



Newable Business Loans Limited trading as Newable Commerce

Export Finance Terms and Conditions

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**For use with Flexible Exporter Facility,
Supplier Finance for Exporters Facility,
Contract Finance for Exporters Facility**

Newable Commerce

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Newable Business Loans Limited trading as Newable Commerce is registered in England and Wales. Registration number: 08796862. Authorised and regulated by the Financial Conduct Authority FRN 700160. Not all products offered by Newable Commerce are regulated by the Financial Conduct Authority.

1. Purpose

1.1. The Lender grants to the Borrower a loan facility of a total principal amount equal to the Principal (which will be secured by the Security), as detailed in the Export Finance Facility Cover Letter.

1.2. The Borrower will use all money borrowed by it pursuant to the Loan for the Purpose. The Lender is not obliged to monitor or verify how any amount borrowed under this agreement is used.

2. Conditions precedent

2.1. The Lender will not advance the Loan until it has received all the documents and evidence specified in Schedule 1 - Conditions Precedent in form and substance satisfactory to the Lender, together with any additional conditions, documents and evidence as set out in the Export Finance Facility Cover Letter.

2.2. The Lender's obligation to make a Drawing is subject to the further conditions precedent that, on the date each Drawing Schedule is submitted and approved by the Lender and the date the Drawing is made available to the Borrower.

(a) the representations and warranties are true and correct in all material respects and will be true and correct in all material respects immediately after the Lender has made the proposed Drawing;

(b) all Repayments on existing Drawings have been paid on time;

(c) the aggregate amount of all outstanding Drawings shall not exceed the Principal; and

(d) no Event of Default or Potential Event of Default is continuing or would result from the proposed Drawing.

2.3. The conditions specified in this clause 2 are inserted solely for the Lender's benefit. The Lender may waive them, in whole or in part and with or without conditions, without prejudicing the Lender's right to require subsequent fulfilment of such conditions.

3. Drawdown

3.1. The Loan may be drawn down in one or more Drawings, of an amount not less than £26,000 subject to clause 2.

3.2. The amount of any Drawing that is repaid in full before the expiry of the Facility Term is available for re-borrowing, subject to the satisfaction of the conditions in clause 2.

4. Interest and commitment fee

4.1. The interest and commitment fee due and payable on each Drawing is the Interest and Commitment Fee as detailed in the Export Finance Facility Cover Letter.

4.2. Notwithstanding the “Interest and Commitment Fee” as set out in the Export Finance Facility Cover Letter, the Interest and Commitment Fee on any Drawing or part thereof unpaid shall be payable at the rate of 4% per month from the Repayment Date and will continue to be payable before and after any judgement or decree, or the administration or liquidation of the Borrower.

5. Repayment and Prepayment

The Borrower must pay the Repayments on the Repayment Date specified in the Drawing Schedule. On each Repayment Date, the Borrower must repay to the Lender:

- (a) the Interest and Commitment Fee; and
- (b) the lesser of:
 - (i) the Monthly Repayment Amount; and
 - (ii) the amount of each Drawing outstanding.

5.1. At the expiry of the Drawing Term or Facility Term (whichever is earlier) the Borrower will pay an amount equal to the amount outstanding under the Drawing, sufficient to repay the Drawing in full.

5.2. The Borrower may prepay all or any of the Drawings before the end of the Drawing Term.

5.3. The Lender may require the Borrower to prepay the Principal in full, if:

5.3.1. any law or regulation is introduced or changed, or there is any change in the way any court or regulatory authority interprets or applies any law or regulation which; or

5.3.2. complying with any direction, request or requirement (whether or not having the force of law) of any monetary agency, central bank, or governmental or regulatory authority; or

5.3.3. any judgment, order or direction of any court, tribunal or authority binding on the Lender, makes it unlawful for the Lender to make any Drawing, or allow any Drawing to remain outstanding.

To require prepayment under clause 5.3, the Lender will give notice to the Borrower demanding prepayment and giving the date for that prepayment. The date for prepayment will be no earlier than the 5th Business Days after the date of the notice.

The Borrower will prepay the Loan as set out in the notice, together with accrued interest on those Drawings and all other sums payable under the Finance Documents.

