. Further or alternatively, if, which is denied, IAL proves that BCC and/or Brereton did not have actual express authority to execute Policy 3690, the Endorsements referred to in paragraphs 173 and 173A above, the Claim Offer Letter and Recovery Proposal Letter, then by making the Marsh Authority Representations and the Marsh Pty Ltd Authority Representations, either or both of Marsh and Marsh Pty Ltd engaged in conduct:

a. in this jurisdiction;

**Particulars**

Marsh engaged in conduct in this jurisdiction through the Marsh Broking Services provided in this jurisdiction.

b. in relation to a financial product or financial service;

c. that was misleading or deceptive, or likely to mislead or deceive;

d. in contravention of s 1041H(1) of the Corporations Act.

185A. In the circumstances pleaded in Part DA above, but for the conduct of either or both of Marsh and Marsh Pty Ltd pleaded at paragraphs 183, 184 and/or 185 above, Greensill Bank would not have entered into Policy 3690 and/or the Assignment Agreement and acquired the EHG Notes.

186. If, which is denied, IAL proves that BCC and/or Brereton did not have actual express authority to execute Policy 3690, the Endorsements referred to in paragraphs 173 and 173A above, the Claim Offer Letter and Recovery Proposal Letter, then Greensill Bank has suffered loss by reason of:

a. the conduct of either or both of Marsh and Marsh Pty Ltd pleaded at paragraphs 183, 184 and/or 185 above; and

b. the reliance pleaded at paragraph 175 and 185A above.

**Particulars**

The amount of the loss suffered by Greensill Bank is the total amount paid by Greensill Bank to acquire the EHG Notes (USD 34,802,291.42), plus any costs incurred to recover or attempt to recover the relevant EHG Notes and interest.

*Negligence*

187. From 1 March 2019, either or both of Marsh and Marsh Pty Ltd knew or ought to have known that:

a. Greensill Bank was an insured or prospective insured under Policy 3690;

b. Greensill Bank relied on, or would rely on, Policy 3690 and the relevant endorsements in acquiring the Notes the subject of Policy 3690, including the EHG Notes;

c. Greensill Bank relied on Marsh and Marsh Pty Ltd to exercise reasonable skill, care and diligence in providing the Marsh Broking Services; and

d. it was reasonably foreseeable that Greensill Bank would suffer loss if either or both of Marsh and Marsh Pty Ltd failed to exercise reasonable care, skill and diligence in performing the Marsh Broking Services.

188. Further to paragraph 187 above, by at least 18 June 2020, either or both of Marsh and Marsh Pty Ltd knew or ought to have known that Greensill Bank would rely on the Recovery Proposal Letter and the Claim Offer Letter in acquiring the EHG Notes.

189. In the premises of paragraphs 187 and 188, either or both of Marsh and Marsh Pty Ltd owed or otherwise assumed a duty to Greensill Bank to exercise reasonable skill, care and diligence in providing the Marsh Broking Services to Greensill Bank in respect of Policy 3690, including to:

a. take each of the steps pleaded at paragraphs 182e. and 182ja. above;

aa. ensure, or reasonably satisfy themselves that BCC and Brereton had actual express authority to enter into Policy 3690, the Endorsements referred to in paragraphs 173.c. and 173.d. above, the Claim Offer Letter and Recovery

Proposal Letter before they were entered into and/or executed and sent to Greensill Bank;

ab. ensure, or reasonably satisfy themselves, that Policy 3690 would be valid and binding on IAL before Policy 3690 was sent to and entered into by Greensill Bank;

b. ensure or reasonably satisfy themselves, before the Endorsements particularised in paragraphs 173 and 173A above were executed and sent to Greensill Bank, that each endorsement to Policy 3690 was:

i. consistent with the terms of Policy 3690;

ii. valid and binding;

c. ensure or reasonably satisfy themselves that each of the Recovery Proposal Letter and Claim Offer Letter was valid and binding;

d. advise Greensill Bank if they had not undertaken any one or more of the steps identified at paragraphs 189a. to c. above; and

e. not convey representations to Greensill Bank about BCC or Mr Brereton's authority to underwrite insurance products and settle claims on behalf of IAL, or the validity of Policy 3690, its endorsements and the Recovery Proposal Letter and Claim Offer Letter, that were inaccurate;

f. correct the LOS Policy Representations if either or both of Marsh and Marsh Pty Ltd knew or ought to have known them to be incorrect,

(**Marsh Duty of Care**).

190. If, which is denied, IAL proves that BCC and/or Brereton did not have actual express authority to execute Policy 3690, the Endorsements referred to in paragraphs 173 and 173A above, the Claim Offer Letter and Recovery Proposal Letter, then either or both of Marsh and Marsh Pty Ltd breached the Marsh Duty of Care by:

a. failing to take the steps identified at paragraphs 189a., aa., c., d., and f. above; and

b. conveying to Greensill Bank the Marsh Authority Representations and the Marsh Pty Ltd Authority Representations.

191. In the circumstances pleaded in Part DA above, but for the breaches by either or both of Marsh and Marsh Pty Ltd pleaded at paragraph 190 above, Greensill Bank would not have entered into Policy 3690 and/or the Assignment Agreement and acquired the EHG Notes.

192. If, which is denied, IAL proves that BCC and/or Brereton did not have actual express authority to execute Policy 3690, the Endorsements referred to in paragraphs 173 and 173A above, the Claim Offer Letter and Recovery Proposal Letter, then Greensill Bank has suffered loss by reason of:

a. the breaches of duty by either or both of Marsh and Marsh Pty Ltd pleaded at paragraph 190; and

b. the reliance pleaded at paragraph 191 above.

**Particulars**

Greensill Bank repeats the particulars to paragraph 186.

*Negligent Misstatement*

192A. Greensill Bank repeats paragraphs 187 to 189 above.

