



Registration of a Charge

Company Name: **CZARNIKOW GROUP LIMITED**

Company Number: **02650590**



Received for filing in Electronic Format on the: **09/11/2022**

XBGEXFC0

Details of Charge

Date of creation: **08/11/2022**

Charge code: **0265 0590 0105**

Persons entitled: **CREDIT EUROPE BANK N.V.**

Brief description: **NONE.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **WE CERTIFY THAT, SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006, THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE PART OF THE CHARGING INSTRUMENT SIGNED BY OR ON BEHALF OF THE CHARGOR, AND A CORRECT COPY OF THE SIGNATURE PAGE TO EACH OTHER PART OF SUCH CHARGING INSTRUMENT.**

Certified by: **DENTONS UK AND MIDDLE EAST LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2650590

Charge code: 0265 0590 0105

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th November 2022 and created by CZARNIKOW GROUP LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th November 2022 .

Given at Companies House, Cardiff on 11th November 2022

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

COMMODITIES PLEDGE AGREEMENT

COMMERCIAL TERMS	
<p>These terms (the "Commercial Terms") incorporate by reference the attached master commodities pledge terms and conditions (the "Master Terms").</p> <p>These Commercial Terms and the attached Master Terms form a single pledge agreement (the "Agreement") between the Parties (as defined below).</p> <p>To the extent of any conflict between the Commercial Terms and the Master Terms, these Commercial Terms shall prevail.</p>	
PLEDGE	
<p>For the duration of the Security Period, the Pledgor pledges to the Pledgee all of its rights, title and interest in and to the Secured Property as a continuing security for the due, proper and punctual payment and performance in full of all the Secured Obligations, which pledge the Pledgee accepts.</p>	
DEFINITIONS	
<p>For the purposes of these Commercial Terms capitalised terms and expressions used herein shall bear the meanings as are ascribed to them in the Master Terms, and the following terms and expressions shall bear the following meanings:</p>	
Commodities	means white refined sugar, PET Resin, tomato paste, orange juice concentrate, dairy powders, citric acid, in each case of any such quality or type as the Pledgee may accept.
Pledgor	means Czarnikow Group Limited (Registration number 02650590), a company incorporated and duly registered in accordance with the laws of England and Wales and whose registered office is located at Paternoster House, 65 St. Paul's Churchyard, London, United Kingdom, EC4M 8AB.
Agreed Benchmark Source	<p>means, for each of the following Commodities:</p> <p>White refined sugar ICE #5 – https://www.barchart.com/futures/quotes/SW*0/profile</p> <p>Milk powder NZX Skimmed Milk Powder or NZX Whole Milk Powder</p> <p>Orange juice concentrate https://www.barchart.com/futures/quotes/OJ*0/futures-prices (reference price: nearest month to maturity of deal)</p> <p>PET Resin the daily CCF (http://www.ccfgroup.com/index.php) PET Resin FOB China price.</p>
Pledgor's Notice Details	<p>Address: Paternoster House, 65 St. Paul's Churchyard, London, United Kingdom, EC4M 8AB.</p> <p>Email: [REDACTED]</p>

	Attention: Archie Matheson
Pledgee	means CREDIT EUROPE BANK N.V. (Chamber of Commerce Registration No. 33256675), a <i>Naamloze Vennootschap</i> duly registered and incorporated in accordance with the laws of The Netherlands and whose registered office is located at Karspeldreef 6A, 1101 CJ, Amsterdam.
Pledgee's Notice Details	Address: Karspeldreef 6A 1101 CJ Amsterdam The Netherlands Email: [REDACTED] Attention: Mark Gracia
Collateral Management Agreement	means the collateral management executed by and between the Pledgor, the Pledgee and the Collateral Manager dated on or about the same date as this Agreement.
Collateral Manager	means Bollore Transport and Logistics South Africa (PTY) Ltd (Registration number 1997/021527/07), a company incorporated and duly registered in accordance with the laws of South Africa.
Storage Facility	means each storage facility (or the relevant area of the relevant storage facility) where Pledged Commodities shall be located from time to time, under the possession and control of the Collateral Manager, and as listed and more fully particularised in the Collateral Management Agreement.
Special Conditions	If any of the following terms are used in the Master Terms but are not defined in these Commercial Terms, then they shall, for the purposes of the Master Terms, be disregarded and read and construed as <i>pro non scripto</i> : (i) Storage Agreement; (ii) Storer; (iii) Lessor; (iv) Lease Agreement; and/or (v) Waiver of Lien (Lessor).
Waiver of Lien (Collateral Manager)	means the waiver of liens, rights of retention and hypothecs granted by the Collateral Manager in favour of the Pledgee in respect of the Pledged Commodities and within terms of the Collateral Management or by way of a separate waiver letter.

SIGNATURE PAGE

PLEDGOR

SIGNED at London on the 8th day of November 2022

For and on behalf of

Czarnikow Group Limited



Julian Randles

Name: Julian Randles

Designation of signatory: Director

Who warrants authority



Jonathan Williams

Name: Jonathan Williams

Designation of signatory: Director

Who warrants authority

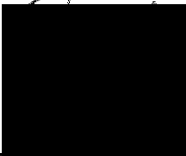
8th

SIGNATURE PAGE

PLEDGEE

SIGNED at Amsterdam on the 2nd day of November 2022

For and on behalf of **CREDIT EUROPE BANK N.V.**


M. E. Gokdel

Name: M. E. GOKDEL

Designation of signatory: S.V.P.

Who warrants authority


B. Yalniz

Name: B. Yalniz

Designation of signatory: CRO

Who warrants authority

MASTER COMMODITIES PLEDGE TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

In these Master Terms, capitalised terms and expressions shall, unless defined in these Master Terms, bear the same meanings given to them in the Commercial Terms, and the following terms shall bear the following meanings:

- 1.1.1. **"Applicable E&S Law"** means all applicable statutes, laws, ordinances, rules and regulations of South Africa, including but not limited to any license, permit or other governmental Authorisation imposing liability or setting standards of conduct concerning any environmental, social, labour, health and safety or security risks;
- 1.1.2. **"Authority"** means any national, supranational, regional or local government or governmental, administrative, fiscal, judicial, or government-owned body, department, commission, authority, tribunal, agency or entity, or central bank (or any person, whether or not government owned and howsoever constituted or called, that exercises the functions of a central bank);
- 1.1.3. **"Authorisation"** means any consent, registration, filing, agreement, notarization, certificate, license, approval, permit, authority or exemption from, by or with any Authority, whether given by express action or deemed given by failure to act within any specified time period and all corporate, creditors' and shareholders' approvals or consents;
- 1.1.4. **"Business Day"** means a day (other than Saturday or Sunday) on which banks are open for general business in Johannesburg, South Africa and Amsterdam, Netherlands;
- 1.1.5. **"Ceded Rights"** means the rights ceded under and in terms of clause 6 (*Security Cession*) below;
- 1.1.6. **"Cession"** means the cession *in securitatem debiti* conferred under and in terms of clause 6 (*Security Cession*) below;
- 1.1.7. **"Collateral Instruments"** means negotiable and non-negotiable instruments, guarantees, sureties, security documents, indemnities and other assurances against financial loss and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any indebtedness or liabilities of the Pledgor to the Pledge or any other person liable for same;

- 1.1.8. **"Country"** means the Republic of South Africa;
- 1.1.9. **"Environment"** means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:
 - 1.1.9.1. air (including, without limitation, air within natural or man-made structures, whether above or below ground);
 - 1.1.9.2. water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
 - 1.1.9.3. land (including, without limitation, land under water);
- 1.1.10. **"Environmental Claim"** means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law;
- 1.1.11. **"Environmental Law"** means any applicable law or regulation which relates to:
 - 1.1.11.1. the pollution or protection of the Environment;
 - 1.1.11.2. the conditions of the workplace; or
 - 1.1.11.3. the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste;
- 1.1.12. **"Environmental Permits"** means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of the Pledgor in relation to its ownership, storing and dealing with the Pledged Commodities;
- 1.1.13. **"Event of Default"** means an event of default (howsoever defined or described) under or for the purposes of any Finance Document, any event or circumstance specified in a Finance Document and which entitles the Pledgee to demand immediate repayment or payment of Secured Obligations (unless otherwise agreed under any Finance Document), or the breach of any obligation, representation or warranty under this Agreement;
- 1.1.14. **"Finance Documents"** means all of the agreements, documents, instruments (including, without limitation, Collateral Instruments) and/or arrangements creating or evidencing Secured Obligations;
- 1.1.15. **"Permitted Security"** means the Pledge;

- 1.1.16. **"Pledge"** means the pledge interest of the Pledgee over the Secured Property as granted under this Agreement and perfected through the Pledgee's possession and control of same (actual or constructive) as contemplated by this Agreement;
- 1.1.17. **"Pledged Commodities"** means all Commodities from to time owned by the Pledgor and which are under the possession, custody and control of the Collateral Manager;
- 1.1.18. **"Release Date and Time"** means the date and time at which (i) all of the Secured Obligations have been fully, finally and irrevocably discharged and repaid in full, and (ii) the Pledgee has no obligation (actual or contingent) to provide any further advances or financial accommodation to the Pledgee under any Finance Documents, in each case as confirmed by the Pledgee in writing, which confirmation shall not be unreasonably withheld;
- 1.1.19. **"Release Request"** means a release request to be issued by the Pledgee authorising the release of Pledged Commodities from a Storage Facility, and in the form set out in **Schedule 1** (*Form of Release Request*) hereto (or in such other form as may be set out in the Collateral Management Agreement);
- 1.1.20. **"Secured Obligations"** means all obligations and liabilities now or hereafter due, owing or incurred by the Pledgor to the Pledgee when the same become due for payment or discharge whether by acceleration or otherwise, and whether such moneys, obligations or liabilities are express or implied, present, future or contingent, joint or several, incurred as principal or surety, originally owing to the Pledgee or purchased or otherwise acquired by it, denominated in any currency, or incurred on any banking account or in any other manner whatsoever. Such liabilities shall, without limitation to the foregoing, include (i) all liabilities under or in connection with foreign exchange transactions (including, without limitation, margin calls made), interest rate swaps and other arrangements entered into for the purpose of limiting exposure to fluctuations in interest or exchange rates; (ii) all liabilities arising from the issue, acceptance, endorsement, confirmation or discount of any negotiable or non-negotiable instruments, documentary or other credits, bonds, guarantees, indemnities or other instruments of any kinds; (iii) interest (as well after as before judgment) to date of payment at such rates and upon such terms as the Parties from time to time agree, commission, fees and other charges and all legal and other costs, charges and expenses on a full and unqualified indemnity basis which may be incurred by the Pledgee in relation to any such moneys, obligations or liabilities or generally in respect of the Pledgor or any Collateral Instrument; and (iv) any amounts owed under or in connection with this Agreement;

- 1.1.21. **"Security Period"** means the period commencing from the Signature Date and terminating on the Release Date and Time;
- 1.1.22. **"Secured Property"** means collectively (i) the Pledged Commodities; (ii) the Title Documents; and (iii) the Ceded Rights;
- 1.1.23. **"Security"** means:
- 1.1.23.1. a mortgage bond, notarial bond, cession in security, pledge, hypothec, lien, charge, assignment or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect but excluding statutory preferences;
 - 1.1.23.2. any arrangement under which money or claims may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person; or
 - 1.1.23.3. any other type of preferential agreement or arrangement (including title retention) having an effect similar to the creation of a security interest;
- 1.1.24. **"Signature Date"** means the date of the signature of the Party last signing the Commercial Terms incorporating these Master Terms by reference in time;
- 1.1.25. **"Tax"** means all present and future taxes, levies, imposts, duties, fees or charges of whatever nature together with any related interest and penalties;
- 1.1.26. **"Title Documents"** means bills of lading, certificates of deposit, warehouse receipts, storage receipts, tank warrants, tank receipts and any such other documents of title, in each case issued in connection with Commodities and within the possession and control of the Pledgee or any of its agents, including, without limitation, the Collateral Manager (and whether by indorsement or otherwise);
- 1.1.27. **"Transaction Documents"** means this Agreement, the Collateral Management, the Lease Agreement, the Storage Agreement, each Finance Document each issued Title Document, Waiver of Lien (Collateral Manager) and Waiver of Lien (Lessor), each in a form and substance satisfactory to the Pledgee;
- 1.1.28. **"VAT"** means value added tax as provided for in the Value Added Tax Act, 1991, and any other Tax of a similar nature in a jurisdiction other than South Africa; and
- 1.1.29. **"ZAR" or "Rand"** means South African Rand, the lawful currency of South Africa.

1.2. Construction

1.2.1. In this Agreement, unless inconsistent with the context, any reference to:

- 1.2.1.1. any "**Party**" or any other person shall be construed so as to include its successors in title, permitted cessionaries and permitted transferees;
- 1.2.1.2. a document being in the "**agreed form**" means that the document is in a form previously agreed in writing by or on behalf of the Pledgor and the Pledgee;
- 1.2.1.3. an "**amendment**" includes an amendment, supplement, novation, re-enactment, replacement, restatement or variation and "**amend**" will be construed accordingly;
- 1.2.1.4. "**assets**" includes businesses, undertakings, securities, properties, revenues or rights of every description and whether present or future, actual or contingent;
- 1.2.1.5. a "**disposal**" means a sale, transfer, cession, assignment, donation, grant, lease, licence or other alienation or disposal, whether voluntary or involuntary and whether pursuant to a single transaction or a series of transactions, and "**dispose**" will be construed accordingly;
- 1.2.1.6. a Finance Document or any other agreement or instrument includes (without prejudice to any prohibition on amendments) all amendments (however fundamental) to that Finance Document or other agreement or instrument, including any amendment providing for any increase in the amount of a facility or any additional facility or replacement facility;
- 1.2.1.7. "**indebtedness**" or "**financial indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.1.8. a "**person**" includes any individual, company, Authority, corporation, unincorporated association or body (including a partnership, trust, fund, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;
- 1.2.1.9. 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;

- 1.2.1.10. a provision of law is a reference to that provision as extended, applied, amended or re-enacted, and includes any subordinate legislation;
- 1.2.1.11. one gender include a reference to the others; the singular includes the plural and *vice versa*; natural persons include juristic persons and *vice versa*; and
- 1.2.1.12. a time of day is a reference to, unless otherwise stated, Amsterdam time.
- 1.2.2. Section, clause and Schedule headings are for ease of reference only, and do not in any way affect the interpretation of this Agreement.
- 1.2.3. An Event of Default is "**continuing**" if it has not been waived by the Pledgee in writing.
- 1.2.4. If any provision in a definition of these Master Terms of the Commercial Terms is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it appears only in an interpretation clause, effect shall be given to it as if it were a substantive provision of this Agreement.
- 1.2.5. The Schedules hereto form an integral part thereof and a reference to a clause or a Schedule is a reference to a clause of, or a schedule to, this Agreement.
- 1.2.6. Unless expressly otherwise provided in a Finance Document or inconsistent with the context, any number of days prescribed in a Finance Document must be calculated by excluding the first and including the last day, unless that last day falls on a day that is not a Business Day, in which case, if the last day is a payment date, the last day will instead be the next Business Day in the same calendar month (if there is one), or, if the last day is not a payment, date, the last day will instead be the next Business Day.
- 1.2.7. The rule of construction that, in the event of ambiguity, a contract shall be interpreted against the party responsible for the drafting thereof, shall not apply in the interpretation of this Agreement.
- 1.2.8. The use of the word "**including**" followed by specific examples will not be construed as limiting the meaning of the general wording preceding it, and the *eiusdem generis* rule must not be applied in the interpretation of such general wording or such specific examples.

- 1.2.9. The expiry of the Security Period shall not affect those provisions hereof that expressly provide that they will operate after any such expiry or termination or which of necessity must continue to have effect after such expiry or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.2.10. This Agreement shall to the extent permitted by applicable law be binding on and enforceable by the administrators, trustees, permitted cessionaries and assigns, insolvency practitioners or liquidators of the Parties as fully and effectually as if they had signed this Agreement in the first instance and reference to any Party shall be deemed to include such Party's administrators, trustees, permitted cessionaries and assigns, insolvency practitioners or liquidators as the case may be.
- 1.2.11. Unless the contrary intention appears:
- 1.2.11.1. any obligation of the Pledgor under this Agreement remains in force until the expiry of the Security Period;
- 1.2.11.2. any obligation of the Pledgor under this Agreement includes an obligation to not to contract or agree to do something or not to do something which would breach that obligation; and
- 1.2.11.3. any amount due and payable by the Pledgor to the Pledgee under this Agreement shall, until paid, form part of the Secured Obligations.

1.3. Third party rights

- 1.3.1. Except as expressly provided for in this Agreement, no provision of this Agreement constitutes a stipulation for the benefit of any person who is not a Party.
- 1.3.2. Notwithstanding any term of this Agreement, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time except to the extent that the relevant variation or rescission (as the case may be) relates directly to the right conferred upon any applicable third party under a stipulation for the benefit of that party which has been accepted by that third party.

2. CONTINUING PLEDGE

The Pledge is a continuing security and shall extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part, and shall:

- 2.1. be in addition to and not in substitution for any other Security, surety or guarantee held or hereafter to be held by the Pledgee from the Pledgor or any third party to secure or guarantee the Secured Obligations or otherwise, and the Pledgee shall, without prejudice to its respective

rights hereunder, be entitled to release or otherwise deal with any such additional Security, surety or guarantee as it sees fit;

- 2.2. without limitation to the foregoing, be in addition to any present or future right or remedy held by or available to the Pledgee; and
- 2.3. not be in any way prejudiced or affected by the existence of any Collateral Instruments, rights or remedies or by the same becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Pledgee dealing with, exchanging, varying or failing to perfect or enforce any of the same or giving time for payment or indulgence or compounding with any other person liable.

3. **REINSTATEMENT**

If any discharge, release or arrangement in respect of Secured Obligations is made by the Pledgee in whole or in part on the basis of any payment, Security or other disposition which is avoided or must be restored in any form of insolvency proceeding under the laws of any jurisdiction, liquidation, administration or otherwise, without limitation, then the Pledge will continue or be reinstated as if the discharge, release or arrangement had not occurred.

4. **NON IMPAIRMENT**

- 4.1. The Pledge shall remain in full force and effect for the duration of the Security Period and notwithstanding:
 - 4.1.1. the incapacity or any change in the name, style or constitution of the Pledgor or any other person liable for the repayment or discharge of the Secured Obligations;
 - 4.1.2. the Pledgee granting any time, indulgence or concession to the Pledgee or any other person liable to repay the Secured Obligations;
 - 4.1.3. the Pledgee compounding with, discharging, releasing or varying the Secured Obligations (in whole or part) or renewing, extending the tenor for payment of, determining, varying or increasing, any of the Secured Obligations or otherwise dealing with them in any manner whatsoever or concurring in, accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Pledgor or any other person liable for the repayment of the Secured Obligations;
 - 4.1.4. any document required to be delivered in terms of this Agreement or any Finance Document has not been delivered, or is delivered in a form otherwise than in strict compliance with the terms of this Agreement;

- 4.1.5. any failure or delay of the Pledgee in exercising any one or more of its rights or remedies under this Agreement or under the Finance Documents, either timeously or not at all; or
- 4.1.6. any other event or circumstance arises (including any act or omission by the Pledgee) on which the Pledgor might otherwise be able to rely on as a defence based on waiver, estoppel or otherwise.

5. **PERFECTION**

- 5.1. The Pledgee has appointed (or shall, prior to the commencement of the Security Period, appoint) the Collateral Manager as its agent and custodian for the purposes of holding and controlling the Pledged Commodities on its behalf and pursuant to the terms of the Collateral Management Agreement.
- 5.2. The Collateral Manager has confirmed and accepted (or shall, prior to the commencement of the Security Period, confirm and accept) such appointment by executing the Collateral Management Agreement.
- 5.3. The Pledgor hereby irrevocably and unconditionally (i) approves, authorises and consents to the Pledgee delivering instructions to the Collateral Manager in connection with the Pledged Commodities; and (ii) agrees that the Collateral Manager shall act on the sole and exclusive written instructions of the Pledgee in relation to the Pledged Commodities (including, without limitation, their release from any Storage Facility).
- 5.4. The Pledgor shall, at its own expense and immediately on demand of the Pledgee, execute all such documents and give all such notices to any person of this Pledge, effect all such registrations (at any registry in any relevant jurisdiction or otherwise), deposit all such documents, indorse Title Documents in favour of the Pledgee (or its nominee) and do all such other things as the Pledgee may require from time to time in order to:
 - 5.4.1. ensure that the Pledge remains a valid, effective and first ranking perfected pledge; and
 - 5.4.2. facilitate the enforcement of the Pledge or the Cession, the realisation of the Secured Property or the exercise of any rights held by the Pledgee under this Agreement or under applicable law.

