

DEPARTMENT FOR BUSINESS, ENERGY & INDUSTRIAL STRATEGY

2021 TRADE CREDIT REINSURANCE SCHEME

1. Introduction

On 14 September 2020, a set of rules for a scheme (the “**2020 Scheme Rules**”) to be known as the Trade Credit Reinsurance Scheme (the “**2020 Scheme**”) was published by The Secretary of State for Business, Energy and Industrial Strategy (“**BEIS**”). Pursuant to Rule 19 of the 2020 Scheme Rules, BEIS has extended the 2020 Scheme (the “**2021 Scheme**”) as set out in these rules (the “**2021 Scheme Rules**”).

2. Definitions and interpretation

These 2021 Scheme Rules are to be interpreted in accordance with paragraph 2 of Annex 1 (*Definitions and interpretation*) and capitalised terms used in these 2021 Scheme Rules have the meaning given to them in paragraph 1 of Annex 1 (*Definitions and interpretation*).

3. Description of the 2021 Scheme

- 3.1 The objective of the 2021 Scheme is to support UK businesses, and aid economic recovery, following the coronavirus pandemic by providing targeted support via trade credit insurers. To achieve this objective, trade credit insurance coverage and credit limits should be maintained during the 2021 Scheme Period in accordance with the 2021 Scheme Rules and the other 2021 Scheme Documents, thereby reducing the likelihood of business failure and minimising reduction in economic activity from an abrupt withdrawal of trade credit insurance.
- 3.2 The 2021 Scheme was established by BEIS and BEIS will meet payment commitments under the 2021 Scheme through the exercise of common law powers and under the authority of section 86 of the Coronavirus Act 2020.

4. Delivery of the 2021 Scheme

The 2021 Scheme shall be delivered on behalf of BEIS by PricewaterhouseCoopers LLP, or such other person(s) as BEIS may nominate to perform the oversight role set out in these 2021 Scheme Rules (“**Delivery Partner**”). The Delivery Partner is BEIS’ contractor for the purposes the 2021 Scheme and has no direct relationship with any In-scope TCI for the purposes of the 2021 Scheme under an In-scope TCI Contract.

5. Eligibility for participation

- 5.1 Subject to Rule 5.2, the following are eligible to participate in the 2021 Scheme:

- (A) an insurer that:
- (i) meets Customer Due Diligence requirements;

- (ii) is duly authorised and has any necessary regulatory permissions, licences, consents and approvals to carry on its business in the UK; and
- (iii) writes In-scope Policies in respect of In-scope Insureds other than through a Managing General Agent or Managing Agent,

an “**Eligible Trade Credit Insurer**”;

(B) a Managing Agent that:

- (i) writes In-scope Policies in respect of In-scope Insureds, on behalf of the members of the Lloyd’s syndicate managed by it, through that syndicate;
- (ii) meets Customer Due Diligence requirements;
- (iii) is duly authorised and has any necessary regulatory permissions, licences, consents and approvals to carry on its business in the UK; and
- (iv) demonstrates that it has sufficient authority under the terms of the management agreement with the relevant Lloyd’s syndicate members to bind them to the terms of the 2021 Scheme and to administrate, on their behalf, their involvement in the 2021 Scheme, as contracted under the In-scope TCI Contract on their behalf; and

(C) a Managing General Agent that:

- (i) writes In-scope Policies in respect of In-scope Insureds on behalf of the insurers that it binds and that meet the requirements for Rules 5.1(A)(i) and 5.1(A)(ii);
- (ii) meets Customer Due Diligence requirements;
- (iii) is duly authorised (or is not legally required to be authorised) and has any necessary regulatory permissions, licences, consents and approvals to carry on its business in the UK; and
- (iv) demonstrates that it has sufficient authority under the binders it has in place with the relevant insurers to bind those insurers to the terms of the 2021 Scheme and to administrate, on their behalf, their involvement in the 2021 Scheme, as contracted under the In-scope TCI Contract on their behalf,

each such Eligible Trade Credit Insurer, Managing General Agent or Managing Agent who applies and is accepted into the 2021 Scheme in accordance with Rule 6.4 being an “**In-scope TCI**”.

5.2 Any Captive Insurer insuring its Affiliate Policyholder Captives and any equivalent Self-Insurance Structures (including those using Fronting Companies) are not eligible to

participate in the 2021 Scheme and any associated insurance policies are not covered by the 2021 Scheme.

6. Applications process and Term

Applying to the 2021 Scheme

6.1 To apply to participate in the 2021 Scheme, an Eligible Trade Credit Insurer, eligible Managing Agent or eligible Managing General Agent:

- (A) that is currently participating in the 2020 Scheme (“**Existing In-scope TCI**”) must provide written confirmation to BEIS by 30 December 2020, confirming whether the Existing In-scope TCI shall participate in the 2021 Scheme;
- (B) that is not currently participating in the 2020 Scheme, must submit an application, in the form set out at Attachment 1 (*Form of 2021 Scheme Application*), and all required accompanying documentation (a “**2021 Scheme Application**”), to BEIS in full by 5:30 p.m. on 30 December 2020 (the “**2021 Scheme Application Deadline**”).

6.2 An insurer, Managing Agent or Managing General Agent who is not currently participating in the 2020 Scheme and does not meet the criteria set out in Rule 5.1 (*Eligibility for participation*) above may petition BEIS for inclusion within the 2021 Scheme on the basis that such inclusion is consistent with the aims of the 2021 Scheme as set out in Rule 3 (*Description of the 2021 Scheme*) by submitting a 2021 Scheme Application accompanied by such petition in writing including relevant supporting written evidence, (a “**Petition**”) to BEIS by the 2021 Scheme Application Deadline. BEIS will assess each Petition and decide at its absolute discretion whether or not to accept the Petition.

6.3 BEIS shall respond to 2021 Scheme Applications and Petitions made pursuant to Rules 6.1(B) and 6.2 with the outcome of the 2021 Scheme Application or Petition within 5 Business Days of the 2021 Scheme Application Deadline.

6.4 Where:

- (A) an Existing In-scope TCI confirms its participation in the 2021 Scheme; or
- (B) the 2021 Scheme Application or Petition of an applicant under Rule 6.1(B) has been successful (a “**New In-scope TCI**”),

BEIS will provide to the In-scope TCI a contract substantially in the form set out at Attachment 2 (*Form of In-scope TCI Contract*) for counter-signature by the In-scope TCI which shall incorporate these 2021 Scheme Rules and include (among other things) the In-scope TCI’s Allocation under the 2021 Scheme (an “**In-scope TCI Contract**”).

Contract and Term

6.5 An In-scope TCI shall become a signatory to the 2021 Scheme on signing the In-scope TCI Contract. Each In-scope TCI Contract shall become effective and binding when executed by all necessary authorised signatories (the “**Start Date**”) and shall continue until the relevant Termination Date.

7. Coverage under the 2021 Scheme

7.1 The 2021 Scheme shall cover In-scope Losses in respect of In-scope Policies during the Term.

In-scope Insureds

7.2 The 2021 Scheme applies to:

- (A) Supplier Originators who have the benefit of cover under an In-scope Policy;
- (B) any non-UK Tax Resident Affiliates of an In-scope Insured falling within Rule 7.2(A) that originates trade receivables in the ordinary course of business and that are joint or co-insured (a “**Foreign Joint Insured**”) of such In-scope Insured under an In-scope Policy that is effective on the Start Date (“**Foreign Joint Insured Policy**”); and
- (C) incorporated entities or partnerships being factoring companies, banks or invoice discounting companies or Permitted Securitisation Structures (but excluding: (i) securitisation special purpose vehicles (or similar structures) and any related lenders and security trustees, other than Permitted Securitisation Structures; (ii) incorporated entities or partnerships to the extent they provide supply-chain finance services; and (iii) any such incorporated entity or partnership that is a member of an In-scope TCI’s Group) that:
 - (i) are lead insureds, joint-insureds or co-insureds under a policy with an insured falling within Rule 7.2(A); or
 - (ii) have been assigned or otherwise legally transferred the benefit of an In-scope Policy (in accordance with the terms of the relevant In-scope Policy) by an insured falling within Rule 7.2(A); and/or
 - (iii) have been assigned or otherwise legally transferred the benefit of an In-scope Receivable where the Supplier Originator does not have the benefit of cover under an In-scope Policy,

each an “**In-scope Insured**”.

In-scope Policies

- 7.3 Subject to the terms and conditions of these 2021 Scheme Rules, the 2021 Scheme applies to such part of any valid and binding trade credit insurance policy which:
- (A) has cancellable and/or non-cancellable limits; and
 - (B) provides insurance cover against non-payment or loss (as applicable) of Insured Receivables; and
 - (C) is subject to IPT (or any pure export trade credit insurance policy which, but for the exemption in paragraph 13 of Schedule 7A to the Finance Act 1994, would be subject to IPT); and
 - (D) subject to Rule 7.4, in respect of Foreign Joint Insured Policies:
 - (i) covers exposures to or insured turnover of (as applicable) Foreign Joint Insureds in respect of Insured Receivables of no more than 25% of the total exposures or insured turnover (as applicable) in respect of all Insured Receivables under that Foreign Joint Insured Policy at:
 - (a) for Existing In-scope TCIs, the 2020 Scheme Start Date; or
 - (b) for New In-scope TCIs, the Start Date; or
 - (ii) where exposures to or insured turnover of (as applicable) Foreign Joint Insureds in respect of Insured Receivables is more than 25% of the total exposures or insured turnover (as applicable) in respect of all Insured Receivables under that Foreign Joint Insured Policy at the Start Date:
 - (a) where it is reasonably practicable for an In-scope TCI to exclude the exposure in respect of Insured Receivables due to Foreign Joint Insureds under that Foreign Joint Insured Policy, covers Insured Receivables of In-scope Insureds falling within Rule 7.2(A) under that policy; or
 - (b) where it is not reasonably practicable for an In-scope TCI to otherwise exclude the exposure in respect of Insured Receivables due to Foreign Joint Insureds under that Foreign Joint Insured Policy, that policy in its entirety is not covered by the 2021 Scheme; and
 - (E) is in force at the start of the 2021 Scheme Period; or
 - (F) save for Foreign Joint Insured Policies, is entered into or renewed during the 2021 Scheme Period, and in the case of Foreign Joint Insured Policies, is a Foreign Joint Insured Policy that was covered under the 2020 Scheme on the 2020 Scheme Start Date and is either in force or renewed during the 2021 Scheme

Period on materially similar terms and in accordance with the In-scope TCI's established procedures and practices as applied in the 12 months preceding 1 April 2020, in each case on terms consistent with Rule 12 (*Underwriting, credit limits and premiums*); or

- (G) save for Foreign Joint Insured Policies, is switched to another In-scope TCI during the 2021 Scheme Period on terms consistent with Rule 12 (*Underwriting, credit limits and premiums*),

and in each case issued by an In-scope TCI to an In-scope Insured which had been subjected to Customer Due Diligence, such policies being the “**In-scope Policies**” under the 2021 Scheme.

- 7.4 In respect of a Foreign Joint Insured Policy granted by a New In-scope TCI covering exposures to or insured turnover of (as applicable) Foreign Joint Insureds in respect of Insured Receivables of more than 25% of the total exposures or insured turnover (as applicable) in respect of all Insured Receivables under that Foreign Joint Insured Policy at the Start Date, such Insured Receivables of Foreign Joint Insureds of more than 25% of the total exposures or insured turnover (as applicable) may be, at BEIS' consent (granted at its sole discretion) determined to be covered by the 2021 Scheme and such Foreign Joint Insured Policies be deemed In-scope Policies for the purposes of the 2021 Scheme and the 2021 Scheme Rules. When exercising its discretion, BEIS shall consider, among other things, whether (in the opinion of BEIS) the inclusion of such policy is consistent and compatible with the objectives of the 2021 Scheme set out in Rule 3.1 (*Description of the 2021 Scheme*) and would not amount to unlawful State aid (under European law or other equivalent applicable laws).

8. State aid

To the extent that BEIS has reasonable grounds to consider that it has provided unlawful State aid (under European Union or other applicable laws) to an In-scope TCI under or in connection with the 2021 Scheme Documents, BEIS has the right, by notice in writing, to require that In-scope TCI to repay to BEIS such aid, together with interest calculated in accordance with any requirement of law.

9. Transfer of economic risk

Indemnification for In-scope Losses

- 9.1 BEIS shall indemnify each In-scope TCI, on the terms and conditions set out in these 2021 Scheme Rules, for:

- (A) 90% of the value of:
- (i) any Claim paid or due to be paid by an In-scope TCI;
 - (ii) any Claim Expenses in respect of any Claim paid or due to be paid by an In-scope TCI;

- (iii) Without Prejudice Payments;
- (iv) Ex Gratia Payments; and
- (v) all Large Ex Gratia Payments approved by BEIS in accordance with Rule 9.5,

up to and including that In-scope TCI's Allocation,

arising during the Term and which, in each case, do not fall within the scope of the 2020 Scheme or any other State's backed or guaranteed support arrangements, together, "**In-scope Losses**", and there will be no double recovery under the 2021 Scheme for In-scope Losses:

- (B) by a Managing General Agent or a Managing Agent and any insurer or syndicate; or
- (C) between an In-scope Insured falling within Rule 7.2(A) (*Coverage under the 2021 Scheme*), an In-scope Insured falling within Rule 7.2(B) (*Coverage under the 2021 Scheme*) and/or an In-scope Insured falling within Rule 7.2(C) (*Coverage under the 2021 Scheme*) in respect of the same In-scope Policy and/or Insured Receivable.

9.2 Where BEIS has paid the Maximum Amount in respect of the 2020 Scheme and the 2021 Scheme and the aggregate of an Existing In-scope TCI's In-scope Losses under the 2020 Scheme ("**2020 In-scope Losses**") and In-scope Losses are greater than the Maximum Amount, BEIS shall pay to that Existing In-scope TCI its 2020 In-scope Losses arising under the 2020 Scheme in priority to its In-scope Losses arising under this 2021 Scheme up to the Maximum Amount in accordance with Rule 11 (*Settlement*).

Ceding Commission

9.3 In consideration for an In-scope TCI's performance of its ongoing responsibilities in respect of the Claims, BEIS shall, subject to the In-scope TCI complying with its obligations under Rule 10.1 (*In-scope TCI Payments*) pay to each In-scope TCI that In-scope TCI's Ceding Commission.

Large Ex Gratia Payments

9.4 Each In-scope TCI shall notify BEIS in writing if they wish to make a Large Ex Gratia Payment (a "**Large Ex Gratia Payment Notification**").

9.5 On receipt of a Large Ex Gratia Payment Notification, BEIS shall, at its sole discretion, decide whether the Large Ex Gratia Payment would be made in the ordinary course of business (measured against the average during the 2 year period ending on 31 March 2020) by an In-scope TCI to In-scope Insureds during the Term in relation to In-scope Policies, and will be covered by the 2021 Scheme. BEIS shall confirm such decision to

the In-scope TCI by notice in writing within 15 Business Days of receipt of a Large Ex Gratia Payment Notification.

- 9.6 If approved by BEIS in accordance with Rule 9.5, the Large Ex Gratia Payment shall be included as an In-scope Loss in the next Quarterly Report and Quarter settlement process after approval has been granted.

Quarterly Indemnification Payments

- 9.7 BEIS shall discharge its obligations under Rules 9.1, 9.3 , 9.5, 10.2 (*In-scope TCI Payments*) and 11.8 (*Settlement*) by payment to each In-scope TCI of an amount of GBP equal to:

- (A) the In-scope Losses of that In-scope TCI for that Quarter; *less*
- (B) any amounts prepaid by BEIS for the purpose of paying a Large Claim in accordance with Rule 11.8 (*Settlement*) to that In-scope TCI in that Quarter; *plus*
- (C) to the extent applicable, the Ceding Commission of that In-scope TCI for that Quarter; *plus*
- (D) to the extent applicable, the Annual Premium Adjustment Amount if negative; *plus*
- (E) to the extent applicable, the Annual Ceding Commission Adjustment Amount where the Annual Premium Adjustment Amount is positive;

(the “**Quarterly Indemnification Amount**”) (which, subject to BEIS review and agreement, will be set out in the relevant Quarterly Report), in accordance with Rule 11 (*Settlement*).

- 9.8 Any dispute in relation to compliance with this Rule and/or any related payments shall be subject to the provisions of Rules 23 (*Dispute resolution*) and 24 (*Expert determination*).

10. In-scope TCI Payments

Scheme Premium

- 10.1 In consideration for the transfer of the economic risk of each In-scope TCI's In-scope Losses to BEIS under Rule 9 (*Transfer of economic risk*), each In-scope TCI shall pay to BEIS an amount equal to the In-scope TCI's Scheme Premium.

Annual Premium Adjustment Payment

- 10.2 Within 20 Business Days of the publication of an In-scope TCI's Accounts for each Financial Year, that In-scope TCI shall prepare and provide to BEIS a statement, specifying the In-scope TCI's Annual Premium Adjustment Amount and the Annual Ceding Commission Adjustment Amount, together with the Premium Adjustment

Attestation for that Financial Year. The Annual Premium Adjustment Amount shall be included in the next Quarterly Report and Quarter settlement process to occur after delivery of such statement in accordance with Rules 9.7 (*Transfer of economic risk*), 10.5 and 11.1 (*Settlement*).

