

TEMPLATE LEGAL AGREEMENT (MAY 2021)
SHOWING CHANGES MADE BY TOP-UP SIDE LETTER
AND UPDATED TO REFER TO ADDITIONAL GUIDANCE

Guarantee Agreement

between

The Secretary of State for Business, Energy and Industrial
Strategy
as Guarantor

and

[•]
as Lender

relating to




The Bounce Back Loan Scheme



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THIS AGREEMENT (the “**Agreement**”) is dated

and made

BETWEEN:

- (1) **THE SECRETARY OF STATE FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY**, (the “**Guarantor**”); and
- (2) **[•]**, (the “**Lender**”), registered in [•] as company number [•] and having its registered office at [•],

(each, a “**Party**” and together, the “**Parties**”)

BACKGROUND:

- (A) The Guarantor and the Lender have entered into this Agreement for the purpose of the Guarantor providing guarantees to the Lender in order to cover the credit risk of the Lender relating to Scheme Facilities (each guarantee in respect of a Scheme Facility, a “**Scheme Guarantee**”).
- (B) Subject to the terms of this Agreement, the Lender can make available such Scheme Facilities as it in its sole discretion decides.

This Agreement uses a combination of definitive text and italicised signposting. In the event of any inconsistency between the definitive text and the signposting, the definitive text will take precedence.

1. **Definitions, interpretation and effective date of this Agreement**

1.1 **Definitions**

Unless otherwise defined herein, all capitalised terms have the meanings given to them in Part 1 (*Definitions*) of Schedule 1 (*Definitions and interpretation*).

1.2 **Interpretation**

This Agreement will be construed in accordance with Part 2 (*Interpretation*) of Schedule 1 (*Definitions and interpretation*).

1.3 **Effective Date of this Agreement**

This Agreement comes into effect on the date stated above (the “**Effective Date**”).

1.4 **Precedence of this Agreement and the Scheme Guidance**

Under the terms of this Agreement, the Lender is required to comply with both the terms of this Agreement and the Scheme Guidance. In interpreting the terms of this Agreement, the Lender may refer to the Scheme Guidance.

Subject to Clause 1.2 (*Interpretation*), in the event of any inconsistency between the terms of the Scheme Guidance and this Agreement, this Agreement takes precedence.

2. **Guarantee**

2.1 **Guarantee**

The Guarantor guarantees to the Lender the due and punctual payment of 100% of the Outstanding Guaranteed Balance of each Scheme Facility as at the Claim Date in respect of such Scheme Facility, such amount, the “**Guaranteed Amount**” in respect of such Scheme Facility, and agrees to pay to the Lender all Additional Guarantee Amounts, in each case on the terms of the remainder of this Agreement.

Claims under this Scheme Guarantee must be made in accordance with Clause 8 (*Making a claim under a Scheme Guarantee*).

2.2 **Conditions to Scheme Guarantee becoming effective**

The Scheme Guarantee entered into in connection with a Scheme Facility will have effect from the Initial Drawdown Date in respect of that Scheme Facility, without the need for any further request, authorisation or consent from the Guarantor.

Notwithstanding Clause 2.2 of this Agreement, the Lender will not be entitled to make a claim under a Scheme Guarantee unless and until the conditions precedent to making a Payment Claim set out in Clause 8.2 (Conditions to making a Payment Claim in respect of a Scheme Guarantee) of this Agreement have been satisfied.

3. **Standard of care**

3.1 **Standard of care of the Lender**

The Lender agrees that it will:

- (A) take all action (or decide to take no action) in connection with any Scheme Facility, potential Scheme Facility and any Applicant, Borrower or related Scheme Guarantee in a reasonable manner in accordance with the terms of this Agreement and any Scheme Guidance, taking into account the aims and purpose of the Scheme and the context in which it was established, including all action (or decisions to take no action) in respect of servicing, origination (other than any Excluded Origination Procedures) and enforcement; and
- (B) always act in good faith and not behave in a manner which could reasonably be expected to bring the Scheme or the Guarantor into disrepute or which contravenes any applicable law or regulation.

The Lender will not be in breach of this Clause 3.1:

- (1) in respect of any action taken or inaction by the Lender in respect of AML, KYC or fraud checking if the Lender complies with the requirements of Schedule 8 (*Appropriate Standards – AML, KYC and fraud checks*);

- (3) due to the Lender not performing any Excluded Origination Procedures.

A ruling by the Financial Ombudsman Service against the Lender will not, of itself, constitute a breach by the Lender of the standard of care set out in this Clause 3.1.

3.2 **Standard of care of the Guarantor**

Any discretion of the Guarantor will be exercised in a reasonable manner consistent with the status of the Guarantor as a UK government body.

4. **Offer of a Scheme Facility**

4.1 **Conditions to making a Scheme Facility available to an Applicant**

- (A) The Lender will only offer a Proposed Scheme Facility to an Applicant:
- (1) if the Applicant has completed the Standard Scheme Application Process on or before the Application Deadline Date;
 - (2) if such Proposed Scheme Facility and Applicant comply with the Eligibility Criteria on the Offer Date of such Proposed Scheme Facility (based, where any Eligibility Criterion is certified to the Lender by the Applicant, on such self-certification by the Applicant and without further verification by the Lender); and
 - (3) if such Proposed Scheme Facility would not breach the Annual Lending Limit for the then current Annual Scheme Period.

<p><i>The Annual Lending Limit applicable to the Lender is set out in Clause 5 (Annual Lending Limit).</i></p>
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- (B) In making a Proposed Scheme Facility available to an Applicant, the Lender will:
- (1) not require any security to be provided in connection with the Proposed Scheme Facility and not require the benefit of any existing security to be extended to the Scheme Facility;
 - (2) require the Initial Drawdown under such Proposed Scheme Facility to occur within 6 months of its Offer Date;
 - (3) comply with Clause 14.8 (*Personal Guarantees*).
- (C) In connection with the offer of a Proposed Scheme Facility to an Applicant, the Lender is not required to verify the capacity or authority of the Applicant to enter into the Proposed Scheme Facility beyond its appropriate fraud checking processes in accordance with Schedule 8 (*Appropriate standards – AML, KYC and fraud checks*).

4.2 **Offer of new Scheme Facilities**

- (A) Subject to Clause 4.1 (*Conditions to making a Scheme Facility available to an Applicant*), the Lender can, in accordance with this Agreement, offer a Proposed Scheme Facility to the relevant Applicant on the terms of a Scheme Facility Letter.
- (B) If the Lender makes an offer of a Scheme Facility to an Applicant in accordance with Clause 4.2(A), it will make available the Scheme Facility Letter (or equivalent) to the Applicant as soon as reasonably practicable thereafter.

- (C) After completion by an Applicant of the Standard Scheme Application Process, the Lender is expected to process the Applicant's application for a Scheme Facility expeditiously and in accordance with Schedule 8 (*Appropriate standards – AML, KYC and fraud checks*), and where the Applicant already holds a business current account with the Lender, with the aim of allowing the Scheme Facility to be drawn down on the next Business Day following the acceptance by the Applicant of the terms of the Scheme Facility offered by the Lender.

4.3 Offer of a Scheme Facility Top-Up

- (A) The Lender will only offer a Scheme Facility Top-Up to a Borrower:
 - (1) if the Borrower has completed the Top-Up Application Process on or before the Application Deadline Date;
 - (2) if the Lender has confirmed that the proposed amount of the Scheme Facility Top-Up specified by the Borrower in the Top-Up Application Process does not exceed that permitted by the Top-Up Eligibility Criteria, based on the turnover or estimated turnover specified by the Borrower in the Standard Scheme Application Process for its Scheme Facility (for the avoidance of doubt, the Lender is not required to verify the accuracy of the amount specified by the Borrower in the Standard Scheme Application Process for its Scheme Facility or the compliance with State aid limits as certified by the relevant Borrower);
 - (3) if such Scheme Facility Top-Up, the related Scheme Facility and the Borrower comply with such of the Top-Up Eligibility Criteria as are applicable in relation to each of them on the Top-Up Offer Date of such Scheme Facility Top-Up (based, where any Top-Up Eligibility Criterion is certified to the Lender by the Borrower, on such self-certification by the Borrower and without further verification by the Lender); and
 - (4) if such Scheme Facility Top-Up would not breach the Annual Lending Limit for the then current Annual Scheme Period.
- (B) In making a Scheme Facility Top-Up available to a Borrower, the Lender will:
 - (1) not require any security to be provided in connection with the Scheme Facility Top-Up and not require the benefit of any existing security to be extended to the Scheme Facility;
 - (2) require the drawdown of such Scheme Facility Top-Up to occur within 6 months of the Top-Up Offer Date; and
 - (3) comply with Clause 14.8 (*Personal Guarantees*).
- (C) In connection with the offer of a Scheme Facility Top-Up to a Borrower, the Lender is not required to verify the capacity or authority of the Borrower to enter into the Scheme Facility Top-Up beyond conducting its appropriate fraud checking processes in accordance with Schedule 8 (*Appropriate standards – AML, KYC and fraud checks*) and is not required to verify the turnover of the Borrower.
- (D) After completion by a Borrower of the Top-Up Application Process, the Lender is expected to process the Borrower's application for a Scheme Facility Top-Up expeditiously and in accordance with 2 (*Appropriate standards – AML, KYC and fraud checks*) with the aim of allowing the Scheme Facility Top-Up to be drawn down

on the next Business Day following the acceptance by the Borrower of the terms of the Scheme Facility Top-Up offered by the Lender.

- (E) For the purposes of this Agreement, a Scheme Facility and any Scheme Facility Top-Up in respect of such Scheme Facility shall comprise a single Scheme Facility, with the Scheme Facility Top-Up taking effect as an amendment to the Scheme Facility pursuant to Clause 6.3 (*Permitted Variations*). Notwithstanding this, the Lender may document, and record on its systems, the Scheme Facility Top-Up as a separate loan with the Borrower provided that the Lender shall treat both the Scheme Facility and the corresponding Scheme Facility Top-Up consistently in all respects including in relation to any decisions with respect to permitted amendments, servicing, forbearance [REDACTED]. The Lender shall endeavour, insofar as is reasonably practicable, to present to the Borrower the Scheme Facility and the Scheme Facility Top-Up as a single consolidated loan.
- (F) With effect from the date on which a Scheme Facility Top-Up is made available to the Borrower, the term “**Scheme Facility**” as used in this Agreement in respect of such Borrower shall, unless expressly specified otherwise, include the Scheme Facility Top-Up and comprise both the Original Portion and the Topped-Up Portion of such Scheme Facility.
- (G) The Scheme Guarantee entered into in connection with a Scheme Facility will have effect in relation to any Topped-Up Portion of such Scheme Facility from the date of the first drawdown made by the Borrower under the Scheme Facility Top-Up, without the need for any further request, authorisation or consent from the Guarantor.
- (H) The Lender agrees to provide the Borrower under a Topped-Up Scheme Facility with a written statement setting out the amount of its BIP and the amount of its Scheme Facility. This statement must specify whether such amounts relate only to the Scheme Facility Top-Up or whether they relate to both the Original Portion and the Topped-Up Portion of the Scheme Facility. If the Scheme Facility was granted (a) under de minimis State aid rules, the statement must include the language in Part 1 (*Scheme Facility under de minimis State aid rules*) of Schedule 13 (*Top-Up State Aid Statement*) or (b) under the European Commission’s Temporary Framework, the statement must include the language in Part 2 (*Scheme Facility under European Commission’s Temporary Framework*) of Schedule 13 (*Top-Up State Aid Statement*). This statement may be incorporated into the Top-Up Application Process, the offer letter relating to the Scheme Facility Top-Up or provided as a separate statement which may be provided after the drawdown date of the Scheme Facility Top-Up, at the discretion of the Lender.
- (I) Clause 6.1(A) shall not apply in relation to a Scheme Facility Top-Up. The Lender is not required to provide a Scheme Facility Letter or equivalent information package to a Borrower in connection with a Scheme Facility Top-Up. However, if it does so, then such Scheme Facility Letter or information package must include the language set out in Schedule 10 (*Scheme Facility Letter Requirements*) or such other wording as may be notified to the Lender by the Guarantor from time to time.
- (J) The minimum information required to be provided pursuant to Clause 14.11(B) in relation to a Proposed Scheme Facility shall also be provided to each Borrower in relation to a Scheme Facility Top-Up and, for these purposes, Clause 14.11(B) shall be deemed to apply to a Scheme Facility Top-Up as if references therein to “**Proposed Scheme Facility**” were to a “**Topped-Up Scheme Facility**” and references therein to the “**Applicant**” were to “**Borrower**”. Lenders may, if appropriate, meet the requirements of this Clause 4.3(J) by a reference to any clearly identified information previously provided to the Borrower, provided Lenders

expressly note to such Borrower that such previously provided information or documents are to be read together with any new information or documents provided to the relevant Borrower.”

5. **Annual Lending Limit**

5.1 **Annual Lending Limit**

For each Annual Scheme Period the Annual Lending Total must not exceed the Annual Lending Limit and any lending in excess of such Annual Lending Limit will not be covered by the guarantee provided to the Lender pursuant to Clause 2 (*Guarantee*).

5.2 **Calculation of the Annual Lending Limit and the Annual Lending Total**

(A) In relation to an Annual Scheme Period or on any day during an Annual Scheme Period, the “**Annual Lending Total**” will be the aggregate Original Guaranteed Balance of each Scheme Facility in respect of which:

- (1) the Offer Date has occurred during, as the context requires:
 - (a) that Annual Scheme Period; or
 - (b) the period from and including the first day of that Annual Scheme Period to and including such day; and
- (2) the Initial Drawdown Date has occurred within 6 months of the Offer Date,

provided that if the Lender has offered any Scheme Facility Top-Up then the “**Annual Lending Total**” in relation to an Annual Scheme Period or on any day during an Annual Scheme Period shall be increased by an amount equal to the aggregate Original Top-Up Guaranteed Balance of each Scheme Facility Top-Up in respect of which the Top-Up Offer Date has occurred during, as the context requires, that Annual Scheme Period or the period from and including the first day of that Annual Scheme Period to and including such day, and the drawdown of such Scheme Facility Top-Up has occurred within 6 months of the Top-Up Offer Date.

(B) Subject to Clause 5.3(C) (*Breach of the Annual Lending Limit*), the “**Annual Lending Limit**” for an Annual Scheme Period will be:

- (1) an amount notified to the Lender (at the request of the Lender) by the Guarantor before commencement of such Annual Scheme Period or (in respect of the first Annual Scheme Period) on or prior to the Effective Date, as may be increased or decreased from time to time by the Guarantor by written notice to the Lender (such notification, the “**Allocation Letter**”), in the case of an increase, at the request of the Lender; or
- (2) such other amount (if any) agreed by the Guarantor and the Lender to be the Annual Lending Limit, in respect of a particular Annual Scheme Period, as a remedial step pursuant to Clause 5.3(A)(2) (*Breach of the Annual Lending Limit*).

5.3 **Breach of the Annual Lending Limit**

(A) If, at any time during an Annual Scheme Period, the Lender projects that it will or is likely to exceed the Annual Lending Limit then it will, as soon as reasonably practicable after having become aware of such matter:

- (1) notify the Guarantor accordingly and provide full details of its anticipated lending levels in respect of Scheme Facilities for that Annual Scheme Period and its proposals to manage the possibility of such an excess occurring; and
 - (2) discuss with the Guarantor what steps, if any, should be taken to manage the possibility of the Lender exceeding the Annual Lending Limit.
- (B) If, pursuant to this Clause 5.3, the Lender and the Guarantor reach agreement about the nature of any remedial steps under Clause 5.3(A)(2), then the Lender and the Guarantor will negotiate in good faith in order to agree and document any amendments or supplements to this Agreement which the Guarantor determines to be necessary to implement properly or record such remedial steps.
- (C) For the purposes of determining whether the Annual Lending Limit is exceeded under Clause 5.1 (*Annual Lending Limit*) or for the purposes of Clause 5.3(A), if the actual or projected lending by the Lender does not exceed 105% of the amount of the Annual Lending Limit, then for the purposes of Clause 5.1 (*Annual Lending Limit*) and Clause 5.3(A), the Lender will, in respect of the relevant Annual Scheme Period, be deemed to have met, or can consider itself to be projected to meet, its Annual Lending Limit.

6. **Terms of the Scheme Facilities and rights of the Lender**

6.1 **Scheme Facility Letter**

- (A) Any Scheme Facility Letter entered into by the Lender and an Applicant for a Scheme Facility or, if there is no separate Scheme Facility Letter associated with the Scheme Facility, the information package made available to the Borrower, must include the language set out in Schedule 10 (*Scheme Facility Letter Requirements*) or such other wording as may be notified to the Lender by the Guarantor from time to time.
- (B) The Lender undertakes to ensure that the Scheme Facility Letter, or other document containing the terms of the Scheme Facility, will permit the assignment to the Guarantor of the Scheme Facility in accordance with Clause 8.4 (*Guarantor's right to take assignment of Loan*).

6.2 **Lender's rights**

Subject to Clause 4.1 (*Conditions to making a Scheme Facility available to an Applicant*), Clause 4.3 (*Offer of a Scheme Facility Top-Up*), Clause 6.3 (*Permitted variations*) Clause 8.1 (*Process for making a claim under a Scheme Guarantee*)

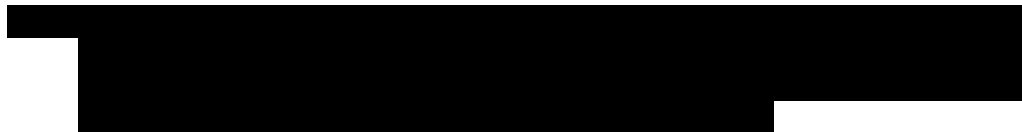
the Lender may at any time without discharging or otherwise affecting the Guarantor's obligations, in respect of any Scheme Facility:

- (A) vary the terms of or renew or determine any credit or other Borrowing Facilities made or to be made available to the relevant Borrower by the Lender whether under such Scheme Facility or otherwise;
- (B) subject to Clause 4.1(B)(1) (*Conditions to making a Scheme Facility available to an Applicant*) and Clause 14.8 (*Personal guarantees*), take such Collateral for all or any of the relevant Borrower's liabilities for all or any such Borrowing Facilities as it may from time to time decide;
- (C) exchange, release, modify, refrain from perfecting or enforcing or otherwise deal with any such Collateral as it may hold;

- (D) grant time or indulgence to or compound with the relevant Borrower or any other person;
- (E) do or omit to do any other act or thing which but for this provision would or might discharge or otherwise affect the obligations of the Guarantor set out hereunder;
- (F) undertake any action or omit to undertake any action to the extent required by the Lender to comply with applicable law or regulation.

6.3 Permitted Variations

- (A) The Lender must not agree to any amendment or variation of a Scheme Facility which would have resulted in such Scheme Facility not complying with the Eligibility Criteria had such amendment or variation been effective on the Offer Date of such Scheme Facility, or that would have the effect of increasing the Guarantor's exposure to such Scheme Facility under this Agreement.
- (B) Clause 6.3(A) does not apply to:



- (2) any amendment or variation required to give effect to a Scheme Facility Top-Up or to a Notified Permitted Variation.

6.4 Prepayment or repayment of the Scheme Facility in full

The Lender must use its best endeavours to notify the Guarantor of any prepayment or repayment of a Scheme Facility in full, via the BBB Reporting Systems not later than the Business Day following such prepayment or repayment.