192B. If IAL proves that BCC and/or Brereton did not have actual express authority to execute the Endorsements referred to in paragraphs 173 and 173A above, the Claim Offer Letter and Recovery Proposal Letter, then Marsh failed to exercise reasonable skill and care and breached the Marsh Duty of Care when making the Marsh Authority Representations by failing to take the steps identified at paragraphs 189.a., 189aa., 189.c., 189.d., 189.e. and 189.f. above.

192C. In the circumstances pleaded in Part DA above, but for the conduct of Marsh pleaded at paragraph 192B above, Greensill Bank would not have entered into the Assignment Agreement and acquired the EHG Notes.

192D. If, which is denied, IAL proves that BCC and/or Brereton did not have actual express authority to execute the Endorsements referred to in paragraphs 173 and 173A above, the Claim Offer Letter and Recovery Proposal Letter, then Greensill Bank has suffered loss by reason of:

a. the conduct of Marsh pleaded at paragraph 192B above; and

b. the reliance pleaded at paragraph 192C above.

**Particulars**

Greensill Bank repeats the particulars to paragraph 186.

**(D) Validity claims**

193. IAL alleges in its Defence that:

(a) Policy 3690 and the endorsements pleaded are not valid or binding for want of consideration/premium and/or commercial justification; and

**Particulars**

Paragraphs A8, 13(h), 36A(d), 36A(g)(v)-(vi) and (ix), 37(d), 37(g)(v)-(vi) and (ix), 47(f), 47(i)(iv)-(v) and (xi), 49(e), 49(i)(iv)-(v) and (xi), 54(i)(v), 54(k)(iv)-(v) and (xi) of IAL's Amended Defence to the Second Amended Statement of Claim.

(b) even if BCC and Mr Brereton had authority to write the endorsements pleaded, those endorsements were inconsistent with numerous terms of Policy 3690, and were not of a kind contemplated by it, such that they are invalid, of no effect and not binding or enforceable against IAL,

(**IAL Validity Defence**).

**Particulars**

Paragraphs A10, 36A(f)-(g)(iii) and (h), 37(f)-(g)(iii) and (h), 47(i)(i)-(iii), (xi) and 47(j), 49(i)(i)-(iii), (xi) and 49(j), 54(k)(i)-(iii), (xi) and 54(l) of IAL's Amended Defence to the Second Amended Statement of Claim.

194. If, which is denied, one or more of the circumstances pleaded in paragraph 193 above are proved by IAL, then Greensill Bank makes claims in the alternative against either or both of Marsh and Marsh Pty Ltd as set out at paragraphs 196 to 203 below.

195. Solely for the purposes of its alternative claims set out below at paragraphs 196 to 203, and solely to the extent the allegations relate to IAL's claims that Policy 3690 and/or the endorsements to Policy 3690 are invalid, of no effect and not binding or enforceable against it, Greensill Bank repeats the allegations at paragraph 193

above.

*Misleading or deceptive conduct*

196. If, which is denied, the circumstances pleaded in paragraph 195 above are proved by IAL, then by making the Marsh Validity Representations and the Marsh Pty Ltd Validity Representations, either or both of Marsh and Marsh Pty Ltd engaged in conduct:

    a. in trade or commerce;

    b. that was misleading or deceptive, or likely to mislead or deceive;

    c. in contravention of s 18 of the Australian Consumer Law.

197. Further or alternatively, if, which is denied, the circumstances pleaded in paragraph 195 above are proved by IAL, then by making the Marsh Validity Representations and the Marsh Pty Ltd Validity Representations, either or both of Marsh and Marsh Pty Ltd engaged in conduct:

    a. in relation to a financial service;

    b. that was misleading or deceptive, or likely to mislead or deceive;

    c. in contravention of s 12DA of the ASIC Act.

198. Further or alternatively, if, which is denied, the circumstances pleaded in paragraph 195 above are proved by IAL, then by making the Marsh Validity Representations and the Marsh Pty Ltd Validity Representations, either or both of Marsh and Marsh Pty Ltd engaged in conduct:

    a. in this jurisdiction;

**Particulars**

Greensill Bank repeats the particulars to paragraph 185.a.

    b. in relation to a financial product or financial service;

    c. that was misleading or deceptive, or likely to mislead or deceive;

    d. in contravention of s 1041H(1) of the Corporations Act.

199. If, which is denied, the circumstances pleaded in paragraph 195 above are proved by

IAL, then Greensill Bank has suffered loss by reason of:

a. the conduct of either or both of Marsh and Marsh Pty Ltd pleaded at paragraphs 196, 197 and/or 198 above;

b. the reliance pleaded at paragraph 180 above.

**Particulars**

Greensill Bank repeats the particulars to paragraph 186.

*Negligence*

200. Greensill Bank repeats paragraphs 187 to 189 above.

201. If, which is denied, the circumstances pleaded in paragraph 195 above are proved by IAL, then either or both of Marsh and Marsh Pty Ltd breached the Marsh Duty of Care by:

a. failing to take the steps identified at paragraphs 189ab., b., d. and e. above; and

b. conveying to Greensill Bank the Marsh Validity Representations and the Marsh Pty Ltd Validity Representations.

202. In the circumstances pleaded in Part DA above, but for the breaches by either or both of Marsh and Marsh Pty Ltd pleaded at paragraph 201 above, Greensill Bank would not have entered into Policy 3690 and/or the Assignment Agreement and acquired the EHG Notes.

203. If, which is denied, the circumstances pleaded in paragraph 195 above are proved by IAL, then Greensill Bank has suffered loss by reason of:

a. the breaches of duty by either or both of Marsh and Marsh Pty Ltd pleaded at paragraph 201 above; and

b. the reliance pleaded at paragraph 202 above.

**Particulars**

Greensill Bank repeats the particulars to paragraph 186.

*Negligent misstatement*

203A. Greensill Bank repeats paragraphs 187 to 189 above.

203B. If, which is denied, the circumstances pleaded in paragraph 195 above are proved by IAL, then Marsh failed to exercise reasonable skill and care and breached the Marsh Duty of Care when making the Marsh Validity Representations by failing to take the steps identified at paragraphs 189ab., b., d. and e.

203C. In the circumstances pleaded in Part DA above, but for the conduct of Marsh pleaded at paragraph 203B above, Greensill Bank would not have entered into Policy 3690 and/or into the Assignment Agreement and acquired the EHG Notes.

203D. If, which is denied, the circumstances pleaded in paragraph 195 above are proved by IAL, then Greensill Bank has suffered loss by reason of:

a. the conduct of Marsh pleaded at paragraph 203B above; and

b. the reliance pleaded at paragraph 203C above.

**Particulars**

Greensill Bank repeats the particulars to paragraph 186.

**(DA) Claim Offer Letter and Recovery Proposal Letter**

203E. IAL, BCC and TMNF allege in their Defences that Greensill Bank knew, or ought reasonably to have known, that Brereton did not have authority to enter into the Recovery Proposal Letter or execute the Claim Offer Letter on behalf of IAL and/or BCC (**Claim Acceptance Defences**).

**Particulars**

Paragraph 83(e) of IAL's Defence filed 20 December 2024 and paragraph 83(g) of BCC and TMNF's Defences filed 20 December 2024.

203F. If, which is denied, the circumstances pleaded in the previous paragraph are proved by IAL, BCC and/or TMNF, then Greensill Bank:

a. repeats the allegations in the Claim Acceptance Defences summarised at paragraph 203E above; and

b. makes the claims in the alternative against Marsh and Marsh Pty Ltd as set out at paragraphs 203G to 203I below.

203G. If, which is denied, IAL, BCC and/or TMNF prove that Greensill Bank knew or ought reasonably to have known that Brereton did not have authority to enter into the Recovery Proposal Letter or execute the Claim Offer Letter on behalf of IAL and/or BCC (as alleged in paragraph 83(e) of IAL's Defence filed 20 December 2024 and paragraph 83(g) of BCC and TMNF's Defences filed 20 December 2024), then either or both of Marsh and Marsh Pty Ltd breached the Marsh Duty of Care by:

a. failing to take each of the steps pleaded at paragraphs 189a. and 189aa. above;

b. failing to ensure or reasonably satisfy themselves that each of the Recovery Proposal Letter and Claim Offer Letter was valid and binding; and/or

c. failing to advise Greensill Bank that they had not taken the steps to ensure or reasonably satisfy themselves that each of the Recovery Proposal Letter and Claim Offer Letter was valid and binding.

203H. But for the breaches by either or both of Marsh and Marsh Pty Ltd pleaded at paragraph 203G above, Greensill Bank would not have entered into the Assignment Agreement and acquired the EHG Notes.

203I. If, which is denied, the circumstances pleaded in paragraph 203F above are proved by IAL, then Greensill Bank has suffered loss by reason of:

a. the breaches of duty by either or both of Marsh and Marsh Pty Ltd pleaded at paragraph 203G above; and

b. the reliance pleaded at paragraph 203H above.

**Particulars**

Greensill Bank repeats the particulars to paragraph 186.

**(DB) GCPL Policy Inclusion Claims**

203J. In Annexure A to IAL and BCC's Defences dated 20 December 2024, IAL and BCC allege (in summary) that:

a. GCPL authorised GCUK to act on its behalf in the placement of the Relevant

Policies and Endorsements (as defined in Annexure A to IAL and BCC's Defences);

b. the conduct and knowledge of various GCUK directors, officers, employees and agents is to be attributed to GCPL;

c. the conduct and knowledge of GCUK is to be attributed to GCPL;

d. GCPL made various alleged misrepresentations and non-disclosures that entitle IAL to avoid the Relevant Policies and Endorsements (including the Parallel Policies and Endorsements), or otherwise reduce IAL's liability under the relevant Policies and Endorsements (including the Parallel Policies and Endorsements) to nil; and

e. if and in so far as the Court finds that GCPL, but not Greensill Bank, made a misrepresentation or breached the duty of disclosure, IAL is entitled:

   i. to avoid the policy as against GCUK, GCPL and Greensill Bank; or

   ii. in the alternative, to reduce its liability to Greensill Bank to nil (or such other amount as the Court may determine would place IAL in the same position as if the duty of disclosure had been complied with or the misrepresentation had not been made).

(**GCPL Misrepresentations and Non-disclosure Defence).**

**Particulars**

1. Annexure A to IAL's Amended Defence to the Second Amended Statement of Claim dated 20 December 2024, including [17], [20]-[22] and [467].

2. Annexure A to BCC's Defence to the Third Amended Statement of Claim dated 20 December 2024, including [10A.17], [10A.20]-[10A.22] and [103].

203K. If, which is denied, IAL and/or BCC establish the GCPL Misrepresentations and Non-Disclosure Defence, or that GCPL's knowledge and conduct otherwise effects Greensill Bank's entitlement to indemnity under Policy 3690 and the Endorsements pleaded in paragraphs 173 and 173A above, Greensill Bank makes claims in the alternative against either or both of Marsh and Marsh Pty Ltd as set out at paragraphs 203L to 203AD below.

203L. On or around 5 September 2017:

a. Mr Brereton communicated to GCUK and Marsh and/or Marsh Pty Ltd that insurance cover could only be provided by BCC and "Insurance Australia Group" to GCUK, GCPTY and Greensill Bank where the insured entities were Australian; and

b. Lex Greensill proposed to GCUK officers, Marsh and/or Marsh Pty Ltd an amendment to the "usual" master and parallel policy wording whereby GCPL was listed as an insured under both policies.

**Particulars**

Email from Lex Greensill to John Whelan dated 5 September 2017, copying *inter alios* Ewan Berkemeier, Julian Macey-Dare and Edward Smith [AGB.0002.0009.0656].

203M. On or around 6 September 2017, GCUK sent to Brereton, copying in Marsh and Marsh Pty Ltd, policy documentation, including:

a. draft master policy wording (**Draft Master Policy**), including GCPL as a listed insured; and

b. draft parallel policy wording (**Draft Parallel Policy**), including GCPL as a listed insured.