Recoveries

10.3 Each In-scope TCI shall:

- (A) subject to requirements of Applicable Law and Regulation, pursue, or procure that the In-scope Insured pursue, Recoveries in accordance with the standards prescribed by the relevant In-scope Policy in a manner consistent with any policies and procedures on recovery of losses applied by the In-scope TCI in the 12 months preceding the commencement of the 2021 Scheme Period; and
- (B) if positive, pay to BEIS the Quarterly Recoveries Amount.

10.4 BEIS shall pay to each In-scope TCI, if negative, the Quarterly Recoveries Amount. BEIS shall discharge its obligations under this Rule 10.4 by agreeing to the set off of such amount against the amounts owed to it by the In-scope TCI under this Rule 10 in accordance with Rule 10.5.

Quarterly TCI Amount

10.5 Subject to Rule 10.6, each In-scope TCI shall discharge its obligations under Rules 10.1, 10.2 and 10.3 by making payment to BEIS of an amount of GBP equal to:

- (A) the Quarterly Premium Amount due to BEIS from that In-scope TCI for that Quarter; *plus*
- (B) if positive, the Quarterly Recoveries Amount due to BEIS from that In-scope TCI for that Quarter; *less*
- (C) if negative, the Quarterly Recoveries Amount due to that In-scope TCI from BEIS for that Quarter; *plus*
- (D) to the extent applicable, the Annual Premium Adjustment Amount if positive; *plus*
- (E) to the extent applicable, the Annual Ceding Commission Adjustment Amount where the Annual Premium Adjustment Amount is negative,

(the "**Quarterly TCI Amount**") (which, subject to BEIS review and agreement, will be set out in the Quarterly Report) in accordance with Rule 11 (*Settlement*).

10.6 Any dispute in relation to compliance with this Rule and/or any related payments shall be subject to the provisions of Rules 23 (*Dispute resolution*) and 24 (*Expert determination*).

11. Settlement

Quarterly Settlement

- 11.1 On the Business Day falling 20 Business Days after receipt of an In-scope TCI's complete Quarterly Report in accordance with Rule 17.2 (*Provision of information to BEIS*):
- (A) where the Quarterly Indemnification Amount due from BEIS for the immediately preceding Quarter under Rule 9.7 (*Transfer of economic risk*) is greater than the Quarterly TCI Amount due from an In-scope TCI for that immediately preceding Quarter under Rule 10.5 (*In-scope TCI Payments*) (plus any Quarterly TCI Amount previously due but not paid), BEIS shall pay to that In-scope TCI that Quarterly Indemnification Amount net of that Quarterly TCI Amount; and
 - (B) where the Quarterly TCI Amount due from an In-scope TCI for the immediately preceding Quarter under Rule 10.5 (*In-scope TCI Payments*) (plus any Quarterly TCI Amount previously due but not paid) is greater than the Quarterly Indemnification Amount due from BEIS for that immediately preceding Quarter under Rule 9.7 (*Transfer of economic risk*), that Quarterly TCI Amount net of that Quarterly Indemnification Amount (a "**TCI Payable**") shall not be paid to BEIS but shall be recorded and set off against the next BEIS payable as it falls due under Rule 11.1(A) and, to the extent such TCI Payable exceeds that next BEIS payable, the excess only of that TCI Payable shall continue to be recorded and shall be set off against subsequent BEIS payables due to be paid under Rule 11.1(A) as they arise for payment.
- 11.2 An In-scope TCI shall use any amount received from BEIS under Rule 11.1(A) or such relevant portion of such amount to discharge In-scope Losses to the extent not already paid by that In-scope TCI.
- 11.3 Where any amount (or any element of such amount) to be paid by or to BEIS is based on a currency other than GBP, for the purposes of calculating and paying that amount, such amount shall be translated into GBP at the prevailing exchange rate applicable to the relevant amount of that non-GBP currency by reference to the In-scope TCI's exchange rate reference point consistently used for financial reporting purposes on the nearest practicable date to the date of the relevant Quarterly Report.

Allocation Adjustment Amount

- 11.4 Where BEIS has paid the Maximum Amount in respect of the 2020 Scheme and the 2021 Scheme and the aggregate of an Existing In-scope TCI's 2020 In-scope Losses and In-scope Losses are greater than the Maximum Amount, on any date on which a Quarterly Indemnification Amount or payment in connection with a Large Claim is due to that Existing In-scope TCI, BEIS shall pay to that Existing In-scope TCI its 2020 In-scope Losses arising under the 2020 Scheme which are otherwise due and not paid on that date up to the Maximum Amount in priority to its In-scope Losses arising under this 2021 Scheme (each a "**2020 Scheme Priority Payment**").

- 11.5 Where BEIS pays the 2020 Scheme Priority Payment pursuant to Rule 11.4, BEIS shall notify the Existing In-scope TCI and Existing In-scope TCI shall repay to BEIS an amount equal to the 2020 Scheme Priority Payment on the same day as BEIS makes the payment pursuant to Rule 11.4.
- 11.6 The payments due by BEIS under Rule 11.4 shall be set off against the payments due by an Existing In-scope TCI under Rule 11.5 and BEIS shall be treated as never having made a payment in the amount of the 2020 Priority Payment under the 2021 Scheme and the Existing In-scope TCI shall be treated as never having received a payment in the amount of the 2020 Priority Payment under the 2021 Scheme.

Large Claims

- 11.7 Where a Large Claim is notified to an In-scope TCI by or on behalf of one or more In-scope Insured, such In-scope TCI may request that BEIS provide payment of the amount claimed under such Large Claim to the In-scope TCI in advance of that In-scope TCI's settlement of such Large Claim to the In-scope Insured by promptly making a Large Claim Request.
- 11.8 Subject to Rule 11.9, BEIS shall pay an amount equal to the value of the relevant Large Claim to the In-scope TCI within 10 Business Days of receipt of a complete and valid Large Claim Request.
- 11.9 Any dispute in relation to compliance with this Rule and/or any related payments shall be subject to the provisions of Rules 23 (*Dispute resolution*) and 24 (*Expert determination*).

12. Underwriting, credit limits and premiums

- 12.1 Rules 12.2 to 12.7 do not apply to Covered Business written by an In-scope TCI above its Allocation or following exhaustion of the cover available to the In-scope TCI under the 2021 Scheme.

Underwriting

- 12.2 Without prejudice to Rules 12.4 to 12.7, an In-scope TCI shall procure that from the Start Date and until the expiry of the 2021 Scheme Period, the In-scope TCI shall:
- (A) where there are no reasonably identifiable coronavirus related adverse economic impacts on a particular In-scope Insured or its Debtors or Debtor Groups, continue to act according to its Underwriting Policies in relation to the underwriting of In-scope Policies in relation to that In-scope Insured; and
 - (B) where there are reasonably identifiable coronavirus related adverse economic impacts on an In-scope Insured or its Debtors or Debtor Groups, continue to act according to its Underwriting Policies in relation to the underwriting of In-scope Policies in relation to that In-scope Insured and disregard all such reasonably identifiable coronavirus related adverse economic impacts unless one of the following circumstances applies:

- (i) a non-payment notification in relation to non-payment of a debt owed by a Debtor or a member of a Debtor Group (taking into account any reasonable request by In-Scope Insureds for extension of payment terms) is delivered by or on behalf of In-scope Insureds to the In-scope TCI or a member of the In-scope TCI's Group;
- (ii) a significant deterioration in a Debtor's financial viability occurs (evidenced by the accounts, cash flow forecasts or projected future revenues of that Debtor or its Debtor Group) including due to heightened political risk;
- (iii) a Debtor or Debtor Group is unable to meet its financial obligations as they fall due, after taking into account coronavirus support schemes available;
- (iv) a notification is made of impending insolvency, or equivalent in the jurisdiction of incorporation, of a Debtor or a significant member of that Debtor's Group;
- (v) a Debtor fails to provide material financial information to an In-scope TCI within a reasonable timeframe following a request by the In-scope TCI or a member of the In-scope TCI's Group or a Debtor fails to adhere to regulatory filing requirements in any material respect, taking into account any regulatory filing extensions available as a result of coronavirus;
- (vi) an In-scope TCI or a member of the In-scope TCI's Group receives information on a Debtor, a Debtor's Group, such Debtor's director or ultimate owner, that could significantly increase the likelihood of a default by that Debtor, being information relating to a history of corporate insolvency in respect of the director or ultimate owner, or loss of a material contract impacting the viability of the Debtor;
- (vii) receipt by an In-scope TCI or a member of the In-scope TCI's Group of indication of fraudulent activities (assessed by the In-scope TCI acting reasonably and in good faith) of an In-scope Insured, Debtor or, to the extent relevant to In-scope TCI's assessment, members of the Debtor Group or a director or ultimate owner of the Debtor;
- (viii) receipt by an In-scope TCI of a notification that a Debtor's banking facilities have been withdrawn; or
- (ix) an In-scope Insured agrees with the In-scope TCI that an Insured Credit Limit may be reduced or withdrawn on the basis that such Insured Credit Limit is not required by the In-scope Insured or a smaller credit limit is sufficient.

Credit Limits

- 12.3 Without prejudice to Rules 12.4 to 12.7, an In-scope TCI shall procure that from the Start Date and until the expiry of the 2021 Scheme Period, the In-scope TCI shall:
- (A) continue to monitor all Insured Credit Limits and Aggregate Debtor Credit Limits;
 - (B) update all relevant automated decision-making processes as far as reasonably practicable to be consistent with the 2021 Scheme Rules and, to the extent an automated decision is appealed by an In-scope Insured, process such appeal in accordance with these 2021 Scheme Rules;
 - (C) use reasonable endeavours to accommodate extension of terms of payments of Insured Receivables by an In-scope Insured upon the reasonable request of such In-scope Insured; and
 - (D) not make any large scale or bulk withdrawals or reductions of Insured Credit Limits and Aggregate Debtor Credit Limits.
- 12.4 From the Start Date and until the expiry of the 2021 Scheme Period and where there are no reasonably identifiable coronavirus related adverse economic impacts affecting an In-scope Insured or its Debtors or Debtor Groups, an In-scope TCI shall provide Insured Credit Limits and Aggregate Debtor Credit Limits pursuant to its Underwriting Policies, as amended in the ordinary and usual course of business excluding any amendments made to such Underwriting Policies as a result of or in respect of coronavirus.
- 12.5 From the Start Date and until the expiry of the 2021 Scheme Period and where there are reasonably identifiable coronavirus related adverse economic impacts affecting an In-scope Insured or its Debtors or Debtor Groups, an In-scope TCI shall not reduce or withdraw Insured Credit Limits or Aggregate Debtor Credit Limits in respect of such In-scope Insured or its Debtors or Debtor Groups unless one of the following circumstances applies:
- (A) a non-payment notification in relation to non-payment of a debt owed by a Debtor or a member of a Debtor Group (taking into account any reasonable request by In-Scope Insureds for extension of payment terms) is delivered by or on behalf of In-scope Insureds to the In-scope TCI or a member of the In-scope TCI's Group;
 - (B) a significant deterioration in a Debtor's financial viability occurs (evidenced by the accounts, cash flow forecasts or projected future revenues of that Debtor or its Debtor Group) including due to heightened political risk;
 - (C) a Debtor or Debtor Group is unable to meet its financial obligations as they fall due, after taking into account coronavirus support schemes available;
 - (D) a notification is made of impending insolvency, or equivalent in the jurisdiction of incorporation, of a Debtor or a significant member of that Debtor's Group;

- (E) a Debtor fails to provide material financial information to an In-scope TCI within a reasonable timeframe following a request by the In-scope TCI or a member of the In-scope TCI's Group or a Debtor fails to adhere to regulatory filing requirements in any material respect, taking into account any regulatory filing extensions available as a result of coronavirus;
- (F) an In-scope TCI or a member of the In-scope TCI's Group receives information on a Debtor, a Debtor's Group, such Debtor's director or ultimate owner, that could significantly increase the likelihood of a default by that Debtor, being information relating to a history of corporate insolvency in respect of the director or ultimate owner, or loss of a material contract impacting the viability of the Debtor;
- (G) receipt by an In-scope TCI or a member of the In-scope TCI's Group of indication of fraudulent activities (assessed by the In-scope TCI acting reasonably and in good faith) of an In-scope Insured, Debtor or, to the extent relevant to In-scope TCI's assessment, members of the Debtor Group or a director or ultimate owner of the Debtor;
- (H) receipt by an In-scope TCI of a notification that a Debtor's banking facilities have been withdrawn; or
- (I) an In-scope Insured agrees with the In-scope TCI that an Insured Credit Limit may be reduced or withdrawn on the basis that such Insured Credit Limit is not required by the In-scope Insured or a smaller credit limit is sufficient.

12.6 Each In-scope TCI will notify and consult BEIS prior to making any adjustments to an Insured Credit Limit applying to an In-scope TCI's Significant Debtor and will take into account the reasonable comments of BEIS that are received as soon as reasonably practicable and in any event within 3 Business Days of such notification before making any such adjustment.

Premiums

12.7 An In-scope TCI shall procure that from the Start Date and until the expiry of the 2021 Scheme Period, the In-scope TCI shall maintain its approach to the pricing of premiums under In-scope Policies reflecting the current economic environment (excluding the impacts of coronavirus) and on a basis that is consistent with the pricing approach utilised by the In-scope TCI during the first calendar quarter of 2020, but including any amendments made since then for non-coronavirus related reasons.

13. Covenants and undertakings

13.1 From the Start Date and until the expiry of the 2021 Scheme Period, the In-scope TCI shall:

- (A) operate its business in the ordinary and usual course (measured against the first quarter of 2020);

- (B) save with the prior written consent of BEIS, not pay any bonus, variable remuneration or benefit to Senior Management that is linked to, or will come about as a direct result of, the financial performance of Covered Business underwritten during, and attributable to, the 2021 Scheme Period, provided that nothing in this Rule 13.1(B) shall in any way affect or reduce or otherwise impair the ability of the In-scope TCI to pay any bonus, variable remuneration or benefit based on the performance of any business that is not Covered Business underwritten during the 2021 Scheme Period or at any time whatsoever whether such performance relates to the 2021 Scheme Period or otherwise and no notification, consultation or consent of BEIS is required for such payments;
- (C) to the extent reasonably practicable, exclude the exposure in respect of Insured Receivables due to new Foreign Joint Insureds under an In-scope Policy and any associated premium from the scope of the 2021 Scheme; and
- (D) where it is not reasonably practicable for an In-scope TCI to otherwise exclude the exposure in respect of Insured Receivables due to new Foreign Joint Insureds under an In-scope Policy and any associated premium from the scope of the 2021 Scheme and only to the extent reasonably commercially practical (in the reasonable opinion of the In-scope TCI), not enter into any new trade credit insurance policies with UK Tax Resident insureds that include any Foreign Joint Insured and, to the extent an In-scope TCI does so, such policies (in their entirety) shall not be In-scope Policies.

13.2 From the Start Date and until the Termination Date, the In-scope TCI shall:

- (A) comply with Applicable Law and Regulation in all material respects;
- (B) comply with its memorandum and articles of association or equivalent;
- (C) co-operate in a proactive and transparent manner with BEIS and the Delivery Partner and use all reasonable endeavours to satisfy such due diligence and information requests as BEIS may reasonably make for the purposes of the 2021 Scheme;
- (D) maintain standard business practices and guidelines in respect of Customer Due Diligence in place and applied during the first calendar quarter of 2020; and
- (E) maintain standard exclusions within the terms of all In-scope Policies.

13.3 From the Start Date and until the Termination Date (and from the end of the 2021 Scheme Period only to the extent applicable to Claims arising from Covered Business), each In-scope TCI shall not, save with the prior written consent of BEIS, such consent not to be unreasonably withheld or delayed, make any material changes at a portfolio level to claims payment or administrative practices, controls or systems relating to the In-scope Policies or otherwise make material change to the terms and conditions of any In-scope

Policies once issued other than in compliance with Applicable Law and Regulation and/or in the ordinary course of business (measured against the first quarter of 2020).

- 13.4 Each In-scope TCI shall not declare or pay any dividend or make any other distribution or return of value to an In-scope TCI's shareholders based on the profits resulting from any Covered Business, whether such profits were made during the 2021 Scheme Period or otherwise and provided that nothing in this Rule 13.4 shall in any way affect or reduce or otherwise impair the ability of the In-scope TCI or its Affiliates to declare or pay any dividend or make any other distribution or return of value to its shareholders based on the profits resulting from any business which is not Covered Business, whether such profits were made during the 2021 Scheme Period or otherwise and no notification, consultation or consent of BEIS is required for such dividend, distribution or return of value.

14. Claims handling and administration

- 14.1 Each In-scope TCI shall perform all claim handling responsibilities in respect of Claims, Ex Gratia Payments, Large Ex Gratia Payments and Without Prejudice Payments and shall perform such responsibilities with reasonable skill and care and in accordance with:

- (A) all Applicable Law and Regulation;
- (B) the In-scope TCI's established procedures and practices as applied in the 12 months preceding 1 April 2020, subject to reasonable adjustments in response to material increases in claims levels agreed with BEIS (who will act reasonably and in good faith) in advance of implementation; and
- (C) Good Industry Practice.