7. Terms of each Scheme Guarantee

7.1 Each Scheme Guarantee is a continuing security and continues in full force and effect notwithstanding:

- (A) the total or partial invalidity or unenforceability of or any irregularity or defect in any Collateral the Lender may hold in respect of the relevant Scheme Facility;
- (B) any lack of power, capacity or authority of any Borrower in respect of the relevant Scheme Facility or any unenforceability, illegality or invalidity of the relevant Scheme Facility resulting from the same; and
- (C) the dissolution of the Borrower or any change in its status, constitution, functions, control or ownership.

For the avoidance of doubt, if a Scheme Facility is repaid, or treated by the Lender as repaid, as a result of the occurrence of any of the events referred to in Clause 7.1(C), the Scheme Guarantee relating thereto will terminate.

7.2 Subject to Clause 29 (*Assignment and transfer*), each Scheme Guarantee is and will remain the property of the Lender.

7.3 The Guarantor consents to the registration in Scotland of each Scheme Guarantee for preservation and execution.

7.4 Notwithstanding any other provision of this Agreement, if any amount which has been received by the Lender in settlement of any Scheme Facility (in whole or in part) is avoided or reduced by virtue of any law or enactment relating to bankruptcy or liquidation for the time being in force (such amount, a "**Clawback Amount**");

(A) the Outstanding Guaranteed Balance of such Scheme Facility shall be calculated as if such Clawback Amount had not been received by the Lender;

(B) the relevant Scheme Guarantee shall be deemed to be a continuing security and in full force and effect, notwithstanding any prior discharge of such Scheme Guarantee as a result of the repayment in full of such Scheme Facility; and

(C) (if the Lender has already submitted a Payment Claim (other than a Payment Claim in respect of an Additional Guarantee Amount) in respect of such Scheme Facility and such Scheme Facility is not an Assigned Scheme Facility) the Lender shall be entitled to submit an additional Payment Claim (an "**Additional Payment Claim**") in respect of any increase in the Outstanding Guaranteed Balance of such Scheme Facility as a result of such Clawback Amount.

For the avoidance of doubt, an Additional Payment Claim shall not cover any part of the Outstanding Guaranteed Balance of a Scheme Facility in respect of which a Payment Claim has already been made by the Lender to the Guarantor.

7.5 The Guarantor has not taken and will not take any Collateral from the Borrower in connection with the Scheme Guarantee or the Outstanding Guaranteed Balance of the related Scheme Facility.

8. **Making a claim under a Scheme Guarantee**

8.1 **Process for making a claim under a Scheme Guarantee**

The Guarantor agrees that, if:

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

(B) the Lender delivers to the Guarantor each of:

■ [REDACTED]

(2) a Claim Invoice in respect of such Payment Claim (and any other Payment Claims made by the Lender in respect of a Scheme Facility during the relevant Claim Period),

in each case, in accordance with this Clause 8,

it will, within 30 calendar days of receiving such Claim Invoice, pay to the Lender an amount equal to the Guaranteed Amount or Additional Guarantee Amount (as applicable) in respect of such Scheme Facility.

If the Lender intends to make a claim under a Scheme Guarantee, it must (i) make a Payment Claim in respect of that Scheme Guarantee in accordance with Clause 8.2 and (ii) at the end of the Claim Period in which such Payment Claim is made, submit a Claim Invoice in respect of all Payment Claims it has made during that Claim Period. If all relevant conditions have been met, the Guarantor will pay to the Lender the relevant Guaranteed Amount or Additional Guarantee Amount (as applicable) within 30 calendar days of receipt of that Claim Invoice (as described in Clause 8.3 of this Agreement). Only one Claim Invoice may be submitted to the Guarantor in respect of any Claim Period.

The Guaranteed Amount payable by the Guarantor to the Lender will be calculated under Clause 2 (Guarantee) of this Agreement.

8.2 Conditions to making a Payment Claim in respect of a Scheme Guarantee

- (A) The Lender may not deliver a Payment Claim in respect of a Scheme Facility unless the following conditions precedent have been satisfied:
- (1) that Scheme Facility was an Eligible Facility on the Offer Date thereof and in relation to any Scheme Facility Top-Up of such Scheme Facility, the Top-Up Eligibility Criteria were complied with as at the Top-Up Offer Date of such Scheme Facility Top-Up (based, where any Eligibility Criterion was certified to the Lender by the Applicant, on such self-certification by the Applicant and without further verification by the Lender);
 - (2) no amendment or variation has been made to the Scheme Facility in breach of Clause 6.3 (*Permitted Variations*);
 - (3) if such Payment Claim:
 - (a) relates to an Additional Guarantee Amount, then the Lender has notified the Guarantor through the BBB Reporting Systems of the occurrence of the Forbearance Amendment or S140A Event, as applicable; or
 - (b) does not relate to an Additional Guarantee Amount, the Lender has demanded in writing from the relevant Borrower repayment in full of the outstanding balance of the financing provided by the Lender under the Scheme Facility made by it to the Borrower, and any other sums then outstanding thereunder, (any such demand, a “**Repayment Demand**”, the date of a Repayment Demand, the “**Demand Date**” and the latest Demand Date being the “**Final Demand Date**” in respect of such Borrower);
 - (4) the Lender has notified the Guarantor through the BBB Reporting Systems of the information required under Clause 12.3 (*Regular reporting*) in respect of that Scheme Facility *provided that* any failure by the Lender to notify within the timescales specified in such clause shall not prevent this condition precedent being satisfied; and

- (5) the Lender, in making such Scheme Facility, or any Scheme Facility Top-Up to such Scheme Facility, available to the relevant Borrower, complied with the Qualifying Fraud Processes,

provided that, in relation to a Topped-Up Scheme Facility, if any one or more of these conditions precedent was not satisfied in respect of the Scheme Facility Top-Up only, then this shall not prevent the Lender delivering a Payment Claim in respect of the Original Portion of such Topped-Up Scheme Facility.

If any one or more of these conditions precedent has not been satisfied on the date that a Payment Claim (other than a Payment Claim in respect of an Additional Guarantee Amount) is delivered to the Guarantor and has not been waived in writing by the Guarantor, the Guarantor will be unconditionally and irrevocably released and discharged from all its obligations and liabilities under the Scheme Guarantee relating to that Scheme Facility provided that, in relation to a Topped-Up Scheme Facility, if any one or more of these conditions precedent was not satisfied in respect of the Scheme Facility Top-Up only, the Guarantor will be released and discharged from its obligations and liabilities under the Scheme Guarantee in respect of the Topped-Up Portion of such Topped-Up Scheme Facility only.

For the avoidance of doubt and without prejudice to any other remedy of the Guarantor in contract or otherwise, the payment by the Guarantor of the Guaranteed Amount under a Scheme Guarantee shall be conditional only on satisfaction by of the conditions precedent in this Clause 8.2 and completion of the claim process set out in the remainder of this Clause 8.

The Lender is not required to enforce any existing security in respect of any Borrowing Facility prior to making a Payment Claim.

(B) Each Party agrees that:

- (1) subject to Clause 7.4(C) (*Terms of each Scheme Guarantee*), the Lender may only submit one Payment Claim (other than a Payment Claim in respect of an Additional Guarantee Amount) to the Guarantor for each Scheme Guarantee;
- (2) the Guarantor's liability under a Scheme Guarantee will not exceed an amount equal to the sum of (a) all Additional Guarantee Amounts in respect of the Scheme Facility, and (b) the Guaranteed Amount for the relevant Scheme Facility as at the date of the Payment Claim;

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

and the Guarantor will not be required to pay any amount to the Lender under Clause 2 (*Guarantee*) unless these conditions have been satisfied.

- (C) Where the Lender has made a Repayment Demand on a Borrower which it subsequently withdraws or waives or otherwise treats its rights as having been satisfied, it will not be precluded from making a Payment Claim in respect of any subsequent Repayment Demand it makes on such Borrower, provided the making of such Payment Claim complies with the provisions of this Agreement.
- (D) The Guarantor agrees that any Payment Claim will be effective notwithstanding the failure by the Lender in any particular case to include the information specified therein. The Lender will provide any outstanding information to the Guarantor as soon as reasonably practicable.

8.3 Submitting a Claim Invoice to the Guarantor

The Lender will, as soon as reasonably practicable after the end of each Claim Period, submit to the Guarantor a combined invoice (a “**Claim Invoice**”), in form and substance satisfactory to the Guarantor, detailing (for each Scheme Facility in respect of which it made a Payment Claim during such Claim Period (other than a Payment Claim in respect of an Assigned Scheme Facility) and including any Scheme Facility that became a Failed Assigned Scheme Facility during such Claim Period) those amounts claimed by the Lender under the terms of the relevant Scheme Guarantee and containing such other information as the Guarantor may from time to time require to be included therein.

8.4 Guarantor’s right to take assignment of Scheme Facility

- (A) In lieu of making any payment in respect of a Payment Claim (other than a Payment Claim for an Additional Guarantee Amount), the Guarantor may, at any time after such Payment Claim has been submitted to it in respect of a Scheme Facility pursuant to Clause 8.2 (*Conditions to making a Payment Claim in respect of a Scheme Facility*) but prior to the submission of a Claim Invoice in respect of such Payment Claim, by giving not less than 10 days' notice to the Lender, require the assignment to the Guarantor (or to such other party or parties as are designated by the Guarantor) of all, but not part, of the rights of the Lender in respect of such Scheme Facility, in return for payment by the Guarantor to the Lender of an amount equal to the Guaranteed Amount (the “**Assignment Amount**”) in respect of such Scheme Facility (an “**Assigned Scheme Facility**”).
- (B) Upon payment of the Assignment Amount, the Guarantor will be unconditionally and irrevocably released and discharged from all its obligations and liabilities under the Scheme Guarantee relating to that Scheme Facility.
- (C) The Lender shall not be required to make any assignment referred to in Clause 8.4(A) if, in its opinion, such assignment would be prohibited by applicable law or regulation.

(D) If the Lender believes that the transfer would be prohibited by applicable law or regulation, it shall notify the Guarantor of the same and agrees that, upon request by the Guarantor it will negotiate in good faith with the Guarantor to seek an alternative arrangement for transfer of the Lender's rights that would not be prohibited by applicable law or regulation. If no agreement is reached between the Lender and the Guarantor within 10 days of such notification from the Lender (or such longer period as the Guarantor and the Lender may agree), then such Scheme Facility shall be a "**Failed Assigned Scheme Facility**" and the Lender may include its Payment Claim for such Scheme Facility in accordance with Clause 8.3 (*Submitting a Claim Invoice to the Guarantor*).

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11. **Business Interruption Payment (“BIP”)**

11.1 **Entitlement to BIP**

- (A) In respect of each Scheme Facility, the Borrower of such Scheme Facility shall be entitled to a payment equal to all amounts of interest payable on such Scheme Facility in respect of the period from, and including the Initial Drawdown Date to, but excluding, the day falling 12 calendar months after the Initial Drawdown Date (the “**BIP Period**”) (the “**Business Interruption Payment**” or “**BIP**”).
- (B) In respect of each Scheme Facility, the Guarantor agrees, at the direction of the Borrower in the Standard Scheme Application Process for such Scheme Facility, to pay to the Lender for the benefit of the Borrower under such Scheme Facility, the BIP for such Scheme Facility on the terms of this Clause 11.
- (C) The Lender shall apply each BIP received from the Guarantor under this Clause 11 in satisfaction of the interest to which such BIP relates.
- (D) The Lender agrees that it shall have no recourse to the Borrower in respect of the amounts described in this Clause and that its only recourse in respect of the same shall be to the Guarantor for payment of the corresponding BIP on the terms of this Clause 11.

11.2 **Disclosure to the Applicant**

- (A) The Lender agrees, to provide to the Applicant under the Proposed Scheme Facility or the Borrower under a Scheme Facility (as applicable) a written statement setting out the aggregate amount of it BIP and the Scheme Facility (the “**State aid Amount**”). This may be incorporated into the Standard Scheme Application Process, the Scheme Facility Letter or provided as a separate statement which may be provided after the Initial Drawdown Date of the Scheme Facility, at the discretion of the Lender.
- (B) If the Scheme Facility is granted under de minimis State aid rules, the statement must state the State aid amount and the following language:

“The value of the de minimis aid arising from this facility is £[] [insert State aid amount].*

Provision of such State aid is governed by regulations made by the European Commission, Under these rules the maximum de minimis State aid any undertaking may receive over any rolling three-year period is generally €200,000, although lower ceilings apply in certain sectors as detailed below.

It is your responsibility to retain records of any de minimis State aid arising from assistance received for a minimum of ten years from the date of receipt and to ensure that you do not exceed the rolling three-year limit. If you make any other application to a support scheme which is deemed to provide de minimis State aid during the

next three years you will be required to inform the operator of that scheme about the de minimis State aid advised by this letter and any other applicable aid from other sources.”

Sector	Maximum Permissible Aid (€)	Relevant Regulation	Regulation Date
Primary production of agricultural products	20,000	1408/2013	18/12/13
Fishery and aquaculture	30,000	717/2014	27/6/14
Road Freight Transport	100,000	1407/2013	18/12/13
All Other Eligible Sectors	200,000	1407/2013	18/12/13

- (C) If the Scheme Facility is granted under the European Commission’s Temporary Framework, the statement must state the State aid amount and the following language:

“The value of the aid arising from this facility is £[] [insert State aid amount].*

Following the outbreak of the Coronavirus, the European Commission has approved schemes to aid businesses affected by the Coronavirus outbreak on the basis of their Temporary Framework, including the Covid-19 Temporary Framework measure for the UK.

The maximum level of aid that a company may receive is €800,000 (€120,000 per undertaking active in the fishery and aquaculture sector or €100,000 per undertaking active in the primary production of agricultural products). This is across all UK measures under the terms of the European Commission’s Temporary Framework.

It is your responsibility to retain records of any State aid arising under this measure. You must retain this statement for four years after the conclusion of the UK’s transition from the EU and produce it on any request from the UK public authorities or the European Commission. Any aid provided under this measure will be relevant if you wish to apply, or have applied, for any other aid granted based on the European Commission’s Temporary Framework. You will need to declare this amount to any other aid awarding body who requests information from you on how much aid you have received.”

11.3 BIP Claim

The Lender will, as soon as reasonably practicable after the end of each BIP Claim Period, submit to the Guarantor a combined invoice (a “**BIP Claim Invoice**”), in form and substance satisfactory to the Guarantor, detailing those amounts claimed by the Lender under this Clause 11 in respect of each Scheme Facility with an Offer Date on or after 4 May 2020 where the Initial Drawdown Date has occurred during such BIP Claim Period and containing such other information as the Guarantor may from time to time require to be included therein.

The Guarantor shall only be required to pay any amount referred to in Clause 11.1 (*Business Interruption Payment (“BIP”)*), if the Lender has submitted to the Guarantor a valid BIP Claim Invoice in respect of such amount under this Clause 11.3.

11.4 **Timing of payment**

The Guarantor will endeavour, within 30 calendar days of receiving a valid BIP Claim Invoice, to pay to the Lender the amount claimed by the Lender in such BIP Claim Invoice.

11.5 **Errors in payment**

Clause 10 (*Errors in payment*) shall apply to payments made under this Clause 11 as if each such payment is a payment to the Lender under a Scheme Guarantee, each claim made under this Clause 11 is a Payment Claim, and the reference in Clause 10.1(A) to “Clause 10.1” is to this “Clause 11”.

12. **Reporting, monitoring, audit and maintenance of records**

12.1 **Administration of Scheme Facilities**

The Lender will establish and maintain, for so long as any Scheme Facility remains outstanding, effective internal processes for the administration of each Scheme Facility in accordance with Clause 3.1 (*Standard of care of the Lender*).

12.2 **Monitoring and audit**

- (A) The Guarantor is not responsible for monitoring or verifying the use of any money advanced by the Lender to Borrowers or utilised from time to time by a Borrower, in each case, under the Scheme Facilities. Notwithstanding this, the Guarantor may, at any time, request information from the Lender to enable the Guarantor to verify (i) whether a facility was an Eligible Facility as at its Offer Date and whether its inclusion in the Scheme is in compliance with the terms of this Agreement and (ii) that the information reported through the BBB Reporting Systems with respect to a Scheme Facility is accurate in all material respects. The Lender will supply to the Guarantor any such information requested by the Guarantor.
- (B) To enable the monitoring, control and auditing of the correct use of the Scheme Guarantees and compliance with this Agreement, the Lender agrees that each of the Guarantor, HM Treasury and any of their respective agents and auditors (including the British Business Bank plc, any affiliate of the British Business Bank plc and any of their advisers, agents or contractors) (the “**Guarantor Related Parties**”) has the right to carry out audits and controls and to request information about this Agreement and the Scheme Facilities. The Lender will permit monitoring visits and inspections of its business operations, books and records relating to this Agreement and the Scheme Facilities by any Guarantor Related Party, provided that it receives at least five Business Days’ notice of such visit or inspection. For these purposes, the Lender will permit access to its premises to each Guarantor Related Party during normal business hours.
- (C) The Lender will, and will procure that its officers, employees and agents will, give the Guarantor Related Parties all such reasonable assistance (including, but not limited to, investigating (where appropriate) and responding to any enquiries raised by the Guarantor Related Party in connection with an audit/monitoring) and disclose to the Guarantor Related Parties such documents, records and information maintained by the Lender about the Borrowers and/or the Scheme Facilities which are relevant to the audit/control as needed by the Guarantor Related Parties to enable them to complete an audit to their satisfaction (except where the Lender is prohibited from such disclosure by law (including by a court order)).
- (D) The Lender will supply to the Guarantor Related Parties such information, documents, reports and records about the Scheme Guarantees and/or Scheme

Facilities as the Guarantor Related Parties may from time to time require and investigate (where appropriate) and respond to any enquires made by the Guarantor Related Parties about the same (except where the Lender is prohibited from such disclosure by law (including by a court order)).

- (E) At such frequency as the Guarantor Related Parties may reasonably determine, the Lender agrees to ensure that one or more of its officers or employees (in each case holding a senior position in the Lender) is available to meet with a representative of the Guarantor Related Parties, each such meeting to be:
- (1) held at a location and at a date and time agreed as being mutually convenient to both the Lender and the Guarantor Related Party; and
 - (2) used as a forum for discussing any relevant matters relating to the operation of this Agreement including, but not limited to, any operational difficulties or issues arising and needing to be addressed.

12.3 Regular reporting

In addition to any information required by Clause 12.2(D), the Lender undertakes:

- (A) to report through the BBB Reporting Systems, the information set out in Schedule 4 (*Reporting Data*) in respect of each Scheme Facility by the end of the Business Day following (i) the offer a Proposed Scheme Facility to the relevant Applicant, (ii) the Initial Drawdown Date of the Scheme Facility, (iii) the making of a Repayment Demand in respect of a Scheme Facility; and (iv) the date on which the Lender becomes aware of any change in such information; and
- (B) to supply the HMT & BBB Reporting Data to such of the Guarantor Related Parties, and on such frequency and in such form, as is notified to it by the Guarantor from time to time.

Lenders should also refer to the email dated 2 June 2020 from the British Business Bank, answering queries received from various Lenders on the reporting template.

12.4 Maintenance of records

- (A) The Lender undertakes to prepare, update and at all times maintain and make available for the Guarantor Related Parties, the following documentation:
- (1) information necessary to verify that each Scheme Facility complies with the relevant requirements set by this Agreement, including, without limitation, the compliance of all Scheme Facilities with the Eligibility Criteria and the Top-Up Eligibility Criteria (if applicable);
 - (2) information necessary to verify the proper implementation of this Agreement into the Scheme Facility Letters or equivalent information packages;
 - (3) information about the payment and recovery processes of the Lender; and
 - (4) any other information reasonably required by any Guarantor Related Party,
- in each case for such length of time as is consistent with Clause 3.1 (*Standard of care of the Lender*).

