

**Completed acquisition by Hunter Douglas N.V. of convertible loan notes and certain rights in 247 Home Furnishings Ltd. In 2013 and the completed acquisition by Hunter Douglas N.V. of a controlling interest in 247 Home Furnishings Ltd. in 2019**

**Final Undertakings given by Hunter Douglas N.V. and 247 Home Furnishings Limited to the Competition and Markets Authority pursuant to section 82 of the Enterprise Act 2002**

***Background***

- A. On 28 February 2019, Hunter Douglas N.V. (**'Hunter Douglas'**) completed its acquisition of a controlling interest in 247 Home Furnishings Ltd. (**'247'**) (the **'Merger'**).
- B. On 20 November 2019, the Competition and Markets Authority (the **'CMA'**) made an initial enforcement order (**'IEO'**) pursuant to section 72(2) of the Enterprise Act 2002 (the **'Act'**) for the purpose of preventing pre-emptive action in accordance with that section. On 27 April 2020, the CMA issued directions under the IEO for the appointment of a monitoring trustee (the **'Monitoring Trustee'**) in order to monitor and ensure compliance with the IEO.
- C. On 1 April 2020, the CMA, in accordance with section 22(1) of the Act, referred the Merger to a group of CMA panel members to determine, pursuant to section 35 of the Act:
- (a) whether a relevant merger situation has been created; and
  - (b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition (**'SLC'**) in any market or markets in the United Kingdom (**'UK'**) for goods or services.
- D. On 15 September 2020, the CMA published a final report pursuant to section 38 of the Act (the **'Report'**) which concluded that:
- (a) the Merger has created a relevant merger situation;

- (b) the creation of that situation has resulted in, or may be expected to result, in an SLC in relation to the retail supply of online made to measure ('M2M') blinds in the UK; and
  - (c) the CMA should take action to remedy the SLC found and any resulting adverse effects.
- E. The CMA, having regard to its findings in the Report, requires the divestiture of 51% of the ordinary share capital of 247 by Hunter Douglas (the '**Remedy**').
- F. [§<].
- G. The implementation of the Remedy will be subject to the following safeguards:
  - (a) Hunter Douglas will be subject to regular reporting requirements, as referred to in paragraphs 5 and 10 below.
  - (b) The Monitoring Trustee, appointed in accordance with paragraph 11 of the IEO, will monitor compliance with these Final Undertakings, including the progress of the implementation of the Remedy. The Monitoring Trustee will also be required to review and consent to certain new agreements and material amendments to existing agreements, as set out in paragraph 5 below.
  - (c) The purchaser must be an Approved Purchaser in accordance with the Purchaser Approval Criteria in Annex 1.
  - (d) Any new agreements or amendments to existing agreements between the Hunter Douglas business and the 247 business will be subject to the restrictions and requirements set out in paragraphs 5 and 9 below from the date of these Final Undertakings and for a period of ten years from the date of Final Disposal.
  - (e) Notwithstanding any agreements required to implement the Final Disposal, new agreements or amendments to existing agreements between the Hunter Douglas business and the Approved Purchaser business that relate to the supply of M2M blinds in the UK will be subject to the restrictions and requirements set out in paragraph 5 below from the date of these Final Undertakings and for a period of ten years from the date of Final Disposal.
  - (f) Hunter Douglas will be required to confirm the Hunter Douglas business' compliance with requirements (d) and (e) above to the CMA by way of an annual compliance statement for the duration of those requirements.

There will also be additional annual reporting required in relation to the requirements of paragraph 5 below.

(g) These Final Undertakings include provisions enabling the CMA to direct the appointment of:

(1) [~~X~~]; and

(2) a Hold Separate Manager to act as an independent interim manager with executive powers to manage the 247 business in accordance with the conditions set out at paragraph 15 below.

H. [~~X~~].

I. The IEO ceases to be in force on the date of acceptance by the CMA, pursuant to section 82 of the Act, of these Final Undertakings.

J. Now therefore each of the Hunter Douglas business and the 247 business gives to the CMA on behalf of itself and, where relevant, its Subsidiaries and Affiliates, the following Final Undertakings pursuant to section 82 of the Act for the purpose of remedying, mitigating or preventing the SLC identified in the Report and any resulting adverse effects.

### **1. Interpretation**

1.1. The purpose of these Final Undertakings is to give effect to the Remedy identified in the Report and they shall be construed in accordance with the Report.

1.2. Any word or expression used in these Final Undertakings or the recitals to these Final Undertakings shall, unless otherwise defined herein and/or the context otherwise requires, have the same meaning as in the Act or the Report (as appropriate).

1.3. The headings used in these Final Undertakings are for convenience and shall have no legal effect.

1.4. References to any statute or statutory provision shall be construed as references to that statute or statutory provision as amended, re-enacted or modified whether by statute or otherwise stated.

1.5. References to recitals, paragraphs, subparagraphs and annexes are references to the recitals, paragraphs and subparagraphs of, and annexes to, these Final Undertakings unless otherwise stated.