6. **SECURITY CESSION**

The Pledgor hereby and for the duration of the Security Period, cedes *in securitatem debiti* (and not as an "out-and-out" cession) to the Pledgee, all of such Cedent's rights, entitlements and interests in and to (i) the Title Documents; (ii) the Storage Agreement, and (iii) the Pledged Commodities, in each case held by the Pledgor from time to time, as a continuing general covering collateral security for the

due, proper and timeous payment and performance in full of all of the Secured Obligations, which cession *in securitatem debiti*, the Pledgee hereby accepts.

7. REPRESENTATIONS AND WARRANTIES

The Pledgor makes the representations and warranties set out in this clause 7 (*Representations and Warranties*) to the Pledgee on the Signature Date.

7.1. Status

- 7.1.1. It is a limited liability company or corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- 7.1.2. It has the power to own, pledge and cede the Secured Property, and to carry on its business as it is being conducted.

7.2. Binding obligations

The obligations expressed to be assumed by it under each Transaction Document to which it is party are legal, valid, binding and enforceable obligations.

7.3. Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, each Transaction Document to which it is party and the granting of the Pledge do not and will not conflict with:

- 7.3.1. any law or regulation applicable to it;
- 7.3.2. its constitutional documents; or
- 7.3.3. 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.

7.4. Power and authority

It has the power, capacity and authority to enter into, perform and deliver, and has taken all necessary action (corporate or otherwise) to authorise its entry into, performance and delivery of, each Transaction Document to which it is party and the transactions contemplated by each Transaction Document to which it is party.

7.5. Validity and admissibility in evidence

- 7.5.1. All Authorisations and any other acts, conditions or things required or desirable:

7.5.1.1. to enable it lawfully to enter into, exercise its rights and comply with its obligations under each Transaction Document to which it is party; and

7.5.1.2. to make each Transaction Document to which it is party admissible in evidence in the Country and in its jurisdiction of incorporation,

have been obtained, effected, done, fulfilled or performed and are in full force and effect.

7.5.2. All Authorisations necessary for the conduct of the business, trade and ordinary activities of the Pledgor have been obtained or effected and are in full force and effect.

7.6. Governing law and enforcement

7.6.1. The governing law of this Agreement will be recognised and enforced in its jurisdiction of incorporation.

7.6.2. Any judgment obtained by the Pledgee in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

7.7. No filing or stamp taxes

Under the laws of its jurisdiction of incorporation it is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to this Agreement.

7.8. No proceedings pending or threatened

No litigation, arbitration or administrative proceedings in relation to any Secured Property of or before any court, arbitral body or agency have been started or threatened by any person.

7.9. Ranking

The Pledge has first ranking priority status.

7.10. Good title to Secured Property

7.10.1. It has a good, valid and marketable title to the Secured Property and all appropriate Authorisations to own and deal with such assets in the Country.

7.10.2. Save for Permitted Security, it is the sole legal and beneficial owner of the Secured Property free from any claims, Security, liens, rights of retention, third party rights or competing interests.

7.11. General

- 7.11.1. Each representation and warranty set out in this Agreement shall be a separate representation and warranty, and shall not be limited or restricted by reference to or inference from the terms of any other warranty or representation.
- 7.11.2. The Pledgor acknowledges that it makes the representations and warranties in this Agreement with the intention of inducing the Pledgee to enter into the Finance Documents and that the Pledgee enters into the Finance Documents on the basis of, and in full reliance on, each of such representations and warranties.
- 7.11.3. The representations and warranties in this Agreement are made on the Signature Date and shall be deemed repeated by the Pledgor on each day during the Security Period by reference to the facts and circumstances then existing.

8. GENERAL UNDERTAKINGS

The undertakings in this clause 8 remain in force for the duration of the Security Period.

8.1. Authorisations

The Pledgor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect and supply certified copies to the Pledgee of any Authorisation required under any law or regulation to:

- 8.1.1. own, store and sell the Pledged Commodities in the Country;
- 8.1.2. enable it to perform its obligations under each Transaction Document to which it is party; and
- 8.1.3. ensure the legality, validity, perfection, enforceability or admissibility in evidence of each Transaction Document to which it is party.

8.2. Compliance with laws and Transaction Documents

- 8.2.1. The Pledgor shall comply in all respects with (i) all laws to which it may be subject as regards to its ownership, storage, sale and use of the Pledged Commodities; and (ii) its obligations under each Transaction Document to which it is party.
- 8.2.2. Without limitation to the foregoing, the Pledgee is hereby irrevocably and unconditionally authorised to pay and discharge any documented unpaid fees owed by the Pledgor to the Storer or to the Collateral Manager, and the Pledgor shall promptly advise the Pledgee of any documented unpaid or overdue storage fees.

8.2.3. The Pledgor shall indemnify and reimburse the Pledgee on demand for any reasonable and properly documented fees paid by the Pledgee to the Storer or to the Collateral Manager (and until so reimbursed, the sum demanded shall form part of the Secured Obligations).

8.3. No amendments to, or termination of, the Transaction Documents

The Pledgor shall not make any amendment to each Transaction Document to which it is party which might have a material or adverse effect on the Pledgee or its interests under the Pledge, and the Pledgor shall not terminate, repudiate or rescind any Transaction Document to which it is party.

8.4. Negative pledge

Save for Permitted Security, the Pledgor shall not create or permit to subsist any Security over any Secured Property.

8.5. Disposals

8.5.1. The Pledgor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Secured Property.

8.5.2. Clause 8.5.1 above does not apply to Permitted Security or to the sale by the Pledgor of Pledge Commodities to a purchaser on arm's length terms in the ordinary course of trade provided that any conditions imposed by the Finance Documents as regards to the sale proceeds from such sales, or the making of such sales, are complied with.

8.6. Environmental compliance

The Pledgor shall:

8.6.1. comply with all Environmental Laws and Applicable E&S Laws;

8.6.2. obtain, maintain and ensure compliance with all requisite Environmental Permits in relation to the Secured Property; and

8.6.3. implement procedures to monitor compliance with and to prevent liability under any Environmental Law from arising in connection with any Secured Property; and

8.6.4. promptly upon becoming aware of the same, inform the Pledgee in writing of:

8.6.4.1. any Environmental Claim against it and in connection with the Secured Property which is current, pending or threatened; and

8.6.4.2. any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against it and in connection with the Secured Property.

