

COMPLETED ACQUISITION BY CO-OPERATIVE FOODSTORES LIMITED OF EIGHT MY LOCAL GROCERY STORES FROM ML CONVENIENCE LIMITED AND MLCG LIMITED

Undertakings given by Co-operative Group Limited to the Competition and Markets Authority pursuant to section 73 of the Enterprise Act 2002

Whereas:

- (a) Co-operative Foodstores Limited (**CFL**) (a wholly owned subsidiary of Co-operative Group Limited (**CGL**)) completed the acquisition of eight convenience store businesses (the **Target Stores**) from ML Convenience Limited and MLCG Limited (together **MLCG**) on 5 July and 27 September 2016 by way of purchases of assets (the **Transaction**) such that CGL and the Target Stores ceased to be distinct for the purposes of the Enterprise Act 2002 (the **Act**);
- (b) Under section 22(1) of the Act the Competition and Markets Authority (**CMA**) has a duty to refer a relevant merger situation for a Phase 2 investigation where it believes that it is or may be the case that the creation of that merger situation has resulted or may be expected to result in a substantial lessening of competition within any market or markets in the UK for goods or services;
- (c) Under section 73 of the Act the CMA may, instead of making such a reference and for the purpose of remedying, mitigating or preventing the substantial lessening of competition concerned or any adverse effect which has or may have resulted from it or may be expected to result from it, accept undertakings to take such action as it considers appropriate, from such of the parties concerned as it considers appropriate. In particular, the CMA shall have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it;
- (d) As set out in the CMA's decision of 19 October 2016 (the **Decision**), the CMA believes that, in the absence of appropriate undertakings, it would be under a duty to refer the Transaction for a Phase 2 investigation;
- (e) The CMA considers that the undertakings given below by CGL are appropriate to remedy, mitigate or prevent the substantial lessening of competition, or any adverse effect which has or may have resulted from the Transaction, or may be expected to result from it, as specified in the Decision;

- (f) The CMA made an Initial Enforcement Order applying to the convenience store business in respect of the property located at Widnes, Upton Rocks on 1 July 2016 in respect of the Transaction pursuant to section 72 of the Act for the purposes of preventing pre-emptive action. Pursuant to section 72(6)(b) of the Act, this Initial Enforcement Order ceases to be in force on the acceptance by the CMA of the undertakings given below by CGL.

NOW THEREFORE CGL hereby gives to the CMA the following undertakings for the purpose of remedying, mitigating or preventing the substantial lessening of competition, or any adverse effect which has or may have resulted from it or may be expected to result from it.

1 EFFECTIVE DATE OF THE UNDERTAKINGS

- 1.1 These undertakings shall take effect from the date that, having been signed by CGL, they are accepted by the CMA.

2 DIVESTMENT OF THE DIVESTMENT BUSINESSES

- 2.1 CGL shall, using its best endeavours and acting in good faith, as soon as reasonably practicable, effect to the satisfaction of the CMA the divestment of each of the Divestment Businesses as a going concern by the end of the Divestment Period to a purchaser (or purchasers) approved by the CMA in accordance with the provisions of these undertakings.
- 2.2 Without prejudice to the generality of paragraph 2.1 above, CGL shall use all reasonable endeavours to ensure the transfer of Key Staff with the divestment of each of the Divestment Businesses.
- 2.3 CGL shall be deemed to have complied with its obligations at paragraph 2.1 above if, as soon as reasonably practicable and in any event by the end of the Divestment Period, it has entered into a legally binding agreement (or agreements) with a purchaser (or purchasers) approved in advance by the CMA in writing pursuant to these undertakings (or a legally binding agreement (or agreements) conditional on such approval), provided that the completion of the divestment of each of the Divestment Businesses contemplated by such agreement (or agreements), if later than the end of the Divestment Period, takes place:
- (a) within a period not exceeding two months after the approval of the purchaser (or purchasers) by the CMA (or within two months of the effective date of these undertakings, as set out in paragraph 1 above, whichever is later); or

(b) within a period not exceeding 10 Working Days after all the necessary approvals and consents from third parties have been obtained,

whichever is later, provided that in any event, the completion of the divestment of the Divestment Businesses takes place within three months of the effective date of these undertakings, as set out in paragraph 1.1 above.

2.4 Without prejudice to the generality of paragraph 2.1 above, CGL shall take the following measures to the extent they may be necessary in the opinion of the CMA to effect the sale of the Divestment Businesses in accordance with the provisions of these undertakings:

(a) the transfer or vesting of property (with respect to Divestment Business A by way of a sale of CGL's freehold interest (subject to paragraph 2.5) and with respect to Divestment Business B by way of a sale of CGL's leasehold interest), assets, rights, personnel, liabilities or obligations (including without prejudice any contracts, licences, authorisations, permits or consents);

(b) the adjustment of contracts, whether by discharge or reduction or assignment of any liability or obligation or otherwise;

(c) the creation, allotment, transfer, surrender or cancellation of any shares, stock or securities; and

(d) the formation or winding up of a company;

provided that nothing in this paragraph 2.4 shall require CGL to transfer or licence any co-operative brand to a third party or offer any reverse premium or similar inducement to a purchaser.

2.5 Where with the prior written approval of the CMA CGL divests Divestment Business A over which it holds a freehold interest by way of the grant of a long lease on normal commercial terms of not less than 10 years duration to the purchaser, it shall in addition sell the freehold interest in Divestment Business A to a person independent of and unconnected to CGL and the Group of Interconnected Bodies Corporate to which CGL belongs and any Associated Person or Affiliate of CGL or such Group of Interconnected Bodies Corporate, within a period not exceeding three months from the date of the commencement of the lease.

2.6 CGL shall ensure that the sale and purchase agreement (or agreements) entered into for the purposes of paragraph 2.1 and 2.3 above includes a warranty that the purchaser (or purchasers) has the financial resources, expertise (including the managerial, operational and technical capability),

incentive and intention to maintain and operate the Divestment Business or Divestment Businesses which is/are the subject of the sale and purchase agreement as part of a viable and active business in competition with CGL and other competitors in the provision of Everyday Convenience retailing.

- 2.7 In the event that CGL fails to divest either or both of the Divestment Businesses in accordance with paragraphs 2.1, 2.2, 2.3 and 2.5 above, the CMA may, whether or not initiating the Trustee Functions as set out in paragraph 4 below, require CGL to divest whichever of the Divestment Businesses CGL has failed to divest (the **Unsold Business(es)**) as a going concern at no minimum price to a purchaser approved by the CMA.
- 2.8 CGL shall notify the CMA in writing of the identity of each proposed purchaser that makes an offer for either or both of the Divestment Businesses together with the value and terms of such offers as soon as reasonably practicable following the receipt of such offers and in any event within 5 Working Days of receipt of such offers.

3 APPROVAL OF PURCHASER AND TERMS OF DIVESTMENT

- 3.1 For the purposes of the CMA approving a Proposed Purchaser of the Divestment Businesses in accordance with these undertakings, CGL shall, save as required or permitted by the CMA, satisfy the CMA that:
- (a) the acquisition by the Proposed Purchaser of the Divestment Businesses or Divestment Business as the case may be, on the terms set out above, remedies, mitigates or prevents the substantial lessening of competition concerned or any adverse effect which has or may have resulted from it, or may be expected to result from it, in particular having regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it;
 - (b) the Proposed Purchaser is independent of and unconnected to CGL and the Group of Interconnected Bodies Corporate to which CGL belongs and any Associated Person or Affiliate of CGL or such Group of Interconnected Bodies Corporate;
 - (c) the Proposed Purchaser has the financial resources, expertise (including the managerial, operational and technical capability), incentive and intention to maintain and operate the Divestment Businesses or Divestment Business as the case may be as a viable and active business in competition with CGL and other competitors in the provision of Everyday Convenience retailing from the date of completion of the

divestment of the Divestment Businesses or Divestment Business as the case may be;

- (d) the Proposed Purchaser is reasonably to be expected to obtain all necessary approvals, licences and consents from any regulatory or other authority, including (where applicable) landlord's consent to the transfer of any leasehold interest; and
- (e) the acquisition by the Proposed Purchaser of the Divestment Businesses or Divestment Business as the case may be does not create a realistic prospect of a substantial lessening of competition within any market or markets in the UK.

3.2 The CMA may require CGL to provide it with such information and documentation as it may reasonably require to satisfy the CMA that the Proposed Purchaser will fulfil the requirements in paragraph 3.1 above.

4 APPOINTMENT OF A TRUSTEE

4.1 The provisions of paragraph 4.2 to paragraph 4.7 below shall apply only as long as CGL has not satisfied, or where the CMA has reasonable grounds for believing that CGL will not satisfy, all or any part of the obligation to divest the Divestment Businesses in accordance with paragraph 2 above.

4.2 Within 5 Working Days of the CMA notifying CGL in writing that it must do so, CGL shall propose to the CMA for approval:

- (a) the names of at least two individuals to exercise the Trustee Functions; and
- (b) the full terms of a mandate in accordance with which the Trustee shall carry out the Trustee Functions.

4.3 CGL and/or any individuals nominated pursuant to paragraph 4.2 shall satisfy the CMA that, save as required or permitted by the CMA:

- (a) such nominated individuals have the necessary qualifications to carry out their mandates, and are employees or partners of an investment bank, retail bank, commercial property agent, building society or law firm or accountancy firm with an established reputation either nationwide or in a substantial part of the UK or in another EU member state;
- (b) such nominated individuals are each independent of CGL and of the Group of Interconnected Bodies Corporate to which CGL belongs and of any Associated Person or Affiliate of CGL or of such Group of

Interconnected Bodies Corporate and of any Proposed Purchaser of the Divestment Businesses to be sold pursuant to these undertakings, and, in the reasonable opinion of CGL, are appropriate to be appointed as Trustee; and

- (c) such nominated individuals neither are, nor are likely to become, exposed, either directly or indirectly, to a conflict of interest that impairs or may be likely to impair their objectivity or independence in discharging the Trustee Functions.

4.4 Within 2 Working Days of the CMA approving, at its discretion, one or more of the persons nominated by CGL and their proposed mandates pursuant to paragraph 4.2 above, and subject to any modifications the CMA deems necessary for the Trustee to carry out the Trustee Functions, CGL shall use its best endeavours to appoint from the persons so approved one person to carry out the Trustee Functions in accordance with the mandate approved by the CMA pursuant to paragraph 4.2 above.

4.5 In the event that:

- (a) CGL fails to propose any person or persons in accordance with paragraph 4.2 above; or
- (b) none of the persons proposed by CGL pursuant to paragraph 4.2 is approved by the CMA; or
- (c) CGL is unable for any reason to appoint within the time limit stipulated in paragraph 4.4 above any such person following approval by the CMA,

CGL shall use its best endeavours to appoint from persons nominated by the CMA one person to carry out the Trustee Functions on the terms of a mandate approved by the CMA. CGL shall use its best endeavours to make such appointment within 5 Working Days of receiving the nominations from the CMA.

4.6 The appointment of the Trustee pursuant to paragraph 4.4 or paragraph 4.5 above shall be irrevocable unless:

- (a) a conflict of interest that impairs or may be likely to impair the objectivity or independence of the Trustee in discharging the Trustee Functions arises;
- (b) the Trustee ceases to perform the Trustee Functions; or

- (c) the CMA is otherwise satisfied that there is good cause for the appointment to be terminated in advance of the satisfactory fulfilment of the Trustee Functions.

4.7 In the event that the appointment of the Trustee is terminated in accordance with paragraph 4.6 above, CGL shall, if requested to do so in writing by the CMA, use its best endeavours to appoint from persons nominated by the CMA one person to carry out the Trustee Functions in accordance with such mandate as is approved by the CMA. CGL shall use its best endeavours to make such appointment within seven Working Days of receiving the nominations from the CMA. Where required by the CMA, the outgoing Trustee shall continue as Trustee until a new Trustee is in place and a full handover of all relevant information has taken place.

5 THE MANDATE

5.1 The terms of the mandate proposed by CGL pursuant to paragraph 4.2 above shall, as a minimum, contain all provisions necessary to enable the Trustee to carry out the Trustee Functions including, without limitation to the generality of this paragraph:

- (a) an exclusive, irrevocable mandate to sell the Unsold Business(es) as required by paragraph 6.1 below to a purchaser (or purchasers) as directed or approved in writing in advance by the CMA at no minimum price and on such reasonable terms and conditions as the Trustee considers appropriate to effect an expedient sale;
- (b) a mandate to take any other steps necessary for, or incidental to, the Trustee's mandate under sub-paragraph (a) above;
- (c) a comprehensive power of attorney to the Trustee (including the authority to grant sub-powers of attorney to the Trustee's officers, employees and agents) to enable it to take all steps necessary or appropriate to effect the sale of the Unsold Business(es);
- (d) a mandate to comply with any orders and/or directions given by the CMA; and
- (e) a mandate to appoint at CGL's expense such advisers as the CMA and/or the Trustee reasonably considers necessary or appropriate in connection with the performance of the Trustee Functions.

6 FUNCTIONS OF TRUSTEE

- 6.1 The Trustee shall seek to procure, within such period as may be specified in writing by the CMA, the completion of the sale of the Unsold Business(es) at no minimum price, to a purchaser or purchasers approved by the CMA in accordance with paragraph 6.3 below.
- 6.2 Without prejudice to the generality of paragraph 6.1 above, the Trustee shall take the following measures in relation to the Unsold Business(es) to the extent to which such measures may be necessary to effect the divestment of the Unsold Business(es) in accordance with the provisions of these undertakings:
- (a) the transfer or vesting of property, assets, rights, personnel, liabilities or obligations (including without prejudice any contracts, licences, authorisations, permits or consents);
 - (b) any other transfer of interests that will take effect with the sale;
 - (c) the adjustment of contracts, whether by discharge or reduction or assignment of any liability or obligation or otherwise;
 - (d) the creation, allotment, transfer, surrender or cancellation of any shares, stock or securities; and
 - (e) the formation or winding up of a company.
- 6.3 The Trustee shall not sell or permit the divestment of the Unsold Business(es) to a Proposed Purchaser unless it has been directed to do so by the CMA or has obtained the CMA's prior written approval in respect of the identity of that Proposed Purchaser. The Trustee shall notify the CMA of the identity of a Proposed Purchaser as soon as reasonably practicable prior to the signing of a legally enforceable agreement and in any event at least 20 Working Days in advance of the proposed completion of the proposed sale and purchase agreement in question.
- 6.4 Pending the divestment of the Unsold Business(es) pursuant to paragraph 6.1 above, the Trustee shall monitor CGL's compliance with its obligations under paragraph 7.1 and paragraph 7.2 below and shall promptly take such measures as it considers necessary to ensure such compliance, as well as reporting in writing to the CMA, if the Trustee concludes on reasonable grounds that CGL is failing or will fail to comply with such obligations.
- 6.5 The Trustee may give written directions to CGL to take such steps as may be specified or described in the directions for the purpose of securing CGL's

compliance with its obligations under these undertakings or enabling the Trustee to carry out the Trustee Functions. The Trustee may not require CGL to:

- (a) offer any reverse premium or similar inducement to a purchaser; or
- (b) accept any actual or contingent liability towards a purchaser or otherwise in connection with the divestment of the Unsold Business(es) which would be unusual in scope, duration or financially, having regard to the price and usual market practice in relation to similar disposals.

6.6 The Trustee shall, as soon as reasonably practicable, comply at all times with any reasonable instructions or written directions made by the CMA for the purposes of carrying out or securing compliance with the undertakings (or any matter incidental thereto) and shall provide to the CMA such information and reports in relation to the carrying out of the Trustee Functions as the CMA may require. The Trustee shall promptly report in writing to the CMA if the Trustee concludes on reasonable grounds that CGL is failing or will fail to comply with any of its obligations under these undertakings.

6.7 For the purpose of fulfilling the Trustee Functions, the Trustee shall not be bound by instructions of CGL nor shall the Trustee Functions be extended or varied in any way by CGL save with the prior express written consent of the CMA.

7 OBLIGATIONS OF CGL FOLLOWING APPOINTMENT OF TRUSTEE

7.1 CGL shall not give any instruction or request to the Trustee which conflicts with the Trustee Functions.

7.2 CGL shall take all such steps as are reasonably necessary to enable the Trustee to carry out the Trustee Functions, including but not limited to:

- (a) complying with such written directions as the Trustee may from time to time give pursuant to paragraph 6.6 above; and
- (b) providing the Trustee with all such assistance and information as it may reasonably require in carrying out the Trustee Functions.

8 REMUNERATION OF TRUSTEE

8.1 CGL shall pay the Trustee a reasonable remuneration for the services it provides in carrying out the Trustee Functions, and shall pay the Trustee in a way that does not impede the independent and effective fulfilment of the

Trustee Functions, which shall be set out in the Trustee's mandate referred to in paragraph 5 above.

9 INTERIM ACTION

9.1 Pending the completion of the divestment of the Divestment Businesses to the satisfaction of the CMA in accordance with the provisions of these undertakings, save as otherwise agreed in advance in writing by the CMA, CGL together with its Subsidiaries shall minimise as far as possible any risk of loss of competitive potential of the Divestment Businesses and in particular ensure that:

- (a) each of the Divestment Businesses is carried on separately from the Retained Widnes Business and the Divestment Businesses' sales or brand identity are maintained;
- (b) each of the Divestment Businesses and the Retained Widnes Business are maintained as a going concern and sufficient resources are made available for the development of each of the Divestment Businesses and the Retained Widnes Business, on the basis of their respective pre-Transaction business plans (to the extent a business plan existed);
- (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within, each of the Divestment Businesses or the Retained Widnes Business;
- (d) the nature, description, range and quality of goods supplied in the UK by each of the Divestment Businesses and the Retained Widnes Business are maintained and preserved;
- (e) except in the ordinary course of business for the separate operation of each of the Divestment Businesses and the Retained Widnes Business:
 - (i) all of the assets of the Divestment Businesses and the Retained Widnes Business are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the Divestment Businesses or the Retained Widnes Business are disposed of; and
 - (iii) no interest in the assets of the Divestment Businesses or the Retained Widnes Business is created or disposed of;

- (f) there is no integration of the information technology of either of the Divestment Businesses or Retained Widnes Business, and the software and hardware platforms of each of the Divestment Businesses shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the supplier lists of each of the Divestment Businesses and the Retained Widnes Business shall be operated and updated separately (to the extent that they are operated and updated separately as at the effective date of these undertakings) and for the avoidance of doubt the Retained Widnes Business will not negotiate on behalf of either of the Divestment Businesses (and the Divestment Businesses will not negotiate on behalf of one another or on behalf of the Retained Widnes Business) or enter into any joint agreements with either of the Divestment Businesses (and the Divestment Businesses will not enter into any joint agreements with one another);
- (h) all existing contracts of each of the Divestment Businesses and the Retained Widnes Business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to Key Staff of either of the Divestment Businesses or Retained Widnes Business;
- (j) no Key Staff are transferred between each of the Divestment Businesses or between either of the Divestment Businesses and the Retained Widnes Business;
- (k) all reasonable steps are taken to encourage all Key Staff to remain with each of the Divestment Businesses and the Retained Widnes Business; and
- (l) no Confidential Information relating to either of the Divestment Businesses or the Retained Widnes Business shall pass, directly or indirectly, between the Divestment Businesses (or any of its employees, directors, agents or Affiliates) or from either of the Divestment Businesses (or any of its employees, directors, agents or Affiliates) to the Retained Widnes Business (or any of its employees, directors, agents or Affiliates), or vice versa, except where strictly necessary in the ordinary course of business (for example, where required for compliance with external regulatory and/or accounting obligations) or any steps necessary in order for CGL to comply with these undertakings, including the transfer of information necessary for the divestment process, provided that, upon divestment of the Divestment Businesses, any records or copies

(electronic or otherwise) of Confidential Information held by CGL in relation to the Divestment Businesses (or vice versa) shall be returned to the relevant business and any copies destroyed (except as may be necessary for the purposes of compliance with the obligations above).

9.2 Paragraph 9.1(l) shall not prevent:

- (a) the Widnes area manager from receiving limited performance data relating to either of the Divestment Businesses or from communicating with either of the Divestment Businesses regarding the performance of the relevant business's own store(s), to the extent strictly necessary to maintain the viability and competitive potential of that Divestment Business, subject to the condition that the Widnes area manager sign a non-disclosure agreement, in a form approved by the CMA, prohibiting (i) the onward sharing of any Confidential Information relating to the Divestment Businesses with any other personnel of CGL or its Subsidiaries and (ii) the use of that information for any purpose other than to ensure the ongoing viability and competitive potential of the Divestment Businesses; or
- (b) CGL (or any of its employees, directors, agents, Subsidiaries or Affiliates other than Key Staff of either of the Divestment Businesses) from accessing information relating to the Retained Widnes Business.

9.3 At all times, CGL will actively keep the CMA informed of any material developments relating to the Divestment Business, which includes, but is not limited to:

- (a) details of Key Staff who leave the Retained Widnes Business or either of the Divestment Businesses;
- (b) any interruption of the Retained Widnes Business or either of the Divestment Businesses (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
- (c) all substantial customer volumes lost by either of the Divestment Businesses; and
- (d) substantial changes in the Retained Widnes Business's or either of the Divestment Businesses' contractual arrangements or relationships with key suppliers.

10 CONTINUED SEPARATION

10.1 Except with the prior written consent of the CMA, for a period of 10 years following the divestment of the Divestment Businesses pursuant to these undertakings, CGL, or any member of the Group of Interconnected bodies Corporate to which CGL belongs:

- (a) shall not, directly or indirectly, hold, acquire, re-acquire or use:
 - (i) an Interest in either of the Divestment Businesses other than any freehold interest in the property associated with Divestment Business A pending divestment of that freehold proprietary interest pursuant to paragraph 2.5 above; or
 - (ii) any Interest in any company carrying on or having Control of either of the Divestment Businesses (other than any investments made in the ordinary course of the operation of any of the employee benefit and pension schemes of CGL or of any members of the Group of Interconnected Bodies Corporate to which CGL belongs of not more than three per cent in aggregate of the issued equity share capital in any such company, whose shares are listed or dealt with on any recognised investment exchange, which carries no more than three per cent of the voting rights exercisable at meetings of such company); or
 - (iii) other than in the normal course of business, any of the assets of either of the Divestment Businesses;
- (b) shall procure that no employee or director of CGL or any member of the Group of Interconnected Bodies Corporate to which CGL belongs for as long as they are an employee or director of CGL or any member of the Group of Interconnected Bodies Corporate to which CGL belongs holds or is nominated to any directorship or managerial position in either of the Divestment Businesses or directorship or managerial position in any company or other undertaking carrying on or having control of either of the Divestment Businesses without the CMA's prior written consent;
- (c) shall not participate in the formulation of, or (other than in the ordinary course of business) influence or attempt to influence, the policy of either of the Divestment Businesses or any company or other undertaking carrying on or having control of either of the Divestment Businesses; and
- (d) shall not enter into or carry out any agreement or arrangement with any person, if the carrying out of the agreement or arrangement is intended to result or will result in any Associated Person or Affiliate of CGL or of any

member of the Group of Interconnected Bodies Corporate to which CGL belongs directly or indirectly acquiring either of the Divestment Businesses or doing any of the things listed in sub-paragraphs 10.1(a), 10.1(b) and 10.1(c) above.

- 10.2 Where pursuant to paragraph 2.5 CGL (or any member of the Group of Interconnected Bodies Corporate to which CGL belongs) divests Divestment Business A by way of granting a lease and remains the landlord of the purchaser of Divestment Business A, then for the duration of the lease, CGL shall within 20 Working Days of being requested to do so (unless agreed otherwise by the CMA) or, if shorter, within the period stipulated under the terms of the lease:
- (a) consent to any matter requiring landlord's approval under the terms of the lease between CGL and the purchaser of the Divestment Business (except where CGL is required to obtain such consent from another person or unless reasonable refusal is provided for under the terms of the lease); and/or
 - (b) pass on any request for consent to any relevant third party, as appropriate.

11 NEW DIVESTMENT IF CGL OBTAINS POSSESSION OF A DIVESTMENT BUSINESS PROPERTY

- 11.1 In the event that, following divestment of Divestment Business B by way of assigning an existing lease, CGL benefits from or becomes subject to an Occupation Interest (so long as CGL so benefits or becomes so subject during the term of the lease assigned by CGL as part of such divestment), CGL shall:
- (a) within 20 Working Days of becoming aware that it is so benefitting or is so subject inform the CMA in writing of that fact; and
 - (b) using its best endeavours and acting in good faith comply with such written directions as the CMA may give to CGL to effect a new divestment of the Occupation Interest to a new purchaser approved by the CMA in accordance with the provisions of these undertakings, provided always that such written directions must be of a similar nature to those contained in these undertakings with regard to the original divestment of Divestment Business B.
- 11.2 In determining, for the purposes of sub-paragraph 11.1(b) above, whether to require CGL to effect a new divestment of the Occupation Interest to a new purchaser approved by the CMA in accordance with the provisions of these

undertakings, the CMA may have regard to any change of circumstances since the Decision.

- 11.3 In the event that CGL fails to divest the Occupation Interest in accordance with paragraph 11.1 above, the CMA may, whether or not initiating the Trustee Functions set out in these undertakings, require CGL to divest the Occupation Interest at no minimum price to a purchaser approved by the CMA.
- 11.4 CGL shall notify the CMA in writing of the identity of each proposed purchaser that makes an offer for the Occupation Interest together with the value and terms of such offers as soon as reasonably practicable following the receipt of such offers and in any event within 20 Working Days of receipt of such offers.
- 11.5 In the event that the CMA gives written directions under paragraph 11.1 above for CGL to effect a new divestment of the Occupation Interest, paragraphs 3, 4, 5, 6, 7, 8 and 9 shall apply to the new divestment in the same way that they applied to the original divestment obligation save that references to 'Divestment Business' in those paragraphs shall be construed as references to 'Occupation Interest'.

12 COMPLIANCE

- 12.1 CGL shall comply promptly with such written directions as the CMA may from time to time give:
 - (a) to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with these undertakings; or
 - (b) to do or refrain from doing anything so specified or described which it might be required by these undertakings to do or to refrain from doing.
- 12.2 CGL shall co-operate fully with the CMA when the CMA is:
 - (a) monitoring compliance with the provisions of these undertakings; and
 - (b) investigating potential breaches of the provisions of these undertakings.
- 12.3 CGL shall procure that any member of the same Group of Interconnected Bodies Corporate as CGL complies with these undertakings as if it had given them and actions and omissions of the members of the same Group of Interconnected Bodies Corporate as CGL shall be attributed to CGL for the purposes of these undertakings.

12.4 Where any Affiliate of CGL is not a member of the same Group of Interconnected Bodies Corporate as CGL, CGL shall use its best endeavours to procure that any such Affiliate shall comply with these undertakings as if it had given them.

13 PROVISION OF INFORMATION

13.1 CGL shall furnish promptly to the CMA such information as the CMA considers necessary in relation to or in connection with the implementation and/or enforcement of and/or the compliance with these undertakings, including for the avoidance of doubt, any Confidential Information.

14 EXTENSION OF TIME LIMITS

14.1 The CMA may, in response to a written request from CGL, or otherwise at its own discretion, grant an extension to any time period referred to in these undertakings.

15 SERVICE

15.1 CGL hereby authorises Burges Salmon LLP, whose address for service is One Glass Wharf, Bristol BS2 0XZ (reference LC01), to accept service on its behalf of all documents connected with these undertakings (including any document of any kind which falls to be served on or sent to CGL, or any of its Subsidiaries in connection with any proceedings in Courts in the UK, orders, requests, notifications or other communications connected with these undertakings).

15.2 Unless CGL informs the CMA in writing that Burges Salmon LLP has ceased to have authority to accept and acknowledge service on its or any of its Subsidiaries' behalf, any document, order, request, notification or other communication shall be validly served on CGL if it is served on Burges Salmon LLP; and service shall be deemed to have been acknowledged by CGL if it is acknowledged by Burges Salmon LLP or such other nominee.

15.3 Paragraph 15.2 above has effect irrespective of whether, as between CGL and Burges Salmon LLP or other nominees, Burges Salmon LLP or other nominees has or continues to have any authority to accept and acknowledge service on CGL's or any of its respective Subsidiaries' behalf.

15.4 No failure or mistake by Burges Salmon LLP or other nominees (including a failure to notify CGL of the service of any document, order, request, notification or other communication) shall invalidate any action taken in respect of these undertakings including any proceedings or judgment.

15.5 Any communication from CGL to the CMA under these undertakings shall be addressed to Manager, Market and Mergers Remedies Monitoring, Competition and Markets Authority, Victoria House, Southampton Row, London WC1B 4AD or such other person or address as the CMA may direct in writing.

16 EFFECT OF INVALIDITY

16.1 Should any provision of these undertakings be contrary to law or invalid for any reason, CGL undertake to continue to observe the remaining provisions.

17 GOVERNING LAW

17.1 CGL recognises and acknowledges that these undertakings shall be governed and construed in all respects in accordance with English law.

17.2 In the event that a dispute arises concerning these undertakings, CGL undertakes to submit to the courts of England and Wales.

18 TERMINATION

18.1 CGL recognises and acknowledges that these undertakings shall be in force until such time as they are varied, released or superseded under the Act.

18.2 CGL recognises and acknowledges that the variation, release or supersession of these undertakings shall not affect the validity and enforceability of any rights or obligations that arose prior to such variation, release or supersession.

19 INTERPRETATION

19.1 The Interpretation Act 1978 shall apply to these undertakings as it does to Acts of Parliament.

19.2 References in these undertakings to any English law term for any legal status, interest, concept or thing shall in respect of any jurisdiction other than England and Wales be deemed to include what most nearly approximates in that jurisdiction to the English law term.

19.3 In these undertakings the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word and the word 'include' and its derivatives shall be construed accordingly.

19.4 For the purposes of these undertakings:

“the Act” means the Enterprise Act 2002;

“Affiliate” a person is an affiliate of another person if they or their respective enterprises would be regarded as being under common control for the purposes of section 26 of the Act;

“Associated Person” means a person or persons associated with CGL within the meaning of section 127(4) of the Act and includes any Subsidiary of such a person or persons;

“business” has the meaning given by section 129(1) and (3) of the Act;

“CGL” means Co-operative Group Limited company number 000525R;

“CMA” means the Competition and Markets Authority or any successor body;

“Confidential Information” means any business secrets, know-how, commercially sensitive information, intellectual property or any other information of a confidential or proprietary nature;

“Control” shall be construed in accordance with section 26 of the Act, and in the case of a body corporate, a person shall be deemed to Control it if he holds, or has an interest in, shares of that body corporate amounting to 10 per cent or more of its issued share capital or carrying an entitlement to vote at meetings of that body corporate of 10 per cent or more of the total number of votes which may be cast at such meetings;

“Decision” means the CMA’s decision under section 22 of the Act dated 19 October 2016 in connection with the Transaction;

“Divestment Business A” means the convenience store operating from the property at 442 Liverpool Road, Widnes WA8 7XP (Hough Green);

“Divestment Business B” means the convenience store operating from the property at 100 Derby Road, Widnes WA8 9LQ (Farnworth);

“Divestment Business” means either one of Divestment Business A or Divestment Business B;

“Divestment Businesses” means Divestment Business A and Divestment Business B;

“Divestment Businesses Property” means the relevant property associated with the Divestment Businesses as at the date of these undertakings;

“Divestment Period” means the period of time determined by the CMA and notified in writing to CGL by the CMA;

“enterprise” has the meaning given in section 129(1) of the Act;

“Everyday Convenience retailing” means convenience grocery retailing which includes the provision of a range of products that is similar to that being offered by the relevant Divestment Business at the date of these undertakings, in particular: bread and milk; a range of fresh fruit and vegetables; frozen foods; ready meals; and a range of alcoholic beverages, confectionary and news items.

“Group of Interconnected Bodies Corporate” has the meaning given in section 129(2) of the Act; references to a Group of Interconnected Bodies Corporate shall be to the Group of Interconnected Bodies Corporate as constituted from time to time;

“Interest” includes shares, an interest in shares and any other interest carrying an entitlement to vote at shareholders’ meetings but does not include a contract to acquire shares in the future; and for this purpose "an interest in shares" includes an entitlement by a person other than the registered holder, to exercise any right conferred by the holding of these shares or an entitlement to Control the exercise of such right;

“Key Staff” means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the Divestment Businesses or the Retained Widnes Business, as the case may be;

“Occupation Interest” means an interest in the Divestment Businesses Property by virtue of which CGL enjoys an unconditional right or is under an unconditional obligation to occupy the Divestment Businesses Property provided always that: (i) the original purchaser (or its successor) is not in occupation of the Divestment Businesses Property; and/or (ii) before such interest in the Divestment Businesses Property arose, the most recent use to which the Divestment Businesses Property had been put was that of carrying on a grocery store;

“Proposed Purchaser” means any proposed purchaser (or purchasers) for either or both of the Divestment Businesses;

“Retained Widnes Business” means the business of CGL and its Group of Interconnected Bodies Corporate carried on as at the effective date of these undertakings (as defined in paragraph 1) and which are the only CGL business(es) relating to the supply of food, groceries stores and convenience

stores operating from the properties at Upton Rocks Local Centre, Widnes WA8 9DU (Upton Rocks) and 231 Liverpool Road, Widnes WA8 7HL (Ditton);

“Subsidiary” shall be construed in accordance with section 1159 of the Companies Act 2006 (as amended), unless otherwise stated;

“the Transaction” means the completed acquisition of eight convenience store businesses by CFL from MLCG on 5 July and 27 September 2016;

“Trustee” means the person appointed pursuant to paragraph 4.4, paragraph 4.5 or paragraph 4.7 to carry out the Trustee Functions;

“Trustee Functions” means the functions set out in paragraph 6;

“UK” means the United Kingdom of Great Britain and Northern Ireland;

“Unsold Business(es)” is as defined in paragraph 2.7;

“Working Day” means any day of the week other than a Saturday or a Sunday or any day that is a public holiday in England and Wales;

unless the context requires otherwise, the singular shall include the plural and vice versa.

FOR AND ON BEHALF OF CO-OPERATIVE GROUP LIMITED

Signature

Name

Title

Date

DATE ACCEPTED BY THE CMA: