Dated:

(1) THE SECRETARY OF STATE
acting by the
Export Credits Guarantee Department
operating as

UK Export Finance
– and –

(2) [                              ]

[Principal] Partnering Institution

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PANEL MEMORANDUM
CONCERNING
PARTNERING SERVICES
FOR LOAN FACILITIES
FUNDED BY UK EXPORT FINANCE

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THIS PANEL MEMORANDUM is dated [      ] 201[  ] and made between:

(1) THE SECRETARY OF STATE acting by the Export Credits Guarantee Department, whose office is at 1 Horse Guards Road, London SW1A 2HQ and which operates as UK Export Finance (“UK Export Finance”); and

(2) [       ], whose office is at [       ] (the "[Principal] Partnering Institution") for itself and on behalf of each of the other Partnering Institutions listed in Appendix 1 (Partnering Institutions).

BACKGROUND:

(A) UK Export Finance has established a direct lending facility for the purposes of providing loan facilities to borrowers outside the United Kingdom in order to finance payments due in respect of goods and services supplied by persons carrying on business in the United Kingdom to persons carrying on business outside the United Kingdom (the “Direct Lending Facility”).

(B) On [    ] 2014 and [    ] 2014, UK Export Finance placed a notice in the Financial Times inviting applications from financial institutions to be appointed to a panel of potential providers to UK Export Finance of loan arrangement and administration services in respect of loan facilities provided by UK Export Finance pursuant to the Direct Lending Facility and any other arrangements which may involve UK Export Finance in funding loans.

(C) On [    ] 2014, the [Principal] Partnering Institution submitted [its application / an application for itself and on behalf of each other Partnering Institution] to UK Export Finance for membership of the Panel (the “Application”).

(D) On the basis of the Application, UK Export Finance has accepted the [[Principal] Partnering Institution / Partnering Institutions], along with a number of other Eligible Institutions appointed to the Panel, as potential providers of the Services to UK Export Finance from time to time on the basis of the understanding set out in this Panel Memorandum.

(E) In particular, UK Export Finance and the Partnering Institution[s] have reached an understanding that, where they agree that [the / a] Partnering Institution should provide Services, the [relevant] Partnering Institution will do so on the terms set out in a Services Contract pursuant to the procedures described in this Panel Memorandum.
It is the Parties' intention that UK Export Finance will have no obligation to enter into any Services Contracts during the Term.

Whilst it is the Parties' intention that this Panel Memorandum reflects their understanding of the basis on which Services can be ordered and provided pursuant to legally-binding Services Contracts, they do not intend that this Panel Memorandum should constitute a legally-binding agreement between them.

UK EXPORT FINANCE AND THE PARTNERING INSTITUTION[S] HAVE REACHED THE FOLLOWING UNDERSTANDING:

1. DEFINITIONS, INTERPRETATION AND CONSTRUCTION

1.1 Capitalised terms and expressions used in this Panel Memorandum (other than in Appendix 4 (Form of Service Order Letter) have the meanings given to them in Appendix 5 (Definitions) unless the context otherwise requires.

1.2 References to Clauses (other than in Appendix 4 (Form of Service Order Letter) and Appendices are to the clauses of and appendices to this Panel Memorandum.

1.3 The Appendices form part of this Panel Memorandum.

1.4 This Panel Memorandum is to be construed in accordance with English law.

2. SCOPE

2.1 This Panel Memorandum sets out the understanding of the Parties in respect of the provision to UK Export Finance by the [Partnering Institution / Partnering Institutions] of the Services specified opposite its name in column (5) of Appendix 1 (Partnering Institutions).

2.2 By virtue of entering into this Panel Memorandum the Parties intend that [the Partnering Institution / each Partnering Institution] will be treated by UK Export Finance as a potential provider of Services and as eligible to be considered for the placing by UK Export Finance during the Term of orders for Services as contemplated by this Panel Memorandum.

2.3 [The / Each] Partnering Institution agrees that UK Export Finance may request that the terms of this Panel Memorandum be varied, supplemented or amended by notice to the [Principal] Partnering Institution setting out details of the proposed change in which case the [Principal] Partnering Institution shall enter into good faith negotiations with UK Export Finance in respect of the proposed change.
3. TERM

3.1 Subject to the provisions of Clause 8 (Termination), this Panel Memorandum will take effect on the date first written above and will expire on 31 August, 2018.

3.2 The expiry of this Panel Memorandum in accordance with this Clause 3 (Term) or the termination of this Panel Memorandum in accordance with Clause 8 (Termination) will not affect the obligations of [the / any] Partnering Institution to continue to provide the relevant Services to UK Export Finance under any Services Contract which may be in force at the time of expiry or termination, as the case may be.

4. ORDERING PROCEDURES

4.1 If UK Export Finance decides that it requires any Services in accordance with this Panel Memorandum from [the / a] Partnering Institution, it will be entitled to place an order for the relevant Services at any time during the Term by issuing a Service Order Letter to the [relevant] Partnering Institution in accordance with the Ordering Procedures.

4.2 UK Export Finance will not issue a Service Order Letter solely in respect of Arranger Services for a Loan Facility unless Service Order Letter(s) for any other Services required in respect of that Loan Facility can be issued concurrently.

4.3 [The / Each] Partnering Institution will comply with the provisions of Appendix 3 (Ordering Procedures).

5. RESPONSIBILITIES AND ACKNOWLEDGEMENTS OF PARTNERING INSTITUTIONS

5.1 The [Principal] Partnering Institution agrees with UK Export Finance that it will:

   (a) promptly notify UK Export Finance:

      (i) of any downgrade of its credit rating from the credit rating declared in its Application [and/or any downgrade of the credit rating of any Partnering Institution from the credit rating declared in their Application]; and/or

      (ii) if it [or any other Partnering Institution] undergoes a Change of Control; and

   (b) provide such information in respect of the Partnering Institution’s Group and [the / each] Partnering Institution for the purposes of the operation of
this Panel Memorandum as UK Export may reasonably require, including enquiry contact details for inclusion on the UK Export Finance website.

5.2 [The / Each] Partnering Institution agrees that:

(a) UK Export Finance will, for as long as [the / any] Partnering Institution remains a party to this Panel Memorandum, be entitled to include the name of the [Principal] Partnering Institution’s Group and the Website Details on the UK Export Finance website;

(b) [it / the Principal Partnering Institution] will advise UK Export Finance of any change to the information in the Website Details; and

(c) if this Panel Memorandum is terminated [in its entirety], UK Export Finance will remove the name of the [Principal] Partnering Institution’s Group and the Website Details from the UK Export Finance website.

5.3 UK Export Finance will be entitled to publicise the form of this Panel Memorandum on the UK Export Finance website.

6. **ADDITION OF ELIGIBLE INSTITUTIONS TO THE PANEL**

6.1 Subject to Clause 6.2, [the / each] Partnering Institution acknowledges and agrees that UK Export Finance may at its sole discretion at any time during the Term award a place on the Panel to one or more additional Eligible Institutions for the balance of the Term.

6.2 UK Export Finance will not award a place on the Panel to any Eligible Institution unless and until that Eligible Institution has executed a memorandum of understanding with UK Export Finance containing terms no more favourable to the Eligible Institution than this Panel Memorandum or adhered to such a memorandum previously entered into between UK Export Finance and another member of the Eligible Institution’s Group.

6.3 The [Principal] Partnering Institution may by notice to UK Export Finance given at any time during the Term request that another member of the [Principal] Partnering Institution’s Group (the “Additional Member”) become a Partnering Institution for the purposes of this Panel Memorandum.

6.4 Following any such request as is referred to in Clause 6.3, UK Export Finance will notify the [Principal] Partnering Institution whether it is satisfied that the Additional Member satisfies the Eligibility Criteria and if UK Export Finance is so satisfied, the [Principal] Partnering Institution shall execute, and/or procure that the
Additional Member (and any guarantor of the Additional Member’s obligations, if applicable) executes, such documentation in such form as UK Export Finance may reasonably require to confirm the adherence of the Additional Member to this Panel Memorandum [and to identify one of the Partnering Institution or the Additional Member as the “Principal Partnering Institution” for the purposes of this Panel Memorandum].

7. NO OBLIGATION OR EXCLUSIVITY

7.1 [The / Each] Partnering Institution acknowledges and agrees that:

(a) there is no obligation whatsoever on UK Export Finance to invite or select [the Partnering Institution / any Partnering Institution] to provide any Services under this Panel Memorandum, to make any Loan Facility available to any person or to enter into any Services Contract or Loan Facility Document with any person;

(b) in entering into this Panel Memorandum no form of exclusivity has been conferred by UK Export Finance on [the / any] Partnering Institution in relation to the provision of any Services; and

(c) UK Export Finance is at all times entitled to enter into other contracts and agreements with other suppliers for the provision of any or all services which are the same as or similar to the Services.

7.2 No undertaking or any form of statement, promise, representation or obligation is made or will be deemed to have been made by UK Export Finance in respect of the total quantities or values of the Services to be ordered by it pursuant to this Panel Memorandum, and [the / each] Partnering Institution acknowledges and agrees that it has not entered into this Panel Memorandum on the basis of any such undertaking, statement, promise or representation.