8.7. Insurance

8.7.1. The Pledgor shall insure the Pledged Commodities against all those risks and to the extent as is usual for companies carrying on the same or substantially similar business.

8.7.2. The Pledgor shall ensure that all insurances remain valid and effective, and such insurances insure all the Pledged Commodities for its full replacement value (or for such other value and the Pledgee may accept).

8.7.3. All insurances shall be with reputable independent insurance companies or underwriters.

8.7.4. The Pledgor shall comply in all respects with all of the terms and conditions of all insurances, and pay all premiums timeously.

8.7.5. The Pledgor shall not act in a manner calculated to or which may render any insurance policy void or voidable.

8.7.6. The Pledgor shall ensure that the Pledgee is at all times indorsed each insurance policy insuring Pledged Commodities as first loss payee, and no Security may be given over the proceeds of claims in relation to any such insurances save in favour of the Pledgee.

8.8. Defective Pledged Commodities / Title Documents

The Pledgor shall immediately notify the Pledgee as soon as it becomes aware that any Pledged Commodities or Title Documents have been destroyed, lost, stolen or damaged.

9. STORAGE UNDERTAKINGS

The undertakings in this clause 9 remain in force for the duration of the Security Period.

9.1. The Pledgor shall:

9.1.1. not do anything and shall refrain from doing anything which would prevent, hinder or otherwise preclude the Collateral Manager from punctually and fully performing

its obligations under the Collateral Management Agreement and the Lease Agreement;

- 9.1.2. use its reasonable endeavours to procure and ensure that the Pledged Commodities are at all times during the Security Period stored at each Storage Facility:
 - 9.1.2.1. free of comixing or commingling (as applicable);
 - 9.1.2.2. segregated from the property of any other person or persons located at the Storage Facility or commodities pledged or otherwise secured (or purported to be secured) by the Pledgor in favour of any other person(s);
 - 9.1.2.3. unless contained in boxes or bags clearly labelled as the Pledgor's property, with signage erected putting third parties on notice of the Pledgor's ownership interest over, and the Pledgee's pledge interest in, such Pledged Commodities;
 - 9.1.2.4. in a safe manner in accordance with sound industry, health and safety practices in accordance with all applicable laws; and
 - 9.1.2.5. under the exclusive control, possession and custody of the Collateral Manager;
- 9.1.3. co-operate fully with the Collateral Manager, and provide (and procure the provision of assistance by any relevant third person) all assistance reasonably requested by the Collateral Manager to enable it to perform its obligations under the Collateral Management Agreement and the Lease Agreement;
- 9.1.4. punctually pay and discharge all fees and charges due and payable by it to the Collateral Manager under and in terms of the Collateral Management Agreement;
- 9.1.5. punctually pay and discharge all applicable fees, costs, Taxes, duties and charges due and payable by it to each relevant Authority for the importation of the Pledged Commodities into the Country;
- 9.1.6. not commit any wilful act nor suffer any wilful omission, and will not wilfully permit any other person to do any act or suffer any omission, which will have or might reasonably be expected to have the effect of diminishing or adversely affecting the rights of the Pledgee hereunder, or the market value of the Secured Property; and
- 9.1.7. not exercise any and all rights in respect of the Secured Property which it may have, which will be in conflict with the rights of the Pledgee in terms of this

Agreement or the obligations of the Collateral Manager under and in terms of the Collateral Management Agreement.

- 9.2. No Pledged Commodities may be released from the Storage Facility unless by the Collateral Manager acting on the prior written instructions of the Pledgee as set out in a Release Request, or in such other manner, and in the form, as contemplated by the Collateral Management Agreement.

10. **INFORMATION UNDERTAKINGS**

The undertakings in this clause 10 remain in force for the duration of the Security Period.

10.1. The Pledgor shall:

- 10.1.1. promptly upon request of the Pledgee, deliver to the Pledgee (or to any of its appointed agents, custodians or nominees) all Collateral Instruments, Title Documents and records prepared in relation to the Secured Property or their storage;
- 10.1.2. promptly upon request of the Pledgee, provide to the Pledgee with all information requested by the Pledgee regarding the Secured Property, the Storer, the Collateral Manager, the Collateral Management Agreement, the Storage Agreement and/or the transactions contemplated by this Agreement;
- 10.1.3. promptly upon request of the Pledgee provide copies of the shipping documents, customs forms and other documents in connection with the importation of the Pledged Commodities into South Africa;
- 10.1.4. promptly upon request of the Pledgee, provide copies of any and all documents evidencing its compliance with any specified and representations, warranties or undertakings in this Agreement; and
- 10.1.5. promptly upon any of same arising, the details of any dispute in relation to the Secured Property, the Collateral Manager, the Storer, the Collateral Management Agreement, the Storage Agreement and/or the transactions contemplated by this Agreement or any other Transaction Document.

11. **ENFORCEMENT**

- 11.1. For so long as an Event of Default has occurred and is continuing, the Pledgee shall be entitled to pursue or exercise, on prior written notice to the Pledgor, any remedy or right available to it under the law of the Country to enforce the Pledge and or the Cession, and to realise the Secured Property, and without the need to obtain an order of any court. Without limitation to the foregoing and for so long as an Event of Default has occurred and is continuing the Pledgee may:

- 11.1.1. exercise all the rights, powers and privileges afforded to pledgees and cessionaries under applicable law to sell and realise the Secured Property;
- 11.1.2. to exercise the Ceded Rights (including, without limitation, to give notices and directions to the relevant counterparties in respect of their relevant performance obligations in connection with same);
- 11.1.3. sell, assign, indorse, transfer or otherwise dispose of or realise the Secured Property, or any of them, or to realise the underlying value of the Secured Property in such manner by public auction or by private treaty and on such terms as may appear to it to be most expedient (such sales may be domestic within the Country, by way of export to international buyers, or any combination thereof) (for the purposes of any sales made as aforesaid, the Pledgee shall take reasonable measures to establish and sell the relevant Secured Property at their open market values, but shall not be prohibited from concluding any such sales below market values after having taken such reasonable measures);
- 11.1.4. institute and/or defend any and all legal proceedings which it may deem necessary in connection therewith;
- 11.1.5. give good, valid and sufficient receipts and discharges for the purchase price or proceeds of the Secured Property; and/or
- 11.1.6. elect to effect transfer of the Secured Property into its own name (or any of its nominees) as owner at fair market value determined (in the case of Pledged Commodities (or Title Documents or Ceded Rights representing or entitling the Pledgee to such Pledged Commodities or to exercise rights of sale in connection with same) by reference to a commodities exchange on which the relevant commodities (or derivatives of such commodities) are traded or to the price(s) published by an Agreed Benchmark Source (or if any such source is unavailable or has ceased to be provided, to its successor source, or if there is no successor source to an alternative source as the Parties may agree), provided further that if the fair market value of any Secured Property cannot be determined by the Pledgee as aforesaid then it shall be agreed in writing between the Parties and failing any such written agreement within 7 (seven) Business Days will be determined by one of PwC, Mazars, Grant Thornton, Deloitte, KPMG, E&Y or Baker Tilley (provided that the said appointed firm of auditors is independent of both Parties) appointed by the Pledgee as the costs and expense of the Pledgor, acting as an expert and not as an arbitrator (and with power and authority to engage, and rely on the findings of, any third party market expert as it deems fit, and to disburse the fees and costs of such expert). The Pledgor shall be responsible for and shall pay the independent market expert's charges, fees and

disbursements for determining the fair market price, which if not paid on demand shall be accreted to the Secured Obligations.

