

DEROGATION LETTER

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

Please note that [✂] 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, as varied on 11 February 2020.

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

We refer to your submissions of 22 April 2020 and 15 May 2020 requesting that the CMA consents to a derogation to the Initial Enforcement Order of 20 January 2020 as amended by the Variation Order of 11 February 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(I) of the Initial Order

In order to ensure completion of the transaction and to provide Breedon with a degree of oversight of the viability of the Target business leading up to completion, Cemex has agreed in the Business Purchase Agreement (**BPA**) entered into between Breedon and Cemex on 8 January 2020 to:

(i) [✂];

(ii) [✂];

- (iii) [REDACTED];
- (iv) Provide Breedon with:
 - i. [REDACTED] (as set out in Annex 1);
 - ii. [REDACTED] (as set out in Annex 2);
 - iii. [REDACTED] (as set out in Annexes 3 and 4 respectively); and
 - iv. [REDACTED] (as set out in Annex 5).

Breedon submits that the receipt of the aforementioned information is strictly necessary to: (a) allow Breedon to monitor the financial performance of the Target business between signing and completion; (b) ensure that Breedon has visibility that the Target business is being operated as a going concern and that its competitive capabilities are being adequately maintained; (c) enable Breedon to assess whether [REDACTED]; and (d) allow [REDACTED], in his role as the [REDACTED], to discharge the fiduciary duties associated with his role.

The CMA consents to Cemex providing Breedon with information relating to the Target business which is strictly required for purposes described in paragraphs (i) to (iv) above, strictly on the basis that:

- a) Where Cemex is providing the information described in paragraphs (i), (ii) and (iii) above:
 - i. any confidential or commercially-sensitive information of Cemex will be strictly limited to that necessary to allow Breedon to exercise its rights under the BPA and Cemex will take care to ensure that information is redacted where necessary; and
 - ii. Cemex will retain unfettered decision-making powers over the Target business, and Breedon will not be afforded any direction over the actions of the Target business until completion;
- b) Where Cemex is providing the information described in paragraph (iv) above:
 - i. any confidential or commercially-sensitive information of Cemex will be strictly limited to that necessary to provide Breedon with the necessary oversight of the viability of the Target business leading up to completion; and
 - ii. Cemex will provide the completed financial reporting templates to the Monitoring Trustee for review in the first instance, and will not provide

such information to Breedon without the prior consent of the Monitoring Trustee.

- c) Information shared with Breedon for the purposes of this derogation will only be provided to:
- i. [X] and [X], both at Breedon, for whom it is strictly necessary to receive the information to: (a) allow Breedon to monitor the financial performance of the Target business between signing and completion; (b) ensure that Breedon has visibility that the Target business is being operated as a going concern and that its competitive capabilities are being adequately maintained; and (c) enable Breedon to assess whether [X];
 - ii. [X] and [X], both at Breedon, for whom it is strictly necessary to receive the information to internally monitor compliance with the Initial Order and derogation. [X] and [X] do not hold commercial or strategic roles in the Breedon business; and
 - iii. [X] at Breedon for whom it is strictly necessary to receive only the information provided in Annex 5 in order to discharge the fiduciary duties of his role. For the avoidance of doubt, [X] is not permitted to receive any other information provided by Cemex to Breedon for the purposes of this derogation.
- d) Each of the identified individuals shall enter into an NDA/confidentiality undertaking in the form approved by the CMA;
- e) No changes to the Breedon personnel covered by this derogation are permitted without written consent from the CMA (including via email);
- f) Firewalls or access restrictions will be put in place to prevent any unauthorised Breedon personnel from accessing any information provided by Cemex to Breedon for the permitted purpose;
- g) This derogation will not lead to any integration of the Breedon business and Target business and it will have no impact on any remedial action that the CMA may need to take regarding the transaction; and
- h) Should the transaction ultimately be prohibited, Breedon will ensure that any records or copies (electronic or otherwise) of such information that have passed for the purpose of this derogation, wherever they may be held, will be returned to Cemex and any copies destroyed, except to the extent that record retention is required by law or regulation.

Yours sincerely,

Assistant Director, Remedies, Business and Financial Analysis

3 July 2020

Annex 1 - Quarterly trading update

Annex 2 – Monthly financial information

Annex 3 – EBITDA statement

Annex 4 - Statement of assets

Annex 5 – Summary P&L and EBITDA line for divisional financials