- (B) If any deficiency in the maintenance of records is identified by any Guarantor Related Party and the Lender is informed of that deficiency, the Lender undertakes promptly to (and in any event no later than 2 months after being informed of such deficiency (or such shorter period communicated to it by the Guarantor or the Guarantor Related Party)), comply with the instructions given by the Guarantor or the Guarantor Related Party and provide any additional information reasonably requested by the Guarantor or the Guarantor Related Party.
- (C) The Lender will promptly obtain, comply with and do all that is necessary to maintain in full force and effect and, on request supply certified copies to the Guarantor of, any authorisation required under applicable law or regulations to enable the Lender to perform its rights and obligations under this Agreement and any Scheme Facilities, to ensure this Agreement's legality, validity, enforceability and admissibility in evidence in the Lender's jurisdiction of incorporation and carry out its business.

12.5 Confidentiality

Nothing in this Clause 12 requires the Lender to disclose or permit access to any information breaching its obligations under Clause 21 (*Confidentiality*) or any applicable law or regulation.

13. Representations and warranties

The Lender makes the following representations and warranties. These representations and warranties will be deemed to be repeated at all times except for the representations and warranties in Clause 13.6 (*No default*) and Clause 13.11 (*Proceedings*) which will be deemed to be made on the Effective Date only.

13.1 Status

- (A) It is duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (B) It has the power to own its assets and carry on its business as it is being conducted.

13.2 Binding obligations

The obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations, in accordance with their terms.

13.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this Agreement do not, and will not, conflict with:

- (A) any law or regulation (including any of its licenses or permits issued by any of the regulatory authorities of its places of business relevant to this Agreement and jurisdiction of incorporation), or judicial or official order, applicable to it;
- (B) its constitutional documents; or
- (C) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument,

where, in the case of sub-Clauses 13.3(A)-(C) above, the same would affect its ability to perform its obligations under this Agreement.

13.4 **Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated by this Agreement.

13.5 **Authorisations and regulatory standards**

(A) All authorisations required to:

- (1) enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement; and
- (2) make this Agreement admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect.

(B) All authorisations necessary for the conduct of the business of the Lender, including lending activities, have been obtained or effected and are in full force and effect.

13.6 **No default**

(A) No Event of Default or Potential Event of Default relating to it is continuing or might reasonably be expected to result from entering into this Agreement.

(B) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or to which its assets are subject which, in either case, might have a Material Adverse Effect.

13.7 **No misleading information**

(A) All information (including any factual information) provided by it for the purposes of or pursuant to this Agreement (including any information provided before the Effective Date) was true and accurate as at the date it was provided or as at the date (if any) at which it is stated.

(B) Nothing has occurred or been omitted from the information referred to in paragraph 20 above and no information has been given or knowingly withheld that results in that information being untrue or misleading.

13.8 **Governing law and enforcement**

(A) The choice of English law as the governing law of this Agreement will be recognised and enforced in its jurisdiction of incorporation or, as the case may be, of establishment.

(B) Any judgment given by the courts of England in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation or, as the case may be, of establishment.

13.9 **Good faith**

It has entered into this Agreement in good faith.

13.10 **Compliance with Eligibility Criteria**

Each Scheme Facility complied with the Eligibility Criteria as at the Offer Date of such Scheme Facility, and, in relation to a Scheme Facility Top-Up, the Top-Up Eligibility Criteria were complied with as at the Top-Up Offer Date of such Scheme Facility Top-Up.

13.11 **Proceedings**

No litigation, arbitration or administrative proceedings or investigations of or before any court, arbitral body or Agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect have, to its knowledge, been started or threatened against it.

14. **General undertakings**

14.1 **Scheme Guidance**

The Lender agrees to take account of all sections of the Scheme Guidance in complying with its obligations hereunder.

14.2 **Probationary Lender**

If the Lender is designated as a Probationary Lender, the Lender covenants and undertakes to comply with the terms of the Probationary Lender Side Letter throughout the Probationary Period. To the extent that there is any inconsistency between the Probationary Lender Side Letter and this Agreement, the Probationary Lender Side Letter prevails.

14.3 **Visibility and promotion**

- (A) The Lender will comply with the Visibility and Promotion Guidelines at all times during the term of this Agreement.
- (B) The Lender will use reasonable endeavours to ensure that appropriate and adequate information and training regarding the availability and the operation of the Scheme will be communicated and provided to those offices and branches in the United Kingdom which the Lender has designated as being involved or responsible for the implementation of the Scheme and those of its employees and officers who, on a day to day basis, are the principal points of contact with potential Applicants with a view to ensuring that:
 - (1) there is sufficient awareness of the availability and operation of the Scheme in those employees and officers; and
 - (2) the Scheme is available on a consistent geographical basis, taking into account the extent of the Lender's operations, throughout the United Kingdom.
- (C) The Lender (and its officers and employees) will not represent in any way that the provision by the Guarantor of a Scheme Guarantee implies any endorsement or warranty of the Lender from the Guarantor or the Government of the United Kingdom and will ensure that any material utilised by it in respect of the Scheme includes a clear provision to that effect.

14.4 **Other Government Schemes**

The Lender may not fund any Scheme Facility using:

- (A) grant or grant-equivalent monies made available directly or indirectly to it by the UK Government or any other state, supranational or public body; or
- (B) any monies provided by, or pursuant to a scheme or facility which is administered by, the British Business Bank plc or any of its Affiliates,

in the case of Clause 14.4(B), without the consent of the Guarantor (such consent to be provided in its sole and absolute discretion).

Lenders may wish to check with their fund providers and/or legal advisors if they are unsure as to whether any funds are likely to constitute grant or grant-equivalent monies.

Note that the Eligibility Criteria in Schedule 2 (Eligibility Criteria) require that the Applicant for a Proposed Scheme Facility must not have used the Bank of England's Covid Corporate Financing Facility (CCFF), the British Business Bank's Coronavirus Business Interruption Loan Scheme (CBILS) or the British Business Bank's Coronavirus Large Business Interruption Loan Scheme (CLBILS) unless the Scheme Facility will refinance the whole of such CCFF, CBILS or CLBILS facility.

14.5 State aid

- (A) If the Lender becomes aware that any State aid requirements have not been complied with in respect of the Scheme or any Scheme Facility, the Lender will promptly notify the Guarantor.
- (B) If, in the opinion of the Guarantor, any State aid requirements have not been complied with in respect of the Scheme, the Lender agrees to take any remedial action required by the Guarantor in relation to the same.

14.6 Use of brokers and intermediaries

If the Lender is introduced to any Applicant by a broker or other third party intermediary with whom the relevant Lender has an agreement for the introduction of Applicants in respect of the Scheme (each a "**Third Party Intermediary**"):

- (A) the Lender will (i) procure that such Third Party Intermediary accurately conveys the features of the Scheme to such Applicant and (ii) conduct periodic quality assurance reviews on that Third Party Intermediary to ensure the features of the Scheme are being accurately conveyed to Applicants;
- (B) for the purposes of Clause 14.3 (*Visibility and promotion*), such Third Party Intermediary will be deemed to be an officer of the Lender; and
- (C) any act or omission of that Third Party Intermediary in respect of the relevant Applicant will be treated as an act or omission by the Lender.

14.7 Allocation Letter

The Lender will comply, during each Annual Scheme Period, with the conditions (if any) set out in the Allocation Letter delivered to it by the Guarantor in respect of such Annual Scheme Period.

14.8 Personal Guarantees

The Lender agrees that:

- (A) it shall not require the Borrower or any other person to provide any Relevant Personal Guarantee in connection with such Scheme Facility; and
- (B) if, notwithstanding paragraph (A) above, the Scheme Facility would benefit from any Relevant Personal Guarantee, the Lender shall not make any demand on such Relevant Personal Guarantee or apply any proceeds from such Relevant Personal Guarantee, in connection with the Scheme Facility.

14.9 Lender checks

- (A) Nothing in this Agreement shall require the Lender to undertake any Excluded Origination Procedures in relation to any Applicant or Proposed Scheme Facility or any Borrower in relation to any Scheme Facility Top-Up. The Lender is required to follow appropriate anti-money laundering, KYC and fraud check procedures in accordance with Schedule 8 (*Appropriate standards – AML, KYC and fraud checks*).
- (B) Except where this Agreement requires specific additional evidence to be collected by the Lender, where the Applicant is required to confirm any of the information in the Eligibility Criteria or the Borrower is required to confirm any information in the Top-Up Eligibility Criteria to the Lender, the Lender is not required to verify this information independently beyond its appropriate fraud checking processes in accordance with Schedule 8 (*Appropriate standards – AML, KYC and fraud checks*).

14.10 Lender's relationship with Borrowers

- (A) The Lender must monitor the Borrower's repayment record during the life of the Scheme Facility and take appropriate action where there are signs of actual or possible repayment difficulties in accordance with its obligations under this Agreement and the Scheme.
- (B) Where a Lender, after the Initial Drawdown Date of a Scheme Facility, identifies a Borrower as vulnerable (within the meaning of CONC 7.2) or has reason to believe that a Borrower may be vulnerable, appropriate adjustments must be made to ensure that the Borrower's circumstances are accommodated throughout the duration of the Scheme Facility.
- (C) Upon default by a Borrower, the Lender agrees that it will give the Borrower a reasonable period to remedy any breach and will not treat the same as an event of default if it is remedied by the borrower within this period.
- (D) The Lender must not require the Borrower to pay any Lender-levied fees of any description (including on default) or any default interest (except that the Lender may continue to charge interest at 2.5% per annum if the Scheme Facility is not repaid when due until such time as it is repaid).

14.11 Disclosure to Applicants and Borrowers

- (A) The Lender agrees to pay due regard to the Borrower's information needs (which will not be assessed by the Lender at the time of origination of a Scheme Facility) and provide information to the Borrower in a way which is clear, fair and not misleading.
- (B) The Lender agrees to provide each Applicant with the following minimum information in relation to their Proposed Scheme Facility clearly and prominently before the time such Proposed Scheme Facility is binding on the Applicant:

- (1) the principal amount of the Proposed Scheme Facility;
 - (2) the interest rate of the Proposed Scheme Facility;
 - (3) the size and due date of each capital and/or capital and interest repayment instalment in respect of such Proposed Scheme Facility; and
 - (4) information on the Applicant's right to repay the Proposed Scheme Facility early;
 - (5) brief information on the Lender's complaints handling procedure and the right of the Borrower to escalate to the Financial Ombudsman Service, in accordance with any guidance issued by the Financial Ombudsman Service in respect of the Scheme;
 - (6) the risks of non-repayment of the Scheme Facility, including the impact on the Borrower's credit file; and
 - (7) clear and prominent information on the key terms of the Scheme Facility shown in the Scheme Facility Letter.
- (C) The Lender agrees to provide each Borrower with the following minimum information in relation to their Scheme Facility during the term of such Scheme Facility:
- (1) Timely, clear and adequate information that enables a Borrower to understand that, where the Borrower fails to make payments under the Scheme Facility, the amount missed, what can be done to remedy, in what timescales, and the impact (if any) on future repayments;
 - (2) upon default by the Borrower, information about any proposed action to the Lender taking action in respect of the Scheme Facility, prior to the Lender taking such action;
 - (3) regular information about the Scheme Facility (on at least an annual basis) in the form of a statement setting out details of the payment transactions on the Scheme Facility during the period since such information was provided (or the Initial Drawdown Date, if no such information has been provided previously) and amounts outstanding under the Scheme Facility; and
 - (4) information on options available to the Borrower for help and assistance, including sources of free independent advice.
- (D) The Lender shall include on its website in a manner that is clear and prominent to any Applicant, a statement setting out the matters that the Lender has agreed to in Clauses 14.10 (*Lender's relationship with Borrowers*), 14.11(A), 14.11(B)(4), 14.11(B)(6) and 14.11(C) and brief information on the Lender's complaints handling procedure and the right of the Borrower to escalate to the Financial Ombudsman Service, in accordance with any guidance issued by the Financial Ombudsman Service in respect of the Scheme.

The obligation on the Lender in this Clause 14.11(D) shall take effect from, and including, the later of (1) the Effective Date, and (2) 11 May 2020.

15. **Events of Default**

The Lender will notify, in writing, the Guarantor of any Potential Event of Default or Event of Default occurring in respect of it (and the steps, if any, being taken to remedy it) promptly upon the Lender becoming aware of its occurrence. Each of the events or circumstances set out in this Clause 15 is an “**Event of Default**”.

15.1 **Breach of obligations**

- (A) The Lender does not comply (in the determination of the Guarantor) in any material respect with any provision of this Agreement.
- (B) No Event of Default under Clause 15.1(A) will occur if:
 - (1) the failure to comply is capable of remedy and is remedied within 10 Business Days of the Lender giving notice of the Event of Default to the Guarantor or the Guarantor becoming aware of the failure to comply; or
 - (2) such failure to comply occurs as a result of any action or inaction by the Guarantor under the terms of this Agreement.

15.2 **Insolvency**

- (A) The Lender is unable, or admits its inability, to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts under applicable law, or, by reason of actual or anticipated financial difficulties, suspends or threatens to suspend making payments on any of its debts or commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- (B) The value of the assets of the Lender are less than its liabilities (taking into account contingent and, if applicable under relevant law, prospective liabilities).
- (C) A moratorium is declared in respect of any indebtedness of the Lender. If a moratorium occurs, the end of the moratorium will not remedy any Event of Default caused by that moratorium.

15.3 **Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (A) a suspension of payments, moratorium of any indebtedness, bankruptcy, controlled management, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Lender;
- (B) a composition, assignment or arrangement with the creditors of the Lender;
- (C) an appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Lender or any of its assets;
- (D) an enforcement of any security over any material asset of the Lender; or
- (E) any analogous procedure or step is taken in any jurisdiction;

except this Clause 15.3 does not apply to a winding-up petition that is frivolous or vexatious and is discharged, stayed or dismissed within 28 days of the earlier of (a) its commencement and (b) the date on which it is advertised.

15.4 **Repudiation and rescission of agreements**

The Lender rescinds or purports to rescind or repudiates or purports to repudiate this Agreement or evidences an intention to rescind or repudiate this Agreement.

15.5 **Unlawfulness**

It is or becomes unlawful for a Party to perform any of its obligations under this Agreement.

15.6 **Misrepresentation**

Any representation or statement made by the Lender to the Guarantor in this Agreement, or any other document delivered by or on behalf of the Lender to the Guarantor in connection with this Agreement or (to the knowledge of the Lender) through the BBB Reporting Systems, is or proves to have been incorrect or misleading in any material respect when made by the Lender.

15.7 **Change of control**

There is any change in the persons exercising Control over the Lender as compared to the position at the Effective Date without prior written confirmation from the Guarantor that this Clause 15.7 will not apply to the same.

16. **Cancellation of Scheme Guarantees and termination of the Agreement**

16.1 **Cancellation of Scheme Guarantee**

(A) **Cancellation of Scheme Guarantee**

If, in respect of a Scheme Guarantee (including, for the avoidance of doubt, a Scheme Guarantee in respect of a Topped-Up Scheme Facility), the Lender has acted fraudulently in participating in the Scheme and making available the related Scheme Facility or the related Scheme Facility does not comply with the Eligibility Criteria as at its Offer Date, then the Guarantor can, by notice to the Lender, immediately terminate such Scheme Guarantee, and with effect from the date of such notice, the Guarantor will be unconditionally and irrevocably released and discharged from all its obligations under such Scheme Guarantee with effect from that date.

(B) **Cancellation of Scheme Guarantee in relation to Topped-Up Portion only**

If, in respect of a Topped-Up Scheme Facility, the Lender has acted fraudulently in making available the relevant Scheme Facility Top-Up or the Top-Up Eligibility Criteria were not complied with as at its Top-Up Offer Date, then the Guarantor can, by notice to the Lender, specify that the related Scheme Guarantee shall immediately terminate in relation to the Topped-Up Portion of such Topped-Up Scheme Facility only and, with effect of the date of such notice, the Guarantor will be unconditionally and irrevocably released and discharged from all its obligations under such Scheme Guarantee in relation to such Topped-Up Portion and, for the avoidance of doubt, the Topped-Up Portion shall not be taken into account in determining the Outstanding Guaranteed Balance of such Scheme Facility.

16.2 Early Termination of the Agreement

(A) **Suspension upon the occurrence of a Potential Event of Default or an Event of Default**

(1) Subject to Clause 16.2(A)(3), on, and at any time after, the occurrence of:

- (a) a Potential Event of Default; or
- (b) an Event of Default,

which is continuing, the Guarantor may, by notice to the Lender, suspend performance of its obligations under this Agreement and the Lender's right under Clause 4 (*Offer of a Scheme Facility*) to enter into Scheme Facilities.

(2) If such Potential Event of Default or Event of Default is remedied within the relevant grace period (if any) or waived by the Guarantor, the notice served under Clause 16.2(A)(1) will be deemed revoked automatically.

(3) A suspension pursuant to this Clause 16.2(A) resulting from an Event of Default or Potential Event of Default under Clause 15.2 (*Insolvency*) or 15.3 (*Insolvency proceedings*) or any other event which is outside the direct control of the lender shall not affect:

- (a) any obligations of the Guarantor in respect of any Scheme Facilities offered by the Lender under the Scheme before such suspension;
- (b) any Scheme Guarantee issued by the Guarantor pursuant to Clause 2.1 (*Guarantee*) in respect of an offer already made of a Scheme Facility (notwithstanding that acceptance of any such offer may take place on or after such suspension);
- (c) any obligations on the part of the Lender to pay a recovery to the Guarantor under Clause 8.4(D) (*Recoveries and security*) in connection with any such Scheme Facilities; or
- (d) any rights which have accrued to one Party against the other before the suspension.

Lenders should also refer to the guidance dated 2 July 2020 produced by the British Business Bank on the exercise of suspension rights under Clause 16.2(A).

(B) **Early termination upon the occurrence of an Event of Default**

On, and at any time after, the occurrence of an Event of Default, that has not been remedied within the relevant grace period (if any), the Guarantor may (but will not be obliged to), by written notice (sent by email and by letter) to the Lender, immediately terminate this Agreement.

(C) **Termination without cause**

Either Party may at any time by notice in writing, and without the need to provide any reason therefor, specify to the other Party a date of termination which is not less than 1 month from the date on which such notice is given.

16.3 Actions to be taken following a Non-Material Breach

Upon the occurrence of a breach by the Lender of this Agreement which, in the opinion of the Guarantor, is a non-material breach (such that no Event of Default would occur under Clause 15 (*Events of Default*)), the Lender will discuss with the Guarantor what steps, if any, should be taken by the Lender to redress such breach and will take all such action as is required to put in place any remedial steps agreed between the parties.

16.4 Termination of the Agreement

- (A) No Scheme Guarantee may be issued after the Termination Date and no Scheme Facility may be offered by the Lender after the Termination Date.
- (B) On the occurrence of the Termination Date, the rights and obligations of the Parties under this Agreement will terminate except that a termination notice issued under Clause 16.2(B) and 16.2(C) and the occurrence of the Termination Date do not affect:
 - (1) any Scheme Facilities offered by the Lender under the Scheme before the Termination Date;
 - (2) any Scheme Guarantee issued by the Guarantor pursuant to Clause 2.1 (*Guarantee*) in respect of an offer already made of a Scheme Facility (notwithstanding that acceptance of any such offer may take place on or after the Termination Date);
 - (3) any obligations on the part of the Lender to pay a recovery to Guarantor under Clause 8.4(D) (*Recoveries and security*) in connection with any such Scheme Facilities;
 - (4) any rights which have accrued to one Party against the other before the Termination Date; nor
 - (5) the provisions of the Clauses listed in Clause 17 (*Survival of rights*) which will, to the extent that the same are capable of continuing to apply, expressly survive the occurrence of the Termination Date.