- 11.2. All sums realised by the Pledgee pursuant to the enforcement of the Pledge shall be applied in *pro tanto* discharge of the Secured Obligations, and in such order as the Pledgee reasonably deems fit or if a Financing Document prescribes an order of priority for payments of amounts which are insufficient to discharge the Secured Obligations in full, in that order. Any balance following such application shall be promptly paid over by the Pledgee to the Pledgor, provided further that if after any such application Secured Obligations remain outstanding then the Pledgee shall be entitled at any time to sue the Pledgor for the recovery of same.
- 11.3. On the Pledgee taking enforcement action in terms of clause 11 (*Enforcement*), the Pledgor shall on demand by the Pledgee and at its own cost and expense carry out any and all directions and instructions which the Pledgee may give as regards to the realisation of the Secured Property and sign any document or do any other lawful act necessary so as to enable and/or facilitate the taking of the enforcement action in question.
- 11.4. The Pledgor irrevocably and unconditionally agrees and acknowledges that:
- 11.4.1. the Pledge is a security interest granted to secure moneys owed under arms length commercial lending transactions;
- 11.4.2. the Secured Obligations are obligations and debts owing of a commercial nature;
- 11.4.3. this clause 11 (*Enforcement*) confers on the Pledgee certain procedural advantages (which advantages are consented and agreed to); and
- 11.4.4. the Pledgor appreciates and understands the meaning, import and consequences of this Agreement and in particular this clause 11 (*Enforcement*).
- 11.5. Notwithstanding anything to the contrary contained in this Agreement, the Pledgee shall not be obliged to take any steps to enforce the Pledge.

12. POWER OF ATTORNEY

- 12.1. The Pledgor hereby authorises and appoints the Pledgee irrevocably and *in rem suam* as the Pledgor's attorney and agent in the Pledgor's name, place and stead to do all such things and to sign and execute such documents:
- 12.1.1. to enable or to facilitate enforcement of the Pledgee pursuant to the provisions of clause 11 (*Enforcement*);
- 12.1.2. to do anything which the Pledgor is obliged to do under this Agreement;

- 12.1.3. to do anything which the attorney may require to exercise any of the rights conferred on it by the Pledgee under this Agreement or by applicable law;
- 12.1.4. to execute, deliver, indorse and/or negotiate any documents or instruments which the Pledgee may require to evidence the perfection of the Pledge (such indorsement on a Title Document to include the giving of instructions to any nominee, the Collateral Manager or other custodian to make the relevant indorsement on the Title Document in favour of the Pledgee or any third party);
- 12.1.5. in the exercise of its enforcement rights under the Pledge. To deal with (any to pay any sums owed or required to be paid to) any customs authorities or officials, the South African Revenue Service ("**SARS**") or other Authorities, for the purposes of ensuring the lawful importation of Pledged Commodities into the Country or procuring the release of same from any bonded warehouse, and similarly to deal with any customs authorities or officials, or other Authorities, for the purposes of ensuring the lawful exportation of Pledged Commodities out the Country and their corresponding importation to any relevant buyer in a foreign jurisdiction (and for any purposes as aforesaid the Pledgor shall co-operate fully with the Pledgor and afford all such reasonable assistance to the Pledgor (including, without limitation, corresponding as required with SARS or other Authorities) so as to ensure, facilitate and procure that the Pledgee can make the relevant payments and/or do all such acts and/or things as aforesaid so as to achieve the required outcome(s));
- 12.1.6. to sign, execute, seal, indorse, negotiate and/or deliver and otherwise perfect any document which the Pledgor is required to enter into pursuant to this Agreement; and
- 12.1.7. otherwise generally to sign, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Pledgee under this Agreement or by applicable law, or which the Pledgor is required to do pursuant to this Agreement or which may be deemed expedient by the Pledgee in connection with any preservation, disposition, realisation, perfection or enforcement of the Secured Property or any part thereof or in connection with any other exercise of any other power under this Agreement.

12.2. The Pledgor hereby ratifies and confirms and agrees to ratify and confirm all acts and things which the attorney does in exercise of the powers granted by this clause 12.

13. **WAIVERS AND INDEMNITIES**

13.1. The Pledgor hereby:

- 13.1.1. agrees that the Pledgee shall not be responsible (save in the case of the Pledgee's own fraud, wilful misconduct or wilful default) for any loss or damage occasioned from the sale of any Secured Property pursuant to the exercise of its rights under or in connection with this Agreement, howsoever arising, or for any reduction in the value of the Secured Property;
 - 13.1.2. indemnifies and holds the Pledgee and its respective directors, officers, employees, trustees, beneficiaries, representatives, delegates, agents and advisers (each, an '**Indemnified Party**') harmless from and against any properly documented loss or damage suffered or reasonably incurred by any of them from any cause in connection with this Agreement, whether the loss or damage results from contract, delict, negligence or any other cause and whether this Agreement has been terminated or not (save in the case of the Indemnified Party's own fraud, wilful misconduct or wilful default);
 - 13.1.3. indemnifies each Indemnified Party against any properly documented loss or liability suffered or incurred by that Indemnified Party (except to the extent caused by such Indemnified Party's own fraud or wilful misconduct) which arises (i) by virtue of any actual breach of any Environmental Law; or (ii) in connection with any Environmental Claim which relates to the Secured Property.
- 13.2. Clauses 13.1.3 and 13.1.2 each constitute a *stipulatio alteri* in favour of each Indemnified Party capable of acceptance at any time.

14. **COSTS AND EXPENSES**

The Pledgor shall, within 10 (ten) Business Days of demand, pay to the Pledgee the amount of all properly documented costs and expenses (including legal fees on the scale as between attorney and own client whether incurred before or after judgement) incurred by the Pledgee in connection with the enforcement of, or the preservation of any rights under, this Agreement (for such purposes, and without limitation, a cost order handed down by a court of law shall be deemed and considered as properly documented for the purposes of this clause).

