

**DEROGATION LETTER
IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED PURSUANT TO SECTION
72(2) ENTERPRISE ACT 2002**

Please note that [X] indicates figures or text which have been deleted at the request of the parties for reasons of commercial confidentiality.

Consent under section 72(3C) of the Enterprise Act 2002 to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority ('CMA') on 20 January 2020.

Anticipated acquisition by Breedon Group plc of certain assets of Cemex Investments Limited

We refer to your emails dated 22 and 24 January 2020 and accompanying note dated 22 January 2020 requesting that the CMA consents to derogations to the Initial Enforcement Order of 20 January 2020 (the 'Initial Order'). The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save for written consent by the CMA, Breedon Group plc, Breedon Southern Limited (together, "**Breedon**") and Cemex Investments Limited ("**Cemex**") are required to hold separate certain assets of Cemex Investments Limited (the "**Target**") from the Breedon business and refrain from taking any action which might prejudice a reference under section 22 or 33 of the Act or impede the taking of any remedial action following such a reference. After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, Breedon and Cemex may carry out the following actions, in respect of the specific paragraphs:

1. Paragraphs 6(a) and 6(f) of the Initial Order

In submissions dated 22 and 24 January 2020, Breedon informed the CMA that the Target [X] sites ("[X]") to be acquired by Breedon from Cemex as a result of the transaction currently operate with [X] control systems which are not compatible with Breedon systems. Breedon is seeking a derogation from the Initial Order in order to install a [X] control system (with support from a [X]) which [X] at the [X] sites.

The Business Purchase Agreement entered into on 8 January 2020 ("**BPA**") contemplates that a preparatory process will be conducted pre-completion at the [X] sites to ensure that the Target systems are compatible with Breedon's site control system. Breedon states that such preparatory steps include: (i) the implementation of certain updates to [X] at [X] sites so that they are compatible with Breedon's [X]; and (ii) certain infrastructure testing intended to ensure that any updates to [X] at [X] sites are capable of being connected to Breedon's systems.

In order to ensure that control systems are in place at each [X] site prior to completion and to test whether the infrastructure connections are suitable to be connected to Breedon's network post completion, the CMA consents to Breedon and Cemex carrying out the following actions in respect of the [X] sites on the basis that such actions are necessary to ensure the viability

of the Target business and to avoid disruption to the Target business activities on completion:

- (i) installing new control systems at all active [REDACTED] sites; and
- (ii) testing to ensure that the control systems can be connected to the Breedon network and the Cemex network and testing of the infrastructure connections at the [REDACTED] sites ahead of completion.

The CMA understands that the new control systems will remain at the [REDACTED] sites and will be used by Cemex in the ordinary course of business following testing and until completion or such later date as required by Breedon.

The CMA grants a derogation from paragraph 6(a) and 6(f) on the Initial Order, strictly on the basis that:

(a) the installation and testing process:

- (i) will not cause any material disruption to the Target business;
- (ii) will not result in the transfer of any commercially-sensitive or confidential information of the Target business or Cemex to Breedon;
- (iii) is strictly necessary prior to the conclusion of the CMA's investigation in order to ensure the ongoing viability of the Target business following completion;
- (iv) will not result in any integration of the Target business within Breedon;
- (v) is not difficult or costly to reverse or that the new control systems are capable of transferring with the Cemex business in the event that remedies are required;
- (vi) will not involve any Breedon employees with a commercial or strategic role within the Breedon business and Breedon employees with a commercial or strategic role will not be required to physically access the [REDACTED] sites. Where Breedon IT staff or Breedon's [REDACTED] requires access to the [REDACTED] sites, they will be accompanied by Cemex staff at all times.

(b) Breedon's [REDACTED] will be fully briefed by Breedon on the obligations contained in the Initial Order; and

(c) any future connectivity to Breedon's IT system, other than as required for testing, would only occur subject to the terms of a further derogation from the CMA.

Assistant Director
24 January 2020