7.3 Nothing in this Panel Memorandum will preclude [the / any] Partnering Institution from:

(a) holding discussions with any Obligor in relation to a Loan Facility prior to the date of a Services Contract;

(b) setting the fees payable by any Obligor to [the / that] Partnering Institution in respect of any Services as more particularly contemplated in Appendix 3 (Ordering Procedures);
(c) requiring the payment of any such fees as are referred to in Clause 7.3(b) as a condition precedent to the advance of any amounts under any Loan Facility; or

(d) engaging in any kind of banking or other business with any person, including any Obligor.

8. TERMINATION

8.1 This Panel Memorandum may be terminated by UK Export Finance [in its entirety or as regards a specified Partnering Institution] on written notice to the [Principal] Partnering Institution given at any time.

8.2 [The / Any] Partnering Institution may resign from the Panel by notice to UK Export Finance [from the Principal Partnering Institution] at any time during the Term [provided that if the resigning Partnering Institution is the Principal Partnering Institution, and any other Partnering Institution wishes to remain on the Panel, the Principal Partnering Institution will procure that another Partnering Institution becomes the Principal Partnering Institution for the purposes of this Panel Memorandum and enters into such documentation as UK Export Finance may reasonably require for that purpose].

8.3 Any notice given by UK Export Finance pursuant to Clause 8.1 and any notice given by the [Principal] Partnering Institution pursuant to Clause 8.2 may take effect immediately or with effect from such date as UK Export Finance or the [Principal] Partnering Institution (as the case may be) may specify in the relevant notice.

9. CONTACT DETAILS

9.1 Any communication to be made under or in connection with this Panel Memorandum shall be in writing in English and sent:

(a) if to UK Export Finance, to:

UK Export Finance
1 Horse Guards Road
London
SW1A 2HQ

For the attention of: The Head of Business Group

Tel: +44 (0)20 7271 8010

Email: DLF.Partnerships@ukef.gsi.gov.uk; and
(b) if to the [Partnering Institution / the Partnering Institutions or any of them],
to[ the Principal Partnering Institution at]:

[Name]

[Address]

For the attention of: [    ]

Tel: [    ]

Email: [    ],

or to any substitute address or fax number or electronic email address or
department or officer as UK Export Finance and the [Principal] Partnering
Institution may notify to the other by not less than 5 Working Days’ notice.

9.2 Any communication or document made or delivered by one person to another
under or in connection with this Panel Memorandum will be effective:

(a) if by way of fax, only when received in legible form;

(b) if by way of letter, only when it has been left at the relevant address or
five Working Days after being deposited in the post postage prepaid in an
envelope addressed to it at that address; or

(c) if by way of electronic communication, only when actually received in
readable form,

and, if a particular department or officer is specified as part of its address details
provided under this Clause 9, if addressed to that department or officer.

10. NO LEGAL RELATIONS

10.1 The Parties hereby confirm that they do not intend that this Panel Memorandum
should constitute or create, and this Panel Memorandum does not constitute or
create, a legally-binding agreement or other form of legal relations between them.

10.2 Except as expressly contemplated by this Panel Memorandum, any Services
Contract or any Loan Facility Document:

(a) nothing in this Panel Memorandum is intended to authorise or authorises
[the / any] Partnering Institution to act or hold itself out as agent for
UK Export Finance; and

(b) [the / no] Partnering Institution will have [no / any] authority to make
representations or act in the name of or on behalf of, or otherwise to bind,
UK Export Finance.
This Panel Memorandum has been signed on behalf of the Parties by their duly authorised representatives on the date stated at the beginning of the Panel Memorandum.
For and on behalf of

THE SECRETARY OF STATE
acting by the
Export Credits Guarantee Department
operating as **UK Export Finance**

Signature  
Name  
Position  

For and on behalf of [ ]
as

[Principal] Partnering Institution [for itself and on behalf of the other Partnering Institutions specified in Appendix 1 (*Partnering Institutions*)]

Signature  
Name  
Position  

### APPENDIX 1: PARTNERING INSTITUTIONS

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This Appendix 2 (Services) specifies the Services that UK Export Finance may require in relation to each Loan Facility.

Part 1: Arranger Services

If a Services Contract specifies that [the / a] Partnering Institution is to provide Arranger Services, the Partnering Institution shall provide the services specified in paragraphs 1 to 4 of this Part 1.

1. Subject to paragraph 2 of this Part 1, the Partnering Institution shall:

   (a) promptly supply UK Export Finance with copies of all such documentation and other evidence in its possession as is requested in writing by UK Export Finance; and

   (b) use reasonable efforts to obtain such other documentation and evidence as is reasonably requested in writing by UK Export Finance,

   in each case for the purposes of enabling UK Export Finance to carry out before execution of the Loan Facility Documents and be satisfied it has complied with its own “know your customer” and other similar checks under all Applicable Law (as applicable to a financial institution carrying on business in England and Wales) in relation to each Obligor party to the Loan Facility Documents.

2. Paragraph 1 of this Part 1 shall require the Partnering Institution to supply only such copy documentation and evidence as it may lawfully supply or supply with Obligor consent and, where Obligor consent is required, the Partnering Institution shall use all reasonable endeavours to obtain that consent, including through referencing such requirements in the Mandate.

3. The Partnering Institution shall:

   (a) in consultation with UK Export Finance, finalise the term sheet for the Loan Facility with the Obligor;

   (b) promptly send each Obligor a copy of the draft Loan Facility Documents provided to the Partnering Institution by or on behalf of UK Export Finance;

   (c) promptly send to UK Export Finance, marked for the attention of the person specified in the Services Order Letter (or such other person as UK Export Finance may specify from time to time), such comments on the draft Loan Facility Documents it may have as Arranger and/or any comments it may receive from any Obligor so that UK Export
Finance may provide the Partnering Institution with its responses to those comments to relay to the relevant Obligor;

(d) promptly relay UK Export Finance’s comments to each Obligor as applicable; and

(e) generally act as an intermediary between UK Export Finance and each Obligor with a view to UK Export Finance and each Obligor reaching agreement on the terms of the Loan Facility Documents.

4. The Partnering Institution shall:

(a) as soon as practicable and in any event prior to execution of the Loan Facility Documents, provide information to UK Export Finance of which it is aware relating to any Tax considerations applicable to the Borrower and each other Obligor which might reasonably be expected to have a bearing on the structuring of the relevant Loan Facility and the terms of the Loan Facility Documents; and

(b) if it becomes aware of the occurrence of any Adverse Event prior to execution of the Loan Facility Documents, notify UK Export Finance of the occurrence of that Adverse Event and provide UK Export Finance with such information as it has in relation to the Adverse Event as soon as reasonably practicable after it becomes aware of the relevant Adverse Event to the extent it lawfully may provide that information.

**Part 2: Administration Services**

If a Services Contract specifies that [the / a] Partnering Institution is to provide Administration Services, the Partnering Institution shall provide the services specified in paragraphs 1 to 6 of this Part 2.

1. The Partnering Institution shall, in relation to each Loan Facility specified in the Services Contract, carry out all functions and comply with all obligations that are expressed in the Loan Agreement to be the functions and obligations of the facility agent.

2. For the purposes of paragraph 1 of this Part 2, the Loan Agreement for each Loan Facility shall be based upon UK Export Finance’s standard form loan agreement from time to time, which will be LMA-based and contain provisions substantially in the form set out in Annex 1 to this Appendix 2 (Services), and UK Export Finance shall provide a copy of its then current standard form loan agreement to the [Principal] Partnering Institution on request.

3. Subject to the provision by UK Export Finance of relevant information applicable to it and its staff, the Partnering Institution shall ensure that a loan administration form in the form
set out in Annex 2 to this Appendix 2 (Services) (a “Loan Administration Form”) is duly completed and a copy provided to UK Export Finance on or before execution of the Loan Facility Documents.

4. The Partnering Institution shall in relation to each Loan Facility in respect of which the Services Contract specifies that the Partnering Institution is to provide Administration Services:

(a) promptly upon becoming aware of the same notify UK Export Finance of the occurrence of any default by any Obligor under the Loan Facility Documents;

(b) promptly notify UK Export Finance of any Adverse Event; and

(c) provide such other information in connection with the Loan Facility as UK Export Finance may from time to time reasonably require.

5. Subject to paragraph 6 of this Part 2, the Partnering Institution shall:

(a) promptly supply UK Export Finance with copies of all such documentation and other evidence in its possession as is requested in writing by UK Export Finance; and

(b) use reasonable efforts to obtain such other documentation and evidence as is reasonably requested in writing by UK Export Finance,

in each case for the purposes of enabling UK Export Finance to carry out and be satisfied it has complied with its own “know your customer” and other similar checks under all Applicable Law (as applicable to a financial institution carrying on business in England and Wales) in relation to each Obligor party to the Loan Facility Documents during the term of the Loan Facility Documents.

6. Paragraph 5 of this Part 2 shall require the Partnering Institution to supply only such copy documentation and evidence that it may lawfully supply or supply with Obligor consent and, where Obligor consent is required, the Partnering Institution shall use all reasonable endeavours to obtain that consent, including through referencing such requirements in the Mandate.

Part 3: Security Trustee Services

If a Services Contract specifies that [the / a] Partnering Institution is to provide Security Trustee Services, the Partnering Institution shall provide the services specified in paragraphs 1 and 2 of this Part 3.

1. The Partnering Institution shall, in relation to each Loan Facility specified in the Services Contract, carry out all functions and comply with all obligations that are expressed in the Loan Facility Documents to be the functions and obligations of a security trustee.
2. The Partnering Institution and UK Export Finance agree that the functions and obligations of the security trustee in the Loan Facility Documents shall be those functions and obligations that are customary in the market for a security trustee, but subject to inclusion in the Loan Facility Documents of rights and obligations of the security trustee to resign that are on the same terms *mutatis mutandis* as Clause 24.12 of the provisions set out in Annex 1 to this Appendix 2 (*Services*).

**Part 4: Intercreditor Agency Services**

If a Services Contract specifies that [the/a] Partnering Institution is to provide Intercreditor Agency Services, the Partnering Institution shall provide the services specified in paragraphs 1 and 2 of this Part 4.

1. The Partnering Institution shall, in relation to each Loan Facility specified in the Services Contract, carry out all functions and comply with all obligations that are expressed in the Loan Facility Documents to be the functions and obligations of an intercreditor agent.

2. The Partnering Institution and UK Export Finance agree that the functions and obligations of the intercreditor agent in the Loan Facility Documents will be those functions and obligations that are customary in the market for an intercreditor agent, but subject to inclusion in the Loan Facility Documents of rights and obligations of the security trustee to resign that are on the same terms *mutatis mutandis* as Clause 24.12 of the provisions set out in Annex 1 to this Appendix 2 (*Services*).
Annex 1

Model Loan Agreement Agency Provisions

Definitions:

“UKEF Services Contract” means the services contract between UK Export Finance and the Facility Agent relating to the Loan Facility constituted by the Facility Agent’s countersignature of the letter from UK Export Finance to the Facility Agent dated [   ].

24. ROLE OF THE AGENT AND THE ARRANGER

24.1 Appointment of the Agent

(a) Each other Finance Party appoints the Agent to act as its agent under and in connection with the Finance Documents.

(b) Each other Finance Party authorises the Agent to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

24.2 Duties of the Agent

(a) Subject to Clause 24.2(b), the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.

(b) Without prejudice to Clause 22.6 (Copy of Transfer Certificate to the Borrower), Clause 24.2(a) above shall not apply to any Transfer Certificate.

(c) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(d) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Finance Parties.

(e) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent or the Arranger) under this Agreement it shall promptly notify the other Finance Parties.

(f) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
24.3 **Role of the Arranger**

Except as specifically provided in the Finance Documents, the Arranger has no obligations of any kind to any other Party under or in connection with any Finance Document.

24.4 **No fiduciary duties**

(a) Nothing in this Agreement constitutes the Agent or the Arranger as a trustee or fiduciary of any other person.

(b) Neither the Agent nor the Arranger shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

24.5 **Business with the Group**

The Agent and the Arranger may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

24.6 **Rights and discretions of the Agent**

(a) The Agent may rely on:

   (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and

   (ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within that individual's knowledge or power to verify.

(b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders or for UK Export Finance under the UKEF Services Contract [and/or the UKEF Guarantee]) that:

   i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 21.1 (Non-payment));

   ii) any right, power, authority or discretion vested in any Party or Lenders has not been exercised; and

   iii) any notice or request made by the Borrower (other than a Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligors.

(c) The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
(d) The Agent may act in relation to the Finance Documents through its personnel and agents.

(e) The Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

(f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor the Arranger is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

24.7 **Majority Lenders’ instructions**

(a) Unless a contrary indication appears in a Finance Document and subject to Clause 24.8 (UKEF Services Contract [and UKEF Guarantee]), the Agent shall:

(i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Agent); and

(ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders.

(b) Unless a contrary indication appears in a Finance Document and subject to Clause 24.8 (UKEF Services Contract [and UKEF Guarantee]), any instructions given by the Majority Lenders will be binding on all the Finance Parties.

(c) The Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

(d) In the absence of instructions from the Majority Lenders, (or, if appropriate, the Lenders) the Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.

(e) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender’s consent) in any legal or arbitration proceedings relating to any Finance Document.
24.8 **UKEF Services Contract [and UKEF Guarantee]**

Each Obligor acknowledges and agrees that the rights and discretions (including, without limitation, the giving of notices and the granting of consents, waivers and permissions) of the Finance Parties under this Agreement are subject to the direction of UK Export Finance under the UKEF Services Contract [and/or the UKEF Guarantee]).

24.9 **Responsibility for documentation**

Neither the Agent nor the Arranger is responsible or liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Agent, the Arranger, an Obligor or any other person in or in connection with any Finance Document or the Information Memorandum or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document other than information generated by itself;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; or

(c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

24.10 **Exclusion of liability**

(a) Without limiting 24.10(b) (and without prejudice to the provisions of Clause 27.11(e) \((Disruption to Payment Systems etc.)\), the Agent will not be liable for any action taken by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.

(b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent may rely on this Clause.
(c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Agent or the Arranger to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Agent and the Arranger that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Agent or the Arranger.

24.11 Lenders' indemnity to the Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by an Obligor pursuant to a Finance Document).

24.12 Resignation of the Agent

(a) The Agent may, with the prior written consent of the Lenders, resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Borrower.

(b) Alternatively the Agent may, with the prior consent of the Lenders, resign by giving 30 days' notice to the other Finance Parties and the Borrower, in which case the Lenders shall appoint a successor Agent.

(c) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents. The Borrower shall, within three Business Days of demand, reimburse the retiring Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.

(d) The resignation notice of the Agent referred to in Clauses 24.12(a) and 24.12(b) above shall take effect only upon the appointment of a successor.
(e) Upon the appointment of a successor, the retiring Agent shall, save for the provisions of the Finance Documents which apply in relation to the retiring Agent in respect of any action taken or not taken by it in connection with the Finance Documents while it had been the Agent, be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 24 (Role of the Agent and the Arranger). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(f) The Agent shall promptly resign if required to do so by notice from the Lenders.

24.13 Separate entity

(a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.

24.14 Relationship with the Lenders

(a) Subject to Clause 22.8 (Pro rata interest settlement), the Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office that is:

(i) entitled to or liable for any payment due under any Finance Document on that day; and

(ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

(b) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 31.5 (Electronic communication) electronic mail address
and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Lender for the purposes of Clause 31.2 (Contact Details) and Clause 31.5(a)(ii) (Electronic communication) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

24.15 Reference Banks

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Agent shall (in consultation with the Borrower) appoint another Lender or an Affiliate of a Lender to replace that Reference Bank.

24.16 Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Agent and the Arranger that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each member of the Group;
(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
(c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
(d) the adequacy, accuracy and/or completeness of any other information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.
24.17 Deduction from amounts payable by the Agent

If any Lender owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.
Annex 2
Form of Loan Administration Form

(By email, as a pdf document)

PLEASE COMPLETE THIS FORM AND RETURN A COPY TO UK EXPORT FINANCE,
MARKED FOR THE ATTENTION OF: .................................................................

1. Transaction Name/Details

<table>
<thead>
<tr>
<th>Transaction (disbursement facility)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Exporter name/details</td>
<td></td>
</tr>
<tr>
<td>Exporter address</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Transaction (reimbursement facility)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Borrower name</td>
<td></td>
</tr>
<tr>
<td>Loan amount and date (month only)</td>
<td></td>
</tr>
</tbody>
</table>

2. Agency department contact details

The exact name and address (including post code, if applicable) of your institution’s agency department, as it is to appear in the Loan Agreement, with preferred punctuation, capitalisation and abbreviation

<table>
<thead>
<tr>
<th>Name of Facility Agent</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tel No</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>E-mail address</td>
<td></td>
</tr>
</tbody>
</table>

Notwithstanding the contact details specified above, all notices issued under the terms of the Services Contract for this transaction must be issued in accordance with clause 18 (Notices) of that Services Contract.
3. Arranger and credit-related matters contact details

Details of individuals who are responsible for all credit related aspects of the Loan Facility (if applicable)

Name/s: 

Address

Tel No .............................................. E-mail address...........................................

Notwithstanding the contact details specified above, all notices issued under the terms of the Services Contract for this transaction must be issued in accordance with clause 18 (Notices) of that Services Contract.