15. **CONFIDENTIALITY**

- 15.1. Save to the extent in the public domain and subject to clause 15.2, the Parties agree to maintain this Agreement and the details of their negotiations leading up to the conclusion of this Agreement as confidential.
- 15.2. The Pledgee may disclose any documents, records or information about the Pledgor, the Secured Obligations and/or this Agreement (and any documents referred to in this Agreement) to (a) to any person to whom the Pledgee reasonably believes such information is required to be disclosed for the purposes of implementing the transactions contemplated by this Agreement including, without limitation, the Indemnified Parties; or (b) for the purposes of

enforcing its rights or performing its obligations under or in terms of this Agreement; (c) for any other reason necessary in order to give effect to the provisions of this Agreement or the Collateral Management Agreement; (d) in accordance with any applicable law, regulation, rule of stock exchange or court order (e) to its outside legal counsel, auditors and rating agencies; (f) to any third party to whom the Pledgee is entitled to transfer its rights and/or obligations hereunder (or to whom the Pledgee may enter into a risk or sub-participation in relation to its rights hereunder); (g) any person who intends to provide funding to the Pledgee; (h) any investors in the Pledgee and its Affiliates; (i) to the Storer or to the Collateral Manager in connection with Pledged Commodities; and/or (j) to any carriers, customs officials or forwarding or clearing agents in connection with Pledged Commodities.

16. NOTICES

- 16.1. All notices, requests and demands given or made under this Agreement shall be given or made in writing and unless otherwise stated shall be made by letter (sent by hand or registered courier) or email using the address for the Pledgee and the Pledgor as specified in the Master Terms.
- 16.2. All notices or other communication from one Party to another under this Agreement shall be deemed to have been received:
 - 16.2.1. if sent by email, on the day on which transmitted if received in legible form; or
 - 16.2.2. in the case of a notice given by hand or courier, on the day of actual delivery,provided that a notice given in accordance with the above but received on a day which is not a Business Day or after normal business hours in the place of receipt shall be deemed to have been received on the next Business Day.
- 16.3. Despite anything to the contrary in this Agreement, a notice actually received by a Party is effective even though it was not sent, or delivered, or sent and delivered to its address or contact details specified in this Agreement.
- 16.4. Any notice or other document given under or in connection with this Agreement must be in English.
- 16.5. Each Party chooses its physical address provided in this Agreement as its *domicilium citandi et executandi* at which documents in legal proceedings in connection with this Agreement may be served.
- 16.6. Any Party may by written notice to the other Party change its *domicilium* from time to time to another address, not being a post office box or a poste restante, provided that any such change shall only be effective on the 14th (fourteenth) day after deemed receipt of the notice by the other Party under this clause 16 (*Notices*).

17. CHANGES TO THE PARTIES

17.1. Transfers by the Pledgee

- 17.1.1. The Pledgee may cede any of its rights and/or delegate any of its obligations under this Agreement to any person on prior written notice to the Pledgor.
- 17.1.2. The Pledgor agrees to any splitting of claims which may arise from any such cession.

17.2. Transfers by the Pledgor

The Pledgor may not cede any of its rights nor delegate any of its obligations under this Agreement unless agreed to in writing by the Pledgee.

18. SET OFF

The Pledgor hereby agrees that the Pledgee may at any time without notice, notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of its then existing accounts wheresoever situate (including accounts in the name of the Pledgee or of the Pledgor jointly with others), whether such accounts are current, deposit, loan or of any other nature whatsoever, whether they are subject to notice or not and whether they are denominated in Euro or in any other currency, and set off or transfer any sum standing to the credit of any one or more such accounts in or towards satisfaction of the Secured Obligations. For this purpose, the Pledgee is authorised to purchase with the moneys standing to the credit of any such account, such other currencies at an exchange rate advised to the Pledgee by the Pledgee's commercial bankers (or any one of them) as may be necessary to effect such application. The Pledgee shall, as soon as reasonably practicable after exercising set-off rights under this clause 18, advise the Pledgor of same and the sums which have been set-off against each other.

19. PAYMENTS; CURRENCIES AND TAXES

19.1. Currency of account

- 19.1.1. The obligation of the Pledgor shall be to make payment of each Secured Obligation to the Pledgee in the currency in which, and at the time and place at which, that Secured Obligation is payable by the Pledgee under and in terms of the relevant Finance Document.
- 19.1.2. Any amounts payable by the Pledgor to the Pledgee under this Agreement shall be payable in the currency in which they are incurred or at the election of the Pledgee, in a currency in which any of the Secured Obligations are denominated (and where for these purposes the Pledgee may convert the currency of incurrence into the currency of the relevant Secured Obligation by applying a rate of exchange available to the Pledgee in its ordinary course of business).

- 19.1.3. Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- 19.1.4. Any amount expressed to be payable in a particular currency shall be paid in that other currency.
- 19.1.5. If a payment under this Agreement is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

19.2. VAT

All amounts payable under this Agreement are exclusive of VAT. If VAT is required to be charged on any such amounts then the Pledgor will pay to the Pledgee an amount equal to the applicable VAT.

19.3. Currency indemnities

- 19.3.1. If any sum due from the Pledgor under this Agreement or any order or judgment given or made in relation hereto has to be converted from the currency ('**first currency**') in which the same is payable under this Agreement or under such order or judgment into another currency ('**second currency**') for the purpose of (i) making or filing a claim or proof against the Pledgor, (ii) obtaining an order or judgment in any court or other tribunal or (iii) enforcing any order or judgment given or made in relation to this Agreement, the Pledgor shall indemnify and hold harmless the Pledgee from and against any loss suffered as a result of any difference between (a) the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency; and (b) the rate or rates of exchange at which the Pledgee may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such order, judgment, claim or proof.
- 19.3.2. If any enforcement of the Pledge results in the Pledgee receiving proceeds on account of a Secured Obligation in a currency which differs to the currency in which such Secured Obligation is denominated then the Pledgee may convert such proceeds into the currency of the Secured Obligation prior to making the required application under clause 11.2 (*Enforcement*) above at a rate of exchange available to the Pledgee in its ordinary course of business, and the Pledgor shall indemnify and hold harmless the Pledgee from and against any loss suffered as a result of making such conversion.
- 19.3.3. Any amount due from the Pledgor under this clause 19.3.3 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of this Agreement and the term rate of exchange

includes any premium and costs of exchange payable in connection with the making of the relevant conversion.

20. NO SET-OFF OR COUNTERCLAIM; GROSSING-UP FOR TAXES

- 20.1. All payments to be made by the Pledgor under this Agreement shall be made in full, without any set off, condition or counterclaim whatsoever and, subject as provided below, free and clear of any deductions or withholdings whatsoever.
- 20.2. If at any time the Pledgor is required to make any deduction or withholding in respect of Taxes, levies, duties, imposts or any charges whatsoever from any payment due under this Agreement for the account of the Pledgee, the sum due from the Pledgor in respect of such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Pledgee receives on the due date for such payment (and retains, free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made, and the Pledgor shall indemnify the Pledgee against any losses or costs incurred by reason of any failure of the Pledgor to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment.
- 20.3. The Pledgor shall promptly deliver to the Pledgee any receipts, certificates or other proof evidencing the amount (if any) paid or payable in respect of any deduction or withholding as aforesaid.