5.4. Any prepayment under this agreement will be made together with all interest due on the amount prepaid, and subject to any amounts payable under clause 8, without premium or penalty.

6. Payments

6.1. Subject to satisfaction of the conditions precedent in clause 2, the Lender shall pay a Drawing (less any deduction of the Arrangement Fee under clause 7.1) to the Borrower within two (2) Business Days of its confirmation of the Borrower's request in the Drawing Schedule, unless otherwise agreed between the parties.

6.2. All payments that the Borrower makes under this agreement will be made in immediately available cleared funds on the due date to an account which the Lender may specify to the Borrower for the purpose.

6.3. All payments made by the Borrower under this agreement will be made in full, without set-off, counterclaim or condition, and free and clear of, and without any deduction or withholding, provided that, if the Borrower is required by law or regulation to make such deduction or withholding, it will:

(a) ensure that the deduction or withholding does not exceed the minimum amount legally required;

(b) pay to the relevant taxation or other authorities, as appropriate, the full amount of the deduction or withholding;

(c) provide the Lender if requested, within the period for payment permitted by the relevant law, either:

(i) an official receipt of the relevant taxation authorities concerned on payment to them of amounts so deducted or withheld; or

(ii) if such receipts are not issued by the taxation authorities concerned on payment to them of amounts so deducted or withheld, a certificate of deduction or equivalent evidence of the relevant deduction or withholding; and

(iii) pay to the Lender such additional amount as is necessary to ensure that the net full amount received by the Lender after the required deduction or withholding is equal to the amount that the Lender would have received had no such deduction or withholding been made.

6.4. Any payment under any Finance Document which is due to be made on a day which is not a Business Day will be made on the next Business Day). Any interest or other amount accruing on a daily basis will be calculated accordingly.

6.5. If the Lender receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents, the Lender will apply that



payment in settlement of the obligations of the Borrower in the order determined by the Lender in its absolute discretion. The provisions of this clause 6.5 will override any appropriation made by the Borrower.

7. Fees, charges and expenses

7.1. The Borrower will pay the Arrangement Fee to the Lender on the date of the Export Finance Facility Cover Letter. The Arrangement Fee will be deducted from the amount paid to the Borrower under clause 6.1, unless otherwise stated in the Export Finance Facility Cover Letter. For the avoidance of doubt, in the event that the Arrangement Fee is deducted from the amount paid to the Borrower under clause 6.1, the Arrangement Fee will form part of the Drawing and a Loan and shall therefore attract interest in accordance with clause 4 and the other terms of this agreement.

7.2. The Borrower will, promptly on demand, pay to the Lender the amount of all costs and expenses reasonably incurred by the Lender in connection with:

(a) the negotiation, preparation, execution and perfection of the Finance Documents and the other documents referred to in them, and the negotiation, preparation, execution and perfection of the Security; and

(b) any amendment, extension, assignment, novation, waiver, consent or suspension of rights (or any proposal for any of these) relating to a Finance Document or a document referred to in any of them.

7.3. The Borrower will, on demand, pay to the Lender the amount of all costs and expenses incurred by the Lender in connection with enforcing, preserving any rights under, or monitoring the provisions of, any Finance Document.

7.4. Any amounts of costs and expenses incurred by the Lender in connection with enforcing, preserving any rights under, or monitoring the provisions of, any Finance Document, that are not paid on demand, will accrue interest at a rate of 4% per month.

8. Indemnities

8.1. The Borrower will indemnify the Lender within three (3) Business Days of demand against any cost, loss or liability incurred by the Lender as a result of the occurrence of any Event of Default.

8.2. The indemnity under clause 8.1 will include any interest that the Lender would have received (as determined by the Lender) if the due payment had been received on the relevant Repayment Date less the amount the Borrower has actually paid in respect of interest up to the date of actual payment.

8.3. Each indemnity in this agreement:

(a) is a separate and independent obligation from the other obligations in this agreement;

(b) gives rise to a separate and independent cause of action;



(c) applies whether or not any indulgence is granted by the Lender; and

(d) will continue in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of any sum due under this agreement, or any other judgment or order.

