



**Pinnacle Bidco plc, the parent company of PureGym and Fitness World,  
announces required consents received for RCF upsize in its Consent Solicitation  
relating to its**

**£430,000,000 aggregate principal amount of 6¾% Senior Secured Notes due 2025  
Regulation S Notes: Common Code 175663312, ISIN XS1756633126  
Rule 144A Notes: Common Code 175663614, ISIN XS1756636145**

**(the “Notes”)**

**London, United Kingdom — September 17, 2020**

Further to its statement on September 10, 2020, PureGym, a leading European gym operator, today announces that the required consents from Noteholders to approve certain amendments (the “Proposed Amendments”) to the indenture originally dated January 24, 2018 (the “Indenture”), including to permit the upsize of its Revolving Credit Facility, have been obtained. A supplemental indenture to the Indenture has been executed and the Proposed Amendments became effective and operative as of September 17, 2020. All noteholders are bound by the supplemental indenture to the Indenture, including those that did not give their consent.

Following the successful consent solicitation, PureGym’s shareholders, Leonard Green & Partners, will contribute £100.0 million in additional cash to the business (the “Equity Injection”). In aggregate, this transaction increases total liquidity to £297.0 million as at June 30, 2020, on a *pro forma* basis.

The Equity Injection by PureGym’s shareholders and the upsize to its Revolving Credit Facility are intended to bolster its balance sheet, facilitate its return to a growth strategy focused on developing and opening new gym sites when the right opportunities arise and provide a cash buffer in the event local or national lockdown measures are re-imposed in connection with government COVID-management strategies.

This announcement is for information purposes only and does not constitute an offer to purchase Notes, a solicitation of an offer to sell Notes or a solicitation of consents of Holders and shall not be deemed to be an offer to purchase, a solicitation of an offer to sell or a solicitation of consents with respect to any securities of the Issuer or its affiliates.

Additional information can be found on the Group’s website at <https://corporate.puregym.com/>.

### **About PureGym**

PureGym is a leading European gym operator, with 1.7 million members across approximately 500 sites in the UK, Denmark, Switzerland and Poland, as at June 30, 2020. PureGym was launched in the UK in 2009, where it pioneered the model for affordable, flexible, high-quality fitness clubs and is now the market leader. In the UK, members pay monthly and have no contractual commitment. Many of its gyms are open 24/7 and offer a full range of top of the line equipment, including cardiovascular equipment, fixed-resistance and free weights. In January 2020, the company acquired Fitness World, the largest fitness provider in Denmark and owner of Basefit in Switzerland and Codizione in Poland. The group is majority owned by Leonard Green & Partners, L.P.

### **Forward Looking Statements**

*This release may contain forward-looking statements that involve substantial risks and uncertainties. All statements other than statements of historical facts included in this release including, without limitation, statements regarding Pinnacle Bidco plc’s future financial position, risks and uncertainties related to its business, strategy, capital expenditures, projected costs and Pinnacle Bidco plc’s plans and objectives for future operations, may be deemed to be forward-looking statements. Words such as “believe,” “expect,” “anticipate,”*

*“may,” “assume,” “plan,” “intend,” “will,” “should,” “estimate,” “risk,” and similar expressions or the negatives of these expressions are intended to identify forward-looking statements. By their nature, forward-looking statements involve known and unknown risks and uncertainties because they relate to events and depend on circumstances that may or may not occur in the future. Forward-looking statements are not guarantees of future performance. You should not place undue reliance on these forward-looking statements. Pinnacle Bidco plc does not assume any obligation to update any forward-looking statements, whether as a result of new information, future events or otherwise.*

### **Cautionary Statement**

*Under no circumstances shall the Consent Solicitation Statement constitute an offer to sell or issue or the solicitation of an offer to buy or subscribe for the Notes in any jurisdiction. The Solicitation shall not be considered an “offer of securities to the public,” or give rise to or require a prospectus in a European Economic Area member state or in the United Kingdom pursuant to Regulation (EU) 2017/1129 (as amended or superseded).*

*The Solicitation is not being made to, and no consents are being solicited from, holders or beneficial owners of the Notes in any jurisdiction in which it is unlawful to make such consent solicitation or grant such consents. However, the Issuer may, in its sole discretion and in compliance with any applicable laws, take such actions as it may deem necessary to solicit consents in any jurisdiction and may extend the consent solicitation to, and solicit consents from, persons in such jurisdiction.*

*The communication of the Consent Solicitation Statement and any other documents or materials relating to the Consents is not being made, and such documents and/or materials have not been approved, by an authorised person for the purposes of section 21 of the Financial Services and Markets Act 2000 (the “FSMA”). Accordingly, the Consent Solicitation Statement is for distribution only to persons who: (a) have professional experience in matters relating to investments falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended, the “Order”); (b) are persons falling within Article 43 of the Order; (c) are persons falling within Article 49(2)(a) to (d) (“high net worth companies, unincorporated associations etc.”) of the Order; (d) are outside the United Kingdom; or (e) are persons to whom an invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) in connection with the issue or sale of any securities may otherwise lawfully be communicated or caused to be communicated (all such persons together being referred to as “relevant persons”). The Consent Solicitation Statement is directed only at relevant persons and must not be acted on or relied on by persons who are not relevant persons. Any investment or investment activity to which the Consent Solicitation Statement relates is available only to relevant persons and will be engaged in only with relevant persons.*

*The making of the consent solicitation may be restricted by laws and regulations in some jurisdictions. Persons into whose possession the Consent Solicitation Statement comes must inform themselves about and observe these restrictions.*

*This release and the information contained herein are for information purposes only. Under no circumstances shall this announcement, the information contained herein or the Consent Solicitation Statement constitute a prospectus or an offer to sell, or a solicitation of an offer to buy or subscribe for, any securities in the United States of America or in any other jurisdiction.*

*This release contains information that prior to its disclosure may have constituted inside information under Article 7 of Regulation (EU) No 596/2014.*

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For media enquiries, please contact:

Tel: 0208 194 3189

Email us: [press@puregym.com](mailto:press@puregym.com)

For further information, please contact:

Tel: +44 (0)207 773 5861

E-mail: [stephen.smith@barclays.com](mailto:stephen.smith@barclays.com)

Attention: Stephen Smith

US-DOCS\117801072.8

*The Solicitation Agent*

Barclays Bank plc  
Tel: +44 (0)20 3134 8515  
E-mail: eu.lm@barclays.com  
Attention: Liability Management Group

*The Information and Tabulation Agent:*

Lucid Issuer Services Limited  
Tel: +44 (0)207 704 0880  
E-mail: pinnacle@lucid-is.com  
Attention: Mu-yen Lo

*The Listing Agent:*

Carey Olsen Corporate Finance Limited  
Tel: +44 (0)1534 888 900  
Email: lucy.robbs@careyolsen.com  
Attention: Lucy Robbins

## CONSENT SOLICITATION STATEMENT



relating to the

**£430,000,000 aggregate principal amount of 6.375% Senior Secured Notes due 2025**  
**Regulation S Notes: Common Code 175663312, ISIN XS1756633126**  
**Rule 144A Notes: Common Code 175663614, ISIN XS1756636145**

of

**Pinnacle Bidco plc**

**THIS CONSENT SOLICITATION STATEMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. IF YOU DO NOT UNDERSTAND IT OR ARE IN ANY DOUBT AS TO WHAT ACTION YOU SHOULD TAKE, YOU ARE RECOMMENDED TO SEEK INDEPENDENT FINANCIAL ADVICE FROM YOUR OWN APPROPRIATELY AUTHORIZED ACCOUNTANT, FINANCIAL ADVISOR, TAX ADVISOR, LEGAL ADVISOR OR OTHER PERSON AUTHORIZED UNDER THE FINANCIAL SERVICES AND MARKETS ACT 2000 (IF YOU ARE IN THE UNITED KINGDOM) OR ANOTHER APPROPRIATELY AUTHORIZED INDEPENDENT FINANCIAL, TAX OR LEGAL ADVISOR IMMEDIATELY.**

*This Consent Solicitation Statement is addressed only to Holders (as defined herein) who are persons to whom it may otherwise be lawful to distribute it (“relevant persons”). It is directed only at relevant persons and must not be acted on or relied on by persons who are not relevant persons. The investment or investment activity to which this Consent Solicitation Statement relates is available only to relevant persons and will be engaged in only with relevant persons. This Consent Solicitation Statement and its contents are confidential and should not be distributed, published or reproduced (in whole or in part) or disclosed by recipients to any other person.*

*This Consent Solicitation Statement does not constitute an invitation to participate in the Solicitation (as defined herein) in or from any jurisdiction in or from which, or to or from any person to or from whom, it is unlawful to make such invitation under applicable securities laws. The distribution of this Consent Solicitation Statement in certain jurisdictions may be restricted by laws and/or regulations. Persons into whose possession this Consent Solicitation Statement comes are required by the Issuer, the Information and Tabulation Agent, the Solicitation Agent and the Trustee (each as defined herein) to inform themselves about, and to observe, any such restrictions. If you are in any doubt as to the contents of this Consent Solicitation Statement or the action you should take, you are recommended to seek your own advice immediately from your accountant, financial advisor, tax advisor or legal advisor.*

**THE SOLICITATION WILL EXPIRE AT 5:00 P.M. LONDON TIME, ON SEPTEMBER 17, 2020 (SUCH DATE AND TIME, AS IT MAY BE EXTENDED, THE “EXPIRATION TIME”). THE ISSUER MAY, IN ITS SOLE DISCRETION, AMEND, TERMINATE OR EXTEND THE EXPIRATION TIME AT ANY TIME. THE ISSUER, IN ITS SOLE DISCRETION, RESERVES THE RIGHT TO WAIVE ANY DEFECTS, IRREGULARITIES OR DELAYS IN CONNECTION WITH DELIVERIES OF CONSENTS. CONSENTS MAY BE REVOKED BY HOLDERS PRIOR TO THE EFFECTIVE TIME ON THE TERMS AND CONDITIONS SET OUT IN THIS CONSENT SOLICITATION STATEMENT. SEE “THE SOLICITATION—REVOCATION OF CONSENTS.”**