**Particulars**

1. Email from John Whelan to Lex Greensill and Greg Brereton dated 6 September ~~2024~~ 2020, copying *inter alios* Ewan Berkemeier, Julian Macey-Dare and Edward Smith [AGB.0002.0001.6419].

203N. As far as Greensill Bank is aware, at the time that the inclusion of GCPL on the Draft Parallel Policy, neither Marsh nor Marsh Pty Ltd:

a. clarified with BCC and/or Brereton whether knowledge and/or conduct of GCPL could affect Greensill Bank's entitlement to indemnity under the Draft Arrium Parallel Policy;

b. informed Greensill Bank of any potential risk that GCPL's knowledge and/or

conduct of GCPL could affect Greensill Bank's entitlement to indemnity under the Draft Parallel Policy; and

c. otherwise inquired into whether GCPL's knowledge and/or conduct of GCPL could affect Greensill Bank's entitlement to indemnity under the Draft Parallel Policy.

203O. At all material times prior to 1 March 2018 and from 1 March 2019 onwards, Marsh knew or ought to have known that:

a. Greensill Bank was an insured under various parallel policies that were brokered by Marsh and Marsh Pty Ltd;

b. Greensill Bank relied upon various parallel policies brokered by Marsh and/or Marsh Pty and endorsements to those parallel policies in acquiring assets;

c. Greensill Bank relied on Marsh and Marsh Pty Ltd to exercise reasonable skill, care and diligence in providing broking services in respect of the parallel policies and endorsements; and

d. it was reasonably foreseeable that Greensill Bank would suffer loss if Marsh and/or Marsh Pty Ltd failed to exercise reasonable care, skill and diligence in providing broking services in respect of the parallel policies and endorsements.

203P. Further to paragraph 203Q, at all material times prior to 1 March 2018 and from 1 March 2019 onwards, including prior to 5 September 2017, Marsh knew or ought to have known that:

a. outside of insurance placed with IAL and BCC, the standard parallel policy wording included Greensill Bank as a sole listed insured under the parallel policies;

b. the master and parallel policy structure and the standard parallel policy wording was structured so as to meet the requirements of a CRM as pleaded at paragraph 12X above;

c. Greensill Bank relied upon the master and parallel policy structure and the standard parallel policy wording as meeting the requirements of a CRM as pleaded at paragraph 12V above;

d. Greensill Bank believed that the master and parallel policy structure and the standard parallel policy wording otherwise complied with the conditions pleaded in paragraph 12Y above;

e. Greensill Bank did not make representations as to customers under the parallel policies because it had no knowledge, and was not expected to have, knowledge of the customers; and

f. following from subparagraphs b. to e. above, the parallel policy structure was structured to ensure that Greensill Bank was entitled to be indemnified under the parallel policies irrespective of any misrepresentations or non-disclosures that may be made in respect of the customers and the risks to be covered under both the master and parallel policies.

**Particulars**

1. Marsh's knowledge that Greensill Bank was a sole listed insured under the standard parallel policies not placed with IAL through BCC can be inferred from Marsh's prior involvement in brokering parallel policies in which Greensill Bank was the sole listed insured, and also derives from Lex Greensill's email dated 5 September 2017 that described this as the "usual stand alone wording" [AGB.0002.0009.0656].

2. Marsh's knowledge of the matters in subparagraphs b. to f. above is demonstrated and/or can be inferred from various correspondence throughout the relevant time-period. For example, refer to:

    a. Email correspondence between *inter alios* Greg Brereton, Ewan Berkemeier and Julian Macey-Dare between 15 April and 18 May 2016 [BCC.0001.0002.0011], [BCC.0001.0002.0012].

    b. Email correspondence from Julian Macey-Dare to Greg Brereton and Scott Newland dated 27 September 2017, copying Ewan Berkemeier and Edward Smith [AGB.0002.0003.5645].

    c. Email correspondence from Julian Macey-Dare to

Marsh employees dated 5 December 2017 [MAR.0004.0001.0361].

d. Letter from Julian Macey-Dare (Marsh Limited) to Danyon Lloyd (Greensill Bank) dated 25 January 2018 [AGB.0002.0003.3903].

e. Email correspondence from Julian Macey-Dare to Lex Greensill, John Whelan, Jason Austin and Danyon Lloyd dated 23 February 2018 [AGB.0002.0003.3946].

f. Email correspondence from Julian Macey-Dare to Marsh employees dated 9 November 2020 [MAR.0004.0004.6148].

g. Email correspondence from Julian Macey-Dare to Edward Smith dated 23 November 2020 [MAR.0003.0003.7327].

h. Letter from Marsh Limited (signed by Julian Macey-Dare) and addressed to Lex Greensill (GCUK) dated 7 February 2021 [AGB.0002.0010.0533].

i. Email from Julian Macey-Dare to Marsh employees dated 12 February 2021 [MAR.0002.0001.3787].

j. Further particulars may follow after discovery.

203Q. At all material times, Marsh Pty Ltd knew or ought to have known each of the matters as pleaded in paragraphs 203O and 203P.

**Particulars**

Greensill Bank repeats the particulars to paragraph 203P above, as applicable to Marsh Pty Ltd.

203R. In the circumstances of paragraphs 2030, 203P and 203Q above, and further or in the alternative to the Marsh Duty of Care pleaded at paragraph 189 above, Marsh and Marsh Pty owed or otherwise assumed a duty to Greensill Bank to exercise reasonable skill, care and diligence in providing broking services to Greensill Bank

by:

a. taking all reasonable steps to ensure that:

i. Greensill Bank was insulated from any misrepresentations or non-disclosures in respect of the customers and the risks to be covered under the policies; and

ii. Greensill Bank's entitlement to indemnity under the parallel policies did not depend upon matters outside Greensill Bank's own control;

b. advising Greensill Bank of any risks relating to the matters in subparagraph a. above,

(**Marsh Insulation Duty**).