- 1.6. Unless the context requires otherwise, the singular shall include the plural and vice versa and references to persons includes bodies of persons whether corporate or incorporate.
- 1.7. The annexes form part of these Final Undertakings.
- 1.8. The Interpretation Act 1978 shall apply to these Final Undertakings as it does to Acts of Parliament.
- 1.9. Further in these Final Undertakings:

the ‘ <b>Act</b> ’	means the Enterprise Act 2002;
‘ <b>Affiliate</b> ’	means a person who is an affiliate of another person if they or their respective enterprises are to be regarded as being under common control for the purposes of section 26 of the <b>Act</b> ;
‘ <b>Agreement</b> ’	A legally enforceable agreement between two or more parties;
‘[ <del>⊗</del> ]’	[ <del>⊗</del> ];
‘[ <del>⊗</del> ]’	[ <del>⊗</del> ];
‘[ <del>⊗</del> ]’	[ <del>⊗</del> ];
‘ <b>Existing Agreement</b> ’	means any <b>247 Agreement</b> in place as of the date of these Final Undertakings or <b>Purchaser Supply Agreement</b> in place prior to the Final Disposal;
‘ <b>Approved Agreement</b> ’	means any <b>247 Agreement</b> or <b>Purchaser Supply Agreement</b> entered into in compliance with these <b>Final Undertakings</b> , excluding any <b>Existing Agreements</b> ;
‘ <b>Approved Purchaser</b> ’	means any purchaser approved by the <b>CMA</b> pursuant to the <b>Purchaser Approval Criteria</b> set out in Annex 1;
‘ <b>Approved Purchaser business</b> ’	means the business conducted by the <b>Approved Purchaser</b> and its

	<b>Subsidiaries or affiliates</b> except for the <b>247 business</b> ;
[' <del>⊗</del> ']	[' <del>⊗</del> '];
<b>'Approved Timetable'</b>	means the timetable notified by the <b>CMA</b> to <b>Hunter Douglas</b> in accordance with paragraph 10.1;
<b>'Asset Maintenance Undertakings'</b>	means those undertakings set out in paragraph 4;
<b>'Associated Person'</b>	means a person who is an associated person within the meaning of section 127 of the <b>Act</b> ;
<b>'business'</b>	has the meaning given by section 129(1) and (3) of the <b>Act</b> ;
<b>'CMA'</b>	means the Competition and Markets Authority;
<b>'Commencement Date'</b>	means the date on which these Final Undertakings are accepted by the CMA in accordance with section 82(2)(a) of the <b>Act</b> ;
<b>'Confidential Information'</b>	means business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature;

'control'	includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise, as defined in section 26 of the <b>Act</b> ;
'Divestiture Period'	means the period starting with the <b>Commencement Date</b> and ending six months after the <b>Commencement Date</b> or such longer period as the <b>CMA</b> may approve in accordance with paragraph 20.1;
[ <del>⊗</del> ]	[ <del>⊗</del> ];
'Divestiture Undertakings'	means those undertakings set out in paragraph 3;
'Final Disposal'	means the divestiture of 51% of <b>the 247 business</b> to an <b>Approved Purchaser</b> ;
'Hold Separate Manager'	means a person appointed in accordance with paragraph 15;
'Hunter Douglas'	means Hunter Douglas N.V., a company incorporated in the Netherlands;
'Hunter Douglas business'	means the business conducted by <b>Hunter Douglas</b> and its <b>Subsidiaries or affiliates</b> except for the 247 business;
'Key Staff'	means those staff who are in positions of executive or managerial responsibility and/or whose performance affects the viability of the relevant business;

<b>‘Merger’</b>	means the completed acquisition by <b>Hunter Douglas</b> of a controlling interest in <b>247 on 28 February 2019</b> ;
<b>‘Monitoring Trustee’</b>	means a person appointed or retained in accordance with paragraph 7;
<b>‘ordinary course of business’</b>	means matters connected to the day-to-day supply of goods and services by the <b>Hunter Douglas business</b> and the <b>247 business</b> and does not include matters involving significant changes to the organisational structure or related to the post- <b>Merger</b> integration of <b>Hunter Douglas</b> and <b>247</b> ;
<b>‘Other 247 Agreements’</b>	means any <b>Agreements</b> between the <b>Hunter Douglas business</b> and the <b>247 business</b> that are not <b>247 Supply Agreements</b> ;
<b>‘Purchaser Approval Criteria’</b>	means the criteria set out in Annex 1;
<b>‘Related Person’</b>	means any <b>Subsidiary, Affiliate</b> or <b>Associated Person</b> ;
<b>‘Relevant Markets’</b>	means the retail supply of online M2M blinds in the UK;
<b>‘Purchaser Supply Agreement’</b>	means any <b>Agreement</b> between the <b>Approved Purchaser business</b> and the <b>Hunter Douglas business</b> that relates to the supply of M2M blinds in the UK;
<b>‘Remedy’</b>	means the divestiture of 51% of the <b>247 business</b> as set out in Chapter 11 of the <b>Report</b> ;
<b>‘Report’</b>	means the <b>CMA’s</b> report titled <i>‘Completed acquisition by Hunter Douglas N.V. of convertible loan notes and certain rights in 247 Home Furnishings Ltd. in 2013 and the completed acquisition by Hunter</i>

*Douglas N.V. of a controlling interest in 247 Home Furnishings Ltd. in 2019'*  
dated 15 September 2020;

<b>'SLC'</b>	means a substantial lessening of competition;
<b>'Specified Period'</b>	means the period beginning on the <b>Commencement Date</b> and terminating on <b>Final Disposal</b> [X];
<b>'Subsidiary'</b>	unless otherwise expressly stated has the meaning given by section 1159 of the Companies Act 2006;
[X]	[X];
[X]	[X];
<b>'UK'</b>	means the United Kingdom of Great Britain and Northern Ireland;
<b>'Working Day'</b>	means a day that is not a Saturday or Sunday or a bank holiday in England;
<b>'written consent'</b>	means a consent given in writing, including by e-mail;
<b>'247'</b>	means, 247 Home Furnishings Ltd. A company incorporated in Jersey as of the date of the <b>Report</b> and any economic or legal successor of the business carried on by 247 Home Furnishings Ltd. as at the date of the <b>Report</b> ;
<b>'247 business'</b>	means <b>247</b> and its <b>Subsidiaries or affiliates</b> ;
<b>'247 Agreements'</b>	means all <b>247 Supply Agreements</b> and any <b>Other 247 Agreements</b> ; and
<b>'247 Supply Agreements'</b>	means all <b>Agreements</b> between the <b>Hunter Douglas business</b> and the <b>247 business</b> for the wholesale supply of

assembled blinds in the UK.

## **2. Commencement**

- 2.1. These Final Undertakings will come into force on the Commencement Date in accordance with section 82(2) of the Act.

## **3. Divestiture Undertakings**

- 3.1. Hunter Douglas gives the following undertakings:
- 3.1.1. to give effect to and implement the Final Disposal within the Divestiture Period having due regard to the findings in the Report;
  - 3.1.2. [X]; and
  - 3.1.3. to comply with any written directions given by the CMA under these Final Undertakings, and to take such steps as may be specified or described in the directions for complying with these Final Undertakings, in particular the appointment of a [X].
- 3.2. Hunter Douglas undertakes to inform the CMA as soon as practicable, and in any event within two Working Days, of each of: (i) a shortlist of potential purchasers being drawn up for the CMA's formal approval against the Purchaser Approval Criteria; (ii) the contractual documents constituting the Final Disposal [X] being agreed; and (iii) completion of the Final Disposal [X].
- 3.3. Hunter Douglas undertakes to provide the CMA with sufficient information regarding each potential purchaser for which Hunter Douglas seeks formal approval from the CMA, having regard to the Purchaser Approval Criteria to enable the CMA to give its approval of that potential purchaser, which shall not be unreasonably withheld.
- 3.4. The CMA will advise Hunter Douglas whether any potential purchaser is an Approved Purchaser within a reasonable time of the CMA concluding it has received sufficient information. The CMA will inform Hunter Douglas where it considers it has received insufficient information.
- 3.5. Hunter Douglas undertakes to seek CMA approval of the final terms of the divestiture prior to the Final Disposal [X], to send the CMA a copy of all the final form contractual and other documents constituting or relating to these final terms before they are entered into and to not complete the Final Disposal [X] until the CMA has given its written consent to these terms.

- 3.6. Hunter Douglas undertakes to inform the CMA as soon as practicable, and in any event within three Working Days of becoming aware, if it will not, or believes it is unlikely to, achieve Final Disposal [X].
- 3.7. 247 undertakes to cooperate with Hunter Douglas and take all reasonable steps as may be required to assist Hunter Douglas to comply with the Divestiture Undertakings, including complying with any written directions given by the CMA.
- 3.8. Hunter Douglas undertakes that it will not, and to procure that any Related Person will not, for a period of ten years from the date of Final Disposal [X], bring under their common ownership or control, in whole or in part, 247 or any of its Subsidiaries, or any assets of 247 or any of its Subsidiaries, except with the prior written consent of the CMA.

#### **4. Asset Maintenance Undertakings**

- 4.1. Except with the prior written consent of the CMA (which, for the avoidance of doubt, includes any derogations already granted by the CMA pursuant to the IEO as listed in Annex 2 (as may be amended with the prior written consent of the CMA or otherwise updated by the CMA), which will remain applicable during the Specified Period), Hunter Douglas and 247 undertake, during the Specified Period, not to take any action which might impede the Final Disposal [X], including any action which might:
  - 4.1.1. lead to the further integration of the 247 business with the Hunter Douglas business;
  - 4.1.2. transfer the ownership or control of the 247 business; or
  - 4.1.3. otherwise impair the ability of the 247 business to compete independently in the Relevant Market.
- 4.2. Further and without prejudice to the generality of paragraph 4.1, Hunter Douglas and 247 undertake at all times during the Specified Period to procure that, except with the prior written consent of the CMA (which includes any previously granted derogations pursuant to the IEO and Interim Order listed in Annex 2):
  - 4.2.1. no action is taken by the Hunter Douglas business to solicit the transfer of staff from the 247 business to the Hunter Douglas business;

- 4.2.2. the 247 business is carried on separately from the Hunter Douglas business and the separate sales or brand identity of the 247 business is maintained;
- 4.2.3. the 247 business is maintained as a going concern and sufficient resources are made available for the development of the 247 business and the Hunter Douglas business, on the basis of its pre-Merger business plans (as updated by 247 from time to time in the ordinary course of business), and having due regard to the need to maintain and/or preserve the 247 business as an effective competitor and to all relevant circumstances as reasonably determined by the CMA;
- 4.2.4. except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within, the 247 business;
- 4.2.5. the nature, description, range and quality of goods and/or services supplied in the UK by the 247 business are maintained and preserved;
- 4.2.6. except in the ordinary course of business for the separate operation of the 247 business and the Hunter Douglas business:
  - 4.2.6.1. all of the assets of the 247 business and the Hunter Douglas business are maintained and preserved, including facilities and goodwill;
  - 4.2.6.2. none of the assets of the 247 business are disposed of; and
  - 4.2.6.3. no interest in the assets of the 247 business is created or disposed of;
- 4.2.7. there is no integration of the information technology of the 247 business and the Hunter Douglas business, and the software and hardware platforms of the 247 business remain essentially unchanged, except for routine changes and maintenance;
- 4.2.8. the customer and supplier lists of the 247 business and the Hunter Douglas business are operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the 247 business are carried out by the 247 business alone and for the avoidance of doubt the Hunter Douglas business will not negotiate on behalf of the 247 business (and vice versa) or enter into any joint agreements with the 247 business (and vice versa);

- 4.2.9. all existing contracts of the 247 business and the Hunter Douglas business continue to be serviced by the business to which they were awarded;
  - 4.2.10. no changes are made to Key Staff of the 247 business;
  - 4.2.11. no Key Staff are transferred between the 247 business and the Hunter Douglas business;
  - 4.2.12. all reasonable steps are taken to encourage all Key Staff to remain with the 247 business; and
  - 4.2.13. no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses passes, directly or indirectly, from the 247 business (or any of its employees, directors or agents) to the Hunter Douglas business (or any of its employees, directors or agents), or vice versa, except where strictly necessary in the ordinary course of business (including, for example, where required for compliance with external regulatory, accounting obligations and/or pursuant to a derogation granted by the CMA) and any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.
- 4.3. Hunter Douglas and 247 each undertakes that until Final Disposal [~~§~~], it will keep the CMA informed of any material developments (and with the consent of the CMA such updates may be provided through the Monitoring Trustee in accordance with paragraph 9 of these Final Undertakings) relating to the 247 business, which include but are not limited to:
- 4.3.1. details of Key Staff who leave or join the 247 business;
  - 4.3.2. any interruption of the 247 business (including, without limitation, procurement, processing, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
  - 4.3.3. substantial changes in the 247 business's contractual arrangements or relationships with key suppliers; and
  - 4.3.4. substantial adverse changes in the financial position and/or performance of the 247 business.

4.4. Hunter Douglas and 247 each undertakes that within a period of five Working Days from the Commencement Date, they will provide written compliance statements to the CMA in a form set out in Annex 3, confirming compliance with their respective obligations under paragraph 4 of these Final Undertakings (subject to any granted derogations). In the case of Hunter Douglas and 247, each shall set out any details of material developments for the purposes of paragraph 4.3 of which they are aware. Thereafter, Hunter Douglas and 247 will provide similar compliance statements to the CMA on a monthly basis until Final Disposal, with the first such monthly statement to be submitted to the CMA no later than one month from the first written statement.

## **5. *Separate Agreement Undertakings***

5.1. Without prejudice to the other undertakings in these Final Undertakings, the Hunter Douglas business undertakes to:

5.1.1. Terminate any Purchaser Supply Agreement in place prior to the Final Disposal that the CMA has not provided prior written consent to continue, such consent not to be unreasonably withheld; and

from the date of these Final Undertakings and for a period of ten years from the date of Final Disposal, to:

5.1.2. Not enter into any Purchaser Supply Agreements unless and until the Monitoring Trustee or the CMA have provided written consent to do so, such consent not to be unreasonably withheld;

5.1.3. Not enter into any 247 Supply Agreement unless and until either:

5.1.3.1. Hunter Douglas have assessed, acting reasonably, that the Agreement's substance does not vary materially from an Existing Agreement or Approved Agreement; or

5.1.3.2. the Monitoring Trustee or the CMA have provided written consent to do so, such consent not to be unreasonably withheld.

5.1.4. Not enter into any Other 247 Agreement unless and until the Monitoring Trustee or the CMA have provided written consent to do so, such consent not to be unreasonably withheld; and

5.1.5. Not make any amendments to any Existing Agreements or Approved Agreements unless and until either:

5.1.5.1. Hunter Douglas have assessed, acting reasonably, that the amendment is not material; or

5.1.5.2. the Monitoring Trustee or the CMA have provided written consent to do so, such consent not to be unreasonably withheld.

5.2. For the purposes of paragraph 5.1 above, amendments and variations that are:

5.2.1. formal and administrative;

5.2.2. to the specification of product being supplied;

5.2.3. to the price being charged for the same or similar product so long as this is in the ordinary course of business and reflects the market rate for the product, for example, a price increase that reflects an increase in the costs of production and/or supply; or

5.2.4. to the logistics of supplying a product

will not be regarded as material.

5.3. Hunter Douglas undertakes to provide annually in writing to the CMA, on each anniversary of Final Disposal, for a period of ten years, a list and summary details of, in the form set out at Annex 4, all Approved Agreements entered into that year and Existing Agreements and Approved Agreements amended that year. For the avoidance of doubt, where the Agreement was entered into or amended on the basis set out at paragraph 5.1.3.1 or paragraph 5.1.5.1 above, Hunter Douglas should include, alongside that entry on the list, a summary of the amendments or variations. If no Approved Agreements have been entered into that year and no Existing Agreements and Approved Agreements amended that year, Hunter Douglas undertakes to provide confirmation of this in the form set out at Annex 4.

## **6. Procedure for consent and notification/Directions**

6.1. Hunter Douglas and 247 each undertakes that any application by it for the Monitoring Trustee or CMA's consent or approval shall make full disclosure of every material fact and matter within its knowledge that it believes is relevant to the Monitoring Trustee or CMA's decision.

6.2. Hunter Douglas and 247 each recognises that where the Monitoring Trustee or CMA grants consent or approval on the basis of misleading or incomplete information and such information materially affects its consent or approval, that consent or approval is voidable at the election of the CMA.

6.3. In the event that either Hunter Douglas or 247 discover that an application for consent or approval may have been made to the Monitoring Trustee or CMA

without full disclosure in accordance with paragraph 6.1 or on the basis of misleading information, Hunter Douglas and 247 each undertake to:

- 6.3.1. inform the Monitoring Trustee or CMA (as applicable) in writing, identifying the information that was omitted or otherwise clarifying the information in the application for consent within two Working Days of becoming aware that the relevant information may have been misleading or incomplete; and
  - 6.3.2. at the same time or not later than two Working Days starting with the date on which it has informed the Monitoring Trustee or CMA of the omission or provided a clarification in accordance with paragraph 6.3.1 above, provide to the Monitoring Trustee or CMA (as applicable) an application for consent that includes any missing information or clarifications.
- 6.4. With the exception of consent required under paragraph 5 above, Hunter Douglas and 247 shall each use all reasonable endeavours to make each application, or to procure that each application for consent or approval is made, so that it is received by the CMA at least five Working Days, or such lesser period as the or the CMA may allow, before the day on which the or the CMA's consent or approval is necessary to avoid a breach of these Final Undertakings.
  - 6.5. With the exception of consent required under paragraph 5 above, the CMA will use all reasonable endeavours to grant or refuse any consent or approval within the five Working-Day period referred to in paragraph 6.4 above. This provision is without prejudice to the CMA's duties under the Act.
  - 6.6. Hunter Douglas and 247 will comply with such written directions as the CMA may from time to time issue and will take such steps as may be specified or described in such directions for complying with these Final Undertakings.
  - 6.7. Hunter Douglas and 247 acknowledge that the CMA may choose not to issue directions immediately upon becoming entitled to do so, and recognises that any delay by the CMA in making a written direction shall not affect the obligations of Hunter Douglas and 247 at such time as the CMA makes any written direction under paragraph 6.6.

## **7. *Monitoring Trustee – Appointment***

- 7.1. Hunter Douglas undertakes to secure the appointment or retention of an independent Monitoring Trustee to perform the functions in paragraph 9 on behalf of the CMA. Provided that the other conditions set out in this paragraph 7 are complied with, the Monitoring Trustee may be the same as already

appointed pursuant to the written directions made by the CMA on 27 April 2020 under the IEO. In the event that Hunter Douglas proposes to retain the current Monitoring Trustee, no later than five Working Days after the Commencement Date, Hunter Douglas shall provide the CMA with a copy of the updated agreed terms and conditions of appointment that reflect these Final Undertakings.

- 7.2. The Monitoring Trustee must possess appropriate qualifications and experience to carry out its functions. The Monitoring Trustee must be under an obligation to carry out its functions to the best of its abilities.
- 7.3. The Monitoring Trustee must neither have nor become exposed to a conflict of interest that impairs the Monitoring Trustee's objectivity and independence in discharging its duties under these Final Undertakings, unless it can be resolved in a manner and within a time frame acceptable to the CMA.
- 7.4. Hunter Douglas shall remunerate and reimburse the Monitoring Trustee for all reasonable costs properly incurred in accordance with the terms and conditions of the appointment and in such a way so as not to impede the Monitoring Trustee's independence or ability to effectively and properly carry out its functions.
- 7.5. Unless paragraph 7.1 applies:
  - 7.5.1. the appointment of the Monitoring Trustee and its terms and conditions must be approved by the CMA. Hunter Douglas shall inform the CMA as soon as is reasonably practicable and in any event by no later than two Working Days after the Commencement Date of the identity of the Monitoring Trustee that it proposes to appoint and provide the CMA with draft terms and conditions of appointment. Once the Monitoring Trustee has been approved by the CMA and appointed by Hunter Douglas, Hunter Douglas shall provide the CMA with a copy of the agreed terms and conditions of appointment.
  - 7.5.2. If the proposed Monitoring Trustee is rejected by the CMA, Hunter Douglas shall submit the names of at least two further persons within five Working Days starting with the date on which it was informed of the rejection, in accordance with the requirements and the procedures set out in paragraphs 7.2 to 7.4 above.
- 7.6. The provisions of paragraph 7.7 below shall apply if:
  - 7.6.1. paragraph 7.1 does not apply;

- 7.6.2. Hunter Douglas fails to nominate persons in accordance with paragraph 7.5 above;
  - 7.6.3. those further persons nominated by Hunter Douglas in accordance with paragraph 7.5 above are rejected by the CMA; or
  - 7.6.4. Hunter Douglas is unable for any reason to conclude the appointment of the Monitoring Trustee within the time limit specified by the CMA.
- 7.7. The CMA shall nominate one or more persons to act as Monitoring Trustee, and Hunter Douglas shall appoint or cause to be appointed such Monitoring Trustee within two Working Days starting with the date of such nomination under the term of a Monitoring Trustee mandate approved by the CMA.
- 7.8. The Monitoring Trustee's mandate shall specify that the Monitoring Trustee will carry out the functions set out in paragraph 9 below and that the Monitoring Trustee will monitor the compliance of Hunter Douglas and 247 with their respective obligations under these Final Undertakings. The mandate shall provide that the Monitoring Trustee shall take such steps as it reasonably considers necessary to carry out its functions effectively and that the Monitoring Trustee must comply with any reasonable requests made by the CMA for the purpose of carrying out its functions under these Final Undertakings.

## **8. *Monitoring Trustee – replacement, discharge and reappointment***

- 8.1. Hunter Douglas acknowledges that if the Monitoring Trustee ceases to perform its duties, or for any other good cause, including the exposure of the Monitoring Trustee to a conflict of interest, the CMA may, after consulting the Monitoring Trustee, require Hunter Douglas to replace the Monitoring Trustee.
- 8.2. If the Monitoring Trustee is removed under paragraph 8.1 above, the Monitoring Trustee may be required to continue in its post until a new Monitoring Trustee is in place to whom the Monitoring Trustee has affected a full handover of all relevant information. The new Monitoring Trustee shall be appointed in accordance with the procedure contained in paragraph 7 above.