**THE ISSUER ANTICIPATES THAT, PROMPTLY AFTER RECEIPT OF THE REQUIRED CONSENTS ON OR PRIOR TO THE EXPIRATION TIME, IT WILL GIVE NOTICE BY WAY OF AN OFFICER’S CERTIFICATE TO THE TRUSTEE THAT THE REQUIRED CONSENTS HAVE BEEN RECEIVED, AND THE ISSUER AND THE TRUSTEE WILL EXECUTE THE SUPPLEMENTAL INDENTURE (AS DEFINED HEREIN) (WHICH WILL BE THE “EFFECTIVE TIME”) WITH RESPECT TO THE NOTES AT A CONVENIENT TIME AS SOON AS PRACTICABLE THEREAFTER. HOLDERS SHOULD NOTE THAT THE EFFECTIVE TIME MAY FALL PRIOR TO THE EXPIRATION TIME, AND, IF SO, HOLDERS MAY NOT BE GIVEN PRIOR NOTICE OF SUCH EFFECTIVE TIME. HOLDERS WILL NOT BE ABLE TO VALIDLY REVOKE THEIR CONSENTS AFTER THE EFFECTIVE TIME. NO CONSIDERATION WILL BE PAID TO HOLDERS IN CONNECTION WITH THE CONSENTS SOUGHT IN THIS SOLICITATION.**

Pinnacle Bidco plc, a public limited company incorporated under the laws of England and Wales (the “**Issuer**”), is soliciting (the “**Solicitation**”) consents (the “**Consents**”) from the holders (“**Holders**” and, each such holder, a “**Holder**”) of its £430,000,000 aggregate principal amount of 6.375% Senior Secured Notes due 2025 (the “**Notes**”), to the proposed amendments of certain provisions in connection therewith of the Notes and the indenture dated January 24, 2018, between, among others, the Issuer, Deutsche Trustee Company Limited, as trustee (the “**Trustee**”) and Deutsche Bank AG, London Branch, as security agent (the “**Indenture**”) as described under “*The Proposed Amendments.*” Capitalized terms have the meanings assigned to them elsewhere in this Consent Solicitation Statement or in the Indenture.

Upon the terms of, and subject to the terms and conditions set forth in, this Consent Solicitation Statement, the Issuer is hereby soliciting Consents from each Holder of the Notes, as to itself only, to, with the consent of holders of a majority of the aggregate principal amount of Notes then outstanding (the “**Required Consents**”), amend the Indenture to increase the size of the credit facilities basket and make any ancillary amendments to the Indenture required to effect such amendment (collectively, the “**Proposed Amendments**”).

No consideration will be paid to Holders for any Consent.

The Solicitation is being made on the terms and is subject to the conditions set forth in this Consent Solicitation Statement. The Issuer expressly reserves the right, in its sole discretion, to terminate the Solicitation at any time.

Adoption under the Indenture of the Proposed Amendments requires the Consent of the Holders of a majority of the aggregate principal amount of Notes then outstanding.

A Consent may be validly revoked by a Holder at any time prior to, but not on or after, the Effective Time, as described herein, and will automatically terminate and not be effective if the Required Consents are not obtained prior to the Expiration Time. From and after the Effective Time, each present and future holder of the Notes will be bound by the Proposed Amendments, whether or not such Holder delivered a Consent.

Upon receipt of the Required Consents, the Proposed Amendments will be effected and become operative at the Effective Time; provided there are no laws, regulations, injunctions or actions or other proceedings, pending or threatened, which, in the case of any action or proceeding if adversely determined, would make unlawful or invalid or enjoin the implementation of the Proposed Amendments.

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*Information and Tabulation Agent*

**Lucid Issuer Services Limited**

*Solicitation Agent*

**Barclays Bank plc**

The date of this Consent Solicitation Statement is September 10, 2020

**STATEMENT REGARDING INFORMATION CONTAINED  
IN THIS CONSENT SOLICITATION STATEMENT**

The information provided in this Consent Solicitation Statement is based upon information provided by the Issuer. The Issuer accepts sole responsibility for this Consent Solicitation Statement. None of Lucid Issuer Services Limited (the “**Information and Tabulation Agent**”), Barclays Bank plc (the “**Solicitation Agent**”) or the Trustee has independently verified, and none of them makes any representation or warranty, express or implied, nor assumes any responsibility as to, the accuracy, adequacy, validity, correctness or completeness of the information contained herein or any document prepared in connection with it or the Solicitation or for any failure by the Issuer to disclose events or circumstances which may have occurred or may affect the significance or accuracy of any such information. No person has been authorized to give any information or make any representations other than those contained in this Consent Solicitation Statement and other accompanying materials. If given or made, such information or representations must not be relied upon as having been authorized by the Issuer, the Trustee, the Solicitation Agent, the Information and Tabulation Agent or any other person. The delivery of this Consent Solicitation Statement at any time does not imply that the information herein is correct as of any date subsequent to the date on the cover page hereof.

None of the Issuer, the Information and Tabulation Agent, the Solicitation Agent or the Trustee makes any recommendation as to whether Consents to the Proposed Amendments should be given.

The Information and Tabulation Agent is acting exclusively for the Issuer and no one else in connection with the Solicitation. If the Required Consents in respect of the Notes are obtained and certified to the Trustee, the Trustee will, at a convenient time as soon as practicable, upon receipt of the required documentation in form and substance reasonably satisfactory to the Trustee, enter into a supplemental indenture (the “**Supplemental Indenture**”) with the Issuer to implement the Proposed Amendments. Recipients of this Consent Solicitation Statement and the accompanying materials should not construe their contents as legal, business, financial, regulatory or tax advice.

Each Holder is responsible for assessing the merits of the Solicitation with respect to the Notes held by it. In accordance with normal and accepted practice, none of the Trustee, the Solicitation Agent and the Information and Tabulation Agent expresses any opinion as to the merits of the Solicitation or the Proposed Amendments to Holders in this Consent Solicitation Statement (of which they were not involved in the negotiation). Accordingly, the Trustee, the Solicitation Agent and the Information and Tabulation Agent urge Holders who are in doubt as to the meaning of the Proposed Amendments in connection with the Solicitation (including any tax consequences) to seek their own independent advice. None of the Trustee, the Solicitation Agent or the Information and Tabulation Agent has made or will make any assessment of the merits of the Solicitation or of the impact of the Solicitation on the interests of the Holders either as a class or as individuals. The entry into the Supplemental Indenture as a result of the Solicitation will not require the Trustee, the Solicitation Agent or the Information and Tabulation Agent to, and none of the Trustee, the Solicitation Agent or the Information and Tabulation Agent will, consider the interests of the Holders either as a class or as individuals. None of the Trustee, the Solicitation Agent or the Information and Tabulation Agent has been involved in negotiating or formulating the Solicitation and the Proposed Amendments and makes no representation that all information has been disclosed to Holders in this Consent Solicitation Statement. If the Required Consents in respect of the Notes are obtained, then pursuant to the terms of the Indenture, the Trustee will be authorized and directed by the Holders to give effect to the Proposed Amendments by executing the Supplemental Indenture, which will be binding on all Holders. The Trustee will assess any direction it is given hereunder in accordance with its rights and duties under the Indenture. Accordingly, Holders who are in any doubt as to the impact of the Solicitation or of the implementation of the Proposed Amendments should seek their own independent professional advice.

The Solicitation is not being made to, and no Consents are being solicited from, Holders in any jurisdiction in which it is unlawful to make such solicitation or grant such Consents. The Issuer may, however, in its sole discretion, take such actions as it may deem necessary to solicit Consents in any jurisdiction and may extend the solicitation to, and solicit Consents from, persons in such jurisdiction.

The making of the Solicitation may be restricted by laws and/or regulations in some jurisdictions. Persons into whose possession this Consent Solicitation Statement comes must inform themselves about and observe these restrictions.

If you have sold or otherwise transferred any or all of your Notes, please inform the Information and Tabulation Agent accordingly.

## **CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

This Consent Solicitation Statement includes forward-looking statements. All statements, other than statements of historical fact, included in this Consent Solicitation Statement regarding the financial condition of the Issuer or regarding future events or prospects are forward-looking statements. The words “aim,” “anticipate,” “believe,” “continue,” “estimate,” “expect,” “future,” “help,” “intend,” “may,” “plan,” “shall,” “should,” “will” or the negative or other variations of them as well as other statements regarding matters that are not historical fact, are or may constitute forward-looking statements. The Issuer has based these forward-looking statements on management’s current view with respect to future events and financial performance. These views reflect the best judgment of management but involve a number of risks, uncertainties and assumptions. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may differ materially from those predicted in the forward-looking statements and from past results, performance or achievements. All forward-looking statements contained in this Consent Solicitation Statement are qualified in their entirety by this cautionary statement.

There is no intention to update or revise any forward-looking statements whether as a result of new information, future events or otherwise. All subsequent written or oral forward-looking statements attributable to the Issuer, or persons acting on its behalf, are expressly qualified in their entirety by the cautionary statements contained throughout this Consent Solicitation Statement. As a result of these risks, uncertainties and assumptions, you should not place undue reliance on these forward-looking statements.

## **AVAILABLE INFORMATION**

Copies of the Indenture and the Global Notes may be requested from the Issuer.