*Misleading or deceptive conduct*

203S. At the time Greensill Bank entered into Policy 3690 and the Endorsements pleaded in paragraphs 173 and 173A above, neither Marsh nor Marsh Pty Ltd informed Greensill Bank that (without any admission as to the below):

a. GCPL's knowledge and/or conduct of GCPL could affect Greensill Bank's entitlement to indemnity under Policy 3690; or

b. there was any risk that GCPL's knowledge and/or conduct of GCPL could affect Greensill Bank's entitlement to indemnity under Policy 3690.

203T. In the circumstances of paragraphs 203P, 203Q and the Marsh Insulation Duty, and by their conduct in paragraphs 203N and 203S, either or both of Marsh and Marsh Pty Ltd represented that:

a. Greensill Bank was insulated from any misrepresentations or non-disclosures in respect of the customers and the risks to be covered under Policy 3690;

b. there was no material risk to Greensill Bank that it was not insulated from any misrepresentations or non-disclosures in respect of the customers and the risks to be covered under Policy 3690; and/or

c. either or both of Marsh and/or Marsh Pty Ltd had taken reasonable steps to ensure, or reasonably satisfy themselves of the matters in subparagraphs a.

and b,

(**Marsh Insulation Representations**).

203U. The Marsh Insulation Representations were continuing and were not withdrawn at any material time.

203V. If (which is denied) either or both of IAL and BCC prove the GCPL Misrepresentations and Non-Disclosure Defence or that GCPL's knowledge and conduct otherwise effects Greensill Bank's entitlement to indemnity under Policy 3690 and the pleaded endorsements, then the Marsh Insulation Representations were misleading or deceptive because:

a. Greensill Bank was not insulated from misrepresentations or non-disclosures in respect of the customers and the risks to be covered under the policies;

b. there was a material risk that Greensill Bank was not insulated from any misrepresentations or non-disclosures in respect of the customers and the risks to be covered under Policy 3690; and/or

c. either or both of Marsh and Marsh Pty Ltd had not taken reasonable steps to ensure, or reasonably satisfy themselves of the matters in subparagraphs a. and b.

203W. In the circumstances pleaded in Part DA above, Greensill Bank:

a. relied upon the Marsh Insulation Representations in entering into Policy 3690 and the Assignment Agreement, and acquiring the EHG Notes; and

b. would not have entered into Policy 3690 and the Assignment Agreement and/or acquired the EHG Notes if the Marsh Insulation Representations had not been made.

203X. If (which is denied), IAL and/or BCC prove the GCPL Misrepresentations and Non-Disclosure Defence or that GCPL's knowledge and conduct otherwise effects Greensill Bank's entitlement to indemnity under Policy 3690 and the pleaded endorsements, then by making the Marsh Insulation Representations, Marsh and/or Marsh Pty Ltd engaged in conduct:

a. in trade or commerce;

b. that was misleading or deceptive, or likely to mislead or deceive; and

c. in contravention of s 18 of the Australian Consumer Law.

203Y. Further or alternatively, if (which is denied), IAL and/or BCC prove the GCPL Misrepresentations and Non-Disclosure Defence or that GCPL's knowledge and conduct otherwise effects Greensill Bank's entitlement to indemnity under Policy 3690 and the pleaded endorsements, then by making the Marsh Insulation Representations, Marsh and/or Marsh Pty Ltd engaged in conduct:

a. in relation to a financial service;

b. that was misleading or deceptive, or likely to mislead or deceive; and

c. in contravention of s 12DA of the ASIC Act.

203Z. Further or alternatively, if (which is denied), IAL and/or BCC prove the GCPL Misrepresentations and Non-Disclosure Defence or that GCPL's knowledge and conduct otherwise effects Greensill Bank's entitlement to indemnity under Policy 3690 and the pleaded endorsements, then by making the Marsh Authority Representations, Marsh and/or Marsh Pty Ltd engaged in conduct:

a. in this jurisdiction;

b. in relation to a financial product or financial service;

c. that was misleading or deceptive, or likely to mislead or deceive; and

d. in contravention of s 1041H(1) of the Corporations Act.

203AA. If, (which is denied), IAL and/or BCC prove the GCPL Misrepresentations and Non-Disclosure Defence or that GCPL's knowledge and conduct otherwise effects Greensill Bank's entitlement to indemnity under Policy 3690 and the pleaded endorsements, then Greensill Bank has suffered loss by reason of:

a. the conduct of Marsh and/or Marsh Pty Ltd pleaded at paragraph 203R above; and

b. the reliance pleaded at 203W.a above.

**Particulars**

1. Greensill Bank repeats paragraph 203W.b above.

2. Greensill Bank repeats the particulars to paragraph 186.

*Negligence*

203AB. If, which is denied, IAL and/or BCC establish the GCPL Misrepresentations and Non-Disclosure Defence or that GCPL's knowledge and conduct otherwise effects Greensill Bank's entitlement to indemnity under Policy 3690 and the pleaded endorsements, then Marsh and/or Marsh Pty Ltd breached the Marsh Duty of Care and/or the Marsh Insulation Duty by:

a. failing to confirm with BCC and/or Brereton whether knowledge and/or conduct of GCPL could affect Greensill Bank's entitlement to indemnity under Policy 3690;

b. failing to advise Greensill Bank of any potential risk that GCPL's knowledge and/or conduct of GCPL could affect Greensill Bank's entitlement to indemnity under Policy 3690;

c. failing to inquire into whether GCPL's knowledge and/or conduct of GCPL could affect Greensill Bank's entitlement to indemnity under Policy 3690; and/or

d. making the Marsh Insulation Representations.

203AC. In the circumstances pleaded in Part DA above, but for the breaches by Marsh and/or Marsh Pty Ltd pleaded at paragraph 203AB above, Greensill Bank would not have entered into Policy 3690 and the Assignment Agreement and/or acquired the EHG Notes if the Marsh Insulation Representations had not been made.