16.5 Additional termination rights in respect of Group Lenders

- (A) If the term “**Lender**” is comprised of more than one Group Lender, then the provisions of this Clause 16.5 will apply.
- (B) If, at any time, any Group Lender is no longer part of the same Group as the other Group Lenders, then the Guarantor may, by notice to all Group Lenders, suspend performance of its obligations under this Agreement in respect of any one or more Group Lenders and the right of any one or more of the Group Lenders under Clause 4 (*Offer of a Scheme Facility*) to enter into Scheme Facilities (in each case, as determined by the Guarantor).
- (C) Following any suspension pursuant to this Clause 16.5, each Group Lender will discuss in good faith with the Guarantor what steps, if any, should be taken by the Group Lenders in respect of the continuation of this Agreement and/or the entry into one or more Group Lenders of a new guarantee agreement and will take all such action as is required to put in place any steps agreed between the Parties.

- (D) If no agreement is reached between the Guarantor and all Group Lenders pursuant to Clause 16.5(C) on or before the day falling 10 Business Days after the day that notice of any suspension pursuant to Clause 16.5(B) is given by the Guarantor to any Group Lender, then the Guarantor may (but will not be obliged to), by notice to each Group Lender, immediately terminate this Agreement in respect any one or more Group Lenders (as determined by the Guarantor).
- (E) Any suspension pursuant to Clause 16.5(B) and any termination pursuant to Clause 16.5(D) shall not affect:
- (1) any obligations of the Guarantor in respect of any Scheme Facilities offered by any Lender under the Scheme before such suspension or termination;
 - (2) any Scheme Guarantee issued by the Guarantor pursuant to Clause 2.1 (*Guarantee*) in respect of an offer already made of a Scheme Facility (notwithstanding that acceptance of any such offer may take place on or after such suspension or termination);
 - (3) any obligations on the part of the Lender to pay a recovery to the Guarantor under Clause 8.4(D) (*Recoveries and security*) in connection with any such Scheme Facilities;
 - (4) any rights which have accrued to one Party against the other before the suspension; nor
 - (5) the provisions of the Clauses listed in Clause 17 (*Survival of rights*) which will, to the extent that the same are capable of continuing to apply, expressly survive the occurrence of the Termination Date.

17. **Survival of rights**

The provisions of Clauses 2 (*Guarantee*), 3 (*Standard of care*), 6.2 (*Lender's rights*), 6.3 (*Permitted Variations*), 7 (*Terms of each Scheme Guarantee*), 8 (*Making a claim under a Scheme Guarantee*), [REDACTED] 11 (*Business Interruption Payment ("BIP")*), 12 (*Reporting, monitoring, audit and maintenance of records*), 14 (*General Undertakings*), 16 (*Cancellation of Scheme Guarantees and termination of the Agreement*), 17 (*Survival of Rights*), 18 (*Liability and indemnity*), Clause 20 (*Data protection*), 21 (*Confidentiality*), 22 (*Notices*), 23 (*BBB Reporting Systems rights*), 25 (*Remedies and Waivers*), 27 (*Further Assurances*), 28 (*Amendments and Waivers*), 29 (*Assignment and transfer*), 30.2 (*Legislative changes*), 32 (*Contracts (Rights of Third Parties Act 1999)*) and 33 (*Governing Law and Jurisdiction*) and Part 1 (*Definitions*) of Schedule 1 (*Definitions and Interpretation*), will survive termination of this Agreement. In addition, any other right accrued at the date of termination of this Agreement (including, without limitation, [REDACTED] and any rights of the Parties under Clause 16.4 (*Termination of the Agreement*)) will survive such termination.

18. **Liability and indemnity**

18.1 **Liability and indemnity of the Lender**

The Lender will be liable for and will reimburse and indemnify the Guarantor and hold the Guarantor harmless from and against any and all damages, losses, claims, taxes, liability, costs and expenses and other amounts payable, incurred or suffered by the Guarantor, arising out of, as a result of, in connection with or related to this Agreement or being Guarantor hereunder as a result of any material breach by the Lender of any of its obligations arising from or in connection with this Agreement or any incorrectness of any

representation, warranty, or statement made by the Lender, or any gross negligence, wilful misconduct or fraud, provided that the Lender will not be liable for any indirect or consequential losses.

18.2 **Liability of the Guarantor**

- (A) Subject to Clause 20 (*Data protection*), the Guarantor will have no liability to the Lender (whether in contract, tort (including negligence or breach of statutory duty) or otherwise), save where such liability may not by law be effectively excluded or limited, for any costs, expenses, damages or losses (whether direct or indirect) in respect of loss of profit, contracts, opportunity, business or revenue, failure to realise anticipated savings or benefits, loss of goodwill, loss of operation time, loss of or corruption to data, wasted management or staff time or for any indirect, special or consequential cost, expense, damage or loss of any kind whatsoever and howsoever caused, even if reasonably foreseeable and even if it has been advised of the possibility of such costs, expenses, damages or losses, sustained or incurred by the Lender under or in connection with this Agreement, any other agreement or document entered into with the Lender, as contemplated in or ancillary to this Agreement or the Scheme, the Scheme or the operation of the BBB Reporting Systems. Nothing in this Agreement limits the liability of the Guarantor for death or personal injury caused by its negligence, or for fraudulent misrepresentation.
- (B) The Parties have considered the exclusions and limitations of liability in Clause 18.2(A) in the context of all the circumstances of the transaction to which this Agreement relates and all the factors referred to in Schedule 2 of the Unfair Contracts Terms Act 1977. The Parties consider that such exclusions and limitations of liability are fair and reasonable and that, but for such exclusions and limitations, the Parties would not have entered into this Agreement. For the purposes of the Unfair Contracts Terms Act 1977, each Party agrees that every provision of this Agreement has been the subject of negotiations between the Parties.

19. **Service Level Agreement**

The Guarantor will use its reasonable endeavours to enter into appropriate service level agreements with third party providers in connection with the operation of the Scheme.

20. **Data protection**

20.1 Each of the Parties will comply with its obligations under the Data Protection Legislation.

20.2 Subject to its obligations under Clause 20.1, the Lender agrees:

- (A) to provide to the Guarantor Related Parties all Personal Data relating to any Applicant or Borrower which a Guarantor Related Party may reasonably request in connection with the purposes set out in Clause 20.2(B) below;
- (B) that any Personal Data may be used by the Guarantor Related Parties:
- (1) for analytical and administrative purposes (including to keep a record of the types of Borrowers and/or Applicants applying for a Scheme Facility);
 - (2) in order to contact the relevant Borrower or Applicant in connection with the Scheme;
 - (3) to make enquiries about the relevant Applicant's application to the Scheme;

- (4) to take up references about the relevant Applicant and that Applicant's business;
 - (5) to give information relating to the relevant Applicant and that Applicant's business to any other Guarantor Related party or to any other official involved in running or monitoring the Scheme; and
 - (6) (in the case of a Borrower) in order to evaluate the effectiveness of the Scheme; and
- (C) that any Guarantor Related Party may store any Personal Data relating to a Borrower for a minimum of ten (10) years after the Initial Drawdown Date of the relevant Scheme Facility.

20.3 The Lender undertakes to assist the Guarantor Related Parties in obtaining information from each Applicant and each Applicant's consent to the use of its Personal Data in the manner contemplated by this Clause 20, by requiring the Applicant to provide a Data Protection and Disclosure Declaration prior to as part of the Standard Scheme Application Process providing such information to any Guarantor Related Party.

20.4 The Lender undertakes to obtain all rights and consents (including in relation to the Guarantor and Guarantor Related Parties' processing of Personal Data) necessary to ensure that the Guarantor is able to fully exercise its audit rights under Clause 12.2 (*Monitoring and audit*).

20.5 The Parties acknowledge that both the Lender and the Guarantor are acting as Data Controllers in respect of the Personal Data that they process in connection with the Scheme.

21. **Confidentiality**

21.1 Each Party will, and will use all reasonable endeavours to ensure that any of its agents or sub-contractors will, keep confidential all Confidential Information supplied to it in accordance with this Agreement.

21.2 Notwithstanding this, each Party is entitled to disclose Confidential Information:

- (A) where required under any applicable law or contemplated by the terms of this Agreement (including, without limitation, the visibility and promotion, reporting and monitoring obligations to be complied with by the Lender);
- (B) where requested or required by any securities exchange, court of competent jurisdiction or any competent judicial, regulatory, governmental or supervisory body or administrative order to which either Party is subject, wherever situated, whether or not the requirement for information has the force of law including, for the avoidance of doubt, disclosure by the Guarantor to Parliament to discharge his duty to report about the operation of the Scheme.
- (C) to each of the Party's officers, directors, employees, Affiliates (if any) and professional advisers to the extent necessary for the purposes of this Agreement and to its auditors;
- (D) to any person to whom a Party is proposing to assign or transfer any of its rights or obligations under this Agreement pursuant to Clause 29 (*Assignment and transfer*);
- (E) where the information is already in the public domain through no fault of such Party;

- (F) with the prior written consent of the other Party or (if such information relates to an Applicant) such Applicant (whether pursuant to the Data Protection and Disclosure Declaration or otherwise), in the case of the Lender, not to be unreasonably withheld;
- (G) for so long as the Secretary of State for Business, Energy and Industrial Strategy is acting as Guarantor, to the British Business Bank plc or any of its Affiliates and their advisers, the Guarantor Related Parties and their advisers;
- (H) the Guarantor Related Parties and their advisers; and
- (I) with respect to disclosure by the Guarantor:
 - (1) to the UK Parliament (including any Committee of the House of Commons or the House of Lords) or to the European Commission;
 - (2) to any minister of the Crown, any UK government department, Agency or authority, the Bank of England (including, without limitation, the Prudential Regulation Authority), the Financial Conduct Authority, the Financial Policy Committee or any other governmental, banking, taxation or regulatory agency or authority; and
 - (3) for the purpose of reporting on the establishment, performance or operation of, or compliance with, this Agreement.

21.3 If the Guarantor is requested to disclose any Confidential Information pursuant to the provisions of the FOI Act (an “**FOI Request**”) or the EIR (an “**EIR Request**”), the Guarantor will (to the extent practicable and permissible under the FOI Act or EIR and consistent with the Code of Practice of the Department for Constitutional Affairs on discharge of public authorities’ functions under Part 1 of the FOI Act or the Code of Practice of the Department for Constitutional Affairs on discharge of public authorities’ functions under the EIR):

- (A) notify the Lender in writing of the nature and content of such FOI Request or EIR Request as soon as practicable; and
- (B) before making a disclosure pursuant to an FOI Request or EIR Request, for a period of no longer than five (5) Business Days (or if the Guarantor considers there to be exceptional circumstances, such shorter period as the Guarantor considers reasonably practicable) consult with the Lender as to:
 - (1) whether such FOI Request or EIR Request is valid;
 - (2) whether or not disclosure pursuant to the FOI Act or EIR is required; and
 - (3) (if the Guarantor determines that disclosure pursuant to the FOI Act or EIR is required) the scope and content of any proposed disclosure,

and, as part of such consultation process, the Guarantor will take into account any representation from the Lender as to whether the Confidential Information is commercially sensitive or falls within one or more of the exemptions set out in Part II of the FOI Act and any other representations from the Lender about whether or not there is an obligation to disclose such Confidential Information and/or the extent of any such required disclosure;

- (C) (if the Guarantor determines that disclosure of any Confidential Information pursuant to the FOI Act or EIR is required and the Lender has objected to such disclosure or

the extent of the proposed disclosure) give the Lender as much prior notice as is reasonably practicable before such disclosure being made; and

- (D) subject to the above, the Guarantor may determine in its absolute discretion whether and to what extent disclosure of any Confidential Information pursuant to the FOI Act or EIR is required.

21.4 Nothing in this Clause 21 restricts or prevents the publication by the Guarantor of any information (whether Confidential Information or otherwise):

- (A) in accordance with any publication scheme (as defined in the FOI Act or EIR) adopted and maintained by the Guarantor in accordance with the FOI Act or EIR; or
- (B) in accordance with any model publication scheme (as defined in the FOI Act or EIR) applicable to the Guarantor as may be published from time to time by the Information Commissioner.

In deciding whether to publish information (whether Confidential Information or otherwise) in accordance with any publication scheme or model publication scheme in accordance with the preceding paragraph, the Guarantor will have due regard to whether, in its sole opinion, such information would be exempt from disclosure under the FOI Act or EIR.

21.5 The Lender undertakes to maintain, and be able to produce, all documentation related to this Clause 21 to the Guarantor Related Parties for such length of time as is consistent with Clause 3.1 (*Standard of care of the Lender*).

21.6 As soon as reasonably practicable following a request from an Applicant or a Borrower, the Lender will make available to such Applicant or Borrower (as applicable) all information relating to it that has been provided by the Lender to a Guarantor Related Party and/or any Scheme Facility entered into by it, other than where such disclosure is prohibited by applicable law or regulation.

21.7 This Clause 21 supersedes any previous confidentiality undertaking given by either Party before the Effective Date.

21.8 Notwithstanding any other term of this Agreement, no Party is required to disclose any information to the other Party (or any other entity) if to do so would breach applicable law or regulation.

22. **Notices**

22.1 All notices, requests, demands or other communications required to be given to or served upon the Parties under the provisions of a Scheme Document will be given in writing and, unless otherwise stated, may be made by email or letter. Notices will be deemed to be duly given (i) when delivered (if given by email or personal delivery) or (ii) three Business Days after posting (if given by first class letter post) and will be addressed as follows:

- (A) if to the Guarantor:

c/o Managing Director Guarantee and Wholesale Solutions
The British Business Bank
Steel City House
West Street
Sheffield
S1 2GQ

Email: info@british-business-bank.co.uk; and

(B) if to the Lender:

[•]

Email: [•]

For the attention of: [•],

or at such other address and/or to such other person as the relevant addressee may specify by at least 5 Business Days' notice.

23. **BBB Reporting Systems rights**

The Guarantor and the Lender agree that all rights in data, text, databases, records and logs, graphics and images which are embodied in any electronic or tangible medium comprised in or generated via the BBB Reporting Systems (but not, for the avoidance of doubt, generated by the Lender itself) pursuant to this Agreement are assigned to and vest in the Guarantor absolutely.

24. **Relationship between the Parties**

Save as may be expressly agreed between them from time to time, neither the Lender nor the Guarantor will, as a result of the participation of either in the Scheme, (i) be (or have authority to act as) agent for the other or (ii) be (or be treated as being) in a fiduciary relationship to the other.

25. **Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of either Party any right or remedy under this Agreement will operate as a waiver thereof nor will any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

26. **Invalidity and severability**

If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, it will not affect the legality, validity or enforceability:

(A) in that jurisdiction of any other provision of this Agreement; or

(B) in any other jurisdiction of that or any other provision of this Agreement.

27. **Further assurances**

The Lender will promptly do all further acts and things within its control, and execute and deliver such further documents as the Guarantor may reasonably require (and in such form satisfactory to the Guarantor), as are, in the opinion of the Guarantor, desirable:

(A) to implement and/or required to give full effect to this Agreement and any Scheme Guarantee contemplated by this Agreement;

- (B) for the exercise or preservice of any rights, powers and remedies of the Guarantor provided by or pursuant to this Agreement, any Scheme Guarantee contemplated by this Agreement or by law; or
- (C) to enable the Guarantor to comply with any of its obligations or duties under any State aid or regulatory requirements;
- (D) to facilitate any amendments to this Agreement pursuant to Clause 28 (*Amendments and waivers*); and
- (E) to facilitate the transfer of this Agreement by the Guarantor in accordance with Clause 29.2(B) (*Assignment and transfer of rights and obligations under this Agreement*).

28. **Amendments and waivers**

- 28.1 Unless expressly stated otherwise in this Agreement, any term of this Agreement may be amended or waived only with the written consent of both Parties and any such amendment or waiver will be binding on both Parties.
- 28.2 If the Guarantor decides that any other type of credit, financing or loan facility is to be an Eligible Facility for the purposes of this Agreement, then the Lender and the Guarantor will negotiate in good faith in order to agree any amendments to this Agreement which the Guarantor determines to be necessary as a result of such decision.

29. **Assignment and transfer**

29.1 **Transfer of an individual Scheme Facility**

The Lender undertakes that it will not assign, novate or otherwise transfer its rights and obligations in respect of an individual Scheme Facility to any person, other (A) than in connection with a liquidity scheme provided by the UK Government or any other state, supranational or public body (including, but not limited to, the Term Funding Scheme); or (B) pursuant to Clause 8.4 (*Guarantor's right to take assignment of a Scheme Facility*), without the prior written consent of the Guarantor. If provided by the Guarantor, such consent may be subject to such conditions as the Guarantor decides.

29.2 **Assignment and transfer of rights and obligations under this Agreement**

(A) **Lender**

The Lender will not be entitled to assign, novate or otherwise transfer the benefit of any Scheme Guarantee or any of its rights, or obligations under this Agreement without the prior written consent of the Guarantor.

(B) **Guarantor**

- (1) The Guarantor will be entitled to assign or transfer any of its rights or obligations under this Agreement with the prior consent of the Lender, such consent not to be unreasonably withheld or delayed.
- (2) If the Guarantor assigns or transfers any of its rights or obligations under this Agreement in accordance with Clause 29.2(B)(1), the Lender and the Guarantor will negotiate in good faith in order to agree any amendments to this Agreement which the Guarantor determines to be necessary as a result of such assignment or transfer.

30. **Transitional provisions**

30.1 **Reporting**

Clause 6.4 (*Prepayment or repayment of the Scheme Facility in full*), Clause 8.2(A)(4) and Clause 12.3 (*Regular reporting*) shall not come into effect until the Lender is given reasonable notice by the Guarantor that the appropriate BBB Reporting System for this data is available.

30.2 **Legislative changes**

If, but for this Clause 30.2:

- (A) the Lender would be in breach of Clause 3.1 (*Standard of care of the Lender*) or Clause 8.2(A)(6) (*Conditions to making a Payment Claim in respect of a Scheme Guarantee*);
- (B) the representation and warranty given by the Lender under Clause 13.3(A) (*Non-conflict with other obligations*) would be inaccurate when given; or
- (C) a Scheme Facility would not comply with the Eligibility Criterion set out in paragraph 2(E) of Schedule 2 (*Eligibility Criteria*),

and such breach, inaccuracy or non-compliance:

- (1) results from a determination under Section 140A of the Consumer Credit Act 1974 that the relationship between the Lender and the Borrower is unfair (such determination, a “**S140A Event**”); or
- (2) results from non-compliance by the Lender or the Scheme Facility with any regulation, to the extent that such regulation has been expressly disapplied or waived by the FCA or any other applicable regulator or to the extent that such regulator has granted forbearance, in connection with the Scheme,

then to the extent that such breach, inaccuracy or non-compliance results from (1) or (2) above, it shall be ignored for the purposes of determining the compliance of the Lender and the Scheme Facility with the matters set out in (A), (B) and (C) above.

31. **Counterparts**

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

32. **Contracts (Rights of Third Parties) Act 1999**

A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 (the “**Act**”) to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

33. **Governing law and jurisdiction**

33.1 **Governing law**

This Agreement, and any non-contractual obligations arising out of or in connection with it, will be governed by, and construed in accordance with, English law.

33.2 **Jurisdiction**

- (A) The parties irrevocably agree that the courts of England are to have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement and the documents entered into pursuant to it and that accordingly any proceedings arising out of or in connection with this Agreement and such documents will be brought in such courts. The parties irrevocably submit to the jurisdiction of such courts and waive any objection to proceedings in any such court on the ground or venue or on the ground that the proceedings have been brought in an inconvenient forum.
- (B) This Clause 33.2 is drafted for the benefit of the Guarantor and will not limit its right to take proceedings in any other court with jurisdiction.

34. **Service of process**

Without prejudice to any other mode of service allowed under any relevant law, the Lender (if applicable):

- (A) will notify the Guarantor of its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement within 5 (five) Business Days of the Effective Date; and
- (B) agrees that failure by a process agent to notify the Lender will not invalidate the proceedings concerned.

SIGNATORIES

Secretary of State for Business, Energy and Industrial Strategy

Signature: Signature:.....

Name: Name:

Authorised signatory Authorised signatory

For and on behalf of **British Business Financial Services Limited**
as agent for **the Secretary of State for Business, Energy and Industrial Strategy**

The Lender¹

Signature: [Signature:]²

Name: [Name:]

[Authorised Signatory] [Authorised Signatory]

[Director] [Director]

[Company Secretary] [Company Secretary]

[As attorney for the Lender] [As attorney for the Lender]

[Other:] [Other:]

For and on behalf of [•]

[In the presence of:

Signature of witness:.....

Name of witness:.....

Address of witness:.....]³

¹ The authorised signator(y)(ies) of the Lender should specify the capacity in which they are signing by deleting all but the relevant option below.

² To be deleted if this Agreement is signed by only one signatory on behalf of the Lender.

³ To be deleted if signature of this Agreement by the signatory of the Lender is not witnessed.

SCHEDULE 1 : DEFINITIONS AND INTERPRETATION

PART 1 : DEFINITIONS

“**Additional Guarantee Amount**” means each Forbearance Amount and each S140A Amount.

“**Additional Payment Claim**” has the meaning given to it in Clause 7.4(C) (*Terms of each Scheme Guarantee*).

“**Affiliate**” means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

“**Agency**” means an agency, authority, central bank, department, minister, ministry or official of any public or statutory person.

“**Allocation Letter**” has the meaning given to it in Clause 5.2(B)(1) (*Calculation of the Annual Lending Limit and the Annual Lending Total*).

“**Annual Lending Limit**” has the meaning given to it in Clause 5.2(B) (*Calculation of the Annual Lending Limit and the Annual Lending Total*).

“**Annual Lending Total**” has the meaning given to it in Clause 5.2(A). (*Calculation of the Annual Lending Limit and the Annual Lending Total*)

“**Annual Scheme Period**” means:

- (A) for the first Annual Scheme Period, the period running from (and including) the Effective Date to and including 31 March in the next following year; and
- (B) thereafter, each period from (and including) 1 April in any year to and including 31 March in the next following year.

“**Applicant**” means a Business to which the Lender proposes, or is considering proposing, to make available a Scheme Facility and which has undertaken, or is undertaking, the Standard Scheme Application Process.

“**Application Deadline Date**” means 31 March 2021 or such later date as is determined by the Guarantor and notified to the Lender in accordance with Clause 22 (*Notices*).

“**Assigned Scheme Facility**” has the meaning given to it in Clause 8.4(A) (*Guarantor’s right to take assignment of Scheme Facility*).

“**Assignment Amount**” has the meaning given to it in Clause 8.4(A) (*Guarantor’s right to take assignment of Scheme Facility*).

“**BBB Reporting Systems**” means such reporting systems for the reporting of information under this Agreement, as the Guarantor may notify from time to time to the Lender.

“**BIP Claim Invoice**” has the meaning given to it in Clause 11.3 (*BIP Claim*).

“**BIP Claim Period**” means each period from and including one BIP Claim Period End Date to, but excluding, the next following BIP Claim Period End Date, provided that the first BIP Claim Period shall begin on and include 4 May 2020 and end on, but exclude, 1 July 2020 and the final BIP Claim Period shall end on and include the final day of the Annual Scheme Period.

“**BIP Claim Period End Date**” means 1 January, 1 April, 1 July and 1 October in each year.

“**BIP Period**” has the meaning given to it in Clause 11.1 (*Entitlement to BIP*).

“**Borrower**” means, in respect of a Scheme Facility, the person that is the borrower under such Scheme Facility.

“**Borrowing Facilities Demand Date**” means, in respect of a Scheme Facility, the earliest date to occur on which a written demand for immediate repayment of any Borrowing Facility is made by the Lender on the Borrower of such Scheme Facility which is not subsequently waived by the Lender.

“**Borrowing Facility**” means, in respect of a Borrower, each Scheme Facility and each Non-Scheme Facility made available by the Lender to that Borrower in respect of which sums remain outstanding from the Borrower to the Lender.

“**Business**” means a sole trader, body corporate, partnership, limited partnership, limited liability partnership or other legal person Carrying on a Business in the United Kingdom. “Business” does not include a private individual unless they are acting as a sole trader or as a partner in a partnership.

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are generally open in London for dealings in Sterling.

“**Business Interruption Payment**” or “**BIP**” has the meaning given to it in Clause 11.1(A) (*Entitlement to BIP*).

“**Carrying on a Business in the United Kingdom**” means that the relevant person is trading (or, in respect of a person that is a registered charity or further education college, conducting its activities) in the United Kingdom and has the core of its business operations in the United Kingdom. A person will not be Carrying on a Business in the United Kingdom solely by selling into, or trading with a person in, the United Kingdom.

“**Claim Date**” means, in relation to a Scheme Facility, the day when the Lender makes a Payment Claim (other than a Payment Claim in respect of an Additional Guarantee Amount) on the Guarantor under the related Scheme Guarantee.

“**Claim Invoice**” has the meaning given to it in Clause 8.3 (*Submitting a Claim Invoice to the Guarantor*).

“**Claim Period**” means:

- (A) for the first such period, the period commencing on (and including) the Effective Date and ending on (but excluding) the earlier to occur of the next following 30 June, 30 September, 31 December or 31 March; and
- (B) thereafter, each successive quarter.

“**Clawback Amount**” has the meaning given to it in Clause 7.4 (*Terms of each Scheme Guarantee*).

“**Collateral**” means, in respect of a Scheme Facility:

- (A) any mortgage, charge, assignment or assignment by way of security, pledge, hypothecation, lien, right of set-off, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of, granting security) or any other security interest of any kind whatsoever, or any agreement, whether conditional or otherwise, to create any of the same, or any agreement to sell or otherwise dispose of any asset on terms whereby that

asset is or may be leased to or re-acquired or acquired by the person selling or disposing of it; and

- (B) any guarantee (including, without limitation, any personal guarantee), indemnity, undertaking, assurance, commitment, letter of comfort and any other obligation (whatever called) of any person to pay, purchase, provide funds (whether by the advance of money, the purchase of assets or services, or otherwise) for the payment of, indemnity against the consequences of default in the payment of, or otherwise be responsible for, any indebtedness of any other person,

but excluding any security over a Principal Private Residence or Primary Personal Vehicle.

“Commission Recommendation” means Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

“Confidential Information” means any information relating to the Guarantor, either of the Lender or a Borrower or the Scheme Guarantee provided to a Party by the other Party or any of its Affiliates or advisers, in whatever form, and includes any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (A) is or becomes public knowledge, other than as a result of any breach by a Party of Clause 21 (*Confidentiality*);
- (B) in relation to information about Lenders and Borrowers only, is not marked as confidential by the relevant Lender at the time of delivery;
- (C) in relation to information about Lenders and Borrowers only, is known by the Guarantor before the date the information is disclosed to it by the relevant Lender or any of its Affiliates or advisers; and
- (D) in relation to information about Lenders and Borrowers only, is lawfully obtained by the Guarantor, other than from a source which is connected with the relevant Lender and which, in either case, as far as the Guarantor is aware, has not been obtained in violation of, and is not otherwise subject to, any obligation of confidentiality.

“Control” means, in relation to a party:

- (A) that is a body corporate, the power of a person to secure:
 - (1) by means of the holding of shares or the possession of voting power in relation to that or any other body corporate, or
 - (2) as a result of any powers conferred by the articles of association or other document regulating that or any other body corporate,

that the affairs of such body corporate are conducted in accordance with such person’s wishes; or

- (B) in relation to a partnership, the right to a share of more than half the assets, or of more than half the income, of the partnership.

“Data Controller” has the meaning given to such term in the Data Protection Act 2018 or, if the context so requires, the meaning given to any equivalent term under Regulation (EU) 2016/679.

“Data Protection and Disclosure Declaration” means, in respect of a Proposed Scheme Facility, a declaration from the relevant Applicant substantially in the form set out in the Standard Scheme Application Process.

“Data Protection Legislation” means:

- (A) the Data Protection Act 2018;
- (B) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426); and
- (C) all United Kingdom and European Union (with direct effect) laws relating to processing of Personal Data and privacy (including, where applicable, the guidance and codes of practice issued by the Information Commissioner) and any laws or guidance that replaces them, including but not limited to the European Union’s General Data Protection Regulation (Regulation (EU) 2016/679).

“Date of Application” means, in respect of a Scheme Facility, the date of completion of the Standard Scheme Application Process for the relevant Applicant.

“Demand Date” has the meaning given to it in Clause 8.2(A)(2) (*Conditions to making a Payment Claim in respect of a Scheme Guarantee*).

“Effective Date” has the meaning given to it in Clause 1.3 (*Effective Date of this Agreement*).

“EIR” means the Environmental Information Regulations 2004;

“EIR Request” has the meaning given to it in Clause 21.3 (*Confidentiality*).

“Eligibility Criteria” has the meaning given to it in Schedule 2 (*Eligibility Criteria*), as the same may be supplemented or amended from time to time by the Guarantor provided that the Lender has received at least 30 calendar days’ notice of such change in accordance with Clause 22 (*Notices*).

“Eligible Facility” means a Proposed Scheme Facility that complies, as at the relevant Offer Date, with the Eligibility Criteria.

“Eligible Purpose” means, in respect of an Applicant, providing an economic benefit to the Business of that Applicant or its Group, including, but not limited to working capital or investment.

“Event of Default” has the meaning given to it in Clause 15 (*Events of Default*).

“Excluded Origination Procedures” means, in relation to an Applicant and a Proposed Scheme Facility or a Borrower and a Scheme Facility Top-Up, any credit or affordability checks or checks as to whether or not the Applicant or Borrower (as applicable) is vulnerable.

“Excluded Residential or Vehicle Net Proceeds” means any sums received, recovered or realised by the Lender:

- (A) in enforcing its rights in respect of any security over a Principal Private Residence or Primary Personal Vehicle; or
- (B) in circumstances where the Lender is aware, or ought reasonably to be aware, that such receipt, recovery or realisation derives from, or is otherwise attributable to, the proceeds of sale of, or the release of equity in, a Principal Private Residence or Primary Personal Vehicle,

other than Permitted Residential or Vehicle Net Proceeds.

“Expiry Date” means, in respect of a Scheme Facility, the date specified by the Lender in the relevant Scheme Facility Letter as being the date on or before which the Borrower is required to have repaid all amounts outstanding under that Scheme Facility, provided that if that date is later than the expiry date notified to the Guarantor through the BBB Reporting Systems then the date so notified to the Guarantor will be the Expiry Date of that Scheme Facility.

“Failed Assigned Scheme Facility” has the meaning given to it in Clause 8.4(D) (*Guarantor’s right to take assignment of a Scheme Facility*).

“Final Demand Date” has the meaning given to it in Clause 8.2(A)(2) (*Conditions to making a Payment Claim in respect of a Scheme Guarantee*).

“FOI Act” means the Freedom of Information Act 2000.

“FOI Request” has the meaning given to it in Clause 21.3 (*Confidentiality*).

“Forbearance Amendment” has the meaning given to it in Clause 6.3(B) (*Permitted Variations*).

“Forbearance Amount” has the meaning given to it in Clause 8.1 (*Process for making a claim under a Scheme Guarantee*).

“Group” means, in respect of an Applicant, such Applicant and each of its associated enterprises as determined in line with the Scheme Guidance entitled “BBLs Guidance: Groups and Linked Account V1 June 2020” and the related letter to Lenders of 16 June 2020.

Lenders should also refer to the Scheme Guidance entitled “BBLs Guidance: Groups and Linked Account V1 June 2020” and the related letter to Lenders of 16 June 2020, as each may be updated or replaced from time to time.

“Group Lender” has the meaning given to it in Part 2 (*Interpretation*) of Schedule 1 (*Definitions and Interpretation*).

“Guaranteed Amount” has the meaning given to it in Clause 2 (*Guarantee*).

“Guarantor” has the meaning given to it at the beginning of this Agreement.

“Guarantor Related Party” has the meaning given to it in Clause 12.2(B) (*Monitoring and audit*).

“HMT & BBB Reporting Data” means, in respect of the use of the Scheme by the Lender, the information set out in Schedule 5 (*HMT & BBB Reporting Data*) or such other information as may be notified to it by the Guarantor from time to time.

“Holding Company” means, in relation to a person, any person in respect of which it is a Subsidiary.

“Information Commissioner” means the UK Information Commissioner’s Office (ICO).

“Initial Drawdown” means, in respect of a Scheme Facility, the first drawdown made by the Borrower under that Scheme Facility.

“Initial Drawdown Date” means, in respect of a Scheme Facility, the date when the Initial Drawdown under that Scheme Facility is made by the Borrower.

“Lender” has the meaning given to it at the beginning of this Agreement.

“**Lender’s Group**” means the Lender and any Affiliate of the Lender from time to time.

“**Lender Manual**” means the Bounce Back Loan Scheme Loan Scheme Lender Manual May 2020 Edition or such other version of the lender manual applicable to term loans as may be provided to the Lender by the Guarantor from time to time in accordance with Clause 22 (*Notices*) of the BBLA Agreement.

“**Material Adverse Effect**” means a material adverse effect on or a material adverse change in:

- (A) the financial condition, assets, prospects, business, operations, property or condition (financial or otherwise) of a Party which impacts that Party’s ability to perform or comply with any of its obligations under this Agreement; or
- (B) the validity, legality or enforceability of this Agreement or the rights and remedies of the Guarantor hereunder.

“**Maximum Amount**” means in respect of a Proposed Scheme Facility, the lower of

- (A) £50,000;
- (B) 25% of the total turnover of the business of the Borrower; or
- (C) if the Applicant was an Undertaking in Difficulty on 31 December 2019, the maximum amount that would be permitted pursuant to State aid rules, provided that compliance of the Proposed Scheme Facility with the limits specified in paragraphs (B) and (C) above shall be determined based on the certifications provided by the relevant Applicant during the Standard Scheme Application Process.

“**Net Proceeds**” means, in respect of a Borrowing Facility, all sums received, recovered or realised by the Lender following the earliest date of demand for repayment of any Borrowing Facility in respect of any amounts outstanding from the Borrower to the Lender in respect of the Borrowing Facilities, including:

- (A) any Collateral which, according to its terms, is capable of being used as a means of repaying any Borrowing Facility of the Borrower;
- (B) any Collateral which is acquired by the Lender following the earliest date of demand for repayment of any Borrowing Facility, whether as a result of the taking of court proceedings or the voluntary granting of any such Collateral, in its pursuing the repayment of amounts outstanding to the Lender under Borrowing Facilities;
- (C) any repayments made to the Lender on a voluntary basis or as a result of the taking of court proceedings (including, but not limited to, as a result of the obtaining of judgment, a warrant of execution, an attachment of earnings order or a third party debt order);
- (D) any lump sum or *ad hoc* repayments or repayments made to the Lender by way of an agreed repayment plan; and
- (E) any payments made to the Lender consequent on any bankruptcy or insolvency proceedings (including any payments made consequent on an individual or company voluntary arrangement),

in each case, after deduction of (on a full indemnity basis) all costs, charges and expenses incurred in relation to any such receipt, recovery or realisation and of such further sum, if any, as the Lender may think appropriate (acting reasonably) by way of provision (on such basis) for any such costs, charges and expenses.

“Non-Scheme Facility” means any term loan, revolving, invoice finance, factoring or asset finance facility or other type of credit, financing, loan or mortgage facility available or made available to persons from time to time by the Lender other than a Scheme Facility.

“Notified Permitted Variation” means any amendment or variation to a Scheme Facility of a type notified by the Guarantor to the Lender from time to time for the purposes of Clause 6.3 (*Permitted Variations*), including by way of Scheme Guidance.

“Offer Date” means, in respect of a Scheme Facility, the date when the Lender makes the offer of such Scheme Facility, as set out in the relevant Scheme Facility Letter.

“Original Guaranteed Balance” means, in respect of a Scheme Facility, the principal amount outstanding under that Scheme Facility on the Initial Drawdown Date.

“Original Portion” means, in respect of a Topped-Up Scheme Facility, all amounts comprised in the Outstanding Guaranteed Balance that are not attributable to the Scheme Facility Top-Up.

“Original Top-Up Guaranteed Balance” means, in respect of a Scheme Facility Top-Up, the principal amount of such Scheme Facility Top-Up on the drawdown date of such Scheme Facility Top-Up.

“Outstanding Guaranteed Balance” of a Scheme Facility will, on any date, be equal to:

- (A) if such date falls prior to the earlier of (1) the Borrowing Facilities Demand Date and (2) the Expiry Date, in each case of such Scheme Facility, the amount outstanding from the relevant Borrower to the Lender in respect of such Scheme Facility (excluding, for the avoidance of doubt, any Additional Guarantee Amount but including any other amounts of interest or other costs, fees, expenses or charges which accrue in respect of such Scheme Facility, in each case before the earlier of the dates in sub-paragraph (A)(1) and (2) above), as recorded in the books and records of the Lender; or
- (B) if such date falls on or after the earlier of the Borrowing Facilities Demand Date or the Expiry Date, in each case of such Scheme Facility, the lesser of (1) the amount outstanding from the relevant Borrower to the Lender in respect of such Scheme Facility (excluding, for the avoidance of doubt, any Additional Guarantee Amount but including any amounts of interest or other costs, fees, expenses or charges which accrue in respect of such Scheme Facility to and including the earlier of the Expiry Date or the Borrowing Facilities Demand Date, in each case of such Scheme Facility) as recorded in the books and records of the Lender (the “Relevant Amount”) and (2) the Relevant Amount as reduced by any recoveries applied to the balance of such Scheme Facility in accordance with Schedule 6 (*Recoveries*),

subject to a minimum of zero.

“Party” means a party to this Agreement.

“Payee” has the meaning given to such term in Clause 10.2 (*Errors in payment*).

“Payer” has the meaning given to such term in Clause 10.2 (*Errors in payment*).

“Payment Claim” means a claim under a Scheme Guarantee or in respect of an Additional Guarantee Amount, in each case to be made by the Lender to the Guarantor through the relevant BBB Reporting System.



“Personal Data” has the meaning given to such term in the Data Protection Act 2018 or, if the context so requires, the meaning given to any equivalent term under Regulation (EU) 2016/679.

“Personal Guarantor” means, in respect of an Applicant, any individual who has granted a personal guarantee in respect of such Applicant in connection with any Borrowing Facility.

“Potential Event of Default” means any event which is or would become (with the passage of time, the giving of notice, the making of any determination hereunder or any combination thereof) an Event of Default.

“Primary Personal Vehicle” means the primary personal vehicle of:

- (A) a Borrower;
- (B) any individual who has provided or is proposing to provide a guarantee and/or indemnity in favour of the Lender which, according to its terms, is capable of being used as a means of repaying any Borrowing Facility; or
- (C) any individual, not falling within paragraph (B) above, who has provided or is proposing to provide security in favour of the Lender which, according to its terms, is capable of being used as means of repaying any Borrowing Facility,

in each case, irrespective of whether or not that individual is the sole owner of that vehicle or jointly owns that vehicle with one or more other persons.

“Principal Private Residence” means the principal private residence of:

- (A) a Borrower;
- (B) any individual who has provided or is proposing to provide a guarantee and/or indemnity in favour of the Lender which, according to its terms, is capable of being used as a means of repaying any Borrowing Facility; or
- (C) any individual, not falling within paragraph (B) above, who has provided or is proposing to provide security in favour of the Lender which, according to its terms, is capable of being used as means of repaying any Borrowing Facility,

in each case, irrespective of whether or not that individual is the sole owner of that residential property or jointly owns that residential property with one or more other persons.

“Probationary Lender” means, if the Guarantor so notifies in writing to the Lender on or before the Effective Date, the designation given to the Lender during the Probationary Period.

“Probationary Lender Side Letter” means, if the Lender is designated as a Probationary Lender, the side letter entered into on or before the Effective Date and made between the Lender and the Guarantor, as amended, varied, supplemented or replaced from time to time.

“Probationary Period” means, if the Lender is designated as a Probationary Lender, the period from and including the Effective Date until the date with effect from which the Guarantor notifies the Lender that its designation as a Probationary Lender is to cease (such determination to be in the discretion of the Guarantor).

“Proposed Scheme Facility” means a Scheme Facility which the Lender proposes, or is considering proposing, to make available to an Applicant and, for the avoidance of doubt, does not include a proposed Scheme Facility Top-Up.

“Proposed Scheme Facility Amount” means, in respect of a Proposed Scheme Facility, the principal amount under that Proposed Scheme Facility applied for by the Borrower during the Standard Scheme Application Process.

“Qualifying Fraud Processes” has the meaning given to it in Schedule 8 (*Appropriate Standards – AML, KYC and Fraud Checks*).

“Relevant Personal Guarantee” means a personal guarantee from a Personal Guarantor the proceeds of which would be available to the Lender in whole or in part to cover liabilities of the Borrower under a Scheme Facility.

“Repayment Demand” has the meaning given to it in Clause 8.2(A)(2) (*Conditions to making a Payment Claim in respect of a Scheme Guarantee*).

“S140A Amount” means the amount of principal and/or interest in respect of a Scheme Facility that the Lender is unable to receive from, or is required to repay to, the Borrower as a result of a S140A Event.

“S140A Event” has the meaning given to it in Clause 30.2 (*Legislative changes*).

“Scheme” means the scheme established in 2020 known as the Bounce Back Loan Scheme.

“Scheme Documents” means this Agreement, each Scheme Guarantee, any Probationary Lender Side Letter and any other agreement or document designated as such and notified to the Lender in writing by the Guarantor.

“Scheme Facility” means a term loan facility made available by the Lender to a Borrower pursuant to the Scheme and includes, in respect of any such facility that has been the subject of a Scheme Facility Top-Up, the Topped-Up Portion of such facility.

“Scheme Facility Letter” means, in respect of a Scheme Facility, the letter or agreement between the Lender and the relevant Borrower setting out the terms of that Scheme Facility.

“Scheme Facility Top-Up” means an increase in the principal amount of a Scheme Facility offered to a Borrower in accordance with Clause 4.3 (*Offer of a Scheme Facility Top-Up*).

“Scheme Guarantee” has the meaning given to it in Recital (A).

“Scheme Guidance” means the documents specified in Schedule 7 (*Scheme Guidance*) and such other scheme guidance in respect of which the Lender is provided reasonable prior notice in accordance with Clause 22 (*Notices*) from time to time.

“Standard Scheme Application Process” means the standard question set and declarations, including data protection declaration, set out in Schedule 3 (*Standard Question Set and Declarations*), as incorporated by the Lender into its customer application process, as the same may be updated and/or modified from time to time by notice from the Guarantor to the Lender.

“State aid Amount” has the meaning given to it in Clause 11.2(A) (*Disclosure to Applicant*).

“Sterling” and **“£”** mean the lawful currency for the time being of the United Kingdom.

[REDACTED]

“**Subsidiary**” means a subsidiary within the meaning of 1159 of the Companies Act 2006.

“**Surplus Proceeds**” means the aggregate of all amounts of:

- (A) Net Proceeds received, recovered or realised by the Lender after the Claim Date;
- (B) Net Proceeds held by the Lender in a suspense or impersonal account on the Claim Date; and
- (C) payments made by the Guarantor under any Scheme Guarantee relating to the relevant Borrower,

[REDACTED]

“**Temporary Framework**” means the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (19.3.20/1863).

“**Termination Date**” means the date of termination of this Agreement being whichever is the earlier of:

- (A) 31 March 2021 or such later date as is determined by the Guarantor and notified to the Lender in accordance with Clause 22 (*Notices*); and
- (B) the date notified as being the date of termination under Clause 16.2(B) (*Early termination upon the occurrence of an Event of Default*) or 16.2(C) (*Termination without cause*) (as the case may be).

“**Third Party Intermediary**” has the meaning given to it in Clause 14.6 (*Use of brokers and intermediaries*).

“**Top-Up Application Process**” means the standard question set and declarations for Scheme Facility Top-Ups set out in Schedule 12 (*Standard Scheme Facility Top-Up Question Set and Declarations*), as incorporated by the Lender into its customer application process, as the same may be updated from time to time by notice from the Guarantor to the Lender.

“**Top-Up Eligibility Criteria**” has the meaning given to it in Schedule 11 (*Top-Up Eligibility Criteria*), as the same may be supplemented or amended from time to time by the Guarantor provided the Lender has received at least 30 calendar days’ notice of such change in accordance with Clause 22 (*Notices*).

“**Top-Up Maximum Amount**” means, in respect of a Scheme Facility Top-Up and the Scheme Facility to which such Scheme Facility Top-Up is to be applied, an amount equal to:

- (A) the lower of:
 - (1) £50,000;
 - (2) 25% of the total turnover of the business of the Borrower; or

- (3) if the Borrower was an Undertaking in Difficulty on 31 December 2019, the maximum amount that would be permitted pursuant to State aid rules,

minus

- (B) the Original Guaranteed Balance of such Scheme Facility,

provided that compliance with the limit specified in sub-paragraph (A)(2) shall be determined based on the certifications provided by the relevant Borrower during the Standard Scheme Application Process and compliance with the limit specified in sub-paragraph (A)(3) above shall be determined based on the certifications provided by the relevant Borrower during the Top-Up Application Process.

“Top-Up Minimum Amount” means £1,000.

“Top-Up Offer Date” means, in respect of a Scheme Facility Top-Up, the date on which the Lender makes the offer of such Scheme Facility Top-Up.

“Topped-Up Portion” means, in respect of a Topped-Up Scheme Facility, all amounts comprised in the Outstanding Guaranteed Balance that are attributable to the Scheme Facility Top-Up.

“Topped-Up Scheme Facility” means a Scheme Facility that has been the subject of a Scheme Facility Top-Up.”

“Trading Activity” means any trading or commercial activity that generates turnover (whether or not such activity is carried on with the intention of making a profit).

“Undertaking in Difficulty” means an “undertaking in difficulty” as defined in Article 2(18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014.

“United Kingdom” means England, Scotland, Wales and Northern Ireland.

“Visibility and Promotion Guidelines” means the visibility and promotion guidelines that are set out in the Scheme Guidance from time to time.

PART 2 : INTERPRETATION

1. General

In this Agreement:-

- (A) the headings to Clauses and Schedules are for ease of reference only;
- (B) a reference to a "Clause" or a "Schedule" is to a Clause or Schedule in this Agreement;
- (C) the term "month" means calendar month;
- (D) the term "person" includes any individual, firm, partnership, joint venture, company, corporation, corporation sole, unincorporated body, state, Agency or association or any two or more of the foregoing and will be construed so as to include that person's assignees, transferees or successors in title;
- (E) references to any one gender include references to all other genders;
- (F) references in this Agreement to "this Agreement" or any other document will be construed as references to this Agreement or that other document as amended, varied, replaced, novated or supplemented from time to time, as the case may be;
- (G) words importing the singular will include the plural and vice versa unless the context otherwise requires;
- (H) references to any statute or statutory provision include any statute or statutory provision which amends, extends, consolidates, or replaces the same, or which has been amended, extended, consolidated, re-enacted or replaced, and will include any orders, regulations, instruments or other subordinate legislation made under the relevant statute;
- (I) references to "assets" will include revenues and the right to revenues and property and rights of every kind, present, future and contingent and whether tangible or intangible (including uncalled share capital);
- (J) the words "other" and "otherwise" will not be construed as the same as any foregoing words where a wider construction is possible;
- (K) the words "including" and "in particular" will be construed as being by way of illustration or emphasis only and will not be construed as, nor will they take effect as, limiting the generality of any foregoing words;
- (L) references to "quarter" and "quarterly" will be construed, respectively, as being and relating to a period of 3 months;
- (M) references to the "Guarantor" will be construed, save as regards the use of such references in Clause 2.1 (*Guarantee*), so as to include any person to whom the Guarantor has delegated authority to act on his behalf, or any person through whom the obligations and functions of the Guarantor are performed, under or in connection with this Agreement and/or the operation of the Scheme (including, but not limited to, the British Business Bank plc or any of its Affiliates);

- (N) references to the “Lender” will be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (O) references to anything being “remedied” or “unremedied” means remedied or not remedied (as the case may be) to the satisfaction of the Guarantor and references to anything being “waived” or “unwaived” means waived or not waived (as the case may be) in writing by the Guarantor;
- (P) [DELETED]
- (Q) the Schedules will be treated as an integral part of this Agreement and references to “this Agreement” will include the Schedules;
- (R) where the Applicant/Borrower comprises more than one person because the relevant Proposed Scheme Facility or Scheme Facility is to be, or has been, made available to more than one associated enterprise, then references to “Applicant” and “Borrower” in the Scheme Documents will be construed, as the context requires, as though all such persons were a single person; and
- (S) if there is any inconsistency in the information provided to the Guarantor by the Lender pursuant to, or in connection with, this Agreement or the BBB Reporting Systems (including any amount, limit or date in respect of a Scheme Facility) and the terms of a Scheme Facility as agreed with the relevant Borrower, then the Guarantor may rely on the information so notified to the Guarantor for the purposes of any determination or calculation to be made pursuant to this Agreement.

2. Multiple Lenders

Unless otherwise notified to the relevant Group Lender in the Allocation Letter delivered to it by or on behalf of the Guarantor, where the term “Lender” comprises more than one person (as defined in paragraph 1(N) (*General*) of Part 2 (*Interpretation*) of Schedule 1 (*Definitions and Interpretation*)) (each such person being a “**Group Lender**”) the obligations and liabilities of each Group Lender under the Scheme Documents will, where the context requires, be several and not joint and several and any references to “Lender”, “Party” or “Parties” will be construed, and all relevant agreements and undertakings on each Group Lender’s part will take effect, accordingly and provided that:

(A) Definitions

The Annual Lending Limit and Annual Lending Total will apply as though the Lender were a single person (such that each Group Lender will not have separate limits and totals but instead there will be one amount in respect of each such limit or total applicable to all the Group Lenders on an aggregated basis) and any use of the term “Lender” (subject to the remaining provisos to this Schedule) in those definitions or in any related provision of a Scheme Document (including, but not limited to, in Clause 5 (*Annual Lending Limit*)) will, where the context requires, be construed accordingly.

(B) Notices

Any notice, request, demand or other communication given or made by the Guarantor in accordance with the provisions of Clause 22 (*Notices*) will, unless otherwise specified by the Guarantor in the relevant notice, request, demand or other communication, be deemed to have been given or made to every Group Lender notwithstanding that any such notice, request, demand or other communication might not have been given, made, delivered or addressed to that Group Lender.

(C) Scheme Document

Any provision in a Scheme Document which refers to the agreement of the Guarantor and the Lender will, if the relevant agreement is reached with any one Group Lender, be binding on each other Group Lender (unless otherwise agreed by the Guarantor or in circumstances where the nature of the agreement which is reached, or the context of the relevant provision, is such that the agreement is only capable of applying to one or more specific Group Lenders).

(D) Annual Lending Limit

Any notification to be given by the Lender under Clause 5.3(A) (*Breach of the Annual Lending Limit*) must be given by either one Group Lender as agent for and on behalf of all the Group Lenders (in which case all the Group Lenders will be bound) or by all the Group Lenders.

(E) Meetings with the Guarantor or any Guarantor Related Party

Any provision in a Scheme Document which requires a meeting between the Guarantor or any Guarantor Related Party and the Lender will be attended by those Group Lenders which the Guarantor or any Guarantor Related Party specifies as being required to attend such meeting and, in default of any such specification being made by the Guarantor or any Guarantor Related Party, by one Group Lender as agent for and on behalf of all the Group Lenders (in which case all the Group Lenders will be bound by any agreement reached at any such meeting).

(F) Negotiations with the Guarantor

Any provision in a Scheme Document which requires the Guarantor and the Lender, if the relevant specified circumstances apply, to seek to negotiate amendments to a Scheme Document will take place between the Guarantor and either one Group Lender as agent for and on behalf of all the Group Lenders (in which case all the Group Lenders will be bound) or by all the Group Lenders.

(G) Payment Claims

In Clause 8.2(A)(2), references to the term “Lender” refer only to that Lender which is the beneficiary of the guarantee of the relevant Scheme Facilities made available by that Lender (and not any other Group Lender) to the relevant Borrower).

(H) Cancellation of Scheme Guarantee

In Clause 16 (*Cancellation of Scheme Guarantees and termination of the Agreement*), each reference to “the Lender” will be construed as references to “the Group Lenders or any Group Lender”.

(I) Termination

In Clause 16.2(C) (*Early termination of the Agreement*), references to “Either Party” and “the other Party” will be construed as references respectively to “The Group Lenders (or one Group Lender as agent for and on behalf of all the Group Lenders, each of whom will be bound by such notice) or the Guarantor” and “, as the case may be, the Guarantor or the Lender”.

(J) Liability and Indemnity

In Clause 18 (*Liability and indemnity*), references to “the Lender” will be construed as a reference to “any Group Lender”.

(K) Assignment and Transfer

In Clause 29.2(A) (*Lender*), the phrase “The Lender will not be entitled” will be construed as reading “Neither the Group Lenders nor any single Group Lender will be entitled”.

SCHEDULE 2 : ELIGIBILITY CRITERIA

Each Proposed Scheme Facility must satisfy each of the following criteria (the “**Eligibility Criteria**”) at the relevant Offer Date:

Except where specific additional evidence is required as stated below, where the Applicant is required to confirm any of the information in the Eligibility Criteria to the Lender, the Lender is not required to verify this information independently beyond its appropriate fraud checking processes in accordance with Schedule 8 (Appropriate standards – AML, KYC and fraud checks).

1. The Applicant

(A) The relevant Applicant has confirmed to the Lender that it is not:

- (1) a credit institution that is subject to Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms;
- (2) a firm with a Part 4A permission to carry on the regulated activity of accepting deposits and which is a credit institution; or
- (3) a building society; or
- (4) an EEA bank,

as each term is defined in the Prudential Regulation Authority Rulebook as at 1st April 2020; or

- (5) a firm with permission to effect contracts of insurance or carry out contracts of insurance (other than a UK ISPV).

(B) The relevant Applicant has confirmed to the Lender that it is not:

- (1) an individual other than a sole trader;
- (2) an individual other than a partner acting on behalf of a partnership;
- (3) classified to the public sector by the Office of National Statistics; or
- (4) a state funded primary or secondary school.

(C) The relevant Applicant has confirmed to the Lender whether or not it was, on 31 December 2019, an Undertaking in Difficulty and if the Applicant has confirmed to the Lender that it was, on 31 December 2019, an Undertaking in Difficulty, the Applicant has also confirmed to the Lender that the Proposed Scheme Facility will not (in whole or in part) be provided in support of export related activities.



(D) The relevant Applicant has confirmed to the Lender that, at the time of submitting its Scheme Facility application, it is not subject to a debt relief order or an individual voluntary arrangement, an undischarged bankrupt nor has it applied for nor is in the process of dissolving (including applying for, or having made an application for, or having taken any other steps for, a dissolution of) its business, nor, if the Applicant

is applying for the Proposed Scheme Facility as a partnership, in a voluntary arrangement with its creditors nor in liquidation, or (in Scotland) subject to a debt payment plan, trust deed – whether protected or not - or an undischarged bankrupt.

- (E) The relevant Applicant has confirmed to the Lender that it is engaged in Trading Activity in the United Kingdom at the Date of Application, provided that any temporary cessation of business due to Coronavirus (COVID-19) shall be ignored for these purposes.
- (F) The relevant Applicant has confirmed to the Lender that if the Applicant or its Group receives or will receive income from sources other than its Trading Activity as at the Date of Application, more than 50% of the income of that Applicant, together with its Group, is at the Date of Application derived from its Trading Activity. This criterion shall not apply if the Applicant is a charity or a further education college.
- (G) The relevant Applicant has confirmed to the Lender that it has been adversely impacted by the Coronavirus (COVID-19).
- (H) The relevant Applicant has confirmed to the Lender that it is not currently using or applying for the Coronavirus Business Interruption Loan Scheme (CBILS), the Coronavirus Large Business Interruption Loan Scheme (CLBILS) or the Bank of England's COVID Corporate Financing Facility (CCFF), unless the Scheme Facility will refinance the whole of the CBILS, CLBILS or CCFF facility.
- (I) The relevant Applicant has confirmed to the Lender that it is either a company or limited liability partnership incorporated or established in the United Kingdom, or is a tax resident in the United Kingdom.
- (J) The relevant Applicant has confirmed to the Lender that neither it nor any member of its Group has previously borrowed under the Scheme nor is currently making any other application for the Scheme.
- (K) The relevant Applicant was carrying on its business on 1 March 2020. The existence of the business is evidenced by:
 - (1) its holding of a business current account with the Lender;
 - (2) where the Applicant is using a personal current account with the Lender for its business and the Applicant's business was established on or before 5 April 2019, by the provision by the Borrower of a copy of its HM Revenue & Customs 2018-2019 tax return; or
 - (3) by other checks carried out by the Lender when a business applies for a loan.

2. **The Scheme Facility**

- (A) The relevant Applicant has completed the Standard Scheme Application Process.
- (B) The Applicant has confirmed to the Lender that the Proposed Scheme Facility will be used for an Eligible Purpose (which may include the refinancing of an existing Borrowing Facility used for an Eligible Purpose) and to support trading or commercial activity (or, in respect of Applicants that are registered charities or further education colleges, activities) in the United Kingdom.
- (C) The Proposed Scheme Facility will be denominated in Sterling or in such other lawful currency of the United Kingdom from time to time.