- 14.2 Each In-scope TCI shall from the Start Date and until the Termination Date (and from the end of the 2021 Scheme Period only to the extent applicable to Claims arising from Covered Business) staff claims management teams appropriately in the circumstances and use reasonable endeavours to maintain average service levels achieved during the first calendar quarter of 2020.

15. Warranties and Management Confirmation Letters

- 15.1 Each New In-scope TCI warrants to BEIS that each of the Warranties set out in Annex 2 (*In-scope TCI Warranties*) to these 2021 Scheme Rules is true and not misleading as at the Start Date.

- 15.2 Each Existing In-scope TCI:

- (A) warrants to BEIS that each of the Warranties set out in paragraphs 1 and 2 in Annex 2 (*In-scope TCI Warranties*) (the "**Repeating Warranties**") to these 2021 Scheme Rules is true and not misleading as at the Start Date; and
- (B) confirms to BEIS that in respect of each of the Warranties set out in paragraphs 3 and 4 of Annex 2 (*In-scope TCI Warranties*) to these 2021 Scheme Rules is

true and not misleading as if references in the relevant Warranties to the Start Date were to the 2020 Scheme Start Date, and references in the relevant Warranties to the 2021 Scheme were to the 2020 Scheme,

in each case subject to any fact, matter or circumstance fairly disclosed in any disclosure letter provided by the Existing In-scope TCI to BEIS in relation to the 2020 Scheme.

- 15.3 Each In-scope TCI warrants to BEIS that it has complied with its duty of fair presentation as set out in sections 2 to 7 of the Insurance Act 2015 for the purposes of the In-scope TCI Contract.
- 15.4 The Warranties or Repeating Warranties, as applicable, are given subject to any fact, matter or circumstance fairly disclosed in the Disclosure Letter.
- 15.5 Any Warranty qualified by the expression “**so far as the In-scope TCI is aware**” or any similar expression shall, unless otherwise stated, be deemed only to refer to the actual knowledge and awareness on the date such Warranty is given of the Management Signatories (having in each case read and had explained to them the Warranties) and after making reasonable enquiries of Key Personnel.
- 15.6 BEIS acknowledges that it does not rely on any warranties, representations, covenants, undertakings, indemnities or other statements whatsoever not set out in these 2021 Scheme Rules and acknowledges that no In-scope TCI nor any of its representatives has given any such warranties, representations, covenants, undertakings, indemnities or other statements.
- 15.7 Each of the Warranties shall be construed as a separate and independent warranty and (except where expressly provided to the contrary) shall not be limited or restricted by reference to or inference from the terms of any other Warranty.
- 15.8 The Management Signatories of each New In-scope TCI will each execute a Management Confirmation Letter on the Start Date and deliver the executed original document to BEIS.

16. Claims against In-scope TCI

- 16.1 The provisions of Annex 4 (*Limitation on the liability of In-scope TCI*) shall apply in relation to the liability of an In-scope TCI for any Warranty Claim.
- 16.2 BEIS agrees and undertakes that (in the absence of fraud, dishonesty or wilful concealment) it has no rights against and shall not make any claim against any representative of an In-scope TCI on whom it may have relied when producing these 2021 Scheme Rules (or any other 2021 Scheme Document), or entering into any In-scope TCI Contract or any Management Confirmation Letter.

17. Provision of information to BEIS

Regular reporting requirements

- 17.1 Each In-scope TCI shall, on or before the 5th Business Day of each calendar month during the period from the Start Date until the Termination Date, provide a complete Monthly Report relating to the previous calendar month to BEIS.
- 17.2 Each In-scope TCI shall, on or before the 15th Business Day of each Quarter, provide a complete Quarterly Report relating to the previous Quarter to BEIS and a Reporting Attestation relating to that report.
- 17.3 Each In-scope TCI shall prepare Monthly Reports and Quarterly Reports in accordance with the policies, principles, practices, bases and methodologies set out in Annex 3 (*Accounting policies, principles, practices, bases and methodologies*) to these 2021 Scheme Rules and Claims reported in a Monthly Report or Quarterly Report shall be submitted to BEIS promptly and in the ordinary course.

Additional notification requirements

- 17.4 Each In-scope TCI will notify BEIS in writing (in the form of “Exceptional Claim Notification” set out in Schedule 3 to the In-scope TCI Contract) of Claims for a single In-scope Loss or a series of related In-scope Losses over £5,000,000 per Debtor Group within 5 Business Days of becoming aware of such a claim.
- 17.5 An In-scope TCI will promptly notify BEIS of any developments that may have a material impact on the In-scope TCI’s ability to perform any of its obligations as set out in these 2021 Scheme Rules.
- 17.6 Where an In-scope TCI becomes aware of an error in the data provided by that In-scope TCI to BEIS, the In-scope TCI will promptly notify BEIS of such error and correct and re-submit the relevant data to BEIS within 5 Business Days of becoming aware of the error.
- 17.7 Where an In-scope TCI becomes aware of an error provided by that In-scope TCI in a Monthly Report or a Quarterly Report submitted to BEIS, the In-scope TCI will promptly notify BEIS and correct and re-submit the Monthly Report or Quarterly Report, as applicable, within 5 Business Days of becoming aware of the error. Where such error has resulted in an error in the calculation of a Quarterly Indemnification Amount or Quarterly TCI Amount this shall be rectified in the next Quarterly Report and Quarter settlement process.

Audit

- 17.8 Each In-scope TCI shall provide BEIS and BEIS’s agents, accountants, auditors and professional advisers with such data, information and records as BEIS reasonably requests for the purposes of monitoring compliance with the 2021 Scheme Documents and BEIS’s annual reporting and accounting (including audit) and provide to BEIS any additional information relating to In-scope Policies, In-scope Losses or In-scope Insureds

which BEIS may reasonably require following the Termination Date, including reasonable details of the total Claims, Recoveries, Scheme Premiums, In-scope Losses and exposures in respect of In-scope Policies incurred up to and including the Termination Date. To the extent any information provided to BEIS' agents, accountants, auditors and professional advisers by an In-scope TCI under this Rule is Confidential Information, such agents, accountants, auditors and professional advisers shall enter into a market standard confidentiality agreement with the In-scope TCI. The reasonable incurred costs and expenses of an In-scope TCI in complying with this Rule shall be payable by BEIS within 20 Business Days of the earlier of: (i) the conclusion of the review by BEIS of the information provided under this Rule; or (ii) 40 Business Days from the date of receipt by BEIS of the information, save for in circumstances where the information provided under this Rule evidences a material breach by the In-scope TCI of the relevant In-scope TCI Contract or any unlawful act or omission by the In-scope TCI, in which case the In-scope TCI shall be liable for all such costs.

Access rights

- 17.9 Subject to any reasonable security requirements and entry into market standard confidentiality agreements, each In-scope TCI shall provide access for such personnel identified by BEIS to the In-scope TCI's personnel, systems (including any systems used for handling Claims), books and records and other documents during working hours and, to the extent permitted and reasonably practicable, procure that its third party service providers provide reasonable access to their personnel, systems (including any systems used for handling Claims), books and records and other documents which BEIS, or the Delivery Partner on behalf of BEIS, may reasonably request in connection with:
- (A) its review of a Monthly Report or a Quarterly Report;
 - (B) its monitoring and auditing of an In-scope TCI's compliance with the 2021 Scheme Documents; or
 - (C) onward reporting, where required, to a Governmental Authority, including, for the avoidance of doubt the Competition and Markets Authority and the European Commission.

Personal Data

- 17.10 Each In-scope TCI shall ensure that no Personal Data is transferred to BEIS or the Delivery Partner unless strictly necessary under Rule 17. Any transfer of Personal Data shall be strictly in accordance Data Protection Law.

Market review

- 17.11 During the 2021 Scheme Period, each In-scope TCI shall provide BEIS with such information as BEIS shall reasonably require in order to facilitate HMG's review of the trade credit insurance market. Such information shall include reasonable detail and be provided according to a timetable to be agreed between BEIS and the In-scope TCI.

Consequences of failure to deliver information

- 17.12 If an In-scope TCI fails to submit to BEIS a complete Monthly Report or Quarterly Report within the period specified in Rule 17.1 or 17.2 (any such, or any part of such, Monthly Report or Quarterly Report not submitted to BEIS being “**Missing Information**”), the In-scope TCI shall provide an explanation to BEIS no later than 5 Business Days following the date for provision of such Missing Information pursuant to Rule 17.1 or 17.2 explaining the reasons for such failure by the In-scope TCI to provide the Missing Information (the “**Missing Information Notification**”) and shall use reasonable endeavours to agree remedial action with BEIS.
- 17.13 If the In-scope TCI has failed to submit to BEIS any Missing Information within 10 Business Days of the expiry of the period specified in Rule 17.1 or 17.2, as applicable, then:
- (A) the issue shall be referred to Senior Representatives for resolution in accordance with Rule 23 (*Dispute resolution*); and
 - (B) BEIS (and its agents, accountants, auditors and professional advisers) shall have the right to undertake an audit of the In-scope TCI’s Books and Records.
- 17.14 In the event that the In-scope TCI fails to deliver a complete Quarterly Report in accordance with Rule 17.2, BEIS shall have no obligation to make payment of the corresponding Quarterly Indemnification Amount until such failure is remedied by the In-scope TCI.

18. In-scope TCI regulatory compliance, reporting and audit

Once a year, BEIS shall (at the In-scope TCI’s expense) provide the In-scope TCI and the In-scope TCI’s agents, accountants, auditors and professional advisers with such data, information and records necessary for the purposes of the In-scope TCI’s annual reporting and accounting (including regulatory compliance and audit).

19. Extension of the 2021 Scheme Period

- 19.1 BEIS will review the 2021 Scheme Period and will discuss with In-scope TCIs whether to extend the 2021 Scheme Period and if so, the length of such extension, prior to 30 June 2021.
- 19.2 BEIS will give written notice to each In-scope TCI on or before 30 June 2021, if BEIS decides to extend the 2021 Scheme Period. BEIS shall review its option to extend on an ongoing basis and use reasonable endeavours to communicate its intentions in respect of an extension to In-scope TCIs and provide guidance on the process to be followed by In-scope TCIs in respect of such extension as soon as practicable in the circumstances.
- 19.3 On receiving notice of an extension of the 2021 Scheme Period pursuant to Rule 19.2, each In-scope TCI must provide written notice to BEIS within 20 Business Days of such notice, confirming whether the In-scope TCI shall participate in such extension.

- 19.4 Where the 2021 Scheme Period is extended by BEIS in accordance with Rule 19.2, the Term will be extended by the amount of such extension.

20. Termination

Termination

- 20.1 All the In-scope TCI Contracts shall automatically terminate at the end of the Term.

Early termination of In-scope TCI Contract

- 20.2 Each Party shall notify the other in writing as soon as reasonably practicable if it becomes aware of a material breach of an In-scope TCI Contract, or any act or omission to act likely to result in the same (including any failure to make any payment under the 2021 Scheme Rules when due), or of any matter or circumstance that results, or would reasonably be expected to result, in it becoming unlawful in any applicable jurisdiction for an In-scope TCI to give effect to any of its material obligations as contemplated by its In-scope TCI Contract.

- 20.3 An In-scope TCI Contract may be terminated by BEIS in respect of an In-scope TCI at any time by serving a Termination Notice on that In-scope TCI where:

- (A) the In-scope TCI has failed to make payment of a Quarterly TCI Amount as it falls due in accordance with Rule 11.1(B) (*Settlement*) and such non-payment has not been remedied within 5 Business Days of BEIS notifying the In-scope TCI in writing of such non-payment and requiring it to be remedied;
- (B) the In-scope TCI has failed to provide material information in accordance with Rule 17.2 (*Provision of information to BEIS*) that is reasonably required for the Quarterly Indemnification Amount and/or Quarterly TCI Amount (as applicable) to be calculated and such failure has not been remedied within 15 Business Days of BEIS notifying the In-scope TCI in writing of such failure and requiring it to be remedied;
- (C) the In-scope TCI is in material or persistent breach of any of the In-scope TCI Contract and, in the case of any material or persistent breach capable of being remedied, such breach has not been remedied within 20 Business Days of BEIS notifying the In-scope TCI in writing specifying the breach and requiring it to be remedied; or
- (D) BEIS has served a termination notice on an Existing In-scope TCI pursuant to Rule 20 of the 2020 Scheme Rules.

- 20.4 An In-scope TCI Contract may be terminated by an In-scope TCI in respect of BEIS at any time by serving a Termination Notice on BEIS where:

- (A) subject to Rule 17.14 (*Provision of information to BEIS*), BEIS has failed to make payment of a Quarterly Indemnification Amount as it falls due in accordance with

Rule 11.1 (*Settlement*) and such non-payment has not been remedied within 5 Business Days of an In-scope TCI notifying BEIS in writing of such non-payment and requiring it to be remedied;

- (B) BEIS is in material or persistent breach of the In-scope TCI Contract and, in the case of any material or persistent breach capable of being remedied, such breach has not been remedied within 20 Business Days of an In-scope TCI notifying BEIS in writing specifying the breach and requiring it to be remedied; or
- (C) Existing In-scope TCI has served a termination notice on BEIS pursuant to Rule 20 of the 2020 Scheme Rules.

20.5 Any Termination Notice served under:

- (A) Rules 20.3(A), 20.3(B), 20.3(C), 20.4(A) or 20.4(B) shall specify the Termination Date (which shall not be less than 5 Business Days and not more than 15 Business Days after the date of the Termination Notice) as determined by BEIS or, as the case may be, the In-scope TCI; or
- (B) Rules 20.3(D) or 20.4(C) shall have the same Termination Date as stated in the termination notice provided by BEIS or, as the case may be, the In-scope TCI pursuant to Rule 20 of the 2020 Scheme Rules.

20.6 An In-scope TCI Contract may be terminated if agreed to in writing between the In-scope TCI and BEIS. The In-scope TCI and BEIS shall, in such circumstances, mutually agree the Termination Date.

20.7 Each In-scope TCI shall give written notice to BEIS promptly upon becoming aware of any fact, matter or circumstance that might cause it to be unlawful for that In-scope TCI to perform any of its existing or future Covered Business.

20.8 Where it becomes unlawful in any applicable jurisdiction for an In-scope TCI to undertake Covered Business or perform all or a material part of its obligations under its In-scope TCI Contract including where an In-scope TCI ceases to hold any authorisation, permission, approval, registration, consent or licence which it requires in order to perform its material obligations under its In-scope TCI Contract, the Parties shall consult with each other in good faith and use reasonable endeavours to agree an appropriate remedy in 20 Business Days, provided that any remedy, as far as possible, preserves the original objectives and economic effect of the 2021 Scheme. For the duration of the 20 Business Day period and until such time as no longer unlawful, BEIS shall not be required to make any payments or take any other steps or actions under the 2021 Scheme Rules or the In-scope TCI Contracts if and to the extent that such payment or steps would be unlawful and if no remedy is agreed between the Parties in accordance with this Rule either Party may terminate the In-scope TCI Contract by written notice to the other Party with immediate effect.

20.9 Where it becomes unlawful in any applicable jurisdiction for BEIS to operate the 2021 Scheme or perform all or a material part of its obligations under the 2021 Scheme Rules

or the In-scope TCI Contracts, the Parties shall consult with each other in good faith and use reasonable endeavours to agree an appropriate remedy in 20 Business Days, provided that any remedy, as far as possible, preserves the original objectives and economic effect of the 2021 Scheme. For the duration of the 20 Business Day period and until such time as no longer unlawful, BEIS shall not be required to make any payments or take any other steps or actions under the 2021 Scheme Rules or the In-scope TCI Contracts if and to the extent that such payment or steps would be unlawful and if no remedy is agreed between the Parties in accordance with this Rule either Party may terminate the In-scope TCI Contract by written notice to the other Party with immediate effect.

21. Consequences of termination and commutation

Commutation

21.1 Following termination of the first In-scope TCI Contract to terminate in accordance with Rule 20 (*Termination*):

- (A) where a commutation process has commenced under the 2020 Scheme Rules, the same Independent Fellow of the Institute of Actuaries as agreed or determined under the 2020 Scheme Rules will be responsible for commutation under these 2021 Scheme Rules; or
- (B) where a commutation process has not commenced under the 2020 Scheme Rules:
 - (i) BEIS and all the In-scope TCIs shall agree on the independent Fellow of the Institute of Actuaries qualified for at least 10 years who will undertake all commutation processes in respect of the 2021 Scheme in accordance with this Rule; or
 - (ii) failing such agreement within 15 Business Days, on the application of either BEIS or any In-scope TCI, an independent Fellow of the Institute of Actuaries qualified for at least 10 years shall be nominated by the President of the Institute and Faculty of Actuaries.

21.2 Immediately following the agreement or determination of the identity of an actuary in accordance with Rule 21.1 or upon any subsequent In-scope TCI Contract termination (as applicable), BEIS and the relevant In-scope TCI shall jointly instruct that actuary to prepare a statement specifying her/his calculation of the Draft Commutation Amounts following standard practices and methodologies applying to reserving for trade credit insurance liabilities together with sufficient information to evidence and illustrate the basis and assumptions used in such calculations (together, the “**Draft Commutation Materials**”) and to provide the Draft Commutation Materials to BEIS and the In-scope TCI within 60 Business Days of the relevant Termination Date.