203AD. If, (which is denied), IAL and/or BCC prove the GCPL Misrepresentations and Non-Disclosure Defence or that GCPL's knowledge and conduct otherwise effects Greensill Bank's entitlement to indemnity under Policy 3690 and the pleaded endorsements, then Greensill Bank has suffered loss by reason of:

a. the breaches of duty by Marsh Pty Ltd pleaded at paragraph 203AB above; and

b. the reliance pleaded at paragraph 203Wa. above.

**Particulars**

Greensill Bank repeats the particulars to paragraph 203AA.

**(DC) Marsh Injunctive Relief**

*Background of the English Proceedings and amendments to these proceedings*

203AE. On 29 July 2024, Marsh and Marsh Pty Ltd commenced proceedings in the High Court of England and Wales (Claim No. CL-2024-000433) (**English Proceedings**):

a. alleging that GBAG is contractually bound by the GCUK Letters of Engagement and the GBAG Letter of Engagement; and

b. seeking prohibitory injunctive relief against GBAG and the Insolvency Administrator restraining them from wrongfully commencing proceedings against Marsh and Marsh Pty Ltd in Australia.

**Particulars**

Sealed Claim Form filed on behalf of Marsh and Marsh Pty Ltd in the English Proceedings dated 29 July 2024

203AF. In the English Proceedings, Marsh and Marsh Pty Ltd relied on (and continue to rely on), among other things, the exclusive jurisdiction clause in each GCUK Letter of Engagement, which provides that:

a. the contractual engagement and any non-contractual obligations arising out of or in connection with it are to be governed by and construed in accordance with English law; and

b. any disputes related thereto shall be subject to the exclusive jurisdiction of the English courts.

(**Exclusive Jurisdiction Clause**).

203AG. On 30 July 2024, following an *ex parte* hearing, the High Court of England and Wales made orders restraining GBAG and the Insolvency Administrator from taking any steps to initiate or bring any claim(s) against Marsh in Australia, in relation to the GBAG Letter of Engagement and the GCUK Letters of Engagement and any non-contractual obligations arising out of or in connection with those Engagements (**English Interim Orders**).

**Particulars**

Orders of the High Court of England and Wales in the English Proceedings dated 30 July 2024.

203AH. The English Interim Orders did not restrain GBAG and the Insolvency Administrator from taking any steps to intiate or bring any claim(s) against Marsh Pty Ltd in Australia.

203AI. On 3 October 2024, GBAG and the Insolvency Administrator applied for *ex parte* interim and-anti-suit relief against Marsh Pty Ltd and Marsh in the Federal Court of Australia.

203AJ. On 11 October 2024, the Federal Court of Australia made orders:

a. granting GBAG and the Insolvency Administrator leave to file the interlocutory application dated 3 October 2024; and

b. restraining Marsh Pty Ltd from taking any steps to initiate or bring or renew any claim against GBAG and/or the Insolvency Administrator in England and Wales for anti-suit relief in relation to the Greensill Proceedings in the Federal Court until 5pm on 18 October 2024.

203AK. On 14 October 2024, GBAG and the Insolvency Administrator filed their interlocutory application pursuant to the Federal Cout's orders of 11 October 2024.

203AL. On 18 October 2024, the Federal Court of Australia made orders:

a. granting GBAG and the Insolvency Administrator leave to file an amended interlocutory application dated 17 October 2024 (**Amended Interlocutory Application**); and

b. restraining Marsh Pty Ltd from taking any steps to initiate or bring or renew any claim against GBAG and/or the Insolvency Administrator in England and Wales for anti-suit relief in relation to the Greensill Proceedings in the Federal Court until 24 hours after delivery of the Court's judgment in respect of prayers 14, 15 and 16 of the Amended Interlocutory Application.

203AM. On 18 October 2024, GBAG and the Insolvency Administrator filed the Amended Interlocutory Application.

203AN. On 4 November 2024, the Federal Court of Australia made orders granting GBAG and the Insolvency Administrator leave to join Marsh Pty Ltd to these Proceedings.

203AO. On 5 November 2024, GBAG and the Insolvency Adminstrator filed amended claims joining Marsh Pty Ltd to these Proceedings.

203AP. On 11 December 2024, the High Court of England and Wales:

a. made the Anti-Suit Order enjoining GBAG and the Insolvency Administrator from bringing claims against Marsh Limited in respect of the GBAG Letter of Engagement; and

b. otherwise dismissed Marsh's application for the continuation of the English Interim Orders.

**Particulars**

1. Orders of the High Court of England and Wales in the English Proceedings dated 11 December 2024.

2. Judgment of Deputy High Court Judge Simon Colton KC in the English Proceedings dated 3 December 2024, neutral citation number: [2024] EWHC 3068 (Comm).

203AQ. On 14 March 2025, this Court made orders granting GBAG and the Insolvency Administrator leave to join Marsh to these Proceedings.

203AR. On 17 March 2025, GBAG and the Insolvency Administrator filed amended claims joining Marsh to these Proceedings.

203AS. On or around 16 April 2025, Marsh and Marsh Pty Ltd amended their claim in the English Proceedings to seek:

a. a final mandatory injunction requiring GBAG and the Insolvency Administrator to stay the Australian claims now brought against Marsh (**Application for Final Injunction**);

b. alternatively, damages for breach of the GCUK Letters of Engagement, to be assessed, and interest thereon under s 35A of the *Senior Courts Act 1981* (UK) (**Application for Damages**).

**Particulars**

Sealed Amended Claim Form filed on behalf of Marsh and Marsh Pty Ltd in the English Proceedings dated 16 April 2025.

203AT. Marsh and Marsh Pty Ltd's Application for Damages seeks compensation for any liability imposed on Marsh by this Court for having breached s 18 of the Australian Consumer Law, s 12DA of the ASIC Act and/or s 1041H(1) of the Corporations Act, as alleged in Part F5 of this Amended Statement of Claim (**Statutory Misleading or Deceptive Conduct Claims**).

