

**UNDERTAKINGS IN LIEU OF A REFERENCE
ANTICIPATED ACQUISITION BY TARMAC TRADING LIMITED OF
CERTAIN ASSETS BELONGING TO BREEDON GROUP PLC**

Undertakings given by Tarmac Trading Limited to the Competition and Markets Authority pursuant to section 73 of the Enterprise Act 2002

Whereas:

- (a) Tarmac Trading Limited (**Tarmac**) has agreed to acquire 27 ready-mix concrete (**RMX**) plants, a marine aggregates terminal at Briton Ferry, as well as certain assets utilised in connection with the RMX plants and the aggregates terminal (**the Target Assets**) from Breedon Group PLC (**Breedon**) (**the Transaction**). As a result of the Transaction, Tarmac and the Target Assets will, subject to the undertakings offered below, cease to be distinct for the purposes of the Enterprise Act 2002 (**the Act**);
- (b) In its decision of 26 April 2018 (**the Decision**), the Competition and Markets Authority (**CMA**) decided under section 33(1) of the Act that the Transaction gives rise to a realistic prospect of an SLC in the supply of RMX in the areas around the Target Assets in Bridgend, Cardiff, Tongwynlais, and Carnforth (**the SLC RMX Assets**, each an **SLC RMX Asset**). The CMA did not find competition concerns in relation to any of the other overlaps;
- (c) Under section 33(1) of the Act the 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;
- (d) 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;

- (e) As set out in 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; and
- (f) The CMA considers that the undertakings given below by Tarmac are appropriate to remedy, mitigate or prevent the substantial lessening of competition, or any adverse effect which may result from the Transaction, or may be expected to result from it, as specified in the Decision.

NOW THEREFORE Tarmac 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 Tarmac, they are accepted by the CMA.

2 UNDERTAKING TO NOT ACQUIRE THE SLC RMX ASSETS

- 2.1 Subject to paragraph 2.2 below, pursuant to these undertakings, Tarmac, or any member of the Group of Interconnected Bodies Corporate to which Tarmac belongs:
 - (a) shall not, directly or indirectly, hold, acquire, re-acquire or use:
 - (i) any Interest in an SLC RMX Asset; or
 - (ii) any Interest in any company carrying on or having Control of an SLC RMX Asset (other than any investments made in the ordinary course of the operation of any of the employee benefit and pension schemes of CRH); or
 - (iii) other than in the normal course of business, any of the assets of an SLC RMX Asset.
 - (b) shall not participate in the formulation of, or (other than in the ordinary course of business) influence or attempt to influence, the policy of the SLC RMX Assets or any company or other undertaking carrying on or having control of the SLC RMX Assets; and
 - (c) 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 CRH directly or indirectly acquiring the SLC RMX Assets or doing any of the

things listed in sub-paragraphs 2.1(a) and 2.1(b) above.

2.2 These undertakings shall apply to Tarmac for a maximum period of 10 years following the Effective Date.

3 COMPLIANCE

3.1 Tarmac 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.

3.2 Tarmac 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.

3.3 Tarmac shall procure that any member of the same Group of Interconnected Bodies Corporate as Tarmac 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 Tarmac shall be attributed to Tarmac for the purposes of these undertakings.

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

4 PROVISION OF INFORMATION

4.1 Tarmac 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.

5 SERVICE

5.1 Tarmac hereby authorises Gowling WLG (UK) LLP, whose address for service is 4 More London Riverside, London SE12AU, 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 Tarmac, 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).

- 5.2 Unless Tarmac informs the CMA in writing that Gowling WLG (UK) 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 Tarmac if it is served on Gowling WLG (UK) LLP; and service shall be deemed to have been acknowledged by Tarmac if it is acknowledged by Gowling WLG (UK) LLP or such other nominee.
- 5.3 Paragraph 5.2 above has effect irrespective of whether, as between Tarmac and Gowling WLG (UK) LLP or other nominees, Gowling WLG (UK) LLP or other nominees has or continues to have any authority to accept and acknowledge service on Tarmac's or any of its respective Subsidiaries' behalf.
- 5.4 No failure or mistake by Gowling WLG (UK) LLP or other nominees (including a failure to notify Tarmac 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.
- 5.5 Any communication from Tarmac 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.

6 EFFECT OF INVALIDITY

- 6.1 Should any provision of these undertakings be contrary to law or invalid for any reason, Tarmac undertakes to continue to observe the remaining provisions.

7 GOVERNING LAW

- 7.1 Tarmac recognises and acknowledges that these undertakings shall be governed and construed in all respects in accordance with English law.
- 7.2 In the event that a dispute arises concerning these undertakings, Tarmac undertakes to submit to the courts of England and Wales.

8 TERMINATION

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

9 INTERPRETATION

- 9.1 The Interpretation Act 1978 shall apply to these undertakings as it does to Acts of Parliament.
- 9.2 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.
- 9.3 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.
- 9.4 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 Tarmac within the meaning of section 127(4) of the Act and includes any Subsidiary of such a person or persons;

“Breedon” means Breedon Group PLC, incorporated in Jersey with registered number 98465 whose registered office is at 28 Esplanade, St Helier, Jersey JE2 3QA;

“Bridgend SLC RMX Asset” means the RMX business associated with the assets located at Bridgend Concrete, Cornelly Quarry, Heol Y Splot, South Cornelly, Bridgend;

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

“Cardiff SLC RMX Asset” means the RMX business associated with the assets located at Cardiff Concrete, Roath Dock Road, Cardiff CF10 4ED;

“Carnforth SLC RMX Asset” means the RMX business associated with the assets located at Dunald Mill Concrete, Nether Kellet, Carnforth LA6 1HE;

“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;

“CRH” means CRH PLC a company registered in Ireland with registered number 12965, whose registered office is at 42 Fitzwilliam Square, Dublin 2 D02 R279, Ireland;

“Decision” means the CMA’s decision under section 33 of the Act dated 26 April 2018 in connection with the Transaction;

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

“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;

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

“Tarmac” means Tarmac Trading Limited incorporated in England and Wales with company number 453791 whose registered office is at Portland House, Bickenhill Lane, Solihull, Birmingham B37 7BQ;

“Tongwynlais SLC RMX Asset” means the RMX business associated with the assets located at Tongwynlais Concrete, Forrest Road, Tonwynlais, Cardiff CF15 7YZ;

“the Transaction” means the acquisition by of 27 RMX plants, a marine aggregates terminal at Briton Ferry, as well as certain assets utilised in connection with the RMX plants and the aggregates terminal from Breedon;

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

“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; and

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

Signed by Tarmac Trading Limited and accepted by the CMA on 15 June 2018.