9. Representations and warranties

The Borrower makes the representations and warranties in this clause 9 to the Lender on the date of the Export Finance Facility Cover Letter and on each date that any amount is outstanding or owing to Newable.

9.1.

(a) the Borrower:

(i) is a duly incorporated limited liability company validly existing under the law and jurisdiction of England and Wales;

(ii) has the power to own its assets and carry on its business as it is being conducted;

(iii) has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the Finance Documents and the transactions contemplated by them; and

(iv) will not exceed any limit on its powers as a result of the borrowing or grant of security contemplated by the Finance Documents.

(b) The entry into and performance by the Borrower of, and the transactions contemplated by, the Finance Documents do not and will not contravene or conflict with:

(i) the Borrower's constitutional documents; or

(ii) any agreement or instrument binding on it or its assets or constitute a default or termination event (however described) under any such agreement or instrument.

9.2. The entry into and performance by the Borrower of, and the transactions contemplated by, the Finance Documents do not and will not contravene or conflict with any law or regulation or judicial or official order, applicable to it.

9.3. The Borrower's obligations under the Finance Documents are legal, valid, binding and enforceable.

9.4. The Security creates (or, once entered into, will create):

(a) valid, legally binding and enforceable Security for the obligations expressed to be secured by it; and

(b) subject to registration under the Companies Act 2006 (where applicable) and, in the case of real property, registration at the Land Registry, perfected Security over the assets expressed to be subject to security in it, in favour of the Lender, having the priority and ranking expressed to be created by the Security.

9.5. No deduction for, or on account of, Tax is required from any payment that the Borrower may make under any Finance Document.

9.6. No Event of Default or Potential Event of Default is continuing or might reasonably be expected to result from the making of a Drawing.

9.7. No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination thereof, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on it or to which any of its assets is subject which has or is likely to have a Material Adverse Effect.

9.8. The information, in written or electronic format, supplied by or on behalf of the Borrower to the Lender in connection with the Loan and the Finance Documents was, at the time it was supplied or at the date it was stated to be given (as the case may be):

- (a) if it was factual information, complete, true and accurate in all material respects;
- (b) if it was a financial projection or forecast, prepared on the basis of recent historical information and on the basis of reasonable assumptions and was arrived at after careful consideration;
- (c) if it was an opinion or intention, made after careful consideration and was fair and made on reasonable grounds; and
- (d) not misleading in any material respect, nor rendered misleading by a failure to disclose other information, except to the extent that it was amended, superseded or updated by more recent information supplied by, or on behalf of, the Borrower to the Lender.

9.9. There has been no material adverse change in the business, assets, financial condition, trading position or prospects of the Borrower since the date of this agreement.

9.10 No litigation, arbitration or administrative proceedings are taking place, pending, or have been threatened against the Borrower, any Group Company, any of the Borrower's directors or any of the Borrower's assets.

9.11 The Borrower has not breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

10. General covenants

The Borrower covenants with the Lender as set out in this clause 10 and undertakes to comply with these covenants. The covenants given by the Borrower in this clause 10 will remain in force from the date of this agreement for so long as any amount remains outstanding under the Finance Documents.

10.1. The Borrower will promptly obtain all consents and authorisations under any law or regulation (and do all that is needed to maintain them in full force and effect) to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability and admissibility in evidence of the Finance Documents in its jurisdiction of incorporation.

10.2. The Borrower will comply in all respects with all relevant laws to which it may be subject, if failure to do so would materially impair its ability to perform its obligations under the Finance Documents.

10.3. It will not enter into any amalgamation, demerger, merger, corporate reconstruction or change in ownership.

10.4. The Borrower will not make any substantial change to the general nature or scope of its business as carried on at the date of this agreement.

10.5. If the Lender is obliged for any reason to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower will, promptly on the request of the Lender, supply (or procure the supply of) such documentation and other evidence as is reasonably requested in order for the Lender to carry out, and be satisfied that it has complied with, all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

10.6. If required by the Lender, the Borrower agrees to enter into a business mentor-mentee agreement.

10.7. If required by the Lender, the Borrower agrees to use the services of a recovery manager nominated by the Lender. The Borrower agrees to co-operate with the recovery manager and authorises them to provide all relevant information to the Lender or its authorised representative.