4. Standard Settlement Instructions

Part 1: Partnering Institution(s)

PLEASE SUPPLY EACH PARTNERING INSTITUTION’S STANDARD SETTLEMENT INSTRUCTIONS (ONLY ONE ACCOUNT PER CURRENCY) FOR THE RELEVANT CURRENCY

Intermediary Institution (if applicable)

SWIFT Address:

Account with Institution:

SWIFT Address:

Part 2: UK Export Finance

Currency of Serviced Loan Facility Account Details
(complete for applicable currency)
<table>
<thead>
<tr>
<th>Currency</th>
<th>UK Export Finance SWIFT:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Account number</td>
</tr>
<tr>
<td>[Sterling]</td>
<td></td>
</tr>
<tr>
<td>[Dollars]</td>
<td>UK Export Finance SWIFT:</td>
</tr>
<tr>
<td></td>
<td>Account number</td>
</tr>
<tr>
<td>[Euro]</td>
<td>UK Export Finance SWIFT:</td>
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<td></td>
<td>Account number</td>
</tr>
<tr>
<td>[Yen]</td>
<td>UK Export Finance SWIFT:</td>
</tr>
<tr>
<td></td>
<td>Account number</td>
</tr>
</tbody>
</table>
APPENDIX 3: ORDERING PROCEDURES

Part 1: Standard Procedures

1. Where a Borrower has given a Mandate to [the / a] Partnering Institution in respect of a proposed Loan Facility, the procedures set out in paragraphs 2 to 5 of this Part 1 shall apply.

2. The Partnering Institution shall provide to UK Export Finance:
   (a) a copy of the Mandate together with written particulars of the proposed fees that shall be payable by the Borrower to the Partnering Institution in respect of the Loan Facility Documents that are the subject of the Mandate (the “Proposed Fees”) to the extent that such particulars are not contained in the Mandate; and
   (b) such details as UK Export Finance requires to enable UK Export Finance to complete a Service Order Letter in respect of the proposed Services.

3. Following receipt by UK Export Finance of a copy of the Mandate and particulars of the Proposed Fees, the Partnering Institution shall, if requested by UK Export Finance:
   (a) discuss the level of the Proposed Fees with UK Export Finance; and
   (a) provide UK Export Finance with such benchmarking information as is available to the Partnering Institution’s Group to enable UK Export Finance to be satisfied that the Proposed Fees are not out of line with typical commercial bank rates for a comparable loan facility.

4. Unless UK Export Finance is satisfied that the Proposed Fees are not out of line with typical commercial bank rates for a comparable loan facility, UK Export Finance may contact the Borrower to confirm that the Proposed Fees are acceptable to it.

5. If UK Export Finance is satisfied that:
   (a) the Borrower has given the Partnering Institution the Mandate in respect of the proposed Loan Facility; and
   (b) either:
(i) the Proposed Fees are not out of line with typical commercial bank rates for a comparable loan facility; or

(ii) the Borrower has confirmed in writing that the Proposed Fees are acceptable to it,

UK Export Finance shall issue a duly completed Service Order Letter to the Partnering Institution specifying the Services which UK Export Finance requires in respect of the Loan Facility.

6. If UK Export Finance issues a duly completed Service Order Letter to the Partnering Institution as referred to in paragraph 3 of this Part 1, receipt by UK Export Finance of a copy of the Service Order Letter countersigned by or on behalf of the Partnering Institution shall create a binding contract between UK Export Finance and the Partnering Institution to provide the Services specified in the Service Order Letter in respect of the Loan Facility upon and subject to the terms and conditions specified in the Service Order Letter.

7. [The / Each] Partnering Institution acknowledges and agrees that, save as provided in Part 2 of this Appendix 3 (Ordering Procedures), UK Export Finance will not advise [the / that] Partnering Institution of any mandate or proposed mandate in respect of a Loan Facility that has been or may be given to any other Eligible Institution on the Panel.

8. If a Borrower wishes to withdraw a Mandate, it may request that UK Export Finance follows the procedures set out in Part 2 of this Appendix 3 (Ordering Procedures).

Part 2: Special Procedures

1. The procedures set out in paragraphs 2 to 6 of this Part 2 will apply where:

   (a) UK Export Finance receives an application for a Loan Facility from a Borrower or an exporter but no Eligible Institution has been given a Mandate by the Borrower in respect of that Loan Facility; or

   (b) a Services Contract between UK Export Finance and an Eligible Institution (other than [the / a] Partnering Institution) has been terminated in respect of some or all Services; or

   (c) the Borrower has notified UK Export that it has withdrawn a Mandate for the provision of Services,
and UK Export Finance requires an Eligible Institution or another Eligible Institution, as the case may be, to provide the relevant Services (the “Offered Services”) to UK Export Finance.

2. Subject to paragraph 3 of this Part 2, UK Export Finance will offer the opportunity to provide the Offered Services to all Eligible Institutions specifying the date (the “Offer Closing Date”) by which Eligible Institutions may notify UK Export Finance of their interest in providing the Offered Services (such notifications being “Expressions of Interest”).

3. UK Export Finance will not accept Expressions of Interest received from an Eligible Institution that has had:

   (a) a Mandate to provide the Offered Services withdrawn, or

   (b) a Services Contract in respect of the Offered Services terminated.

4. Promptly after the Offer Closing Date, UK Export Finance will inform the Borrower of all Expressions of Interest received by the Offer Closing Date that it has accepted.

5. The Parties acknowledge that the Borrower may, at its sole discretion, enter into discussions with any Eligible Institution in respect of providing the Offered Services and, if following such discussions, the Borrower enters into a Mandate to provide the Offered Services, the procedures in Part 1 of this Appendix 3 (Ordering Procedures) will then apply.

6. If UK Export Finance does not receive any Expressions of Interest by the Offer Closing Date or the Borrower notifies UK Export Finance that it has not entered into a Mandate with any Eligible Institution from whom it has accepted an Expression of Interest, then UK Export Finance shall be entitled, at its sole discretion, to issue a Service Order Letter in respect of all or any of the Offered Services to any other person with whom the Borrower has entered into a Mandate for the provision of the Offered Services.
APPENDIX 4: FORM OF SERVICE ORDER LETTER

[UK Export Finance letterhead]

[Partnering Institution name  
Partnering Institution address]  
as the Partnering Institution

Attn: [insert Partnering Institution contact name]

By email to: [insert Partnering Institution contact email address]

Date: [Insert date]

Your ref: [Insert Partnering Institution’s reference, if any]

Our ref: [Insert UK Export Finance reference]

Dear Sirs,

Services Contract in respect of a proposed [insert currency] Loan Facility to [insert name of Borrower] under the Direct Lending Facility

1. We refer to:

   (a) the Panel Memorandum concerning Direct Lending Facility partnering dated [     ] between (1) us and (2) [you / [     ] on behalf of you, amongst others] (the “Panel Memorandum”); and

   (b) the mandate provided by you to us dated [insert date of mandate] in respect of a [insert particulars of Loan Facility, including name and address of Borrower] (the “Loan Facility”).

2. For the purposes of this Service Order Letter:

   (a) capitalised terms and expressions used in this Service Order Letter have the same meanings given to them in or pursuant to the terms and conditions set out

---

1 Will need adaptation for Eligible Institutions that become Partnering Institutions pursuant to clause 6.4 of the Partner Memorandum
in the Annex to this Service Order Letter (the “Terms and Conditions”) unless the context otherwise requires; and
(b) the Annex forms part of this Service Order Letter.

3. This Service Order Letter constitutes our order for the provision by you as the Partnering Institution to us subject to and in accordance with the Terms and Conditions of the following Services in respect of the Loan Facility (the “Ordered Services”):

(a) [Arranger Services;
(b) Administration Services;
(c) Security Trustee Services; and
(d) Intercreditor Agency Services].

4. In the event of any conflict between this Service Order Letter and the Terms and Conditions, this Service Order Letter shall prevail.

5. Commencement of this Services Contract is conditional upon:

(a) our receipt on or before [insert date] (the “Due Date”) of the following in a form and substance acceptable to us:

(i) a copy of this Service Order Letter duly countersigned on your behalf;

(ii) a copy of an undertaking in respect of corrupt activity in the form prescribed by us from time to time duly signed on your behalf (the “Anti-Corruption Undertaking”);[ and]

(iii) evidence that the person who has countersigned this Service Order Letter and the Anti-Corruption Undertaking on your behalf is duly authorised to do so;[ and]

(iv) [a completed copy of the Loan Administration Form in respect of the Loan Facility];

(v) [an [undertaking/confirmation] to us by the financial institution providing the bank accounts listed in the Loan Administration Form that any deposits made into such accounts will be held on trust for us;]3

---

2 Delete as applicable
3 Only required where the Partnering Institution is not an authorised deposit taker
(vi) a duly executed [performance guarantee/comfort letter] in our favour (the “Guarantee” / "Letter of Comfort") from [ ] (the “Guarantor” / "Parent") in respect of your obligations under the Services Contract; and

(vii) evidence satisfactory to us that the person who has signed the [Guarantee / Letter of Comfort] on behalf of the Guarantor is duly authorised to do so][4]; and

(b) each other contract for the provision of Services in respect of the Loan Facility between UK Export Finance and a partnering institution becoming unconditional in accordance with its terms, save as regards any condition relating to the unconditional nature of this Services Contract equivalent to this paragraph 5(b)]5[; and

(c) [our being satisfied with the credit rating and location of the financial institution providing the bank accounts listed in the Loan Administration Form]6.

6. In the event that the conditions specified in paragraph 5 are not satisfied on or before the Due Date (or such later date as we may agree in writing), this Service Order Letter shall cease to be of any further force or effect.

7. For the purposes of the UKEF Fee Contribution, the initial Maximum Principal Amount shall be [£20 million / [if Loan Facility is in a currency other than sterling, insert equivalent of £20 million determined at the spot rate of exchange at date of letter]].

8. The address for notices of the Parties are:

**UK Export Finance**
UK Export Finance
1 Horse Guards Road
London
SW1A 2HQ

Attention: [

Email: [

Fax: [

**Partnering Institution**

[insert name and address of Partnering Institution]

Attention: [insert title]

Email: [insert email address]

Fax: [insert fax number]

9. [The person appointed to accept service of process on the Partnering Institution’s behalf is [insert name and address and relevant contact details if any].][7]

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4 Only required where the Partnering Institution has met the eligibility criteria as a result of credit enhancement

5 Only required where the Ordered Services will be provided by more than one Partnering Institution

6 Only required where the Partnering Institution is not an authorised deposit taker

7 Only required if the Partnering Institution is not incorporated in the UK
10. [You shall, when notified by us, promptly complete and return to us (using the contact details specified in such notice) any form of assessment of your security controls (including your compliance with ISO/IEC 27001 where applicable) we provide to you along with such notice.]

Payment
Within 10 Working Days of receipt of your countersigned copy of this letter, we will send you a unique service order number (Service Order Number). Any notification or invoice produced in accordance with Clause 7 of the Terms and Conditions must be sent, quoting a valid Service Order Number, to: [insert address].

Liaison
For general liaison in relation to all matters relating to the Loan Facility our respective contact persons will be [insert Contract Manager name(s) and contact details] or, in their absence, [insert secondary name and contact details].

We look forward to forging a successful working relationship resulting in a smooth and successful delivery of the Services. Please confirm your acceptance of the award of this contract by signing and returning the enclosed copy of this letter to [insert name] at the above address within 7 days from the date of this letter as referred to above. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

This Service Order Letter, and any non-contractual obligations arising out of or in connection with it, shall be governed by English law.

Yours faithfully,

Signed for and on behalf of the Secretary of State acting by the Export Credits Guarantee Department

Operating as

UK Export Finance

Name: [insert name]

[insert job title]

Signature:

---

8 Applicable where the Partnering Institution’s security controls were evaluated as part of the Application
We accept the terms set out in this Service Order Letter and its Annexes, including the Terms and Conditions.

Signed for and on behalf of [insert name of Partnering Institution]

Name: [insert name]
[insert job title]

Signature: Date:
Annex

Terms and Conditions

1 Interpretation

1.1 In these terms and conditions:

“Administration Services” means the services set out in Part 2 of Appendix 2 (Services) to the Panel Memorandum;

“Affiliate” means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company;

“Anti-Corruption Undertaking” has the meaning given in the Service Order Letter;

"Applicable Law" means:

(a) any law, statute, decree, constitution, regulation, authorisation, judgment, injunction or other directive of any Government Entity;

(b) any treaty, pact, compact or other binding agreement to which any Government Entity is a signatory or party; or

(c) any judicial or administrative interpretation with binding characteristics or application of those described in sub-paragraph (a) or (b) above,

and in each case, which is applicable to the Partnering Institution, UK Export Finance or the Loan Facility Documents;

“Arranger Services” means the services set out in Part 1 of Appendix 2 (Services) to the Panel Memorandum;

“Borrower” means the entity which is or is proposed to be the borrower under the Loan Facility;
“Central Government Body” means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:

(a) Government Department;

(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);

(c) Non-Ministerial Department; or

(d) Executive Agency;

“Confidential Information” means all information, whether written or oral (however recorded), relating to any Party or its Affiliates, the Services Contract, the Loan Facility Documents or the Loan Facility, provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;

“DPA” means the Data Protection Act 1998;

“Effective Date” means the date on which the Service Order Letter becomes unconditional;

“Environmental Information Regulations” mean the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations;

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

“Intercreditor Agency Services” means the services set out in Part 4 of Appendix 2 (Services) to the Panel Memorandum;

“Panel Memorandum” has the meaning given in the Service Order Letter;

“FOIA” means the Freedom of Information Act 2000;
“Loan Agreement” in relation to the Loan Facility, the loan agreement made or proposed to be made between, or between amongst others, the Borrower, the Partnering Institution (or another Eligible Institution, as the case may be) as facility agent and UK Export Finance as lender;

“Loan Facility” has the meaning given in the Service Order Letter;

“Loan Facility Documents” means, in relation to the Loan Facility, the Loan Agreement and all related guarantee and security documents documenting the arrangements relating to the Loan Facility in respect of which UK Export Finance may require Services;

“Maximum Principal Amount” means the amount specified as the initial Maximum Principal Amount in the Service Order Letter or, in the event that UK Export Finance transfers part of its participation in the Loan Facility to a person other than a Central Government Body or a securitisation vehicle, that fraction of such initial Maximum Principal Amount as corresponds to the fraction which UK Export Finance’s remaining commitment under the Loan Facility immediately after the transfer bears to the total amount of its initial commitment;

“Ordered Services” means the Services to be provided by the Partnering Institution to UK Export Finance specified in the Service Order Letter;

“Partnering Institution” means the person to whom the Service Order Letter is addressed;

“Party” means the Partnering Institution or UK Export Finance (as appropriate) and “Parties” shall mean both of them;

“Personal Data” means personal data (as defined in the DPA) which is processed by the Partnering Institution or any Staff on behalf of UK Export Finance pursuant to or in connection with this Services Contract;

“Request for Information” has the meaning set out in the FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term “request” shall apply);

“Security Trustee Services” means the services set out in Part 3 of Appendix 2 (Services) to the Panel Memorandum;

“Service Order Letter” means the letter from UK Export Finance printed above these terms and conditions;
“Service Order Number” means UK Export Finance’s unique number relating to the provision of the Ordered Services;

“Services Contract” means the contract between (i) UK Export Finance acting as part of the Crown and (ii) the Partnering Institution constituted by the Partnering Institution’s countersignature of the Service Order Letter;

“Staff” means all directors, officers, employees, agents, consultants and contractors of the Partnering Institution and its Affiliates and/or of any sub-contractor of the Partnering Institution engaged in the performance of the Partnering Institution’s obligations under the Services Contract;

“Subsidiary” means, in relation to any company, any other company:
(a) which is controlled, directly or indirectly, by the first mentioned company; or
(b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the first mentioned company; or
(c) which is a Subsidiary of another Subsidiary of the first mentioned company;

“UKEF Fee Contribution” has the meaning given in Clause 5.1 (UKEF Fee Contribution);

“UKEF Fee Contribution Payment Day” has the meaning given in Clause 7.2 (Payments and VAT); and

“UK Export Finance” means the Secretary of State acting by the Export Credits Guarantee Department whose office is at 1 Horse Guards Road, London SW1A 2HQ and which operates as UK Export Finance.

1.2 Capitalised terms and expressions used in the Panel Memorandum have the same meanings when used in these terms and conditions unless otherwise defined in Clause 1.1.

1.3 In these terms and conditions, unless the context otherwise requires:
(a) references to numbered Clauses are references to the relevant Clause in these terms and conditions;

(b) any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
(c) the headings to the Clauses are for information only and do not affect the interpretation of the Services Contract;

(d) any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and

(e) the word ‘including’ shall be understood as meaning ‘including without limitation’.

2 Basis of agreement

2.1 The Service Order Letter constitutes an offer by UK Export Finance for the provision of the Services subject to and in accordance with the terms and conditions of the Services Contract.

2.2 The offer comprised in the Service Order Letter shall be deemed to be accepted by the Partnering Institution on receipt by UK Export Finance of a copy of the Service Order Letter countersigned on behalf of the Partnering Institution on or before the date specified in the Service Order Letter or such later date as UK Export Finance may agree in writing.

3 Provision of Ordered Services

3.1 In consideration for UK Export Finance placing an order with the Partnering Institution to provide the Ordered Services and the performance by UK Export Finance of the obligations in favour of the Partnering Institution hereunder, the Partnering Institution shall provide the Ordered Services to UK Export Finance, subject to and in accordance with the terms and conditions of the Services Contract.

3.2 In providing the Ordered Services, the Partnering Institution shall:

(a) co-operate with UK Export Finance and comply with all UK Export Finance’s reasonable instructions in all matters relating to the Ordered Services;

(b) perform the Ordered Services in good faith and in accordance with the standards reasonably expected of a prudent lender acting for its own account and performing services similar to the Ordered Services;

(c) comply with all Applicable Law, including conducting on its own account all “know your customer” and similar checks in relation to each Obligor; and

(d) take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Partnering Institution and Staff in connection with the Services Contract and notify UK Export Finance immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
3.3 In the event of any conflict between the Services Contract and any Loan Facility Document, the Services Contract shall prevail.