- 21.3 Each In-scope TCI and BEIS shall promptly on written request from the appointed actuary provide such information as is reasonably required by him/her in order to calculate the Draft Commutation Amounts.
- 21.4 An In-scope TCI or BEIS may dispute the Draft Commutation Materials by notice in writing (the “**Commutation Materials Dispute Notice**”) delivered to the other Party within 20 Business Days following receipt of the Draft Commutation Materials, if the Draft Commutation Amounts contained within the Draft Commutation Materials are produced upon unreasonable assumptions and judgements which no Fellow of the Institute of Actuaries could (acting in accordance with his/her professional duties) propose, or contain a manifest error. Where this Rule applies, the Commutation Materials Dispute Notice shall specify:
- (A) which Draft Commutation Amount(s) are disputed;
 - (B) the basis of unreasonableness of the assumptions and/or judgements or the manifest error upon which those Draft Commutation Amount(s) are disputed; and
 - (C) an explanation of the adjustments to the calculation of those Draft Commutation Amount(s) proposed by the In-scope TCI or BEIS to remedy any unreasonableness of the assumptions and/or judgements or any manifest error.
- 21.5 If neither Party serves a Commutation Materials Dispute Notice in accordance with Rule 21.4, the Draft Commutation Materials shall constitute the Commutation Materials and the Draft Commutation Amounts shall constitute the Commutation Amounts.
- 21.6 If a Party properly serves a Commutation Materials Dispute Notice in accordance with Rule 21.4, then BEIS and the In-scope TCI shall use their reasonable endeavours to resolve the dispute and:
- (A) if BEIS and the In-scope TCI reach agreement on the Draft Commutation Materials within 20 Business Days of the Commutation Materials Dispute Notice being served (or such longer period as BEIS and the In-scope TCI may agree in writing), the Draft Commutation Materials and Draft Commutation Amounts shall be amended (if applicable) to reflect such agreement and shall then constitute the Commutation Materials and Commutation Amounts; or
 - (B) if BEIS and the In-scope TCI do not reach agreement in accordance with Rule 21.6(A), BEIS or the In-scope TCI may refer the dispute to an Actuary Expert (who is different and independent from the Fellow of the Institute of Actuaries appointed in accordance with Rule 21.2) in accordance with Rule 24.1(A) (*Expert determination*) to determine the Commutation Materials and Commutation Amounts following standard practices and methodologies applying to reserving for trade credit insurance liabilities. The Actuary Expert may only consider whether the Draft Commutation Amounts contained in the Draft Commutation Materials are produced upon unreasonable assumptions and judgements or contain a manifest error which no Fellow of the Institute of Actuaries could, acting in accordance with his/ her professional duties, produce and if the Actuary Expert

so determines, the Actuary Expert shall indicate how the assumptions or judgements should be replaced or the manifest error corrected.

- 21.7 Each Party shall bear its own costs with respect to the finalisation of the Commutation Materials and the Commutation Amounts, save that the costs of any Actuary Expert shall be borne by the Parties as set out in Rule 24.2(C) (*Expert determination*).
- 21.8 Within 15 Business Days following agreement or determination of the Commutation Materials and the Commutation Amounts:
- (A) if following set off in accordance with paragraph 2.2 of Annex 5 (*Commutation calculation*) a residual amount is due to BEIS, the In-scope TCI, shall pay such amount in cash to BEIS; or
 - (B) if following set off in accordance with paragraph 2.2 of Annex 5 (*Commutation calculation*) a residual amount is due to the In-scope TCI, BEIS shall pay such amount in cash to the In-scope TCI and in accordance with paragraphs 2.3 and 2.4 of Annex 5 (*Commutation calculation*).

Effects of termination

- 21.9 Termination of an In-scope TCI Contract shall be without prejudice to the accrued rights and liabilities of the Parties thereunder at the date of such termination or expiry but all obligations on BEIS or an In-scope TCI to make payments under these 2021 Scheme Rules shall cease from the Termination Date, with the exception of any obligation under Rule 21.8.
- 21.10 Termination of an In-scope TCI Contract shall not affect the continued existence and validity of, and the rights and obligations of the Parties pursuant to 17.8 (*Provision of information to BEIS*), 21 (*Consequences of termination and commutation*), 22 (*Confidentiality*), 23 (*Dispute resolution*), 24 (*Expert determination*), 27 (*Notices*), 28 (*Remedies and waivers*), 30 (*Governing law and jurisdiction*) and any other provision which explicitly survives termination or expiry, together with those Rules, Annexes and Attachments the survival of which is necessary for the interpretation or enforcement of the In-scope TCI Contract (including Annex 1 (*Definitions and interpretation*)).
- 21.11 Any termination of an In-scope TCI Contract shall have no effect on the rights and liabilities of BEIS or any other In-scope TCIs under any other In-scope TCI Contract.

22. Confidentiality

- 22.1 Subject to Rules 22.2 and 22.3, from the Start Date until the date falling 10 years after the Termination Date:
- (A) a Receiving Party shall (and shall procure that each member of that Receiving Party's Group shall) treat as secret and strictly confidential and shall not (and shall procure that each member of the Receiving Party's Group shall not) disclose

or permit the disclosure of, nor otherwise make available, Confidential Information;

- (B) a Receiving Party shall:
- (i) have in place and maintain proper security measures and procedures which shall be at least as stringent as the measures and procedures it applies to its own Confidential Information to protect the confidentiality of the Confidential Information (having regard to its form and nature);
 - (ii) respect and observe all regulations and restrictions relating to any security classification marked on the Confidential Information; and
 - (iii) immediately notify the Disclosing Party in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information.

22.2 A Receiving Party may disclose Confidential Information if and to the extent:

- (A) required by Applicable Law and Regulation;
- (B) reasonably requested by, or reasonably expected to be provided to, any Governmental Authority to which the Receiving Party making the disclosure is subject (including the National Audit Office, the UK Parliament and the European Commission), whether or not such request has the force of Applicable Law and Regulation;
- (C) disclosure is made by a Receiving Party to a member of the Receiving Party's Group (provided that the Receiving Party shall be liable for any failure by a member of the Receiving Party's Group to keep such information confidential);
- (D) the information is disclosed on a confidential basis to the professional advisers or reinsurers of a Receiving Party or to any person to which that Receiving Party delegates any of its responsibilities under an In-scope TCI Contract, provided that such Receiving Party shall be liable for any failure by such persons to keep such information confidential;
- (E) in respect of Managing General Agents, insurance capacity providers in respect of In-scope Policies;
- (F) the Information has come into the public domain through no fault or breach of that Receiving Party;
- (G) the Disclosing Party has given prior written approval to the disclosure; or
- (H) required to enable a Receiving Party to exercise or enforce its rights under these 2021 Scheme Rules or any other 2021 Scheme Document.

22.3 Each In-scope TCI acknowledges and agrees that:

- (A) BEIS may be subject to the requirements of the Freedom of Information Act 2000 (“**FOIA**”) and the Environmental Information Regulations 2006 (“**EIR**”) and shall to the extent practicable and at the expense of BEIS assist and cooperate with BEIS to enable BEIS to comply with any information disclosure obligations;
- (B) BEIS shall be responsible for determining in its absolute discretion and notwithstanding any other provision in these 2021 Scheme Rules or any other agreement whether any Confidential Information or any other information is exempt from disclosure in accordance with the provisions of FOIA or the EIR;
- (C) in no event shall an In-scope TCI respond directly to a request for information under FOIA or EIR unless expressly authorised to do so by BEIS; and
- (D) the In-scope TCI acknowledges that BEIS may, acting in accordance with the Ministry of Justice’s Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of FOIA (“**the Code**”), be obliged under FOIA, or the EIR to disclose the Confidential Information:
 - (i) in certain circumstances, without consulting the In-scope TCI; or
 - (ii) following consultation with the In-scope TCI and having taken its views into account,

provided always that, where this Rule 22.3 applies, BEIS shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the In-scope TCI advance notice or, failing that, to draw the disclosure to the In-scope TCI’s attention after any such disclosure.

22.4 Notwithstanding anything to the contrary in this Rule:

- (A) BEIS shall be entitled to publish these 2021 Scheme Rules and any information or guidance relating to the 2021 Scheme Rules; and
- (B) each In-scope TCI shall be entitled to disclose its participation in the 2021 Scheme.

23. **Dispute resolution**

Where this Rule applies, in the event of a dispute between an In-scope TCI and BEIS in connection with the 2021 Scheme, either Party may serve notice on the other setting out the reasonable details of the disputed matter (a “**Dispute Notice**”). Upon service of a Dispute Notice, the In-scope TCI and BEIS shall convene a meeting of the Senior Representatives of the Parties. The Parties shall procure that their respective Senior

Representatives shall meet within 10 Business Days of the date of service of the Dispute Notice. If the Senior Representatives of the Parties:

- (A) are able to resolve the dispute within 20 Business Days of the date of the first meeting of the Senior Representatives in respect of the relevant Dispute Notice (or within such longer period as the Senior Representatives of the Parties may agree in writing) (the “**Resolution Period**”), the terms of the agreement, compromise, resolution or settlement reached between the Senior Representatives in respect of the dispute shall be documented in writing, shall be signed by the Senior Representative of each Party and shall be binding on both Parties; or
- (B) are unable to resolve a dispute in relation to Rules 9 to 11 within the Resolution Period, then either Party may request the dispute to be referred to expert determination in accordance with Rule 24 (*Expert determination*); or
- (C) are unable to resolve a dispute in relation to any other Rule within the Resolution Period, the dispute resolution process under this Rule will be deemed to have been exhausted in respect of such matter and each Party shall be free to pursue its rights under the In-scope TCI Contract or Applicable Law and Regulation in respect of such dispute without further reference to this dispute resolution process.

24. Expert determination

24.1 Where this Rule applies, either Party may refer the dispute to an appropriate independent expert to be jointly appointed by the Parties, such independent expert to be:

- (A) in relation to any dispute relating primarily to issues of an actuarial nature:
 - (i) an independent, third party actuary of sufficient skill and experience as BEIS and the In-scope TCI may agree; or
 - (ii) failing such agreement within 10 Business Days, to such person as the President of the Institute and Faculty of Actuaries may, on the application of either BEIS or the In-scope TCI, nominate,

(the “**Actuary Expert**”);
- (B) in relation to any dispute relating primarily to issues relating to accounting:
 - (i) an independent, third party accountant of sufficient skill and experience as BEIS and the In-scope TCI may agree; or
 - (ii) failing such agreement within 10 Business Days, to such person as the President of the Institute of Chartered Accountants in England and Wales may, on the application of either BEIS or the In-scope TCI, nominate,

(the “**Accountant Expert**” and “**Expert**” shall mean either the Accountant Expert or the Actuary Expert as the context requires),

in each case:

- (C) on the basis that the Expert is to make a decision on the matter in dispute within 30 Business Days of receiving the reference or such longer reasonable period as the Expert may determine; and
- (D) any such appointment to be made in accordance with Applicable Procurement Law and Regulations (and the Parties shall, at BEIS’ cost, cooperate in good faith to ensure that BEIS can meet the requirements of Applicable Procurement Law and Regulations).

24.2 In any reference to an Expert in accordance with this Rule:

- (A) the Expert shall act as an expert and not as an arbitrator;
- (B) the decision of the Expert shall, in the absence of fraud or manifest error, be final and binding on BEIS and In-scope TCI;
- (C) the costs of the Expert shall be paid by BEIS and In-scope TCI equally or as otherwise determined by the Expert; and
- (D) each of BEIS and In-scope TCI shall respectively provide or procure the provision to the Expert of all such information as the Expert shall reasonably require including by their respective advisers and, in the case of In-scope TCI, the Books and Records and personnel of In-scope TCI’s Group.

25. Assignment and transfer

25.1 No In-scope TCI shall, and no In-scope TCI shall purport to, assign, transfer, charge or otherwise deal with all or any of its rights or obligations under these 2021 Scheme Rules or grant, declare, create or dispose of any right or interest in these 2021 Scheme Rules without the prior written consent of the other Party.

25.2 Any purported assignment in contravention of this Rule shall be void.

26. Third party rights

The Parties to the 2021 Scheme Documents do not intend that any term of the 2021 Scheme Documents should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to the In-scope TCI Contract.

27. Notices

27.1 A notice or other communication given under or in connection with these 2021 Scheme Rules (a “**Notice**”) shall be:

- (A) in writing;
- (B) in the English language; and
- (C) sent by the Permitted Method to the Notified Address.

27.2 “**Permitted Method**” means any of the methods set out in column (1) below. A Notice given by the Permitted Method will be deemed to be given and received on the date set out in column (2) below:

(1) Permitted Method	(2) Date on which Notice deemed given
Personal delivery	When left at the Notified Address
Courier delivery	When left at the Notified Address
First class inland post	Two clear Business Days after the date of posting
E-mail	When sent

27.3 The “**Notified Address**” of each of the Parties is as set out below:

Name of Party	Address	E-mail Address	Marked for the attention of:
In-scope TCI	As set out in the In-scope TCI Contract	As set out in the In-scope TCI Contract	As set out in the In-scope TCI Contract
BEIS	1 Victoria Street, Westminster London SW1H 0ET	benjamin.leich@beis.gov.uk	Ben Leich

or such other Notified Address as the relevant Party may, by Notice to the other Party, substitute for their Notified Address set out above, but without prejudice to the effectiveness of any Notice already given in accordance with this Rule.

28. Remedies and waivers

28.1 No delay or omission to act by either Party in exercising any right, power or remedy provided by law or under these 2021 Scheme Rules or any other documents referred to in it shall:

(A) affect that right, power or remedy; or

(B) operate as a waiver thereof.

28.2 The single or partial exercise of any right, power or remedy provided by law or under these 2021 Scheme Rules shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

28.3 Save as expressly provided otherwise in these 2021 Scheme Rules, the rights, powers and remedies provided in these 2021 Scheme Rules are cumulative and not exclusive of any rights, powers and remedies provided by law.

29. Costs

Except as otherwise stated in these 2021 Scheme Rules, each of the Parties shall be responsible for its respective costs and expenses incurred in connection with the entry into and performance of the 2021 Scheme Documents.

30. Governing law and jurisdiction

30.1 These 2021 Scheme Rules shall be governed by and shall be construed in accordance with the laws of England and Wales. Any matter, claim or dispute arising out of or in connection with these 2021 Scheme Rules, contractual or non-contractual in nature, is to be governed by and determined in accordance with English law.

30.2 Without prejudice and subject to the provisions of Rule 23 (*Dispute resolution*), the courts of England and Wales shall have exclusive jurisdiction to settle any dispute, whether contractual or non-contractual, arising out of or in connection with these 2021 Scheme Rules. The Parties irrevocably submit and agree to submit to the jurisdiction of the courts of England and Wales.

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Annex 1
Definitions and interpretation

Definitions

1. In these Scheme Rules:

2020 In-scope Losses has the meaning given to it in Rule 9.2 (*Transfer of economic risk*).

2020 Scheme has the meaning given to it in Rule 1 (*Introduction*).

2020 Scheme Rules has the meaning given to it in Rule 1 (*Introduction*).

2020 Scheme Start Date has the meaning given to it in each In-scope TCI Contract.

2021 Maximum Amount has the meaning given to it in each In-scope TCI Contract.

2021 Scheme has the meaning given to it in Rule 1 (*Introduction*).

2021 Scheme Application has the meaning given to it in Rule 6.1 (*Applications process and Term*).

2021 Scheme Application Deadline has the meaning given to it in Rule 6.1 (*Applications process and Term*).

2021 Scheme Documents means these 2021 Scheme Rules, and, where applicable, in respect of each In-scope TCI, the In-scope TCI Contract, the Disclosure Letter and the Management Confirmation Letters.

2021 Scheme Period means, subject to an extension in accordance with Rule 19 (*Extension of the 2021 Scheme Period*), from and including 1 January 2021 up to and including 30 June 2021.

2021 Scheme Rules has the meaning given to it in Rule 1 (*Introduction*).

Accountant Expert has the meaning given to it in Rule 24.1 (*Expert determination*).

Accounts means:

- (A) for each Financial Year falling within limb (A) of that definition:
 - (i) in the case of an In-scope TCI operating as a UK branch or a subsidiary within a corporate group, the internal consolidation reporting package prepared for the purposes of the Financial Year audited accounts of the company or corporate group which the In-scope TCI forms part (as applicable); or
 - (ii) in all other cases, the Financial Year audited accounts of that In-scope TCI,

as applicable; or

- (B) any partial Financial Year ending on the Termination Date:
- (i) in the case of an In-scope TCI operating as a UK branch or a subsidiary within a corporate group, that In-scope TCI's internal reporting package prepared for the purposes of the most recent properly prepared management accounts of the company which the In-scope TCI forms part; or
 - (ii) in all other cases, the most recent properly prepared management accounts of that In-scope TCI,

as applicable, and in each case produced to the same standard as in limb (A)(ii).

Actual Earned Scheme Premium means the Scheme Premium earned during each full or partial Financial Year as reported in the TCI's relevant Accounts and where those Accounts do not expressly specify Scheme Premium (including due to changes in accounting policies, principles, practices, bases and methodologies since 31 December 2019), a reconciliation of Scheme Premium to those Accounts.