10.8. If required, the Borrower consents to the Lender discussing the Loan and its progress with any Indemnifier, Responsible Finance, British Business Bank and Department for Business, Energy and Industrial Strategy and Department for Business and Trade (or any replacement governmental department).

10.9. The Borrower will ensure the bank account from which the Monthly Repayment Amount will be paid has the capability of making payments using a direct debit mandate.

11. Events of Default

Each of the events or circumstances set out in clauses 11.1 to 11.22 is an Event of Default.

11.1. The Borrower or any Indemnifier:

(a) fails to pay any sum payable by it under any Finance Document when due, unless its failure to pay is caused solely by an administrative error or technical problem and payment is made within three (3) Business Days of its due date; or

(b) cancels its direct debit mandate in respect of any Drawing.

11.2 In respect of the Borrower or any Indemnifier:

(a) there occurs an event of default or termination event (howsoever described) or a breach of any other deed, document, contract or agreement between the Borrower and/or any Indemnifier and the Lender;

(b) any Financial Indebtedness of the Borrower or any Indemnifier is not paid when due nor within any applicable grace period or is declared to be or otherwise becomes (or a creditor



is entitled to declare as such) due and payable prior to its specified maturity as a result of an event of default (howsoever described).

11.3. The Borrower or any Indemnifier fails to comply with any provision, condition, covenant or provision of or to perform any of his obligations or liabilities under the Finance Documents and (if the Lender considers, acting reasonably, that the default is capable of remedy) such default is not remedied within 14 days of the earlier of:

- (a) the Lender notifying the Borrower of the default and the remedy required; and
- (b) the Borrower becoming aware of the default.

- 11.4. Any representation, warranty or statement made by the Borrower or any Indemnifier to the Lender in, or pursuant to, the Finance Documents is (or proves to have been) incomplete, untrue, incorrect or misleading when made, repeated or deemed made.
- 11.5. The Borrower or any Indemnifier is unable or admits inability to pay its debts as they fall due or suspends or threatens to suspend making payments of any of its debts or by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- 11.6. The Borrower or any Indemnifier ceases or threatens to cease to carry on, or disposes or threatens to dispose of, its business or a material part of its business.
- 11.7. The Borrower or any Indemnifier makes a proposal for a voluntary arrangement under the Insolvency Act 1986 Part I or enters or seeks to enter into any other form of composition, arrangement, assignment or compromise with its creditors whether in whole or in part.
- 11.8. The Borrower or any Indemnifier becomes subject to a notice of an intended appointment of an administrator or an application is made to any court or any meeting of directors or members is called with a view to the Borrower or any surety entering into administration.
- 11.9. An administrative receiver is appointed in respect of the whole or any part of the undertaking of the Borrower or any Indemnifier.
- 11.10. A petition is presented in any court or a meeting is convened for the purpose of considering a resolution for the winding up of the Borrower or any Indemnifier (except in the case of a reconstruction or amalgamation that has the previous approval in writing of the Lender).
- 11.11. A receiver and/or manager is appointed in respect of the whole or any part of the Security.
- 11.12. The Borrower or any Indemnifier gives notice to terminate the indemnity, release the Security or otherwise acts or threatens to act in a way that indicates an intention to no longer be bound by the Indemnity.
- 11.13. A moratorium is declared in respect of any indebtedness of the Borrower or any Indemnifier.
- 11.14. A distress, attachment, execution, expropriation, sequestration or other analogous legal process is levied, enforced or sued out on, or against, the Borrower's or Indemnifier's assets having an aggregate value of £1,000 (or its equivalent in other currencies) and is not discharged or stayed within 21 days.
- 11.15. The Borrower or Indemnifier disposes or threatens to dispose of, the Security or a material part of it.
- 11.16. The Borrower or Indemnifier makes a proposal for a voluntary arrangement under the Insolvency Act 1986 or enters, or seeks to enter, into any other form of composition, arrangement, assignment or compromise with its creditors whether in whole or in part.
- 11.17. A petition is presented for the winding up or the bankruptcy of the Borrower or any



- 11.18. Any notice is given, or purported to be given, to terminate the indemnity, release the Security or the Borrower or any Indemnifier otherwise acts or threatens to act in a way that indicates an intention to no longer be bound by the Indemnity or Security.
- 11.19. Any Security on or over the assets of the Borrower or any Indemnifier becomes enforceable.
- 11.20. All or any part of any Finance Document becomes invalid, unlawful, unenforceable, terminated, disputed or ceases to be effective or to have full force and effect.
- 11.21. The Borrower or any Indemnifier repudiates or evidences an intention to repudiate the Finance Documents or any of them.
- 11.22. Any event occurs (or circumstances exist) which, in the reasonable opinion of the Lender, has or is likely to have a Material Adverse Effect.
- 11.23. At any time after an Event of Default has occurred, the Lender may, by notice to the Borrower:
- (a) declare that all outstanding Drawings, accrued interest and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they will become immediately due and payable; and/or
 - (b) declare that all outstanding Drawings be payable on demand, whereupon they will immediately become payable on demand by the Lender; and/or
 - (c) withhold its consent to any request for a Drawing in any Drawing Schedule; and/or
 - (d) declare the Security to be enforceable.

12. Data protection

12.1. For the purposes of this clause, “Data Controller”, “Data Processor” and “Personal Data” shall have the meanings set out in the General Data Protection Regulation (the GDPR).

12.2. The parties acknowledge and agree that (i) for the purposes of the GDPR, the Lender shall be the Data Controller of any Personal Data, which includes personal, business and financial information of the Borrower collected from the Borrower or provided to the Lender by the Borrower or third parties (such as the Mentor, any organisation that introduced the Borrower and credit reference or fraud prevention agencies); and (ii) this clause 12 sets out the basis on which the Borrower’s Personal Data may be processed by the Lender.

12.3. Subject to the Lender’s obligations under GDPR, the Lender may use the Personal Data of the Borrower for the purposes set out in this clause 12, including to:

(a) provide services and carry out the Lender’s obligations under the Finance Documents and other agreements with the Borrower, including for customer service, market research, insurance, audit and administrative purposes;

(b) enforce or apply Finance Documents and other agreements with the Borrower or to investigate potential breaches;

(c) protect the rights, property or safety of the Lender, its customers or others, which may include the exchange of information with other companies and organisations for the purposes of fraud protection and credit risk reduction;

(d) provide the Personal Data to any third party provider of debt financing to the Lender from time to time in connection with negotiation, preparation and entry into any arrangements in connection thereto; and

(e) provide the Borrower with information relating to any promotions, products and/or services (including mortgages) of the Lender, its group or selected third parties that may be of interest to the Borrower, provided that the Borrower has not notified the Lender that it does not wish to receive such information.

12.4. The Lender, its authorised representatives and any organisation that introduced the Borrower may use the Borrower's name and any other non-commercially sensitive details for promotional purposes, including the promotion of associated sponsors and organisations.

12.5. The Lender may disclose Personal Data to:

(a) any member of the Lender's group, which means its subsidiaries, its ultimate holding company and its subsidiaries, as defined in section 1159 of the Companies Act 2006 who shall be entitled to use the Borrower's Personal Data for the purposes set out in this clause 12;

(b) to third parties who provide a service to the Lender or are acting as the Lender's agents (who will treat such information confidentially);

(c) to third parties for the purpose of assessing the Borrower's current and future credit worthiness and to third parties who provide debt financing to the Lender from time to time (who will treat such information confidentially);

(d) where the Lender is under a duty to disclose or share the Personal Data in order to comply with any legal or regulatory obligation or request;

(e) in the event that the Lender transfers its rights or obligations under any of the Finance Documents to a third party, in which case the Lender will disclose the Personal Data to that third party (including by way of security to any third-party provider of debt financing to the Lender from time to time).

12.6. Information on applications will be sent to credit reference agencies (CRAs) and will be recorded by them, which may include information on the Borrower's business and its proprietors. CRAs may create a record of the name and address of the Borrower's business and its proprietors if there is not one already. The Lender will give details of the Borrower's accounts and how they are managed to CRAs if a Loan is made.

12.7. If the Borrower does not repay in full and on time, CRAs will record the outstanding debt. This information may be supplied to other organisations by CRAs and fraud prevention

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agencies (FPAs) to perform similar checks and to trace the Borrower's whereabouts and

recover any debts owed. Records remain on file for 6 years after they are closed, whether settled or defaulted.

12.8. If the Borrower provides false or inaccurate information to the Lender and fraud is suspected or identified, the Lender will record this and may pass the information to CRAs, FPAs, and other organisations involved in crime and fraud prevention.

12.9. If the Borrower does not make the payments to the Lender as agreed in accordance with the Finance Documents, the Lender may trace your whereabouts and recover debts.

12.10. The Lender and other organisations may access and use from other countries the information recorded by fraud prevention agencies.

12.11. The Borrower acknowledges and agrees that the Borrower's Personal Data may from time to time be transferred to, and stored at, a destination outside the European Economic Area (EEA) and that it may also be processed by staff operating outside the EEA who work for the Lender, its suppliers or members of its group.

12.12. The Borrower's data may also be used for other purposes for which the Borrower give its specific permission or, in very limited circumstances, when required by law or where permitted under the terms of the GDPR.

13. Assignment and transfer

13.1. The Lender may assign any of its rights under the Finance Documents or transfer all its rights or obligations by novation.

13.2. The Borrower may not assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

14. Set-off

14.1. The Lender may at any time set off any liability of the Borrower to the Lender against any liability of the Lender to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 14.1 will not limit or affect any other rights or remedies available to it under this agreement or otherwise.

14.2. The Lender is not obliged to exercise its rights under clause 14.1, but if the rights are exercised, the Lender will promptly notify the Borrower of the set-off that has been made.

15. Calculations and certificates

15.1. The Lender will maintain accounts evidencing the amounts owed to it by the Borrower, in accordance with its usual practice. Entries in those accounts will be sufficient evidence of the existence and amount of the Borrower's obligations as recorded in them.

15.2. If the Lender issues any certificate, determination or notification of a rate or any amount payable under this agreement, it will be (in the absence of manifest error) conclusive evidence of the matter to which it relates.

15.3. Any interest, commission or fee will accrue on a day-to-day basis, calculated according to the actual number of days elapsed and a year of 365 days.

16. Amendments, waivers and consents

16.1. The Lender may amend the terms of any Finance Document provided it gives the Borrower 30 days' notice of such amendment. The Borrower may not make any amendments to the terms of the Finance Documents unless with the prior written consent of the Lender.

16.2. A waiver of any right or remedy under any Finance Document or by law, or any consent given under any Finance Document, is only effective if given in writing by the waiving or consenting party and will not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and will not prevent the party giving it from subsequently relying on the relevant provision.

16.3. The Lender reserves the right to amend, vary and alter these Export Finance Terms and Conditions at any time to comply with law or to meet its changing business requirements by posting the updated version to the relevant page on its website. The Borrower is expected to check the website from time to time to take notice of any changes made, as they are binding on the Borrower.

16.4. A failure or delay by a party to exercise any right or remedy provided under any Finance Document or by law will not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm any Finance Document. No single or partial exercise of any right or remedy provided under any Finance Document or by law will prevent or restrict the further exercise of that or any other right or remedy. No election to affirm any Finance Document by the Lender will be effective unless it is in writing.

16.5. The rights and remedies provided under each Finance Document are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

17. Severance

If any provision (or part of a provision) of any Finance Document is or becomes invalid, illegal or unenforceable, it will be deemed modified to the minimum extent necessary to

make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) will be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause will not affect the legality, validity and enforceability of the rest of the relevant Finance Document.

18. Counterparts

18.1. Each Finance Document may be executed in any number of counterparts, each of which when executed will constitute a duplicate original, but all the counterparts will together constitute one agreement.

18.2. Transmission of an executed counterpart of this agreement by fax or email (in PDF, JPEG or other agreed format) will take effect as delivery of an executed counterpart of this agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party will provide the others with the original of such counterpart as soon as reasonably possible thereafter.

19. Third party rights

(a) Except as expressly provided elsewhere in this agreement, a person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

(b) The rights of the parties to rescind or agree any amendment or waiver under this agreement are not subject to the consent of any other person.