The Issuer may have delivered, pursuant to the Indenture, certain reports to Deutsche Trustee Company Limited, located at 1 Great Winchester Street, London EC2N 2DB, United Kingdom, and has made certain information available on its website. None of the documents, reports or other information delivered to the Trustee or available on the Pure Gym website is incorporated by reference into this Consent Solicitation Statement or forms part of this Consent Solicitation Statement.

Questions concerning the terms of the Consent Solicitation may be directed to the Solicitation Agent at the contact details set forth on the back cover of this Consent Solicitation Statement. Copies of this Consent Solicitation Statement and the Supplemental Indenture will be made available upon request from the Information and Tabulation Agent and the Solicitation Agent. In addition, the results of the Solicitation will be published on the Issuer’s website at <https://corporate.puregym.com/investor-relations/reports-and-presentations?year=2020>. Neither the content of the Issuer’s website (or any other website) nor the content of any website accessible from hyperlinks on the Issuer’s website (or any other website) is incorporated into or forms part of this announcement.

None of the Information and Tabulation Agent, the Solicitation Agent or the Trustee takes any responsibility for the accuracy, adequacy, validity, correctness or completeness of the information contained in such documents and records, or for any failure by the Issuer to disclose events or circumstances which may have occurred or may affect the significance or accuracy or completeness of any such information. The Trustee will be entitled to rely solely and conclusively, without further investigation, on the certification of the Information and Tabulation Agent and the Issuer that the Required Consents have been obtained.

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## KEY DATES

*The following summary of key dates is qualified in its entirety by the more detailed information appearing elsewhere in this Consent Solicitation Statement. Capitalized terms have the meanings assigned to them elsewhere in this Consent Solicitation Statement or in the Indenture.*

Holders should take note of the following dates in connection with the Solicitation. The dates below are, however, subject to modification in accordance with the terms of the Solicitation:

<b>Event Name</b>	<b>Timing</b>	<b>Description</b>
<b>Solicitation Launch Date</b>	September 10, 2020	Commencement of the Solicitation.
<b>Expiration Time</b>	5:00 p.m. London time, on September 17, 2020, unless extended by the Issuer in its sole discretion.	The time prior to which Holders must validly deliver Consents to the Proposed Amendments.
<b>Effective Time</b>	The time at which the Issuer and the Information and Tabulation Agent certify to the Trustee that the Required Consents have been received and the Issuer and the Trustee execute the Supplemental Indenture with respect to the Notes at a convenient time as soon as practicable thereafter.	The required consents will have been received and the Supplemental Indenture will be executed at a convenient time as soon as practicable thereafter, at which time the Proposed Amendments will become effective and operative and binding on all Holders. The Solicitation will terminate at this time.  Consents may be validly revoked by Holders prior to but not on or after the Effective Time.
<b>Announcement of Solicitation Results</b>	As soon as practicable after the earlier of the Expiration Time or the Effective Time.	The date on which the results of the Solicitation are announced by the Issuer.

## BACKGROUND AND PURPOSE OF THE SOLICITATION

The Issuer's shareholders have agreed to contribute £100.0 million to the Issuer through an issue of equity interests by the Issuer and/or a capital contribution, shareholder loan and/or any subordinated funding to the Issuer and made in compliance with the Indenture (the "**Equity Injection**"). In connection with the Equity Injection, the Issuer has also agreed with certain lenders to increase commitments under its Revolving Credit Facility by £50.0 million (the "**Incremental Commitments**"), increasing the total available borrowings under the Issuer's Revolving Credit Facility from £95.0 million to £145.0 million. In aggregate, this transaction increases total liquidity to £297.0 million as at June 30, 2020, on a pro forma basis.

In connection with the Incremental Commitments, the Issuer and the lenders under the Revolving Credit Facility have further agreed to (i) suspend the testing of the leverage-based financial springing covenant until September 30, 2022 in exchange for the introduction of a requirement to maintain minimum liquidity (as defined in the amendments to such Revolving Credit Facility) of £30.0 million, (ii) extend the maturity of the Revolving Credit Facility to August 15, 2024, and (iii) impose additional restrictions on debt incurrence, restricted payments and permitted investments for so long as the covenant suspension or Incremental Commitments are in place.

Pursuant to this Solicitation, the Issuer seeks consent from Holders of the Notes to increase the fixed basket component of the "credit facilities basket" in the Indenture from £80 million to £145.0 million, which will be conditional on the receipt of the Equity Injection. This increase will allow the Issuer to borrow up to the full amount of the total commitments available under its Revolving Credit Facility on an as needed basis. See "The Proposed Amendments" for more details.

As reported in the Issuer's Q2 results, while Q2 performance was significantly impacted by COVID-19 closures, swift management action protected liquidity and cashflow during lockdown when, for a period, the whole estate was closed. Reopening our gym estate has been successful with positive member feedback, which has translated to encouraging member trends in like for like member volumes as well as gym visits. Our shareholders remain highly supportive of our business and optimistic about its long term prospects.

The Equity Injection, Incremental Commitments and amended and restated Indenture are intended to bolster the Group's balance sheet, facilitate the Group's return to a growth strategy focused on developing and opening new gym sites when the right opportunities arise and provide a cash buffer in the event local or national lockdown measures are re-imposed in connection with government COVID-management strategies.

## THE PROPOSED AMENDMENTS

Set forth below is a summary of the Proposed Amendments for which Consents are being sought pursuant to this Consent Solicitation Statement. Holders of Notes should carefully consider the factors set forth below as well as the other information set forth in this Consent Solicitation Statement prior to providing a Consent. The following statements relating to the Proposed Amendments are summaries that do not purport to be complete. Each capitalized term appearing below that is not defined herein has the meaning assigned to such term in the Indenture or the Notes, as the case may be.

### Proposed Amendments

#### *Indenture*

Section 9.02 of the Indenture and Paragraph 17 of the global notes (the “Global Notes”) provide that under certain circumstances, the Issuer and the Trustee, among others, may enter into amendments and supplements to provisions of the Indenture with the consent of holders of at least a majority in aggregate principal amount of the then outstanding Notes. The Issuer now wishes to make the Proposed Amendments to the Indenture as described below, in addition to any ancillary amendments to the Indenture that may be required to give effect to the Proposed Amendments.

#### Amendment with respect to the Credit Facilities Basket

The Supplemental Indenture would amend and restate Section 4.01(b)(1) of the Indenture in its entirety as follows:

the incurrence of Indebtedness pursuant to Credit Facilities by the Issuer or any Restricted Subsidiary and the issuance and creation of letters of credit and bankers’ acceptances thereunder (with letters of credit and bankers’ acceptances being deemed to have a principal amount equal to the face amount thereof) in an aggregate principal amount not to exceed **prior to the Equity Injection, the greater of (a) £80 million and (b) 100% of Run-Rate Adjusted EBITDA and following the Equity Injection, the greater of (a) £145.0 million and 100% of Run-Rate Adjusted EBITDA of the Issuer for the most recently ended Test Period**, provided that any Indebtedness incurred under this clause (1) may be refinanced with additional Indebtedness in an amount equal to the principal of the Indebtedness so refinanced, plus any additional amount to pay premiums (including tender premiums), accrued and unpaid interest, expenses, defeasance costs and fees in connection therewith;

#### Amendment with respect to the definition of “Run-Rate Adjusted EBITDA” in the Credit Facilities Basket

The Supplemental Indenture would add a new Section 4.01(c)(6) to the Indenture as follows:

**“following the Equity Injection, for the purposes of determining “Run-Rate Adjusted EBITDA” in relation to clause (1) of the second paragraph of this covenant, Run-Rate Adjusted EBITDA shall be measured at the option of the Issuer on the most recent date on which new commitments are obtained or the date on which new Indebtedness is Incurred or otherwise in compliance with Clause 14 (Financial Calculations: Measuring Compliance).”**

The Supplemental Indenture would add a new definition of “Equity Injection” to Section 1.01 of the Indenture as follows:

**“Equity Injection” means the contribution of no less than £100.0 million to the Issuer through an issue of equity interests by the Issuer and/or a capital contribution, shareholder loan and/or any subordinated funding to the Issuer by one or more Permitted Holders and made in compliance with the Indenture.”**

### General

If the Required Consents are not obtained prior to the Expiration Time (as it may be extended from time to time in the sole discretion of the Issuer), then all Consents will automatically terminate and the Proposed Amendments will not be implemented. If the Required Consents are obtained, from and after the time at which the

Indenture has been amended by way of the Supplemental Indenture being executed, each present and future Holder of the Notes will be bound by the Proposed Amendments, whether or not such Holder delivered a Consent.

By consenting to the Proposed Amendments, Holders will be deemed to have authorized and directed the Trustee to grant the Proposed Amendments on the terms set out under this section by entering into the Supplemental Indenture. Holders should note that Section 9.02(b) states that the consent of the Holders is not necessary under the Indenture to approve the particular form of any proposed amendment and it is sufficient if such consent approves the substance of the proposed amendment.

In accordance with normal and accepted practice, the Trustee expresses no opinion on the merits of the Proposed Amendments, nor does it make any recommendations as to whether a Holder of the Notes should deliver its Consent to the Proposed Amendments.

No consideration will be paid to Holders in connection with the solicitation of the Proposed Amendments.

**By delivering a Consent, a Holder of the Notes authorizes, directs and requests that the Trustee, upon receipt of all required documentation under the Indenture, enter into the Supplemental Indenture to give effect to the Proposed Amendments.**

#### **Effect of the Proposed Amendments**

If the Proposed Amendments become operative, certain provisions contained in the Indenture and the Notes will be amended, and Holders will not be entitled to the benefit of such provisions. In addition, if the Proposed Amendments become operative, they will be binding on all Holders and their transferees of the Notes, whether or not such Holders have consented to the Proposed Amendments. The Issuer seeks the Consents to the Proposed Amendments on a several basis and not as a single proposal. Accordingly, a Consent purporting to consent to some but not all of the Proposed Amendments will not be valid.