- (D) The Proposed Scheme Facility Amount of the Proposed Scheme Facility is equal to or more than £2,000 and is not greater than the Maximum Amount.
- (E) The Proposed Scheme Facility will, upon its due execution and delivery on behalf of the Applicant, constitute legal, valid and binding obligations of the Applicant, enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganisation or other similar laws affecting the enforcement of the rights of creditors generally. Any lack of capacity or authority of the Applicant to enter into the Proposed Scheme Facility shall be ignored for the purposes of determining compliance with this criterion, provided that the Lender has complied with the requirements of Schedule 8 (*Appropriate standards – AML; KYC and fraud checks*) and in doing so, did not become aware of such lack of capacity or authority.
- (F) The Proposed Scheme Facility has a term of 6 years.
- (G) The Proposed Scheme Facility will not require the payment by the Borrower of any Lender-levied fees of any description (including on default) or, without prejudice to the right of the Lender to continue to charge interest at 2.5% per annum after the Scheme Facility becomes repayable, any default interest.
- (H) The interest rate on the Scheme Facility will be 2.5% per annum.
- (I) The Proposed Scheme Facility will not require any repayment of principal for the first 12 months of its term.
- (J) The Proposed Scheme Facility will allow early repayment at any time, without any early repayment fees being charged.
- (K) After the first 12 months, the principal borrowed under the Scheme Facility will be repayable by the Borrower on the basis of straight-line amortisation during the scheduled term of the Scheme Facility.
- (L) The Initial Drawdown of the Proposed Scheme Facility must be made in a single instalment which must be scheduled to occur within 6 months of the date of the Scheme Facility Letter relating thereto.
- (M) The Proposed Scheme Facility shall not benefit from any personal guarantee, or any Excluded Residential or Vehicle Net Proceeds.

SCHEDULE 3 : STANDARD QUESTION SET AND DECLARATIONS

Bounce Back Loan Scheme Application Form

Bounce Back Loan – Key Features

- Loans of between £2,000 to £50,000 (up to a maximum of 25% annual turnover)
- Government covers the first 12 months of interest (this means you pay 0% for the first year)
- No repayments required for the first 12 months
- Interest rate of 2.5%
- 6-year loans with no early repayment charges.

Section 1 - Applicant details

- Name of your company, business or association
- Company Registration/Registered Charity Number (if applicable)
- Business Address
- Business Postcode
- Contact telephone number
- Email address

Section 2 – Information for your Lender

Please select which of these is applicable to your application:

- If you are applying for a Bounce Bank Loan from a lender with whom you have a business current account or charity bank account, please supply your account number and sort code
- If you are applying for a Bounce Back Loan from a lender with whom you have a personal current account used for your business, and your business was established on or before 5 April 2019, please supply your account number and sort code. The lender will require you to provide a scanned copy of your 2018/19 self-assessment tax return. [Lender to specify how this is to be provided – for example, uploaded with this application form or emailed]. Your lender may also ask for additional information to verify you as a business customer.
- If you are applying for a Bounce Bank Loan from a lender with whom you have a personal current account and your business was established between 6 April 2019 and 1 March 2020, you will need to discuss becoming verified as a business customer with your lender in order to qualify for a Bounce Back Loan
- If you are applying for a Bounce Back Loan from either a new lender or from a lender with whom you have a financial relationship that is neither a business current account nor a personal current account, or you are an unincorporated association, they may need to ask you some further questions as part of the loan application process

For the relevant bank account selected above, please state:

- Name on account
- Account number
- Sort code

Section 3 - Loan

- You can apply for a loan which is up to 25% of your turnover in calendar year 2019, from a minimum of £2,000, up to a maximum of £50,000. If your business was established after 1 January 2019, you should apply the 25% limit to your estimated annual turnover from the date you started your business.
- What is your annual turnover, or if your business was established after 1 January 2019, what is your estimated annual turnover?
- For businesses which are part of a broader group, please state your group's turnover.

- How much would you like to borrow under the Bounce Back Loan Scheme:

- Please confirm that this is equal to or less than 25% of annual turnover for 2019 or your estimated annual turnover. Please note: if you are part of a larger group, this should apply at group level.

Yes

- As part of the scheme, the government is offering a Business Interruption Payment which will cover your interest payments for the first year of a Bounce Back Loan. The government will pay the Business Interruption Payment directly to your lender. Please confirm that you are content to agree to this Business Interruption Payment¹.

Yes, I confirm that I agree to the Business Interruption Payment.

Section 4 – Questions about your Business

Has your business been adversely impacted by Covid-19? If you answer no to this question, your business is not eligible for a Bounce Back Loan.

Yes

No

Was your business already insolvent or otherwise a business in difficulty² on 31 December 2019?

¹ Please note: for the purposes of questions in this form and the State Aid form which ask about amount of State Aid received, you will need to take into account both the value of the loan applied for and the value of the Business Interruption Payment (covering the first year of interest on the loan).

² As defined by [EU Regulation 651/2014](#), a business is considered in a difficulty if it met any one of the following criteria on 31 December 2019:

- a) Individuals or companies that have entered into collective insolvency proceedings;

Yes

No

If you are unsure whether your business was in difficulty, please complete the 'Business in Difficulty' questionnaire which will help you to answer this question.

If you selected yes, please also complete the State Aid form. If you selected no, please go to section 5 below.

Section 5 - Declarations

With the submission of this loan application, you, the Borrower, declare the following:

1. I/We confirm that my/our business was carrying on its business on 1 March 2020, that I was/we were engaged in trading or commercial activity in the United Kingdom as at the date of this application³, and the business has been adversely impacted by COVID-19.
2. I/We confirm that this is my/our only application for a Bounce Back Loan for this business, and I am/we are not part of a wider group which is in the process of applying for or has already received a Bounce Back Loan. I/We confirm that I/we (including as part of a wider group) have not yet obtained, nor am I/are we in the process of applying for, a loan through either the Coronavirus Business Interruption Loan Scheme (CBILS), the Coronavirus Large Business Interruption Loan Scheme (CLBILS), or the Covid Corporate Financing Facility (CCFF) for this business unless those facilities will be refinanced in full by the Bounce Back Loan which I am/ we are now applying for.
3. I/We confirm that I am/we are not:
 - a. a bank or building society;
 - b. an insurance company;
 - c. public sector organisation, or a state-funded primary or secondary school; or
 - d. an individual other than a sole trader or a partner acting on behalf of a partnership.
4. I/We confirm at the time of submitting this application, I am/we are not subject to a debt relief order or an individual voluntary arrangement, an undischarged bankrupt nor have applied for or are in the process of dissolving (including applying for, or having made an application for, or taken any other steps for) a dissolution of my/our business nor, if we are applying for the loan as a partnership, in a voluntary arrangement with my/our creditors nor, in liquidation, or (in Scotland) subject to a debt payment plan, trust deed – whether protected or not - or an undischarged bankrupt.
5. I am/we are either a company or limited liability partnership incorporated or established in the UK, or I am/we are tax resident in the UK

-
- b) Limited companies which have accumulated losses greater than half of their share capital in their last annual accounts (this does not apply to SMEs* less than 3 years old);
 - c) Partnerships, limited partnerships or unlimited liability companies which have accumulated losses greater than half of their capital in their latest annual accounts (this does not apply to SMEs less than 3 years old);
 - d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan;
 - e) A company which is not an SME where, for each of the last two accounting years: i) your book debt to equity ratio has been greater than 7.5; and ii) your EBITDA interest coverage ratio has been below 1.0

* SMEs are defined as a business with less than 250 employees and either (a) a turnover of less than £44.45m or (b) a balance sheet of less than £38.22m

³ Ignoring any temporary cessation due to Covid-19

6. I/We confirm that either:
- a. I was/we were not a business in difficulty on 31 December 2019 and that if I am/we are successful in this Bounce Back Loan application⁴, that I/we, together with any other business in my/our group /under my/our common control will not have received more than £711,200 in State Aid since 19 March 2019 under the State Aid Temporary Framework⁵ (or £106,680 in the case of fisheries and aquaculture businesses, or £88,900 for agriculture businesses); or
 - b. That if I was/we were a business in difficulty on 31 December 2019, that, if I am successful in my Bounce Back Loan application⁶:
 - i. For businesses involved in fisheries and aquaculture: I/we together with any other business in my/our group/under my/our common control will not have received more than £26,670 in de minimis State Aid
 - ii. For businesses involved in agriculture: I/we together with any other business in my/our group/under my/our common control will not have received more than £17,780 in de minimis State Aid
 - iii. For businesses involved in logistics: I/we together with any other business in my/our group/under my/our common control will not have received more than £88,900 in de minimis State Aid
 - iv. For all other businesses: I/we together with any other business in my/our group/under my/our common control will not have received more than £177,800 in de minimis State Aid,

in each case during the last three years.
7. I/We confirm that if I was/we were a business in difficulty on 31 December 2019, the Bounce Back Loan will not (in whole or in part) be used to support export related activities.
8. I/We confirm that if I/we or any member of my/our group receive income from sources other than my/our trading activity, more than 50% of my/our business' income, together with that of any member of my/our group, is derived from my/our business' trading activity⁷.
9. I/We undertake to use the credit granted on the basis of this agreement only to provide economic benefit to my/our business, for example, providing working capital, or investing in my/our business. I/We also confirm that the Bounce Back Loan will be used wholly for business purposes and not personal purposes.
10. I/We have reviewed and understood the costs associated with repayment of the loan, that is, the principal and interest and repayment of capital during the period beginning from the second year of the loan until its expiry five years later. I/We confirm that I am/we are able and intend to complete timely repayments in future. In addition, I/we understand that the 100% guarantee that is provided by the government under this scheme is to cover any losses made by the lender, and does not cover losses that I/we might suffer if I am/we are unable to meet my payment obligations for which I/we remain fully liable. I/We understand that if I am/we are unable to meet

⁴ The Bounce Back Loan (including the value of the Business Interruption Payment) constitutes State Aid. The Business Interruption Payment, which covers the interest of 2.5% for year one of the Bounce Back Loan, must be accounted for in this declaration. Please note: If you are active in Fisheries and Aquaculture, Bounce Back Loans are not available for the activities listed in Article 1, Paragraph 1 of [European Commission Regulation 717/2014](#)

⁵ If you have received de minimis State Aid before, including under the Temporary Framework, you will have received a letter confirming the value of your de minimis State Aid.

⁶ The Bounce Back Loan (including the value of the Business Interruption Payment) constitutes State Aid. The Business Interruption Payment, which covers the interest of 2.5% for year one of the Bounce Back Loan, must be accounted for in this declaration. Please note: If you are active in Fisheries and Aquaculture, Bounce Back Loans are not available for the activities listed in Article 1, Paragraph 1 of [European Commission Regulation 717/2014](#)

⁷ This does not apply to charities or further education colleges.

my/our payment obligations, this could have a negative impact on my credit score, which may reduce my ability to access further lending in the future.

11. I/We understand that, while the prohibition of personal guarantees under the Bounce Back Loan Scheme fully protects the personal assets of owners and directors of limited liability companies, if I am/we are a sole trader or partnership my/our personal assets may be at risk, should I/we fail to complete loan repayments as per the loan agreement with the lender. Per the terms of the Bounce Back Loan Scheme, neither the lender nor the government as guarantor will seek to enforce the loan against my/our main home or main vehicle.
12. **I/We understand that this loan, made under the Bounce Back Loan Scheme , is not subject to the usual consumer protections that apply to business lending and as such I/we will not have the benefit of the protection and remedies that would otherwise be available to me/us under the [Financial Services and Markets Act 2000](#) or the [Consumer Credit Act 1974](#).**
13. **I/We understand that the lender will not conduct any form of credit or affordability check and accepts no responsibility, whether arising in contract, tort (including negligence) or otherwise, for my/our decision to borrow. I/We also understand that the lender may register its Bounce Back Loan with credit reference agencies, and that my credit rating may be affected by any failure or delay in repaying.**
14. I am/We are aware that, if I am/we are in any doubts as to the consequences of the agreement not being regulated by the [Financial Services and Markets Act 2000](#) or the [Consumer Credit Act 1974](#), then I/we should seek independent legal advice. I/We acknowledge that the lender is not responsible for informing me/us about these consequences.
15. I/We make the data protection declaration (annexed below) and, if relevant have provided notice of data processing to relevant individuals.
16. For loan applications being submitted on behalf of limited companies, unincorporated associations, charities, or partnerships: I/We declare that I/we are submitting this form in accordance with my/our company/partnership/charity/unincorporated association signing mandate.
17. I/We recognise that by providing information that is inaccurate or incomplete in any material particular, I/we may be regarded as attempting to gain, or gaining, a financial advantage dishonestly and as such will be liable to criminal prosecution for fraud under the Fraud Act 2006 (or equivalent law in Scotland) (for which the penalties include imprisonment or a fine or both), as well as to the forfeiture of all loan proceeds together with interest and court costs.
18. I/We confirm that the information provided in this application is complete and accurate.

Section 6 - Borrower's Signature(s)

Please sign below and submit the form. In signing, I/we confirm that I/we have authority to bind my/our organisation to this agreement, noting that personal liability may exist if I/we apply without such authority.

Name: _____

Signature: _____

Position: _____

Date: _____

Name: _____

Signature: _____

Position: _____

Date: _____

Name: _____

Signature: _____

Position: _____

Date: _____

Annex: Text of data protection declaration

Data protection declaration (referred to above)

I/We, acknowledge in relation to the Bounce Back Loan Scheme application that personal data provided in this application shall be collected by the Lender and the British Business Bank plc, both of whom are data controllers, and used in the following ways:

- (A) the Lender's processing of my personal data shall be carried out in accordance with the Lender's Privacy Notice: [insert link to lender's privacy notice]
- (B) The British Business Bank's processing of my personal data shall be carried out in accordance with the British Business Bank Privacy Notice: <https://www.british-business-bank.co.uk/privacy-notice/>
- (C) Being communicated to each of:
 - (i) the Secretary of State for Business, Energy and Industrial Strategy its agents and auditors (the "**Guarantor**");
 - (ii) the British Business Bank plc, any affiliate of the British Business Bank plc and any of their advisers, agents or contractors including professional advisers and consultants, auditors and advisers carrying out due diligence;
 - (iii) processing agents, fund managers, delivery partners and companies providing services to the British Business Bank and its affiliates;
 - (iv) Government departments and Devolved Administrations (including but not limited to the National Audit Office, Office for National Statistics, HM Treasury and the Department for Business, Energy and Industrial Strategy) and other politicians or government members (i.e. ministers); and,
 - (v) the Lender's own group and relevant third parties.(the "**Guarantor Relevant Parties**");
- (D) being used by the Guarantor and any Guarantor Relevant Parties:
 - (i) for analytical and administrative purposes;
 - (ii) to contact me in connection with the Bounce Back Loan; and
 - (iii) to evaluate the effectiveness of the Bounce Back Loan Scheme; and
- (E) if a scheme facility is made available to me/us by the Lender being retained by the relevant recipient for a minimum of ten (10) years after the initial drawdown date of such scheme facility.

Bounce Back Loans – State Aid Form

Please complete this form only if instructed to do so by the instructions in Section 4 of the main Bounce Back Loan application form. Please return this form with your completed Bounce Back Loan application form.

If your business operates in fisheries or aquaculture⁸, agriculture, or logistics, please go to section 2. If you are in any other sector, please complete section 1 only.

Section 1 – General State Aid Questions

1. What is the value of the loan you are seeking under the Bounce Back Loan scheme?

2. Have you or any other company in your group of companies or under common control with your company received any de minimis State Aid before? If so, what is the value? (Note: if you have received de minimis State Aid before, you will have received a letter confirming the value of your de minimis State Aid)

Yes (please state value) No

3. Can you confirm that the combined value of your answers to 1 and 2 is less than £177,800?

Yes No

4. Can you confirm that you are not seeking the loan in relation to the establishment and operation of a distribution network or to other current expenditure linked to an export activity?

Yes No

If you answered yes to Q3 and Q4, please continue to section 5 in the main application form, and please return this form with your main Bounce Back Loans application form. If you answered no to Q3 or Q4, unfortunately you are not eligible for a Bounce Back Loan.

Section 2 – Sector-specific questions

5. What is the value of the loan you are seeking under the Bounce Back Loan scheme?

6. Have you or any other company in your group of companies or under common control with your company received any de minimis State Aid before, during the last three years, if so what is the value? (Note: if you have received de minimis State Aid before, you will have received a letter confirming the value of your State Aid).

Yes (please state value) No

⁸ Please note: Bounce Back Loans are not available to businesses active in the activities listed in Article 1, Paragraph 1 of [European Commission Regulation 717/2014](#)

7. For businesses involved in fisheries and aquaculture, is the combined value of 5 and 6 less than £26,670?

Yes

No

8. For businesses involved in agriculture, is the combined value of 5 and 6 less than £17,780?

Yes

No

9. For businesses involved in logistics, is the combined value of 5 and 6 less than £88,900?

Yes

No

If you answered no to any of questions 7, 8, or 9, unfortunately you are not eligible for support under the Bounce Back Loan scheme.

If you answered yes to questions 7, 8, or 9 (as applicable), **please return this form with your Bounce Back Loan application form.**

SCHEDULE 4 : REPORTING DATA

No.	Data requirement
1.	Undertaking in difficulty
2.	What is the legal name of the business
3.	What is the trading name of the Applicant, if the Applicant trades under another business name?
4.	What is the legal form of the Applicant?
5.	What is the Applicant's Company Registration Number (if applicable)?
6.	Which Standard Industrial Classification (SIC) code from the UK Standard Industrial Classification 2007 best describes the business sector in which the guarantee facility will be used?
7.	What is the turnover for 2019, or estimated 2019 turnover or 2018 turnover?
8.	What is the postcode of the Applicant's main business address?
9.	What is the sort code of the bank branch or business centre which originated this application?
10.	What is the total overall size of the facility to be provided?
11.	Lender Facility reference
12.	Offer Date
13.	Date funds drawn down
14.	Repayment Demand Date (if any)

SCHEDULE 5 : HMT & BBB REPORTING DATA

Data item	Frequency
Number and value of applications	Daily
Number and value of approvals	Daily
Number and value of declines	Daily
Number and value of facilities converted from CBILS / CLBILS	Daily
Single or double digit SIC code breakdown and maturity breakdown of Scheme Facilities offered and Scheme Facilities drawn	Weekly

In each case information should cover both (1) the information relating to the period since the last date to which such data was reported; and (2) the cumulative total of such data.

Where the frequency is specified to be daily, such information should be reported by 5pm on each Business Day in respect of the position as at the end of the immediately preceding Business Day.

Where the frequency is specified to be weekly, such information should be reported by 5pm on Monday of each week (or if such Monday is not a Business Day, on the next following Business Day) in respect of the position as at the end of the final Business Day of the preceding week.

[Redacted]

[Redacted]

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[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

SCHEDULE 7 : SCHEME GUIDANCE

The Lender will comply with the following Scheme Guidance (and/or such other Scheme Guidance as may be notified to the Lender from time to time):

1. the Lender Manual; and
2. the 'Frequently Asked Questions' relating to the Scheme.

[Redacted]

[Redacted]

[Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

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- [Redacted]

- [Redacted]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

SCHEDULE 10 : SCHEME FACILITY LETTER REQUIREMENTS

The language required in the Scheme Facility Letter as at the date of this Agreement is as follows:

“1. *BBLs Guarantee*

This Lending Facility is supported by the Bounce Back Loan Scheme (BBLs), managed by the British Business Bank on behalf of, and with the financial backing of, the Secretary of State for Business, Energy and Industrial Strategy

Your lender’s ability to provide you with this loan is dependent upon your lender receiving a guarantee from the UK Government under BBLs. The guarantee provides your lender with a full guarantee, should you default on repaying this loan.

