

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') 31 July 2020.

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

We refer to your emails of 23 June and 15 July 2020 requesting that the CMA consents to a derogation to the Initial Enforcement Order of 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 5(a), (c) and (l) of the Initial Order

Breedon has requested that, in order to ensure that the Target business can operate in the ordinary course of business and is maintained as a going concern, it may enter into a delegated authority arrangement with the Target Managing Director (or Hold Separate Manager, if applicable) in the form set out in Annex 1 (the '**Delegation of Authority**').

Under the Delegation of Authority, [X] (Target Managing Director or the Hold Separate Manager, if applicable) would be permitted to escalate and discuss certain proposed conduct relating to the Target business, which exceeds the levels set out in the Delegation of Authority with:

- [REDACTED] ([REDACTED], Breedon) and/or [REDACTED] ([REDACTED], Breedon) in the first instance ("**Breedon Authorised Individuals**"); and
- only where prior written consent of the CMA is provided to the Breedon Authorised Individuals, with [REDACTED] ([REDACTED], Breedon) and/or [REDACTED] ([REDACTED], Breedon).

For those matters which are escalated to the Breedon Authorised Individuals, Breedon submits that the Breedon Authorised Individuals (and where permitted by the CMA, [REDACTED] ([REDACTED], Breedon) and/or [REDACTED] ([REDACTED], Breedon)) should be permitted to consent or veto the relevant proposed action as identified in the Delegation of Authority.

The CMA consents to a derogation from the Initial Order to enable any one or more of the Breedon Authorised Individuals (and where permitted by the CMA, [REDACTED] ([REDACTED], Breedon) and/or [REDACTED] ([REDACTED], Breedon)) to approve or veto certain actions by the Target exceeding the levels of the Delegation of Authority, subject to:

- a) Breedon informing the Monitoring Trustee each time the levels of the Delegation of Authority are exceeded, within two working days of a matter being escalated to the Breedon Authorised Individuals;
- b) The CMA retaining the ability to amend at its discretion (including by email) the levels set out in the Delegation of Authority at any time, in consultation with Breedon and the Target, in the event that the CMA considers that the Delegation of Authority prevents the Target business from operating or competing independently, including for example, because the Target Managing Director considers the scope of the Delegation of Authority to be such that they could significantly restrict the ability of the Target business to operate independently, or if the Target Managing Director frequently requires Breedon's consent for the conduct included within the scope of the Delegation of Authority, such that they could significantly restrict the ability of the target business to operate independently;
- c) implementation of the following safeguard measures listed below:
 - (i) In the event that any of the Breedon Authorised Individuals considers that a decision on any matter raised with them under the Delegation of Authority needs to be escalated further to [REDACTED] ([REDACTED], Breedon) and/or [REDACTED] ([REDACTED], Breedon), as the case may be, Breedon shall submit a fully-reasoned request to the CMA seeking the CMA's prior written approval in respect of each specific matter required to be escalated to and/or discussed with [REDACTED] ([REDACTED], Breedon) and/or [REDACTED] ([REDACTED], Breedon);
 - (ii) The information shared by the Target Managing Director with the Breedon Authorised Individuals (and if permitted by the CMA under

(c)(i) above, with [X] ([X], Breedon) and/or [X] ([X], Breedon)) is no more than is strictly necessary to allow them to reach a view on the specific matter at hand;

(iii) Discussions with the Target Managing Director (or Hold Separate Manager, if applicable) will be strictly limited to the specific matters listed in the Delegation of Authority;

(iv) Any one or more of the Breedon Authorised Individuals (and if permitted by the CMA under (b)(i) above, [X] ([X], Breedon) and/or [X] ([X], Breedon)) shall take decisions on the escalated matters on their own and without involvement from any other Breedon employee in the decision-making process except that they may discuss such matters with the following individuals only at Breedon: [X] ([X]) and [X] ([X]) (together, the **Designated Individuals**) all of whom shall keep such information confidential and use it only for this purpose;

(v) The CMA may, at its discretion, request a summary of the information shared with the Breedon Authorised Individuals; [X] ([X], Breedon) and/or [X] ([X], Breedon) (if applicable); and/or any of the Designated Individuals after a request for approval has been submitted by the Target Managing Director under the terms of the Delegation of Authority;

(vi) The CMA is notified of any of any proposed veto and the reasons for this in advance of any such veto being exercised;

(vii) The Breedon Authorised Individuals, [X] ([X], Breedon) and/or [X] ([X], Breedon) and all Designated Individuals will be required to sign a confidentiality undertaking in a form agreed by the CMA; and

(viii) No changes to the Breedon and/or Target personnel covered by this derogation are permitted without prior written consent from the CMA (including via email).

Yours sincerely,

Assistant Director, Remedies. Business and Financial Analysis

31 July 2020

Annex 1

Delegation of Authority – Authority Limits

[✂]