**The Trustee has no responsibility or liability for monitoring, tabulating or verifying compliance with deadlines or other formalities in connection with the delivery or revocation of Consents and will be relying solely, without verification or investigation, on the Issuer, the Solicitation Agent and the Information and Tabulation Agent, as applicable.**

## RISK FACTORS

*None of the Issuer, the Information and Tabulation Agent, the Solicitation Agent, the Trustee or any of their respective directors, officers, employees, agents or affiliates makes any recommendation as to whether a Holder of the Notes should consent to the Proposed Amendments, and neither the Issuer nor its board of directors has authorized any person to make any such statement. Holders are urged to evaluate carefully all information included in this Consent Solicitation Statement, consult with their own legal, investment and tax advisors and make their own decision whether to provide their consent to the Proposed Amendments pursuant to the Solicitation. In deciding whether to consent to the Proposed Amendments, you should carefully consider the following, in addition to the other information contained in this Consent Solicitation Statement.*

### ***Holders should consult with their own advisers.***

Holders should consult with their own tax, accounting, financial, legal and other advisers regarding the consequences of participating or electing not to participate in the Solicitation. Each Holder is responsible for assessing the merits of the Solicitation. None of the Issuer, any member of the Group, the Information and Tabulation Agent, the Trustee, the Solicitation Agent nor any of their respective directors, employees or affiliates, has made or will make any assessment of the impact of the Solicitation on the interests of the Holders either as a class or as individuals.

None of the Issuer, any member of the Group, the Information and Tabulation Agent, the Trustee, the Solicitation Agent nor any of their respective affiliates is acting for any Holder or will be responsible to any Holder for providing any protections which may be afforded for providing advice in relation to the Solicitation.

### ***Debt incurred under the credit facilities basket benefits from super priority payment in the event of collateral enforcement and Holders of the Notes will not control certain decisions regarding the Collateral and other distressed disposals.***

The Notes and the Guarantees are secured on a first-priority basis by the same collateral described in the Indenture (“**Collateral**”) securing the obligations under the Notes and the Revolving Credit Facility. In addition, the terms of the Indenture permit us to incur significant additional indebtedness and other obligations that may be secured by the same Collateral on a *pari passu* or on a super priority basis relative to the Notes.

Pursuant to the intercreditor agreement dated November 28, 2017 between, inter alios, the Issuer, the Security Agent and the agent under the terms of the Revolving Credit Facility on behalf of the lenders thereunder (the “**Intercreditor Agreement**”), lenders under the Revolving Credit Facility, providers of certain additional super senior indebtedness, certain hedging obligations, Deutsche Bank AG, London Branch (the “**Security Agent**”), any receiver and certain creditor representatives, including the Trustee, are entitled to be repaid with the proceeds of the Collateral sold in any enforcement sale and all amounts received by the Security Agent pursuant to the turnover provisions of the Intercreditor Agreement in priority to the Notes. As such, in the event of a foreclosure of the Collateral or any other distressed disposal, Holders of the Notes may not be able to recover on the Collateral if the aggregate of the then outstanding claims under super senior indebtedness are greater than or equal to the proceeds realized. Any proceeds from an enforcement sale of the Collateral by any creditor and all amounts received by the Security Agent pursuant to the turnover provisions of the Intercreditor Agreement will, after all obligations under super senior indebtedness have been discharged from such recoveries, be applied pro rata in repayment of the Notes, any other obligations secured by the Collateral which are permitted to rank *pari passu* with the Notes and certain non-priority hedging obligations.

The lenders under our super senior indebtedness may have interests that are different from the interests of Holders of the Notes and they may, subject to the terms of the Intercreditor Agreement, elect to pursue their remedies in respect of the Collateral at a time when it would be disadvantageous for the holders of the Notes and the Notes to do so.

### ***The settlement of the Solicitation may not occur or may be delayed significantly.***

The consummation of the Solicitation is conditional upon the satisfaction of the following conditions: that (i) the applicable Required Consents are received and (ii) there are no laws, regulations, injunctions or actions or other proceedings, pending or threatened, which, in the case of any action or proceeding if adversely determined, would make unlawful or invalid or enjoin the implementation of the Proposed Amendments; *provided* that the Proposed Amendments will not become effective and operative until after the

Supplemental Indenture is executed.

In addition, the Issuer may, in its sole discretion, extend, re-open, amend or terminate the Solicitation at any time and for any reason. Even if the Solicitation is completed, it may not be completed on the schedule described in this Consent Solicitation Statement (but, once operative, will have effect as of the Effective Time). Settlement of the Solicitation may also become subject to litigation, which may delay or prevent settlement of the transactions contemplated by this Consent Solicitation Statement or require us to pay damages in the event of an adverse judicial decision.

***There can be no assurance that the Proposed Amendments will become effective and operative.***

The Proposed Amendments will become effective and operative as of the Effective Time; *provided that* (i) the applicable Required Consents are received and (ii) there are no laws, regulations, injunctions or actions or other proceedings, pending or threatened, which, in the case of any action or proceeding if adversely determined, would make unlawful or invalid or enjoin the implementation of the Proposed Amendments; *provided, further*, that the Proposed Amendments will not become effective and operative until after the Supplemental Indenture is executed.

***Notes for which Consents are delivered will be blocked from being transferred until the earliest of the Effective Time, the Expiration Time, the date on which Holders revoke such Consents or the date on which the Solicitation is terminated.***

The Notes for which a Consent has been delivered through the procedures of Euroclear Bank SA/NV and Clearstream Banking S.A. (“Euroclear” and “Clearstream”, respectively) as part of the Solicitation prior to the earlier of the Effective Time and the Expiration Time will be blocked from trading during the period beginning at the time the Direct Participant (as defined in “*The Solicitation*”) electronically delivers a Consent and ending on the earlier of (i) the Effective time, (ii) the Expiration Time, (iii) the date on which the Direct Participant validly revokes its Consent prior to the Effective Time, and (iv) the date on which the Solicitation terminates. During the period that the Notes are blocked, such Notes will not be freely transferable to third parties.

In the period of time during which the Notes are blocked pursuant to the foregoing procedures for delivering Consents, Holders may be unable to promptly transfer or sell their Notes or timely react to adverse trading conditions and could suffer losses as a result of these restrictions on transferability.

***Holders are responsible for complying with the procedures of the Solicitation.***

Holders are responsible for complying with all of the procedures for delivering Consents pursuant to the terms of this Consent Solicitation Statement. None of the Issuer, the Information and Tabulation Agent, the Solicitation Agent or the Trustee assumes any responsibility for informing Holders of irregularities with respect to Consents submitted by any Holder. Consents may only be validly revoked as provided in this Consent Solicitation Statement.

***Electronic Consent Instructions submitted by Sanctions Restricted Persons will not be accepted.***

A beneficial owner of the Notes who is a Sanctions Restricted Person (as defined in “*Procedures for delivering consents*”) may not participate in the Solicitation. No Electronic Consent Instructions (as defined herein) submitted by a Sanctions Restricted Person will be accepted or counted, notwithstanding the purported delivery (and non-withdrawal or revocation) of an Electronic Consent Instruction by it in respect of the Solicitation on or before the Expiration Time.

***The Issuer has reserved certain rights in connection with the Solicitation.***

The Issuer expressly reserves the right, in its sole discretion, at any time to (i) terminate the Solicitation, (ii) waive any of the conditions to the Solicitation, (iii) extend the Expiration Time or (iv) amend the terms of the Solicitation in any manner.

## THE SOLICITATION

### General

Pursuant to Section 9.02 of the Indenture, the Proposed Amendments require the receipt of the Required Consents, consisting of the valid and unrevoked Consents of Holders of a majority in aggregate principal amount of the Notes then outstanding under the Indenture prior to the Expiration Time.

The Notes will be treated as a single series in determining whether the Required Consents have been received. As of the date of this Consent Solicitation Statement, the outstanding aggregate principal amount of the Notes was £430,000,000. As of the date of this Consent Solicitation Statement, none of the Issuer or any Subsidiary held any Notes.

No consideration will be paid to Holders for any Consent.

The Proposed Amendments will become effective and operative as of the Effective Time (provided that there are no laws, regulations, injunctions or actions or other proceedings, pending or threatened, which, in the case of any action or proceeding if adversely determined, would make unlawful or invalid or enjoin the implementation of the Proposed Amendments).

If the Required Consents are obtained and all requested documents are delivered to the Trustee in form and substance reasonably satisfactory to the Trustee, the Issuer and the Trustee, together with the other parties thereto, will enter into the Supplemental Indenture in respect of the Indenture and the Notes to give effect to the Proposed Amendments. If the Supplemental Indenture is executed, the Proposed Amendments as set forth in the Supplemental Indenture will be binding on all Holders and their transferees whether or not such Holders have consented to the Proposed Amendments, with effect from the Effective Time.

In order to provide a Consent, each person who is shown in the records of the Clearing Systems as a Holder of the Notes (also referred to as a “**Direct Participant**”) must submit, prior to the Expiration Time, a Consent in the applicable manner described below.

Holders who wish to provide a Consent and whose Notes are held in the name of a broker, dealer, commercial bank, trust company or other nominee institution must contact such nominee promptly and instruct such nominee, to consent in accordance with the customary procedures of the Clearing Systems, on behalf of the Holder. The deadlines set by any such custodial entity and the Clearing Systems for the submission of consents to the Proposed Amendments may be earlier than the deadlines specified in this Consent Solicitation Statement.