Actuary Expert has the meaning given to it in Rule 24.1 (*Expert determination*).

Affiliate means with respect to any person, each person that controls, is controlled by, or is under common control with, such person. For the purposes of this definition, "control" of a person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through the ownership of voting securities, by power to appoint directors, by contract or otherwise.

Aggregate Debtor Credit Limits means the maximum amount of credit which an In-scope TCI will cover in respect of a Debtor Group across all trade credit insurance policies written by that In-scope TCI.

Allocation has the meaning given to it in each In-scope TCI Contract.

AML Laws means any applicable law, rule, regulation or other legally binding measure relating to the prevention of money-laundering, fraud, terrorism or similar or related activities in any relevant country, including the Proceeds of Crime Act 2002 of the United Kingdom.

Annual Ceded Premium means the aggregate of all Quarterly Premium Amounts paid to BEIS by an In-scope TCI in a Financial Year.

Annual Ceding Commission Adjustment Amount means 35% of the Annual Premium Adjustment Amount.

Annual Premium Adjustment Amount means the amount resulting from the following calculation for a Financial Year for an In-scope TCI:

[*Actual Earned Scheme Premium*] minus [*Annual Ceded Premium*]

Applicable Law and Regulation means all applicable laws, statutes, regulations, binding regulatory guidance, rules, orders or directives of any Governmental Authority and circulars, judgments and written decisions of any Governmental Authority having jurisdiction over and binding the relevant Party from time to time, in all cases with respect to any part of the UK.

Applicable Procurement Law and Regulation means any Applicable Law and Regulation relating to public procurement.

BEIS has the meaning given to it in Rule 3.2 (*Description of the 2021 Scheme*).

Books and Records has its common law meaning and includes all notices, correspondence, orders, inquiries, drawings, plans, books of account and other documents and all computer disks or tapes or other machine legible programs or other records.

Business Day means a day other than a Saturday or Sunday on which banks are generally open for the transaction of normal banking business in London.

Captive Insurer means an entity whose main business includes insuring or reinsuring risks arising from any of its Affiliates.

Ceding Commission means an amount equal to thirty-five percent (35%) of an In-scope TCI's Scheme Premium.

Claim means any valid claim properly made by In-scope Insureds under any In-scope Policy in respect of Insured Receivables in accordance with the terms of that In-scope Policy.

Claim Expenses means costs and/or expenses reasonably incurred by the In-scope TCI and properly allocated to a specific Claim (in a manner consistent with expense allocation policies and practices and claims management manuals of an In-scope TCI properly in place during 2019) in relation to:

- (A) the disposition of a Claim, In-scope Loss or related legal proceedings;
- (B) any delegated Claims handling or servicing agency or subcontractor;
- (C) the investigation or negotiation of a Claim;
- (D) bonds and letters of credit;
- (E) court proceedings;

and any interest or damages payable on or added to any settlement or damages; and any judgment or award; but excluding any other costs and/or expenses including Recoveries Expenses.

Commutation Amounts means the amounts to be paid following termination in accordance with Rule 21 (*Consequences of termination and commutation*) and calculated in accordance with Annex 5 (*Commutation calculation*).

Commutation Materials means the Draft Commutation Materials as agreed between the Parties or determined by an Expert, in each case in accordance with Rule 21 (*Consequences of termination and commutation*).

Commutation Materials Dispute Notice has the meaning given to it in Rule 21.4 (*Consequences of termination and commutation*).

Confidential Information means, irrespective of whether it is marked as being confidential or not:

- (A) Information, including all Personal Data within the meaning of Data Protection Law, provided by a Disclosing Party in connection with the 2021 Scheme (whether before or after the Start Date) that relates to: (i) the Disclosing Party; (ii) the Disclosing Party's Group; or (iii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Disclosing Party or the Disclosing Party's Group;
- (B) other Information: (i) provided by the Disclosing Party or the Disclosing Party's Group to the Receiving Party in connection with the 2021 Scheme (whether before or after the Start Date); or (ii) that ought reasonably to be considered to be confidential which comes (or has come) to the Receiving Party's attention or into the Receiving Party's possession in connection with the 2021 Scheme (whether before or after the Start Date);
- (C) discussions, negotiations, and correspondence between the Disclosing Party or the Disclosing Party's Group and/or any of its directors, officers, employees, consultants or professional advisers and the Receiving Party and/or the Receiving Party's Group and/or any of its directors, officers, employees, consultants or professional advisers in connection with the 2021 Scheme (whether before or after the Start Date) and all matters arising therefrom; and
- (D) Information or analysis derived from any of the above,

but not including any Information that:

- (E) was in the possession of the Receiving Party without obligation of confidentiality prior to its disclosure by the Disclosing Party or the Disclosing Party's Group;
- (F) the Receiving Party obtained on a non-confidential basis from a third party who is not, to the Receiving Party's knowledge or reasonable belief, bound by a confidentiality agreement with the Disclosing Party or any member of the Disclosing Party's Group or otherwise prohibited from disclosing the Information to the Receiving Party;

- (G) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of an In-scope TCI Contract or breach of a duty of confidentiality; or
- (H) the Receiving Party evidences to the reasonable satisfaction of the Disclosing Party was independently developed without access to the Confidential Information.

Covered Business means the underwriting, administration and management of an In-scope TCI's In-scope Policies during the Term.

Customer Due Diligence means Know Your Customer Checks, checks required under AML Laws and checks to ensure compliance with applicable Sanctions Regimes.

Data Protection Law means all Applicable Law and Regulation from time to time relating to the processing of Personal Data and privacy including (where applicable):

- (A) the GDPR and any Applicable Law and Regulation of the United Kingdom that:
(a) implement and/or exercise derogations under it; and/or (b) replace or supersede it;
- (B) the Privacy and Electronic Communications (EC Directive) Regulations 2003; and
- (C) guidance and codes of practice or conduct issued by a Data Protection Regulator which for the purposes of the 2021 Scheme Rules shall be deemed to be mandatory.

Data Protection Regulator means the UK Information Commissioner, any supervisory authority (as defined in the GDPR) or any other person having regulatory or supervisory authority over processing of Personal Data by the Parties.

Debtor(s) means a counterparty whether based in the UK or elsewhere to a transaction with an In-scope Insured in respect of an Insured Receivable covered under the 2021 Scheme.

Debtor Group means a Debtor and any of its Affiliates.

Delivery Partner has the meaning given to it in Rule 4 (*Delivery of the 2021 Scheme*).

Disclosing Party means a Party that directly or indirectly discloses or makes available Confidential Information.

Disclosing Party's Group means: (i) in the case of BEIS, BEIS or any part of HMG which BEIS interacts with in connection with the 2021 Scheme; or (ii) in the case of an In-scope TCI, its Affiliates.

Disclosure Letter means a letter in the form set out at Attachment 3 (*Form of Disclosure Letter*) provided by an In-scope TCI to BEIS on the Start Date disclosing certain matters in relation to the

Warranties or Repeating Warranties, as applicable, together with all documents attached to it or listed in any schedule to it.

Dispute Notice has the meaning given to it in Rule 23 (*Dispute resolution*).

Draft Commutation Amounts means calculation of the Commutation Amounts by the independent actuary appointed in accordance with Rule 21 (*Consequences of termination and commutation*).

Draft Commutation Materials has the meaning given to it in Rule 21.2 (*Consequences of termination and commutation*).

EIR has the meaning given to it in Rule 22.3(A) (*Confidentiality*).

Eligible Trade Credit Insurer has the meaning given to it in Rule 5.1 (*Eligibility for participation*).

Ex Gratia Payment means a payment made in respect of a claim by an In-scope TCI in relation to an In-scope Policy gratuitously and without any obligation to make such payment under the contractual terms of that In-scope Policy, in each case with a value up to and including £5,000 excluding Without Prejudice Payments.

Existing In-scope TCI has the meaning given to it in Rule 6.1(A) (*Applications process and term*).

Expert has the meaning given to it in Rule 24.1 (*Expert determination*).

Financial Year means, as the context requires:

- (A) each 12 month period ending on the 31 December of a calendar year during the Term; and/or
- (B) any partial financial year period resulting from the early termination of an In-scope TCI Contract under Rule 20 (*Termination*).

FOIA has the meaning given to it in Rule 22.3(A) (*Confidentiality*).

Foreign Joint Insured has the meaning given to it in Rule 7.2(B) (*Coverage under the 2021 Scheme*).

Foreign Joint Insured Policy has the meaning given to it in Rule 7.2(B) (*Coverage under the 2021 Scheme*).

Fronting Company means an authorised insurer that sells an insurance product on behalf of another entity which maintains the economic risk of such insurance product by way of an indemnity, reinsurance or similar agreement.

GDPR means the General Data Protection Regulation (EU) 2016/679 of the European Parliament (as amended from time to time).

General Block Exemption Regulation means European Commission Regulation 651/2014 of 17 June 2014.

Good Industry Practice means, at any time, the exercise of reasonable skill, care, prudence, efficiency, foresight and timeliness which would at that time be expected from a reasonably and suitably skilled, trained and experienced insurer providing services and products similar to those services and products provided by the In-scope TCIs.

Governmental Authority means any national or state governmental bodies, authorities, courts of judicial authority, arbitrators and public and industry regulatory authorities, or political subdivision thereof, national or supranational body or any person or body exercising executive, legislative, judicial, regulatory, taxing or administrative functions on behalf of any of them and includes all relevant securities commissions, stock exchange authorities, foreign exchange authorities, foreign investment authorities, competition and anti-trust authorities, financial and insurance regulatory authorities, taxation authorities and similar entities or authorities.

HMG means the Government of the United Kingdom, including its departments, non-ministerial departments, non-departmental public bodies, bodies corporate formed by and under the sponsorship of a Government department to carry out one or more public functions including UK Government Investments Limited, Affiliates and executive agencies, but excluding the devolved administrations.

In-scope Insured has the meaning given to it in Rule 7.2 (*Coverage under the 2021 Scheme*).

In-scope Losses has the meaning given to it in Rule 9.1 (*Coverage under the 2021 Scheme*).

In-scope Policies has the meaning given to it in Rule 7.3 (*Coverage under the 2021 Scheme*).

In-scope Receivable means any current or future trade receivable originated by a Supplier Originator that:

- (A) where the Supplier Originator is a UK Tax Resident by virtue of paragraph (A)(ii) of that definition, is received in the course of the trade carried on through its permanent establishment in the UK; and
- (B) is not payable to a permanent establishment of the Supplier Originator that is located outside the UK.

In-scope TCI has the meaning given to it in Rule 5.1 (*Eligibility for participation*).

In-scope TCI Contract has the meaning given to it in Rule 6.3 (*Applications process and Term*).

In-scope TCI's Group means an In-scope TCI and its Affiliates from time to time.

Information means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form).

Insured Credit Limit means the maximum amount of credit which an In-scope TCI has agreed to cover in respect of a Debtor of an In-scope Insured under an In-scope Policy.

Insured Receivables means any current or future trade receivable originated by a Supplier Originator or an In-scope Insured falling within Rule 7.2(B) (*Coverage under the 2021 Scheme*), or pre-shipment cost or expense incurred by an In-scope Insured falling within Rule 7.2(A) or 7.2(B) (*Coverage under the 2021 Scheme*), or advance deposit paid by an In-scope Insured falling within Rule 7.2(A) or 7.2(B) (*Coverage under the 2021 Scheme*) in the case of advance payment protection, that:

- (A) is credit insured pursuant to an In-scope Policy;
- (B) (i) in the case of a trade receivable (including a financed trade receivable), has payment terms of up to 2 years from the risk attachment date as defined in limb (D)(i) below; (ii) in the case of a pre-shipment cost or expense, is incurred under a binding contract entered into by the In-scope Insured and the relevant Debtor requiring the goods or services to be delivered within 2 years of such contract being entered into; and (iii) in the case of an advanced deposit, is incurred under a binding contract entered into by the In-scope Insured and the relevant counterparty requiring the goods or services to which the deposit relates to be delivered within 2 years of such contract being entered into;
- (C) is within the applicable Insured Credit Limit under the terms of the In-scope Policy;
- (D) has a risk attachment date as provided for within the relevant In-scope Policy occurring within the 2021 Scheme Period which:
 - (i) for trade receivables, is the date of delivery, shipment, commitment, pre-payment, invoice or disbursement in respect of goods or services as applicable; or
 - (ii) for financed trade receivables, is the date the financing payment is made, or the financing is contractually agreed as applicable (provided that the trade receivable arose under the relevant contract between the Supplier Originator and the relevant Debtor during the 2021 Scheme Period);
 - (iii) for pre-shipment costs or expenses, is the date on which either: (a) the binding contract is entered into by the In-scope Insured and the relevant Debtor in accordance with B(ii); or (b) a relevant and properly incurred cost or expense is incurred by the In-scope Insured for the manufacture of goods or the undertaking of services under a binding contract between the In-scope Insured and the relevant Debtor in accordance with B(ii) regardless of whether that contract was entered during the Scheme Period;
 - (iv) for advanced deposits, is the date on which a relevant and properly incurred advance deposit is incurred by the In-scope Insured;

- (E) in the case of trade receivables due to an In-scope Insured falling within Rule 7.2(A) (*Coverage under the 2021 Scheme*), where the relevant In-scope Insured is a UK Tax Resident by virtue of paragraph (A)(ii) of that definition, is received in the course of the trade carried on through its permanent establishment in the UK; and
- (F) in the case of trade receivables due to an In-scope Insured falling within Rule 7.2(A) (*Coverage under the 2021 Scheme*), is not payable to a permanent establishment of the In-scope Insured that is located outside the UK.

IPT means insurance premium tax charged under Part III of the Finance Act 1994 (and any successor legislation) and any tax introduced in substitution therefor.

Key Personnel means the named individuals of each In-scope TCI responsible for the day-to-day management of the Covered Business as set out in each In-scope TCI's Contract.

Know Your Customer Checks means the established systems and controls of an In-scope TCI used to verify the identity of, and the risks involved with, In-scope TCIs' customers.

Large Claim means a Claim for a single In-scope Loss or a series of related In-scope Losses which exceeds £10,000,000 per Debtor Group.

Large Claim Request means a written request from an In-scope TCI for payment by BEIS of a Large Claim under Rule 11.7 (*Settlement*) and shall be in the form set out in the In-scope TCI Contract.

Large Ex Gratia Payment means a payment made in respect of a claim by an In-scope TCI in relation to an In-scope Policy gratuitously and without any obligation to make such payment under the contractual terms of that In-scope Policy with a value greater than £5,000 excluding Without Prejudice Payments.

Large Ex Gratia Payment Notification has the meaning given to it in Rule 9.4 (*Transfer of economic risk*) and shall be in the form set out in the In-scope TCI Contract.

Lloyd's means the society incorporated by the Lloyd's Act 1871 with the name of Lloyd's.

Management Confirmation Letter means a letter in the form set out at Attachment 4 (*Form of Management Confirmation Letter*).

Management Signatories means the named individuals of a New In-scope TCI's management team required to sign the Management Confirmation Letter pursuant to Rule 15.8 (*Warranties and Management Confirmation Letters*) as set out in a New In-scope TCI's Contract.

Managing Agent means an underwriting agent which has permission from the Prudential Regulation Authority to manage a syndicate and carry on underwriting and other functions for a member of Lloyd's.

Managing General Agent means an agent or broker that is vested with underwriting authority from an insurer.

Maximum Amount has the meaning given to it in each In-scope TCI Contract.

Missing Information has the meaning given to it in Rule 17.12 (*Provision of information to BEIS*).

Missing Information Notification has the meaning given to it in Rule 17.12 (*Provision of information to BEIS*).

Monthly Report means an In-scope TCI's monthly report containing the information set out in the In-scope TCI Contract and delivered in accordance with Rule 17.2 (*Provision of information to BEIS*).

New In-scope TCI has the meaning given to it in Rule 6.4(B) (*Applications process and term*).

Notice has the meaning given to it in Rule 27.1 (*Notices*).

Notified Address has the meaning given to it in Rule 27.3 (*Notices*).

Party means BEIS or an In-scope TCI, as applicable.

Permitted Method has the meaning given to it in Rule 27.2 (*Notices*).

Permitted Securitisation Structures means any securitisation special purpose vehicles that:

- (A) are wholly owned subsidiaries of or set up exclusively by or financially consolidated into a factoring company, bank or invoice discounting company that falls within Rule 7.2(C) (*Coverage under the 2021 Scheme*);
- (B) are named interests on or have the benefit (via an endorsement) of an In-scope Policy held by the factoring company, bank or invoice discounting company described in limb (A) in relation to In-scope Receivables; and
- (C) provide financing to a factoring company, bank or invoice discounting company that falls within Rule 7.2(C) (*Coverage under the 2021 Scheme*) solely for the purpose of funding the day-to-day ordinary course factoring, financing or invoice discounting business of that entity.

Personal Data has the meaning given to it under Data Protection Law.

Petition has the meaning given to it in Rule 6.2 (*Applications process and Term*).

Policyholder Captive means an insured who insures its risks with an Affiliate whether directly or through reinsurance arrangements via a Fronting Company.

Premium has the meaning given to it in each In-scope TCI Contract.

Premium Adjustment Attestation means a statement of the accuracy of each Annual Premium Adjustment Amount, provided by each In-scope TCI and signed by the Senior Executives.