21. CONDUCT OF BUSINESS BY THE PLEDGEE

No provision of this Agreement will:

- 21.1. interfere with the right of the Pledgee to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- 21.2. oblige the Pledgee to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- 21.3. oblige the Pledgee to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

22. GENERAL

22.1. Changes in constitution or reorganisations of the Pledgee

This Agreement shall remain binding on the Pledgor notwithstanding any change in the constitution of the Pledgee or its absorption in, or amalgamation with, or the acquisition of all or part of its undertaking or assets by, any other person, or any reconstruction or reorganisation of any kind, to the intent that this Agreement shall remain valid and effective in

all respects in favour of any assignee, cessionary, transferee or other successor in title of the Pledgee in the same manner as if such assignee, transferee, cessionary or other successor in title had been named in this Agreement as a party instead of, or in addition to, the Pledgee.

22.2. Non circumvention

The Pledgor hereby irrevocably and unconditionally undertakes in favour of the Pledgee that it will not circumvent, avoid, bypass the terms and conditions contained in this Agreement, or attempt to do so for any purpose whatsoever.

22.3. Rights and remedies

22.3.1. No failure to exercise, nor any delay in exercising, on the part of the Pledgee, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy.

22.3.2. The rights and remedies of the Pledgee under this Agreement are cumulative and not exclusive of its rights under the general law and may be exercised as often as the Pledgee requires.

22.4. Severance

22.4.1. Each term of this Agreement, whether forming an entire clause or only part of a clause, is divisible and severable from all the other terms (regardless of the manner in which they may be linked together or grouped grammatically).

22.4.2. If, at any time, any provision of a Finance Document is or becomes illegal, invalid, unenforceable or inoperable in any respect under any law of any jurisdiction, neither the legality, validity, enforceability or operation of the remaining provisions nor the legality, validity, enforceability or operation of such provision under the law of any other jurisdiction will in any way be affected or impaired. The term "**inoperable**" includes, without limitation, inoperable by way of suspension or cancellation.

22.5. Entire Agreement

This Agreement constitutes the whole agreement between the Parties as to the subject matter hereof.

22.6. No implied terms

No Party shall be bound by any express or implied term, representation, warranty, promise or the like, not recorded in this Agreement.

22.7. Amendments

No addition to or variation, consensual cancellation or modification of this Agreement and no waiver of any right arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by the Parties.

22.8. Indulgences

22.8.1. No latitude, extension of time or other indulgence which may be given or allowed by the Pledgee to the Pledgor in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of the Pledgee arising from this Agreement or under applicable law, and no single or partial exercise of any right by any party under this Agreement, shall in any circumstances be construed to be an implied consent or election by the Pledgee or operate as a waiver of or otherwise affect any of the Pledgee's rights in terms of or arising from this Agreement or estop or preclude the Pledgee from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

22.8.2. Delay in the exercise or non-exercise of any right or remedy of the Pledgee under or in connection with this Agreement is not a waiver of that right.

22.9. Warranty of Authority

The persons signing this Agreement for and on behalf of the Pledgor in a representative capacity warrant their authority to do so.

22.10. Renunciation of benefits

The Pledgor renounces, to the extent permitted under applicable law, the benefits of each of the legal exceptions of *excussio*, *divisio*, *revisio* of accounts, *no value received*, *errore calculi*, *non causa debiti*, *non numeratae pecuniae* and cession of actions, and declares that it understands the meaning of each such legal exception and the effect of such renunciation.

22.11. Certificates and Determinations

Any certification or determination by a manager, director, agent or employee of the Pledgee (whose appointment need not be proved) as to the existence of and the amount of the Secured Obligations or any other indebtedness by the Pledgor to the Pledgee, that such amount is due and payable, the amount of interest accrued thereon and as to any other fact, matter or thing related to the Pledgor's indebtedness under the Finance Documents or this Agreement shall be, in the absence of manifest error, *prima facie* evidence of the contents and correctness of the matters to which it relates for the purposes of provisional sentence, summary judgment or any other proceedings, shall be valid as a liquid document for such purposes and shall, in

addition, be *prima facie* proof for purposes of pleading or trial in any action instituted against the Pledgor under or in connection with this Agreement.

22.12. 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 this Agreement.

22.13. Independent advice

The Pledgor acknowledges that it has been free to secure independent legal and other advice as to the nature and effect of all of the provisions of this Agreement and that it has either taken such independent legal and other advice or dispensed with the necessity of doing so. Further, the Pledgor acknowledges that all of the provisions of this Agreement and the restrictions therein contained are part of the overall intention of the Parties in connection with the Finance Documents.

23. GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by, and shall be construed under and in terms of, South African law.

24. JURISDICTION

24.1. The Parties hereby irrevocably and unconditionally consent to the non-exclusive jurisdiction of the High Court of South Africa (Gauteng Local Division, Johannesburg) (or any successor to that division) in regard to all matters arising from this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "**dispute**").

24.2. The Parties agree that the courts of South Africa are the most appropriate and convenient courts to settle disputes. The Parties agree not to argue to the contrary and waive objection to this court on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with this Agreement.

25. WAIVER OF IMMUNITY

The Pledgor irrevocably and unconditionally:

25.1. agrees not to claim any immunity from suit, execution, attachment or other legal process brought the Pledgee against it in relation to this Agreement, and to ensure that no such claim is made on its behalf;

25.2. consents generally to the giving of any relief or the issue of any process in connection with those proceedings; and

- 25.3. waives any right it may have to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

Schedule 1 – Form of Release Request

From: **CREDIT EUROPE BANK N.V.**
Karspeidreef 6A, 1101 CJ, Amsterdam
Attention: [REDACTED]; [REDACTED]
(the "Pledgee")

To: *****Collateral Manager*****
Email: [REDACTED]
Attention: [REDACTED]
(the "Collateral Manager").

CC: **CZARNIKOW GROUP LIMITED**
Email: [REDACTED]
Attention: [REDACTED]
(the "Pledgor")

Date: [] 2022

Dear Sirs,

RE: Release Request in relation to a Collateral Management Agreement by and between Pledgor, Pledgee and the Collateral Manager dated [REDACTED]

We refer to the Collateral Management Agreement.

We further refer to the following warehouse receipts issued by the Collateral Manager in our favour (the "Warehouse Receipts"):

*[*****set out details*****]*

We hereby authorise and instruct you to release the following commodities referenced in the Warehouse Receipts:

[describe the commodities to be released].

Such commodities to be released no earlier than [REDACTED].

Yours faithfully,

CREDIT EUROPE BANK N.V.

(Authorised signatory)