2. *You are responsible for the repayment of your loan*

The BBLs guarantee is provided to your lender and not to you. You remain responsible for repaying the whole of this loan at all times and if you fail to do so this may negatively affect your credit score or rating with credit rating agencies.

3. *Obligations on your lender*

Your lender has agreed in connection with the BBLs to certain obligations in respect of their relationship with you, including making certain information available to you in relation to your loan. For more information, refer to [Lender to add website link] which includes details of your lender’s complaints handling procedure and your right to complain to the Financial Ombudsman Service ”

SCHEDULE 11 : TOP-UP ELIGIBILITY CRITERIA

Each Scheme Facility Top-Up must satisfy each of the following criteria (the “**Top-Up Eligibility Criteria**”) at the relevant Top-Up Offer Date:

1. **The Borrower and the Scheme Facility**

- (A) The Borrower has a Scheme Facility outstanding with the Lender.
- (B) No demand has been made for repayment of such Scheme Facility of the Borrower which has not subsequently been waived by the Lender.
- (C) The Borrower has confirmed to the Lender that it is either a company or limited liability partnership incorporated or established in the United Kingdom, or is a tax resident in the United Kingdom.
- (D) The Borrower has confirmed to the Lender that neither it nor any member of its wider group has previously borrowed under the Scheme Facility Top-Up nor is currently making any other application for the Scheme Facility Top-Up (other than any previously unsuccessful application).
- (E) The Borrower has confirmed to the Lender that it has not obtained or using, nor is the Borrower in the process of applying for (including as part of a wider group), a loan through either the Coronavirus Business Interruption Loan Scheme (CBILS), the Coronavirus Large Business Interruption Loan Scheme (CLBILS), or the Bank of England’s COVID Corporate Financing Facility (CCFF).
- (F) The Borrower has confirmed to the Lender that, at the time of submitting its application for a Scheme Facility Top-Up, it is not subject to a debt relief order or an individual voluntary arrangement, an undischarged bankrupt, nor has it applied for nor is in the process of dissolving (including applying for, or having made an application for, or having taken any other steps for, a dissolution of) its business, nor, if the Borrower is applying for the loan as a partnership, in a voluntary arrangement with its creditors nor in liquidation, or (in Scotland) subject to a debt payment plan, trust deed – whether protected or not - or an undischarged bankrupt. If the Top-Up Scheme Application Process for a Scheme Facility has been completed on or before 17 November 2020, there will be no breach of this Top-Up Eligibility Criterion if the Borrower has applied for or is in the process of dissolving (including applying for, or having made an application for, or having taken any other steps for, a dissolution of) its business, provided that the relevant Borrower in relation to such Scheme Facility Top-Up has complied with the remainder of this Top-Up Eligibility Criterion.
- (G) The Borrower has confirmed to the Lender whether or not it was, on 31 December 2019, an Undertaking in Difficulty and if the Borrower has confirmed to the Lender that it was, on 31 December 2019, an Undertaking in Difficulty, the Borrower has also confirmed to the Lender that the Scheme Facility Top-Up will not (in whole or in part) be provided in support of export related activities.

2. **The Scheme Facility Top-Up**

- (A) The Borrower has completed the Top-Up Application Process.
- (B) The proposed principal amount of the Scheme Facility Top-Up is equal to or more than the Top-Up Minimum Amount and is not greater than the Top-Up Maximum Amount.

- (C) The Scheme Facility Top-Up will be denominated in Sterling or in such other lawful currency of the United Kingdom from time to time.
- (D) The Scheme Facility Top-Up will, upon its due execution and delivery on behalf of the Borrower, constitute legal, valid and binding obligations of the Borrower, enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganisation or other similar laws affecting the enforcement of the rights of creditors generally. Any lack of capacity or authority of the Borrower to enter into the Scheme Facility Top-Up shall be ignored for the purposes of determining compliance with this criterion, provided that the Lender has complied with the requirements of Schedule 8 (*Appropriate standards – AML; KYC and fraud checks*) and in doing so, did not become aware of such lack of capacity or authority.
- (E) The drawdown of the Scheme Facility Top-Up must be made in a single instalment which must be scheduled to occur within 6 months of the date of the Top-Up Offer Date.
- (F) The Scheme Facility Top-Up shall not benefit from any personal guarantee, or any Excluded Residential or Vehicle Net Proceeds.
- (G) The Borrower has confirmed to the Lender that the Scheme Facility Top-Up will be used for an Eligible Purpose and wholly for business purposes and not personal purposes.

SCHEDULE 12 : STANDARD SCHEME FACILITY TOP-UP QUESTION SET AND DECLARATIONS

Bounce Back Loan – Top-Up Key Features

- If you have borrowed less than 25% of the annual turnover you stated on your original Bounce Back Loan application form, you are eligible for a Top-Up. The combined value of your original loan and Top-up cannot exceed 25% of your originally stated turnover, and is subject to an overall cap of £50,000. You may only apply for a Top-Up once.
- An interest rate of 2.5% per annum applies on the Top-Up. This is the same interest rate which applies to your existing Bounce Back Loan.
- Government covers the interest on the Top-Up up to the date on which your original interest free period on your existing Bounce Back Loan expires (i.e. 12 months after the initial draw-down of the original loan amount).
- No capital repayments are required up to the date on which your repayment holiday on your existing Bounce Back Loan expires (i.e. 12 months after the initial draw-down of the original loan amount).
- The term of the Top-Up will expire on the same date as the term of your original Bounce Back Loan.

Section 1 – Top-up

- How much would you like to borrow as a Top-Up to your existing Bounce Back Loan?

Please note that the total amount you wish to borrow when combined with your original Bounce Back Loan amount must be no more than 25% of annual turnover as certified in your original Bounce Back Loan application form. This is subject to an overall cap on the combined value of the original Bounce Back Loan and the Top-Up of £50,000. The minimum borrowing amount for a Top-Up is £1000.

- As part of the Top-Up, the Government is offering a Business Interruption Payment which will cover your interest payments up until the expiry of the interest-free period on your original Bounce Back Loan (that is, 12 months from the initial draw-down date of your original Bounce Back Loan). The government will pay the Business Interruption Payment directly to your lender. Please confirm that you are content to agree to this Business Interruption Payment¹.

Yes, I confirm that I agree to the Business Interruption Payment.

Section 2 – State aid

Did you confirm in your original form that your business was already a business in difficulty² on 31 December 2019?

Yes

No

If you selected yes, please also complete the State aid form. If you selected no, please go to section 3 below.

Section 3 - Declarations

With the submission of this application for a Top-Up, you, the Borrower, declare the following:

1. I am/we are either a company or limited liability partnership incorporated or established in the UK, or I am/we are tax resident in the UK
2. I/We confirm that (other than any previously unsuccessful application) this is my/our only application for a Top-Up for this business, and I am/we are not part of a wider group which has already received or is in the process of applying for a Top-Up. I/We confirm that I/we (including as part of a wider group) have not yet obtained, nor am I/are we in the process of applying for, a loan through either the Coronavirus Business Interruption Loan Scheme (CBILS), the Coronavirus Large Business Interruption Loan Scheme (CLBILS), or the Covid Corporate Financing Facility (CCFF) for this business.
3. I/We confirm at the time of submitting this Top-Up application, I am/we are not subject to a debt relief order or an individual voluntary arrangement, an undischarged bankrupt, or have applied for or are in the process of dissolving (including applying for, or having made an

¹ Please note: for the purposes of questions in this form and the State Aid form which ask about the amount of State Aid received, you should include the State aid amount provided to you by your lender in connection with your existing Bounce Back Loan and the amount of the Top-Up you are applying for in addition to any other State aid you have received. If your lender has provided you with an estimate of the Business Interruption Payment for your Top-Up, this should also be included.

² As defined by [EU Regulation 651/2014](#), a business is considered in a difficulty if it met any one of the following criteria on 31 December 2019:

- a) Individuals or companies that have entered into collective insolvency proceedings;
- b) Limited companies which have accumulated losses greater than half of their share capital in their last annual accounts (this does not apply to SMEs* less than 3 years old);
- c) Partnerships, limited partnerships or unlimited liability companies which have accumulated losses greater than half of their capital in their latest annual accounts (this does not apply to SMEs less than 3 years old);
- d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan;
- e) A company which is not an SME where, for each of the last two accounting years: i) your book debt to equity ratio has been greater than 7.5; and ii) your EBITDA interest coverage ratio has been below 1.0

* SMEs are defined as a business with less than 250 employees and either (a) a turnover of less than £44.45m or (b) a balance sheet of less than £38.22m

application for, or taken any other steps for) a dissolution of my/our business nor, if we are applying for the loan as a partnership, in a voluntary arrangement with my/our creditors nor in liquidation, or (in Scotland) subject to a debt payment plan, trust deed – whether protected or not - or an undischarged bankrupt.

4. I/We confirm that either:

(A) I was/we were not a business in difficulty on 31 December 2019 and that if I am/we are successful in this Top-Up application³, that I/we, together with any other business in my/our group/under my/our common control will not have received more than £711,200 in State Aid since 19 March 2019 under the State Aid Temporary Framework⁴ (or £106,680 in the case of fisheries and aquaculture businesses, or £88,900 for agriculture businesses); or

(B) That if I was/we were a business in difficulty on 31 December 2019, that, if I am successful in my Top-Up application⁵:

(1) For businesses involved in fisheries and aquaculture: I/we together with any other business in my/our group/under my/our common control will not have received more than £26,670 in de minimis State Aid

(2) For businesses involved in agriculture: I/we together with any other business in my/our group/under my/our common control will not have received more than £17,780 in de minimis State Aid

(3) For businesses involved in logistics: I/we together with any other business in my/our group/under my/our common control will not have received more than £88,900 in de minimis State Aid

(4) For all other businesses: I/we together with any other business in my/our group/under my/our common control will not have received more than £177,800 in de minimis State Aid,

In each case during the last three years.

5. I/We confirm that if I was/we were a business in difficulty on 31 December 2019, the Top-Up will not (in whole or in part) be used to support export related activities.

6. I/We undertake to use the Top-Up on the basis of this agreement only to provide economic benefit to my/our business, for example, providing working capital, or investing in my/our business. I/We also confirm that the Top-Up will be used wholly for business purposes and not personal purposes.

7. I/We understand that in borrowing the Top-Up, the overall amount of my Bounce Back Loan will increase. I/We have reviewed and understood the costs associated with repayment of the increased loan, that is, the principal and interest and repayment of capital during the period beginning from the second year of the original Bounce Back Loan until its expiry five years later. I/We confirm that I am/we are able and intend to complete timely repayments in

³ The Top-Up (including the value of the Business Interruption Payment constitutes State Aid. Please note: If you are active in Fisheries and Aquaculture, Bounce Back Loans are not available for the activities listed in Article 1, Paragraph 1 of [European Commission Regulation 717/2014](#)

⁴ If you have received State Aid before, including under the Temporary Framework, you will have been provided with a written statement confirming this amount. You should include the State aid amount provided to you by your lender in connection with your existing Bounce Back Loan and the amount of the Top-Up you are applying for in addition to any other State aid you have received. If your lender has provided you with an estimate of the Business Interruption Payment for your Top-Up, this should also be included.

⁵ The Top-Up (including the value of the Business Interruption Payment) constitutes State Aid. Please note: If you are active in Fisheries and Aquaculture, Bounce Back Loans are not available for the activities listed in Article 1, Paragraph 1 of [European Commission Regulation 717/2014](#)

future. In addition, I/we understand that the 100% guarantee that is provided by the government under this scheme is to cover any losses made by the lender, and does not cover losses that I/we might suffer if I am/we are unable to meet my payment obligations for which I/we remain fully liable. I/We understand that if I am/we are unable to meet my/our payment obligations, this could have a negative impact on my credit score, which may reduce my ability to access further lending in the future.

8. I/We understand that, while the prohibition of personal guarantees under the Bounce Back Loan Scheme fully protects the personal assets of owners and directors of limited liability companies, if I am/we are a sole trader or partnership my/our personal assets may be at risk, should I/we fail to complete loan repayments as per the loan agreement with the lender. Per the terms of the Bounce Back Loan Scheme, neither the lender nor the government as guarantor will seek to enforce the loan against my/our main home or main vehicle.
9. **I/We understand that this Top-Up, made under the Bounce Back Loan Scheme , is not subject to the usual consumer protections that apply to business lending and as such I/we will not have the benefit of the protection and remedies that would otherwise be available to me/us under [the Financial Services and Markets Act 2000](#) or the [Consumer Credit Act 1974](#).**
10. **I/We understand that the lender will not conduct any form of credit or affordability check and accepts no responsibility, whether arising in contract, tort (including negligence) or otherwise, for my/our decision to borrow. I/We also understand that the lender may register its Bounce Back Loan with credit reference agencies, and that my credit rating may be affected by any failure or delay in repaying.**
11. I am/We are aware that, if I am/w are in any doubts as to the consequences of the agreement not being regulated by the [Financial Services and Markets Act 2000](#) or the [Consumer Credit Act 1974](#), then I/we should seek independent legal advice. I/We acknowledge that the lender is not responsible for informing me/us about these consequences.
12. I/We make the data protection declaration (annexed below) and, if relevant have provided notice of data processing to relevant individuals.
13. For Top-Up applications being submitted on behalf of limited companies, unincorporated associations, charities, or partnerships: I/We declare that I/we are submitting this form in accordance with my/our company/partnership/charity/unincorporated association signing mandate.
14. I/We recognise that by providing information that is inaccurate or incomplete in any material particular, I/we may be regarded as attempting to gain, or gaining, a financial advantage dishonestly and as such will be liable to criminal prosecution for fraud under the Fraud Act 2006 (or equivalent law in Scotland) (for which the penalties include imprisonment or a fine or both), as well as to the forfeiture of all loan proceeds together with interest and court costs.
15. I/We confirm that the information provided in this application is complete and accurate.

Section 4 - Borrower's Signature(s)

Please sign below and submit the form. In signing, I/we confirm that I/we have authority to bind my/our organisation to this agreement, noting that personal liability may exist if I/we apply without such authority.

Name: _____

Signature: _____

Position: _____

Date: _____

Name: _____

Signature: _____

Position: _____

Date: _____

Name: _____

Signature: _____

Position: _____

Date: _____

Annex: Text of data protection declaration

Data protection declaration (referred to above)

I/We, acknowledge in relation to the Bounce Back Loan Scheme application and the Top-Up application that personal data provided in my/our application forms shall be collected by the Lender and the British Business Bank plc, both of whom are data controllers, and used in the following ways:

- (A) the Lender's processing of my personal data shall be carried out in accordance with the Lender's Privacy Notice: [insert link to lender's privacy notice]
- (B) The British Business Bank's processing of my personal data shall be carried out in accordance with the British Business Bank Privacy Notice: <https://www.british-business-bank.co.uk/privacy-notice/>
- (C) Being communicated to each of:
 - (1) the Secretary of State for Business, Energy and Industrial Strategy its agents and auditors (the "**Guarantor**");
 - (2) the British Business Bank plc, any affiliate of the British Business Bank plc and any of their advisers, agents or contractors including professional advisers and consultants, auditors and advisers carrying out due diligence;
 - (3) processing agents, fund managers, delivery partners and companies providing services to the British Business Bank and its affiliates;
 - (4) Government departments and Devolved Administrations (including but not limited to the National Audit Office, Office for National Statistics, HM Treasury and the Department for Business, Energy and Industrial Strategy) and other politicians or government members (i.e. ministers);
 - (5) The European Commission,
 - (6) the Lender's own group and relevant third parties.(the "**Guarantor Relevant Parties**");
- (D) being used by the Guarantor and any Guarantor Relevant Parties:
 - (1) for analytical and administrative purposes;
 - (2) to contact me in connection with the Bounce Back Loan and the Top-Up;
 - (3) to evaluate the effectiveness of the Bounce Back Loan Scheme including the Top-Up;
 - (4) For the prevention and detection of fraud or other financial crimes.
- (E) if a Top-Up is made available to me/us by the Lender being retained by the relevant recipient for a minimum of ten (10) years after the initial drawdown date of such Top-Up.

SCHEDULE 13 : TOP-UP STATE AID STATEMENT

PART 1 : SCHEME FACILITY UNDER DE MINIMIS STATE AID RULES

If the Scheme Facility Top-Up is granted under de minimis State aid rules, the statement required pursuant to Clause 4.3(H) must state the amount determined in accordance with Clause 4.3(H) and the following language:

“[Option 1 - Insert if providing a consolidated statement that overrides previous statements: The value of the de minimis aid arising from this Scheme Facility Top-Up and your existing Scheme Facility is £[•] [insert State aid amount]. This notification replaces your previous notification of de minimis aid arising under the Bounce Back Loan Scheme] OR [Option 2 - Insert if providing an incremental statement: The value of the de minimis aid arising from this Scheme Facility Top-Up is £[•] [insert State aid amount] and the value of the de minimis aid arising from your existing Scheme Facility is as specified in the previous statement provided to you, being £[•] [insert State aid amount]].

Provision of such State aid is governed by regulations made by the European Commission, Under these rules the maximum de minimis State aid any undertaking may receive over any rolling three-year period is generally €200,000, although lower ceilings apply in certain sectors as detailed below.

It is your responsibility to retain records of any de minimis State aid arising from assistance received for a minimum of ten years from the date of receipt and to ensure that you do not exceed the rolling three-year limit. If you make any other application to a support scheme which is deemed to provide de minimis State aid during the next three years you will be required to inform the operator of that scheme about the de minimis State aid advised by this letter and any other applicable aid from other sources.”

Sector	Maximum Permissible Aid (€)	Relevant Regulation	Regulation Date
Primary production of agricultural products	20,000	1408/2013	18/12/13
Fishery and aquaculture	30,000	717/2014	27/6/14
Road Freight Transport	100,000	1407/2013	18/12/13
All Other Eligible Sectors	200,000	1407/2013	18/12/13

PART 2 : SCHEME FACILITY UNDER EUROPEAN COMMISSION'S TEMPORARY FRAMEWORK

If the Scheme Facility is granted under the European Commission's Temporary Framework, the statement required pursuant to Clause 4.3(H) must state the amount determined in accordance with Clause 4.3(H) and the following language:

“[Option 1 - Insert if providing a consolidated statement that overrides previous statements: The value of the aid arising from this Scheme Facility Top-Up and your existing *Scheme Facility* is £[*] [*insert State aid amount*]. *This notification replaces your previous notification of aid arising under the Bounce Back Loan Scheme* **OR [Option 2 - Insert if providing an incremental statement:** The value of the aid arising from this Scheme Facility Top-Up is £[*] [*insert State aid amount*] and the value of the aid arising from your existing *Scheme Facility* is as specified in the previous statement provided to you, being £[*] [*insert State aid amount*].

Following the outbreak of the Coronavirus, the European Commission has approved schemes to aid businesses affected by the Coronavirus outbreak on the basis of their Temporary Framework, including the Covid-19 Temporary Framework measure for the UK.

The maximum level of aid that a company may receive is €800,000 (€120,000 per undertaking active in the fishery and aquaculture sector or €100,000 per undertaking active in the primary production of agricultural products). This is across all UK measures under the terms of the European Commission's Temporary Framework.

It is your responsibility to retain records of any State aid arising under this measure. You must retain this statement for four years after the conclusion of the UK's transition from the EU and produce it on any request from the UK public authorities or the European Commission. Any aid provided under this measure will be relevant if you wish to apply, or have applied, for any other aid granted based on the European Commission's Temporary Framework. You will need to declare this amount to any other aid awarding body who requests information from you on how much aid you have received.”