4 Term

4.1 Unless the Services Contract is otherwise terminated in accordance with Clause 15 (Termination), the Partnering Institution shall provide the Ordered Services as follows:

(a) in relation to Ordered Services which are Arranger Services, with effect from the Effective Date to the earliest of:

(i) termination by the Borrower of the Mandate; 
(ii) UK Export Finance notifying the Partnering Institution that it has declined to make the Loan Facility available; 
(iii) execution of the Loan Facility Documents; and 
(iv) such date as may be agreed in writing by UK Export Finance, such agreement not to be unreasonably withheld; and

(b) in relation to Ordered Services which are Administration Services, Security Trustee Services or Intercreditor Services, with effect from execution of the Loan Facility Documents to the earliest of:

(i) termination by UK Export Finance of the appointment of the Partnering Institution to provide the relevant Ordered Services in accordance with the terms of the relevant Loan Facility Document and the Services Contract; 
(ii) repayment of amounts outstanding under the Loan Facility Documents in full; and 
(iii) write-off of amounts outstanding under the Loan Facility Documents in full.

4.2 The Partnering Institution shall promptly notify UK Export Finance of any termination of the Mandate and, to the extent permitted by law, the relevant circumstances relating to that termination.

4.3 The Partnering Institution acknowledges and agrees that nothing in the Services Contract shall oblige UK Export Finance to agree to provide any loan facility to the Borrower or to enter into the Loan Facility Documents.
5 **UKEF Fee Contribution**

5.1 If the Ordered Services include Administration Services, the Partnering Institution shall be entitled to receive a contribution from UK Export Finance in addition to the fees charged to the Borrower by the Partnering Institution for Administration Services in respect of the Loan Facility equal to 0.15% per annum of the principal amount outstanding under the Loan Facility from time to time, up to a maximum principal amount equal to the Maximum Principal Amount (the “**UKEF Fee Contribution**”).

5.2 Subject to Clauses 5.3, 5.4 and 5.5, the UKEF Fee Contribution in respect of any Loan Facility shall:

(a) accrue from day to day; and

(b) be calculated in respect of the scheduled interest periods under the Loan Agreement from and including the date of first utilisation by the Borrower of the Loan Facility to but excluding the earlier of:

(i) repayment of the Loan Facility in full; and

(ii) the transfer (by one or more disposals) by UK Export Finance of the whole of its participation in the Loan Facility.

5.3 No UKEF Fee Contribution shall be made by UK Export Finance in respect of any interest period under the Loan Agreement save to the extent that the Borrower pays an amount of interest (not being default interest) corresponding to the UKEF Fee Contribution for that interest period.

5.4 If the Loan Facility is restructured, the Partnering Institution shall not be entitled to any UKEF Fee Contribution in respect of any scheduled interest period after the date of that restructuring unless UK Export Finance agrees otherwise in writing.

5.5 The Partnering Institution shall not be entitled to receive any accrued UKEF Fee Contribution not yet made on the date on which the Partnering Institution’s obligations to provide Administration Services expire or otherwise terminate.

6 **Expenses**

6.1 Without prejudice to the fees payable to the Partnering Institution by the Borrower, if the Service Order Letter states that UK Export Finance shall make a UKEF Fee Contribution, the UKEF Fee Contribution shall be the full and exclusive remuneration of the Partnering Institution made by UK Export Finance in respect of the provision of the Ordered Services and, save as expressly set out in the Services Contract or any Loan Facility Document, shall include every cost and expense of the Partnering Institution.
directly or indirectly incurred in connection with the performance of the Ordered Services.

6.2 Notwithstanding Clause 9.4(b) and (c) (Undertakings) of this Services Contract and any provision in any Loan Facility Document confirming that action shall be taken by the Partnering Institution at UK Export Finance’s expense, UK Export Finance shall not be liable to place the Partnering Institution in funds or reimburse the Partnering Institution in respect of expenses incurred or to be incurred by it in complying with any written direction given by UK Export Finance where such direction is given as a result of any act or omission of the Partnering Institution whatsoever (other than an act or omission in accordance with the written directions of UK Export Finance) or where no demand for reimbursement of such expenses has been made to the Borrower or any other person liable to make such reimbursement except where UK Export Finance has directed that no such demand be made.

7 Payments and VAT

7.1 The Partnering Institution shall notify UK Export Finance of the amount of the UKEF Fee Contribution as specified in the Services Contract. Such notification shall include the relevant Services Order Number and such other supporting information as reasonably required by UK Export Finance to verify the accuracy of the UKEF Fee Contribution calculation.

7.2 Subject to Clause 5.3 (UKEF Fee Contribution), payments of the UKEF Fee Contribution in respect of the Loan Facility shall be made on the last day of each scheduled interest period under the Loan Agreement (each such day being a “UKEF Fee Contribution Payment Day”) and the Partnering Institution shall be entitled to deduct an amount equal to the UKEF Fee Contribution accrued during each interest period from payments received from the Borrower in respect of interest due under the Loan Agreement for that interest period.

7.3 The UKEF Fee Contribution is inclusive of VAT which shall (where it is chargeable) be charged at the prevailing rate. The Partnering Institution shall, within 10 Working Days of each UKEF Fee Contribution Payment Day on which a UKEF Fee Contribution is made, issue to UK Export Finance a valid VAT invoice for a sum equal to the VAT chargeable in respect of the Administration Services.

8 Representations and warranties

8.1 The Partnering Institution represents and warrants to UK Export Finance that:

(a) it has full capacity and authority and all necessary Authorisations to enter into and
to perform its obligations under the Services Contract;

(b) the obligations expressed to be assumed by it in the Services Contract are its legal, valid and binding obligations enforceable subject only to general principles of equity and law affecting creditors' rights generally;

(c) all information, statements, warranties and representations contained in the Application and (unless otherwise agreed by UK Export Finance in writing) any other document provided to UK Export Finance by or on behalf of the Partnering Institution in connection with the Application are true, accurate, and not misleading save as may have been specifically disclosed in writing to UK Export Finance prior to the execution of the Panel Memorandum; and

(d) the particulars of the fees agreed with the Obligors in respect of the Loan Facility set out in the Mandate or otherwise disclosed to UK Export Finance prior to the date of the Service Order Letter were true, complete and accurate and as at the date of the Services Contract there has been no change in those particulars since the date of the Mandate or that disclosure.

8.2 The Partnering Institution will be deemed on the date of execution of the Loan Facility Documents to repeat:

(a) the representations and warranties set out in Clauses 8.1(a) and 8.1(b) as if references in those Clauses to the Services Contract were references to the Loan Facility Documents to which the Partnering Institution is a party; and

(b) the representations and warranties set out in Clause 8.1(d) as if references to the date of the Services Contract were a reference to the date of execution of the Loan Facility Documents.

8.3 The Partnering Institution acknowledges and agrees that:

(a) the representations, warranties and undertakings contained in the Services Contract are material and are designed to induce UK Export Finance into entering into the Services Contract and to induce UK Export Finance to enter into the Loan Facility Documents to which it is a party; and

(b) UK Export Finance has been induced into entering into the Services Contract and in doing so has relied upon the warranties, representations and undertakings contained in the Services Contract.

8.4 For the avoidance of doubt, the fact that any provision within the Services Contract is expressed as a warranty shall not preclude any right of termination that UK Export
Finance may have in respect of breach of that provision by [the / a] Partnering Institution.

9   Undertakings

9.1 The Partnering Institution shall provide such “know your customer” information as UK Export Finance may request from time to time to enable UK Export Finance to carry out its “know your customer” checks in respect of the Partnering Institution.

9.2 UK Export Finance shall be responsible for providing, or procuring the provision to the Partnering Institution of the form of Loan Agreement and other Loan Facility Documents for the Loan Facility and shall use reasonable endeavours to respond in a timely fashion to all requests for instructions from the Partnering Institution.

9.3 The Partnering Institution shall:

(a) promptly notify UK Export Finance:

   (i) of any fact, matter or circumstance of which it may become aware which would render any representation or warranty set out in Clause 8.1 (Representations and warranties) to be false or misleading if repeated on the dates such representations and warranties are deemed to be repeated in accordance with Clause 8.1 (Representations and warranties) as applicable;

   (ii) of any material detrimental change in its financial standing and/or credit rating; and

   (iii) if it undergoes a Change of Control;

(b) be responsible for obtaining and maintaining all Authorisations required in relation to the performance of its obligations under the Services Contract and each Loan Facility Document to which it is a party; and

(c) have robust contingency plans in place, which it shall regularly update and revise, to ensure that the Ordered Services shall be maintained in the event of disruption, however caused (including, but not limited to, disruption to information technology systems), to the Partnering Institution’s operations and those of its permitted subcontractors if any.

9.4 Notwithstanding any other provision of this Services Contract, if the Ordered Services include Administration Services, the Partnering Institution shall:

(a) In relation to all of the rights and powers of the agent it has under or arising from the Loan Facility Documents:
(i) always exercise or refrain from exercising such powers in accordance with the written direction of UK Export Finance given to the Partnering Institution; and

(ii) not exercise any such rights and powers otherwise than in accordance with the written direction of UK Export Finance given to the Partnering Institution and, where the Loan Facility is a syndicated facility, without having regard to the wishes or views of any or all of the other lenders under that Loan Facility;

(b) take at UK Export Finance’s expense (save where otherwise provided) all such measures as UK Export Finance shall require to prevent or minimise loss and to protect and preserve such rights and powers of UK Export Finance under or arising from the Loan Facility Documents;

(c) take at UK Export Finance’s expense (save where otherwise provided) all such measures as UK Export Finance may direct to effect recoveries when an Event of Default (as defined in the Loan Agreement) has occurred, including without prejudice to the generality of the foregoing bringing, defending or otherwise participating in proceedings under or in connection with the Loan Facility and the Loan Facility Documents of any kind and in any jurisdiction as agent and representative of each lender and/or UK Export Finance; and

(d) do nothing to prejudice or adversely to affect the rights or interests of UK Export Finance under the Loan Facility Documents.

10 Assignment and sub-contracting

10.1 The Services Contract is personal to the Partnering Institution and accordingly the Partnering Institution shall not assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Services Contract or any part of the Services Contract without the written consent of UK Export Finance. UK Export Finance may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Partnering Institution shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.

10.2 UK Export Finance may assign, novate, or otherwise dispose of its rights and obligations under the Services Contract without the consent of the Partnering Institution provided that such assignment, novation or disposal shall not increase the burden of the Partnering Institution’s obligations under the Services Contract and the Partnering Institution shall enter into all such documents as UK Export Finance shall reasonably require to give effect to any such assignment, novation or disposal.
11 Access and records

11.1 UK Export Finance may, during normal business hours and on reasonable notice, inspect and examine the manner in which the Ordered Services are provided at or from the Partnering Institution’s premises, including the contingency plans referred to in Clause 9.2(c) (Undertakings).

11.2 The Partnering Institution shall keep and maintain until 7 years after the expiry or date of termination of the Services Contract or any Loan Facility Document (the “Retention Period”) to which it remains a party, or such longer period as UK Export Finance may reasonably require (provided notice of such longer period is given at least 6 months prior to the end of the Retention Period), full and accurate records of the Services Contract including the Ordered Services and all payments made to or by UK Export Finance under the Services Contract and the Loan Facility Documents.

11.3 The Partnering Institution shall on request afford UK Export Finance and its auditors and their respective representatives such access to (including permission to take copies of) any of the records referred to in Clause 11.2 and will furnish such oral and written explanations of any records within its knowledge as may be reasonably requested by or on behalf of UK Export Finance or its auditors.

11.4 The Parties shall each bear their own respective costs and expenses incurred in connection with their rights and obligations under this Clause 11.

12 Confidentiality and transparency

12.1 Subject to Clause 12.2, each Party shall:

(a) treat all Confidential Information it receives as confidential, ensure all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information and not disclose it to any other person without the prior written permission of the disclosing Party; and

(b) not use or exploit the disclosing Party’s Confidential Information in any way except for the purposes anticipated under the Services Contract.

12.2 Notwithstanding Clause 12.1, a Party may disclose Confidential Information which it receives from the other Party:

(a) where disclosure is required by Applicable Law or by a court of competent jurisdiction;

(b) to its auditors or for the purposes of regulatory requirements;

(c) on a confidential basis, to its professional advisers;
(d) where the receiving Party is the Partnering Institution, to the Staff on a need to know basis to enable performance of the Partnering Institution’s obligations under the Services Contract provided that the Partnering Institution shall procure that any Staff to whom it discloses Confidential Information pursuant to this Clause (d) shall observe the Partnering Institution’s confidentiality obligations under the Services Contract; and

(e) where the receiving Party is UK Export Finance:

(i) on a confidential basis to the employees, agents, consultants and contractors of UK Export Finance;

(ii) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which UK Export Finance transfers or proposes to transfer all or any part of its business;

(iii) to the extent that UK Export Finance (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

(iv) for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which it has used its resources;

(v) to the Serious Fraud Office where the Party has reasonable grounds to suspect that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010; or

(vi) in accordance with Clause 13 (Freedom of Information).

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on UK Export Finance under this Clause 12.

12.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Services Contract is not Confidential Information and the Partnering Institution hereby gives its consent for UK Export Finance to publish the Services Contract in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Services Contract agreed from time to time. UK Export Finance may consult with the Partnering Institution to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Services Contract is exempt from
disclosure in accordance with the provisions of the FOIA.

13 Freedom of Information

13.1 The Partnering Institution acknowledges that UK Export Finance is subject to the requirements of the FOIA and the Environmental Information Regulations and shall:

(a) provide all necessary assistance and cooperation as reasonably requested by UK Export Finance to enable UK Export Finance to comply with its obligations under the FOIA and the Environmental Information Regulations;

(b) transfer to UK Export Finance all Requests for Information relating to this Services Contract that it receives as soon as practicable and in any event within 2 Working Days of receipt;

(c) provide UK Export Finance with a copy of all Information belonging to UK Export Finance requested in the Request for Information which is in its possession or control in the form that UK Export Finance requires within 5 Working Days (or such other period as UK Export Finance may reasonably specify) of UK Export Finance’s request for such Information; and

(d) not respond directly to a Request for Information unless authorised in writing to do so by UK Export Finance.

13.2 The Partnering Institution acknowledges that UK Export Finance may be required under the FOIA and the Environmental Information Regulations to disclose Information concerning the Partnering Institution or the Services (including commercially sensitive information) without consulting or obtaining consent from the Partnering Institution. In these circumstances UK Export Finance shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Partnering Institution advance notice, or failing that, to draw the disclosure to the Partnering Institution’s attention after any such disclosure.

13.3 Notwithstanding any other provision in the Services Contract, UK Export Finance shall be responsible for determining in its absolute discretion whether any Information relating to the Partnering Institution or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations.

14 Liability

14.1 Without affecting the responsibilities of the Partnering Institution under the Loan Facility Documentation, each Party confirms to the other Party that it shall be solely responsible for making its own independent appraisal and investigation of each Obligor
in relation to the Loan Facility and all risks arising under or in connection with the Loan Facility. Without prejudice to the generality of the foregoing, UK Export Finance shall be responsible for making its own assessment of all documentation and evidence supplied by the Partnering Institution pursuant to its provision of any Ordered Services.

14.2 UK Export Finance shall have no liability in respect of payment of fees payable by any Obligor to the Partnering Institution in respect of the Ordered Services.

14.3 Subject to Clause 14.4, the Partnering Institution shall not be liable for any action taken by it under or in connection with the Services Contract unless directly caused by its negligence or wilful misconduct. UK Export Finance shall not take any proceedings against any officer or employee of the Partnering Institution in respect of any claim it might have against the Partnering Institution or in respect of any act or omission of any kind by that officer or employee in relation to the Services Contract and any officer or employee may rely on this Clause 14.3.

14.4 Nothing in the Services Contract shall be construed to limit or exclude either Party's liability for:

(a) death or personal injury caused by its negligence or that of its Staff;
(b) fraud or fraudulent misrepresentation by it or that of its Staff; or
(c) any other matter which, by law, may not be excluded or limited.

14.5 Notwithstanding that UK Export Finance is a “Lender” for the purposes of the Loan Agreement, the provisions of Clause [24.11 (Lenders' indemnity to the Agent)] of the Loan Agreement shall be deemed not to apply to UK Export Finance.

15 Termination

15.1 UK Export Finance may require the Partnering Institution to resign as facility agent, security trustee and/or intercreditor agent by notice to the Partnering Institution at any time whereupon the Partnering Institution shall without further action on its part be deemed to have resigned and the Services Contract shall be terminated as regards the Administration Services, Security Trustee Services and/or Intercreditor Agency Services as the case may be, in each case as of the date specified in the notice.

15.2 UK Export Finance may terminate the Services Contract as regards the Arranger Services by written notice to the Partnering Institution with immediate effect if the Partnering Institution:

(a) (without prejudice to Clause 15.2(f)), is in material breach of any obligation under the Services Contract which is not capable of remedy;
(b) repeatedly breaches any of the terms and conditions of the Services Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Services Contract;

(c) is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Partnering Institution receiving notice specifying the breach and requiring it to be remedied;

(d) undergoes a Change of Control;

(e) ceases to be an Eligible Institution;

(f) breaches any of the provisions of Clauses 11 (Access and records), 12 (Confidentiality and transparency) and/or any undertaking given to UK Export Finance under the terms of the Anti-Corruption Undertaking; or

(g) becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Partnering Institution (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Partnering Institution’s assets or business, or if the Partnering Institution makes any composition with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this Clause 15.2(g) in consequence of debt in any jurisdiction.

15.3 Termination or expiry of the Services Contract shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under Clause 15.4 and Clauses 6 (Expenses), 7 (Payments and VAT), 11 (Access and records), 12 (Confidentiality and transparency), 13 (Freedom of Information), 14 (Liability), 16 (Dispute Resolution) and 19 (Governing law, jurisdiction and service of process) or any other provision of the Services Contract that either expressly or by implication has effect after termination.

15.4 Upon termination or expiry of the Services Contract in whole or in part, the Partnering Institution shall:

(a) give all reasonable assistance to UK Export Finance and any incoming supplier of any Services; and

(b) return all requested documents, information and data to UK Export Finance as soon as reasonably practicable.
16 Dispute resolution

16.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Services Contract and the Loan Facility Documents and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

16.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in Clause 16.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “Mediator”) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.

16.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under Applicable Law.

16.4 Nothing in this Clause 16 shall prevent UK Export Finance from seeking from any court of competent jurisdiction an interim order restraining the Partnering Institution from doing any act or compelling the Partnering Institution to do any act.