## **9. *Monitoring Trustee – functions***

- 9.1. The Monitoring Trustee's functions as set out in this paragraph 9 are to:
  - 9.1.1. monitor and review compliance with these Final Undertakings and progress towards the Final Disposal [~~✗~~], and shall in particular include:

- 9.1.1.1. monitoring compliance with the Divestiture Undertakings and the Asset Maintenance Undertakings; and
- 9.1.1.2. monitoring the progress made against the Approved Timetable towards Final Disposal [X], and the steps that have otherwise been taken to comply with these Final Undertakings including:
  - 9.1.1.2.1. the steps that have been taken towards the preparation of agreements for the transfer of the 247 business and the persons to whom such agreements have been distributed;
  - 9.1.1.2.2. where the Monitoring Trustee reasonably deems necessary, requesting and reviewing copies of communications (save where those communications are subject to legal privilege) between Hunter Douglas and its financial or other advisers and possible purchasers or its financial or other advisers in connection with the disposal process;
  - 9.1.1.2.3. report on any developments that the Monitoring Trustee reasonably considers may have a material impact on Hunter Douglas' ability to meet a step or deadline in the Approved Timetable [X];
  - 9.1.1.2.4. in instances where the Monitoring Trustee reasonably considers there to be a material risk that Hunter Douglas will not meet a step or deadline in the Approved Timetable [X], the Monitoring Trustee may attend meetings between Hunter Douglas and possible purchasers in connection with the disposal process;
  - 9.1.1.2.5. make recommendations to the CMA in order to ensure an efficient divestiture process and within the Divestiture Period [X]; and
  - 9.1.1.2.6. undertake any further investigations as may be required by the CMA in relation to compliance with these Final Undertakings and/or any proposed extension of the Divestiture Period [X].
- 9.1.2. review any 247 Agreement or Purchaser Supply Agreement or amendment of such as requested by Hunter Douglas and provide consent to that Agreement or amendment if the Monitoring Trustee is satisfied, acting reasonably, that the relevant Agreement or amendment (i) is one that the Monitoring Trustee is permitted to consent to under paragraph 5 above; and (ii) could not directly or indirectly increase the

level of influence the Hunter Douglas business has over the management and strategy of the 247 business.

- 9.2. In relation to its function at paragraph 9.1.1 above, the Monitoring Trustee will promptly inform the CMA of any material developments in connection with these Final Undertakings and will provide a written report to the CMA every four weeks, the first report to be submitted not later than three weeks from the Commencement Date.

## **10. *Divestiture Reporting Obligations***

- 10.1. Hunter Douglas undertakes that within the period of five Working Days from the Commencement Date, or such other period as may be agreed by the CMA, it will provide a timetable that it proposes to adopt, subject to the CMA's approval, to ensure the Final Disposal. The CMA will either approve this timetable as proposed or require reasonable amendments to it and will notify Hunter Douglas of the Approved Timetable.
- 10.2. Thereafter, Hunter Douglas will provide a written report to the CMA every three weeks or such other interval as agreed with the CMA, until Final Disposal and, with the consent of the CMA, such reports may be provided through the Monitoring Trustee. The reports will outline the progress that Hunter Douglas has made towards the Final Disposal, and the steps that have otherwise been taken to comply with these Final Undertakings and shall in particular report on:
- 10.2.1. the progress that has been made against the Approved Timetable;
  - 10.2.2. the status of any discussions that have been held with potential purchasers of the 247 business;
  - 10.2.3. the progress that has been made towards agreeing heads of terms (if applicable);
  - 10.2.4. the steps that have been taken towards reaching a sale and purchase agreement and the persons to whom any draft agreement has been distributed; and
  - 10.2.5. such other matters as may be directed by the CMA from time to time.
- 10.3. Hunter Douglas undertakes that in the report to the CMA, it shall, among other things, provide to the CMA:

- 10.3.1. the total number of persons who have lodged a formal bid with Hunter Douglas for the acquisition of the 247 business since the publication of the Report;
  - 10.3.2. the name, address, email address, contact point and telephone number of each person who has lodged a formal bid with Hunter Douglas, since the publication of the Report and subsequently been short-listed by Hunter Douglas as a preferred purchaser; and
  - 10.3.3. details of the efforts taken by Hunter Douglas and its financial advisers to solicit purchasers for the 247 business.
- 10.4. In the event that Hunter Douglas does not meet a step as set out in the Approved Timetable or is otherwise delayed in implementing the Final Disposal, Hunter Douglas undertakes to inform the CMA in writing of the occurrence and the reasons for the failure promptly, but not later than three Working Days from becoming aware that a step in the Approved Timetable has not been met.
- 10.5. [X].
- 10.6. [X]:
  - 10.6.1. [X];
  - 10.6.2. [X];
  - 10.6.3. [X];
  - 10.6.4. [X]; and
  - 10.6.5. [X].
- 10.7. [X]:
  - 10.7.1. [X];
  - 10.7.2. [X]; and
  - 10.7.3. [X].
- 10.8. [X].
- 11.** [X]
- 11.1. [X]:

11.1.1. [X]; and/or

11.1.2. [X].

11.2. [X]:

11.2.1. [X]; and

11.2.2. [X].

11.3. [X].

11.4. [X].

11.5. [X].

11.6. [X]:

11.6.1. [X];

11.6.2. [X];

11.6.3. [X].

11.7. [X].

**12.** [X]

12.1. [X]:

12.1.1. [X];

12.1.2. [X];

12.1.3. [X]; and

12.1.4. [X].

12.2. [X].

12.3. [X].

**13.** [X]

13.1. [X].

13.2. [X].

13.3. [X].

13.4. [X].

13.5. [X].

13.6. [X].

**14.** [X]

14.1. [X].

14.2. [X].

14.3. [X].

**15. *Hold Separate Manager***

15.1. Hunter Douglas recognises and acknowledges that the CMA may direct the appointment by Hunter Douglas of a Hold Separate Manager as an independent interim manager with executive powers to manage the 247 business.

15.2. The Hold Separate Manager shall be appointed at the written direction of the CMA where the CMA, upon reasonable grounds, considers that there has been a material change in relation to the 247 business including a material change to the existing 247 senior management team and the Hold Separate Manager shall undertake such matters as the CMA may specify in the written direction.

**16. *Variations to these Final Undertakings***

16.1. The terms of these Final Undertakings may be varied with the prior written consent of the CMA in accordance with sections 82(2) and 82(5) of the Act.

16.2. Where a request for consent to vary these Final Undertakings is made to the CMA, the CMA will consider any such request in light of the Report and will respond in writing as soon as is reasonably practicable having regard to the nature of the request and to its statutory duties.

16.3. The consent of the CMA shall not be unreasonably withheld.

**17. *General obligations to provide information to the CMA***

17.1. Hunter Douglas and 247 each undertakes that it shall promptly provide to the CMA such information and such cooperation as the CMA may reasonably

require for the purpose of performing any of its functions under these Final Undertakings or under sections 82, 83 and 94 of the Act.

- 17.2. Hunter Douglas and 247 each undertake that should it at any time be in breach of any provision of these Final Undertakings it will notify the CMA within two Working Days starting with the date it becomes aware of the breach or relevant circumstances, to advise the CMA that there has been a breach and of all the circumstances of that breach.
- 17.3. Hunter Douglas and 247 each undertake that should it be aware of any circumstances which may materially impact on its ability to comply with its obligations under these Final Undertakings it will notify the CMA within two Working Days starting with the date it becomes aware of the relevant circumstances.
- 17.4. Where any person, including a Monitoring Trustee, [~~X~~] or Hold Separate Manager must provide information to the CMA under or in connection with these Final Undertakings, whether in the form of any notice, application, report or otherwise, Hunter Douglas and 247 each undertakes that it will take reasonable steps within its power to procure that that person shall hold all information provided to it as confidential and shall not disclose any business-sensitive information of Hunter Douglas or 247 to any person other than to the CMA, without the prior written consent of both the CMA and Hunter Douglas or 247 (as applicable).

## **18. Acceptance of service**

- 18.1. Hunter Douglas and 247 hereby authorise their joint Legal Representative, Bristows whose address for service is c/o Stephen Smith, Bristows LLP, 100 Victoria Embankment, London, EC4Y 0DH to accept on each of their behalf service of all documents, orders, requests, notifications or other communications connected with these Final Undertakings (including any such document which falls to be served on or sent to Hunter Douglas or 247 and their respective Subsidiaries or Affiliates in connection with proceedings in court in the UK).
- 18.2. Unless Hunter Douglas or 247 (as the case may be) inform the CMA that its Legal Representative have ceased to have authority and has informed the CMA of an alternative to accept and acknowledge service on its behalf, any document, written directions, order, request, notification or other communication connected with these Final Undertakings shall be deemed to have been validly served on Hunter Douglas or 247 if it is served on their Legal Representative, and service or receipt shall be deemed to be

acknowledged by it if it is acknowledged by email from their Legal Representative to the CMA.

- 18.3. Paragraph 18.1 has effect irrespective of whether, as between Hunter Douglas and 247 and their Legal Representative, Hunter Douglas' and 247's Legal Representative have or continue to have any authority to accept and acknowledge service on behalf of each of them (unless either of them inform the CMA that their Legal Representative has ceased to have authority to accept and acknowledge service on their behalf), and no failure or mistake by Hunter Douglas' or 247's Legal Representative (including a failure to notify Hunter Douglas/247 of the service of any document, order, request, notification or other communication) shall invalidate any action taken in respect of these Final Undertakings, including any proceeding or judgment pursuant to these Final Undertakings.

### **19. *Effect of invalidity***

- 19.1. Hunter Douglas and 247 each undertakes that should any provision of these Final Undertakings be contrary to law or invalid for any reason, it shall continue to observe the remaining provisions.

### **20. *Extension of time***

- 20.1. Hunter Douglas recognises and acknowledges that the CMA may, where it considers it appropriate, in response to a written request from Hunter Douglas showing good cause, or otherwise at its own discretion, grant an extension of any period specified in these Final Undertakings within which Hunter Douglas, the Monitoring Trustee, [X] and/or the Hold Separate Manager (as the case may be) must take action.

### **21. *Undertakings given jointly and severally***

- 21.1. Where undertakings in these Final Undertakings are given by Hunter Douglas and 247, they are given jointly and severally.

### **22. *Governing Law***

- 22.1. These Final Undertakings shall be governed by and construed in all respects in accordance with English law.
- 22.2. Disputes arising concerning these Final Undertakings shall be subject to the jurisdiction of the courts of England and Wales.

FOR AND ON BEHALF OF HUNTER DOUGLAS N.V.:

.....

Signed

.....

Name

.....

Title

.....

Date

FOR AND ON BEHALF OF 247 HOME FURNISHINGS LIMITED:

.....

Signed

.....

Name

.....

Title

.....

Date

## **Annex 1: Purchaser Approval Criteria**

These Purchaser Approval Criteria are to be construed in a manner that is consistent with, and for the purpose of giving effect to, the Report.

### ***1. Independence***

At the time of the Final Disposal, the Approved Purchaser must have no current significant connection (for example financial, ownership or management links) to Hunter Douglas that may compromise the Approved Purchaser's incentives to compete with Hunter Douglas after Final Disposal.

### ***2. Capability***

The Approved Purchaser must have access to or be able to secure appropriate financial resources and expertise (including managerial, operational and technical capability) to enable the 247 business to be an effective competitor in the market. This access should be sufficient to enable the 247 business to continue to develop as an effective competitor.

### ***3. Commitment to the Relevant Markets***

The Approved Purchaser must demonstrate to the satisfaction of the CMA that it has an appropriate business plan to maintain and operate the 247 business as a viable and active business in competition with the Hunter Douglas business and other competitors in the Relevant Markets so as to remedy the SLCs and their adverse effects that are expected to result from it, as set out in the Report.

### ***4. Absence of competitive or regulatory concern***

In considering whether to give consent to an Approved Purchaser, the CMA shall consider whether the terms of the sale and purchase agreement (and any other agreements or arrangements ancillary or connected to the agreement) would give rise to a material risk that the sale of the 247 business would not remedy the relevant SLCs and the adverse effects that may be expected to result from them. In addition, the CMA shall require that the divestiture of the 247 business to the Approved Purchaser must not raise further competition or regulatory concerns in the Relevant Markets.

## **Annex 2: List of derogations**

### **Derogations granted under the IEO:**

- Derogation 11 December 2019
- Derogation 24 April 2020
- Derogation 20 May 2020
- Derogation 7 September 2020
- Derogation 8 September 2020

## **Annex 3: Compliance statement**

### ***Joint Compliance Statement for Hunter Douglas N.V. and 247 Home Furnishings Ltd.***

We [insert names] confirm on behalf of Hunter Douglas N.V. (Hunter Douglas) and 247 Home Furnishings Ltd. (247) that:

#### ***Compliance in the Relevant Period***

1. In the period from [insert date] to [insert date] (the Relevant Period), Hunter Douglas and 247 have complied with the Final Undertakings given to the CMA in relation to the Merger on [Date] (the Undertakings).
2. Except with the prior written consent of the CMA:
  - (a) no action has been taken by Hunter Douglas/247 which might impede the Final Disposal, including any action which might:
    - (i) lead to the integration of the 247 business with the Hunter Douglas business;
    - (ii) transfer the ownership or control of the 247 business; or
    - (iii) otherwise impair the ability of the 247 business to compete independently in any of the Relevant Markets.
  - (b) no action has been taken by Hunter Douglas to solicit the transfer of staff from the 247 business to the Hunter Douglas business;
  - (c) the 247 business has been carried on separately from the Hunter Douglas business and the 247 business's separate sales or brand identity has been maintained;
  - (d) the 247 business has been maintained as a going concern and sufficient resources have been made available for the development of the 247 business, on the basis of its pre-Merger business plans (as updated by 247 from time to time in the ordinary course of business), and having due regard to the need to maintain and/or preserve the 247 business as an effective competitor and to all relevant circumstances, as reasonably determined by the CMA;
  - (e) except in the ordinary course of business, no substantive changes have been made to the organisational structure of, or the management responsibilities within, the 247 business;

- (f) the nature, description, range and quality of goods and/or services supplied in the UK by the 247 business have been maintained and preserved;
- (g) except in the ordinary course of business for the separate operation of the 247 business and the Hunter Douglas business:
  - (i) all of the assets of the 247 business have been maintained and preserved, including facilities and goodwill;
  - (ii) none of the assets of the 247 business have been disposed of; and
  - (iii) no interest in the assets of the 247 business has been created or disposed of;
- (h) there has been no integration of the information technology of the 247 business and Hunter Douglas business, and the software and hardware platforms of the 247 business have remained essentially unchanged, except for routine changes and maintenance;
- (i) the customer and supplier lists of the 247 business and the Hunter Douglas business have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the 247 business have been carried out by the 247 business alone and for the avoidance of doubt the Hunter Douglas business has not negotiated on behalf of the 247 business (and vice versa) or entered into any joint agreements with the 247 business (and vice versa);
- (j) all existing contracts of the 247 business and the Hunter Douglas business have been serviced by the business to which they were awarded;
- (k) no changes have been made to Key Staff of the 247 business;
- (l) no Key Staff have been transferred between the 247 business and the Hunter Douglas business;
- (m) all reasonable steps have been taken to encourage all Key Staff to remain with the 247 business; and
- (n) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses passes, directly or indirectly, from the 247 business (or any of its employees, directors, agents or affiliates) to the Hunter Douglas business (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (including, for example,

where required for compliance with external regulatory, accounting obligations and/or pursuant to a derogation granted by the CMA) and any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed..

(o) Except as listed in paragraph (p) below, there have been no:

(i) Key Staff that have left or joined the 247 business;

(ii) interruptions of the 247 business (including, without limitation, procurement, processing, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;

(iii) substantial changes in the 247 business's contractual arrangements or relationships with key suppliers; and

(iv) substantial adverse changes in the financial position and/or performance of the 247 business.

(p) [list of material developments]

3. Hunter Douglas / 247 remain in full compliance with the Undertakings and will continue actively to keep the CMA informed of any material developments relating to the 247 businesses in accordance with paragraph 4.7 of the Undertakings.

***Interpretation***

4. Terms defined in the Undertakings have the same meaning in this compliance statement.

**FOR AND ON BEHALF OF HUNTER DOUGLAS N.V. / 247 HOME FURNISHINGS LIMITED**

**Signature.....**

**Signature.....**

**Name.....**

**Name.....**

**Title.....**

**Title.....**

**Date.....**

**Date.....**

## Annex 4: Compliance statement regarding additional agreements

In accordance with paragraph [5.3] of the Final Undertakings given to the CMA in relation to the Merger on [Date] (the Undertakings), we [insert names] confirm on behalf of Hunter Douglas N.V. (Hunter Douglas) that either:

a) the below list comprises all the new agreements, amendments to agreements and additional details required by paragraph [5.3] for the period [insert date] to [insert date]; or, in the alternative

<b>New agreements</b>			
<b>Date of agreement</b>	<b>Parties</b>	<b>Title and Purpose</b>	<b>Basis for approval</b>
<b>Amendments to previous agreements</b>			
<b>Date of amendment</b>	<b>Date and Title of previous agreement</b>	<b>Summary of amendments</b>	<b>Basis for approval</b>

b) no such new agreements, amendments to agreements or additional details required by paragraph [5.3] for the period [insert date] to [insert date] have been made.