203AU. On 21 May 2025, the High Court of England and Wales stayed Marsh Pty Ltd's claims in the English Proceedings until further order.

**Particulars**

Orders of the High Court of England and Wales in the English Proceedings dated 21 May 2025.

203AV. The English Proceedings have been fixed for trial from 27 April 2026 to 6 May 2026.

*The purpose and effect of the English Proceedings*

203AW. The English Proceedings have the dominant purpose (alternatively, a purpose) of:

a. seeking to preclude GBAG and the Insolvency Administrator from obtaining relief against Marsh on the basis of the Statutory Misleading or Deceptive Conduct Claims; and/or

b. seeking to avoid and/or negative any relief that might be awarded by this Court against Marsh in favour of GBAG and the Insolvency Administrator on the basis of the Statutory Misleading or Deceptive Conduct Claims.

**Particulars**

1. The purpose of the English Proceedings is to be inferred from:

   i. the terms of the Amended Claim Form and effect of the relief sought;

   ii. paragraphs 10(b) and 151 of the Witness Statement of Christopher David Foster filed by Marsh and Marsh Pty Ltd in the English Proceedings dated 26 July 2024;

   iii. the submissions made by King's Counsel for Marsh and Marsh Pty Ltd at the *ex parte* Hearing before the High

Court of England and Wales on 30 July 2024 at T17/C-E, T40/G-H;

iv. paragraphs 14, 26.3 and 46.6 of the Skeleton Argument filed by Marsh and Marsh Pty Ltd in the English Proceedings dated 13 November 2024;

v. the submissions made by King's Counsel for Marsh and Marsh Pty Ltd at the return date Hearing of the English Proceedings on 20 November 2024 at T24/7-9, T172/12-21;

vi. the submissions made by Senior Counsel for Marsh and Marsh Pty Ltd at the hearing before this Court on 11 November 2024 at T48/27-32;

vii. the letter from HFW to QE dated 3 April 2025, stating:

"*The relief sought has been revised to include (i) a mandatory injunction; and (ii) damages, in response to the Defendants having now brought Australian claims against Marsh Limited (i.e. by initiating the APF Claim, on 12 March 2025, and by filing statements of claim against Marsh Limited in each of the pre-existing Australian Proceedings, on 18 March 2025)";* and

viii. the submissions made by King's Counsel for Marsh and Marsh Pty Ltd at the Case Management Conference for the English Proceedings on 11 April 2025 at T25/20-19, T81/4-8.

2. Further particulars may be provided prior to trial.

203AX. Further or in the alternative, the English Proceedings would have the effect, if successful, of:

a. precluding GBAG and the Insolvency Administrator from obtaining relief for the Statutory Misleading or Deceptive Conduct Claims; and/or

b. avoiding and/or negativing any relief that might be awarded by this Court against Marsh in favour of GBAG and the Insolvency Administrator for the Statutory Misleading or Deceptive Conduct Claims.

203AY. Further or in the alternative, Marsh and Marsh Pty Ltd's Application for Final Injunction in the English Proceedings has the dominant purpose (alternatively, a purpose) of:

a. seeking to preclude GBAG and the Insolvency Administrator from obtaining relief for the Statutory Misleading or Deceptive Conduct Claims; and/or

b. seeking to negative any relief that might be awarded by this Court against Marsh in favour of GBAG and the Insolvency Administrator for the Statutory Misleading or Deceptive Conduct Claims.

**Particulars**

GBAG and the Insolvency Administrator refer to and repeat the particulars to paragraph 203AW above.

203AZ. Further or in the alternative, Marsh and Marsh Pty Ltd's Application for Final Injunction in the English Proceedings would have the effect, if granted, of:

a. precluding GBAG and the Insolvency Administrator from obtaining relief for the Statutory Misleading or Deceptive Conduct Claims; and/or

b. avoiding and/or negativing any relief that might be awarded by this Court against Marsh in favour of GBAG and the Insolvency Administrator for the Statutory Misleading or Deceptive Conduct Claims.

203BA. Further or in the alternative, Marsh and Marsh Pty Ltd's Application for Damages in the English Proceedings has the dominant purpose (alternatively, a purpose) of seeking to avoid and/or negative any relief that might be awarded by this Court for the Misleading or Deceptive Conduct Claims.

**Particulars**

GBAG and the Insolvency Administrator refer to and repeat the particulars to paragraph 203AW above.

203BB. Further or in the alternative, Marsh and Marsh Pty Ltd's Application for Damages in the English Proceedings, if granted, would have the effect:

a. of avoiding and/or negativing any relief that might be awarded by this Court for the Misleading or Deceptive Conduct Claims; and/or

b. that GBAG and the Insolvency Administrator would not be compensated in whole or in part for loss or damage and/or the loss or damage suffered by them would not be prevented or reduced, within the meaning of s 237(2) of the Australian Consumer Law.

*Injunctive relief and this Court's powers*

203BC. The Court has the power to restrain steps that have the dominant purpose (alternatively, a purpose) of impairing or interfering with any relief it awards under ss 236 and 237 of the Australian Consumer Law, s 12GF of the ASIC Act and/or s 1041I and 1352 of the Corporations Act for the Statutory Misleading or Deceptive Conduct Claims, which power is:

a. impliedly conferred by ss 236 and 237 of the Australian Consumer Law, s 12GF of the ASIC Act and/or s 1041I and 1352 of the Corporations Act to ensure the efficacy of any orders made under those provisions; and/or

b. within s 237(2)(b) of the Australian Consumer Law as it prevents or reduces the loss or damage suffered or likely to be suffered by GBAG and the Insolvency Administrator; and/or

c. within s 23 of the *Federal Court of Australia Act 1976* (Cth).

203BD. Further or in the alternative, the Court has the power to restrain steps that or would have the effect of impairing or interfering with any relief it awards under ss 236 and 237 of the Australian Consumer Law, s 12GF of the ASIC Act and/or s 1041I and 1352 of the Corporations Act for the Statutory Misleading or Deceptive Conduct Claims, which power is:

a. impliedly conferred by ss 236 and 237 of the Australian Consumer Law, s 12GF of the ASIC Act and/or s 1041I and 1352 of the Corporations Act to ensure the efficacy of any orders made under those provisions; and/or

b. within s 237(2)(b) of the Australian Consumer Law as it prevents or reduces the loss or damage suffered or likely to be suffered by GBAG and the Insolvency Administrator; and/or

c. within s 23 of the *Federal Court of Australia Act 1976* (Cth).

203BE. In the premises of paragraphs 203AW and/or 203AX and paragraphs 203BC and/or 203BD, Marsh and Marsh Pty Ltd should be permanently restrained from taking any steps, either directly or indirectly, by themselves or through any subsidiaries or affiliates or agents, in the High Court of England and Wales or any other court to pursue, or seek to renew, their claims for relief in the English Proceedings.

203BF. Further or in the alternative, in the premises of paragraphs 203AY and/or 203AZ and paragraphs 203BC and/or 203BD, Marsh and Marsh Pty Ltd should be permanently restrained from taking any steps, either directly or indirectly, by themselves or through any subsidiaries or affiliates or agents, in the High Court of England and Wales or any other court to pursue, or seek to renew, their Application for Final Injunction.

203BG. Further or in the alternative, in the premises of paragraphs 203BA and/or 203BB and paragraphs 203BC and/or 203BD Marsh and Marsh Pty Ltd should be permanently restrained from taking any steps, either directly or indirectly, by themselves or through any subsidiaries or affiliates or agents, in the High Court of England and Wales or any other court to pursue, or seek to renew, their Application for Damages.

**(E) Breach of financial services licensee obligations**

204. As the holder of financial services licence no. 238983, Marsh Pty Ltd was under a duty to ensure that the financial services covered by its financial services licence were provided efficiently, fairly and honestly (**Financial Services Licensee Duty**).

**Particulars**

Corporations Act s 912A(1).

205. Marsh Pty Ltd was subject to the Financial Services Licensee Duty when providing the Marsh Broking Services to Greensill Bank.

206. In order to provide the Marsh Broking Services to Greensill Bank, Marsh Pty Ltd's Financial Services Licensee Duty required it to:

a. obtain, and reasonably satisfy itself of, the terms of any agency agreement between IAL and BCC confirming the existence, duration of agreement and related limits to ensure that it was aware of the limitations on BCC's authority;

b. obtain, and reasonably satisfy itself of, the terms of any authority arrangement between IAL and Mr Brereton confirming the existence, duration of the arrangement and related limits to ensure that it was aware of the limitations on Mr Brereton's authority;

c. obtain confirmation or verification of BCC and Mr Brereton's authority to underwrite on behalf of IAL each of Policy 3690 and the LOS Policy;

c1. ensure, or reasonably satisfy itself, that Policy 3690 would be valid and binding on IAL before Policy 3690 was sent to and entered into by Greensill Bank;

d. ensure, or reasonably satisfy itself, that each endorsement to Policy 3690 was:

i. consistent with the terms of Policy 3690;

ii. valid and binding;

e. ensure or reasonably satisfy itself that each of the Recovery Proposal Letter and Claim Offer Letter was valid and binding;

e1. ensure, or reasonably satisfy itself, that Greensill Bank was insulated from any misrepresentations or non-disclosures in respect of the customers and the risks to be covered under Policy 3690; and

f. advise Greensill Bank if it had not undertaken any one or more of the steps identified at paragraphs 206.a. to 206.e1. above.

207. If, which is denied, the circumstances pleaded in paragraphs 182.k. and/or 182.l. and/or 182.m. and/or 182.n. and/or 182.o. and/or 182.p. and/or 182.q. and/or 182.r. and/or 195 and/or 203K above are proved by IAL, then Marsh Pty Ltd breached its Financial Services Licensee Duty by failing to take the steps identified at paragraphs 206.a. to 206.f. above.

208. In the circumstances pleaded in Part DA above, but for the breach by Marsh Pty Ltd pleaded at paragraph 207 above, Greensill Bank would not have entered into Policy 3690 and/or the Assignment Agreement and acquired the EHG Notes.

209. If, which is denied, the circumstances pleaded in paragraphs 182.k. and/or 182.l. and/or 182.m. and/or 182.n. and/or 182.o. and/or 182.p. and/or 182.q. and/or 182.r. and/or 195 and/or 203K above are proved by IAL, then Greensill Bank has suffered loss by reason of:

a. the breach of duty by Marsh Pty Ltd pleaded at 207 above; and

b. the reliance pleaded at paragraph 208 above.

**Particulars**

Greensill Bank repeats the particulars to paragraph 186.

Date: 11 June 2025



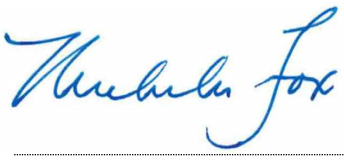
Signed by Michelle Fox
Lawyer for the applicants

This amended pleading was prepared by Quinn Emanuel Urquhart and Sullivan.

## Certificate of lawyer

I, Michelle Fox, certify to the Court that, in relation to the statement of claim filed on behalf of the applicants, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 11 June 2025



Signed by Michelle Fox
Lawyer for the applicants

**Schedule**

No. NSD 1216 of 2021

Federal Court of Australia
District Registry: New South Wales
Division: General

**Applicants**

| | |
|---|---|
| Second Applicant: | Dr Michael C. Frege in his capacity as Insolvency Administrator of Greensill Bank AG |

**Respondents**

| | |
|---|---|
| Second Respondent: | BCC Trade Credit Pty Ltd |
| Third Respondent: | Greg Brereton |
| Fourth Respondent: | Tokio Marine & Nichido Fire Insurance Co Ltd |
| Fifth Respondent: | Marsh Pty Ltd |
| Sixth Respondent: | Marsh Limited |