20. Notices

20.1. A notice given to a party under or in connection with this agreement will be in writing and will be delivered by email, by hand or by first class post to the Borrower's Address as stated in the Export Finance Facility Cover Letter (or to such other address as that party may notify to the other party in accordance with this agreement).

20.2. Delivery of a notice is deemed to have taken place immediately if delivered by email, upon actual receipt by the other party if delivered by hand at the time the notice is left at the address, or if sent by post at noon on the 1st Business Day after posting.

21. Governing law and jurisdiction

21.1. This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation will be governed by and construed in accordance with the law of England and Wales.

21.2. Each party irrevocably agrees that, subject as provided below, the courts of England and Wales will have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) that arises out of or in connection with this agreement or its subject matter or formation. Nothing in this clause will limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor will the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

22. Definitions and interpretation

22.1. Terms defined in the Export Finance Facility Cover Letter will have the same meaning where used in these Export Finance Terms and Conditions.

22.2. In addition, reference in this agreement to the following terms will have the following meaning:

Base Rate: the published base rate of the Bank of England from time to time (and, if the base rate of the Bank of England shall be less than zero, then for the purposes of the Export Finance Facility Cover Letter and these Export Finance Terms and Conditions it shall be deemed to be zero

Borrower: the person, persons, company or partnership noted in such capacity in the Export Finance Facility Cover Letter.

Business Day: a day other than a Saturday, Sunday or a public holiday in England when banks in England & Wales are open for business.

Conditions Precedent: the conditions precedent as detailed in Schedule 1- Conditions Precedent, Clause 2 and, the Additional Conditions Precedent to Drawing.

CRAs: as defined in clause 12.6.

Drawing Schedule: the form of request for a Drawing by the Borrower and Lender and, where given, the consent of the Lender to the Drawing.

EEA: as defined in clause 12.11.

Event of Default: any event or circumstance listed in clause 11.1 to clause 11.22.

Export Finance Facility Cover Letter: the Export Finance Facility cover letter from the Lender to the Borrower setting out the commercial terms of the Loan and to which these Export Finance Terms and Conditions are annexed.

Finance Document: these terms and conditions, the Export Finance Facility Cover Letter, Drawing Schedule, the Security, the Exporter Declaration and any other document designated as such by the Lender.

Financial Indebtedness: (a) any moneys borrowed and debit balances at financial institutions, (b) any acceptance under any credit acceptance or bill discounting facility (or dematerialized equivalent), (c) any note purchase facility or the issue of bonds, notes,

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debentures, loan stock or similar instrument, (d) the amount of any liability in respect of any finance leases, (e) receivables sold or discounted, (f) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or other instrument issued by a bank or financial institution, (g) any amount of any liability under an advance or deferred purchase agreement, (h) any amount raised under any other transaction having the commercial effect of a borrowing.

FPAs: as defined in clause 12.7.

GDPR: all applicable privacy and data protection laws including the General Data Protection Regulation (EU) 2016/679) and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of Personal Data, as amended, replaced or updated from time to time, including the Data Protection Act 2018 and any successor legislation.

Group Company: the Borrower, its subsidiaries, its ultimate holding company and its subsidiaries, as defined in section 1159 of the Companies Act 2006.



Indemnifier: any person or company providing an Indemnity or other form of Security.

Indemnity: the personal guarantee and indemnity in the form specified by the Lender to support the obligations of the Borrower to the Lender.

Interest and Commitment Fee: shall have the meaning given to such term and be the rate as expressed in, the Export Finance Facility Cover Letter.

Loan: the loan or loans made available by the Lender to the Borrower pursuant to the terms of the Finance Documents.

Material Adverse Effect: any event or circumstance which, in the opinion of the Lender:

(a) is likely to materially and adversely affect the Borrower's or any Indemnifier's ability to perform or otherwise comply with all or any of its obligations under the Finance Documents;

(b) is likely to materially and adversely affect the business, operations, property, condition (financial or otherwise) or prospects of the Borrower or any Indemnifier; or

(c) is likely to result in any Finance Document not being legal, valid and binding on, and enforceable in accordance with its terms against, the Borrower or any Indemnifier;

(d) or is likely to result in the Indemnity or the Security not being legal, valid and binding on, and enforceable in accordance with its terms against, the Borrower or any Indemnifier.

Mentor: means the person so appointed under a business mentor-mentee agreement.

Monthly Repayment Amount: the Monthly Repayment Amount as set out in each Drawing Schedule.

Potential Event of Default: an Event of Default or any event or circumstance specified in clause 11 which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of the foregoing) be an Event of Default.

Repayment Date: the Repayment Date(s) as set out in the Drawing Schedule.

Repayments: as set out in the Export Finance Facility Cover Letter next to such term.

Security: any mortgage, charge, pledge, lien or other security interest securing any obligation of the Borrower or any Indemnifier to the Lender or any other arrangement or other agreement having a similar effect and including all arrangements as set out in the Export Finance Facility Cover Letter next to the term "Security Specific for the purposes of the Loan".



23. In the event of any conflict between the Export Finance Facility Cover Letter and these Export Finance Terms and Conditions, these Export Finance Terms and Conditions will prevail.

23.1. In this agreement:

(a) clause, Schedule and paragraph headings shall not affect the interpretation of this agreement;

(b) a reference to a person shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);

- (c) a reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.
- (d) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (e) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (f) a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors, permitted assigns and permitted transferees;
- (g) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (h) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (i) a reference to a time of day is to London time;
- (j) a reference to writing or written includes fax and email;
- (k) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (l) a reference to this agreement (or any provision of it) or to any other agreement or document referred to in this agreement is a reference to this agreement, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this agreement) from time to time;
- (m) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this agreement and a reference to a paragraph is to a paragraph of the relevant Schedule;
- (n) any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (o) a reference to directly or indirectly means (without limitation) either alone or jointly with any other person, whether on his own account or in partnership with another (or others) as the holder of any interest in or as officer, employee or agent of or consultant to any other person;
- (p) a reference to a document in agreed form is to that document in the form agreed by the Lender and the Borrower and initialled by or on their behalf for identification;
- (q) a reference to an amendment includes a novation, assignment, re-enactment, supplement or variation (and amended shall be construed accordingly);

(r) a reference to assets includes present and future properties, undertakings, revenues, rights and benefits of every description;

(s) a reference to an authorisation includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;

(t) a reference to a certified copy of a document means a copy certified to be a true, complete and up-to-date copy of the original document, in writing and signed by a director or the secretary of the party delivering the document;

(u) a reference to continuing in relation to an Event of Default or a Potential Event of Default means an Event of Default or a Potential Event of Default that has not been remedied or waived;

(v) a reference to determines or determined means, unless the contrary is indicated, a determination made at the discretion of the person making it;

(w) a reference to a disposal of any asset, undertaking or business includes a sale, lease, licence, transfer, loan or other disposal by a person of that asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions);

(x) a reference to a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter- governmental or supranational body, agency, department or regulatory, self- regulatory or other authority or organisation; and

(y) any accounting terms that are not specifically defined in this agreement shall be construed in accordance with UK GAAP.

23.2. The Export Finance Facility Cover Letter and the Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Export Finance Facility Cover Letter and the Schedules.

Schedule 1 - Conditions precedent

1. Conditions precedent

1.1. A copy of the resolutions, duly passed by the Borrower's board of directors and in a form satisfactory to the Lender approving the entry into, terms of and transactions contemplated by the Finance Documents and resolving that the Borrower executes the Finance Documents.

1.2. The Export Finance Facility Cover Letter (with these Export Finance Terms and Conditions appended to it), duly executed by the Borrower.

1.3. The Security, duly executed.



1.4. Payment by the Borrower of all fees and expenses due under Clause 7.1 and 7.2 (a) before the date of the Export Finance Facility Cover Letter.

1.5. A copy of any other Authorisation, document, opinion or assurance which the Lender considers necessary or desirable in connection with the entry into, and performance of, the transactions contemplated by the Finance Documents, or for the Finance Documents to be valid and enforceable.

2. The 'Direct Debit Mandate' and the 'Information Declaration' forms provided by the Lender, each duly signed, dated and completed to the satisfaction of the Lender.

Schedule 2 – Conditions Subsequent

1. The Borrower shall provide management accounts for the most recent month end or quarter end comprising profit and loss account and balance sheet, within 5 Business Days of request by the Lender from time to time.