

**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 31 July 2020.**

**Completed acquisition by Breedon Group plc of certain assets of Cemex Investments Limited**

We refer to your submissions of 3 and 30 June 2020 and 20 July 2020 requesting that the CMA consents to a derogation to the Initial Enforcement Order 31 July 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 and Breedon Southern Limited (together, "**Breedon**") are required to hold separate certain assets acquired from Cemex Investments Limited (the "**Target business**") from the Breedon business and refrain from taking any action which might prejudice a reference under section 22 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 may carry out the following actions, in respect of the specific paragraphs:

**1. Paragraphs 4(a), 4(b), 5(a), (g) and (h) of the Initial Order**

Breedon submits that, given the Target business is not itself a legal entity, any contracts related to the Target business need to transfer as a technical legal matter from Cemex to Breedon (Breedon Southern Limited) on completion. Breedon also submits that it is essential for maintaining the viability and competitive capabilities of the Target business that the Target contracts transfer with the Target business, and therefore strictly necessary, and in compliance with Breedon's obligations under the Initial Order, that the Target contracts transfer to Breedon as the Target itself does not have a separate and distinct legal personality to whom the relevant contracts can transfer.

Breedon submitted that it anticipated the following categories of contracts transferring from Cemex to Breedon on completion:

- Shared contracts which relate both to the Target Assets and the retained businesses carried on by Cemex, in accordance with any separation arrangements agreed with the relevant third parties as permitted under the Target contracts derogation;

- Customer contracts;
- Supplier contracts (for both goods and services); and
- Contracts with owner drivers which relate to the Target business.

Breedon notes that under the Target contracts derogation of 18 June 2020, Breedon is in any event obliged to report to the CMA and Monitoring Trustee regularly with details of each of the assigned, novated, amended and/or new third party contracts, including: (a) [REDACTED]; (b) [REDACTED]; (c) [REDACTED], and (d) [REDACTED].

Breedon also notes that the above steps would not impact on the CMA's ability to impose any remedial action, as the Target contracts could be transferred to a third-party purchaser as transferred from Cemex to Breedon.

On the basis set out above, the CMA consents to any contracts related to the Target business transferring to Breedon Southern Limited.

The CMA consents to this derogation from the Initial Order strictly on the basis that:

- (i) Unless permitted by the CMA, employees of Breedon will not have access to the Target contracts, and firewalls or access restrictions will be put in place to prevent any unauthorised Breedon personnel from accessing such contracts or from accessing any confidential information relating to such contracts;
- (ii) Post-completion, Target contracts will be handled only by employees of the Target and / or the Hold Separate Manager appointed to the Target;
- (iii) The Target contracts will for all operational purposes remain dedicated solely to the Target business while the Initial Order is in force; and
- (iv) This derogation would not impact on the CMA's ability to impose any remedial action, and Breedon will take no action to circumvent or hamper the onward divestment of the Target contracts in the event that remedial action is later required by the CMA.

Yours sincerely,

Assistant Director, Remedies. Business and Financial Analysis

31 July 2020