Quarter means, as the context requires either:

- (A) from 1 January 2021 until the Termination Date, each full three month calendar quarter period ending on 31 March, 30 June, 30 September or 31 December of a calendar year, as applicable; and/or
- (B) any partial calendar quarter period resulting from the early termination of an In-scope TCI Contract under Rule 20 (*Termination*).

Quarterly Indemnification Amount has the meaning given to it in Rule 9.7 (*Transfer of economic risk*).

Quarterly Premium Amount means the Scheme Premium collected by an In-scope TCI in a Quarter.

Quarterly Recoveries Amount means the positive or negative number resulting from the following calculations in respect of a Quarter, 90% of any Recoveries with an In-scope TCI's Allocation for the purposes of Rule 9.1(A) (*Transfer of economic risk*) less 90% of any Recoveries Expenses in respect of those Recoveries received by the In-scope TCI in the previous Quarter.

Quarterly Report means an In-scope TCI's quarterly report containing the information set out in the In-scope TCI Contract and delivered in accordance with Rule 17.2 (*Provision of information to BEIS*).

Quarterly TCI Amount has the meaning given to it in Rule 10.5 (*In-scope TCI Payments*).

Receiving Party means a Party that directly or indirectly receives Confidential Information from a Disclosing Party.

Receiving Party's Group means: (i) in the case of BEIS, BEIS or any part of HMG which BEIS interacts with in connection with the 2021 Scheme; or (ii) in the case of an In-scope TCI, its Affiliates.

Recoveries means any sum actually received, including proceeds of security, by the In-scope TCI in respect of any In-scope Loss for which an In-scope TCI has paid a Claim.

Recoveries Expenses means costs and/or expenses reasonably incurred by the In-scope TCI and properly allocated to pursuing Recoveries (in a manner consistent with the policies and procedures on recovery of losses and associated expenses applied by the In-scope TCI in the 12 months preceding the commencement of the 2021 Scheme Period) in relation to:

- (A) related legal proceedings;
- (B) the investigation and collection of Recoveries;

(C) court proceedings;

and any interest or damages payable on or added to any settlement or damages; and any judgment or award.

Repeating Warranties has the meaning given to it in Rule 15.2(A) (*Warranties and Management Confirmation Letters*).

Reporting Attestation means a statement of the accuracy and completeness of a Monthly Report and Quarterly Report, as applicable, provided by each In-scope TCI and signed by the Senior Executives.

Resolution Period has the meaning given to it in Rule 23(A) (*Dispute resolution*).

Sanctions Regimes means the economic, financial and trade embargoes and sanctions laws, regulations, rules, lists and/or restrictive measures administered, enacted or enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the United States Department of State, any other U.S. government entity, the United Nations Security Council, any United Nations Security Council Sanctions Committee, the European Union, any Member State of the European Union, any relevant authority or body in the United Kingdom and/or any other government, public or regulatory authority or body.

Scheme Premium means an amount equal to 90% of Premium.

Self-Insurance Structure means the insurance by an entity of itself, its Affiliates or its, or its Affiliates', own interests by maintaining a fund to cover possible losses which would otherwise be covered by a standard third party insurance policy.

Senior Executives means the Chief Executive Officer and Chief Financial Officer, or equivalents, of an In-scope TCI as set out in each In-scope TCI's Contract.

Senior Management means the named individuals of each In-scope TCI's senior management team for the purposes of Rule 13.1(B) (*Covenants and undertakings*) as set out in each In-scope TCI's Contract.

Senior Representatives means a senior employee or officer selected by a Party to represent it in relation to Rule 23 (*Dispute resolution*) and as set out in each In-scope TCI's Contract.

Significant Debtor has the meaning given to it in each In-scope TCI Contract.

SME means a company which satisfies two or more of the following requirements:

- (A) annual turnover of less than €50,000,000;
- (B) number of employees less than 250; and
- (C) annual balance sheet total of less than €43,000,000.

Solvency Capital Requirement has the meaning given under Solvency II.

Solvency II means Directive 2009/138/EC, any regulation, directive, enactment, statutory provision or other legislation implementing that directive, and any associated or consequential amendments or changes to the Financial Conduct Authority Handbook or Prudential Regulation Authority Rulebook (unless otherwise stated).

Start Date has the meaning given to it in Rule 6.5 (*Applications process and Term*).

Supplier Originator means an incorporated entity, partnership or individual, who in each case is a UK Tax Resident and originates trade receivables in the ordinary course of business.

TCI Payable has the meaning given to it in Rule 11.1(B) (*Settlement*).

Term means the period from 1 January 2021 to and including the Termination Date.

Termination Date means the date of termination of these 2021 Scheme Rules and an In-scope TCI Contract which shall, in respect of an In-scope TCI be:

- (A) where the 2021 Scheme Rules expire in accordance with Rule 20.1 (*Termination*), 31 December 2023;
- (B) where BEIS extends the 2021 Scheme Period in accordance with Rule 19.2 (*Extension of the 2021 Scheme Period*), and:
 - (i) the In-scope TCI confirms its intention to participate in such extension pursuant to Rule 19.3 (*Extension of the 2021 Scheme Period*), such date as specified by BEIS; or
 - (ii) the In-scope TCI does not participate in an extension pursuant to Rule 19.3 (*Extension of the 2021 Scheme Period*), 31 December 2023;
- (C) as specified in a Termination Notice served in accordance with Rules 20.3 (*Termination*) or 20.4 (*Termination*); or
- (D) such date as is mutually agreed between the In-scope TCI and BEIS in accordance with Rule 20.5 (*Termination*).

Termination Notice means a notice served by BEIS or an In-scope TCI under Rules 20.3 or 20.4 (*Termination*), as the case may be, setting out the grounds for termination of these 2021 Scheme Rules and the Termination Date.

the Code has the meaning given to it in Rule 22.3(D) (*Confidentiality*).

UK means the United Kingdom of Great Britain and Northern Ireland, and is a union of England, Scotland, Wales, and Northern Ireland.

UK Tax Resident means:

- (A) an incorporated entity that (i) is resident only in the UK for tax purposes (except where the insured is a permanent establishment outside the UK of such an entity) or (ii) carries on a trade in the UK through a permanent establishment in the UK and receives the Insured Receivables in the course of such trade;
- (B) an individual carrying on a business as a sole trader, provided that all of the profits of that business are subject to UK tax; or
- (C) a partnership, provided that all of the profits of the business carried on by the partnership are subject to UK tax.

Underwriting Policies means an In-scope TCI's underwriting policies, rules and practices as utilised by the In-scope TCI during the first calendar quarter of 2020.

Warranties means the warranties set out in Annex 2 (*In-scope TCI Warranties*) and "**Warranty**" means any of them.

Warranty Claim means any claim for breach of any Warranty.

Warranty Claim Notice has the meaning given to it in paragraph 3 of Annex 4 (*Limitation on the liability of In-scope TCI*).

Without Prejudice Payments means a payment made by an In-scope TCI in respect of a claim by an In-scope Insured in relation to an In-scope Policy without any obligation to make such payment under the contractual terms of an In-scope Policy, but only where:

- (A) in the context of a dispute with an In-scope Insured, the In-scope TCI, with regard to the facts and circumstances of the dispute, assesses reasonably and in good faith and having taken appropriate advice that it is appropriate to settle the dispute; and
- (B) in the context of a technical or otherwise minor breach of an In-scope Policy by an In-scope Insured which excludes that In-scope Insured's bona fide loss from cover under that policy, the In-scope TCI assesses reasonably and in good faith that to make such a payment is consistent with regulatory requirements and guidance to treat customers fairly.

Interpretation

2. In these 2021 Scheme Rules, unless the context requires otherwise:

- (A) the table of contents and the headings to Rules, Annexes and Attachments are inserted for convenience only and do not affect the interpretation of these 2021 Scheme Rules;

- (B) references to Rules, Annexes and Attachments are to Rules, Annexes and Attachments to these 2021 Scheme Rules, and references to a part, paragraph or sub-paragraph are to a part, paragraph or sub-paragraph of an Annex or Attachment to these 2021 Scheme Rules;
- (C) the Annexes and Attachments form part of these 2021 Scheme Rules and shall have the same force and effect as if expressly set out in the body of these 2021 Scheme Rules, and any reference to these 2021 Scheme Rules shall include the Annexes and Attachments;
- (D) references to these 2021 Scheme Rules or any other document or to any specified provision of these 2021 Scheme Rules or any other document are to these 2021 Scheme Rules, that document or that provision as from time to time amended in accordance with the terms of these 2021 Scheme Rules or that document or, as the case may be, with the agreement of the Parties;
- (E) words importing the singular include the plural and vice versa, words importing a gender include every gender, and references to a person include an individual, corporation, partnership, any unincorporated body of persons and any government entity;
- (F) references to any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include what most nearly approximates in that jurisdiction to the English legal term;
- (G) references to time are to London time unless otherwise stated;
- (H) the rule known as the *ejusdem generis* rule shall not apply, and accordingly words introduced by words and phrases such as “include”, “including”, “other” and “in particular” shall not be given a restrictive meaning or limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible;
- (I) the word “**company**” shall be deemed to include any partnership, undertaking or other body of persons, whether incorporated or not incorporated and whether now existing or formed after the date of these 2021 Scheme Rules;
- (J) references to a “**person**” shall be construed so as to include any individual, firm, company, corporation, body corporate, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality), but references to a “**natural person**” shall mean an individual only;
- (K) references to BEIS shall mean BEIS or any Delivery Partner that BEIS has outsourced the performance of its obligations under the 2021 Scheme Rules to in accordance with the terms of these 2021 Scheme Rules;

- (L) references to writing shall include any modes of reproducing words in a legible and non-transitory form and whether sent or supplied by electronic mail;
- (M) any reference to a “**day**” (including within the phrase “Business Day”) shall mean a period of 24 hours running from midnight to midnight;
- (N) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words;
- (O) any reference to GBP, £ or Sterling will be construed as meaning the lawful currency of the UK;
- (P) a reference to any statute or statutory provision (whether of the UK or elsewhere) includes any subordinate legislation (within the meaning of section 21(1) Interpretation Act 1978) made under it; and
- (Q) a reference to any other statute or statutory provision (whether of the UK or elsewhere) includes any provision which it has superseded or re-enacted (with or without modification), and any provision superseding it or re-enacting it (with or without modification), before or on the Start Date, or after the Start Date except to the extent that the liability of any Party is thereby increased or extended.

Annex 2
In-scope TCI Warranties

1. Capacity

- 1.1 In-scope TCI is a company duly incorporated and organised and existing under the laws of the jurisdiction in which it is incorporated or a duly established branch of such a company and has full power to conduct its business as it is carried on at the Start Date.
- 1.2 In-scope TCI has the right, power and authority to enter into the 2021 Scheme and perform its obligations thereunder.
- 1.3 This 2021 Scheme constitutes legal, valid and binding obligations of In-scope TCI enforceable in accordance with the 2021 Scheme Rules.
- 1.4 The execution and delivery of, and the performance by In-scope TCI of its obligations under, the 2021 Scheme will not:
 - (A) result in a breach of any provision of the constitutional documents of In-scope TCI;
 - (B) result in a breach of, or constitute a default under, any agreement or instrument to which In-scope TCI is a party or by which In-scope TCI is bound; or
 - (C) result in a breach of any order, judgment or decree of any court or Governmental Authority to which either In-scope TCI is a party or by which In-scope TCI is bound.

2. Insolvency

- 2.1 In-scope TCI (which for the purposes of Warranties 2.1 to 2.9 below will include, in the case of a branch, the company which the branch forms part of) is not insolvent nor unable to pay its debts as they fall due.
- 2.2 No order has been made, no resolution has been proposed or passed, and, so far as In-scope TCI is aware, no petition has been presented and no meeting has been convened or notice given or filed for the winding up, bankruptcy, administration (judicial or otherwise) or receivership (including administrative receivership) of In-scope TCI (or analogous steps in the jurisdiction of incorporation).
- 2.3 No administrator has been appointed or composition or similar arrangements with creditors been executed or proposed, and, so far as In-scope TCI is aware, no procedure has been commenced with a view to the appointment of an administrator, in respect of In-scope TCI or all or any material part of its assets (or analogous steps in the jurisdiction of incorporation).

- 2.4 No receiver (which expression shall include an administrative receiver) has been appointed in respect of In-scope TCI or in respect of all or any material part of its assets (or analogous steps in the jurisdiction of incorporation).
- 2.5 No voluntary arrangement has been proposed under section 1 of the Insolvency Act 1986 (or equivalent legislation in the jurisdiction of incorporation) in respect of In-scope TCI.
- 2.6 So far as In-scope TCI is aware, no circumstances have arisen which are likely to result in a transaction to which In-scope TCI is party being set aside under section 238 of the Insolvency Act 1986 (or equivalent legislation in the jurisdiction of incorporation).
- 2.7 In-scope TCI was not an undertaking in “financial difficulty” as defined by Article 2(18) of the General Block Exemption Regulation as at 31 December 2019.
- 2.8 In-scope TCI is not an undertaking in “financial difficulty” as defined by Article 2(18) of the General Block Exemption Regulation.
- 2.9 In-scope TCI currently meets its Solvency Capital Requirement.

3. Conduct of Business

- 3.1 During the period starting on 1 April 2020 and ending on the Start Date, the business of the In-scope TCI has been carried on in a manner consistent with Rules 12 (*Underwriting, credit limits and premiums*) and 13 (*Covenants and undertakings*).
- 3.2 The percentage figure disclosed by In-scope TCI in the Disclosure Letter of In-scope TCI's aggregate exposure to or insured turnover of (as applicable) Foreign Joint Insureds in respect of Insured Receivables under Foreign Joint Insured Policies measured against total exposure or insured turnover (as applicable) in respect of all Insured Receivables under all of In-scope TCI's In-scope Policies as at the Start Date is accurate, save that where such percentage figure is higher than 0%, BEIS acknowledges that its accuracy is assessed by the In-scope TCI to the best of its knowledge having made detailed enquiries internally or of the Foreign Joint Insureds or of the relevant lead In-scope Insured falling within Rule 7.2(A) (*Coverage under the 2021 Scheme*) under the relevant In-scope Policies.

4. Information accuracy

The information disclosed by In-scope TCI in the actuarial, legal and operational due diligence performed by BEIS and its professional advisers in connection with the 2021 Scheme, is accurate in all material respects and is all that the In-scope TCI acting reasonably and in good faith believes is reasonably required for the purposes of BEIS making an informed and accurate assessment of the liabilities, asset reserves and claims handling practices of the In-scope TCI.

Annex 3
Accounting policies, principles, practices, bases and methodologies

The Monthly Report and Quarterly Report shall:

1. be prepared consistently so as to allow comparison from one report to the next and presented in a manner consistent with the relevant reporting template set out in the In-scope TCI Contract;
2. be prepared on the same basis as, and in accordance with, the same accounting principles, practices and policies as those applied in the preparation by the In-scope TCI of equivalent information at the Start Date, except where change is required by IFRS or other applicable accounting standards; and
3. subject to paragraph 1 above, to the extent applicable be prepared under generally accepted accounting principles and financial reporting and accounting standards in force and applicable at the date of preparation.

Annex 4
Limitation on the liability of In-scope TCI

1. Scope

- 1.1 The provisions of this Annex 4 shall operate to limit the liability of an In-scope TCI in respect of any Warranty Claim.
- 1.2 Nothing in this Annex 4 shall operate to limit or restrict the liability of an In-scope TCI in respect of any claim against it arising as a result of fraud, dishonesty or wilful concealment of an In-scope TCI.

2. Financial Limitations

The total aggregate liability of an In-scope TCI in respect of all Warranty Claims shall not in any event exceed 0.5% of an In-scope TCI's Allocation.

3. Time limit for bringing a Warranty Claim

No Warranty Claim shall be brought against an In-scope TCI unless (and an In-scope TCI shall only have liability in respect of any such Warranty Claim if) BEIS shall have given to the In-scope TCI written notice of such Warranty Claim specifying in reasonable detail: (i) the matter which gives rise to such claim; (ii) the nature of the Warranty Claim and the breach giving rise to such claim; and (iii) so far as is reasonably practicable at the time of notification, the amount claimed in respect thereof (comprising BEIS's good faith calculation of the loss thereby alleged to have been suffered) (a "**Warranty Claim Notice**"), and such Warranty Claim Notice is to be given not later than the date falling six months after the Start Date provided that the liability of an In-scope TCI in respect of any such Warranty Claim shall absolutely determine (if such Warranty Claim has not been previously satisfied, settled or withdrawn) if legal proceedings in respect of such Warranty Claim shall not have been commenced within six months of the service of the relevant Warranty Claim Notice (and, for this purpose, proceedings shall be deemed not to have been commenced unless they have been properly issued and validly served upon an In-scope TCI).