The term “Holder” means:

- (a) a Direct Participant (as defined herein);
- (b) any broker, dealer, commercial bank, trust company or other nominee or custodian who holds Notes; and
- (c) each beneficial owner of Notes holding such Notes directly or indirectly, in accounts in the name of a Direct Participant acting on the beneficial owner’s behalf (a “**Beneficial Owner**”).

The Trustee has no responsibility or liability for monitoring, tabulating or verifying compliance with deadlines or other formalities in connection with the delivery or revocation of Consents and will be relying solely, without investigation or verification, on the Issuer, the Solicitation Agent and the Information and Tabulation Agent, as applicable.

None of the Information and Tabulation Agent, the Solicitation Agent or the Trustee, or any of their respective directors, officers, employees, agents or affiliates, expresses any opinion on the merits of the Proposed Amendments or makes any recommendation as to whether Holders, Direct Participants or beneficial owners should deliver their Consents.

If the Required Consents for the Proposed Amendments have not been received prior to the Expiration

Time, the Issuer may, in its sole discretion, extend the Expiration Time for a specified period of time or on a daily basis until the applicable Required Consents have been obtained. Consents will expire if the applicable Required Consents have not been obtained on or before the Expiration Time (as may be extended).

**If the Proposed Amendments become operative, Holders who did not consent to the Proposed Amendments prior to the Expiration Time and Holders whose Consents were validly revoked prior to the Effective Time, including any transferees of the Notes from such Holders, will still be bound by the Proposed Amendments. Failure to deliver a Consent will have the same effect as if a Holder had voted “No” to the Proposed Amendments.**

None of the Issuer, the Information and Tabulation Agent, the Solicitation Agent or the Trustee is responsible if any Holder fails to meet these deadlines and cannot validly deliver its Consent.

#### **Failure to Obtain Required Consents**

In the event that the Required Consents are not obtained prior to the Expiration Time, any other condition set forth in this Consent Solicitation Statement is not satisfied or waived, or the Solicitation is terminated, the applicable Proposed Amendments will not become effective or operative. For the avoidance of doubt, the Issuer seeks the Consents to the Proposed Amendments on a several basis and not as a single proposal. Accordingly, a Consent purporting to consent to some but not all of the Proposed Amendments will not be valid.

The term “**Expiration Time**” means 5:00 p.m., London time, on September 17, 2020, unless the Issuer, in its sole discretion, extends the Expiration Time, in which case the Expiration Time shall be the latest date and time for which an extension is effective. The Issuer may extend the Expiration Time on a daily basis or for a specified period of time. In order to extend the Expiration Time, the Issuer will notify the Information and Tabulation Agent of any extension by written notice and will notify the Holders, in each case, prior to 9:00 a.m. London time, on the next business day after the previously scheduled Expiration Time. The Issuer may elect to utilize any means reasonably calculated to inform the Holders of such extension. Failure of any Holder of the Notes to be so notified will not affect any extension of the Solicitation. Upon the earlier of the Effective Time or the Expiration Time (as may be extended), the Notes which were blocked from trading due to the delivery of a Consent are expected to be unblocked by the relevant Clearing System.

**The Issuer expressly reserves the right, in its sole discretion, at any time to (i) terminate the Solicitation, (ii) waive any of the conditions to the Solicitation, (iii) extend the Expiration Time or (iv) amend the terms of the Solicitation in any manner.**

If the Issuer elects to waive any of the conditions to the Solicitation, extend the Expiration Time or amend the terms of the Solicitation in a manner favorable to the Holders, all Consents received will remain valid (and subject to revocation prior to the Effective Time as provided in this Consent Solicitation Statement) until the Expiration Time (including any extension thereof). If the Issuer amends the terms of the Solicitation in a manner prejudicial to the Holders, all Consents received will be cancelled and the Holders who wish to provide a Consent will be required to submit a new Consent.

Without limiting the manner in which the Issuer may choose to notify Holders and the Trustee of any extension, amendment or termination of the Solicitation, the Issuer will have no obligation to publish, advertise, or otherwise communicate such public announcement, other than by complying with any applicable notice provisions of the Indenture.

None of the Issuer, the Information and Tabulation Agent, the Solicitation Agent or the Trustee is responsible if any Holder fails to meet the deadlines and cannot participate in the Solicitation.

#### **Procedures for delivering Consents**

**The Issuer will accept Consents given in accordance with the customary procedures of Euroclear and Clearstream.**

**UNDER NO CIRCUMSTANCES SHOULD ANY PERSON TENDER OR DELIVER NOTES TO THE ISSUER, THE INFORMATION AND TABULATION AGENT, THE SOLICITATION AGENT OR THE TRUSTEE AT ANY TIME.**



The Issuer will resolve all questions as to the validity, form, eligibility (including time of receipt) and acceptance and revocation of Consents, and those determinations will be binding. The Issuer reserves the right with respect to any of its Notes to reject any or all Consents and revocations not validly given or any Consents the acceptance of which could, in the opinion of the Issuer's counsel, be unlawful. The Issuer also reserves the right to waive any defects or irregularities in connection with deliveries or to require a cure of such irregularities within such time as the Issuer determines. None of the Issuer, the Information and Tabulation Agent, the Trustee, the Solicitation Agent or any other person will have any duty to give notification of any such defects or irregularities, nor will any of them incur any liability for failure to give such notification. Deliveries of Consents or notices of revocation will be deemed not to have been made until such irregularities have been cured or waived. The delivery of a Consent pursuant to the procedures set forth herein will constitute a binding agreement between Holders and the Issuer in accordance with the terms and subject to the conditions set forth in this Consent Solicitation Statement.

#### *Representations, Warranties and Undertakings*

By delivering a Consent in accordance with Euroclear or Clearstream's procedures, as applicable, each Holder is deemed, at the time of delivery, the Expiration Time and the Effective Time, to represent, warrant and undertake to the Issuer, the Information and Tabulation Agent and the Trustee that:

- the Holder received, reviewed, understands and accepts the terms, conditions and other considerations set forth in this Consent Solicitation Statement and understands that the Holder is consenting to the Proposed Amendments upon the terms and subject to the conditions set forth in this Consent Solicitation Statement;
- the Holder acknowledges that the Holder consents to the Solicitation as described in this Consent Solicitation Statement and authorizes, directs and requests the execution and delivery of the Supplemental Indenture;
- the Holder acknowledges that the delivery of a Consent in accordance with Euroclear or Clearstream's procedures constitutes the Holder's written consent to the Solicitation;
- the Holder acknowledges that all authority conferred or agreed to be conferred pursuant to these representations, warranties and undertakings and every obligation of the Holder and the Consents given by the Holder in respect of the Indenture will be binding upon the successors, assigns, heirs, executors, administrators, trustees in bankruptcy and legal representatives of the Holder and will not be affected by, and shall survive, the death or incapacity of the Holder;
- the Holder has observed the laws of all relevant jurisdictions, obtained all requisite governmental, exchange control or other required consents, complied with all requisite formalities and paid any issue, transfer or other taxes or requisite payments due from it in connection with the delivery of a Consent in favor of the Solicitation, in any jurisdiction, and it has not taken any action or omitted to take any action in breach of these representations or which will or may result in the Issuer, Trustee, the Information and Tabulation Agent, the Solicitation Agent or any other person acting in breach of the legal or regulatory requirements of any such jurisdiction in connection with any roles in favor of the Consent;
- the Holder is assuming all risks inherent in participating in the Solicitation and has undertaken appropriate analysis of the implications of the Solicitation without reliance on the Information and Tabulation Agent, the Trustee, the Solicitation Agent or their respective directors, officers, employees, agents or affiliates;
- the Holder acknowledges that the Notes have been blocked in the securities account to which such Notes are credited in the relevant Clearing System with effect from the time the Direct Participant electronically delivers a Consent and ending on the earlier of (i) the Effective Time, (ii) the termination or withdrawal of the Solicitation by the Issuer, (iii) the date on which the Direct Participant validly revokes its Consent prior to the Effective Time for the Notes and (iv) the Expiration Time;
- no information has been provided to the Holder by the Information and Tabulation Agent, the Solicitation Agent or the Trustee with regard to the tax consequences to Holders arising from the

participation in the Solicitation, and the Holder acknowledges that the Holder is solely liable for any taxes and similar or related payments imposed on the Holder under the laws of any relevant jurisdiction as a result of the Holder's participation in the Solicitation and agrees that the Holder will not and does not have any right of recourse (whether by way of reimbursements, indemnity or otherwise) against the Information and Tabulation Agent, the Trustee, the Solicitation Agent or any other person in respect of such taxes and payments;