16.5 The obligations of the Parties under the Services Contract and each Loan Facility Document shall not be suspended, cease or be delayed by the reference of a dispute to mediation pursuant to this Clause 16 and the Partnering Institution and its Staff shall comply fully with the requirements of the Services Contract and all Loan Facility Documents at all times.

17 General

17.1 A person who is not a party to the Services Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.

17.2 The Services Contract cannot be varied except in writing signed by a duly authorised representative of both the Parties.

17.3 The Services Contract and, if and when executed, the Loan Facility Documents together contain the whole agreement between the Parties in respect of its subject matter and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Services Contract on the basis of any representation that is not expressly incorporated into the Services Contract. Nothing in this Clause 17.3 shall exclude liability for fraud or fraudulent misrepresentation.
17.4 The Services Contract shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Services Contract and in any Loan Facility Documents. The Partnering Institution shall not have, nor represent that it has, any authority to make any commitments on UK Export Finance’s behalf save as expressly provided for in any Loan Facility Document.

17.5 Any waiver or relaxation, either partly or wholly, of any of the terms and conditions of the Services Contract shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver.

17.6 Any failure to exercise or any delay in exercising a right or remedy by either Party shall not constitute a waiver of that right or remedy or of any other rights or remedies. No single or partial exercise of any right or remedy provided under the Services Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

17.7 Except as otherwise expressly provided by the Services Contract, all rights and remedies available to either Party under the Services Contract (whether under the Services Contract, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one right or remedy shall not be deemed an election of such right or remedy to the exclusion of other rights or remedies.

17.8 If any provision of the Services Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Services Contract and rendered ineffective as far as possible without modifying the remaining provisions of the Services Contract, and shall not in any way affect any other circumstances of or the validity or enforcement of the Services Contract.

17.9 If any provision of the Services Contract that is fundamental to the accomplishment of the purpose of the Services Contract is deemed to be deleted pursuant to Clause 17.8, UK Export Finance and the Partnering Institution shall immediately commence good faith negotiations to amend the Services Contract so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in the Services Contract and, to the extent that is reasonably possible, achieves the Parties' original commercial intention.
18 Notices

18.1 Any notice to be given under the Services Contract shall be in writing and may be served by personal delivery, first class recorded or, subject to Clause 18.3, e-mail to the address of the relevant Party set out in the Service Order Letter, or such other address in the UK or electronic mail address as that Party may from time to time notify to the other Party by not less than 5 Working Days notice.

18.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day.

18.3 Subject to Clause 18.2, an email shall be deemed delivered when sent unless an error message is received. Any notices under Clause 15 (Termination) served by email shall also be sent in original form to the recipient by personal delivery or recorded delivery in the manner set out in Clause 18.1 but the notice shall be effective, notwithstanding the failure to do so.

19 Governing Law, jurisdiction and service of process

19.1 The Services Contract, and any non-contractual obligations arising out of or in connection with it, shall be governed by, and construed in accordance with, English law.

19.2 The Parties agree that the courts of England shall have exclusive jurisdiction to settle any disputes arising out of or in connection with the Service Contract (including disputes relating to the validity, construction, performance or termination of the Services Contract or any non-contractual obligations arising out of or in connection with the Service Contract).

19.3 Without prejudice to any other mode of service allowed under any relevant law, the Partnering Institution:

(a) irrevocably appoints the person specified in the Service Order Letter, if any, as its agent for service of process in relation to any proceedings before the English courts in connection with the Services Contract; and

(b) agrees that failure by a process agent to notify the Partnering Institution of the process shall not invalidated the proceedings concerned.
APPENDIX 5: DEFINITIONS

“Adverse Event” means, in relation to a Loan Facility, any event or circumstance of which the Partnering Institution is aware and of which it is at liberty under Applicable Law to inform UK Export Finance which in the opinion of the Partnering Institution might reasonably be expected adversely to affect:

(d) the ability or willingness of any Obligor to perform its obligations under any of the Loan Facility Documents; or

(e) the value of any security for the obligations of any Obligor under any of the Loan Facility Documents;

"Applicable Law" means:

(a) any law, statute, decree, constitution, regulation, authorisation, judgment, injunction or other directive of any Government Entity;

(f) any treaty, pact, compact or other binding agreement to which any Government Entity is a signatory or party; or

(g) any judicial or administrative interpretation with binding characteristics or application of those described in sub-paragraph (a) or (b) above,

and in each case, which is applicable to the relevant Partnering Institution, UK Export Finance or the Loan Facility Documents;

“Application” has the meaning given in recital (C) to this Panel Memorandum;

"Authorisation" means an authorisation, consent, permit, approval, resolution, licence, exemption, filing, notarisation or registration;

“Borrower” means, in relation to a Loan Facility, the entity which is or is proposed to be the borrower under that Facility;
“Change of Control” means a change of control within the meaning of section 450 of the Corporation Tax Act 2010;

“Crown” means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

“Direct Lending Facility” has the meaning given in recital (A) to this Panel Memorandum;

“Eligibility Criteria” means the eligibility criteria for award of a place on the Panel set out in the Application;

“Eligible Institution” means an institution which UK Export Finance determines meets the Eligibility Criteria;

“Expressions of Interest” has the meaning given to it in paragraph 2 of Part 2 of Appendix 3 (Ordering Procedures);

“Government Entity” means:

(a) any national government or political subdivision of a national government;

(b) any banking or monetary authority of a national government or of a political subdivision of a national government;

(c) any local jurisdiction of a national government or of a political subdivision of a national government;

(d) any instrumentality, board commission, authority, department, division, organ, court or agency of any of the foregoing, however constituted; and

(e) any association, organisation or institution of which any of the entities listed in the preceding paragraphs is a member or to whose jurisdiction any of them are subject or in whose activities any them are a
“LMA” means the Loan Market Association;

“Loan Agreement” means, in relation to a Loan Facility, the loan agreement made or proposed to be made between, or between amongst others, a Borrower, [a / the] Partnering Institution (or another Eligible Institution, as the case may be) as facility agent and UK Export Finance as lender;

“Loan Administration Form” has the meaning given to it in paragraph 3 of Part 2 of Appendix 2 (Services);

“Loan Facility” means a loan facility made available, or proposed by a Borrower or other Obligor or by [a / the] Partnering Institution (or another Eligible Institution, as the case may be) to be made available, to a Borrower by UK Export Finance (whether alone or as part of a syndicated arrangement where the other Lenders in the syndicate benefit from a 100% guarantee from UK Export Finance) pursuant to the Direct Lending Facility or other arrangement which involves UK Export Finance in funding loans;

“Loan Facility Documents” means, in relation to a Loan Facility, the Loan Agreement and all related guarantee and security documents documenting the arrangements relating to that Loan Facility in respect of which UK Export Finance may require Services;

“Mandate” means, in relation to a Loan Facility, written acceptance by the Borrower of a proposal from the relevant Partnering Institution in respect of the Services to be provided by that Partnering Institution in connection with that Loan Facility;

“Obligor” means, in relation to a Loan Facility, a person which is or is proposed to be a party to a Loan Facility Document other than UK Export Finance, any other lender and any Eligible Institution (including any Partnering Institution), as the case may be;

“Offer Closing Date” has the meaning given to it in paragraph 2 of Part 2 of
Appendix 3 (Ordering Procedures)

“Offered Services” has the meaning given to it in paragraph 1 of Part 2 of Appendix 3 (Ordering Procedures)

“Ordering Procedures” means the ordering and award procedures specified in Clause 4 and Appendix 3 (Ordering Procedures);

“Panel” means the panel arrangements established by UK Export Finance for the provision of Services to it by Eligible Institutions in connection with the Direct Lending Facility and other arrangements which may involve UK Export Finance in funding loans;

“Partnering Institutions” means the Partnering Institutions listed in Appendix 1 (Partnering Institutions) and “Partnering Institution” shall mean any of them;

“Partnering Institution’s Group” means the Partnering Institution and its Subsidiaries for the time being;

“Parties” means the parties to this Panel Memorandum;

“Proposed Fees” has the meaning given to it in paragraph 2 of Part 1 of Appendix 3 (Ordering Procedures);

“Service Order Letter” means a letter substantially in the form set out in Appendix 4 (Form of Service Award Letter);

“Services” means the services in respect of Loan Facilities described in Appendix 2 (Services);

“Services Contract” means a contract between (i) UK Export Finance acting as part of the Crown and (ii) [the / a] Partnering Institution constituted by the [relevant] Partnering Institution’s countersignature of a Service Order Letter;

“Subsidiary” means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006;

“Tax” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);
“Term” means, subject to earlier termination pursuant to Clause 8 (Termination), the term of this Panel Memorandum as determined in accordance with Clause 3 (Term);

“VAT” means:

(a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112), and

(b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere;

“Website Details” means any relevant details about the type of Loan Facility for which [the / a] Partnering Institution is willing to provide Services including (but not limited to):

(a) Loan Facility size;

(b) preferred business/industry sectors;

(c) preferred geographical regions; and

(d) enquiry contact details; and

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in London.