4. Acts of, and acts requested by, BEIS

No Warranty Claim shall be brought against an In-scope TCI (and an In-scope TCI shall not be liable in respect of any such Warranty Claim) to the extent that such Warranty Claim has arisen as a result of (or the amount of the Warranty Claim is increased as a result of):

- (A) any voluntary act, omission, transaction or arrangement carried out:
- (i) by (or on behalf of) an In-scope TCI at the written request of or with the written consent of BEIS before the Start Date, or as contemplated by the terms of an In-scope TCI Contract;

- (ii) by (or on behalf of) BEIS before the Start Date or during the Term (other than at the written request of or with the written consent of an In-scope TCI or as contemplated by the terms of an In-scope TCI Contract); or
 - (iii) in breach of an In-scope TCI Contract by BEIS; or
- (B) any admission of liability made in breach of the provisions of this Annex 4 after the date hereof by (or on behalf of) BEIS.

5. Future legislation and regulation and changes to accounting practice

5.1 For the purposes of this paragraph 5, the “**Relevant Date**” is the Start Date.

5.2 No Warranty Claim shall be brought against an In-scope TCI (and an In-scope TCI shall not have any liability in respect of any Warranty Claim) to the extent that such liability occurs or is increased as a result of:

- (A) any Applicable Law and Regulation not in force on or prior to the Relevant Date, including any amendments to Applicable Law and Regulation after the Relevant Date;
- (B) the withdrawal after the Relevant Date of any extra-statutory concession or other agreement or arrangement currently granted by or made with any Governmental Authority (whether or not having the force of law);
- (C) any change after the Relevant Date of any generally accepted interpretation or application of any legislation or in the enforcement policy or practice of any Governmental Authority; or
- (D) any change in UK GAAP or IFRS after the Relevant Date.

6. Consequential loss

Notwithstanding anything to the contrary in the 2021 Scheme Rules, an In-scope TCI will not be liable to BEIS under a Warranty Claim for:

- (A) loss of or anticipated loss of profit, loss of or anticipated loss of revenue, business interruption, loss of any contract or other business opportunity or goodwill;
- (B) indirect loss or consequential loss;
- (C) any special, punitive or aggravated damages; or
- (D) loss of reputation,

other than any loss or damage referred to in (A), (C) or (D) to the extent constituting direct loss.

7. No double recovery

7.1 No liability shall attach to an In-scope TCI by reason of any Warranty Claim to the extent that the same loss has been recovered by BEIS under any other Warranty Claim. Accordingly, BEIS may only recover once in respect of the same loss.

7.2 An In-scope TCI shall not be liable in respect of any Warranty Claim to the extent that the subject of the Warranty Claim has been or is made good or is otherwise compensated for without cost to BEIS.

8. General

8.1 Nothing in any 2021 Scheme Document shall or shall be deemed to relieve or abrogate BEIS of any common law duty or other duty to mitigate any loss or damage in respect of any Warranty Claim, other than a Warranty Claim in the nature of a debt claim.

8.2 BEIS' sole recourse in relation to a breach of a Warranty by an In-scope TCI shall be limited to damages.

8.3 Each provision of this Annex 4 shall be read and construed without prejudice to each of the other provisions of this Annex 4.

Annex 5
Commutation calculation

1. Commutation Amounts

The Commutation Amounts are:

- (A) Any amounts outstanding under Rule 11.1 at the Termination Date.
- (B) An amount equal to:
 - (i) In-scope Losses; *plus*
 - (ii) 90% of Recoveries Expenses in respect of Recoveries within an In-scope TCI's Allocation; *less*
 - (iii) 90% of any Recoveries within an In-scope TCI's Allocation, in each case, incurred but not enough reported (IBNER) at the Termination Date.
- (C) An amount equal to:
 - (i) In-scope Losses; *plus*
 - (ii) 90% of Recoveries Expenses in respect of Recoveries within an In-scope TCI's Allocation; *less*

90% of any Recoveries within an In-scope TCI's Allocation, in each case, incurred but not reported (IBNR) at the Termination Date.
- (D) An amount equal to the present value of future Scheme Premiums which are not due and payable at the Termination Date.

2. Payment of Commutation Amount

2.1 As regards:

- (A) paragraph 1(A) above:
 - (i) if the Quarterly Indemnification Amounts due are greater than the Quarterly TCI Amounts due, BEIS shall pay the In-scope TCI the difference; and
 - (ii) if the Quarterly Indemnification Amounts due are less than the Quarterly TCI Amounts due, the In-scope TCI shall pay BEIS the difference;
- (B) paragraphs 1(B) and 1(C) above:

- (i) if the amount is positive, BEIS shall pay this amount to the In-scope TCI; and
 - (ii) if the amount is negative, the In-scope TCI shall pay an amount equal to that amount presented as a positive amount to BEIS; and
 - (C) paragraph 1(D) above, the In-scope TCI shall pay that amount to BEIS.
- 2.2 The payments due under paragraphs 2.1(A)(i) and 2.1(B)(i) shall be set off against the payments due under paragraphs 2.1(A)(ii), 2.1(B)(ii), and 2.1(C).
- 2.3 If BEIS is obliged to make a payment to an In-scope TCI following the set off under paragraph 2.2, the amount of such payment shall not, when added to any other payment made or due to be made by BEIS under:
- (A) the 2021 Scheme, exceed the 2021 Maximum Amount; and
 - (B) the 2021 Scheme and the 2020 Scheme, exceed the Maximum Amount.
- 2.4 In the event that an:
- (A) In-scope TCI's 2021 Maximum Amount or Maximum Amount has been paid or is due to be paid by BEIS under the 2021 Scheme and the 2020 Scheme prior to BEIS being due to make a payment following the set off under paragraph 2.2, BEIS shall not be obliged to make any payment under paragraph 2.2 to that In-scope TCI;
 - (B) In-scope TCI's 2021 Maximum Amount and Maximum Amount has not been paid or is not due to be paid by BEIS under the 2021 Scheme in respect of the In-scope TCI's 2021 Maximum Amount and the 2021 Scheme and 2020 Scheme in respect of the Maximum Amount, when BEIS is obliged to make a payment following the set off under paragraph 2.2, then subject always to paragraph 2.3, any payment made under that paragraph shall be made after any payment due to an In-scope TCI from BEIS under paragraph 2.2 of Annex 5 of the 2020 Scheme Rules has been made and the payment under paragraph 2.2 shall only be made once BEIS has settled its obligations under, and shall take account of the payment under, paragraph 2.2 of Annex 5 of the 2020 Scheme Rules.

Attachment 1
Form of 2021 Scheme Application

2021 UK TRADE CREDIT REINSURANCE SCHEME
2021 SCHEME APPLICATION

1. Introduction

This application form (“**2021 Scheme Application**”) is for insurance firms, managing agents and managing general agents wishing to participate in the extended Trade Credit Reinsurance Scheme (the “**2021 Scheme**”) established by The Secretary of State for Business, Energy and Industrial Strategy (“**BEIS**”) under rules published on 24 December 2020 (the “**2021 Scheme Rules**”) and who are not currently participating in the Trade Credit Reinsurance Scheme established by BEIS under rules published on 14 September 2020.

2021 Scheme Applications, and all required accompanying documentation, must be submitted to BEIS in full by 5:30 p.m. on 30 December 2020 (the “**2021 Scheme Application Deadline**”). BEIS may request additional information from an applicant where necessary to confirm an applicant’s eligibility under the 2021 Scheme Rules. All 2021 Scheme Applications will be dealt with according to the 2021 Scheme Rules.

2. Definitions and interpretation

Unless otherwise expressly defined in this 2021 Scheme Application, defined terms in this 2021 Scheme Application shall have the meanings provided for in the 2021 Scheme Rules.

3. General

3.1 Name of applicant: _____ (the “**Applicant**”)

3.2 Applicant’s company or branch registration number: _____

3.3 For Applicants that are branches, name and registration number of company that such branch forms part: _____

3.4 Place of incorporation: _____

3.5 Address of Applicant’s registered office: _____

3.6 Name of Applicant’s ultimate parent company (if applicable): _____

3.7 Contact details for response and for requesting any additional information should it be required (if different to those used in submission of this 2021 Scheme Application):

(A) Name: _____

(B) Job title: _____

(C) Email: _____

(D) Phone: _____

4. UK Authorisations

Please provide the following:

- (A) details of all regulators, regulatory bodies and other organisations and trade associations of which the Applicant is a member or to whose jurisdiction it is subject (whether in the UK or overseas);
- (B) a list, with copies attached, of all regulatory authorisations, permits, licences, consents, permissions, approvals, waivers and exemptions upon which the Applicant relies to carry on Covered Business in the UK in compliance with applicable law and regulation, together with details of any conditions attaching thereto;
- (C) details of any such authorisation, permit, licence, consent, permission, approval, waiver or exemption which has been or which, so far as the Applicant is aware, may be suspended, varied, revoked or not renewed, or which is currently the subject of administrative, regulatory or judicial proceedings; and
- (D) details of any pending regulatory authorisations, permits, licences, consents, permissions or approvals upon which the Applicant will rely to carry on Covered Business in the UK in compliance with applicable law and regulation.

5. Customer Due Diligence

Please provide the following:

- (A) a photocopy of the Applicant's certificate of incorporation;
- (B) a list of directors of the Applicant;
- (C) photocopies of the national identity cards or passports of the Applicant's senior management team;
- (D) a list of any individuals (i.e. natural rather than legal persons) who:
 - (i) ultimately own (directly or indirectly) 25% or more of the issued equity share capital of (or voting rights in) the Applicant (or confirmation that, insofar as you are aware, there are no such individuals); and
 - (ii) who otherwise exercise control over the management of the Applicant (or confirmation that, insofar as you are aware, there are no such individuals); and

(E) a structure chart showing all material entities within the Applicant’s group.

6. Managing Agents: additional information

This section only applies if you are a Managing Agent.

Please provide a copy of the management agreement with the relevant Lloyd’s syndicate members who will be bound by the terms of the 2021 Scheme.

7. Managing General Agents: additional information

This section only applies if you are a Managing General Agent.

Please provide evidence to demonstrate that you have sufficient authority under the binders that you have in place with the relevant Eligible Trade Credit Insurers to bind those insurers to the terms of the 2021 Scheme and to administrate, on their behalf, their involvement in the 2021 Scheme.

I/We confirm to BEIS that all the answers and information I/we have given here are true, complete and accurate.

.....

For and on behalf of the Applicant

Name

Title

Date

Attachment 2
Form of In-scope TCI Contract

DATED _____ 2021

THE SECRETARY OF STATE FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY

and

{IN-SCOPE TCI}

2021 TRADE CREDIT REINSURANCE SCHEME
IN-SCOPE TCI CONTRACT

Contents

{Insert}

THIS AGREEMENT is made on _____ 2021

BETWEEN:

(1) **THE SECRETARY OF STATE FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY**, of 1 Victoria St, Westminster, London SW1H 0ET (“**BEIS**”);

AND

(2) **{NAME OF INSURER}**, whose registered address is at *{insert}* (registered in *{insert jurisdiction}*) with number *{insert}*) (the “**In-scope TCI**”),

each a “**Party**” and together the “**Parties**”.

WHEREAS:

- (A) BEIS established rules (the “**2020 Scheme Rules**”) governing a Trade Credit Reinsurance Scheme on 14 September 2020 (the “**2020 Scheme**”). On or around the date of the 2020 Scheme Rules, In-scope TCI entered into a contract with BEIS in respect of In-scope TCI’s participation in the 2020 Scheme (the “**2020 In-scope TCI Contract**”).
- (B) BEIS has extended the 2020 Scheme by establishing the 2021 Trade Credit Reinsurance Scheme (the “**2021 Scheme**”), through which BEIS will indemnify In-scope TCIs for In-scope Losses under In-scope Policies in respect of Insured Receivables arising during the 2021 Scheme Period for the benefit of In-scope Insureds.
- (C) Pursuant to the establishment of the 2021 Scheme, BEIS established rules governing the 2021 Scheme on or around the date of this Agreement (the “**2021 Scheme Rules**”) which are appended to this Agreement at Schedule 4.
- (D) This Agreement is the In-scope TCI Contract between the Parties and the date of this Agreement is the “**Start Date**” for the purposes of the 2021 Scheme Rules as incorporated into this Agreement.

IT IS AGREED as follows:

1. Interpretation

Unless otherwise expressly defined in this Agreement, defined terms in this Agreement shall have the meanings provided for in the 2021 Scheme Rules and references to a “Rule”, “Annex” or “Attachment” shall be to rules, annexes, and attachments contained in the 2021 Scheme Rules. References to a “clause” or a “schedule” shall be to clauses and schedules of this Agreement.

2. Agreement between the Parties

This Agreement evidences the binding agreement between BEIS and the In-scope TCI and incorporates and supplements the 2021 Scheme Rules which form part of this Agreement and shall be interpreted accordingly.

3. Scheme terms

The 2021 Scheme Rules as incorporated into this Agreement shall be read to include the terms as defined in Schedule 1 of this Agreement.

4. Delivery Partner

On the basis that the Delivery Partner will be acting solely for and on behalf of BEIS in respect of the 2021 Scheme and not for or on behalf of any In-scope TCI, the In-scope TCI accepts that the Delivery Partner excludes, to the fullest extent permitted by applicable law and regulation, any liability to the In-scope TCI in connection with this Agreement or in connection with the 2021 Scheme and shall not bring any claim against the Delivery Partner.

5. Amendments to 2020 Scheme

- 5.1 Rule 9 (*Transfer of economic risk*) of the 2020 Scheme Rules shall be amended to include the following Rule 9.3:

“Where BEIS has paid the Maximum Amount in respect of the Scheme and the 2021 Scheme and the aggregate of an In-scope TCI’s In-scope Losses under the 2021 Scheme (“**2021 In-scope Losses**”) and In-scope Losses are greater than the Maximum Amount, BEIS shall pay to that In-scope TCI its In-scope Losses arising under this Scheme in priority to its 2021 In-scope Losses up to the Maximum Amount in accordance with Rule 11 (*Settlement*).”

- 5.2 Rule 11 (*Settlement*) of the 2020 Scheme Rules shall be amended to include the following Rules 11.4, 11.5 and 11.6:

“Allocation Adjustment Amount

11.4 Where BEIS has paid the Maximum Amount in respect of the Scheme and the 2021 Scheme and the aggregate of an In-scope TCI’s In-scope Losses and 2021 In-scope Losses are greater than the Maximum Amount, on any date on which a Quarterly Indemnification Amount or payment in connection with a Large Claim is due to that In-scope TCI, BEIS shall pay to that In-scope TCI its In-scope Losses arising under this Scheme which are otherwise due and not paid on that date up to the Maximum Amount in priority to its 2021 In-scope Losses arising under the 2021 Scheme (each a “**2020 Scheme Priority Payment**”).

11.5 Where BEIS pays the 2020 Scheme Priority Payment pursuant to Rule 11.4, BEIS shall notify the In-scope TCI and In-scope TCI shall repay to BEIS an amount

equal to the 2020 Scheme Priority Payment on the same day as BEIS makes the payment pursuant to Rule 11.4.

11.6 The payments due by BEIS under Rule 11.4 shall be set off against the payments due by an In-scope TCI under Rule 11.5 and BEIS shall be treated as never having made a payment in the amount of the 2020 Priority Payment under the 2021 Scheme and the In-scope TCI shall be treated as never having received a payment in the amount of the 2020 Priority Payment under the 2021 Scheme.”

5.3 Rule 20.3 (*Termination*) of the 2020 Scheme Rules shall be amended to include the following Rule 20.3(D):

“BEIS has served a termination notice on an In-scope TCI pursuant to Rule 20 of the 2021 Scheme Rules.”

5.4 Rule 20.4 (*Termination*) of the 2020 Scheme Rules shall be amended to include the following Rule 20.4(C):

“In-scope TCI has served a termination notice on BEIS pursuant to Rule 20 of the 2021 Scheme Rules.”

5.5 Rule 20.5 (*Termination*) of the 2020 Scheme Rules shall be deleted and replaced as follows:

“Any Termination Notice served under:

(A) Rules 20.3(A), 20.3(B), 20.3(C), 20.4(A) or 20.4(B) shall specify the Termination Date (which shall not be less than 5 Business Days and not more than 15 Business Days after the date of the Termination Notice) as determined by BEIS or, as the case may be, the In-scope TCI; or

(B) Rules 20.3(D) or 20.4(C) shall have the same Termination Date as stated in the termination notice provided by BEIS or, as the case may be, the In-scope TCI pursuant to Rule 20 of the 2021 Scheme Rules.”

5.6 Rule 21.1 (*Consequences of termination and commutation*) of the 2020 Scheme Rules shall be deleted and replaced as follows:

“Following termination of the first In-scope TCI Contract to terminate in accordance with Rule 20 (*Termination*):

(A) where a commutation process has commenced under the 2021 Scheme Rules, the same Independent Fellow of the Institute of Actuaries as agreed or determined under the 2021 Scheme Rules will be responsible for commutation under these Scheme Rules; or

(B) where a commutation process has not commenced under the 2021 Scheme Rules:

- (i) BEIS and all the In-scope TCIs shall agree on the independent Fellow of the Institute of Actuaries qualified for at least 10 years who will undertake all commutation processes in respect of the 2021 Scheme in accordance with this Rule; or
- (ii) failing such agreement within 15 Business Days, on the application of either BEIS or any In-scope TCI, an independent Fellow of the Institute of Actuaries qualified for at least 10 years shall be nominated by the President of the Institute and Faculty of Actuaries.”