- the Holder does hereby release and forever discharge and hold harmless the Information and Tabulation Agent, the Trustee, the Solicitation Agent and their respective employees, officers, directors, affiliates, and agents, predecessors and successors, of and from any and all manner of actions, causes of actions, suits, debts, dues, accounts, bonds, covenants, contracts, agreements, judgments, claims and demands whatsoever in law or in equity arising from and relating to the receipt of the Required Consents to give effect to the Proposed Amendments and the execution of the Supplemental Indenture to give effect to the Proposed Amendments and any transactions contemplated in connection with the Consent and the Consent Solicitation Statement;
- the Holder authorizes, directs, instructs and requests that the Trustee enter into the Supplemental Indenture to give effect to the Proposed Amendments;
- the Holder empowers, authorizes, and requests the Trustee to do all such other things as may be necessary or expedient to carry out and give effect to the Proposed Amendments;
- the Holder declares and acknowledges that the Trustee will not be held responsible for, and will hold the Trustee harmless from, any liabilities, losses, damages, costs, charges, expenses and/or consequences suffered or incurred by such holder as a result of any claims (whether or not successful, compromised or settled), actions, demands or proceedings brought against the Trustee and against all losses, liabilities, damages, costs, charges and expenses (including legal fees) which the Trustee may suffer or incur, arising as a result of acts taken by it or pursuant to the terms of the Consent or this Consent Solicitation Statement or signing the Supplemental Indenture and giving effect to the Proposed Amendments, and the Holders further declare that the Trustee has no responsibility for the terms of the Consent or this Consent Solicitation Statement;
- the Holder agrees to indemnify the Trustee and its respective affiliates, directors, officers, employees and agents against any and all losses, costs, claims liabilities, expenses, charges, actions or demands, which the Trustee may incur or which may be made against it as a result of any breach of any of the terms of, or any of the acknowledgements, representations, warranties and/or undertakings given pursuant to this Consent Solicitation by such Holder;
- the Holder declares and acknowledges that the Trustee will not be held responsible for any liabilities or consequences arising as a result of acts taken by such Holder pursuant to the terms of the Consent Solicitation or the Consent Solicitation Statement;
- the Holder declares and acknowledges that he/she/it is not (a) a person that is, or is owned or controlled by a person that is, described or designated as a "specially designated national" or "blocked person" in the most current U.S. Treasury Department list of "Specially Designated National and Blocked Persons" or an entity included in the Sectoral Sanctions Identifications List or in the European Union and UK Consolidated Lists of financial sanctions; (b) a person that is organized, resident or located in a country or territory subject to comprehensive or country-wide economic sanctions; (c) currently subject to, or in violation of, any sanctions under (x) the laws and regulations that have been officially published and are administered or enforced by the U.S. Government (including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State), or any enabling legislation or executive order relating thereto; or (y) any equivalent sanctions or measures officially published and imposed by the European Union, any member state of the European Union, the United Kingdom's Her Majesty's Treasury, the United Nations or any other relevant sanctions authority, including sanctions imposed against certain states, organizations and individuals under the European Union's Common Foreign & Security Policy; or (d) a person acting for or on behalf of any of the foregoing parties (each, a "**Sanctions Restricted Person**"). The representation set out above, when given at the Expiration Time and at the Effective Time, is only sought and given to the extent that to do so would not result in a violation of the EU Blocking Regulation and/or any associated and applicable national

law, instrument or regulation similar to the EU Blocking Regulation which may be implemented by the United Kingdom;

- the Holder declares and acknowledges that the Information and Tabulation Agent, the Trustee, the Solicitation Agent and any of their respective directors, officers, employees, agents or affiliates make no recommendation as to whether a Holder of the Notes should consent to the Proposed Amendments nor independently verified nor makes any representation or warranty, express or implied, nor assumes any responsibility as to the accuracy or adequacy of the information contained herein; and
- the Holder hereby acknowledges that this Consent Solicitation Statement and the transactions contemplated hereby will not be deemed to be investment advice or a recommendation as to a course of conduct by the Information and Tabulation Agent, the Trustee, the Solicitation Agent or any of their respective directors, officers, employees or agents; the Holder further represents that, in delivering a Consent in accordance with Euroclear, or Clearstream's procedures, it has made an independent investment decision in consultation with its own agents and professionals.

### *Euroclear and Clearstream*

#### Electronic Consent Instructions

Consent for the Notes shall be given through the procedures of Euroclear or Clearstream. To deliver Consents by Electronic Consent Instruction (as defined herein), a Holder should either (i) contact Euroclear or Clearstream for participation procedures and deadlines regarding the submission of a tested telex, authenticated SWIFT message, a Euclid server or Creation instruction (each an "**Electronic Consent Instruction**") to authorize the delivery of Consents for such Holder; or (ii) request such Holder's broker, dealer, bank, trust company or other nominee to effect the submission of an Electronic Consent Instruction to authorize the delivery of Consents for such Holder. Holders whose Notes are held on their behalf by a broker, dealer, bank, trust company or other nominee must contact such entity if they desire to consent to the Solicitation.

Notwithstanding the Consents delivered by each Holder by means of an Electronic Consent Instruction, each Holder thereby agrees that such Electronic Consent Instruction constitutes a written consent to the Solicitation.

For the avoidance of doubt, only Direct Participants in Euroclear or Clearstream can submit an Electronic Consent Instruction. The receipt of such Electronic Consent Instruction by Euroclear or Clearstream may be acknowledged in accordance with the standard practices of Euroclear or Clearstream, however, any such acknowledgement does not constitute an acceptance of the Consent by or on behalf of the Issuer.

#### Delivering Consents

A Holder may provide Consent by submitting, or requesting the Direct Participant to submit on its behalf, a valid Electronic Consent Instruction to Euroclear or Clearstream in accordance with the requirements established by the relevant Clearing House. The Holder or its Direct Participant must clearly state in the Electronic Consent Instruction:

- the aggregate principal amount of Notes with respect to which the Holder wishes to deliver a Consent;
- the name of the Direct Participant and the securities account number for Euroclear or Clearstream in which the Notes are held; and
- the name of the beneficial owner, their email address and telephone number.

All of this information in the Electronic Consent Instruction will be disclosed to the Issuer, the Trustee and the Information and Tabulation Agent.

The Consent by a Holder of Notes will, on acceptance of the Consent by the Issuer and verification to the Holders in aggregate thereof, constitute a binding agreement between such Holder and the Issuer in accordance with the terms, and subject to the conditions, set forth in this Consent Solicitation Statement and in the Electronic

Consent Instruction, as the case may be. Such Consent will be binding on the consenting Holder upon receipt by Euroclear or Clearstream of a valid Electronic Consent Instruction in respect of all matters. A Consent by a Holder may be revoked prior to the Effective Time.

The Electronic Consent Instructions by which Holders are to effect their Consent will include an authorization of Euroclear or Clearstream, as the case may be, to block the Notes for which Consents are delivered in the account of the Direct Participant so that no transfers may be effected in relation to such Notes at any time from and including the date on which the Holder submits its Electronic Consent Instruction until the Effective Time, the Expiration Time or the prior termination or withdrawal of the Solicitation by the Issuer or, in the case of the Notes in respect of which the Consent has been validly revoked prior to the Effective Time, the date on which such Consent is validly revoked.

The deadlines imposed by each of Euroclear and Clearstream for the submission of Electronic Consent Instructions may be earlier than the relevant deadlines specified in this Consent Solicitation Statement.

#### Separate Instructions

A separate Electronic Consent Instruction must be completed on behalf of each beneficial owner in respect of each series of Notes.

#### No Letter of Transmittal or Consent Form

No consent form or letter of transmittal needs to be executed in relation to the Solicitation or the Consents delivered through Euroclear or Clearstream. The submission of an Electronic Consent Instruction in the name provided in this Consent Solicitation Statement shall constitute written consent to the Solicitation.

#### No Guaranteed Delivery

There are no guaranteed delivery procedures provided by the Issuer in connection with the Solicitation. Beneficial owners of Notes that are held in the name of a custodian must contact such entity sufficiently in advance of the Expiration Time if they wish to deliver Consents.

The Issuer shall have the right to determine whether any purported Consent satisfies the requirements of this Consent Solicitation Statement and the Indenture, and any such determination shall be final and binding on the Holder who delivered such Consent or purported Consent.

All Consents will be made on the basis of the terms set out in this Consent Solicitation Statement and, once made in the manner described above, will (subject to the conditions mentioned above) be irrevocable and binding on the relevant Holder. Consents may only be made by submission of a valid Electronic Consent Instruction to Euroclear or Clearstream no later than the Expiration Time.

The receipt of an Electronic Consent Instruction by Euroclear or Clearstream will be acknowledged in accordance with the standard practices of Euroclear or Clearstream. All questions as to validity, form and eligibility (including time of receipt) of any Electronic Consent Instruction will be determined solely by the Issuer. Such determination by the Issuer as to whether or when an Electronic Consent Instruction is received, whether it is duly completed and signed or whether a Consent is validly revoked shall be final and binding.

Holders must submit or deliver Electronic Consent Instructions through Euroclear or Clearstream in accordance with the procedures of, and within the time limits specified by, Euroclear or Clearstream for receipt by the Information and Tabulation Agent prior to the Expiration Time.

By submitting or delivering an Electronic Consent Instruction through Euroclear or Clearstream to the Information and Tabulation Agent, Holders are deemed to authorize Euroclear or Clearstream to disclose their identity, holdings and Euroclear or Clearstream account details to the Issuer, the Trustee and the Information and Tabulation Agent.

Holders who are not direct accountholders in Euroclear or Clearstream should arrange for the account holder through which they hold their Notes to submit or deliver an Electronic Consent Instruction on their behalf to and through Euroclear or Clearstream, in accordance with the procedures of, and within the time limits specified by, Euroclear or Clearstream for receipt by the Information and Tabulation Agent prior to the Expiration Time.

*The Issuer has the right to extend or terminate the Solicitation in its sole discretion at any time and for any reason, including for failure to satisfy any condition to the Solicitation. The Expiration Time may not occur on the schedule described in this Consent Solicitation Statement. Accordingly, Holders who deliver an Electronic Consent Instruction or that deliver and surrender Notes and thereby deliver an electronic Consent, to the extent not validly revoked prior to the Effective Time, may have to wait longer than expected for the Expiration Time, during which time such Holders will not be able to effect transfers or sales of their Notes to third parties until the Notes are unblocked or returned, as applicable, on the next business day following the Expiration Time.*

**UNDER NO CIRCUMSTANCES SHOULD ANY PERSON TENDER OR DELIVER THE NOTES IN CONNECTION WITH THIS CONSENT SOLICITATION AT ANY TIME.**

### **Revocation of Consents**

A Holder may validly revoke its Consent at any time prior to but not on or after the Effective Time. All Consents validly received by the Information and Tabulation Agent at or prior to the Expiration Time will be counted, unless, at any time prior to the Effective Time, a notice of revocation is delivered in accordance with the procedures of Euroclear or Clearstream, as described below. Any notice of a revocation request received after the Effective Time will not be effective, even if received prior to the Expiration Time. From the Effective Time, a Consent by a Holder of the Notes will bind the Holder and every subsequent holder of such Notes or portion of such Notes, even if notation of the Proposed Amendments is not made on such Notes.

Any Holder of Notes that has delivered Consents through Euroclear or Clearstream may validly revoke such Consents prior to the Effective Time by submission of an electronic withdrawal instruction through Euroclear or Clearstream. If the Holder has requested that a custodian submit an Electronic Consent Instruction on its behalf and wishes to withdraw its Electronic Consent Instruction, the Holder should contact such custodian prior to the Effective Time. The Holder should be aware, however, that the custodian may impose earlier deadlines for withdrawing or revising an Electronic Consent Instruction in accordance with its procedures.

To be effective, a notice of revocation must be in a format customarily used by Euroclear or Clearstream, as applicable.

A revocation of the Consent will be effective only as to the Notes listed on the revocation and only if such revocation complies with the provisions of this Consent Solicitation Statement. Only a Holder is entitled to revoke a Consent previously given. A beneficial owner of the Notes must arrange with its broker, dealer, commercial bank, trust company or other nominee company to execute and deliver on its behalf a revocation of any Consent already given with respect to such Notes.

A purported notice of revocation that is not received by the Information and Tabulation Agent or through Euroclear or Clearstream procedures in a timely fashion and accepted by the Issuer as a valid revocation will not be effective to revoke a Consent previously given.

A revocation of a Consent may only be rescinded by the execution and delivery of a new Consent in accordance with the procedures set forth in this Consent Solicitation Statement. A Holder who has delivered a revocation may, after such revocation, give Consent at any time prior to the Expiration Time.

The Issuer reserves the absolute right to contest the validity of any notice of revocation, and all questions as to the validity (including time of receipt) of any revocation will be determined by the Issuer in its sole discretion, which determination will be conclusive and binding. None of the Issuer or any of our affiliates, the Information and Tabulation Agent, the Trustee or any other person will be under any duty to give notification of any defects or irregularities with respect to any revocation, nor shall any of such parties incur any liability for failure to give such information.

## CERTAIN UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS

The discussion set out below represents a summary of the anticipated U.S. federal income tax consequences of the Solicitation, including the adoption of the Proposed Amendments relevant to U.S. Holders (as defined below) that hold the Notes as capital assets within the meaning of Section 1221 of the U.S. Internal Revenue Code of 1986, as amended (the “Code”). The discussion below is based upon the provisions of the Code and the Treasury regulations, administrative pronouncements and judicial decisions thereunder as of the date of this Consent Solicitation Statement. These authorities may be repealed, revoked or modified at any time, perhaps retroactively, so as to result in U.S. federal income tax considerations different from those discussed below. There can be no assurance that the U.S. Internal Revenue Service (“IRS”) will not challenge one or more of the tax consequences described herein, and the Issuer has not obtained, and does not intend to obtain, a ruling from the IRS with respect to the U.S. federal income tax consequences of the Solicitation, including the adoption of the Proposed Amendments.

The following summary describes certain U.S. federal income tax considerations for U.S. Holders related to the Solicitation, including the adoption of the Proposed Amendments. This summary does not address the U.S. federal income tax considerations related to the acquisition, ownership or disposition of the Notes. This discussion does not discuss all of the tax considerations that may be relevant to certain types of investors subject to special treatment under U.S. federal income tax laws, including any investors that are:

- U.S. expatriates and former citizens or long-term residents of the United States or entities covered by the U.S. anti-inversion rules;
- persons liable for the alternative minimum tax;
- U.S. Holders whose functional currency is not the U.S. dollar;
- persons holding the Notes as part of a hedge, straddle or other risk reduction strategy or as part of a conversion transaction or other integrated investment;
- banks, insurance companies, and other financial institutions;
- real estate investment trusts and regulated investment companies;
- brokers, dealers and traders in securities;
- individual retirement and other tax-deferred accounts;
- S corporation, partnerships or other pass-through entities or arrangements for U.S. federal income tax purposes (and investors therein);
- persons that are members of an “expanded group” within the meaning of Treasury Regulations Section 1.385-1 of which the Issuer is also a member;
- persons who actually or constructively own more than 10% of our voting stock;
- tax-exempt organizations and governmental organizations; or
- persons subject to special tax accounting rules as a result of gross income with respect to the Notes being taken into account in an “applicable financial statement” (within the meaning of Section 451 of the Code).

This summary does not represent a detailed description of the U.S. federal income tax considerations relevant to a U.S. Holder in light of the U.S. Holder’s particular circumstances and does not address U.S. state, local or non-U.S. tax considerations or any U.S. tax considerations (e.g., the estate and gift tax or the Medicare tax on net investment income) other than U.S. federal income tax considerations. This discussion also does not address any considerations with respect to FATCA (which for this purpose means Sections 1471 through 1474 of the Code, the Treasury regulations and administrative guidance thereunder, and any intergovernmental agreements

in connection therewith).

As used herein, a “**U.S. Holder**” means a beneficial owner of a Note that, for U.S. federal income tax purposes, is (i) a citizen or individual resident of the United States, (ii) a corporation (or any other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States or any state thereof or the District of Columbia, (iii) an estate the income of which is subject to U.S. federal income taxation regardless of its source or (iv) a trust if (X) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust or (Y) the trust has a valid election in effect under applicable Treasury regulations to be treated as a U.S. person.

If an entity or arrangement that is classified as a partnership for U.S. federal income tax purposes holds a Note, the U.S. federal income tax treatment of a partner in such partnership will generally depend on the status of the partner and upon the activities of the partnership. Partnerships holding a Note and partners in such partnerships should consult their tax advisers as to the particular U.S. federal income tax consequences of the Solicitation, including the adoption of the Proposed Amendments.

**The below summary is not intended to constitute a complete analysis of all U.S. federal income tax considerations related to the Solicitation. Holders of Notes should consult their own tax advisers concerning the U.S. federal, state and local and non-U.S. and other tax consequences of the Solicitation and the potential adoption of the Proposed Amendments in light of their particular situations.**

### *The Proposed Amendments*

Under general principles of U.S. federal income tax law, the modification of a debt instrument can give rise to a deemed exchange under Section 1001 of the Code upon which gain or loss is realized if the modified debt instrument differs materially either in kind or in extent from the original debt instrument, even if no actual exchange of the debt instrument occurs. Generally, the modification of a debt instrument results in a deemed exchange of the original debt instrument for a modified instrument if such modification is a “significant modification” within the meaning of the U.S. Treasury regulations promulgated under Section 1001 of the Code (the “**Regulations**”). The Regulations provide that a modification is a “significant modification” only if, based on all the facts and circumstances and taking into account all changes in the terms of the debt instrument collectively (other than certain specified changes), the legal rights or obligations that are altered and the degree to which they are altered are “economically significant”, provided that a modification that adds, deletes, or alters customary accounting or financial covenants does not give rise to a “significant modification” of the debt instrument. The Regulations do not, however, define “customary accounting or financial covenants.”

The U.S. federal income tax consequences to U.S. Holders of the adoption of the Proposed Amendments will depend upon whether the transactions are treated (either individually or in the aggregate) as a “significant modification” that results in a deemed exchange of the existing Notes for “new” Notes. The Issuer intends to take the position, to the extent it is required to take a position, that the adoption of the Proposed Amendments will not (either individually or in the aggregate) constitute a significant modification of the Notes. Assuming such treatment, a U.S. Holder should not recognize any gain or loss for U.S. federal income tax purposes with respect to the Notes as a result of the adoption of the Proposed Amendments (regardless of whether the U.S. Holder consents to the Proposed Amendments), and should continue to have the same tax basis and holding period in the Notes as such U.S. Holder had immediately prior to the adoption.

The foregoing characterization of the adoption of the Proposed Amendments is not binding upon the IRS, and the IRS might assert that such transactions result in a significant modification of the Notes. If such assertion were successful, U.S. Holders would be treated as if they had exchanged their existing Notes for “new” Notes that reflect the adoption of the Proposed Amendments. Such treatment could result in a U.S. Holder recognizing gain or loss on the deemed exchange, unless the deemed exchange qualifies as a recapitalization for U.S. federal income tax purposes (in which case gain, but not loss, could be recognized). In addition, any deemed “new” Notes may be treated as issued with original issue discount. U.S. Holders should consult their tax advisors concerning the U.S. federal income tax consequences of any such deemed exchange, including any reporting or filing obligations they may have as a result of the Solicitation.

**The above description is not intended to constitute a complete analysis of all tax consequences relating to the Solicitation. U.S. Holders should consult their own tax advisers concerning the tax consequences of their particular situations.**

## **INFORMATION AND TABULATION AGENT**

The Issuer has retained Lucid Issuer Services Limited as Information and Tabulation Agent.

The Information and Tabulation Agent does not assume any responsibility for the accuracy or completeness of the information contained in this Consent Solicitation Statement or for any failure to disclose events that may have occurred and may affect the significance or accuracy of such information.

The Issuer has not authorized the Information and Tabulation Agent to give any information or make any representations in connection with the Solicitation other than those contained in this Consent Solicitation Statement and, if given or made, such information or representations must not be relied upon as having been authorized.



## SOLICITATION AGENT

The Issuer has retained Barclays Bank plc as Solicitation Agent with respect to this Consent Solicitation. The Issuer and the Solicitation Agent have entered into a solicitation agent agreement that contains provisions regarding, *inter alia*, (i) payment or reimbursement by us for certain reasonable fees or expenses incurred by the Solicitation Agent in connection with such services and (ii) indemnification of the Solicitation Agent by us against certain liabilities, including liabilities under securities laws, in connection with this Consent Solicitation.

From time to time, the Solicitation Agent may engage in transactions with us, including acting as an underwriter, dealer or agent in the ordinary course of business. The Solicitation Agent and its affiliates are full-service financial institutions engaged in various activities, including securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. In particular, the Solicitation Agent and its affiliates have, from time to time, performed, and may in the future perform, various financial advisory and investment banking services for us or our, for which they have received or will receive customary fees and expenses. The Solicitation Agent was an initial purchaser and a joint global coordinator in connection with the Notes. The Solicitation Agent or certain of its affiliates are lenders or agents under certain other debt financings of the Group and have received and will receive customary fees and commissions for their services in such capacities.

Questions with respect to the terms of this Consent Solicitation should be directed to the Solicitation Agent at its contact details set forth on the back cover of this Consent Solicitation Statement.

The Solicitation Agent does not assume responsibility for the accuracy or completeness of the information contained in this Consent Solicitation Statement or for any failure to disclose events that may have occurred and may affect the significance or accuracy of such information.

## **EXPENSES OF THE SOLICITATION**

The Issuer has agreed to pay, in addition to any amounts to which the Solicitation Agent may be entitled under the Solicitation Agency Agreement, the fees and expenses of the Information and Tabulation Agent and the Trustee, and their respective agents and counsel, for services in connection with the Solicitation.

Pinnacle Bidco plc



**Solicitation of Consents to the Proposed Amendments**

**The Information and Tabulation Agent**

**Lucid Issuer Services Limited**

**Tankerton Works  
12 Argyle Walk  
London WC1H 8HA  
United Kingdom  
Attn: Mu-yen Lo  
Phone: +44 (0)207 704 0880  
Email: [pinnacle@lucid-is.com](mailto:pinnacle@lucid-is.com)**

**The Solicitation Agent**

**Barclays Bank plc**

**Phone: +44 20 3134 8515  
Email: [eu.lm@barclays.com](mailto:eu.lm@barclays.com)  
Attention: Liability Management Group**

Capitalized terms used but not defined in this Annex A have the meanings assigned to such terms in the Solicitation Agency Agreement to which this Annex A is attached (the “**Agreement**”).

The Issuer (the “**Indemnifying Party**”) agrees to indemnify and hold harmless the Solicitation Agent, its affiliates and controlling persons and the respective officers, directors, employees, partners, agents and representatives of each of the foregoing and their successors and permitted assigns (each, an “**Indemnified Person**”) from and against any and all losses, claims, damages, liabilities and expenses, joint or several, to which any such Indemnified Person may become subject arising out of, resulting from or in connection with transactions or the engagement of, and services performed by, the Solicitation Agent under the Agreement to which this Annex A is attached, or any action, claim, litigation, investigation or proceedings, actual or threatened, relating to the foregoing (“**Proceedings**”), regardless of whether any such Indemnified Person is a party thereto, and to reimburse such Indemnified Persons for any reasonable and documented out-of-pocket expenses incurred in connection with investigating or defending any of the foregoing; *provided* that the foregoing indemnification will not, as to any Indemnified Person, apply to losses, claims, damages, liabilities or expenses (i) to the extent that they have resulted from the bad faith, gross negligence or willful misconduct of such Indemnified Person, or any Related Person of such Indemnified Person (as determined by a court of competent jurisdiction in a final and non-appealable decision), or (ii) arising out of, or in connection with, any Proceeding that does not involve an act or omission by the Issuer or any of its affiliates and that is brought by an Indemnified Person against any other Indemnified Person. For purposes hereof, a “**Related Person**” of an Indemnified Person means, if the Indemnified Person is the Solicitation Agent or any of its affiliates, or any of their respective directors, officers, partners, agents, employees, representatives and controlling persons, any of such Solicitation Agent and its affiliates and the directors, officers, partners, agents, employees, representatives and controlling persons thereof.

If for any reason the foregoing indemnification is unavailable to any Indemnified Person or insufficient to hold it harmless, then the Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Person as a result of such action, loss, claim, damage, liability or expense in such proportion as is appropriate to reflect the relative benefits received by the Indemnifying Party, on the one hand, and such Indemnified Person, on the other hand, with respect to the transactions contemplated by the Agreement to which this Annex A is attached or, if such allocation is determined by a court or arbitral tribunal to be unavailable, in such proportion as is appropriate to reflect other equitable considerations such as the relative fault of the Indemnifying Party, on the one hand, and of the Indemnified Persons, on the other hand; *provided, however*, that, to the extent permitted by applicable law, the Indemnified Persons will not be responsible for amounts which in the aggregate are in excess of the amount of all fees actually received or receivable by the Solicitation Agent from the Indemnifying Party in connection with the engagement. Relative benefits to the Indemnifying Party, on the one hand, and to the Indemnified Persons, on the other hand, will be deemed to be in the same proportion as (i) the total value received or proposed to be received by the Indemnifying Party in connection with any Solicitation (as defined in the Agreement), whether or not consummated, bears to (ii) all fees actually received by the Solicitation Agent in connection with the Agreement to which this Annex A is attached. Relative fault will be determined, in the case of actions, losses, claims, damages, liabilities or expenses arising out of or based on any untrue statement or any alleged untrue statement of a material fact or omission or alleged omission to state a material fact, by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Indemnifying Party to the Solicitation Agent and the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission or alleged untrue statement or omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act of 1933) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

The indemnity, reimbursement and contribution obligations of the Indemnifying Party under this Annex A will be in addition to any liability that the Indemnifying Party may otherwise have to an Indemnified

Person and will be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Indemnifying Party and any Indemnified Person.

Promptly after receipt by an Indemnified Person of notice of the commencement of any Proceedings, such Indemnified Person will, if a claim is to be made hereunder against any Indemnifying Party in respect thereof, notify the Indemnifying Party in writing of the commencement thereof; *provided* that the omission so to notify the Indemnifying Party will not relieve it from any liability that it may have hereunder except to the extent it has been materially prejudiced by such failure. In case any such Proceedings are brought against any Indemnified Person and it notifies the Indemnifying Party of the commencement thereof, the Indemnifying Party will be entitled to participate therein and, to the extent that it may elect by written notice delivered to such Indemnified Person, to assume the defense thereof, with counsel reasonably satisfactory to such Indemnified Person; *provided* that if the defendants in any such Proceedings include both such Indemnified Person and the Indemnifying Party and such Indemnified Person will have concluded (based on the advice of counsel) that there may be legal defenses available to it that are different from or additional to those available to the Indemnifying Party, such Indemnified Person will have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such Proceedings on behalf of such Indemnified Person. Upon receipt of notice from the Indemnifying Party to such Indemnified Person of its election so to assume the defense of such Proceedings and approval by such Indemnified Person of counsel, the Indemnifying Party will not be liable to such Indemnified Person for expenses subsequently incurred by such Indemnified Person in connection with the defense thereof (other than reasonable costs of investigation) unless (i) such Indemnified Person will have employed separate counsel due to a conflict that requires separate representation for the Indemnified Person and Indemnified Person (it being understood, however, that the Indemnifying Party will not be liable for the expenses of more than one separate counsel (in addition to local counsel and regulatory counsel, if applicable), approved by the Solicitation Agent, representing the Indemnified Persons who are parties to such Proceedings), (ii) the Indemnifying Party will not have employed counsel reasonably satisfactory to such Indemnified Person to represent such Indemnified Person within a reasonable time after notice of commencement of the Proceedings (it being understood, however, that the Indemnifying Party will not be liable for the expenses of more than one separate counsel (in addition to local counsel and regulatory counsel, if applicable)) or (iii) the Indemnifying Party will have authorized in writing the employment of counsel for such Indemnified Person; and except that such liability will be only in respect of the counsel referred to in such clause (i), (ii) or (iii).

The Indemnifying Party will not be liable for any settlement of any Proceedings effected without its consent, but if settled with its written consent or if there is a final and non-appealable judgment for the plaintiff in any such Proceedings, the Indemnifying Party agrees to indemnify and hold harmless each Indemnified Person from and against any and all losses, claims, damages, liabilities and reasonable and documented out-of-pocket expenses by reason of such settlement or judgment in accordance with and to the extent provided in the first preceding paragraph. If the Indemnifying Party has reimbursed any Indemnified Person for any legal or other expenses in accordance with any request therefor and there is a final judicial or arbitral determination that the Indemnified Person was not entitled to indemnification or contribution rights with respect to such payment pursuant to this Annex, then the Indemnified Person will promptly refund such amount. The Indemnifying Party will not, without the prior written consent of an Indemnified Person (which consent will not be unreasonably withheld), effect any settlement of any pending or threatened Proceedings against such Indemnified Person unless such settlement (x) includes an unconditional release of such Indemnified Person in form and substance reasonably satisfactory to such Indemnified Person from all liability on claims that are the subject matter of such Proceedings and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

The foregoing will be in addition to any rights that the Indemnified Persons may have at common law or otherwise. The provisions of this Annex A will remain in full force and effect following the completion or termination of such engagement. The Issuer also agrees that no Indemnified Person shall have any liability (whether direct or indirect, in contract, tort or otherwise) to the Issuer for or in

connection with the Agreement to which this Annex A is attached, except to the extent that any liability for losses, claims, demands, damages, liabilities or expenses are incurred by the Issuer from the gross negligence, bad faith or willful misconduct of such Indemnified Person, as determined by a court of competent jurisdiction in a final, non-appealable decision.