5.7 Rule 21.8(B) (*Consequences of termination and commutation*) of the 2020 Scheme Rules shall be deleted and replaced as follows:

“if following set off in accordance with paragraph 2.2 of Annex 5 (*Commutation calculation*) a residual amount is due to the In-scope TCI, BEIS shall pay such amount in accordance with paragraphs 2.3 and 2.4 of Annex 5 (*Commutation calculation*).”

5.8 Annex 1 (*Definitions and interpretation*) of the 2020 Scheme Rules shall be amended to include the following definitions:

“**2020 Scheme Priority Payment**” has the meaning given to it in Rule 11.4 (*Settlement*);

“**2021 Scheme**” means the Trade Credit Reinsurance Scheme established by BEIS in order to extend this Scheme and which covers the period from 1 January 2021 to 30 June 2021;

“**2021 In-scope Losses**” has the meaning given to it in Rule 9.3 (*Transfer of economic risk*);

“**2021 Maximum Amount**” has the meaning given to it in each In-scope TCI Contract;

“**Maximum Amount**” has the meaning given to it in each In-scope TCI Contract.”

5.9 Limb (D)(iii) of the definition of “Insured Receivables” in Annex 1 (*Definitions and interpretation*) of the 2020 Scheme Rules shall be deleted and replaced as follows:

“for pre-shipment costs or expenses, is the date on which either: (a) the binding contract is entered into by the In-scope Insured and the relevant Debtor in accordance with B(ii); or (b) a relevant and properly incurred cost or expense is incurred by the In-scope Insured for the manufacture of goods or the undertaking of services under a binding contract between the In-scope Insured and the relevant Debtor in accordance with B(ii) regardless of whether that contract was entered during the Scheme Period;”

5.10 Limb (B)(i) of the definition of “Termination Date” in Annex 1 (*Definitions and interpretation*) of the 2020 Scheme Rules shall be deleted and replaced as follows:

“where BEIS extends the Scheme Period in accordance with Rule 19.2 (*Extension of the Scheme Period*), and:

(i) the In-scope TCI confirms its intention to participate in such extension pursuant to Rule 19.3 (*Extension of the Scheme Period*), 31 December 2023;”

5.11 Annex 5 (*Commutation calculation*) of the 2020 Scheme Rules shall be amended to include the following paragraphs 2.3 and 2.4:

“2.3 If BEIS is obliged to make a payment to an In-scope TCI following the set off under paragraph 2.2, the amount of such payment shall not, when added to any other payment made or due to be made by BEIS under this Scheme and the 2021 Scheme, exceed the Maximum Amount.

2.4 In the event that the Maximum Amount has:

(A) been paid or is due to be paid by BEIS under this Scheme and the 2021 Scheme prior to BEIS being due to make a payment following the set off under paragraph 2.2, BEIS shall not be obliged to make a payment under paragraph 2.2 to the In-scope TCI;

(B) not been paid or is not due to be paid by BEIS under this Scheme and the 2021 Scheme, when BEIS is obliged to make a payment following the set off under paragraph 2.2, then subject always to paragraph 2.3, any payment made under that paragraph shall be made under this Scheme in priority to a payment due from BEIS under paragraph 2.2 of Annex 5 of the 2021 Scheme and the payment in respect of the 2021 Scheme shall only be made once BEIS has settled any obligations under paragraph 2.2 of this Scheme and then in accordance with paragraph 2 of Annex 5 of the 2021 Scheme.”

5.12 The definition of “Allocation” in Schedule 1 of the 2020 In-scope TCI Contract shall be deleted and replaced as follows:

“for the Scheme means: (i) £0 to £[X] for Risk Band 1 and (ii) £[X+0.01] to £[Y] for Risk Band 2; and for the 2021 Scheme means £[Y], provided that BEIS shall not be liable for: (a) for the Scheme, 2020 In-scope Losses of more than 90% of £[X] in respect of Risk Band 1 and 100% of £[[Y]-[X+0.01]] in respect of Risk Band 2 in accordance with the Scheme; and (b) for the 2021 Scheme, In-scope Losses of more than 90% of £[Y] in accordance with the 2021 Scheme (the “**2021 Maximum Amount**”), and provided further that BEIS’ liability under both the Scheme and the 2021 Scheme shall not in aggregate exceed £[90% of £[X] plus 100% of £[[Y]-[X+0.01]]] (the “**Maximum Amount**”).” [*Note to draft: numbers will be updated for each In-scope TCI*]

6. Notices

The Notified Address of the In-scope TCI for the purposes of this Agreement is as set out below:

Address	E-mail Address	Marked for the attention of:
{insert}	{insert}	{insert}

7. Bank accounts

Payments made under this Agreement by the Parties shall be made by electronic wire transfer to the relevant Party's bank account as set out below:

Party	Account details	Payment Reference
BEIS	{Insert}	{Insert}
In-scope TCI	{Insert}	{Insert}

A Party may change the bank account to which payments shall be made under this Agreement by giving written notice to the other party setting out the new bank account details.

8. Severance

Each clause of this Agreement (including each Rule as incorporated) is severable and distinct from the others and if any clause/rule is, or at any time becomes, to any extent or in any circumstances invalid, illegal or unenforceable for any reason, that clause/rule shall to that extent be deemed not to form part of this Agreement but the validity, legality and enforceability of the remaining parts of this Agreement shall not be affected or impaired, it being the Parties' intention that every clause/rule of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

9. Third party rights

Notwithstanding Rule 26 (*Third Party Rights*), except for the Delivery Partner which may enforce the provisions of clause 4 above, the Parties to the 2021 Scheme Documents do not intend that any term of the 2021 Scheme Documents should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to this agreement.

10. Entire agreement

Each Party acknowledges and agrees that:

- (A) the 2021 Scheme Documents constitute the entire agreement between them and supersede any prior agreement, understanding, undertaking or arrangement between the Parties relating to the subject matter of the Scheme Documents;
- (B) by entering into the 2021 Scheme Documents, it does not rely on any statement, representation, assurance or warranty of any person (whether a party to the 2021

Scheme Documents or not and whether made in writing or not) other than as expressly set out in the 2021 Scheme Documents;

- (C) the only rights or remedies available to either of them in connection with the 2021 Scheme Documents shall be solely for breach of contract except as otherwise expressly provided for in this Agreement or the other 2021 Scheme Documents (as applicable); and
- (D) nothing in this Agreement or the 2021 Scheme Rules shall exclude or limit any liability for fraud.

11. Counterparts

- 11.1 This Agreement may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart.
- 11.2 Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

12. Governing law and jurisdiction

- 12.1 This Agreement shall be governed by and shall be construed in accordance with the laws of England and Wales. Any matter, claim or dispute arising out of or in connection with this Agreement, contractual or non-contractual in nature, is to be governed by and determined in accordance with English law.
- 12.2 The courts of England and Wales shall have exclusive jurisdiction to settle any dispute, whether contractual or non-contractual, arising out of or in connection with this Agreement. The Parties irrevocably submit and agree to submit to the jurisdiction of the courts of England and Wales.

IN WITNESS whereof this Agreement has been executed on the day and year first above written.

SIGNED by)
for and on behalf of)
{*NAME OF IN-SCOPE TCI*})

SIGNED by)
for and on behalf of)
THE SECRETARY OF STATE FOR)
BUSINESS, ENERGY AND INDUSTRIAL)
STRATEGY)

Schedule 1 to the In-scope TCI Contract
Scheme Terms

#	Term	Definition
1.	2020 Scheme Start Date	<i>{Note to draft: for Existing In-scope TCIs only, this will be the date of the In-scope TCI Contract for the 2020 Scheme}</i>
2.	Allocation	For the 2020 Scheme means: (i) £0 to £[X] for Risk Band 1 and (ii) £[X+0.01] to £[Y] for Risk Band 2; and for the 2021 Scheme means £[Y], provided that BEIS shall not be liable for: (a) for the 2020 Scheme, 2020 In-scope Losses of more than 90% of £[X] in respect of Risk Bank 1 and 100% of £[[Y]-[X+0.01]] in respect of Risk Band 2 in accordance with the 2020 Scheme; and (b) for the 2021 Scheme, In-scope Losses of more than 90% of £[Y] in accordance with the 2021 Scheme (the “ 2021 Maximum Amount ”), and provided further that BEIS’ liability under both the 2020 Scheme and the 2021 Scheme shall not in aggregate exceed £[90% of £[X] plus 100% of £[[Y]-[X+0.01]]] (the “ Maximum Amount ”). <i>[Note to draft: numbers will be updated for each In-scope TCI]</i>
3.	Premium	<i>{Note to draft: subject to State aid compliance, this will be specific to each TCI and will be an amount equal to gross “earned” premiums, or the applicable equivalent premiums under the In-scope TCI’s applicable accounting rules and conventions, attaching to Insured Receivables arising in respect of the In-scope TCI’s In-scope Policies during the 2021 Scheme Period as reported in the In-scope TCI’s relevant Accounts.}</i>
4.	Senior Executives	means <i>{insert name}</i> and <i>{insert name}</i> .
5.	Senior Representatives	means: (i) in respect of BEIS, the relevant director; and (ii) in respect of the In-scope TCI, <i>{insert name}</i> .
6.	Senior Management	means: <i>{insert names}</i>
7.	Management Signatories	means: <i>{insert names}</i>
8.	Key Personnel	means: <i>{insert names}</i>

9.	Significant Debtor	<p>means the largest 50 Debtors by exposure from time to time, being the following on <i>{date}</i><i>{Note to draft: this will be the closest practicable date prior to the Start Date that an In-scope TCI can provide the data for.}</i>:</p> <ul style="list-style-type: none">• <i>{insert}</i> <p>and, if applicable, any other Debtors and Debtor Groups to which the In-scope TCI has an exposure above £25,000,000.</p>
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Schedule 2 to the In-scope TCI Contract
Reporting and notification requirements

Note: Template data requirements attached separately

Schedule 3 to the In-scope TCI Contract
Exceptional Claim Notification Template

Note: Notification template attached separately

Schedule 4 to the In-scope TCI Contract
2021 Scheme Rules

Note: Scheme Rules attached separately

Attachment 3
Form of Disclosure Letter

DISCLOSURE LETTER

From: {*In-scope TCI*} (the “TCI”)

To: The Secretary of State for Business, Energy and Industrial Strategy
1 Victoria Street
Westminster London
SW1H 0ET

_____ 2020

Dear Sir / Madam

2021 Trade Credit Reinsurance Scheme

We refer to the 2021 Scheme Rules to be entered into on or around the date of this letter between the Secretary of State for Business, Energy and Industrial Strategy (“**BEIS**”) and the TCI (the “**2021 Scheme Rules**”) in connection with the establishment and extension by Her Majesty’s Government (“**HMG**”) of a trade credit insurance support scheme involving the indemnification by HMG of certain liabilities of eligible trade credit insurers in respect of eligible trade credit insurance policies written by trade credit insurers for the benefit of insureds based in the UK covering certain receivables of such insureds arising during the period starting 1 January 2021 and ending 30 June 2021. This letter is the Disclosure Letter referred to in Rule 15.4 of the 2021 Scheme Rules.

1. Preliminary Matters

- 1.1 This letter constitutes formal disclosure to BEIS of the facts and circumstances which are, or may be, inconsistent with the Warranties. The TCI shall not be in breach of any of the Warranties in respect of any matters which are fairly disclosed in this Disclosure Letter.
- 1.2 The disclosure of any matter or document in this letter shall not imply any representation or warranty not expressly given under the 2021 Scheme Rules, nor shall such disclosure be taken as extending the scope of the Warranties or any other provision of the 2021 Scheme Rules. The TCI accepts no other liability in contract, tort or otherwise, with respect to the contents of, or the information or material contained or referred to in this letter or the disclosed information.
- 1.3 Terms defined in the 2021 Scheme Rules shall have the same meanings in this Disclosure Letter, unless otherwise defined in this Disclosure Letter or the context otherwise requires. The principles of interpretation contained in paragraph 2 of Annex 1 (*Definitions and interpretation*) of the 2021 Scheme Rules apply *mutatis mutandis* to this Disclosure Letter.
- 1.4 All disclosures made in or by virtue of the Disclosure Letter shall have effect in relation to each of the Warranties to which they may be relevant. Any references to any particular Warranty is for convenience only and does not limit the application of such disclosure.

- 1.5 Where there are disclosed in or by virtue of this Disclosure Letter estimates, forecasts or statements of opinion as to the amount of any liability, cost or expense then, provided that such estimates, forecasts, or statements of opinion are provided in good faith, if the amount thereof shall turn out to be inaccurate, such fact shall not of itself render a disclosure unfair.
- 1.6 This letter is governed by and shall be construed in accordance with English law and the English courts shall have exclusive jurisdiction to settle any dispute arising out of or in connection with it.

2. General Disclosures

- 2.1 The following information and matters are deemed incorporated into this letter by reference by way of general disclosure:
 - (A) the 2021 Scheme Rules (including its annexes) and any documents referred to in the 2021 Scheme Rules as being in the agreed form (in each case, including the including the recitals of, and each schedule, annex or attachment to, the relevant document);
 - (B) the disclosed information, the index of which is set out at Schedule 1 of this letter.

3. Specific Disclosures

The following specific disclosures are made. For convenience, each matter disclosed is listed against the paragraph number of the Warranty (contained in Annex 2 (*In-scope TCI Warranties*) of the 2021 Scheme Rules) to which the disclosure is most likely to relate. All such references are for convenience only and do not limit the application of such disclosures to other Warranties.

Warranty No	Disclosure

Please acknowledge receipt of this letter by signing and returning to us the enclosed copy of this letter.

Yours faithfully

.....

For and on behalf of
{In-scope TCI}

ACKNOWLEDGEMENT

To: *{In-scope TCI}*

We acknowledge receipt of the Disclosure Letter and confirm its contents are accepted on the terms set out therein.

.....

For and on behalf of
The Secretary of State for Business, Energy and Industrial Strategy

Schedule 1 to the Disclosure Letter
Index of disclosed information

Attachment 4
Form of Management Confirmation Letter

MANAGEMENT CONFIRMATION LETTER

From: The Secretary of State for Business, Energy and Industrial Strategy
1 Victoria Street
Westminster London
SW1H 0ET (“**BEIS**”)

To: {Name of Management Personnel}
{Name of In-scope TCI} (the “**In-scope TCI**”)
{Address}

_____ 2020

Dear Sir/Madam,

2021 Trade Credit Reinsurance Scheme

1. This letter is written in connection with the establishment by BEIS of the 2021 Trade Credit Reinsurance Scheme (the “**2021 Scheme**”), involving the indemnification by BEIS of certain liabilities of eligible trade credit insurers (“**TCIs**”) in respect of eligible trade credit insurance policies written by TCIs for the benefit of insureds based in the UK covering certain receivables of such insureds arising during the period starting 1 January 2021 and ending 30 June 2021 as set out in the 2021 Scheme Rules established by BEIS on 24 December 2020.
2. We refer to the In-scope TCI Contract entered into between the In-scope TCI and BEIS dated on or around the date of this letter.
3. In connection with the 2021 Scheme and as required by the In-scope TCI Contract, we request that you make the following confirmation (having the legal status set out in paragraph 4 below).

“I, the undersigned, being the {insert title} of the In-scope TCI, confirm that, as far as I am aware, subject to the disclosures made by the In-scope TCI in the disclosure letter dated on or about the date of this confirmation, the warranties given by the In-scope TCI in Rule 15 (*Warranties and Management Confirmation Letters*) of the 2021 Scheme Rules are true and not misleading and no information has been knowingly withheld from BEIS or any of its professional advisers which could materially impact the ability of BEIS to make an informed and accurate assessment of the terms of the 2021 Scheme and the In-scope TCI’s application to join the 2021 Scheme.”

4. BEIS acknowledges and agrees that (i) the above confirmations are to be given without liability on the part of the signee, save for liability arising as a result of fraud, dishonesty or wilful concealment of the signee and (ii) the reference to the signee’s awareness in

paragraph 3 above is to the actual knowledge of the signee having made all reasonable enquiries of Key Personnel as defined in the In-scope TCI Contract.

Please sign and return the enclosed copy of this letter if you agree to make this confirmation on the basis set out in this letter.

Yours faithfully,

THE SECRETARY OF STATE FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY

ACKNOWLEDGEMENT OF MANAGEMENT CONFIRMATION LETTER

To: The Secretary of State for Business, Energy and Industrial Strategy
1 Victoria Street
Westminster London
SW1H 0ET

I acknowledge receipt of the Management Confirmation Letter and as agreed with you I give the following confirmation without liability on my part, save for liability arising as a result of fraud, dishonesty or wilful concealment. References to my awareness are to my actual knowledge having made all reasonable enquiries of Key Personnel as defined in the In-scope TCI Contract.

I, the undersigned, being the *{insert title}* of the In-scope TCI, confirm that, as far as I am aware, subject to the disclosures made by the In-scope TCI in the disclosure letter dated on or about the date of this confirmation, the warranties given by the In-scope TCI in Rule 15 (*Warranties and Management Confirmation Letters*) of the 2021 Scheme Rules are true and not misleading and no information has been knowingly withheld from BEIS or any of its professional advisers which could materially impact the ability of BEIS to make an informed and accurate assessment of the terms of the 2021 Scheme and the In-scope TCI's application to join the 2021 Scheme.

.....
{Name of Management Personnel}

Date: