

BASF SE  
BASF HANDELS- UND EXPORTGESELLSCHAFT MIT BESCHRÄNKTER HAFTUNG  
LETTERONE HOLDINGS S.A.  
L1 ENERGY CAPITAL MANAGEMENT SERVICES S. À R. L.  
AND  
HARBOUR ENERGY PLC

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Business Combination Agreement

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1. Sale and Purchase .....	6
2. Consideration .....	7
3. Conditions .....	16
4. Satisfaction of the Conditions .....	22
5. Pre-Completion Undertakings .....	32
6. Completion .....	56
7. Warranties of BASF and Letterone .....	58
8. Purchaser Warranties and Undertaking .....	59
9. No Rescission .....	60
10. Information, Records and Assistance .....	60
11. Confidential Information .....	60
12. Announcements .....	61
13. Costs .....	62
14. Payments .....	63
15. VAT .....	64
16. Tax .....	64
17. General .....	66
18. Double Recovery and Double Counting .....	71
19. Entire Agreement .....	71
20. Notices .....	72
21. Governing Law and Jurisdiction .....	73
Schedule 1 Completion Requirements .....	75
Schedule 2 Non-Voting Ordinary Shares Terms .....	77
1. Interpretation .....	77
2. Income .....	82
3. Voting .....	82
4. Class rights .....	82
5. No deemed variation .....	83
6. Voluntary Conversion .....	83
7. Conversion on Change of Control or Delisting .....	86
8. Liquidation .....	87
9. Transfer/Listing .....	87
Schedule 3 Permitted Letterone Share Purchases .....	89
Part A Conditions .....	89

Part B ROFR Offer Notice ..... 90

Part C ROFR Acceptance Notice ..... 92

Part D Matching Right Notice..... 93

Part E Letterone Option Exercise Notice ..... 95

Part F Dilution Adjustments..... 96

Part G Transfer Terms ..... 98

Schedule 4 BASF and Letterone Warranties..... 101

Schedule 5 Purchaser Warranties ..... 104

Schedule 6 Transaction Perimeter Assets ..... 107

Part A Overview..... 107

Part B Interests in Participations and Joint Operations ..... 108

Schedule 7 Purchaser Subsidiaries. .... 109

Schedule 8 NewCo Group Companies..... 111

Schedule 9 Financial Adjustments ..... 112

Part A Preliminary..... 112

Part B Specific Accounting Treatments ..... 113

Part C Adjustment Statements..... 115

Part D Expert Determination ..... 117

Part E Financial Adjustments. .... 120

Schedule 10 Effective Date Balance Sheet Format..... 121

Schedule 11 Steps Plan ..... 122

Schedule 12 Employment..... 125

Schedule 13 “Wrong Pockets” and Related Indemnity Wording ..... 131

Schedule 14 Definitions and Interpretation..... 137

**Agreed Form Documents**

Purchaser Transaction Announcement

BASF Transaction Announcement

Letterone Transaction Announcement

Target Shares Transfer Deed

BASF Relationship Agreement

Letterone Relationship Agreement

BASF Lock-up Agreement

Letterone Lock-up Agreement

Letterone Standstill Agreement

Officers' Certificate

**THIS AGREEMENT** is made on 21 December 2023

**BETWEEN:**

- (1) **BASF SE**, a European stock corporation (*Societas Europaea*) established under the laws of Germany, registered with the commercial register of the local court (*Amtsgericht*) of Ludwigshafen am Rhein under registration number HRB 6000 with its registered seat in Ludwigshafen am Rhein, Germany (**BASF TopCo**);
- (2) **BASF HANDELS- UND EXPORTGESELLSCHAFT MIT BESCHRÄNKTER HAFTUNG**, a limited liability company (*Gesellschaft mit beschränkter Haftung*) established under the laws of Germany registered with the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Ludwigshafen am Rhein under registration number HRB 3535 with its registered seat in Ludwigshafen am Rhein, Germany (**BHE**, BHE and BASF TopCo together **BASF**);
- (3) **LETTERONE HOLDINGS S.A.**, a Luxembourg public limited company (*société anonyme*) with registered seat in Luxembourg, and registered with the company register of Luxembourg under B176010, whose registered address is at 1-3 Boulevard de la Foire, L-1528 Luxembourg (**Letterone TopCo**);
- (4) **L1 ENERGY CAPITAL MANAGEMENT SERVICES S. À R. L.**, a Luxembourg limited company (*société à responsabilité limitée*) with registered seat in Luxembourg, and registered with the company register of Luxembourg under B185442, whose registered address is at 1-3 Boulevard de la Foire, L-1528 Luxembourg (**L1 Energy**, Letterone TopCo and L1 Energy together **Letterone**); and
- (5) **HARBOUR ENERGY PLC**, a public limited company incorporated under the laws of Scotland and registered under number SC234781, whose registered address is at 4<sup>th</sup> Floor, Saltire Court, 20 Castle Terrace, Edinburgh, EH1 2EN (**Purchaser**).

BASF, Letterone and the Purchaser together the **Parties** and each individually a **Party**.

**INTRODUCTION:**

- (A) BASF TopCo holds all shares in BHE.
- (B) Letterone TopCo holds all shares in L1 Energy.
- (C) BHE holds 72.7% and L1 Energy holds 27.3% of the shares in Wintershall DEA AG, a stock corporation (*Aktiengesellschaft*) established under the laws of Germany registered with the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Lüneburg under registration number HRB 209823 with its registered seat in Celle, Germany (**Wintershall DEA**).
- (D) The Purchaser is a public company with its shares listed on the premium segment of the Official List of the FCA and admitted to trading on the main market of the London Stock Exchange.
- (E) BASF and Letterone intend that Wintershall DEA shall transfer prior to Completion certain assets including the Transaction Perimeter Assets to a limited liability company (*Gesellschaft mit beschränkter Haftung*) established under the laws of Germany (**NewCo 2**). BHE will hold 72.7% and L1 Energy will hold 27.3% of the shares in NewCo 2.

- (F) The Transaction Perimeter Assets comprise, among other things: (i) Wintershall DEA's 100% interest in Wintershall Dea Global Holding GmbH (*NewCo 1*), a limited liability company (*Gesellschaft mit beschränkter Haftung*) established under the laws of Germany by way of a hive-down of some of the Transaction Perimeter Assets (the *Hive-Down*) and registered with the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Hamburg under registration number HRB 182468; and, indirectly (ii) the Bonds.
- (G) On the date of this Agreement, the Parties have obtained irrevocable undertakings from each of the Purchaser Directors who hold Purchaser Shares and EIG to vote in favour of the Purchaser Resolutions.
- (H) BHE and L1 Energy wish to sell and BASF TopCo and Letterone TopCo wish to procure the sale of, and the Purchaser wishes to purchase, the entire issued share capital of NewCo 2, and indirectly each other NewCo Group Company, which together will hold the relevant assets, rights, contracts and liabilities which are the subject of the Transaction, including the Transaction Perimeter Assets, in each case on the terms and subject to the conditions set out in this Agreement.

**THE PARTIES AGREE** as follows:

**1. Sale and Purchase**

- 1.1 On and subject to the terms and conditions of this Agreement, the Sellers shall sell with full title guarantee and the Purchaser shall purchase, or procure the purchase by the Designated Purchaser of, all shares in NewCo 2 (the *Target Shares*) and each right attaching or accruing to the Target Shares at Completion free of any Encumbrance, in each case at Completion.
- 1.2 Each of BASF and Letterone hereby irrevocably and unconditionally waives any rights of pre-emption and other restrictions on transfer of the Target Shares conferred on it by the articles of association of NewCo 2 or otherwise over any of the Target Shares so as to permit the sale and purchase of the Target Shares in accordance with this Agreement.
- 1.3 The consideration for the sale of the Target Shares shall be determined in accordance with clause 2.
- 1.4 Each of BASF and Letterone agrees and shall procure that:
  - 1.4.1 from Completion the Purchaser (or any Designated Purchaser) shall be entitled to exercise all rights attaching or accruing to the relevant Target Shares, including the right to receive all dividends, distributions and any return of capital declared, paid or made by NewCo 2 with respect to the relevant Target Shares;
  - 1.4.2 the Target Shares will comprise the entire issued share capital of NewCo 2 at Completion; and

- 1.4.3 any agreement or commitment outstanding which calls for the allotment, issue or transfer of, or confers on any person the right to call for the allotment, issue or transfer of, any shares (including Target Shares) or debentures in or securities of any NewCo Group Company, is terminated or irrevocably discharged prior to Completion such that no such agreement or commitment is outstanding at Completion.

**2. Consideration**

- 2.1 The total consideration for the sale of the Target Shares shall be the aggregate of:

- 2.1.1 the Final Consideration Cash Amount;
- 2.1.2 the allotment and issue by the Purchaser to the Sellers of the Consideration Shares; and
- 2.1.3 subject to clause 2.5, the Contingent Payments.

**2.2 The Final Consideration Cash Amount**

- 2.2.1 The *Final Consideration Cash Amount* shall be the amount in US\$ which results from taking US\$ 2,150,000,000 (the *Initial Consideration Cash Amount*) and:

- (a) adding the Total Purchaser Leakage (if any);
- (b) subtracting the Total Seller Leakage (if any);
- (c) adding the Total Seller Reverse Leakage (if any); and
- (d) adding the Effective Date Balance Sheet Value Adjustment (if any).

- 2.2.2 At Completion the Purchaser shall pay to each Seller on account of the Final Consideration Cash Amount its Seller Relevant Proportion of the amount in US\$ which results from taking the Initial Consideration Cash Amount and:

- (a) adding the Purchaser Notified Leakage (if any);
- (b) subtracting the Seller Notified Leakage (if any);
- (c) adding the Seller Notified Reverse Leakage (if any);
- (d) subtracting the Estimated Deferral Amount; and
- (e) either:
- (i) if the Effective Date Balance Sheet Value Adjustment has been agreed or finally determined in accordance with Schedule 9 at least five (5) Business Days prior to Completion, adding the Effective Date Balance Sheet Value Adjustment (if any); or
- (ii) if the Effective Date Balance Sheet Value Adjustment has not been agreed or finally determined in accordance with Schedule

9 at least five (5) Business Days prior to Completion, adding the Provisional Balance Sheet Value Adjustment (if any),

(the *Completion Consideration Cash Amount*).

- 2.2.3 The Parties shall prepare and finalise the Adjustment Statements in accordance with Part A, Part B, Part C and Part D of Schedule 9 and the relevant Parties shall make the payments stipulated in Part E of Schedule 9.
- 2.2.4 Excluding any payments made under clause 5.7, any payment made under this Agreement or any other Transaction Document and not already taken into account for the calculation of the total consideration for the sale of the Target Shares pursuant to this clause 2 (in particular any payment made in satisfaction of a liability arising under a Seller Obligation or a Purchaser Obligation) shall, to the extent possible under Applicable Law, be treated as an adjustment to the Final Consideration Cash Amount.

### 2.3 **Deferral Amount**

- 2.3.1 The Purchaser shall pay the Deferral Amount (plus an upward adjustment thereon as described in clause 2.3.2) no later than the date falling eighteen (18) months after Completion (the *Deferral Amount Due Date*), but the Purchaser may also pay all, or any part, of the Deferral Amount (together with accrued interest) at the end of any calendar month from the date on which an Adjustment Statement is finally agreed or determined in accordance with Schedule 9 until and including the Deferral Amount Due Date, having given three (3) Business Days prior notice to the Sellers of such payment being made.
- 2.3.2 Any unpaid amount of the Deferral Amount shall be increased by a percentage equal to the CME 3M Term SOFR plus 250 bps (on an annualised basis; compounding monthly) for the first three (3) months after the Completion Date and which percentage shall further increase every quarter by 50bps for each subsequent three (3) months period.
- 2.3.3 The Deferral Amount and interest payable thereon shall rank below all senior unsecured indebtedness of the Purchaser, but senior to the EUR 650 million (XS2286041517) hybrid bond and the EUR 850 million (XS2286041947) hybrid bond issued by Wintershall Dea Finance 2 B.V.

### 2.4 **The Consideration Shares**

- 2.4.1 All Consideration Shares shall be allotted and issued credited as fully paid and free from Encumbrances. No Consideration Share shall entitle the holder to any dividend or other distribution paid or made before, or declared by reference to a record date before, the date of its allotment and issue.
- 2.4.2 669,714,027 Ordinary Shares in the Purchaser shall be allotted and issued to BHE (the *BHE Consideration Shares*), representing 39.5912341710% of the total enlarged issued ordinary share capital of the Purchaser at the Announcement Date (assuming the Consideration Shares had been issued in full and the Non-Voting Ordinary Shares (as defined below) had converted in full



with no adjustments but excluding the Relevant Issuance). The BHE Consideration Shares shall be voting ordinary shares in the Purchaser and shall rank *pari passu* in all respects with the Ordinary Shares in issue as at Completion.

- 2.4.3 251,488,211 non-voting ordinary shares with preferential rights (the ***Non-Voting Ordinary Shares***) shall be allotted and issued to L1 Energy (the ***L1 Energy Consideration Shares***), convertible (subject to the terms of Schedule 2) into 251,488,211 Ordinary Shares in the Purchaser and representing 14.8671347024% of the total enlarged issued ordinary share capital of the Purchaser at the Announcement Date (assuming the Consideration Shares had been issued in full and the Non-Voting Ordinary Shares had converted in full with no adjustments but excluding the Relevant Issuance). The L1 Energy Consideration Shares shall conform to the terms set out in Schedule 2 (the ***Non-Voting Ordinary Shares Terms***).
- 2.4.4 The relevant number and class of Consideration Shares pursuant to clauses 2.4.2 and 2.4.3 shall be allotted to the relevant Seller at Completion.

## 2.5 The Contingent Payments

- 2.5.1 Subject to clause 2.5.7, BHE and L1 Energy shall be jointly entitled to up to six (6) additional payments (the ***Contingent Payments***) that shall be payable by the Purchaser within ten (10) Business Days of the following dates, in accordance with this clause 2.5:
- (a) eighteen (18) months following Completion;
  - (b) twenty-four (24) months following Completion;
  - (c) thirty (30) months following Completion;
  - (d) thirty-six (36) months following Completion;
  - (e) forty-two (42) months following Completion; and
  - (f) forty-eight (48) months following Completion,
- each, a ***Contingent Payment Date***.
- 2.5.2 The aggregate amount of each Contingent Payment payable to the Sellers shall be determined by reference to the Relevant Brent Oil Price for the six (6) calendar month period immediately preceding the relevant Contingent Payment Date (each a ***Brent Oil Test Period***) and shall be equal to:
- (a) US\$30,000,000, if the Relevant Brent Oil Price for such Brent Oil Test Period is greater than or equal to US\$86 and less than or equal to US\$100 per barrel;
  - (b) US\$50,000,000, if the Relevant Brent Oil Price for such Brent Oil Test Period is greater than US\$100 per barrel; or

- (c) US\$0, if the Relevant Brent Oil Price is less than US\$86 per barrel for such Brent Oil Test Period.
- 2.5.3 Subject to clause 2.5.7, an amount equal to its Seller Relevant Proportion of the Contingent Payments (if any) is payable to each Seller.
- 2.5.4 For the purposes of this clause 2.5:
- Relevant Brent Oil Price** shall, for each Brent Oil Test Period, mean the arithmetic mean (calculated average) by reference to: (i) the daily midpoint of the Platts Brent (Dated) assessment (Platts code: PCAAS00), as published by S&P Global Platts' Crude Oil Marketwire for each day during such Brent Oil Test Period on which such reference data is published; or (ii) if the reference data referred to in (i) is not available for any applicable period during such Brent Oil Test Period for any reason, such comparable reference price as the Parties may agree in writing within four (4) Business Days of the relevant Contingent Payment Date, acting reasonably.
- 2.5.5 Save to the extent expressly provided in this Agreement, the right to any Contingent Payment is not transferrable.
- 2.5.6 Any Contingent Payments shall be paid in cash, except to the extent that:
- (a) if the Panel has determined that BASF and Letterone are acting in concert (as defined in the Code), all the Parties mutually agree in writing in advance; or
  - (b) in all other circumstances, the Purchaser and the Seller to which the relevant Contingent Payment relates agree in writing in advance,
- in which case the Purchaser may satisfy some or all of its obligation to pay a Contingent Payment by way of an allotment and issue of Ordinary Shares to BHE or L1 Energy (as applicable) on mutually acceptable terms and subject always to Applicable Law.
- 2.5.7 If, prior to any Contingent Payment Date, any Seller (or such Seller's Affiliates) has sold or transferred the legal and beneficial ownership of any Purchaser Shares to any person (other than to the Purchaser or in the case of each Seller (or its Affiliates), to any of such Seller's Affiliates, and subject to clause 2.6):
- (a) no Contingent Payment shall be paid to such Seller (or its Affiliates) that has so sold or transferred any Purchaser Shares in respect of the Brent Oil Test Period during which such sale or transfer occurred and, if applicable, no further Contingent Payments will be payable to such Seller (or its Affiliates) in respect of any future Brent Oil Test Periods; and
  - (b) any Contingent Payment that would otherwise have been due and payable to such Seller (or its Affiliates) in respect of the Brent Oil Test Period during which such sale or transfer occurred and any future Brent Oil Test Periods will instead be payable by the Purchaser in full to the

other Seller (in addition to and including the Contingent Payment otherwise due to the other Seller (or its Affiliates)), provided that the other Seller has not sold or transferred any of its Purchaser Shares (except as expressly permitted under this clause 2.5.7),

provided also that if both Sellers (or their respective Affiliates) have sold or transferred the legal and beneficial ownership to any Purchaser Shares to a person other than as expressly permitted by this clause 2.5.7, the Purchaser shall be under no obligation to pay any Contingent Payments that may have become due and payable after such sales. For the purposes of this clause 2.5.7, all references to Letterone's Affiliates shall include any member of the Letterone Extended Group, provided that, in respect of members of the Letterone Extended Group that are not Letterone Affiliates, Letterone Investment Holdings S.A. has, at all times, the same shareholders as Letterone Topco and is, and remains, under the same ultimate beneficial ownership as Letterone Topco.

## 2.6 Permitted Letterone Purchases

2.6.1 From the date falling six (6) months following Completion (and not before), and subject to the conditions set out in paragraphs (A) to (E) in this clause 2.6.1 and in Part A of Schedule 3, Letterone and members of the Letterone Extended Group shall be entitled to acquire Ordinary Shares (any such acquisitions being *Permitted Letterone Share Purchases*) as follows:

- (a) Permitted Letterone Share Purchases may be made by Letterone and/or members of the Letterone Extended Group in the market (whether on a public, private, bilateral or block trade basis); and/or
- (b) Letterone and/or members of the Letterone Extended Group may make Permitted Letterone Share Purchases from BASF:
  - (i) at a price mutually agreed between Letterone and BASF;
  - (ii) by Letterone exercising a Right of First Refusal as further stipulated in clause 2.6.2, or a Matching Right pursuant to clause 2.6.3; and/or
  - (iii) by Letterone exercising the Letterone Purchase Option as further stipulated in clause 2.6.5,

in each case subject to the following conditions:

(A) if (i) Letterone or members of the Letterone Extended Group legally or beneficially hold(s) any Non-Voting Ordinary Shares, or (ii) condition (a) of the Conversion Conditions (as defined in Schedule 2) has not been satisfied in respect of Letterone and members of the Letterone Extended Group (even if Letterone and the members of the Letterone Extended Group have ceased to legally or beneficially hold any Non-Voting Ordinary Shares), Letterone and the members of the Letterone Extended Group shall not at any time legally or beneficially hold in aggregate more than 5% of the Purchaser's issued Ordinary

Share capital on a Fully Diluted Basis (the *Permitted Letterone Share Purchases Cap*);

(B) so long as condition (a) of the Conversion Conditions (as defined in Schedule 2) has not been satisfied in respect of Letterone and the members of the Letterone Extended Group, Letterone and the members of the Letterone Extended Group shall not at any time legally or beneficially hold in aggregate more than 19.99% of the Purchaser's issued share capital;

(C) the maximum number of Ordinary Shares that may be acquired by Letterone (and/or the members of the Letterone Extended Group) from BASF pursuant to sub-clauses 2.6.1(b)(i), 2.6.1(b)(ii) and/or 2.6.1(b)(iii) shall be equal in aggregate to such number of Ordinary Shares that amounts to up to 5% of the Purchaser's issued Ordinary Share capital on a Fully Diluted Basis (the *BASF Share Limit*). Any subsequent disposals of Ordinary Shares by Letterone or any member of the Letterone Extended Group shall be ignored for these purposes such that the BASF Share Limit applies in an exhaustive manner. No purchases of Ordinary Shares from BASF shall occur under clause 2.6.1(b) after the BASF Share Limit has been reached and, once it has been reached, Letterone and the members of the Letterone Extended Group shall have no Right of First Refusal, Matching Right, right to exercise the Letterone Purchase Option and/or any other rights or obligations under this clause 2.6 (save in respect of clause 2.6.1(a)) and, provided BASF has complied with its obligations under this clause 2.6, BASF shall have no further rights or obligations under this clause

2.6 (in each case, save in respect of antecedent breach). For the purposes of this Agreement, *Available BASF Share Limit Headroom* shall mean such number of Ordinary Shares that is equal to the BASF Share Limit *less* such number of Ordinary Shares that Letterone and/or the members of the Letterone Extended Group have acquired from BASF pursuant to clause 2.6.1(b)(i), 2.6.1(b)(ii) and/or 2.6.1(b)(iii);

(D) Ordinary Shares that are acquired otherwise than pursuant to clause 2.6.1(b) do not count towards the BASF Share Limit; and

(E) Letterone and the members of the Letterone Extended Group shall have no Right of First Refusal or Matching Right, and BASF shall have no obligations under clauses 2.6.1(b)(ii), 2.6.2, 2.6.3 and/or 2.6.5 in connection with the acceptance by BASF, at any stage, of an offer made in accordance with the Code to the holders of all the issued Ordinary Shares (other than Ordinary Shares owned by the offeror and whether or not the offer is made to any person(s) acting in concert with the offeror) to acquire (whether or not together with any persons acting in concert with the offeror) all of the issued Ordinary Shares (including voting in favour of such an offer where such offer is to be implemented by way of a scheme of arrangement under Part 26 of the Act), or the giving by BASF of an undertaking to accept such offer either before or after its announcement.

2.6.2 Subject to clause 2.6.1 (including the Permitted Letterone Share Purchases Cap and the BASF Share Limit), if from the date falling six (6) months following Completion (the *ROFR Period*), BASF intends to dispose of any Ordinary Shares, it shall send a notification in the form of Part B of Schedule 3 to

Letterone identifying, *inter alia*, the number of Ordinary Shares BASF wishes to dispose of (the **Proposed BASF Sale Shares**), the Available BASF Share Limit Headroom (if such number is lower than the Proposed BASF Sale Shares) and the relevant price per share (excluding any fees and Taxes) (the **ROFR Price**) (such notice being the **ROFR Offer Notice** and the date on which such ROFR Offer Notice is being sent, the **ROFR Offer Date**). The ROFR Price shall be the price notified by BASF which BASF reasonably believes to be the price at which it can sell the Proposed BASF Sale Shares based on the then prevailing market conditions. If Letterone or any member of the Letterone Extended Group wishes to purchase all of the Proposed BASF Sale Shares (or, if less, all of the Available BASF Share Limit Headroom) from BASF at the ROFR Price (the right to acquire such number of Ordinary Shares being the **Right of First Refusal**), Letterone shall send a notification to BASF in the form of Part C of Schedule 3 (the **ROFR Acceptance Notice**). If BASF does not receive a validly executed ROFR Acceptance Notice on the second Business Day after (but excluding) the ROFR Offer Date, BASF shall be free to dispose of the Proposed BASF Sale Shares, but only until (and including) the eighth Business Day after the relevant ROFR Offer Date (a **Permitted Third Party Sale**).

- 2.6.3 Subject to clause 2.6.1 (including the Permitted Letterone Share Purchases Cap and the BASF Share Limit), if (i) BASF has disposed of Proposed BASF Sale Shares in a Permitted Third Party Sale for a price per share (excluding any fees and Taxes) (the **Permitted Third Party Sale Price**) that is less than the ROFR Price, and (ii) following completion of such Permitted Third Party Sale, BASF and/or its Affiliates continue to legally or beneficially hold any Ordinary Shares:
- (a) BASF shall notify Letterone of such Permitted Third Party Sale (such notice to include the Permitted Third Party Sale Price) within one (1) Business Day of such sale in the form of Part D of Schedule 3 (the **Matching Right Notice**); and
  - (b) Letterone or any member of the Letterone Extended Group shall have a right to acquire from BASF an equivalent number of Ordinary Shares (or, if less, the lower of: (X) the Available BASF Share Limit Headroom; and (Y) the aggregate number of Ordinary Shares BASF and its Affiliates continue to legally or beneficially hold at such time), at the Permitted Third Party Sale Price and on equivalent terms to those agreed by BASF on the Permitted Third Party Sale (including any lock-up terms) (the **Matching Right**). If Letterone or a member of the Letterone Extended Group wishes to exercise the Matching Right, it shall confirm its intention to do so by sending a countersigned copy of the Matching Right Notice to BASF on or before the second Business Day following receipt of the Matching Right Notice from BASF.
- 2.6.4 To the extent the Permitted Third Party Sale is in respect of all of the Ordinary Shares that BASF holds, BASF undertakes to agree a reasonable Permitted Third Party Sale Price taking into account the prevailing market price of the Ordinary Shares, market conditions and customary market practice in respect of any discount to such price in light of the size and nature of the sale transaction(s) being executed (which may be evidenced by written advice from a reputable financial adviser).

- 2.6.5 Subject to clause 2.6.1 (including the Permitted Letterone Share Purchases Cap and the BASF Share Limit), for a period of six (6) months (the **Letterone Option Period**) commencing on the day that is six (6) months after Completion, Letterone or any member of the Letterone Extended Group shall have an option to acquire such number of Ordinary Shares from BASF that is equal to between 3% and 5% (inclusive) of the issued Ordinary Share capital of the Purchaser (on a Fully Diluted Basis) (the **Letterone Purchase Option**). The Letterone Purchase Option may be exercised only once during the Letterone Option Period (provided that if the transfer of Ordinary Shares pursuant to the Letterone Purchase Option does not complete pursuant to Schedule 3, such Letterone Purchase Option shall again be capable of exercise during the Letterone Option Period in accordance with this clause). If Letterone or any member of the Letterone Extended Group wishes to exercise the Letterone Purchase Option, Letterone shall send a notification in the form of Part E of Schedule 3 to BASF (the **Option Exercise Notice**) on or before the last Business Day of the Letterone Option Period, indicating the number of Ordinary Shares in respect of which it or the relevant member of the Letterone Extended Group wishes to exercise the Letterone Purchase Option, the relevant price per Ordinary Share (the **Letterone Option Price**), and the date on which the notification is sent (the **Letterone Option Exercise Date**). The Letterone Option Price shall be the Per Share Transaction Equity Value. The **Per Share Transaction Equity Value** shall be agreed in writing between BASF and Letterone, subject to dilution adjustments in accordance with Part F of Schedule 3.
- 2.6.6 For the duration of the Letterone Option Period, BASF undertakes that it shall continue to hold such number of Ordinary Shares required to satisfy in full the Letterone Purchase Option, provided that this undertaking shall not prevent BASF from accepting, at any stage, an offer made in accordance with the Code to the holders of all the issued Ordinary Shares (other than Ordinary Shares owned by the offeror and whether or not the offer is made to any person(s) acting in concert with the offeror) to acquire (whether or not together with any persons acting in concert with the offeror) all of the issued Ordinary Shares (including voting in favour of such an offer where such offer is to be implemented by way of a scheme of arrangement under Part 26 of the Act), or the giving of an undertaking to accept such offer either before or after its announcement.
- 2.6.7 To the extent Letterone or the Letterone Extended Group validly exercises the Letterone Purchase Option in accordance with clause 2.6.5, prior to an announcement of a firm intention to make an offer for the Purchaser in accordance with the Code (including by way of a scheme of arrangement under Part 26 of the Act) and BASF (i) accepts the offer; or (ii) votes in favour of such offer where such offer is to be implemented by way of a scheme of arrangement, or in each case gives an undertaking in respect of the same:
- (a) the Letterone Purchase Option shall expire, provided that if the offer (or scheme of arrangement) does not complete, or lapses or is withdrawn, such Letterone Purchase Option shall again be capable of exercise during the Letterone Option Period in accordance with clause 2.6.5); and

- (b) within ten (10) Business Days of receipt by BASF of the final consideration in connection with such offer, BASF shall pay to Letterone the difference between the Letterone Option Price and the final consideration price per Ordinary Share of that offer in respect of the number of Ordinary Shares in relation to which the Letterone Purchase Option was validly exercised by Letterone.

2.6.8 Any sale and transfer of Ordinary Shares from BASF to Letterone or any member of the Letterone Extended Group pursuant to:

- (a) a ROFR Offer Notice and a corresponding ROFR Acceptance Notice; and/or
- (b) the exercise of the Matching Right; and/or
- (c) an exercise of the Letterone Purchase Option,

shall be implemented on the basis of the transfer terms set out at Part G of Schedule 3.

2.6.9 For the purposes of this clause 2.6:

- (a) the Purchaser shall provide the Sellers in writing with the number of Ordinary Shares on a Fully Diluted Basis within two (2) Business Days of request; and
- (b) within two (2) Business Days of request by BASF, Letterone shall provide BASF with the aggregate number of Ordinary Shares that Letterone and any members of the Letterone Extended Group legally or beneficially hold,

for the purposes of determining the remaining number of Ordinary Shares that could be acquired under clause 2.6.1(b) in accordance with the Permitted Letterone Share Purchases Cap and the BASF Share Limit.

2.6.10 Letterone undertakes that if it or any member of the Letterone Extended Group is considering purchasing Ordinary Shares and it reasonably considers that a Rule 9 Obligation may be triggered as a result of such purchase, Letterone shall obtain confirmation from the Panel that no such Rule 9 Obligation will be triggered (or otherwise not proceed).

2.6.11 BASF undertakes that if it or any of its Affiliates is considering purchasing Ordinary Shares and it reasonably considers that a Rule 9 Obligation may be triggered as a result of such purchase, it shall obtain confirmation from the Panel that no such Rule 9 Obligation will be triggered (or otherwise not proceed).

2.6.12 Subject to BASF having complied with clause 2.6.6, as soon as BASF and its Affiliates no longer hold any Ordinary Shares, clauses 2.6.1 to 2.6.11 shall cease to have any effect and Letterone and BASF shall have no rights or obligations under the same (save in respect of antecedent breach), except that any terms defined in this clause 2.6 shall continue to have the meaning ascribed to them.

### 3. **Conditions**

- 3.1 Completion is conditional on the following Conditions being satisfied or waived (if capable of waiver) by the mutual agreement of the Sellers and the Purchaser, provided that the Purchaser (and no other Party) may unilaterally waive the Spin-off Condition and/or the Ghasha SPA Condition.

#### **Conditions in respect of shareholder meetings and circulars**

- 3.1.1 the Purchaser Circular having been approved by the FCA and (to the extent required) the Panel in a form approved by BASF and Letterone in accordance with clause 4.4.5 (the *Circular Condition*);
- 3.1.2 the passing by the requisite majorities at the Purchaser General Meeting of the Purchaser Resolutions (the *Shareholder Approval Condition*);
- 3.1.3 to the extent a separate document to the Purchaser Circular, the Purchaser Prospectus having been approved by the FCA in a form approved by BASF and Letterone in accordance with clause 4.4.1 (the *Prospectus Condition*);

#### **Conditions in respect of the Consideration Shares**

- 3.1.4 the FCA having confirmed to the Purchaser or its sponsor (and such confirmation not having been withdrawn) that the application(s) for the re-admission of all of the Existing Purchaser Shares and admission of all of the BHE Consideration Shares, in each case to the premium listing segment of the Official List of the FCA or a listing on the single category for equity shares in commercial companies if such new listing category as contemplated in FCA Consultation Paper CP23/31 has been implemented by the FCA and taken effect at the relevant time, has been approved and (after satisfaction of any conditions to which such approval is expressed to be subject) will become effective as soon as the FCA's decision to re-admit the Existing Purchaser Shares and to admit the BHE Consideration Shares is announced in accordance with LR 3.2.7G of the Listing Rules (the *FCA Admission Condition*);
- 3.1.5 the London Stock Exchange having confirmed to the Purchaser or its sponsor (and such confirmation not having been withdrawn) that the application(s) for the re-admission of all of the Existing Purchaser Shares and admission of all of the BHE Consideration Shares, in each case to trading on the main market for listed securities of the London Stock Exchange have been approved and will become effective subject to and concurrently with the re-admission of all of the Existing Purchaser Shares and admission of all of the BHE Consideration Shares, in each case to the premium listing segment of the Official List of the FCA (the *LSE Admission Condition*);
- 3.1.6 the Panel having waived, subject to the passing by the requisite majority at the Purchaser General Meeting of the terms of such waiver, any obligation which might fall on a Seller or any person acting in concert (as defined in the Code) with it under Rule 9 of the Code to make a general offer for the Purchaser as a result of the issue of the BHE Consideration Shares (the *Whitewash Condition*);



### **Spin-off Condition**

- 3.1.7 the Spin-off having been registered with the commercial register (*Handelsregister*) of Wintershall DEA and thereby having become effective (the *Spin-off Condition*);

### **Ghasha SPA Condition**

- 3.1.8 completion of the Ghasha SPA having occurred in accordance with its terms (the *Ghasha SPA Condition*);

### **Regulatory Conditions**

#### Purchaser Regulatory Conditions

- 3.1.9 the North Sea Transition Authority (or, where applicable, the Secretary of State for Energy Security and Net Zero) having issued, as applicable, either (A) a comfort letter, email or other written communication to the Purchaser indicating that it does not intend to: (i) revoke or recommend the revocation of any licence (or part thereof) held by any Purchaser Group Company relating to petroleum situated in Great Britain, its territorial sea or the UK Continental Shelf that is in existence at the time such comfort letter, email or written communication is issued; or (ii) require a further change in control of any Purchaser Group Company, in each case as a consequence of Completion having occurred; or (B) its written consent under the terms of any such licence to the contemplated change in control of each relevant Purchaser Group Company that will occur as a consequence of Completion occurring;
- 3.1.10 the North Sea Transition Authority (or, where applicable, the Secretary of State for Energy Security and Net Zero) having issued its written consent under the terms of the Carbon Storage Licences to the contemplated change in control of each relevant Carbon Storage Licensee that will occur as a consequence of Completion occurring;
- 3.1.11 the Norwegian Ministry of Petroleum and Energy (*Olje- og energidepartementet*) and (if applicable) the Norwegian Ministry of Finance (*Finansdepartementet*) having provided its consent(s) in writing and any applicable regulatory notifications to such ministries having been duly submitted, in respect of the indirect transfer of the production licences of any Purchaser Group Company issued under the Norwegian Petroleum Act of 29 November 1996 No.72 that are in existence at the time such consent is granted and/or the notifications are submitted, on terms reasonably satisfactory to the Purchaser and the Sellers;
- 3.1.12 Harbour Energy Argentina Limited Sucursal Argentina (*Harbour Argentina*) having registered with the "Federal Oil Companies Registry" (*Registro de Empresas Petroleras - Sección Productoras*), regulated by *Disposition SHC N° 337/2019* and stewarded by the Federal Secretariat of Energy of Argentina, which specifically shall include Harbour Argentina's full compliance with Section 18.1 of *Disposition SHC N° 337/2019* (the *Argentine Pardon Condition*);

TPA Regulatory Conditions

- 3.1.13 the Norwegian Ministry of Petroleum and Energy (*Olje- og energidepartementet*) having consented to the indirect transfer of participating interests held by Wintershall Dea Norge AS in licences issued under the Norwegian Petroleum Act of 29 November 1996 No. 72 and under the Norwegian CO2 Storage Regulations of 5 December 2014 No. 1517 to any Purchaser Group Company, on terms reasonably satisfactory to the Purchaser and the Sellers;
- 3.1.14 the Norwegian Ministry of Finance (*Finansdepartementet*) having consented to the indirect transfer of participating interests held by Wintershall Dea Norge AS in licences issued under the Norwegian Petroleum Act of 29 November 1996 No. 72 to any Purchaser Group Company, in accordance with the Petroleum Tax Act of 13 June 1975 No. 35 or pursuant to the regulations to section 10 of the Norwegian Petroleum Tax Act, as applicable and in either case, on terms reasonably satisfactory to the Purchaser and the Sellers;
- 3.1.15 receipt of any applicable consent or deed of assignment from the EGPC, EGAS and/or the Egyptian Minister of Petroleum in respect of the indirect transfer of the production licences of any NewCo Group Company in Egypt, on terms reasonably satisfactory to the Purchaser and the Sellers;
- 3.1.16 the National Hydrocarbons Commission or any other relevant Mexican Regulatory Authority has issued its written approval to the indirect change of control by any NewCo Group Company of its production licences in Mexico arising from Completion, on terms reasonably satisfactory to the Purchaser and the Sellers;

**Antitrust Conditions**

- 3.1.17 confirmation having been received in writing by BASF and/or the Purchaser as appropriate on terms reasonably satisfactory to the Sellers and the Purchaser from the UK Competition and Markets Authority (*CMA*) that either:
- (a) following the submission of a briefing paper to the CMA's merger intelligence committee setting out the reasons why the CMA should not commence an investigation, the CMA does not intend to request further information or open an investigation in relation to the Transaction or any matters arising therefrom (provided that the CMA has not subsequently decided to request further information or open or give notice that it intends to open an investigation in relation to the Transaction or any matters arising therefrom); or
  - (b) if the CMA confirms that it intends to open an investigation in relation to the Transaction or any matters arising therefrom, either:
    - (i) the CMA does not intend to refer the Transaction or any matters arising therefrom to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (*Phase 2 CMA Reference*); or

- (ii) following a Phase 2 CMA Reference, that the Transaction may proceed without any undertakings, conditions or orders, or may proceed subject to the giving of such undertakings by, or the imposition of such conditions or orders on, the Purchaser or any other party to the Transaction;
- 3.1.18 in so far as the Transaction constitutes a concentration subject to appraisal by the European Commission under Council Regulation (EC) No 139/2004 (the *EU Merger Regulation*):
- (a) the European Commission adopting and formally notifying to the Purchaser and/or BASF, or having been deemed under the EU Merger Regulation to have adopted, all decisions and approvals necessary to allow closing of the Transaction (and, to the extent relevant, all conditions or obligations contained in such decisions and approvals necessary to allow closing of the Transaction having been satisfied or complied with, including any requirement to appoint a monitoring trustee), in each case on terms reasonably satisfactory to the Sellers and the Purchaser; and
  - (b) in the event that all or any part of the Transaction is referred, or is deemed referred, under the EU Merger Regulation or Protocol 24 of the EEA Agreement, by the European Commission to the competent authorities of one or more EU Member State or EFTA State, all such competent authorities whose approval is necessary for closing of all or part of the Transaction to occur adopting, or having been deemed under relevant laws to have adopted, all decisions and approvals necessary to allow closing of the Transaction (and, to the extent relevant, all conditions contained in such decisions and approvals necessary to allow closing of the Transaction having been satisfied or complied with), in each case on terms reasonably satisfactory to the Sellers and the Purchaser, or any waiting periods applicable to the Transaction otherwise having expired or been terminated; and
  - (c) in the event that any EU Member State or EFTA State has initiated measures in relation to the Transaction to protect legitimate interests pursuant to Article 21(4) of the EU Merger Regulation or Article 7 of Protocol 24 of the EEA Agreement, all such EU Member States and EFTA States adopting, or having been deemed under relevant laws to have adopted, all decisions and approvals necessary to allow closing of the Transaction (and, to the extent relevant, all conditions contained in such decisions and approvals necessary to allow closing of the Transaction having been satisfied or complied with), in each case on terms reasonably satisfactory to the Sellers and the Purchaser;
- 3.1.19 the Mexican Federal Economic Competition Commission providing written clearance or approval of the Transaction either unconditionally or with undertakings or conditions on terms reasonably satisfactory to the Sellers and the Purchaser;

- 3.1.20 the submission of a complete notification to the COMESA Competition Commission within thirty (30) calendar days of this Agreement, and the COMESA Competition Commission having provided written confirmation that the Transaction is not a notifiable merger for the purposes of the COMESA Competition Regulations, or in the event that the Transaction qualifies as a notifiable merger, or the COMESA Competition Commission declines to provide such confirmation, the COMESA Competition Commission having issued a decision that it does not object to the Transaction (or being deemed to have done so) in accordance with the COMESA Competition Regulations, either unconditionally or with undertakings or conditions on terms reasonably satisfactory to the Sellers and the Purchaser;

### **Foreign Investment Conditions**

- 3.1.21 insofar as either: (i) a filing is (or filings are) necessary or considered appropriate by: (A) BASF and the Purchaser; and/or (B) Letterone and the Purchaser, in each case acting reasonably, and a notification (or notifications) having been made under the UK National Security and Investment Act 2021 (*NS&I Act*); or (ii) an investigation under the NS&I Act has been initiated prior to Completion, and one of the following having occurred in respect of each such filing or investigation:
- (a) receipt of written notice from or on behalf of the Secretary of State in the Cabinet Office that the NS&I Act does not apply to the notified transaction; or
  - (b) the Secretary of State in the Cabinet Office confirming before the end of the review period that no further action will be taken in relation to the Transaction (or relevant aspect thereof); or
  - (c) if the Secretary of State in the Cabinet Office issues a call-in notice in relation to the Transaction (or relevant aspect thereof), the parties receiving a final notification under section 26(1)(b) of the NS&I Act confirming that the Secretary of State in the Cabinet Office will take no further action in relation to the call-in notice and the Transaction (or any matters arising therefrom); or
  - (d) the Secretary of State in the Cabinet Office making a final order under section 26(1)(a) of the NS&I Act in relation to the Transaction (or relevant aspect thereof), which allows the Transaction (or relevant aspect thereof) to proceed on terms reasonably satisfactory to the Sellers and the Purchaser, and any restriction on Completion having been lifted;
- 3.1.22 insofar as either: (i) a filing is (or filings are) necessary or considered appropriate by: (A) BASF and the Purchaser; and/or (B) Letterone and the Purchaser, each acting reasonably, and a notification (or notifications) having been made under the German Foreign Trade Act (*Außenwirtschaftsgesetz (AWG)*); or (ii) an investigation has been initiated under the AWG prior to Completion, and the German Ministry for Economic Affairs and Climate Action (*Bundesministerium für Wirtschaft und Klimaschutz*) having, in respect of each such notification or investigation either:

- (a) rejected jurisdiction; or
  - (b) granted a Certificate of Non-Objection (*Unbedenklichkeitsbescheinigung*) in accordance with Section 58 para. 1 sent. 1 German Foreign Trade Regulation (*Außenwirtschaftsverordnung*) (*AWV*) or issued a clearance decision (*Freigabe*) in accordance with sec. 58a or sec. 61 AWV or otherwise informed the notifying Party (or, to the extent applicable, any other Party) that it will not initiate proceedings (*Prüfverfahren*) within the two (2) months' time period specified in Section 14a para. 1 number 1 of the AWG; or
  - (c) not initiated such proceedings within such time period; or
  - (d) informed the notifying Party (or, to the extent applicable, any other Party) in writing, after initiating such proceedings, that the Transaction (or relevant aspect thereof) can proceed on terms reasonably satisfactory to the Sellers and the Purchaser; or
  - (e) not prohibited the Transaction (or relevant aspect thereof), after initiating such proceedings, within the four (4) months' time period specified in Section 14a para. 1 number 2 AWG, as possibly extended pursuant to Section 14a paras. 4, 5 and 6 AWG;
- 3.1.23 insofar as either: (i) a filing is (or filings are) necessary or considered appropriate by: (A) BASF and the Purchaser; and/or (B) Letterone and the Purchaser, each acting reasonably; or (ii) an investigation has been initiated prior to Completion; obtaining confirmation in respect of each such filing or investigation from the relevant authority in accordance with the Norwegian National Security Act that the Transaction (or relevant aspect thereof) can proceed on terms reasonably satisfactory to the Sellers and the Purchaser;
- 3.1.24 insofar as either: (i) a filing is (or filings are) necessary or considered appropriate by: (A) BASF and the Purchaser; and/or (B) Letterone and the Purchaser, each acting reasonably; or (ii) an investigation has been initiated prior to Completion, obtaining confirmation in respect of each such filing or investigation from the Danish Business Authority or the Danish Minister for Industry, Business and Financial Affairs in accordance with the Danish Investment Screening Act that the Transaction (or relevant aspect thereof) can proceed on terms reasonably satisfactory to the Sellers and the Purchaser;

**FSR Condition**

- 3.1.25 the Transaction is not prohibited pursuant to Art. 25 para. 3 lit. c of Regulation (EU) 2022/2560 of 14 December 2022 on foreign subsidies distorting the internal market (*FSR*). This condition shall be deemed satisfied as soon as one of the following events occur:
- (a) the European Commission declares that there are insufficient indications to initiate an in-depth investigation according to Art 10 para. 4 FSR;

- (b) the European Commission adopts a no objection decision pursuant to Art. 25 para. 3 lit. b, Art. 11 para. 4 FSR;
- (c) the European Commission adopts a decision with commitments that are reasonably satisfactory to the Sellers and the Purchaser pursuant to Art. 25 para. 3 lit. a, Art. 11 para. 3 FSR; or
- (d) the relevant waiting periods have expired as the European Commission has either: (i) not made a decision to initiate an in-depth investigation pursuant to, Art. 10 para. 3 FSR within the time limits set forth in Art. 25 para. 2 FSR; or (ii) after the initiation of an in-depth investigation, not made a decision pursuant to Art. 25 para. 3 FSR within the time limits set forth in Art. 25 para. 4 FSR;

### **Sanctions Condition**

- 3.1.26 no Party is a Sanctioned Person and Completion would not cause any Party to be in violation of any Economic Sanctions Law (the *Sanctions Condition*); and

### **Further Antitrust Conditions, Foreign Investment Conditions and Other Sector Regulatory Consents**

- 3.1.27 the receipt, on terms reasonably satisfactory to the Sellers and the Purchaser, of any Clearances and / or Sector Regulatory Consents which are mandatory and/or suspensory and which relate to the jurisdictions set out in the Jurisdictions List, provided that the Parties may unanimously otherwise agree in writing (each acting reasonably and in good faith) that other Clearances and / or Sector Regulatory Consents are considered to be reasonably appropriate. The Parties shall identify any such Clearances and Sector Regulatory Consents as soon as reasonably practicable after the Announcement Date. The list of jurisdictions in the Jurisdictions List may be amended from time to time where agreed in writing by all of the Parties (each acting reasonably and in good faith).

## **4. Satisfaction of the Conditions**

### **General undertakings**

#### **4.1 In respect of the Conditions:**

- 4.1.1 the Purchaser shall use all reasonable endeavours to achieve satisfaction of the Shareholder Approval Condition, the FCA Admission Condition, the LSE Admission Condition and the Argentine Pardon Condition;
- 4.1.2 BASF and Letterone shall each use all reasonable endeavours to achieve satisfaction of the Spin-off Condition and the Ghasha SPA Condition;
- 4.1.3 the Purchaser, BASF and Letterone shall use all reasonable endeavours to achieve satisfaction of the Circular Condition, the Prospectus Condition, the Whitewash Condition, each Regulatory Condition, the Antitrust Conditions, Foreign Investment Conditions and FSR Condition; and

4.1.4 the Purchaser, BASF and Letterone shall use reasonable endeavours to achieve satisfaction of the Sanctions Condition (or to procure that the Sanctions Condition is Deemed Satisfied),

in each case as soon as possible after the Announcement Date and in any event not later than 17.00 CET on the Longstop Date.

4.2 Except in relation to Antitrust Conditions, Regulatory Conditions, Foreign Investment Conditions, FSR Condition (as to which, see clauses 4.10 to 4.15) and the Sanctions Condition (as to which, see clauses 4.17 to 4.21), BASF and Letterone, on the one hand, and the Purchaser, on the other hand, undertake to the other to:

4.2.1 co-operate with the other in providing to the other such assistance as is reasonably necessary and it is reasonably able to provide to ensure that the other is able to satisfy the relevant Conditions which it is required to use its endeavours to procure are satisfied in accordance with the terms of this Agreement;

4.2.2 provide all information and all other assistance that is necessary to prepare documents required for the Transaction and any supplementary documents;

4.2.3 keep the other informed and consult with the other as to the progress of the satisfaction of the Conditions; and

4.2.4 use reasonable endeavours to agree proposals for a disclosure insofar as information may generally not be disclosed.

4.3 Nothing in this clause 4 shall require any Party to provide or disclose (including providing an opportunity to attend meetings where such information will be discussed or disclosed) to the other, or to its advisers, any information:

4.3.1 that such Party is prevented from providing under Applicable Law (including a request for non-disclosure made by a Regulatory Authority) or the terms of an existing contract to which it is a party;

4.3.2 that is commercially, reputationally or competitively sensitive or confidential or which constitutes a trade secret, and which has not already been disclosed to the other Parties; or

4.3.3 in circumstances that would or could result in the loss of any privilege that subsists in relation to such information (including legal advice privilege),

provided that:

(a) any such information shall, to the extent practicable and deemed appropriate by the disclosing party, be provided or disclosed to the other Party's external legal counsel on an "external advisers only" basis, with a non-confidential version of any relevant filing, notification, submission or communication that includes or refers to such information being provided to the other Parties, if available; and

- (b) any such information shall be provided to the extent it is required by Applicable Law to be included in the Purchaser Circular, the Purchaser Prospectus or a Purchaser Supplementary Document or is required to be announced by the Purchaser under the Listing Rules or the Market Abuse Regulation (provided that the provision of such information shall, so far as is practicable, be made after consultation with the other Parties and after taking into account any such other Party's reasonable requirements as to timing, content and manner of disclosure).

#### **Undertakings in respect of shareholder circulars and meetings**

- 4.4 Without prejudice to clause 4.1, the Purchaser shall:
- 4.4.1 to the extent reasonably practicable, consult with BASF and Letterone as to the form and content of the Purchaser Circular, the Purchaser Prospectus, any Purchaser Supplementary Document, provided that the final form of the Purchaser Circular, the Purchaser Prospectus, and any Purchaser Supplementary Document shall be subject to the prior written approval of BASF and Letterone (such approval not to be unreasonably conditioned, withheld or delayed);
  - 4.4.2 use all reasonable endeavours to procure that the Purchaser Directors accept responsibility for the Purchaser Circular and the Purchaser Prospectus in accordance with the Prospectus Regulation Rules, the Listing Rules and the Code;
  - 4.4.3 procure that the Purchaser Circular shall incorporate the Purchaser Directors' Recommendation and that such recommendation is not withdrawn, modified or qualified;
  - 4.4.4 procure that the terms of the Purchaser Circular will convene the Purchaser General Meeting for a date which is no later than the date falling thirty (30) Clear Days after the date on which the Purchaser Circular is despatched to the Purchaser Shareholders or such other date as the Purchaser, BASF and Letterone may agree in writing;
  - 4.4.5 subject to BASF and Letterone complying with their obligations under clause 4.7 and providing any approvals required under clause 4.4.1, prepare and finalise the Purchaser Circular and the Purchaser Prospectus and use all reasonable endeavours to obtain the approval of the Purchaser Circular from the FCA as soon as reasonably practicable, provided that (for the avoidance of doubt) the Purchaser shall not be in breach of this clause 4.4.5 to the extent that delay is caused by BASF, and/or Letterone;
  - 4.4.6 subject to the Purchaser Circular and the Purchaser Prospectus being finalised and approved by the FCA in accordance with the Listing Rules and the Prospectus Regulation Rules, as soon as possible following each such approval: (i) publish and despatch to the Purchaser Shareholders the Purchaser Circular in accordance with the Listing Rules in order to, amongst other things, convene the Purchaser General Meeting for the purposes of considering and, if thought fit, passing the Purchaser Resolutions; and (ii) publish the Purchaser Prospectus in accordance with the Listing Rules and the Prospectus Regulation Rules;



4.4.7 not:

- (a) postpone or adjourn the Purchaser General Meeting once convened; or
- (b) seek to amend the Purchaser Resolutions after despatch of the Purchaser Circular,

without the prior written consent of BASF and Letterone, unless:

- (i) required to do so by Applicable Law;
- (ii) in the case of the postponement or adjournment of the Purchaser General Meeting, in the Purchaser's view an adjournment is necessary or appropriate:
  - (A) for bona fide security reasons or because a physical event or public health crisis outside its control renders the holding of the Purchaser General Meeting impossible or impracticable; or
  - (B) in connection with Listing Rule 10.5.4,
 

provided that, in each case, if the Purchaser General Meeting is so adjourned, the Purchaser General Meeting shall be reconvened for the earliest practicable date thereafter; or
- (iii) the Purchaser believes (acting in good faith and after consultation with BASF and Letterone) that postponing the Purchaser General Meeting could reasonably be expected to increase the prospects of the Purchaser Resolutions being passed;

4.4.8 subject to BASF and Letterone complying with their obligations under clause 4.7 and providing any approvals required under clause 4.4.1, prepare and finalise any Purchaser Supplementary Document as soon as reasonably practicable following the matter or circumstance giving rise to the requirement to publish that Purchaser Supplementary Document and use all reasonable endeavours to obtain the approval of that Purchaser Supplementary Document from the FCA, provided that (for the avoidance of doubt) the Purchaser shall not be in breach of this clause 4.4.8 to the extent that delay is caused by BASF and/or Letterone;

4.4.9 subject to any Purchaser Supplementary Document being finalised and approved by the FCA, publish and, to the extent required, despatch to the Purchaser Shareholders that Purchaser Supplementary Document in accordance with the Listing Rules and the Prospectus Regulation Rules as soon as reasonably practicable following the matter or circumstance giving rise to the requirement to publish that Purchaser Supplementary Document;

4.4.10 duly convene any general meeting of the Purchaser (and any adjournment of any such meeting) to consider and, if thought fit, pass any resolution (other than the Purchaser Resolutions) required to be passed in order to effect the Transaction; and

- 4.4.11 permit any director, officer, employee, agent, partner, or legal or financial adviser of BASF, Letterone and NewCo 2 to attend the Purchaser General Meeting and any other general meeting convened pursuant to clause 4.4.10.
- 4.5 The Parties acknowledge that the Purchaser Directors shall have the right not to make or to withdraw, suspend, qualify or adversely modify or amend the Purchaser Directors' Recommendation at any time up to and including the date of the Purchaser General Meeting if the Purchaser Directors conclude (acting in good faith and having taken legal and/or financial advice) that such course of action is required as a result of the statutory or fiduciary duties from time to time of the Purchaser Directors.
- 4.6 The Purchaser shall, and shall procure that the Purchaser's sponsor shall, at all times:
- 4.6.1 consult with BASF and Letterone (and when requested by BASF and Letterone, their respective advisers) in connection with:
- (a) the Purchaser Working Capital Report including:
    - (i) in relation to the basis of preparation of cash flow and working capital projections and all material matters and sensitivities in connection with such report;
    - (ii) providing to BASF and Letterone and their advisers with sufficient time for review and comment, drafts of all such reports;
    - (iii) addressing all reasonable comments of BASF and Letterone and their advisers; and
  - (b) any Purchaser Supplementary Working Capital Report including:
    - (i) in relation to the basis of preparation of cash flow and working capital projections and all material matters and sensitivities in connection with such report;
    - (ii) providing to BASF and Letterone and their advisers with sufficient time for review and comment, drafts of all such reports;
    - (iii) addressing all reasonable comments of BASF and Letterone and their advisers; and
    - (iv) not doing or omitting to do anything that is not reasonable in the circumstances between the date of the Purchaser Working Capital Report and any Purchaser Supplementary Working Capital Report without the consent of BASF and Letterone (such consent not to be unreasonably conditioned, withheld or delayed);
  - (c) its discussions and correspondence with the FCA in relation to:
    - (i) the eligibility requirements applicable to applicants for (x) the admission of equity shares to listing under chapter 2 of the Listing Rules and/or (y) the admission of equity shares to

premium listing under chapter 6 of the Listing Rules as a consequence of the Purchaser's acquisition of the Target Shares and/or the allotment and issue of the Consideration Shares to the Sellers at Completion; and

- (ii) the submission of drafts of the Purchaser Circular and the Purchaser Prospectus (and any Purchaser Supplementary Document) to the FCA; and

4.6.2 provide BASF and Letterone and their advisers with:

- (a) drafts of any correspondence to be sent to the FCA prior to despatch of such correspondence with sufficient time for BASF and Letterone and their advisers to provide comments on the same; and
- (b) unredacted copies of any correspondence or comments received from the FCA in relation to the matters referred to in clause 4.6.1,

and, in each such case the Purchaser shall, and shall procure that the Purchaser's sponsor shall, acting in good faith take into account such comments as BASF and Letterone shall have in relation to any of the foregoing.

4.7 Without prejudice to clause 4.1: (i) BASF and Letterone each acknowledge that the Transaction requires the production of the Purchaser Circular and the Purchaser Prospectus (and may require the publication of a Purchaser Supplementary Document) in accordance with the requirements of Applicable Law and regulation (including the Code), which shall be required to include information on BASF and Letterone and the NewCo Group; and (ii) BASF and Letterone each undertake to, and agree with the Purchaser, that it shall, and shall procure, to the extent legally permissible and practically possible, that each of its Affiliates and each NewCo Group Company and any relevant third party (to the extent feasible) shall, at BHE's and L1 Energy's cost:

4.7.1 provide the Purchaser with all such assistance (including access to NewCo Group personnel and ensuring the reasonable provision of and assistance by professional advisers), information and documentation relating to the NewCo Group, BASF and Letterone and/or any of its or their connected persons and its advisers as the Purchaser may reasonably require for inclusion in the Purchaser Circular, the Purchaser Prospectus or any Purchaser Supplementary Document and such information shall include: (i) any information reasonably required to verify the contents of the Purchaser Circular and the Purchaser Prospectus (or any Purchaser Supplementary Document) in respect of information provided by or relating to the NewCo Group, BASF, Letterone and/or any of its or their connected persons and advisers; (ii) all information as is required by the Prospectus Regulation Rules, the Listing Rules, any other Applicable Law or regulation or the Code for the Purchaser Circular and the Purchaser Prospectus (or any Purchaser Supplementary Document) in respect of the NewCo Group, BASF, Letterone and/or any of its or their connected persons and advisers; and (iii) any other information customarily required for a reverse takeover involving the readmission of shares and the admission of new shares to the premium listing segment of the Official List and to trading on the main market of the London Stock Exchange;

- 4.7.2 use reasonable endeavours to provide all such other assistance as the Purchaser, the Purchaser's sponsor and their respective advisers may reasonably require in connection with the preparation of the Purchaser Circular and the Purchaser Prospectus or any Purchaser Supplementary Document and the satisfaction of the FCA Admission Condition, including with respect to the eligibility requirements applicable to applicants for: (i) the admission of equity shares to listing under chapter 2 of the Listing Rules; and/or (ii) the admission of equity shares to premium listing under chapter 6 of the Listing Rules as a consequence of the Purchaser's acquisition of the Target Shares and/or the allotment and issue of the Consideration Shares to the Sellers at Completion; and
- 4.7.3 deliver all documents as may be reasonably requested by the Purchaser and/or the Purchaser's sponsor(s) in connection with the Purchaser Circular, the Purchaser Prospectus, any Purchaser Supplementary Document or a sponsor's agreement, and: (i) provide and procure the provision of customary confirmations and undertakings to the sponsor(s) including from professional advisers where appropriate; and (ii) use reasonable endeavours to procure that BASF, Letterone and each relevant connected person accepts responsibility to the extent required by Rule 9 of the Code.
- 4.8 BASF and Letterone each shall at BHE's and L1 Energy's cost provide, and procure, to the extent legally permissible and practically possible, the provision by the NewCo Group of, such information relating to the NewCo Group as the Purchaser may reasonably request (including any such information as requested by the Purchaser's sponsor) in order to comply with its obligations under the Market Abuse Regulation and/or to avoid the suspension of the listing of the Ordinary Shares under the Listing Rules and/or to provide comfort to the FCA that the Purchaser is able to keep the market informed of developments concerning the business of the Purchaser Group and the NewCo Group without delay, is able to assess accurately its financial position and inform the market accordingly and/or there is sufficient information in the market about the Transaction.
- 4.9 If:
- 4.9.1 each of BASF and/or Letterone becomes aware of any information relating to the NewCo Group that it reasonably believes (having consulted with advisers where appropriate) would be inside information required to be released, pursuant to the Market Abuse Regulation, were equity shares of NewCo 2 admitted to the premium listing segment of the Official List and/or admitted to trading on the main market of the London Stock Exchange (*NewCo 2 MNPI*), then it shall provide such NewCo 2 MNPI to the Purchaser, together with all information and assistance as the Purchaser may reasonably request in order to comply with its obligations under the Market Abuse Regulation and/or the Listing Rules and/or to provide comfort to the FCA that the Purchaser is able to keep the market informed of developments concerning the business of the NewCo Group without delay; and
- 4.9.2 after the publication of each of the Purchaser Circular and the Purchaser Prospectus, either BASF and/ or Letterone becomes aware of any new fact or circumstance or any mistake or inaccuracy in relation to any NewCo Group Company, BASF, Letterone and/or any of its or their connected persons and

advisers, and such would or could reasonably be expected to result in a requirement for the Purchaser to publish a Purchaser Supplementary Document or to make an announcement under the Listing Rules or the Market Abuse Regulation, BASF, Letterone and/or NewCo 2 each shall, as soon as reasonably practicable, notify the Purchaser of the relevant matter. If, for any reason, a Purchaser Supplementary Document is required to be published or an announcement is required to be made, BASF and Letterone each undertake to comply with clause 4.7 and this clause 4.9 *mutatis mutandis* in respect of each such Purchaser Supplementary Document or announcement.

**Undertakings in respect of Antitrust Conditions, Regulatory Conditions, Foreign Investment Conditions and FSR Condition**

- 4.10 The provisions of clauses 4.11 to 4.15 (inclusive) are without prejudice to clauses 4.1, 4.4 and 4.5.
- 4.11 BASF and the Purchaser (in respect of filings, submissions or notifications determined by those Parties to be required); and/or Letterone and the Purchaser (in respect of filings, submissions or notifications determined by those Parties to be required) shall be responsible for the preparation and making of any filings, submissions or notifications required in order to satisfy each Antitrust Condition, each Regulatory Condition, each Foreign Investment Condition and each FSR Condition.
- 4.12 BASF, Letterone and the Purchaser each undertake to one another to:
- 4.12.1 procure that its directors, officers, employees and relevant professional advisers assist to prepare all such documents, filings, submissions or notifications in relation to each Antitrust Condition, each Regulatory Condition, each Foreign Investment Condition and each FSR Condition as soon as reasonably practicable after the Announcement Date;
- 4.12.2 co-operate with the other Parties in providing to the other such assistance as is reasonably necessary and it is reasonably able to provide to ensure that any filings, submissions or notifications required to be made in order to satisfy each Antitrust Condition, each Regulatory Condition, each Foreign Investment Condition and each FSR Condition are made, in each case, as soon as reasonably practicable after the Announcement Date;
- 4.12.3 progress any filings, submissions or notifications required to satisfy each Antitrust Condition, each Regulatory Condition, each Foreign Investment Condition and each FSR Condition with diligence;
- 4.12.4 co-operate with the other Parties regarding each Antitrust Condition, each Regulatory Condition, each Foreign Investment Condition and each FSR Condition and assist the other Parties in communicating with any Regulatory Authority for the purposes of satisfying each Antitrust Condition, each Regulatory Condition, each Foreign Investment Condition and each FSR Condition and promptly provide such information and assistance as each other Party may reasonably require for the purposes of satisfying each Antitrust Condition, each Regulatory Condition, each Foreign Investment Condition or each FSR Condition;

- 4.12.5 co-operate with the other Parties in providing the other Parties with such assistance, as is reasonably necessary and it is reasonably able to provide, and provide the other Parties and all Regulatory Authorities with such information and documents as may reasonably be necessary and it is reasonably able to provide to ensure that any request for information from a Regulatory Authority is fulfilled promptly and in any event in accordance with any relevant time limit;
  - 4.12.6 keep the other Parties informed of all developments of which it becomes aware which are or are likely to be material for satisfying any Antitrust Condition, any Regulatory Condition, any Foreign Investment Condition or the FSR Condition;
  - 4.12.7 pay its own costs in relation to any filing required in relation to any of the Conditions listed at clauses 3.1.9 to 3.1.27; and
  - 4.12.8 pay the related filing fees where it is the Party responsible for any filing required in relation to any of the Conditions listed at clauses 3.1.9 to 3.1.27; and, where more than one Party is responsible for a filing, divide the filing fee in equal proportions between the responsible Parties.
- 4.13 BASF, Letterone and the Purchaser each further undertake to:
- 4.13.1 promptly notify the other Parties of any material communications (whether written or oral) from any Regulatory Authority in relation to the Transaction, where such communications have not been otherwise independently or simultaneously supplied to the other Parties and to provide copies of any such material written communications (other than to the extent that a Regulatory Authority expressly requests that communications should not be shared with another Party, provided that no Party shall do or permit to be done any act or thing which may cause that Regulatory Authority to make such a request);
  - 4.13.2 give the other Parties reasonable notice of all material meetings and telephone calls with any Regulatory Authority in relation to the Transaction and give the other Parties reasonable opportunity to participate at each such meeting or call (other than to the extent that a Regulatory Authority expressly requests that the other should not be present at all or part of any such meeting, provided that no Party shall do or permit to be done any act or thing which may cause that Regulatory Authority to make such a request); and
  - 4.13.3 provide the other Parties with drafts of all material written communications (including any filings, submissions and notifications) intended to be sent to any Regulatory Authority in relation to the Transaction, give the other reasonable opportunity to comment on any such material written communication and take reasonable account of such comments, not send any such communication to any Regulatory Authority without the prior written approval of the Sellers and the Purchaser (such approval not to be unreasonably withheld or delayed) and provide the other Parties with final copies of all such material communications and any supporting documentation or information (other than to the extent that a Regulatory Authority expressly requests that communications should not be shared with another Party, provided that no Party shall do or permit to be done any act or thing which may cause that Regulatory Authority to make such a request).

- 4.14 Nothing in clauses 4.11, 4.13.1, 4.13.2 and 4.13.3 shall require any Party to disclose any business secrets or other confidential competitively or commercially sensitive information to the other and the disclosing Party shall be entitled to redact any such material containing business secrets or confidential competitively or commercially sensitive information and/or provide such material on an outside counsel basis to the other.
- 4.15 BASF, Letterone and the Purchaser each further undertake not to, and BASF and Letterone each undertake to procure, to the extent legally permissible and practically possible, that no other NewCo Group Company shall, and the Purchaser undertakes to procure that no other Purchaser Group Company shall, enter into any transaction, agreement or arrangement (including any merger or acquisition) which may reasonably be expected to prevent, hinder, prejudice or materially delay the satisfaction of any Antitrust Condition or any Regulatory Condition or any Foreign Investment Condition or any FSR Condition, other than any transaction, agreement or arrangement required by Applicable Law.
- 4.16 The undertakings set out in clauses 4.11 to 4.15 shall apply in respect of any other necessary Clearances and Sector Regulatory Consents which are agreed to in writing in accordance with clause 3.1.27.

#### **Undertakings in respect of the Sanctions Condition**

- 4.17 If either: (i) the Sanctions Condition is not satisfied by, or Deemed Satisfaction has not occurred by, the Completion Date; or (ii) any relevant Sanctions Authority has determined in writing or has otherwise provided definitive confirmation that, to the extent required by Economic Sanctions Law, it is not willing to grant a Relevant Licence, then any Party may, except in respect of any rights and liabilities which have accrued before termination or under any of the Surviving Provisions, at its election, terminate this Agreement with immediate effect by written notice to the other Parties.
- 4.18 If any Party serves a Sanctions Notice, each Party shall use its respective reasonable endeavours during the Cure Period to procure a change in the relevant circumstances as soon as reasonably practicable such that the Sanctions Condition will be satisfied at Completion or Deemed Satisfaction occurs in accordance with clause 4.19.
- 4.19 If a Party serves a Sanctions Notice and, within the Cure Period, each relevant Party obtains or is licensed by a Relevant Licence then, subject to satisfaction of the Sanctions Licence Requirement and the Sanctions Financing Condition, the Sanctions Condition shall be deemed to be satisfied (*Deemed Satisfied* or *Deemed Satisfaction*, as the context requires) notwithstanding that a Party may be a Sanctioned Person.
- 4.20 The Purchaser shall, promptly following the issuance of a Sanctions Notice, use reasonable efforts to satisfy the Sanctions Financing Condition (such efforts to include consideration of replacing providers of debt financing, deal-contingent bond financing and/or other alternative financing methods) and shall continue such reasonable efforts for the duration of the Cure Period.
- 4.21 Each Party shall promptly comply with reasonable requests by another Party for information or documentation required for the purposes of determining satisfaction of

the Sanctions Condition or Deemed Satisfaction and compliance with its obligations in clause 4.18 above.

**Compliance**

- 4.22 Each of the Parties warrants (in relation to past actions) and undertakes (in relation to future actions), severally (but not jointly nor joint and severally) in respect of itself only, that all actions taken or to be taken in connection with this Agreement, including in relation to fulfilment of the Conditions, and the other Transaction Documents by itself have been and (in respect of future actions only) will be taken in compliance with Anti-Bribery Law, Economic Sanctions Law and Anti-Money Laundering Law, in each case in force at the time such action was or is taken.

**No guarantees**

- 4.23 Notwithstanding any other provision of this Agreement, none of BASF, Letterone or their Affiliates shall be required to provide any guarantee (including any secondary or alternative liability guarantee), security or other form of financial support or make any payment or financial contribution in connection with the fulfilment of any of the Conditions (other than in respect of management time, adviser fees and/or filing costs).

**Other**

- 4.24 Each Party shall notify the others promptly upon (and no later than one (1) Business Day after) becoming aware that:
- 4.24.1 any of the Conditions (other than the Sanctions Condition) has been satisfied (and if the Sanctions Condition has become Deemed Satisfied); or
  - 4.24.2 any facts or circumstances have arisen that, in the opinion of the relevant Party's legal advisers, are reasonably likely to result in any of the Conditions not being satisfied either (a) prior to the Longstop Date in respect of the Conditions (other than the Sanctions Condition); or (b) at any time in respect of the Sanctions Condition, together with such details of the relevant circumstances as are in the relevant Party's possession at the relevant time.
- 4.25 If the Unconditional Date has not occurred on or before the Longstop Date, this Agreement shall automatically terminate (other than the Surviving Provisions). In such event, no Party (nor any of its Affiliates) shall have any claim under this Agreement of any nature against the other Parties (or any of their Affiliates) except in respect of any rights and liabilities which have accrued before termination or under any of the Surviving Provisions.

**5. Pre-Completion Undertakings**

**5.1 Purchaser Interim Period covenants**

5.1.1 *General covenant*

Other than as set out in clause 5.1.3, the Purchaser shall procure that during the Interim Period, its business and the business of each other Purchaser Group Company is carried on: (i) in the ordinary course of business; (ii) in all material



respects consistent with past practice; and (iii) in accordance with the shared planning data or life of field sheets as disclosed to the Sellers by the Purchaser in the data room compiled by the Purchaser virtually held by Intralinks called "Project Warwick";

5.1.2 *Specific restrictions*

- (a) Other than as set out in clause 5.1.3, the Purchaser undertakes that, during the Interim Period, it shall not and shall exercise all rights available to it to procure that each other Purchaser Group Company shall not:
- (i) create, allot or issue or grant any option over or other right to subscribe for or purchase, or redeem, buy back, sub-divide, consolidate, re-denominate, convert, reduce, cancel or alter the rights attaching to, any Purchaser Shares or loan capital or other securities or securities convertible into any of the foregoing, save for:
    - (A) any allotment or issue of Purchaser Shares (or grant of options, awards or other rights to subscribe for Purchaser Shares) in the ordinary course pursuant to the Purchaser Share Plans up to a maximum aggregate number of 3,100,000 Purchaser Shares; or
    - (B) the grant of options or awards in the ordinary course under the LTIP, SIP or Expat SIP where existing Purchaser Shares are acquired in the market by any employees' benefit trust established by any Purchaser Group Company for the satisfaction of such awards;
  - (ii) undertake a rights issue, open offer or other pre-emptive offer of Ordinary Shares;
  - (iii) acquire any business, undertaking, interest or asset (in one or a series of transactions) for a purchase price in excess of USD 150,000,000 or its equivalent at the time except where a binding agreement was signed in respect of such acquisition prior to the Announcement Date;
  - (iv) enter into any amalgamation, demerger, merger, consolidation, corporate reorganisation or corporate reconstruction or continue as a company incorporated under the laws of any other jurisdiction;
  - (v) dispose of any business, undertaking, interest or asset (in one or a series of transactions) where the higher of: (a) the fair market value of the business, undertaking, interest or asset to be disposed of; and (b) the net consideration receivable on any such disposal, is in excess of USD 150,000,000; or

- (vi) enter into, make a material amendment to or terminate any material contract (being a contract which involves or may involve a total annual expenditure in excess of USD 150,000,000 or its equivalent at the time or any project with a value of more than USD 150,000,000 or its equivalent at the time of such expenditure) in each case except to the extent in the ordinary course of business of the Purchaser Group.
- (b) Nothing in clause 5.1.2 shall require any Purchaser Group Company to act in a manner contrary to any Applicable Law relating to antitrust or foreign investment matters.

### 5.1.3 *Permitted Actions*

No act, omission, matter, transaction or thing shall constitute a breach by the Purchaser of clause 5.1.1 and 5.1.2 to the extent that:

- (a) it is undertaken at the written request or with the written consent of the Sellers, which consent shall not be unreasonably withheld or delayed;
- (b) it is required or is expressly permitted by the terms of any Transaction Document or is required to effect the Transaction (including, for the avoidance of doubt, Completion);
- (c) it is or is required pursuant to a binding agreement that was signed prior to the Announcement Date and which has been disclosed to the Sellers (or their respective Affiliates) prior to the Announcement Date; and/or
- (d) it is necessary in order to comply with any legal or regulatory obligation of a Purchaser Group Company or a rule or order of any Regulatory Authority with relevant powers in force from time to time in respect of a Purchaser Group Company, in which case the Purchaser shall provide the Sellers with notice of any such action within five (5) Business Days of taking such action.

## 5.2 **Purchaser Leakage**

### 5.2.1 The Purchaser:

- (a) warrants to each Seller that there has been no Purchaser Leakage in the period from (but excluding) the Effective Date to (but excluding) the Announcement Date; and
- (b) undertakes that there shall be no Purchaser Leakage from (and including) the Announcement Date to Completion,

other than to the extent constituting Purchaser Permitted Leakage.

### 5.2.2 The Purchaser undertakes to the Sellers to notify the Sellers as soon as reasonably practicable if it becomes aware of any payment event or transaction which constitutes a breach of clause 5.2.1.

- 5.2.3 Subject always to Completion having taken place, in the event of any breach of clause 5.2.1, the Purchaser shall on demand by the Sellers pay to each Seller its Seller Relevant Proportion of: (i) the cash or cash equivalent value of the Purchaser Leakage (other than any recoverable VAT); *plus* (ii) such other losses and reasonable and documented expenses properly incurred by the relevant Seller in recovering such amount or in relation thereto; *less* (iii) any amount of cash-effective Tax saved or that will cash-effectively be saved (as reasonably determined by the Parties in good faith when the Purchaser Leakage claim is made) by any Purchaser Group Company in the same accounting period in which the relevant Purchaser Leakage arose or the following three full accounting periods (four (4) year calculation), in each case in consequence of the utilisation of a Tax Relief which is attributable to the relevant Purchaser Leakage. A claim under this clause 5.2.3 shall be the sole remedy available to the Sellers arising (directly or indirectly) from a breach of clause 5.2.1.
- 5.2.4 The Purchaser is not liable to make a payment under clause 5.2.3 unless the Sellers have notified the Purchaser in writing of the breach of clause 5.2.1, or the claim under clause 5.2.3, stating in reasonable detail the nature of the breach and, if practicable, the amount claimed, on or before the date falling eight (8) months from the Completion Date, in which case the Purchaser shall remain liable under this clause 5.2 in relation to such Purchaser Leakage until any relevant Claim or payment obligation has been satisfied, settled or withdrawn.
- 5.2.5 If the Purchaser or a Seller (acting alone or on behalf of both Sellers) (the *Notifying Party*) serves a notice (the *Leakage Notice*) regarding Purchaser Leakage on the other Parties (the *Non-Notifying Parties*) pursuant to clause 5.2.2 or 5.2.4 above, a Non-Notifying Party may notify the other Parties (the *Leakage Objection Notice*) within twenty (20) Business Days following receipt of the Leakage Notice (or if the Leakage Notice is received before Completion, twenty (20) Business Days from Completion) in the event that it does not accept the proposed liability for, or agree with the quantum of, the Purchaser Leakage (the *Leakage Dispute*) referred to in the Leakage Notice. If the Leakage Dispute is not settled in writing between the relevant Parties within ten (10) Business Days of receipt of the Leakage Objection Notice (or such longer period as the Parties may agree in writing), the Leakage Dispute shall be referred to an Independent Expert appointed in accordance with Part D of Schedule 9. Following the Independent Expert determining the amount of Purchaser Leakage received by, or for the benefit of, the Purchaser Shareholders (if any) (or, where paragraph 6(j) of Part D of Schedule 9 applies, the arbitral tribunal has finally resolved such matter in accordance with clause 21.2), the Purchaser shall pay to each Seller an amount in cash equal to its Seller Relevant Proportion of the amount of any Purchaser Leakage so determined within five (5) Business Days of such determination.
- 5.2.6 Any Claim under this clause 5.2 shall (if it has not been previously satisfied, settled or withdrawn) be deemed to have been withdrawn twelve (12) months after the Leakage Notice is given unless the Leakage Dispute has been referred to the Independent Expert in accordance with Part D of Schedule 9. No new Claim may be made in respect of the facts, matters, events or circumstances giving rise to any such withdrawn Claim.

- 5.2.7 The Purchaser shall not be liable under clause 5.2.3 for an amount taken into account in the Purchaser Notified Leakage which is added to the Completion Consideration Cash Amount pursuant to clause 2.2.2.

### 5.3 **BASF and Letterone Interim Period covenants**

#### 5.3.1 *General covenant*

Other than as set out in clause 5.3.3, BASF and Letterone shall each procure, to the extent legally permissible and practically possible, that during the Interim Period, the business related to the relevant assets, rights, contracts and liabilities which are the subject of the Transaction, including the Transaction Perimeter Assets, is carried on: (i) in the ordinary course of business; (ii) in all material respects consistent with past practice; and (iii) in accordance with the Business Plan (in each case duly taking into account the Hive-Down, the Spin-off and related preparatory work).

#### 5.3.2 *Specific restrictions*

- (a) Other than as set out in clause 5.3.3, BASF and Letterone each undertake, to the extent legally permissible and practically possible, that during the Interim Period, they shall not and shall exercise all rights available to them to procure that the management of NewCo 2 and the management of Wintershall DEA and NewCo 1 shall not:
- (i) create, allot or issue or grant any option over or other right to subscribe for or purchase, or redeem, buy back, sub-divide, consolidate, re-denominate, convert, reduce, cancel or alter the rights attaching to, any Target Shares or loan capital or other securities or securities convertible into any of the foregoing;
  - (ii) create or assume any material Encumbrance over any asset that would form part of the relevant assets, rights, contracts and liabilities which are the subject of the Transaction, including the Transaction Perimeter Assets, other than in the ordinary course of business;
  - (iii) acquire any business, undertaking, interest or asset that would form part of the relevant assets, rights, contracts and liabilities which are the subject of the Transaction, including the Transaction Perimeter Assets, (in one or a series of transactions) for a purchase price in excess of EUR 150,000,000 or its equivalent at the time;
  - (iv) enter into any amalgamation, demerger, merger, consolidation, corporate reorganisation or corporate reconstruction or continue as a company incorporated under the laws of any other jurisdiction;
  - (v) dispose of any business, undertaking, interest or asset that would otherwise form part of the relevant assets, rights, contracts and

liabilities which are the subject of the Transaction, including the Transaction Perimeter Assets, (in one or a series of transactions) where the higher of: (a) the fair market value of the business, undertaking, interest or asset to be disposed of; and (b) the net consideration receivable on any such disposal, is in excess of EUR 150,000,000;

- (vi) enter into, make a material amendment to or terminate any material contract which involves or may involve a total annual expenditure in excess of EUR 150,000,000 or its equivalent at the time or any project with a value of more than EUR 150,000,000 or its equivalent at the time of such expenditure, in each case that would form part of the relevant assets, rights, contracts and liabilities which are the subject of the Transaction, including the Transaction Perimeter Assets, and except to the extent in the ordinary course of business;
  - (vii) make any material amendment to the Ghasha SPA from the version located at Document 3.8.1 in the Data Room;
  - (viii) postpone the long stop date pursuant to clause 3.5 of the Ghasha SPA to a date that falls after the anticipated Completion Date; or
  - (ix) enter into, amend or terminate any material hedging arrangement, other than as permitted in accordance with the existing hedging policy applicable to any relevant assets, rights, contracts and liabilities which are the subject of the Transaction, including the Transaction Perimeter Assets, as at the date of this Agreement.
- (b) Nothing in clause 5.3.1 shall require any Seller Group Company, NewCo Group Company or Wintershall DEA Group Company to act in a manner contrary to any Applicable Law relating to antitrust or foreign investment matters.

### 5.3.3 *Permitted Actions*

No act, omission, matter, transaction or thing shall constitute a breach by BASF and/or Letterone of clause 5.3.1 and 5.3.2 to the extent that:

- (a) it is undertaken in accordance with the provisions of the Ghasha SPA;
- (b) it is undertaken at the written request or with the written consent of the other Parties, which consent shall not be unreasonably withheld or delayed;
- (c) it is: (i) required by the terms of any Transaction Document; or (ii) in compliance with this Agreement; or (iii) required to effect the Transaction (including, for the avoidance of doubt, Completion);

- (d) it is required pursuant to a binding agreement that was signed prior to the Announcement Date and which has been disclosed to the Purchaser (or its Affiliates) prior to the Announcement Date;
- (e) it is necessary in order to comply with any legal or regulatory obligation of any Seller Group Company, NewCo Group Company or Wintershall DEA Group Company or a rule or order of any Regulatory Authority with relevant powers in force from time to time in respect of one of the aforementioned parties, in which case BASF and/or Letterone shall provide the other Parties with notice of any such action within five (5) Business Days of taking such action;
- (f) it is undertaken to implement the Bond ALM Transaction;
- (g) it is undertaken in accordance with the Business Plan; and/or
- (h) it is undertaken with the consent of the supervisory board of Wintershall DEA in accordance with clause 8 of the Wintershall DEA Rules of Procedure.

#### 5.4 Seller Leakage

##### 5.4.1 Each Seller:

- (a) warrants to the Purchaser that there has been no Seller Leakage in the period from (but excluding) the Effective Date to (but excluding) the Announcement Date; and
- (b) undertakes that there shall be no Seller Leakage from (and including) the Announcement Date to Completion,

other than to the extent constituting Seller Permitted Leakage.

##### 5.4.2 Each of the Sellers undertakes to the Purchaser to notify the Purchaser as soon as reasonably practicable if it becomes aware of any payment event or transaction which constitutes (a) a breach of clause 5.4.1 or (b) Seller Reverse Leakage.

##### 5.4.3 Subject always to Completion having taken place, in the event of:

- (a) any breach of clause 5.4.1, the Sellers shall on demand by the Purchaser pay to the Purchaser an amount equal to: (i) the cash or cash equivalent value of the Seller Leakage (other than any recoverable VAT), *plus* (ii) such other losses and any reasonable and documented expenses properly incurred by the Purchaser in recovering such amount/in relation thereto; *less* (iii) any amount of Tax cash-effectively saved or that will cash-effectively be saved (as reasonably determined by the Parties in good faith when the Seller Leakage claim is made) by any NewCo Group Company, or after Completion, any Purchaser Group Company in the same accounting period in which the relevant Seller Leakage arose or the following three (3) full accounting periods (four (4) year calculation), in each case in consequence of the utilisation of a Tax Relief which is

attributable to the relevant Seller Leakage. A claim under this clause 5.4.3(a) shall be the sole remedy available to the Purchaser arising (directly or indirectly) from a breach of clause 5.4.1; and

- (b) any Seller Reverse Leakage on or before Completion, the Purchaser shall on demand by the Sellers pay to each Seller its Seller Relevant Proportion of an amount equal to: (i) the cash or cash equivalent value of the Seller Reverse Leakage (other than any recoverable VAT); *plus* (ii) such other losses and any reasonable and documented expenses properly incurred by the Sellers (or any Wintershall DEA Group Company) in recovering such amount/in relation thereto; *less* (iii) any amount of Tax cash-effectively saved or that will cash-effectively be saved (as reasonably determined by the Parties in good faith when the Seller Reverse Leakage claim is made) by any Seller Group Company or Wintershall DEA Group Company in the same accounting period in which the relevant Seller Reverse Leakage arose or the following three (3) full accounting periods (four (4) year calculation), in each case in consequence of the utilisation of a Tax Relief which is attributable to the relevant Seller Reverse Leakage. A claim under this clause 5.4.3(b) shall be the sole remedy available to the Sellers in respect of Seller Reverse Leakage.

- 5.4.4 No Seller or the Purchaser (as applicable) shall be liable to make a payment under clause 5.4.3 unless (a) in the case of clause 5.4.3(a), the Purchaser has notified such Seller in writing of the breach of clause 5.4.1, or a claim under clause 5.4.3(a), or (b) in the case of clause 5.4.3(b), the Sellers have notified the Purchaser in writing of a claim under clause 5.4.3(b), stating in each case in reasonable detail the nature of the breach or claim and, if practicable, the amount claimed, on or before the date falling eight (8) months from the Completion Date, in which case the relevant Seller or Purchaser (as applicable) shall remain liable under this clause 5.4 in relation to such Seller Leakage or Seller Reverse Leakage (as applicable) until any relevant Claim or payment obligation has been satisfied, settled or withdrawn.
- 5.4.5 If a Notifying Party serves a Leakage Notice regarding Seller Leakage or Seller Reverse Leakage on the Non-Notifying Parties pursuant to clause 5.4.2 or 5.4.4 above, a Non-Notifying Party may serve a Leakage Objection Notice within twenty (20) Business Days following receipt of the Leakage Notice (or, if the Leakage Notice is received before Completion, twenty (20) Business Days from Completion) in the event that it does not accept the proposed liability for, or agree with the quantum of, the Seller Leakage or Seller Reverse Leakage (as applicable) referred to in the Leakage Notice. If the Leakage Dispute is not settled in writing between the relevant parties within ten (10) Business Days of receipt of the Leakage Objection Notice (or such longer period as the parties may agree in writing), the Leakage Dispute shall be referred to an Independent Expert appointed in accordance with Part D of Schedule 9. Following the Independent Expert determining the amount of (a) Seller Leakage received by, or for the benefit of, the relevant Seller or any of its Affiliates (if any) or (b) Seller Reverse Leakage received by a NewCo Group Company (or, in each case, where paragraph 6(j) of Part D of Schedule 9 applies, the arbitral tribunal has

finally resolved such matter in accordance with clause 21.2), the relevant Seller shall pay to the Purchaser an amount in cash equal to the amount of any Seller Leakage (or in the case of both Sellers, its Seller Relevant Proportion of any Seller Leakage) or the Purchaser shall pay to each Seller its Seller Relevant Proportion of an amount in cash equal to the amount of the Seller Reverse Leakage (as applicable), in each case so determined within five (5) Business Days of such determination.

The definitions in clause 5.2.5 shall apply *mutatis mutandis* to the defined terms used in this clause 5.4, save that references to "Purchaser Leakage" shall be deleted and replaced with "Seller Leakage" or "Seller Reverse Leakage", as applicable.

- 5.4.6 Any Claim under this clause 5.4 shall (if it has not been previously satisfied, settled or withdrawn) be deemed to have been withdrawn twelve (12) months after the Leakage Notice is given unless the Leakage Dispute has been referred to the Independent Expert in accordance with Part D of Schedule 9. No new Claim may be made in respect of the facts, matters, events or circumstances giving rise to any such withdrawn Claim.
- 5.4.7 No Seller shall be liable under clause 5.4.3 for an amount taken into account in the Seller Notified Leakage which is subtracted from the Completion Consideration Cash Amount pursuant to clause 2.2.2. The Purchaser shall not be liable under clause 5.4.3 for an amount taken into account in the Seller Notified Reverse Leakage which is added to the Completion Consideration Cash Amount pursuant to clause 2.2.2.

## 5.5 Remedies

- 5.5.1 Without prejudice to any other rights and remedies which any Party may have, each Party acknowledges and agrees that:
- (a) in the case of an actual or threatened breach of clause 5.3 by BASF, the Purchaser shall be entitled to seek the remedies of injunction, specific performance and other equitable remedies in respect of any such breach by BASF;
  - (b) in the case of an actual or threatened breach of clause 5.3 by Letterone, the Purchaser shall be entitled to seek the remedies of injunction, specific performance and other equitable remedies in respect of any such breach by Letterone; and
  - (c) in the case of an actual or threatened breach of clause 5.1 by the Purchaser, BASF and/or Letterone shall be entitled to seek the remedies of injunction, specific performance and other equitable remedies in respect of any such breach by the Purchaser,

in each case it being acknowledged that an award of damages may not be an adequate remedy for any such breach and no proof of special damages shall be necessary for the enforcement by any Party of the rights under clauses 5.1 or 5.3.



## 5.6 **Irrevocable undertakings**

The Purchaser shall use reasonable endeavours to obtain irrevocable undertakings in a form reasonably acceptable to the Parties from further institutional shareholders of the Purchaser to vote in favour of the Purchaser Resolutions in advance of the Purchaser General Meeting.

## 5.7 **Intercompany Balances**

All Intercompany Balances, save for any Intercompany Balances arising out of or in connection with the transfer of the Gas Optimisation Contracts from Wintershall DEA to either NewCo 1 or NewCo 2, shall be settled and discharged in full at least five (5) Business Days prior to Completion (or, if this is not reasonably practicable, as soon as reasonably practicable thereafter), provided that any such settlement or discharge occurs prior to or with effect from Completion by (a) (i) the relevant Seller Group Company or Wintershall DEA Group Company (on the one hand), or (ii) a NewCo Group Company (on the other hand), to (b) (i) the relevant NewCo Group Company (on the one hand) or (ii) a Seller Group Company or Wintershall DEA Group Company (on the other hand), respectively, to which such Intercompany Balance is owed.

## 5.8 **Deferral Amount and TPA Free Cash Flow**

The Sellers undertake to provide the Purchaser in writing not less than five (5) Business Days prior to Completion with a reasonable estimate of the Deferral Amount and the TPA Free Cash Flow as calculated in good faith in accordance with the provisions of Part A and Part B of Schedule 9.

## 5.9 **Spin-off, wrong-pockets and tax**

5.9.1 The Sellers agree to procure that: (i) the legally binding documentation to be entered into to implement the Spin-off prior to Completion will: (a) provide for “wrong pockets” and related indemnity arrangements between NewCo 2 and Wintershall DEA in the form set out in Schedule 13 (it being understood that the exact wording is subject to amendment as reasonably requested by the acting notary public notarising and the competent commercial register registering the Spin-off, provided that any such amendment will not affect the substance of such arrangements); (b) be on reasonably customary terms, which shall include not granting rights or remedies to Wintershall DEA which are off-market or unreasonable, taking into account the nature of the transaction; and (ii) Wintershall DEA will comply with its obligations under such legally binding documentation.

5.9.2 Without prejudice to the "wrong pockets" arrangements referred to in clause 5.9.1, each Seller shall:

- (a) procure that, immediately before Completion, NewCo 2 shall own (directly or indirectly) each NewCo Group Company;
- (b) use all reasonable endeavours to procure that, immediately before Completion, NewCo 2 shall own (directly or indirectly through its ownership interest in any NewCo Group Company) the remainder of the Transaction Perimeter Assets; and

- (c) if NewCo 2 does not own (directly or indirectly through its ownership interest in any NewCo Group Company) any Transaction Perimeter Assets at Completion, use all reasonable endeavours to procure that each such Transaction Perimeter Asset is transferred to the relevant NewCo Group Company as soon as reasonably practicable following Completion.
- 5.9.3 To the extent that appropriate account was taken of the value (whether positive or negative) of the asset, right, claim or liability subject to the “wrong pockets” arrangements set out in Schedule 13 (the *Wrong Pockets Asset or Liability*) in the Final Consideration Cash Amount, or such Wrong Pockets Asset or Liability is otherwise addressed or taken into account under terms of this Agreement (including by way of exclusion from the Actual Balance Sheet Value and/or the Target Balance Sheet Value), the Parties acknowledge that and shall procure that no consideration shall be payable by any person for such transfer.
- 5.9.4 To the extent that appropriate account was not taken of the value (whether positive or negative) of the Wrong Pockets Asset or Liability in the Final Consideration Cash Amount, and such Wrong Pockets Asset or Liability has not otherwise been addressed or taken into account under the terms of this Agreement or any Transaction Document (including by way of exclusion from the Actual Balance Sheet Value and/or the Target Balance Sheet Value), the Sellers and the Purchaser shall: (i) agree in good faith an appropriate value for the Wrong Pockets Asset or Liability; and (ii) the Sellers shall procure payment by Wintershall DEA of an amount equal to the agreed value to the relevant NewCo Group Company, or the Purchaser shall pay (or procure payment by the relevant NewCo Group Company of) an amount equal to the agreed value to Wintershall DEA, and such payment shall adjust the Final Consideration Cash Amount pursuant to clause 2.2.4.

## 5.10 **Integration planning**

- 5.10.1 BASF, Letterone and the Purchaser undertake to co-operate and support each other, to the extent legally permissible, to prepare for the integration of the NewCo Group’s business into the business of the Purchaser.
- 5.10.2 The Parties agree to establish a joint integration committee comprised of representatives from each of the Sellers, Wintershall DEA and the Purchaser (the *JIC*) no later than twenty (20) Business Days following the Announcement Date. The JIC shall meet on a regular basis from the Announcement Date to Completion and, subject to Applicable Law, shall serve as a platform to discuss and prepare the integration of the relevant assets, rights, contracts and liabilities which are the subject of the Transaction, including the Transaction Perimeter Assets, into the Purchaser Group to facilitate a smooth and timely consummation of the Transaction.
- 5.10.3 Using the JIC as a forum, the Sellers shall, without limitation, keep the Purchaser regularly and reasonably informed as to the progress of the steps required to complete the Spin-off and, to the extent requested by the Purchaser, provide the Purchaser with copies of any documents required to implement and complete the Spin-off, to the extent permitted by Applicable Law.

- 5.10.4 BASF and Letterone undertake to procure that Wintershall DEA shall provide to the Purchaser, via the JIC, a monthly operations report in each month between the Announcement Date and Completion which will cover on a per country level, the following items: (a) production; (b) operating expenses; (c) capital expenditure; (d) HSE data (which shall include the total recordable incident rate, the lost time incident rate and total greenhouse gas emissions); (e) operating cashflow / free cash flow; and (f) an overview of the hedging position expected to form part of the Transaction Perimeter Assets at each month end (together with an estimate of pre-tax and post-tax mark-to-market) (the *Monthly Operations Report*).
- 5.10.5 The Purchaser undertakes to provide to BASF and Letterone, via the JIC, a monthly operations report between the Announcement Date and Completion which will cover, on a per country level, equivalent items to those included in the Monthly Operations Report (the *Purchaser Monthly Operations Report*).
- 5.10.6 Subject to Applicable Law, as soon as practicable after the Announcement Date, the JIC will discuss appropriate amendments to the hedging policy applicable to the Transaction Perimeter Assets and the Sellers shall use reasonable endeavours to procure the implementation of such amendments.
- 5.10.7 To ensure compliance with Applicable Law: (i) until Completion, the JIC shall be set up in a “clean team” manner ensuring that no information is exchanged where such exchange would violate any Applicable Law on antitrust and competition, foreign investment or foreign subsidies; and (ii) until Completion, information (including updates regarding the Estimated TPA Free Cash Flow, Monthly Operations Reports and Purchaser Monthly Operations Report) may only be exchanged in a manner that complies with applicable data protection and privacy laws and regulations, for example by redacting the data to the extent necessary.
- 5.10.8 The Parties shall:
- (a) promptly following the Announcement Date, use all reasonable endeavours to agree an "Integration Plan" to cover the period from the Announcement Date until Completion;
  - (b) if and to the extent it becomes apparent that certain transitional services may need to be provided by any Wintershall DEA Group Company to the NewCo Group after the Completion Date, in good faith negotiate a transitional services agreement on customary terms as soon as reasonably practicable (and in any event no later than three (3) months) after the Announcement Date, it being understood that the relevant Wintershall DEA Group Company may not be able to provide services requested by the NewCo Group if the relevant HQ Employees are not available for the rendering of such services as a result of having discontinued their employment with the relevant Wintershall DEA Group Company; and
  - (c) following the Announcement Date, cooperate in good faith and use their respective reasonable endeavours to reduce or mitigate any costs, fees

or expenses that may be incurred by any NewCo Group Company or any Purchaser Group Company in relation to Seismic Contracts as a result of any change of control pursuant to the Transaction (including assessment in good faith of the extent to which underlying seismic data may no longer be reasonably required for ongoing commercial use).

#### 5.11 **Wintershall Dea Credit Support**

5.11.1 The Parties shall use commercially reasonable best efforts to ensure that, with effect as of Completion, the Wintershall Dea Credit Support will be replaced by:

- (a) in respect of any parent company guarantees which constitute Wintershall Dea Credit Support, parent company guarantees or comparable collateral provided by the Purchaser or another Purchaser Group Company (as applicable); and
- (b) in respect of any letters of credit which constitute Wintershall Dea Credit Support, parent company guarantees, letters of credit or comparable collateral (as applicable) provided by an acceptable issuing bank or financial institution.

5.11.2 If and to the extent one or more Wintershall Dea Credit Support has not been replaced with effect as of Completion, the Purchaser shall procure that a Purchaser Group Company, on the one hand, and LetterOne or BASF shall itself and/or shall procure that Wintershall DEA (as the case may be) on the other hand, shall enter into an arm's length arrangement to compensate LetterOne, BASF and/or Wintershall DEA (as the case may be) for the continued provision of the relevant Wintershall Dea Credit Support following Completion.

5.11.3 If and to the extent: (i) one or more Wintershall Dea Credit Support have not been replaced with effect as of Completion; and (ii) a third party makes a claim under any of the Wintershall Dea Credit Support after Completion, then the Purchaser shall indemnify each of LetterOne, BASF or Wintershall DEA (as applicable, in their capacity as guarantors) for all amounts paid by LetterOne, BASF and/or Wintershall DEA in relation to such third party claim(s).

#### 5.12 **Employment**

5.12.1 The provisions of Schedule 12 shall apply in respect of employment matters.

#### 5.13 **Standstill and Code compliance**

5.13.1 Each of BASF and Letterone confirms that prior to the Announcement Date it has not and none of its Affiliates and no NewCo Group Company or Wintershall DEA Group Company has, in each case other than as expressly provided for in the Transaction Documents:

- (a) acquired, contracted to buy or acquire any option over or otherwise bought or caused or encouraged any other person to buy or contract to buy, any interest in any Purchaser Shares or any debt securities issued by any Purchaser Group Company; or

- (b) entered into any agreement, arrangement or understanding (whether or not legally binding) or did or omitted to do any act as a result of which it or any other person will or may become interested (as defined in the Code) in any Existing Purchaser Shares.
- 5.13.2 Each of BASF and Letterone undertakes that, during the period from (and including) the Announcement Date until the earlier of termination of this Agreement and Completion, it shall not, and it shall procure, to the extent legally permissible and practically possible, that none of its Affiliates and no NewCo Group Company or Wintershall DEA Group Company will:
- (a) acquire, contract to buy or acquire any option over or otherwise buy or cause or encourage any other person to buy or contract to buy, any interest in any Purchaser Shares or any debt securities issued by any Purchaser Group Company; or
  - (b) enter into any agreement, arrangement or understanding (whether or not legally binding) or do or omit to do any act as a result of which it or any other person will or may become interested (as defined in the Code) in or any Existing Purchaser Shares.
- 5.13.3 If BASF or Letterone breaches the provisions of this clause 5.13 and such breach results, or would result following Completion, in a Rule 9 Obligation, BASF and Letterone (as applicable) undertake promptly upon becoming aware of such breach to:
- (a) notify the other Parties of the events causing such breach of this clause 5.13 and provide a full explanation to the Panel; and
  - (b) in any event, by no later than forty-eight (48) hours after becoming aware of such breach of this clause 5.13, dispose of such Existing Purchaser Shares (or interests in Existing Purchaser Shares) the acquisition of which resulted in such breach or take such other steps as may be necessary to remedy such breach in full.
- 5.13.4 Without prejudice to note 9 of the definition of acting in concert as defined by the Code, the provisions of this Agreement and any action required pursuant thereto, BASF and Letterone each undertakes that it shall use all reasonable endeavours not to take or omit to take (and shall use all reasonable endeavours to procure, to the extent legally permissible and practically possible, that none of its Affiliates, any Wintershall DEA Group Company or any NewCo Group Company will take) any action or omit to take any action which would reasonably be expected to give rise to a presumption that BASF, on the one hand, is acting or is deemed to be acting in concert with Letterone, on the other hand, for the purposes of the Code in relation to Purchaser Shares.

**5.14 Bond ALM Transaction**

- 5.14.1 The Parties undertake to co-operate with each other, and BASF and Letterone each undertake to the Purchaser to procure that Wintershall DEA, Wintershall Dea Finance B.V. and Wintershall Dea Finance 2. B.V. shall co-operate with

the Purchaser, and the Purchaser undertakes to co-operate with Wintershall DEA, Wintershall Dea Finance B.V. and Wintershall Dea Finance 2. B.V, in respect of the Bond ALM Transaction, and agree to use all reasonable endeavours to obtain the requisite bondholder consent and the requisite quorum necessary to successfully complete the Bond ALM Transaction on the terms to be agreed between the Parties (each acting reasonably and in good faith).

#### 5.15 **Officers' Certificate**

- 5.15.1 The Sellers shall procure that: (a) each Identified Officer executes a certificate in the Agreed Form (the *Officers' Certificate*) in relation to the accuracy and completeness of information specified that relates to the NewCo Group to be included in any of the Purchaser Public Documents; and (b) each such executed Officers' Certificate is delivered to the Purchaser prior to publication of the relevant Purchaser Public Documents.
- 5.15.2 Before Completion, the Sellers shall procure that each Identified Officer enters into documentation that includes each of the provisions agreed in writing between the Parties.

#### 5.16 **Sanctions Compliance**

- 5.16.1 No Party will use any of the consideration that it receives pursuant to this Agreement in any manner that violates any Economic Sanctions Laws and will not knowingly transfer or otherwise make available any such consideration to any Sanctioned Persons where doing so would result in a Party acting in breach of Economic Sanctions Laws.
- 5.16.2 Each Party will maintain in effect policies and procedures reasonably designed to ensure compliance by that Party and its Affiliates, and their respective directors, officers, employees, and persons performing duties for or on behalf of it, with applicable Economic Sanctions Laws.

#### 5.17 **PLTAs**

- 5.17.1 As of the Effective Date, the following profit and loss transfer agreements (Sec. 291 German Stock Corporation Act, *Aktiengesetz*) are in place between Wintershall DEA (as dominating party) on the one hand and the following NewCo Group Companies on the other hand:
- (a) E&A Internationale Explorations- und Produktions-GmbH;
  - (b) Wintershall Dea Middle East GmbH;
  - (c) Wintershall Dea International GmbH; and
  - (d) Wintershall Dea Deutschland GmbH (each a *Known Fiscal Unity Subsidiary* and each of these profit and loss transfer agreements a *Known PLTA*).

As a result of the Known PLTAs, as of the Effective Date there are fiscal unities (*Organschaft*) in place for German corporate income tax (including solidarity surcharge, *CIT*) and trade tax (TT) purposes between Wintershall DEA (as fiscal unity head entity) and each of the Known Fiscal Unity Subsidiaries (as a

fiscal unity subsidiary entity); and

- 5.17.2 In addition to the Known PLTAs, as of the Effective Date there might be other profit and loss transfer agreements (Sec. 291 German Stock Corporation Act, *Aktiengesetz*) in place between a Wintershall DEA Group Company (as dominating party) on the one hand and any NewCo Group Company (other than the Known Fiscal Unity Subsidiaries) on the other hand (each an **Unknown Fiscal Unity Subsidiary** and each of these profit and loss transfer agreements an **Unknown PLTA**; the Unknown PLTAs (if any) and the Known PLTAs together the **Current PLTAs** and each individually a **Current PLTA**, and the Unknown Fiscal Unity Subsidiaries (if any) and the Known Fiscal Unity Subsidiaries together the **Current Fiscal Unity Subsidiaries** and each individually a **Current Fiscal Unity Subsidiary**).
- 5.17.3 There have been also profit and loss transfer agreements (Sec. 291 German Stock Corporation Act, *Aktiengesetz*) in place between Wintershall DEA (as dominating party) and NewCo Group Companies (the **Former Fiscal Unity Subsidiaries**) which have been terminated prior to the Effective Date, but for which payments (profit transfer or loss compensation payments or adjustments to such payments) were made and/or may be made after the Effective Date (the **Terminated PLTAs**; the Terminated PLTAs and the Current PLTAs together the **PLTAs** and each individually a **PLTA**; any profit transferred or to be transferred under any PLTA a **PLTA Profit** and any loss compensated or to be compensated under any PLTA a **PLTA Loss**; the Former Fiscal Unity Subsidiaries and the Current Fiscal Unity Subsidiaries together the **Fiscal Unity Subsidiaries** and each individually a **Fiscal Unity Subsidiary**). This applies in particular, but not limited to, the profit and loss transfer agreements (Sec. 291 German Stock Corporation Act, *Aktiengesetz*) that have been in place between Wintershall DEA (as dominating party) on the one hand and each of Wintershall Dea Vermögensverwaltungsgesellschaft mbH and Wintershall Dea Technology Ventures GmbH (respectively) on the other hand.
- 5.17.4 The Sellers shall procure, to the extent legally permissible and practically possible, that as of the end of 31 December 2023 (*mit Ablauf des 31. Dezember 2023*), the Current PLTAs between Wintershall DEA on the one hand and each of E&A Internationale Explorations- und Produktions-GmbH and Wintershall Dea Middle East GmbH and, as the case may be, any Unknown Fiscal Unity Subsidiary, if any, (respectively) on the other hand will be terminated by way of a termination agreement (*Aufhebungsvertrag*) and the respective CIT and TT fiscal unities will thus terminate with effect as of 31 December 2023. Consequently, these Current PLTAs will remain effective for those Fiscal Unity Subsidiaries' financial year ending 31 December 2023.
- 5.17.5 With regard to the Current PLTAs between Wintershall DEA on the one hand and each of Wintershall Dea International GmbH and Wintershall Dea Deutschland GmbH (respectively) on the other hand, the Sellers shall procure, to the extent legally permissible and practically possible, that: (i) a short financial year commencing on 1 January 2024 and ending on 30 June 2024 will be implemented; (ii) the consent of the competent Tax Authority for such

change of the fiscal year will be obtained in advance; and (iii) the respective PLTAs after a short financial year as of the end of 30 June 2024 (*Rumpfgeschäftsjahr mit Ablauf des 30 Juni 2024*) will be terminated by way of a termination agreement; consequently, the respective CIT and TT fiscal unity between Wintershall DEA on the one hand and each of Wintershall Dea International GmbH and Wintershall Dea Deutschland GmbH (respectively) on the other hand will thus terminate with effect as of 30 June 2024. If the consent of the competent Tax Authority for such change of the fiscal year cannot be obtained, the Sellers shall procure, to the extent legally permissible and practically possible, that the respective Current PLTAs will be (extraordinarily) terminated at the latest with effect as of the date of legal effectiveness of the Spin-off unless the Parties agree otherwise; in such case, the Parties shall amend the provisions of this clause 5.17 to address that a termination of the respective Current PLTAs will only occur with effect as of such date unless the Parties agree otherwise.

The respective termination dates for the PLTAs are referred to as ***PLTA Termination Date(s)*** and the financial years ending 31 December 2023 (for all Current Fiscal Unity Subsidiaries) and (as the case may be) also the short financial years ending on 30 June 2024 (for Wintershall Dea International GmbH and Wintershall Dea Deutschland GmbH) and, for the avoidance of doubt, in case any PLTA would not be terminated by 31 December 2023 or 30 June 2024 respectively (as applicable) also any (short) financial years or (in case of an extraordinary termination) parts of (short) financial years ending thereafter are referred to as the ***Open PLTA Financial Year(s)***, and the Open PLTA Financial Years and any financial years ending prior to 31 December 2023 (for any Fiscal Unity Subsidiaries) are referred to as ***PLTA Financial Year(s)***.

- 5.17.6 The Parties agree that the Current PLTAs shall be effectively implemented (*tatsächlich durchgeführt*) for the Open PLTA Financial Years, thereby also meeting the respective requirement for the acceptance of the CIT and TT fiscal unities pursuant to sec. 14 para. 1 sentence 1 no. 3 of the German CIT Act (*Körperschaftsteuergesetz*) for the Open PLTA Financial Years. To effect this, the Sellers and after Completion the Purchaser (in respect of the respective Fiscal Unity Subsidiaries) and the Sellers (in respect of Wintershall DEA) shall procure that Wintershall DEA and each of the Current Fiscal Unity Subsidiaries:
- (i) properly prepare German Commercial Code (*HGB*) financial statements (including a profit and loss statement, *Gewinn- und Verlustrechnung*) for each of the respective Current Fiscal Unity Subsidiaries for each Open PLTA Financial Year in line with the applicable German Commercial Code and generally accepted accounting principles (*Grundsätze der ordnungsmäßigen Buchführung*) and have these financial statements audited by a German auditor;
  - (ii) determine the respective PLTA Profit, or the respective PLTA Loss, as the case may be, under the applicable Current PLTA and Applicable Law (in particular, but not limited to, the German Stock Corporation Act, the German Commercial Code and the articles of association of the respective Fiscal Unity Subsidiary) for each Open PLTA Financial Year; and
  - (iii) take all reasonably required measures for a due consummation of the respective Current PLTAs as



soon as reasonably possible following the end of the respective Open PLTA Financial Year (and ideally prior to Completion):

- (a) if and to the extent a Fiscal Unity Subsidiary records a PLTA Profit for a PLTA Financial Year, then such Fiscal Unity Subsidiary shall pay the respective PLTA Profit in cash or cash equivalent to Wintershall DEA; and
- (b) if and to the extent a Fiscal Unity Subsidiary records a PLTA Loss for a PLTA Financial Year, then Wintershall DEA shall pay the relevant PLTA Loss in cash or cash equivalent to the respective Fiscal Unity Subsidiary.

5.17.7 If and to the extent, any obligation to transfer a PLTA Profit for a PLTA Financial Year or, as the case may be, any claim for compensation of a PLTA Loss for a PLTA Financial Year under the relevant PLTAs has been considered in the determination of the Final Consideration Cash Amount (and also in particular the Effective Date Balance Sheet Value Adjustment), then the respective payment of such PLTA Profit or respective compensation of such PLTA Loss shall not be taken into account for the calculation of the Aggregate PLTA Consummation Amount pursuant to clause 5.17.8.

5.17.8 Against this background, as of Completion, the aggregate amount of all payments (but, for the avoidance of doubt, not any settlement of the PLTAs in respect of the 2022 financial year up to an amount of EUR 698,816,559 non-cash settled by way of an off-set against intercompany non-trade receivables and intercompany non-trade payables) made after the Effective Date but prior to or on the Completion Date by Wintershall DEA to the respective Fiscal Unity Subsidiaries, and / or vice versa, under the PLTAs for all PLTA Financial Years shall be computed (it being understood that: (i) any payments under the PLTAs by a Fiscal Unity Subsidiary shall count as positive amounts and any payments under the PLTAs by Wintershall DEA shall count as negative amounts; and (ii) potential Tax consequences related to the PLTA Profit or PLTA Loss transfers and/or payments for tax purposes shall not be taken into account for such calculation of the aggregate amount; the so calculated aggregate amount the **Aggregate PLTA Consummation Amount**). In case the Aggregate PLTA Consummation Amount is a positive amount, then the Aggregate PLTA Consummation Amount shall be due and payable by each Seller in its Seller Relevant Proportion to the Purchaser at the same time as the Completion Consideration Cash Amount and be set off against the Completion Consideration Cash Amount in the amount of the Aggregate PLTA Consummation Amount (up to the amount of the Completion Consideration Cash Amount; any amount by which the (positive) Aggregate PLTA Consummation Amount would exceed the Completion Consideration Cash Amount shall be paid by the Sellers to the Purchaser on Completion). In case the Aggregate PLTA Consummation Amount is a negative amount, then the Purchaser shall pay to each Seller an amount in cash equal to its Seller Relevant Proportion of the Aggregate PLTA Consummation Amount within five (5) Business Days after the Completion Date. Any payments or set-offs under this clause 5.17.8 shall be treated as an adjustment of the Completion Consideration Cash Amount.

- 5.17.9 In case any payments in respect of a PLTA Loss are made after the Completion Date by Wintershall DEA to the respective Fiscal Unity Subsidiaries under the PLTAs for any and all PLTA Financial Years, the Purchaser shall pay to each Seller an amount in cash equal to its Seller Relevant Proportion of the amount of such payment within five (5) Business Days after such payment under the respective PLTA has been received by the respective Fiscal Unity Subsidiary. In case any payments in respect of a PLTA Profit are made after the Completion Date by the respective Fiscal Unity Subsidiary to Wintershall DEA under the PLTAs for any and all PLTA Financial Years, each Seller shall pay to the Purchaser an amount in cash equal to its Seller Relevant Proportion of the amount of such payment within five (5) Business Days after the payment under the respective PLTA was made by the relevant Fiscal Unity Subsidiary. Any potential Tax consequences related to the PLTA Profit or PLTA Loss payments for CIT and TT purposes shall not be taken into account for the calculation of such amounts payable under this clause 5.17.9. The Parties shall inform without undue delay each other when they become aware that any payments under the PLTAs after Completion are required to be made. Any payments under this clause 5.17.9 shall be treated as an adjustment of the Final Consideration Cash Amount.
- 5.17.10 If and to the extent as a result of a Tax audit or other events occurring after the respective PLTA Termination Date, the financial statements of a Fiscal Unity Subsidiary for any PLTA Financial Year violate any mandatory provisions of German GAAP (*Grundsätze ordnungsgemäßer Buchführung*) as provided for in the German Commercial Code, the Sellers and the Purchaser shall closely cooperate and take all reasonable actions to ensure in the best possible manner that the relevant PLTA will still be duly consummated and the relevant fiscal unity between Wintershall DEA and the relevant Fiscal Unity Subsidiary will still be recognised by the Tax Authorities until the respective PLTA Termination Date. For any potentially required payments or settlements, clause 5.17.13 applies.
- 5.17.11 From Completion onwards, the Purchaser shall not, and shall procure that the Fiscal Unity Subsidiaries will not, amend, change or challenge the financial statements of a Fiscal Unity Subsidiary ending on or before the respective PLTA Termination Date unless such amendment is required by: (i) mandatory law; (ii) binding administrative obligation; (iii) other existing obligation binding the Fiscal Unity Subsidiary; or (iv) on the basis of a formally purported opinion of the Tax Authorities stipulated in a final tax audit meeting or tax audit report. In case an amendment is so required, then the Purchaser shall provide the Sellers in advance with reasonably detailed information about the intended amendment and the Purchaser shall implement any reasonable written instructions of the Sellers with regard to such amendments to the extent such instructions are in line with: (i) mandatory law; (ii) binding administrative obligation; (iii) other obligations binding on the Fiscal Unity Subsidiary; or (iv) on the basis of a formally purported opinion of the Tax Authorities stipulated in a final tax audit meeting or tax audit report.
- 5.17.12 The Sellers shall procure, to the extent legally permissible and practically possible, and from Completion onwards the Purchaser shall procure, that the

Fiscal Unity Subsidiaries shall, cooperate in good faith and provide each other with any material information and documentation with regard to any Tax proceeding (e.g. Tax returns, Tax assessments, Tax audits, or other correspondence with the Tax Authorities) in respect of the CIT and TT fiscal unities stated in clauses 5.17.1 to 5.17.3.

- 5.17.13 If and to the extent that after Completion any payments (due to an adjustment of a PLTA Profit or a PLTA Loss) must be made by Wintershall DEA to the respective Fiscal Unity Subsidiary (e.g. to comply with the requirements of section 14 para. 1 sentence 1 no 3 sentences 4 and 5 of the German CIT Act), that are required in accordance with clause 5.17.11 or 5.17.12, the Purchaser shall pay to each Seller an amount in cash equal to its Seller Relevant Proportion of the respective payment amount within ten (10) Business Days of Wintershall DEA having made the relevant payment to the respective Fiscal Unity Subsidiary; the same shall apply vice versa, in case any payments (due to an adjustment of a PLTA Profit or a PLTA Loss) must be made by the respective Fiscal Unity Subsidiary to Wintershall DEA (in which case each Seller shall pay to the Purchaser an amount in cash equal to its Seller Relevant Proportion of the relevant amount within ten (10) Business Days of the respective Fiscal Unity Subsidiary having made the relevant payment to Wintershall DEA unless Wintershall DEA has failed to notify the Sellers of having received such payment in which case the ten (10) Business Day's period shall commence upon a notification by the Purchaser). The Parties shall inform each other without undue delay when they become aware that any payments under the PLTAs after Completion are required to be made.
- 5.17.14 The Parties irrevocably acknowledge that the claims of the relevant Fiscal Unity Subsidiaries for compensation of losses under the PLTAs and that the claims of Wintershall DEA for the transfer of profits under the PLTAs for the periods up to and including the relevant PLTA Termination Date (including, in particular, any current and all past business years) have been completely settled or will be completely settled upon receipt of the payments explicitly mentioned in this clause 5.17.
- 5.17.15 The Sellers shall procure, to the extent legally permissible and practically possible, (but in respect of Wintershall Dea Middle East GmbH only upon written request of the Purchaser) that new domination and profit and loss transfer agreements (Sec. 291 German Stock Corporation Act, *Aktiengesetz*) between NewCo 1 on the one hand and each of E&A Internationale Explorations- und Produktions- GmbH and Wintershall Dea Middle East GmbH and any Unknown Fiscal Unity Subsidiary (if any) (respectively) on the other hand will be concluded and effectively implemented with effect as from 1 January 2024 so that new CIT and TT fiscal unities between NewCo 1 on the one hand and each of E&A Internationale Explorations- und Produktions- GmbH and Wintershall Dea Middle East GmbH and any Unknown Fiscal Unity Subsidiary (if any) (respectively) on the other hand will be set up with effect as of 1 January 2024.
- 5.17.16 The Sellers shall procure, to the extent legally permissible and practically possible, that: (i) new domination and profit and loss transfer agreements (Sec. 291 German Stock Corporation Act, *Aktiengesetz*) between NewCo 1 on the one hand and each of Wintershall Dea International GmbH and Wintershall Dea Deutschland

GmbH (respectively) on the other hand will be concluded and effectively implemented with effect as from 1 July 2024 so that new CIT and TT fiscal unities between NewCo 1 on the one hand and each of Wintershall Dea International GmbH and Wintershall Dea Deutschland GmbH (respectively) on the other hand will be set up with effect as of 1 July 2024; and (ii) that the financial years of each of Wintershall Dea International GmbH and Wintershall Dea Deutschland GmbH shall be amended back to the calendar year so that the financial year starting 1 July 2024 is a short fiscal year ending 31 December 2024.

- 5.17.17 Subject to clauses 5.17.15 and 5.17.16, the Sellers shall procure, to the extent legally permissible and practically possible, that no NewCo Group Company (including the Fiscal Unity Subsidiaries) will conclude any new profit and loss transfer agreement (Sec. 291 German Stock Corporation Act, *Aktiengesetz*) or amend any existing profit and loss transfer agreement, especially neither with any Wintershall DEA Group Company nor with the Sellers nor with any of the Seller's respective Affiliates, unless requested in writing by the Purchaser.
- 5.17.18 The Sellers shall pass on to the Purchaser or, upon request of the Purchaser, to the Fiscal Unity Subsidiaries any cash-effective CIT and/or TT refunds or cash-effective CIT and/or TT liabilities saved by Wintershall DEA (in each case if and to the extent realised in any Tax period ending at the latest four (4) years after Completion) if and to the extent resulting from the fiscal unities for CIT and TT purposes between Wintershall DEA and the Fiscal Unity Subsidiaries for any time period until the relevant PLTA Termination Date not being recognised by the competent Tax Authorities. Any payment obligation of the Sellers under this clause 5.17.18 shall be limited to the aggregate amount of (i) any cash-effective CIT and/or TT refunds or saved cash-effective CIT and/or TT liabilities mentioned in the previous sentence, (ii) reduced by any cash-effective CIT and TT payments made or to be made by Wintershall DEA as a result of such non-recognition of the respective fiscal unities for CIT and TT purposes, and (iii) increased by any compensation payments of the Purchaser to the Sellers under this clause 5.17.18. The Sellers shall, and shall procure, to the extent legally permissible and practically possible, that Wintershall DEA shall, notify the Purchaser without undue delay (*unverzüglich*) after gaining knowledge about any amount of such cash-effective CIT and/or TT refunds or cash-effective CIT and/or TT liabilities saved by Wintershall DEA. Any payment to be made by the Sellers pursuant to this clause 5.17.18 shall be owed to each Seller in its Seller Relevant Proportion and due and payable within ten (10) Business Days after the CIT and/or TT refund has been cash-effectively received or the saved CIT and TT liabilities have been cash-effectively recognised, by Wintershall DEA. The Purchaser shall pass on to each Seller its Seller Relevant Proportion of or, upon request of the Sellers, to Wintershall DEA, any cash-effective CIT and/or TT refunds or cash-effective CIT and/or TT liabilities saved by a Fiscal Unity Subsidiary (in each case if and to the extent realised in any Tax period ending at the latest four (4) years after Completion) resulting from the fiscal unities for CIT and TT purposes between Wintershall DEA and the Fiscal Unity Subsidiaries for any time period until the relevant PLTA Termination Date not being recognised by the competent Tax Authorities. Any payment obligation of the Purchaser under this clause 5.17.18 shall be

limited to the aggregate amount of (i) any cash-effective CIT and/or TT refunds or saved cash-effective CIT and/or TT liabilities mentioned in the previous sentence, (ii) reduced by any cash-effective CIT and TT payments made or to be made by the Fiscal Unity Subsidiaries as a result of such non-recognition of the respective fiscal unities for CIT and TT purposes, and (iii) increased by any compensation payments of the Seller to the Purchaser under this clause 5.17.18. After Completion, the Purchaser shall, and shall procure that the Fiscal Unity Subsidiaries will, notify the Sellers without undue delay (*unverzüglich*) after gaining knowledge about any amount of such cash-effective CIT and/or TT refunds or cash-effective CIT and/or TT liabilities saved by the Fiscal Unity Subsidiaries. Any payment to be made by the Purchaser pursuant to this clause 5.17.18 shall be due and payable within ten (10) Business Days after the cash-effective CIT and/or TT refund has been received or the reduced CIT and TT liabilities have been cash-effectively recognised by the respective Fiscal Unity Subsidiary.

- 5.17.19 The Parties shall cooperate and use all reasonable endeavours in defending the recognition of the fiscal unities for CIT and TT purposes to the extent in line with Applicable Law in particular, the Purchaser shall, upon the Sellers' request, procure that the Sellers are provided with all relevant documents and other information reasonably required by the Sellers to evaluate the liability or Tax assessment notices against the Purchaser and the potential liability of the Sellers in connection therewith, and upon the Sellers' request and at the Sellers' cost, the Purchaser shall lodge appeals or make any other applications the Sellers' reasonably consider appropriate.
- 5.17.20 The Sellers (in the Seller Relevant Proportion) shall indemnify and hold harmless the Purchaser or, upon request of the Purchaser, the Fiscal Unity Subsidiaries from and against any secondary liability levied against or payable by any Fiscal Unity Subsidiary (as controlled entity within the fiscal unities) for Taxes of any Wintershall DEA Group Company pursuant to section 73 of the German General Tax Code (*Abgabenordnung*) which relate to periods ending on or before the relevant PLTA Termination Date (**Relevant Tax**). The indemnity payment pursuant to this clause 5.17.20 shall be due and payable three (3) Business Days before the Relevant Tax becomes due towards the Tax Authorities, but, in case Completion has already occurred, not before at least five (5) Business Days have lapsed since the Sellers have received a copy of the underlying liability assessment notice (*Haftungsbescheid*) from the Purchaser. The Purchaser shall procure that the Sellers are informed without undue delay (*unverzüglich*) of any liability assessment notice (*Haftungsbescheid*) or announcements of Tax Authorities which are likely to give rise to a claim of the Purchaser under this clause 5.17.20, at the latest ten (10) Business Days after the point in time the respective assessment notice or announcement has been received by the relevant Fiscal Unity Subsidiaries. The Purchaser shall, upon the Sellers' request, procure that the Sellers are provided with all relevant documents and other information reasonably required by the Sellers to evaluate the liability or Tax assessment notices against the Purchaser and the potential liability of the Sellers in connection therewith. Upon the Sellers' request and at the Sellers' cost, the Purchaser shall lodge appeals or make any other applications the Sellers' reasonably consider appropriate.

- 5.17.21 Any claims under clause 5.17.18 and/or 5.17.20 shall not be time barred if made within six (6) months of the Tax assessments underlying the relevant claim having become final and binding (*formell und materiell bestandskräftig*) and, notwithstanding and in addition to the above, any claims under clause 5.17.18 shall, in any event, not become time-barred earlier than the expiration of three (3) months after the Purchaser has, or the Sellers have (as applicable), been notified about the relevant cash-effective CIT and/or TT refunds or saved cash-effective CIT and/or TT liabilities. If any amount indemnified by the Sellers to the Purchaser, or vice versa, under this clause 5.17, is subsequently cash-effectively refunded to the relevant Fiscal Unity Subsidiaries or any Wintershall DEA Group Company (as applicable) by the Tax Authorities, the Purchaser shall refund each Seller its Seller Relevant Proportion of such refund or each Seller shall pay its Seller Relevant Proportion of the amount equal to such refund to the Purchaser, each within ten (10) Business Days after the cash-effective receipt of such refund by the relevant Fiscal Unity Subsidiaries or any Wintershall DEA Group Company (as applicable).
- 5.17.22 For the avoidance of doubt, any payments under this clause 5.17 shall not be treated as Seller Leakage, Seller Reverse Leakage or Purchaser Leakage (no double-counting).

## 5.18 VAT Group

- 5.18.1 Wintershall DEA (as VAT unity head entity) and the Fiscal Unity Subsidiaries as well as other NewCo Group Companies (each as members, the **VAT Target Companies**) form part of a fiscal unity for German VAT purposes (**VAT Group**). The VAT Target Companies will most likely remain part of the VAT Group until Completion and/or completion of the Spin-off (as the case may be and subject to further analysis). In case the VAT Group (or a part of the VAT Group) for periods until the respective Relevant Date is not recognised by the competent Tax Authority, clause 5.17.18 shall apply *mutatis mutandis* in relation to the net VAT position of the relevant VAT Target Company. Clause 5.17.20 and the second sentence of clause 5.17.21 shall apply *mutatis mutandis* for VAT for periods up to the VAT Group Termination Date.
- 5.18.2 Pending the date on which at least one of the conditions for being a member of the VAT Group is no longer met with respect to a VAT Target Company, and thus the respective VAT Group terminates (expectedly the Completion Date and/or date of completion of the Spin-off, the **Relevant Date**), and for so long thereafter as may be reasonably necessary, the Sellers and the Purchaser shall give each other all assistance and cooperation as is reasonably necessary to enable each of the Sellers, Wintershall DEA and the VAT Target Companies to comply with their obligations regarding such German VAT to which the VAT Group relates (**Relevant VAT**). The Sellers shall, and shall procure, to the extent legally permissible and practically possible, that Wintershall DEA shall, notify the Purchaser without undue delay (*unverzüglich*) after gaining knowledge about any amount of Relevant VAT to be settled in accordance with this clause 5.18. After Completion, the Purchaser shall, and shall procure that the VAT Target Companies shall, notify the Sellers without undue delay (*unverzüglich*) after gaining knowledge about any amount of Relevant VAT to be settled in accordance with this clause 5.18.

- 5.18.3 Where prior to the Relevant Date, any taxable supply (or deemed supply), importation or intra-community acquisition for purposes of Relevant VAT is made by any VAT Target Company during such period (or would have been made by such company if it was registered for VAT in its own name), after Completion the Purchaser shall pay or shall procure that the relevant VAT Target Company pays (to the extent not already paid) to the Sellers (in their Seller Relevant Proportions) or at the Seller's request to Wintershall DEA an amount equal to any Relevant VAT chargeable on such supply, such payment to be made no later than five (5) Business Days before the day (as notified by the Sellers (or Wintershall DEA) to the Purchaser at least five (5) Business Days before such day) on which Wintershall DEA would in its ordinary course of business and consistent with past practice (to the extent in line with Applicable Law) account to the Tax Authorities for such VAT.
- 5.18.4 Where prior to the Relevant Date, any taxable supply (or deemed supply) is made to, or any importation or intra-community acquisition for purposes of Relevant VAT is made by, any VAT Target Company during such period (or would have been made to or by such company if it was registered for VAT in its own name), then to the extent that Wintershall DEA obtains a cash-effective refund (by way of credit against Tax liabilities or repayment) from the Tax Authorities in respect of the Relevant VAT chargeable on such supply (or deemed supply), importation or acquisition, each Seller shall pay its Seller Relevant Proportion or shall procure, to the extent legally permissible and practically possible, that Wintershall DEA pays to the Purchaser or at the Purchaser's request to the relevant VAT Target Company an amount equal to such Relevant VAT refund, such payment to be made five (5) Business Days after the day on which it submits the VAT return claiming the refund (where the refund is by way of credit only) or five (5) Business Days after it obtains the repayment in cleared funds from the Tax Authorities (where the refund is by way of repayment only or both credit and repayment).
- 5.18.5 Clause 5.18.3 and 5.18.4 continue to apply even after Completion provided and to the extent any relevant supply, acquisition or importation for purposes of Relevant VAT was made prior to and including the Relevant Date or is for Relevant VAT purposes deemed or considered to be made prior to and including the Relevant Date. This includes any later changes or adjustments e.g. following Tax audits or proceedings with the Tax Authorities. If and to the extent that respective formalities can or are only complied with at a later stage, e.g. if invoices only become available at a later stage after the Relevant Date or Completion, the settlement shall be amended accordingly.
- 5.18.6 Any claims under this clause 5.18 shall not be time barred if made within six (6) months of the Relevant VAT assessment underlying the relevant claim has become final and binding (*formell und materiell bestandskräftig*) and, notwithstanding and in addition to the above, any claims under this clause 5.18 shall, in any event, not become time-barred earlier than the expiration of three (3) months after the relevant Party has been notified about the Relevant VAT to be settled in accordance with this clause 5.18.
- 5.19 If, following satisfaction of the Regulatory Condition set out in clause 3.1.15, Completion does not occur in accordance with clause 6 or otherwise by the Longstop Date:

- (a) the Purchaser and the Sellers undertake to:
  - (i) use all reasonable endeavours to transfer the production licences relating to any NewCo Group Company in Egypt from the Purchaser to NewCo 1 as soon as reasonably practicable following the termination of the Transaction; and
  - (ii) obtain any applicable consent or a deed of assignment from the EGPC, EGAS and/or the Egyptian Minister of Petroleum in respect of any such transfer; and
- (b) the Sellers undertake to reimburse the Purchaser in respect of:
  - (i) any amount required to be paid by the Purchaser to the EGPC, EGAS and/or the Egyptian Minister of Petroleum in connection with any such transfer; and
  - (ii) any Tax incurred by or in connection with any such transfer.

5.20 The Sellers shall procure that:

- (a) a draft of the agreement to be entered into between Wintershall DEA and NewCo 1 or NewCo 2 in connection with the transfer by Wintershall DEA to NewCo 1 or NewCo 2 (as applicable) of the Gas Optimisation Contracts (the *Gas Optimisation Contracts Transfer Agreement*), based on the terms set out in the term sheet which is in the Agreed Form, shall be provided to the Purchaser with sufficient time for the Purchaser and its advisers to review and comment on the Gas Optimisation Contracts Transfer Agreement prior to its execution; and
- (b) Wintershall DEA and NewCo 1 or NewCo 2 (as applicable) shall not enter into the Gas Optimisation Contracts Transfer Agreement without having obtained the prior written approval of the Purchaser (such approval not to be unreasonably withheld, conditioned or delayed).

## 6. Completion

- 6.1 The Purchaser shall provide such documents to, and take all other actions reasonably required by, the FCA and the London Stock Exchange in order to procure that the Existing Purchaser Shares are re-admitted, and the BHE Consideration Shares are admitted, in each case to the premium listing segment of the Official List of the FCA and to trading on the main market for listed securities of the London Stock Exchange on the second Business Day following the Completion Date.
- 6.2 The Purchaser or the Purchaser's Counsel shall, as soon as practicable following receipt of notice from the FCA or the LSE (as applicable), notify the Sellers or the Sellers' Counsels that the FCA Admission Condition and the LSE Admission Condition have been satisfied. Each Seller may enforce the terms of this clause 6.2.
- 6.3 Completion shall take place at the offices of Freshfields Bruckhaus Deringer at Bockenheimer Anlage 44, 60322 Frankfurt am Main, Germany by way of the Target Shares Transfer Deed to be formally recorded (*beurkundet*) by a German civil law notary on:



- 6.3.1 the date that is ten (10) Business Days after the Unconditional Date provided that the Sanctions Condition is satisfied on such date (or is Deemed Satisfied pursuant to clause 4.19); or
- 6.3.2 such other date agreed in writing by and between BASF, Letterone and the Purchaser each acting reasonably, provided the Sanctions Condition is satisfied (or is Deemed Satisfied) on such date,

(the *Completion Date*).

- 6.4 Completion shall take place by no later than 17.00 CET on the Completion Date. At Completion:
  - 6.4.1 all the documents delivered by the Parties in accordance with Schedule 1 shall be released and, to the extent not dated, the Parties agree to instruct the Purchaser's Counsel (in respect of the documents held by them) BASF's Counsel and Letterone's Counsel (in respect of the documents held by them) to date and deliver such documents without further instruction from any of the Parties;
  - 6.4.2 the Purchaser shall allot and issue the Consideration Shares to the Sellers free from Encumbrances and credited as fully paid in accordance with clause 2 and each Seller may enforce the terms of this clause 6.4.2;
  - 6.4.3 the Sellers shall assign to the Purchaser (or any Designated Purchaser) the Target Shares upon the terms and conditions of this Agreement by way of a separate assignment agreement in the Agreed Form to be formally recorded (*beurkundet*) by a German civil law notary on the Completion Date; and
  - 6.4.4 the Purchaser shall implement the payment of the Completion Consideration Cash Amount (as reduced by any positive amount of any Aggregate PLTA Consummation Amount as set out in clause 5.17.8) in accordance with clause

2.2 , and for the avoidance of doubt, receipt by each Seller of its Seller Relevant Proportion of the Completion Consideration Cash Amount shall be evidence of the satisfaction by the Purchaser of this obligation.

- 6.5 Immediately following Completion, the Purchaser or the Purchaser's sponsor shall notify the FCA that Completion has taken place. As soon as practicable following receipt of confirmation from the FCA, the Purchaser or the Purchaser's Counsel shall notify BASF and Letterone or BASF's Counsel and Letterone's Counsel that the Purchaser has received confirmation from the FCA that the applications for the re-admission of all of the Existing Purchaser Shares and admission of all of the BHE Consideration Shares, in each case to the premium listing segment of the Official List of the FCA have been approved unconditionally and will become effective as soon as a dealing notice has been issued by the FCA.
- 6.6 The Purchaser shall either:
- 6.6.1 deliver to the relevant Sellers the share certificate(s) relating to the Consideration Shares within ten (10) Business Days following Admission; or
- 6.6.2 on Admission, credit the Consideration Shares to such CREST account(s) as are notified by the relevant Sellers to the Purchaser no less than five (5) Business Days prior to the Completion Date.
- 6.7 BASF and Letterone are not obliged to complete this Agreement unless:
- 6.7.1 the Purchaser complies with all its obligations under clauses 6.1 to 6.4 (inclusive); and
- 6.7.2 the purchase of all the Target Shares is completed simultaneously.
- 6.8 The Purchaser is not obliged to complete this Agreement unless:
- 6.8.1 each of BASF and Letterone complies with all its obligations under this clause 6;
- 6.8.2 the Purchaser has received each of the documents required to be delivered by BASF and Letterone under clause 6.4.1; and
- 6.8.3 the sale of all the Target Shares is completed simultaneously.
- 6.9 If Completion does not take place on the Completion Date because BASF and/or Letterone, on the one hand, or the Purchaser, on the other hand, fails to comply with any of its obligations under this clause 6, the Purchaser, where BASF and/or Letterone is in breach, or BASF and/or Letterone, where the Purchaser is in breach, may by notice to each other Party:
- 6.9.1 proceed to the Completion to the extent reasonably practicable (without limiting its rights under this Agreement);
- 6.9.2 postpone the Completion to a date not more than five (5) Business Days after the date originally set for the Completion (being a date which is: (i) not later than the Longstop Date; and (ii) a Business Day), provided that such postponement may occur only once; or

- 6.9.3 subject to Completion first having been postponed pursuant to clause 6.9.2, terminate this Agreement without liability on its part.
- 6.10 If any Party postpones Completion to another date in accordance with clause 6.9.2 then the provisions of this Agreement apply as if that other date is the Completion Date.
- 6.11 The Purchaser shall not be obliged to complete the allotment and issue of the Consideration Shares unless the transfer of all the Target Shares is completed simultaneously, and the Sellers shall not be obliged to complete the transfer of the Target Shares unless the allotment and issue of the Consideration Shares is completed simultaneously.
- 7. Warranties of BASF and Letterone**
- 7.1 Each of BHE and BASF TopCo warrants, in respect of itself only, to the Purchaser in the terms set out in Schedule 4 at the Announcement Date. Immediately before Completion, each of BHE and BASF TopCo is deemed to warrant to the Purchaser in the terms set out in Schedule 4 by reference to the facts and circumstances as at Completion on the basis that where there is an express or implied reference in such warranty to “the Announcement Date”, that reference is to be construed as a reference to the Completion Date.
- 7.2 Each of L1 Energy and Letterone TopCo warrants, in respect of itself only, to the Purchaser in the terms set out in Schedule 4 at the Announcement Date. Immediately before Completion, each of L1 Energy and Letterone TopCo is deemed to warrant to the Purchaser in the terms set out in Schedule 4 by reference to the facts and circumstances as at Completion on the basis that where there is an express or implied reference in such warranty to “the Announcement Date”, that reference is to be construed as a reference to the Completion Date.
- 7.3 Each of BASF and Letterone acknowledges and agrees that the Purchaser has entered into this Agreement in reliance upon the warranties set out in Schedule 4.
- 7.4 Each of the warranties in Schedule 4 is separate and independent and, except as expressly provided to the contrary in this Agreement, is not limited by reference to any other warranty in Schedule 4.
- 7.5 The Purchaser acknowledges and agrees that, neither BASF nor Letterone gives any warranty, representation or undertaking as to the accuracy or completeness of any information (including any of the forecasts, estimates, projections, statements of intent or statements of opinion) provided to the Purchaser or any of its advisers or agents (howsoever provided).
- 7.6 The Purchaser acknowledges that it does not rely on and has not been induced to enter into this Agreement on the basis of any warranties, representations, covenants, undertakings, indemnities or other statements whatsoever other than as set out in this Agreement.
- 7.7 The warranties in Schedule 4 are qualified by the facts or circumstances contained in this Agreement.

- 7.8 No Claim under the warranties in Schedule 4 shall be brought against BASF or Letterone from and after Completion, save for any Claim arising as a result of fraud.
- 7.9 The Purchaser shall not be entitled to claim for any punitive, indirect or consequential loss (including indirect or consequential loss of profit) under or in relation to or arising out of this Agreement.
- 8. Purchaser Warranties and Undertaking**
- 8.1 The Purchaser warrants to each of BASF and Letterone in the terms set out in Schedule 5 at the Announcement Date. Immediately before Completion, the Purchaser is deemed to warrant to each of BASF and Letterone in the terms set out in Schedule 5 by reference to the facts and circumstances as at Completion on the basis that where there is an express or implied reference in such warranty to “the Announcement Date”, that reference is to be construed as a reference to the Completion Date.
- 8.2 The Purchaser acknowledges and agrees that BASF and Letterone have entered into this Agreement in reliance upon the warranties in Schedule 5.
- 8.3 Each of BASF and Letterone acknowledges and agrees that the Purchaser does not give any warranty, representation or undertaking as to the accuracy or completeness of any information (including any of the forecasts, estimates, projections, statements of intent or statements of opinion) provided to BASF and Letterone or any of their respective advisers or agents (howsoever provided).
- 8.4 Each of the warranties in Schedule 5 is separate and independent and, except as expressly provided to the contrary in this Agreement, is not limited by reference to any other warranty in Schedule 5.
- 8.5 Each of BASF and Letterone acknowledges that it does not rely on and has not been induced to enter into this Agreement on the basis of any warranties, representations, covenants, undertakings, indemnities or other statements whatsoever other than as set out in this Agreement.
- 8.6 The warranties in Schedule 5 are qualified by the facts or circumstances contained in this Agreement.
- 8.7 No Claim under the warranties in Schedule 5 shall be brought against the Purchaser from and after Completion, save for any Claim arising as a result of fraud.
- 8.8 Neither BASF nor Letterone nor any of their respective assignees or successors shall be entitled to claim for any punitive, indirect or consequential loss (including indirect or consequential loss of profit) under or in relation to or arising out of this Agreement.
- 8.9 The Company undertakes to procure that the Non-Voting Ordinary Shares shall automatically convert to Ordinary Shares in accordance with the rights, and on the terms, set out in Schedule 2.

**9. No Rescission**

9.1 Notwithstanding that any Party becomes aware at any time:

9.1.1 of a fact or circumstance which gives rise to, or which would or might give rise to a Claim under or for breach of this Agreement;

9.1.2 that there has been a breach of any other provision of this Agreement; or

9.1.3 that there may be a claim under any representation, statement, assurance, covenant, undertaking, indemnity, guarantee or commitment given by or on behalf of BASF, Letterone and/or NewCo 2,

no Party shall be entitled to rescind this Agreement or (unless expressly stated otherwise in this Agreement) treat this Agreement as terminated and, accordingly, each Party waives all and any rights of rescission it may have in respect of any such matter (howsoever arising or deemed to arise), other than any such rights in respect of fraud.

**10. Information, Records and Assistance**

10.1 Subject to clause 11 of this Agreement, for a period of five (5) years following Completion, the Purchaser shall provide, and shall cause any NewCo Group Company to provide, to BASF and/or Letterone (in each case, at the cost of BASF and/or Letterone (as applicable)), reasonable access to all information, records and documents relating to a NewCo Group Company which is reasonably required by BASF or Letterone (provided always that it would not be reasonably required if such provision or access would, in the reasonable opinion of the Purchaser, cause a breach of the Market Abuse Regulation and/or the Listing Rules).

**11. Confidential Information**

11.1 Subject to clause 11.2 and clause 12, BASF and Letterone each undertake to the Purchaser (acting for itself and as agent and trustee for each other Purchaser Group Company) that any BASF Undertaking, Letterone Undertaking, member of the Letterone Extended Group and Wintershall DEA Group Company shall, and the Purchaser undertakes to BASF and Letterone that it shall, treat as confidential all information received or obtained as a result of entering into or performing this Agreement or any Transaction Document.

11.2 Clause 11.1 does not apply to disclosure of any such information as is referred to in clause 11.1:

11.2.1 which is required to be disclosed by law, by a rule of a listing authority or stock exchange to which any Party is subject or submits or by a Regulatory Authority with relevant powers to which any Party is subject or submits, whether or not the requirement has the force of law provided that the disclosure shall, so far as is practicable, be made after consultation with each other Party and after taking into account each other Party's reasonable requirements as to its timing, content and manner of making or despatch;

11.2.2 to a director, officer or employee of a BASF Undertaking, Letterone Undertaking and/or member of the Letterone Extended Group, a Wintershall

DEA Group Company, a NewCo Group Company or a Purchaser Group Company whose function requires him or her to have the relevant confidential information provided that such person is informed of the confidential nature of the information and such person acts in accordance with the provisions of clause 11.1 as if they were a party thereto;

- 11.2.3 to any institution providing financing in respect of the Transaction on the basis that clause 11.1 applies to disclosure by such person;
  - 11.2.4 to an adviser of any of the foregoing for the purpose of advising in connection with the transactions contemplated by this Agreement or any Transaction Document provided that such disclosure is essential for these purposes and is on the basis that clause 11.1 applies to the disclosure by the adviser;
  - 11.2.5 to a Tax Authority in connection with the disclosing party's or any NewCo Group Company's Tax affairs;
  - 11.2.6 to the extent that preventing that disclosure would cause any transaction contemplated by this Agreement or any documents referred to herein to become an arrangement described in Part II A 1 of Annex IV of Directive 2011/16/EU;
  - 11.2.7 to the extent that the information has come into the public domain through no fault of that Party;
  - 11.2.8 to the extent that the other Parties have given prior written consent to the disclosure; or
  - 11.2.9 which is required for the purposes of a Party being able to pursue or defend any court or arbitral proceedings: (i) under or in connection with any Transaction Document and/or (ii) against any party to any Transaction Document.
- 11.3 The restrictions contained in this clause 11 shall continue to apply after the termination of this Agreement without limit in time.

## 12. **Announcements**

- 12.1 Subject to clause 12.2, no Party may, with effect from the Announcement Date and including after Completion, make or issue a public announcement, communication or circular concerning the transactions referred to in this Agreement or any Transaction Document unless it has first obtained the other Parties' written consent, which may not be unreasonably conditioned, withheld or delayed.
- 12.2 Clause 12.1 does not apply to a public announcement, communication or circular:
  - 12.2.1 in the Agreed Form;
  - 12.2.2 required by law, by a rule of a listing authority or stock exchange to which any Party is subject or submits or by a Regulatory Authority with relevant powers to which any Party is subject or submits, whether or not the requirement has the force of law provided that the public announcement, communication or circular shall, so far as is practicable, be made after consultation with the other Parties

and after taking into account the reasonable requirements of the other Parties as to its timing, content and manner of making or despatch;

- 12.2.3 which each other Party has given its prior written approval to, such approval not to be unreasonably conditioned, withheld or delayed;
  - 12.2.4 after the Announcement Date that is consistent with and no more extensive than any announcement made by the Purchaser in connection with this Transaction (i) in the Agreed Form, or (ii) made with the consent of BASF and Letterone; or
  - 12.2.5 after the publication of the Purchaser Circular, the Purchaser Prospectus (or any Purchaser Supplementary Document), that is consistent with and no more extensive than the Purchaser Circular, the Purchaser Prospectus (or any Purchaser Supplementary Document).
- 12.3 The restrictions contained in this clause 12 shall continue to apply after the termination of this Agreement without limit in time.
- 12.4 Where announcements, communications or circulars are required by law, by a rule of a listing authority or stock exchange to which any Party is subject or submits or by a Regulatory Authority with relevant powers to which any Party is subject or submits in accordance with clause 12.2.2 above, the Purchaser (where BASF and/or Letterone is the announcing Party) or BASF and/or Letterone (where the Purchaser is the announcing Party) shall provide such reasonable assistance and available information regarding the Purchaser Group (where BASF and/or Letterone is the announcing Party) or the NewCo Group (where the Purchaser is the announcing Party) as may reasonably be required by the announcing Party to enable it to adequately prepare such requisite announcement, communication or circular in a timely manner.
- 13. Costs**
- 13.1 Except where this Agreement provides otherwise and without prejudice to its other rights pursuant to this Agreement (or in relation to a breach by a Party of the provisions of this Agreement):
- 13.1.1 the Purchaser shall pay its own costs relating to the negotiation, preparation, execution and performance by it of this Agreement and of each document referred to in it;
  - 13.1.2 BASF shall pay its own costs relating to the negotiation, preparation, execution and performance by it of this Agreement and of each document referred to in it; and
  - 13.1.3 Letterone shall pay its own costs relating to the negotiation, preparation, execution and performance by it of this Agreement and of each document referred to in it.
- 13.2 Subject to the remainder of this clause 13.2, the Purchaser shall pay any transfer tax (including, for the avoidance of doubt, payment required in connection with Algerian approval), stamp duty, documentary taxes, registration or filing fees or other transaction

duties, or notarial fees or similar expenses in any jurisdiction at any time payable in respect of the transfer of the Target Shares pursuant to this Agreement. It is acknowledged and accepted by the Parties that the Purchaser does not intend to pay any UK stamp duty in relation to the transfer of the Target Shares unless the same is required in order for the Purchaser to adduce any relevant instrument of transfer as evidence in any civil court or in any arbitral proceedings in the UK. The Sellers shall provide, or shall ensure that the NewCo Group Companies provide, to the Purchaser any information reasonably required for the filing of any real estate transfer tax (*Grunderwerbsteuer*) notifications in respect of the signing and/or execution of this Agreement within three weeks after the Announcement Date. If the Sellers breach their obligation under the preceding sentence and, as a result of such breach, real estate transfer tax is incurred or cannot be waived, reduced or amended solely because the relevant real estate transfer tax notification was not complete and/or was not timely submitted, the Sellers shall (in each case in their Seller Relevant Proportions) bear (and indemnify the Purchaser and any NewCo Group Company against) the respective real estate transfer tax.

## 14. **Payments**

### 14.1 **Manner of payment**

14.1.1 Any payment to be made pursuant to this Agreement to a Party (the *Payee*) by another Party (the *Payer*) shall be made to the bank account which the Payee notifies to the Payer not less than ten (10) Business Days in advance of the relevant payment by the Payer into such account.

14.1.2 Payment under clause 14.1.1 shall be made by transfer of funds for same day value on the due date for payment. Receipt of the amount due in the relevant account shall be an effective discharge of the relevant payment obligation.

### 14.2 **Set-off, deduction and withholding**

14.2.1 Any payment to be made by any Party under this Agreement shall be made gross, free of any right of counterclaim or set-off (save as expressly provided otherwise herein) and without deduction or withholding of any kind other than any deduction or withholding required by law.

14.2.2 Save as otherwise provided in this Agreement, if any Party makes a deduction or withholding for or on account of Tax required by law from a payment made under this Agreement to another Party (other than interest, any part of the Final Consideration Cash Amount or Deferral Amount or any Contingent Payment), the sum due from such Party shall be increased to the extent necessary to ensure that, after the making of any deduction or withholding, the recipient receives a sum equal to the sum it would have received had no deduction or withholding been made.

14.2.3 To the extent that any deduction or withholding referred to in, or any additional amount paid under, clause 14.2.2 results in the recipient obtaining a relief, the recipient shall reimburse to the payer such part of such additional amount as the recipient certifies to the Payer will leave it (after reimbursement) in no better or



worse position that it would have been had the Payer not been required to make a deduction or withholding.

#### 14.3 **Default interest**

If a Party fails to pay a sum due from it under this Agreement on the due date of payment in accordance with the provisions of this Agreement, that Party shall pay interest on the overdue sum from the due date of payment until the date on which its obligation to pay the sum is discharged at the Default Rate (accrued daily and compounded monthly).

#### 15. **VAT**

The Parties unanimously agree and intend to proceed on the basis that the sale and transfer of the Target Shares is not in scope of German VAT according to Sec. 3a para 2 and/or para 4 sentence 2 lit. 6a of the German VAT Act (*Umsatzsteuergesetz*).

#### 16. **Tax**

16.1 BASF and Letterone shall have the right to give binding instructions (unless not in line with Applicable Law) to Wintershall Dea Global Holding GmbH and (after Completion) to the Purchaser (so that the Purchaser shall procure that Wintershall Dea Global Holding GmbH complies with such instructions, unless not in line with Applicable Law) in respect of how Wintershall Dea Global Holding GmbH shall treat the IC-Liability Transfer for corporate law, accounting and Tax purposes, and in particular with regard to the value at which the respective liabilities assumed by Wintershall Dea Global Holding GmbH in the context of the IC-Liability Transfer shall be recorded for accounting and Tax purposes. Such instructions shall be provided by BASF and Letterone in writing not later than twenty (20) Business Days after Completion, unless the Parties agree otherwise. If one Party or Wintershall Dea Global Holding GmbH (acting reasonably) takes the view that the instructions given pursuant to this clause 16.1 and/or the envisaged or applied treatment with regard to the value at which the respective liabilities assumed by Wintershall Dea Global Holding GmbH in the context of the IC-Liability Transfer shall be recorded for accounting and Tax purposes require disclosure towards the relevant Tax Authorities, the Parties shall cooperate and discuss in good faith (taking into account any obligations of the managers of Wintershall Dea Global Holding GmbH) how to address such disclosure. The Sellers shall bear any external cost incurred by the Purchaser and/or Wintershall Dea Global Holding GmbH for complying with the instructions given pursuant to this clause 16.1.

16.2 BASF and Letterone shall have the right to give binding instructions to the Purchaser (such instructions to be provided by BASF and Letterone to the Purchaser in writing not later than twenty (20) Business Days after Completion, unless the Parties agree otherwise) in respect of how NewCo 1 and NewCo 2 shall treat the Hive-Down and Spin-off (as applicable) respectively for Tax purposes to the extent such instructions are in line with Applicable Law (including the election right for the value at which the respective transfers shall be recognised for Tax purposes at the level of NewCo 1 and NewCo 2), in particular in their CIT and TT returns for the fiscal year 2023. BASF and Letterone will reasonably consider any proposals of the Purchaser as to how the Hive-Down and the Spin-off is treated for Tax purposes to apply a treatment that takes into account and implements any benefits that may arise for any NewCo Group Company, but only if such proposal does not result in a Tax, commercial or other disadvantage

(unless immaterial or the Parties agree otherwise) for BASF, Letterone or Wintershall DEA. The Purchaser shall procure that NewCo 1 and NewCo 2 will comply with these binding instructions given by BASF and Letterone in all respects, to the extent such instructions are in line with Applicable Law. If one Party or any NewCo Group Company (acting reasonably) takes the view that the instructions given pursuant to this clause 16.2 and/or the envisaged or applied election right for the value at which the respective transfers shall be recognised for Tax purposes require disclosure towards the relevant Tax Authorities, the Parties shall cooperate and discuss in good faith (taking into account any obligations of the managers of Wintershall Deal Global Holding GmbH) how to address such disclosure. The Sellers shall bear any external cost incurred by the Purchaser and/or any NewCo Group Company for complying with the instructions given pursuant to this clause 16.2 and in respect of any required disclosure.

### 16.3 **Ghasha SPA Liability**

16.3.1 Each Seller shall procure that Wintershall DEA pay to the Purchaser on demand an amount equal to the amount of Wintershall Middle East's liability for Tax which arises in consequence of: (x) Wintershall Middle East or Wintershall DEA entering into the Ghasha SPA; or (y) any transaction contemplated in the Ghasha SPA.

16.3.2 The Sellers are not liable in respect of a claim under clause 16.3.1 to the extent that:

- (a) the liability was specifically provided for in the Effective Date Balance Sheet as a Tax liability or Tax provision in connection with the Ghasha SPA and taken into account in computing and decreasing the Actual Balance Sheet Value;
- (b) the liability was paid or discharged after the Effective Date and such payment or discharge was specifically provided for in the Effective Date Balance Sheet and taken into account in computing and decreasing the Actual Balance Sheet Value;
- (c) the liability is or includes the Exit Fee (as defined in the Ghasha SPA), but only to the extent such Exit Fee does not exceed US\$200,000,000 (for the avoidance of doubt, if the Exit Fee exceeds US\$200,000,000, then there shall still be no indemnity liability of the Sellers pursuant to this clause 16.3.2 for the first US\$200,000,000 of such Exit Fee);
- (d) the liability relates to an amount for which a Purchaser Group Company has actually recovered against a person other than a Purchaser Group Company, whether under a provision of Applicable Law, insurance policy or otherwise howsoever; or
- (e) Tax will cash-effectively be saved in the same accounting period in which the relevant Tax to be indemnified arose or the following three (3) full accounting periods (four (4) year calculation) (as reasonably determined by the Parties in good faith when such claim under clause 16.3.1 is made) by Wintershall Middle East in consequence of the

utilisation of a Tax Relief which is attributable to the matter giving rise to the claim under clause 16.3.1.

16.3.3 If Wintershall DEA pays to the Purchaser an amount in respect of a claim under clause 16.3.1 and the Purchaser or a Purchaser Group Company subsequently recovers or is or becomes entitled to recover from another person (other than a Purchaser Group Company, but for the avoidance of doubt, including any Tax Authority) an amount which is referable to the matter giving rise to the claim, the Purchaser shall promptly notify the Sellers and Wintershall DEA in writing and:

- (a) the Purchaser shall or shall procure that a Purchaser Group Company will use reasonable endeavours to enforce the recovery against the person in question;
- (b) if the amount paid by Wintershall DEA in satisfaction of the claim is more than the Sum Recovered, the Purchaser shall as soon as reasonably practicable pay to Wintershall DEA the Sum Recovered; and
- (c) if the amount paid by Wintershall DEA in satisfaction of the claim is less than or equal to the Sum Recovered, the Purchaser shall as soon as reasonably practicable pay to Wintershall DEA an amount equal to the amount paid by Wintershall DEA.

16.3.4 For the purposes of clause 16.3.3 above, *Sum Recovered* means an amount equal to the total of the amount recovered from the other person.

16.3.5 The Parties shall cooperate in good faith and provide each other with any material information and documentation with regard to any Tax proceeding (e.g. Tax returns, Tax assessments, Tax audits, or other correspondence with the Tax Authorities) in connection with the matter referred to in this clause 16.3. In particular the Purchaser shall, upon the Sellers' request, procure that the Sellers are provided with all relevant documents and other information reasonably required by the Sellers to evaluate the liability referred to in this clause 16.3 or Tax assessment notices against Wintershall Middle East and the potential liability of the Sellers in connection therewith, take into account reasonable comments of the Sellers for any filing or communication with the Tax Authorities in connection therewith, and upon the Sellers' request and at the Sellers' cost, the Purchaser shall lodge appeals or make any other applications the Sellers reasonably consider appropriate in connection therewith.

## 17. **General**

### 17.1 **Counterparts**

This Agreement may be executed in any number of counterparts, each which when executed and delivered is an original and all of which together evidence the same agreement.

### 17.2 **Liability**

17.2.1 The obligations under this Agreement of each Seller Group are entered into on a several basis (and not on a joint or joint and several basis) and no Claim may be made against a Seller Group in respect of the performance of any obligation under, or any breach of this Agreement by, the other Seller Group.

17.2.2 Where more than one Seller Group is liable for any individual Claim:

(a) the liability of each Seller Group for such Claim shall be proportionate to each Seller Group's contribution and share of responsibility for the relevant breach; or

(b)

(i) if the liability does not directly arise as a result of any action or inaction by any Seller; or

(ii) if the liability arises as a result of any obligation or undertaking to procure (or other similar language), on the part of the Sellers, any action or inaction by any Wintershall DEA Group Company or any NewCo Group Company, or any director or other officer, employee or "management" of any such company ("**Relevant Party**"),

each Seller shall be liable in respect of its Seller Relevant Proportion of such Claim, provided that if the failure by a Relevant Party to act in accordance with such procurement obligation in (ii) above is as a result of a Seller Group failing to procure that the Relevant Party takes such action or inaction, then that Seller shall be liable for the full amount of such Claim.

For the avoidance of doubt, no Seller Group shall be liable for any Claim arising from a breach of this Agreement by the other Seller Group, provided always that this clause 17.2.2 cannot be relied on by the Sellers to reduce the overall amount due to the Purchaser in aggregate in respect of any Claim.

17.2.3 "Seller Group" for the purposes of clause 17.2.2 shall mean any BASF Undertaking or any Letterone Undertaking, as the context requires.

### 17.3 **Assignment**

17.3.1 Subject to clause 17.3.2, no Party shall (nor shall it purport to) directly or indirectly assign, transfer, declare a trust in respect of or in any other way alienate any of its rights or obligations under this Agreement whether in whole or in part.

17.3.2 The Purchaser may assign its rights (but not its obligations) under this Agreement (by way of security only) to any bank(s) and/or financial institution(s) lending money or making other banking facilities available to the Purchaser (or any Purchaser Group Company) for the acquisition of the entire share capital of NewCo 2, such assignment to be on terms such that, notwithstanding any such assignment in security, each Seller may unless it

receives written notice of enforcement of the relevant security interest, deal with the Purchaser in connection with all matters arising under this Agreement. The Purchaser acknowledges and agrees that the rights conferred on any such assignee shall only be exercisable at the same time as it exercises its security under such finance arrangements.

- 17.3.3 If an assignment is made in accordance with this clause 17, the liabilities of the Parties under this Agreement shall be no greater than such liabilities would have been if the assignment had not occurred, and the rights of the bank(s) and/or financial institution(s), and any persons claiming through them, pursuant to any such assignment and/or charge, shall be subject to all matters (including rights of set-off) to which the rights of the Purchaser under this Agreement would have been subject had no such assignment and/or charge taken place.

#### 17.4 **Variation, amendment and waiver**

- 17.4.1 Subject to clause 17.4.2 below, a variation, amendment or waiver of this Agreement is valid only if it is in writing, refers to this Agreement and signed by or on behalf of each Party.

- 17.4.2 Any variation, amendment and/or waiver in respect of:

- (a) time periods or timeframes (excluding the Letterone Option Period and the ROFR Period);
- (b) price (including the ROFR Price and the Per Share Transaction Equity Value);
- (c) dilution adjustments;
- (d) notices (including the ROFR Offer Notice, ROFR Acceptance Notice, the Matching Right Notice and the Option Exercise Notice);
- (e) terms of transfer of Ordinary Shares; and
- (f) any non-material matters,

in respect of clause 2.6 and Schedule 3 only, is valid if it is in writing, refers to this Agreement and is signed by or on behalf of each of Letterone and BASF (and, for the avoidance of doubt, the Purchaser's agreement and/or signature is not required in respect of such variation, amendment and/or waiver).

- 17.4.3 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not impair or constitute a waiver of the right or remedy or an impairment of or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents further exercise of the right or remedy or the exercise of another right or remedy.
- 17.4.4 The Purchaser undertakes not to vary, amend or waive any provision of the BASF Lock-up Agreement or the Letterone Lock-up Agreement.

**17.5 Cumulative rights**

Each Party's rights and remedies contained in this Agreement are cumulative and not exclusive of rights or remedies provided by law.

**17.6 Effect of Completion**

Except to the extent that they have been performed and except where this Agreement provides otherwise, the obligations contained in this Agreement remain in force after Completion.

**17.7 Severance**

If, at any time, any provision of this Agreement is or becomes void, illegal, invalid or unenforceable in any respect, whether pursuant to any judgment or otherwise:

17.7.1 that voidness, illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of any other provision of this Agreement; and

17.7.2 the void, illegal, invalid or unenforceable provision shall be deemed never to have been a part of this Agreement.

**17.8 Third party rights**

Except as expressly provided otherwise 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 any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999. Where, pursuant to the terms of this Agreement, a third party has been expressly granted rights under the Contracts (Rights of Third Parties) Act 1999, the consent of such third party shall not be required for the variation of this Agreement or the waiver of any provision in it.

**17.9 Further assurance**

Each Party shall at its own cost take all such action or procure that all such action is taken as is reasonable in order to implement the terms of this Agreement or any transaction, matter or thing contemplated by this Agreement.

**17.10 Contribution claims**

17.10.1 After Completion, the Purchaser shall use all reasonable endeavours to procure that, except in the case of fraud, no Purchaser Group Company shall make any claim against a BASF Undertaking or a Letterone Undertaking or Wintershall DEA Group Company under the Civil Liability (Contribution) Act 1978. BASF Undertakings, Letterone Undertakings and Wintershall DEA Group Companies may enforce the terms of this clause 17.10 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

17.10.2 After Completion, BASF shall use all reasonable endeavours to procure that no BASF Undertaking or Wintershall DEA Group Company, and Letterone shall use all reasonable endeavours to procure that no Letterone Undertaking or

Wintershall DEA Group Company, shall, except in the case of fraud, make any claim against a Purchaser Group Company under the Civil Liability (Contribution) Act 1978. Each Purchaser Group Company may enforce the terms of this clause 17.10 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

**17.11 No claims against individuals**

17.11.1 No Party shall make a Claim against:

- (a) in the case of Claims by BASF or Letterone, any person who was at any time prior to Completion an employee, consultant, professional adviser, officer or director of any Purchaser Group Company; or
- (b) in the case of claims by the Purchaser, any person who was at any time prior to Completion an employee, consultant, professional adviser, officer or director of any BASF Undertaking or any Letterone Undertaking,

(each, a *Covered Person*) under or in connection with any Transaction Document (including in connection with the negotiation of any Transaction Document), except in the case of fraud by such Covered Person.

17.11.2 BASF shall procure that each BASF Undertaking, Letterone shall procure that each Letterone Undertaking, and the Purchaser shall procure that each Purchaser Group Company shall comply with the relevant BASF's, Letterone's or the Purchaser's (as applicable) obligations under clause 17.11.1 as if applicable to it.

17.11.3 From and following Completion until the sixth anniversary of the Completion Date, and save to the extent such provisions are inconsistent with Applicable Law, the Purchaser shall ensure that any indemnity and/or immunity provisions contained in the memorandum and articles of association (or similar constitutional documents) of each Purchaser Group Company of which a Covered Person was an employee, officer or director immediately prior to Completion are not amended, repealed or modified in any manner that would affect adversely the rights of any Covered Person.

17.11.4 Each Covered Person may enforce the terms of this clause 17.11 subject to, and in accordance with, the provisions of the Contracts (Rights of Third Parties) Act 1999.

**17.12 Fraud**

Nothing in this Agreement shall have the effect of limiting, restricting or excluding any liability arising as a result of any fraud, fraudulent misrepresentation or deliberate concealment.

**17.13 Offer-related arrangements**

The Parties agree that, if the Panel determines that any provision of this Agreement that requires the Purchaser to take or not to take action, whether as a direct obligation or as

a condition to any other person's obligation (however expressed), is not permitted by Rule 21.2 of the Code, that provision shall have no effect and shall be disregarded. The foregoing does not affect the continuation in force of the remainder of this Agreement.

**18. Double Recovery and Double Counting**

18.1 No Party (taken together with their respective Affiliates, where relevant) shall be permitted to recover damages or obtain any payment, reimbursement, remedy restitution or indemnity more than once in respect of the same loss or set of circumstances that give rise to more than one Claim or right under this Agreement or any Transaction Document.

18.2 No amount, payment, cost, liability, accrual, asset or other value item shall result in compensation (including in each case by way of exclusion) for any Party (taken (i) in the case of the Purchaser, together with its Affiliates, and (ii) in the case of the Seller Group, together with their respective Affiliates and/or the Wintershall DEA Group Companies, in each case as relevant) more than once for the same matter pursuant to this Agreement, the other Transaction Documents and the Spin-off documentation, including in respect of: (a) Seller Leakage, Purchaser Leakage or Seller Reverse Leakage, (b) the Effective Date Balance Sheet and/or Actual Balance Sheet Value determination, (c) the “wrong pockets” provisions in Schedule 13, and (d) any other indemnity or obligation to pay (including in connection with the PLTA settlement) pursuant to the Transaction Documents and the Spin-off documentation.

**19. Entire Agreement**

19.1 The Transaction Documents constitute the entire agreement between the Parties. They supersede any previous agreements or understandings relating to the subject matter of the Transaction Documents and set out the complete legal relationship of the Parties arising from or connected with that subject matter.

19.2 Accordingly, the Purchaser represents and agrees that:

19.2.1 no BASF Undertaking or Letterone Undertaking or adviser to any such person has made any Representation that the Purchaser considers material which is not set out in the Transaction Documents; and

19.2.2 it has not entered into the Transaction Documents in reliance on any Representation except those set out in the Transaction Documents,

and, in each case, will not contend to the contrary; and

19.2.3 for the avoidance of doubt:

(a) no BASF Undertaking or Letterone Undertaking (other than BASF or Letterone), or adviser to any such person has any liability to the Purchaser for any Representation except, in the case of any adviser, to the extent expressly assumed in writing by such adviser; and

(b) neither BASF nor Letterone has any liability of any kind to the Purchaser for any Representation except in respect of those set out in the Transaction Documents; and



- (c) its only rights and remedies in respect of any Representations are those rights and remedies set out in the Transaction Documents.

19.3 Likewise, each of BASF and Letterone represents and agrees that:

19.3.1 no Purchaser Group Company, adviser to the Purchaser or provider of finance to the Purchaser has made any Representation that it considers material which is not set out in the Transaction Documents, and

19.3.2 it has not entered into the Transaction Documents in reliance on any Representation except those set out in the Transaction Documents,

and, in each case, will not contend to the contrary; and

19.3.3 for the avoidance of doubt:

- (a) no Purchaser Group Company (other than the Purchaser) or adviser to the Purchaser or provider of finance to the Purchaser has any liability to BASF or Letterone for any Representation except, in the case of any adviser, to the extent expressly assumed in writing by such adviser;
- (b) the Purchaser has no liability of any kind to BASF or Letterone for any Representation except in respect of those set out in the Transaction Documents; and
- (c) its only rights and remedies in respect of any Representations are those rights and remedies set out in the Transaction Documents.

19.4 BASF Undertakings (except BASF), Letterone Undertakings (except Letterone), and Purchaser Group Companies (except the Purchaser), advisers to any BASF Undertakings, Letterone Undertakings or Purchaser Group Companies, and providers of finance to the Purchaser may enforce the terms of this clause 19 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## 20. Notices

20.1 A notice or other communication under or in connection with this Agreement (a *Notice*) shall be:

20.1.1 in English;

20.1.2 in writing; and

20.1.3 delivered personally or sent by first class post (and air mail if overseas) or email to the Party due to receive the Notice to the address or email address (as the case may be) set out in clause 20.3 or to an alternative address or email address specified by that Party by written notice to the other Party received before the Notice was despatched.

20.2 Unless there is evidence that it was received earlier, a Notice is deemed given if:

20.2.1 delivered personally, when left at the address referred to in clause 20.1.3;

- 20.2.2 sent by mail, except air mail, two (2) Business Days after posting it;
- 20.2.3 sent by air mail, five (5) Business Days after posting it; and
- 20.2.4 sent by email, 1 hour after it was sent (unless the sender of the Notice receives an automated notification of non-delivery or rejection by the recipient's email server, other than an out of office greeting, in which case the Notice shall be deemed not to have been given).

20.3 The address referred to in clause 20.1.3 is:

Name (1)	Address (2)	E-mail (3)	Marked for the attention of (4)
<b>BASF TopCo</b>	Carl-Bosch Str 38	<a href="mailto:andre.wehrmann@basf.com">andre.wehrmann@basf.com</a>	Head of Corporate M&A (CTM)
	67063 Ludwigshafen am Rhein Germany	<a href="mailto:stefan.rothweiler@basf.com">stefan.rothweiler@basf.com</a>	Head of Corporate Legal (CL/G)
<b>Letterone TopCo</b>	1-3 Boulevard de la Foire, L1528, Luxembourg	<a href="mailto:vfarafonov@letterone.lu">vfarafonov@letterone.lu</a> (copy (which shall not constitute notice) to: <a href="mailto:Davdeev@l1energy.co.uk">Davdeev@l1energy.co.uk</a> ; <a href="mailto:Shaun.Lascelles@akingump.com">Shaun.Lascelles@akingump.com</a> )	Vitalij Farafonov
<b>Purchaser</b>	23 Lower Belgrave Street London SW1W 0NR	<a href="mailto:compliance@harbourenergy.com">compliance@harbourenergy.com</a>	General Counsel

**21. Governing Law and Jurisdiction**

- 21.1 This Agreement and any non-contractual obligation or other matter arising out of or in connection with it are governed by English law.
- 21.2 Except as expressly provided otherwise in this Agreement, any dispute arising from or connected with this Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three (3) arbitrators appointed in accordance with said rules. The language of the arbitral proceedings shall be English, and the seat of arbitration shall be Zurich, Switzerland. The governing law of the arbitration agreement in this clause shall be the substantive law of England.

This Agreement has been executed by the Parties on the date set out on the first page of this document.

**EXECUTED BY**

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acting for and on behalf of  
**HARBOUR ENERGY PLC**

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)  
)  
)  
)  
)  
)

HOWARD LANDES

.....

**BASF Handels- und Exportgesellschaft mit beschränkter Haftung**  
Management Board / Geschäftsführung

CHRISTIAN-MATTHIAS JUTZI

---

Christian-Matthias Jutzi  
Managing Director / Geschäftsführer

DR. STEFAN ROTHWEILER

---

Dr. Stefan Rothweiler  
Managing Director / Geschäftsführer

**BASF SE**

TOBIAS LAGES

---

Tobias Lages  
Authorized Signatory (*Prokurist*)

ANDRÉ WEHRMANN

---

André Wehrmann  
Authorized Signatory (*Prokurist*)

**LETTERONE HOLDINGS S.A.**

VITALIJ FARAFONOV

---

Name:

Class I Director and Authorised Signatory

JONATHAN MUIR

---

Name:

Class I Director and Authorised Signatory

**L1 ENERGY CAPITAL MANAGEMENT SERVICES S. À R. L.**

PHILIP NEIL TOYER

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Name:

Manager (*gérant*) and Authorised Signatory

**SCHEDULE 1  
COMPLETION REQUIREMENTS**

**1. BASF OBLIGATIONS**

1.1 At Completion, BASF shall procure the delivery to the Purchaser of:

- 1.1.1 the BASF Relationship Agreement, duly executed by BHE;
- 1.1.2 the BASF Lock-up Agreement, duly executed by BHE; and
- 1.1.3 the Target Shares Transfer Deed, duly executed by BHE.

**2. LETTERONE OBLIGATIONS**

2.1 At Completion, Letterone shall procure the delivery to the Purchaser of:

- 2.1.1 the Letterone Relationship Agreement, duly executed by L1 Energy;
- 2.1.2 the Letterone Lock-up Agreement, duly executed by L1 Energy;
- 2.1.3 the Letterone Standstill Agreement, duly executed by L1 Energy; and
- 2.1.4 the Target Shares Transfer Deed, duly executed by L1 Energy.

**3. BASF AND LETTERONE OBLIGATIONS**

3.1 At Completion, BASF and Letterone shall procure the delivery to the Purchaser of:

- 3.1.1 if required, the resignations of each of such managing director(s) and/or the secretary of each NewCo Group Company (as applicable) as the Purchaser may identify in writing to BASF and Letterone not less than three (3) Business Days prior to Completion, effective from Completion;
- 3.1.2 confirmation from the Wintershall DEA SFA Agent that, prior to implementation of the Spin-off, they have accepted the resignation of Wintershall Dea Norge AS a borrower under the Wintershall DEA SFA; and
- 3.1.3 evidence or confirmation of the due fulfilment of each Condition for which BASF and Letterone are responsible.

**4. PURCHASER'S OBLIGATIONS**

4.1 At Completion, the Purchaser shall:

- 4.1.1 deliver to BASF:
  - (a) the BASF Relationship Agreement, duly executed by the Purchaser; and
  - (b) the BASF Lock-up Agreement, duly executed by the Purchaser;
- 4.1.2 deliver to Letterone:



- (a) the Letterone Relationship Agreement, duly executed by the Purchaser;
- (b) the Letterone Lock-up Agreement, duly executed by the Purchaser; and
- (c) the Letterone Standstill Agreement, duly executed by the Purchaser;

4.1.3 deliver to BASF and Letterone:

- (a) the Target Shares Transfer Deed, duly executed by the Purchaser;
- (b) a consent from each person nominated by the Purchaser to act as a director or secretary (as applicable) of the relevant NewCo Group Company with effect from Completion;
- (c) a certified copy of the Purchaser Resolutions as passed at the relevant meeting; and
- (d) evidence or confirmation of the due fulfilment of each Condition for which the Purchaser is responsible.

**SCHEDULE 2**  
**NON-VOTING ORDINARY SHARES TERMS**

**1. INTERPRETATION**

For the purposes of the rights and restrictions attaching to the Non-Voting Ordinary Shares:

*Act* means the Companies Act 2006, as amended from time to time;

*Adjustment Event* means:

- (a) any allotment or issue of Ordinary Shares (or other relevant securities in the capital of the Company, but excluding any Deferred Shares) by the Company by way of capitalisation of profits or reserves (including share premium account and any capital redemption reserve); or
- (b) any sub-division or consolidation of Ordinary Shares (or other relevant securities in the capital of the Company, but excluding any Deferred Shares) by the Company;

*Affiliates* means:

- (a) in relation to any person, any entity that controls, or is controlled by, or that is under common control with, that person;
- (b) any Fund Vehicle in respect of which a person or any entity within paragraph (a) above is the general partner and/or principal adviser or in respect of which any person or any entity within paragraph (a) above is the principal manager of its assets; or
- (c) any entity controlled by any Fund Vehicle, provided that a person or any entity within paragraph (a) above is the general partner of, the principal adviser to, or the principal manager of, such Fund Vehicle,

on the basis that: (x) **adviser** means, in relation to a Fund Vehicle, an entity that provides advisory services in relation to the management of investments and/or assets of such Fund Vehicle which are substantially the same as the services which would be provided by an investment or asset manager of an entity; and (y) **manager** means, in relation to a Fund Vehicle, an entity that manages investments and/or assets of the relevant Fund Vehicle, provided that the services provided by such entity are substantially the same as the services which would be provided by an investment or asset manager of an entity;

*Articles* means the articles of association of the Company;

*Board* means the board of directors of the Company;

*Business Day* means a day other than a Saturday, Sunday or public holiday on which banks are open for general banking business in London, England and Luxembourg;

**Change of Control** means the acquisition by any person (other than the holder of Non-Voting Ordinary Shares or any persons acting in concert (as such term is defined in the Code) with it) of an interest in shares in the Company which (when taken together with shares in which that person and any persons acting in concert with it are interested) carry more than 50 per cent. of the voting rights exercisable by members of the Company on a poll in general meeting and, without prejudice to the generality of the foregoing, if such an acquisition is effected by means of a:

- (a) scheme of arrangement under Part 26 of the Act, a Change of Control shall take place at the point at which the scheme of arrangement becomes effective; and
- (b) takeover offer under Part 28 of the Act, a Change of Control shall take place at the point at which the takeover offer becomes unconditional in all respects;

For the avoidance of doubt, a person will not be deemed to have "acquired" an interest in shares carrying voting rights by virtue of:

- (c) the issue by the Company of new shares to that person or to a person acting in concert with that person;
- (d) the purchase or redemption by the Company of its own shares in accordance with the Act, with a commensurate increase in the proportion of voting rights held by that person; or
- (e) by virtue of a change in identity of those persons that are acting in concert with that person from time to time,

provided that, in each case, this is not also accompanied by another connected transaction in which an interest in shares in the Company is acquired;

**Code** means the City Code on Takeovers and Mergers, as amended from time to time;

**Company** means Harbour Energy plc, a company incorporated and registered in Scotland with registered number SC234781;

**Conversion Conditions** means the following conditions to conversion of the Non-Voting Ordinary Shares:

- (a) each of the (direct or indirect) shareholders of the relevant Non-Voting Ordinary Shareholder ceases to be a Sanctioned Person (provided that the relevant Non-Voting Ordinary Shareholder is also not a Sanctioned Person); and
- (b) either:
  - (i) the relevant Non-Voting Ordinary Shareholder confirming (after having taken written advice from external legal counsel and consulted in good faith with the Purchaser), that it is reasonably satisfied that the conversion of the relevant Non-Voting Ordinary Shares into Ordinary Shares does not require any (A) authorisation from any Regulatory Authority under any relevant foreign investment or national security legislation, or mandatory and/or suspensory merger control, antitrust or

competition laws, or (B) mandatory and/or suspensory Sector Regulatory Consent; or

- (ii) if the relevant Non-Voting Ordinary Shareholder reasonably considers (after having taken written advice from external legal counsel and consulted in good faith with the Purchaser), that (A) an authorisation from any Regulatory Authority under any relevant foreign investment or national security legislation, or a mandatory and/or suspensory authorisation from any Regulatory Authority under merger control, antitrust or competition laws, or (B) a mandatory and/or suspensory Sector Regulatory Consent, in each case is required in respect of the conversion of the relevant Non-Voting Ordinary Shares into Ordinary Shares, the receipt of such authorisation on terms reasonably satisfactory to the relevant Non-Voting Ordinary Shareholder and the Purchaser;

**Conversion Notice** has the meaning given in paragraph 6.1 of this Schedule 2;

**Conversion Ratio** means:

- (a) 1; or
- (b) if an Adjustment Event has occurred, a number such that the number of Ordinary Shares that the Non-Voting Ordinary Shares convert into equals the same percentage of the share capital of the Company and such Ordinary Shares carrying the same proportion of votes exercisable at a general meeting of the shareholders of the Company, the same entitlement to participate in distributions of the Company and the same rights in respect of holders of Ordinary Shares, in each case as nearly as practicable, as would have been the case had no Adjustment Event occurred;

**CREST** means the relevant system (as defined in the Uncertificated Securities Regulations 2001 (SI 2001 / 3755)) in respect of which Euroclear UK & International Limited is the Operator (as defined in such Regulations) in accordance with which securities may be held and transferred in uncertificated form;

**Deferred Shares** means the non-voting deferred shares of the Company as defined in the Articles;

**Delisting** means the cancellation of the listing of the Ordinary Shares on the Official List and the trading of the Ordinary Shares on the main market for listed securities of the London Stock Exchange;

**Distribution Amount** has the meaning given in paragraph 8 of this Schedule 2;

**Economic Sanctions Law** means any law, rule, regulation, judgment, order, or other measure relating to economic or financial sanctions administered, implemented or enforced by any Sanctions Authority;

**FCA** means the Financial Conduct Authority acting in its capacity as the competent authority for listing in the United Kingdom for the purposes of Part VI of FSMA;

**FSMA** means the UK Financial Services and Markets Act 2000, as amended;

**Fully Diluted Share Capital** means the number of Ordinary Shares in issue at the relevant time calculated on the basis that all Non-Voting Ordinary Shares in issue at such time shall have converted into Ordinary Shares at the Conversion Ratio;

**Fund Vehicle** means: (a) any unit, trust, limited partnership or fund; or (b) any corporate entity, the primary purpose of which is the aggregation of investments;

**Institutional Investor** means any fund, partnership, body corporate, trust or other person or entity whose principal business is to make investments or a person whose business is to make, manage or advise upon investments for any of the foregoing;

**Letterone Extended Group** means Letterone Investment Holdings S.A. and Letterone Holdings S.A. or an undertaking which is, from time to time, a subsidiary undertaking of Letterone Investment Holdings S.A. or Letterone Holdings S.A.;

**Letterone Relationship Agreement** means the relationship agreement between L1 Energy Capital Management Services s.à r.l. and the Company;

**Letterone Standstill Agreement** means the standstill agreement between L1 Energy Capital Management Services s.à r.l. and the Company;

**Listing Rules** means the listing rules published by the FCA under Part VI of FSMA;

**London Stock Exchange** means the London Stock Exchange plc;

**Market Sale** means the sale of Non-Voting Ordinary Shares (whether on a public, private, bilateral or block trade basis) which upon completion of such sale will be redesignated as Ordinary Shares at the same, or substantially the same, time of transfer to, and receipt by, the Market Sale Placees;

**Market Sale Placees** means any person procured by or on behalf of a Non-Voting Ordinary Shareholder to purchase Ordinary Shares pursuant to a Market Sale;

**Non-Voting Ordinary Shareholder** means a holder of Non-Voting Ordinary Shares;

**Non-Voting Ordinary Shares** means ordinary shares of 0.002 pence each in the Company from time to time having the rights and being subject to the restrictions set out in this Schedule 2;

**Official List** means the official list maintained by the FCA;

**Ordinary Shares** means ordinary shares of 0.002 pence each in the issued share capital of the Company (or such nominal amount as adjusted by an Adjustment Event if applicable), but, for the avoidance of doubt, does not include Non-Voting Ordinary Shares;

**Outstanding Non-Voting Preference Amount** means an amount equal to the number of Non-Voting Ordinary Shares in issue at the time that such amount is required to be calculated multiplied by the Per Non-Voting Share Preference Amount;

**Per Non-Voting Share Preference Amount** shall mean an amount equal to £2.79;

***Permitted Transferees*** means:

- (a) any Institutional Investor; or
- (b) any other person or entity in respect of which the Company has completed reasonable and customary know-your-customer verification and in respect of which the Company has provided its prior written consent (not to be unreasonably withheld or delayed); or
- (c) any Affiliate of Letterone; or
- (d) (provided that Letterone Investment Holdings S.A. has, at all times, the same shareholders as Letterone Topco and is, and remains, under the same ultimate beneficial ownership as Letterone Topco) any other member of the Letterone Extended Group;

***Sanctioned Non-Voting Ordinary Shareholder*** has the meaning given to it in paragraph 2.1;

***Sanctioned Person*** means any person or entity:

- (a) listed on any list of restricted entities, individuals or organisations (or equivalent) subject to asset freezing measures published by any Sanctions Authority (a ***Listed Person***);
- (b) that is: (i) owned in the aggregate (directly or indirectly) as to 50 per cent. or more by; or (ii) controlled (as defined by the relevant Economic Sanctions Law or in guidance issued by a Sanctions Authority) by, any Listed Person (or a person acting on behalf of such Listed Person) where such owned or controlled person is, by virtue of applicable Economic Sanctions Law, subject to the same or substantially equivalent prohibitions or restrictions as a Listed Person;
- (c) located or resident in, incorporated or organised under the laws of a Sanctioned Territory or acting on behalf of or at the direction of such a person; or
- (d) that is otherwise a person with whom transactions are prohibited under any Economic Sanctions Law;

***Sanctioned Territory*** means at any time, a country or territory that is the subject of comprehensive country-wide or territory-wide Economic Sanctions Laws, comprising as of the date hereof, Cuba, Crimea region of Ukraine, Iran, North Korea, Syria, the so-called Luhansk People's Republic and the so-called Donetsk People's Republic;

***Sanctions Authority*** means, in respect of the jurisdictions set out below, any official institution, agency or person which is duly appointed, empowered, or authorised to enact, administer, implement and/or enforce Economic Sanctions Law:

- (a) the United States of America (including the Office of Foreign Assets Control, the United States Department of State and the United States Department of Commerce);
- (b) the Security Council of the United Nations;

- (c) the European Union and its Member States; and
- (d) the United Kingdom (including His Majesty's Treasury); and

**UK Prospectus Regulation** means the Regulation (EU) No 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as it forms part of UK domestic law by virtue of the European Union (Withdrawal) Act 2018 and as amended and in force from time to time and any legislation that (either with or without modification) re-enacts, consolidates or enacts in rewritten form any such regulation.

## 2. INCOME

- 2.1 On a distribution, whether by cash dividend, dividend in specie, scrip dividend, capitalisation issue or otherwise, each Non-Voting Ordinary Share shall be entitled to receive an amount equal to a 13 per cent. premium to the amount of any such distribution in respect of each Ordinary Share. If any of the Non-Voting Ordinary Shareholders is a Sanctioned Person (the **Sanctioned Non-Voting Ordinary Shareholder**), any amounts otherwise due in relation to the relevant Non-Voting Ordinary Shares of such Sanctioned Non-Voting Ordinary Shareholder shall, subject to Applicable Law, be held on trust for such holder until such time as they no longer constitute a Sanctioned Person.

## 3. VOTING

- 3.1 A holder of Non-Voting Ordinary Shares shall not be entitled, in its capacity as a holder of such Non-Voting Ordinary Shares, to receive notice of any general meeting of the Company nor to attend, speak or vote at any such general meeting, unless the business of the meeting includes the consideration of a resolution to:
  - (a) wind up the Company; or
  - (b) re-register the Company as a private company.
- 3.2 If any holder of Non-Voting Ordinary Shares is entitled to vote at a general meeting of the Company in its capacity as a holder of such Non-Voting Ordinary Shares, then such holder shall be entitled to: (i) on a poll, one vote for each Ordinary Share that would be held by the holder of such Non-Voting Ordinary Shares if they had converted into Ordinary Shares at the Conversion Ratio immediately prior to such general meeting; and (ii) on a show of hands one vote per resolution proposed.

## 4. CLASS RIGHTS

- 4.1 No variation of the rights attaching to the Non-Voting Ordinary Shares shall be effective except with the sanction of a special resolution of the holders of the Non-Voting Ordinary Shares. Where a special resolution to vary the rights attaching to the Non-Voting Ordinary Shares is proposed at a separate general meeting of the holders of Non-Voting Ordinary Shares, all the provisions of the Articles as to general meetings of the Company shall *mutatis mutandis* apply, but so that the necessary quorum shall be the holders of the Non-Voting Ordinary Shares (representing more than 50% of the

Non-Voting Ordinary Shares) present in person or by proxy or (being a corporation) by a duly authorised representative. For these purposes, one holder present in person or by proxy or (being a corporation) by a duly authorised representative may constitute a meeting.

- 4.2 Each of the following shall be deemed to constitute a variation of the rights attached to the Non-Voting Ordinary Shares (which shall not be an exhaustive list):
- (c) changes to the dividend, distributions, income, voting, capital or other rights attached to the Non-Voting Ordinary Shares;
  - (d) any amendment to the Articles in order to vary or remove the rights attached to the Non-Voting Ordinary Shares;
  - (e) issuances of further Non-Voting Ordinary Shares or any other shares ranking pari passu or in priority to the Non-Voting Ordinary Shares (other than any other shares with fixed rights to dividends that rank ahead of the dividend rights attaching to the Non-Voting Ordinary Shares but which otherwise rank in all respects behind the Non-Voting Ordinary Shares, including on a liquidation or winding-up);
  - (f) other than in respect of the conversion of any or all of the Non-Voting Ordinary Shares into Ordinary Shares pursuant to paragraph 6, any amalgamation into one class of shares of the Non-Voting Ordinary Shares and the Ordinary Shares or sub-divide Non-Voting Ordinary Shares into shares of different classes or of different denominations; and
  - (g) any distribution of the assets of the Company (in money or in kind) in or before liquidation.

## 5. NO DEEMED VARIATION

- 5.1 The rights attaching to the Non-Voting Ordinary Shares shall not be, and shall not be deemed to be, varied or abrogated in any way by:
- (h) the creation, allotment or issue of any Ordinary Shares; or
  - (i) the purchase by the Company or cancellation of any Ordinary Shares.

## 6. VOLUNTARY CONVERSION

- 6.1 Subject to paragraph 6.2, a Non-Voting Ordinary Shareholder shall be entitled, by serving a conversion notice (on one or more occasions, provided that each such notice shall be: (i) for a minimum denomination of 25,000,000 Non-Voting Ordinary Shares; or (ii) if less than 25,000,000 Non-Voting Ordinary Shares remain in issue, for all remaining Non-Voting Ordinary Shares) (a **Conversion Notice**) on the Company at its registered office, to require the Company to convert such amount of the Non-Voting Ordinary Shares, held by such Non-Voting Ordinary Shareholder as is stated in the Conversion Notice, into Ordinary Shares (with all the rights attaching to the same) at the Conversion Ratio and, following receipt of any such Conversion Notice, the Company shall be obliged to implement such conversion in accordance with the terms of, and subject to the conditions set out in, paragraphs 6.2 to 6.6 below.



6.2 A Conversion Notice may be served by a Non-Voting Ordinary Shareholder:

- 6.2.1 in conjunction with a Market Sale (or proposed Market Sale), at any time, provided that at the time of service of such Conversion Notice the Non-Voting Ordinary Shareholder confirms to the Company its good faith intention to implement a Market Sale; or
- 6.2.2 in any other case, provided that the Conversion Conditions have been satisfied at such time,

and shall specify:

- (1) the number of Non-Voting Ordinary Shares subject to such Conversion Notice;
- (2) whether it is electing for the conversion of the Non-Voting Ordinary Shares to occur as a result of the Conversion Conditions having been satisfied or in conjunction with a Market Sale; and
- (3) whether it wishes to hold the Ordinary Shares arising on conversion of the Non-Voting Ordinary Shares in certificated form or in uncertificated form through CREST and, if such Ordinary Shares are to be held in uncertificated form through CREST, the details of the relevant CREST account for such purposes.

6.3 Following receipt by the Company of a Conversion Notice:

- (a) the Company undertakes that it shall promptly, and in any event within two (2) Business Days of receipt of such Conversion Notice notify the relevant Non-Voting Ordinary Shareholder whether the conversion of the Non-Voting Ordinary Shares into Ordinary Shares can be implemented without publication of a prospectus (a *Prospectus*) under the UK Prospectus Regulation;
- (b) if the conversion of the Non-Voting Ordinary Shares into Ordinary Shares can be implemented without publication of a Prospectus:
  - (i) the Non-Voting Ordinary Shares subject to such Conversion Notice shall automatically convert into Ordinary Shares on the date falling three (3) Business Days after the date of such Conversion Notice; and
  - (ii) the Company undertakes that it shall procure that such Ordinary Shares are (if not already so admitted) admitted to the Official List and to trading on the London Stock Exchange's main market for listed securities (or any other market that the Ordinary Shares are admitted to trading on),

provided that in the case of a Conversion Notice relating to a Market Sale, such conversion into Ordinary Shares shall take place at the same or substantially the same time as transfer to, and receipt by, the Market Sale Placees; and

- (c) if the conversion of the Non-Voting Ordinary Shares into Ordinary Shares cannot be implemented without publication of a Prospectus, the Company undertakes that it shall prepare a Prospectus and obtain approval of such

Prospectus by the FCA as soon as reasonably practicable and in any event by no later than eight (8) weeks following receipt by the Purchaser of the relevant Conversion Notice and:

- (i) the Company shall keep the relevant Non-Voting Ordinary Shareholder reasonably informed of the progress of the process for approval of the Prospectus;
- (ii) the Company shall notify the Non-Voting Ordinary Shareholder at least five (5) Business Days prior to approval of the Prospectus (a *Prospectus Approval Notice*);
- (iii) the relevant Non-Voting Ordinary Shareholder that served such Conversion Notice shall be entitled by notice to the Company at any time prior to the date falling four (4) Business Days after the date of the Prospectus Approval Notice, to:
  - (A) withdraw its Conversion Notice whereupon it shall (notwithstanding any other provision of this Schedule 2) be deemed never to have served such Conversion Notice for the purposes of Schedule 2; or
  - (B) reduce the number of Non-Voting Ordinary Shares to be converted pursuant to such Conversion Notice provided any such reduction is made in good faith with the objective of consummating a Market Sale (*Reduced Notice*) (and any Non-Voting Ordinary Shares that are not subject of the Reduced Notice shall (notwithstanding any other provision of this Schedule 2) be deemed never to have been subject of the Conversion Notice);
- (iv) the Non-Voting Ordinary Shares that are subject to such Conversion Notice shall automatically convert into Ordinary Shares on the date on which the Prospectus is published, provided that in the case of a Conversion Notice relating to a Market Sale, such conversion into Ordinary Shares shall take place at the same or substantially the same time as transfer to, and receipt by, the Market Sale Placees; and
- (v) the Company shall promptly (and in any event within ten (10) Business Days) following receipt of such approval (subject to paragraph 6.3(c)(iii)) procure that such Ordinary Shares are (if not already so admitted) admitted to the Official List and to trading on the London Stock Exchange's main market for listed securities (or any other market that the Ordinary Shares are admitted to trading on).

6.4 Once a Conversion Notice has been served, the relevant Non-Voting Ordinary Shareholder shall be deemed to approve the re-designation of Non-Voting Ordinary Shares subject to such Conversion Notice and to consent to any variation or abrogation of its rights as may be occasioned by such re-designation.

- 6.5 Where the Ordinary Shares arising on conversion of the Non-Voting Ordinary Shares are to be held in certificated form, within ten (10) Business Days of the conversion of the Non-Voting Ordinary Shares into Ordinary Shares, the Company shall forward to the relevant Non-Voting Ordinary Shareholder or the Market Sale Placees (in the case of completion of a Market Sale), free of charge, a definitive certificate for the appropriate number of fully paid up Ordinary Shares and a new certificate for any unconverted Non-Voting Ordinary Shares comprised in the certificate surrendered by it. Pending the despatch of definitive certificates, transfers shall be certified against the register of members of the Company.
- 6.6 Where the Ordinary Shares arising on conversion of the Non-Voting Ordinary Shares are to be held in uncertificated form, the Company shall ensure that the appropriate number of Ordinary Shares are delivered, within ten (10) Business Days of the conversion of the Non-Voting Ordinary Shares, to the CREST account specified by the Non-Voting Ordinary Shareholder in the relevant Conversion Notice or the Market Sale Placees (in the case of completion of a Market Sale). If the Ordinary Shares are no longer a participating security in CREST, the provisions of paragraph 7 and this paragraph 6 shall apply *mutatis mutandis* to any clearing system through which the Ordinary Shares are then held in dematerialised form.

## 7. **CONVERSION ON CHANGE OF CONTROL OR DELISTING**

- 7.1 Subject to paragraph 7.2, the Company shall procure that in connection with any Change of Control or Delisting:
- (a) all Non-Voting Ordinary Shares shall automatically convert into Ordinary Shares (at the Conversion Ratio) immediately prior to any Change of Control or Delisting; and
  - (b) in the case of a Change of Control, the holders of Ordinary Shares resulting from the conversion of Non-Voting Ordinary Shares referred to above shall be entitled to receive on such Change of Control the same consideration as the other holders of Ordinary Shares are entitled to receive in connection with such Change of Control (including (i) if applicable, any rights to elect the form of consideration receivable and (ii) all other rights to which holders of Ordinary Shares are entitled on such Change of Control).
- 7.2 In relation to any Sanctioned Non-Voting Ordinary Shareholder, paragraph 7.1 above shall not apply and the Company shall procure that:
- (a) subject to Applicable Law: (i) each Non-Voting Ordinary Share of such Sanctioned Non-Voting Ordinary Shareholder shall automatically convert into Ordinary Shares immediately prior to any Change of Control or Delisting; and (ii) the equivalent consideration that would otherwise have been due to such Sanctioned Non-Voting Ordinary Shareholder (together with any subsequent distributions (if any) relating thereto) shall be held on trust for each such Sanctioned Non-Voting Ordinary Shareholder until such time as such holder no longer constitutes a Sanctioned Person; or

- (b) in any other circumstances, on a Change of Control or Delisting, each Sanctioned Non-Voting Ordinary Shareholder shall receive, for each Non-Voting Ordinary Share, an instrument of equivalent value and with equivalent economic, governance and other rights (including rights on a liquidation or winding up) as each Non-Voting Ordinary Share and which will give the Sanctioned Non-Voting Ordinary Shareholder (taken together) equivalent economic, governance and other rights (including rights on a liquidation or winding up) as are held by the holders of Non-Voting Ordinary Shares (taken together) prior to the relevant Change of Control or Delisting.

- 7.3 On a Change of Control or Delisting, the relevant Non-Voting Ordinary Shareholder shall be deemed to approve the re-designation of Non-Voting Ordinary Shares and to consent to any variation or abrogation of its rights as may be occasioned by such re-designation.

## 8. LIQUIDATION

The Company will procure that on any liquidation or winding up, the assets of the Company remaining after the payment of its liabilities (the *Distribution Amount*) shall be applied as follows:

- 8.1 if the Distribution Amount is less than or equal to the Outstanding Non-Voting Preference Amount, the Distribution Amount shall be applied, in priority to any other payment to holders of shares in the Company, in paying an amount per Non-Voting Ordinary Share equal to the Distribution Amount divided by the number of Non-Voting Ordinary Shares in issue at such time; or

- 8.2 if the Distribution Amount is greater than the Outstanding Non-Voting Preference Amount, an amount per Non-Voting Ordinary Share equal to the higher of:

8.2.1 the Per Non-Voting Share Preference Amount; and

8.2.2 an amount equal to:

$(\text{Distribution Amount} / \text{Fully Diluted Share Capital}) * \text{by the Conversion Ratio.}$

and no payment shall be made in respect of any Ordinary Share or other share that is not a Non-Voting Ordinary Share until the amount due to the holders of Non-Voting Ordinary Shares pursuant to the foregoing provisions of subparagraph 8.2 has been paid in full.

## 9. TRANSFER/LISTING

- 9.1 Other than as set out in paragraph 6, the Non-Voting Ordinary Shares shall be non-transferrable. No admission to listing or admission to trading shall be sought for the Non-Voting Ordinary Shares to the extent that they remain Non-Voting Ordinary Shares.

- 9.2 The Non-Voting Ordinary Shares shall be transferrable to Permitted Transferees, provided that if the Non-Voting Ordinary Shares are transferred to a member of the Letterone Extended Group, such member shall, if required by the Company, accede to the Letterone Relationship Agreement and the Letterone Standstill Agreement.
- 9.3 To the extent that certain Non-Voting Ordinary Shares are transferred to a member of the Letterone Extended Group that is not an Affiliate of Letterone, in the event that such Permitted Transferee ceases to be under the same ultimate beneficial ownership as Letterone Topco, the Permitted Transferee shall, prior to such cessation either: (a) enable the Company to complete reasonable and customary know-your-customer verification and provide its prior written consent (not to be unreasonably withheld or delayed) to the relevant Permitted Transferee retaining the Non-Voting Ordinary Shares, or (b) immediately transfer the relevant Non-Voting Ordinary Shares to a Letterone Affiliate or to another Permitted Transferee.

**SCHEDULE 3**  
**PERMITTED LETTERONE SHARE PURCHASES**

**PART A**  
**CONDITIONS**

1. The following conditions must be satisfied prior to Letterone completing any Permitted Letterone Share Purchases pursuant to clause 2.6.1(b):
  - (a) either:
    - (i) Letterone confirming (after having taken written advice from external legal counsel and consulted in good faith with BASF), that it is reasonably satisfied that the completion of the Permitted Letterone Share Purchase does not require any (A) authorisation from any Regulatory Authority under any relevant foreign investment or national security legislation, or mandatory and/or suspensory merger control, antitrust or competition laws, or (B) mandatory and/or suspensory Sector Regulatory Consent; or
    - (ii) if Letterone reasonably considers (after having taken written advice from external legal counsel and consulted in good faith with BASF) that (A) an authorisation from any Regulatory Authority under any relevant foreign investment or national security legislation, or a mandatory and/or suspensory authorisation from any Regulatory Authority under merger control, antitrust or competition laws, or (B) a mandatory and/or suspensory Sector Regulatory Consent, in each case is required in respect of the completion of the Permitted Letterone Share Purchase, the receipt of such authorisation on terms reasonably satisfactory to Letterone and BASF; and
  - (b) completion of the Permitted Letterone Share Purchase would not cause BASF to be in breach of any Economic Sanctions Law and this shall be deemed to be the case unless:
    - (i) BASF provides to Letterone written advice from external legal counsel that such legal counsel considers completion of the Permitted Letterone Share Purchase would cause BASF to be in breach of any Economic Sanctions Law; or
    - (ii) any relevant Sanctions Authority has informed either party that completion of the Permitted Letterone Share Purchase would cause BASF to be in breach of any Economic Sanctions Law,

in each case prior to completion of the Permitted Letterone Share Purchase.

**PART B**  
**ROFR OFFER NOTICE**

Letterone Holdings S.A

L1 Energy Capital Management Services S.à.r.l

(together, *Letterone*)

1-3 Boulevard de la Foire,  
L-1528  
Luxembourg

For the attention of: [●]

Date: [●]

**[By email]**

Dear Sirs and Madams,

**ROFR Offer Notice**

We refer to the business combination agreement between Letterone, BASF SE (*BASF TopCo*), BASF Handels- und Exportgesellschaft mit beschränkter Haftung (*BHE*, and together with BASF TopCo, *BASF*) and Harbour Energy plc dated [●] (the *BCA*). Capitalised terms not otherwise defined in this notice (the *ROFR Offer Notice*) shall have the meaning given to them in the *BCA*.

BHE hereby provides this ROFR Offer Notice offering to sell or procure the sale of, [●] fully paid Ordinary Shares (the *Proposed BASF Sale Shares*).

BHE proposes to sell, or procure the sale of, the Proposed BASF Sale Shares for an aggregate consideration of [●] (the *ROFR Price*) (which equates to a price per Ordinary Share of [●]), subject to the terms and conditions set out in Part G of Schedule 3 of the *BCA*.

Subject to the conditions set out in Part A of Schedule 3 of the *BCA*, Letterone may purchase all (but not some only) of [the Proposed BASF Sale Shares][**OR IF LOWER** the Available BASF Share Limit Headroom], at the ROFR Price and in accordance with the terms of Part G of Schedule 3 of the *BCA*.

Letterone can exercise its right to accept this ROFR Offer Notice by providing written notice, in the form attached to this ROFR Offer Notice (the *ROFR Acceptance Notice*), to BASF by the second Business Day after (but excluding) the date of this ROFR Offer Notice (the *Offer Period*).

Should Letterone not provide BASF with a ROFR Acceptance Notice prior to the expiry of the Offer Period, this ROFR Offer Notice shall be deemed to have lapsed and BHE may transfer all of the Proposed BASF Sale Shares to a third party pursuant to clause 2.6.2 of the *BCA*.

This ROFR Offer Notice is subject to the confidentiality provisions set out in clause 11 of the *BCA*.

The construction, validity and performance of this ROFR Offer Notice and all non-contractual obligations arising from or connected with this ROFR Offer Notice shall be governed by the laws of England.

Yours faithfully

.....

Authorised Representative

For and on behalf of **BASF Handels- und Exportgesellschaft mit beschränkter Haftung**



**PART C**  
**ROFR ACCEPTANCE NOTICE**

To: BASF Handels- und Exportgesellschaft mit beschränkter Haftung (*BHE*)  
[Insert address]

For the attention of: [●]

Date: [●]

[by email]

Dear Sirs and Madams,

**ROFR Acceptance Notice in connection with proposed sale of Proposed BASF Sale Shares**

We refer to the written notice sent by BHE to Letterone on [●] (the *ROFR Offer Notice*) in connection with the proposed sale by BHE (or its Affiliates) of the Proposed BASF Sale Shares on the terms set out in the ROFR Offer Notice and in accordance with the BCA. Capitalised terms not otherwise defined in this notice shall have the meaning given to them in the ROFR Offer Notice.

Letterone confirms that it wishes to exercise its right to purchase, or procure the purchase, subject to the conditions set out in Part A of Schedule 3 of the BCA, of the [Proposed BASF Sale Shares][**OR IF LOWER** the Available BASF Share Limit Headroom]<sup>1</sup> in accordance with the ROFR Offer Notice and the terms and conditions set out in Part G of Schedule 3 of the BCA.

This notice and any non-contractual obligations arising out of or in connection with it shall be governed by, and interpreted in accordance with, English law.

Yours faithfully

.....

By:

Title:

Name:

For and on behalf of [**Letterone Holdings S.A**]

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<sup>1</sup> To be consistent with the ROFR Notice

**PART D  
MATCHING RIGHT NOTICE**

To: Letterone Holdings S.A.  
[Insert address]

For the attention of: [●]

Date: [●]

**[By email]**

Dear Sirs and Madams,

**Letterone Matching Right Notice**

We refer to the business combination agreement between Letterone Holdings S.A, L1 Energy Capital Management Services S.à.r.l (together with Letterone Holdings S.A, *Letterone*), BHE, BASF SE (together with BHE, *BASF*) and Harbour Energy plc dated [●] (the *BCA*). Capitalised terms not otherwise defined in this notice (the *Matching Right Notice*) shall have the meaning given to them in the *BCA*.

Letterone is requested to confirm, by countersignature to this Matching Right Notice, if it wishes to exercise its right to purchase, or procure the purchase of, subject to the conditions set out in Part A of Schedule 3 of the *BCA*, [●] Ordinary Shares held by BASF pursuant to its Matching Right under clause 2.6.3 of the *BCA*, on the terms set out in Part G of Schedule 3 of the *BCA* and terms which are equivalent to those agreed with respect to the Permitted Third Party Sale, being: [*details of e.g. lock-up and any other relevant terms to be inserted*]. The aggregate consideration shall be [●], which equates to a price per Ordinary Share of [●], being the Permitted Third Party Sale Price.

This Matching Right shall automatically expire on [●] if Letterone has not confirmed in writing by such date that it wishes to exercise its Matching Right.

This Matching Right Notice is subject to the confidentiality provisions set out in clause 11 of the *BCA*.

The construction, validity and performance of this Matching Right Notice and all non-contractual obligations arising from or connected with this Matching Right Notice shall be governed by the laws of England.

Yours faithfully

.....

Authorised Representative

For and on behalf of **BASF Handels- und Exportgesellschaft mit beschränkter Haftung**

We hereby confirm our irrevocable exercise of our Matching Right on the terms set out in the Matching Right Notice.

.....

Authorised Representative  
For and on behalf of **Letterone Holdings S.A.**

**PART E**  
**LETTERONE OPTION EXERCISE NOTICE**

To: BASF Handels- und Exportgesellschaft mit beschränkter Haftung (*BHE*)  
[Insert address]

For the attention of: [●]

Date: [●]

**[By email]**

Dear Sirs and Madams,

**Letterone Purchase Option Exercise Notice**

We refer to the business combination agreement between Letterone Holdings S.A, L1 Energy Capital Management Services S.à.r.l (together with Letterone Holdings S.A, *Letterone*), BHE, BASF SE and Harbour Energy plc (the *Company*) dated [●] (the *BCA*). Capitalised terms not otherwise defined in this notice (the *Option Exercise Notice*) shall have the meaning given to them in the *BCA*.

Letterone hereby gives BASF notice, pursuant to clause 2.6.5 of the *BCA*, of the irrevocable exercise of the Letterone Purchase Option to purchase, on the terms set out in set out in Part G of Schedule 3 of the *BCA* and subject to the conditions set out in Part A of Schedule 3 of the *BCA*, such number of Ordinary Shares that shall equate to [●] per cent. of the Company's issued Ordinary Share capital (on a Fully Diluted Basis).

The Letterone Option Price shall be [●] per Ordinary Share [(being the Per Share Transaction Equity Value [as adjusted in accordance with Part F of Schedule 3 of the *BCA*)]<sup>2</sup>].

This Option Exercise Notice is subject to the confidentiality provisions set out in clause 11 of the *BCA*.

The construction, validity and performance of this Option Exercise Notice and all non-contractual obligations arising from or connected with this Option Exercise Notice shall be governed by the laws of England.

Yours faithfully

.....

Authorised Representative  
For and on behalf of [**Letterone Holdings S.A**]

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<sup>2</sup> To be included if relevant.

**PART F**  
**DILUTION ADJUSTMENTS**

1. Upon the occurrence of any of the events described below, the Per Share Transaction Equity Value shall be adjusted as follows each time any such event occurs (it being acknowledged and agreed that such event may occur more than once during the Letterone Option Period):

(a) If and whenever there shall be a consolidation or subdivision affecting the number of Ordinary Shares in issue, the Per Share Transaction Equity Value shall be adjusted by multiplying the Per Share Transaction Equity Value in force immediately prior to the Adjustment Date by the following fraction:

$$\frac{A}{B}$$

where:

**A** is the aggregate number of Ordinary Shares in issue immediately before such consolidation, reclassification, redesignation or subdivision, as the case may be; and

**B** is the aggregate number of Ordinary Shares in issue immediately after, and as a result of, such consolidation, reclassification, redesignation or subdivision, as the case may be.

Such adjustment shall become effective on the Adjustment Date.

*Adjustment Date* means, in respect of this paragraph 1(a), the date on which the consolidation, reclassification, redesignation or sub-division, as the case may be, takes effect.

(b) If and whenever the Purchaser shall issue any Ordinary Shares credited as fully paid to Purchaser Shareholders by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve), other than an issue of Ordinary Shares constituting a scrip dividend, the Per Share Transaction Equity Value shall be adjusted by multiplying the Per Share Transaction Equity Value in force immediately prior to the Effective Date by the following fraction:

$$\frac{A}{B}$$

where:

**A** is the aggregate number of Ordinary Shares in issue immediately before such issue; and

**B** is the aggregate number of Ordinary Shares in issue immediately after such issue.

Such adjustment shall become effective on the Adjustment Date.

***Adjustment Date*** means, in respect of this paragraph 1(b) of this Part F of Schedule 3, the date of issue of such Ordinary Shares.

2. In case of any reclassification or redesignation of any Ordinary Shares or any other corporate actions (including any announcement and/or implementation of mergers, tender offers, rights issues and/or any other event), other than any and all dividends and distributions (including cash and/or scrip dividends), which will have a dilutive or concentrative effect on the value of Ordinary Shares, an appropriate adjustment to the Per Share Transaction Equity Value shall be discussed and agreed between BASF and Letterone (acting in good faith and having taken legal and financial advice). If the adjustment cannot be agreed between BASF and Letterone within fifteen (15) Business Days (or such longer period as the parties may agree in writing), the matter shall be referred to an Independent Expert in accordance with Part D of Schedule 9. Any adjustment under this paragraph 2, as determined by either BASF or Letterone, or an Independent Expert shall (to the extent applicable) be based on the principles as set out in paragraph 1 of this Part F of Schedule 3.
3. If any of the events described in paragraph 1 above occur in relation to (or as part of a series of events that are in connection with) a corporate action that would fall within paragraph 2, paragraph 2 shall apply to such event.
4. For the avoidance of doubt, the issue of Ordinary Shares following the conversion of the Non-Voting Ordinary Shares in accordance with their terms, or upon any conversion or exchange or the exercise of any other options, warrants or other rights shall not result in an adjustment to the Per Share Transaction Equity Value.

**PART G**  
**TRANSFER TERMS**

1. This Part G of Schedule 3 sets out the terms on which any Ordinary Shares (the *Sale Shares*) shall be transferred from the relevant BASF group company (the *Transferor*) to Letterone (the *Transferee*) pursuant to a Permitted Letterone Share Purchase made pursuant to clause 2.6.1(b) of this Agreement (a *Share Transfer*).
2. Each Share Transfer shall be made on the following terms:
  - (a) Completion of the Share Transfer (*Share Transfer Completion*) shall be conditional on the satisfaction of the conditions set out in Part A of Schedule 3 of this Agreement (the *Conditions*);
  - (b) the Transferor shall sell the Sale Shares to the Transferee at Share Transfer Completion with all rights and advantages attaching to them as at Share Transfer Completion, including the right to any dividend declared or paid after such date;
  - (c) the parties shall each use all reasonable endeavours to achieve satisfaction of the Conditions as soon as possible and in any event not later than the date that is fifteen (15) Business Days from:
    - (i) in the case of a Share Transfer to be made pursuant to clause 2.6.2 of this Agreement, the date that BASF received the ROFR Acceptance Notice;
    - (ii) in the case of a Share Transfer to be made pursuant to clause 2.6.3 or 2.6.5 of this Agreement, the date on which BASF receives confirmation of Letterone's irrevocable exercise of the Matching Right or the Option Exercise Notice (as applicable); or
    - (iii) in the case of a Share Transfer to be made pursuant to clause 2.6.1(b)(i) of the Agreement, as agreed between the parties,

provided that if Letterone determines in accordance with paragraph of 1(a)(ii) of Part A of Schedule 3 that an authorisation from any Regulatory Authority or a Sector Regulatory Consent is required in respect of a Permitted Letterone Share Purchase, the parties shall each use all reasonable endeavours to achieve satisfaction of the Conditions;
  - (d) Share Transfer Completion shall take place on the second Business Day after the date on which all Conditions have been satisfied, or at such later time as the parties may mutually agree in writing; and
  - (e) at Share Transfer Completion:
    - (i) the Transferor shall deliver (or procure the delivery of) the Sale Shares through CREST to the designated CREST account of the Transferee; and
    - (ii) the Transferee shall deliver to the Transferor (or procure the delivery to the Seller of) the total purchase price for all Sale Shares, through CREST

in immediately available sterling denominated funds to the CREST account of the Transferor.

3. The Transferor warrants to the Transferee that at Share Transfer Completion:
  - (a) it is validly constituted under its laws of incorporation;
  - (b) no order has been made, petition presented, meeting convened to consider a resolution, or resolution passed, for its winding up or for the appointment of an administrator, receiver, or trustee in bankruptcy, nor is it the subject of any analogous insolvency proceedings anywhere in the world, nor is it insolvent or unable to pay its debts as they fall due;
  - (c) a BASF group company is the sole legal and beneficial owner of the Sale Shares and there are no pledges, liens, encumbrance, security interests and / or third party rights or claims or equity of any kind on, over or affecting the Sale Shares, nor will there be any agreement, arrangement or understanding for the creation of the same, in each case other than pursuant to the proposed Share Transfer; and
  - (d) it has full capacity, power and authority to perform its obligations in connection with the Share Transfer and all consents and approvals of any other persons required therefor have been duly obtained.
  
4. The Transferee warrants to the Transferor that, as at Share Transfer Completion:
  - (a) it is validly constituted under its laws of incorporation;
  - (b) no order has been made, petition presented, meeting convened to consider a resolution, or resolution passed, for its winding up or for the appointment of an administrator, receiver, or trustee in bankruptcy, nor is it the subject of any analogous insolvency proceedings anywhere in the world, nor is it insolvent or unable to pay its debts as they fall due; and
  - (c) it has full capacity, power and authority to perform its obligations in connection with the Share Transfer and all consents and approvals of any other persons required therefor have been duly obtained.
  
5. The Transferor warrants to the Transferee, and the Transferee warrants to the Transferor, that the warranties set out at paragraphs 15 to 21 of Schedule 4 of this Agreement are true and accurate as at Share Transfer Completion.
  
6. Each of the parties warrants (in relation to past actions) and undertakes (in relation to future actions), severally (but not jointly nor joint and severally) in respect of itself only, that all actions taken or to be taken in connection with the Share Transfer, including in relation to the fulfilment of the Conditions by itself have been (and in respect of future actions only) will be taken in compliance with Anti-Bribery Law, Economic Sanctions Law and Anti-Money Laundering Law, in each case in force at the time such action was or is taken.
  
7. Subject to paragraph 8 below, the Transferor and the Transferee shall each be responsible for its own costs and expenses incurred in connection with Share Transfer.



8. The Transferee agrees that it shall be liable to pay, and (as between the Transferee and the Transferor) that it is solely responsible for reporting and accounting for, all stamp duty (together with any related costs, fines, penalties or interest) arising in respect of the Share Transfer (the *Transfer Taxes*).
9. It is agreed that: (i) no party shall have any claim or remedy in respect of any statement, representation, warranty or undertaking made by or on behalf of the other party in relation to the Share Transfer which is not expressly set out in clause 2.6 of the Agreement and this Part G of Schedule 3; and (ii) except for any liability in respect of a breach of the terms set out in clause 2.6 of the Agreement this Part G of Schedule 3 no party shall owe any duty of care or have any liability in tort or otherwise to the other party in relation to the transaction. This paragraph 9 shall not exclude any liability for, or remedy in respect of, fraudulent misrepresentation.
10. Each party acknowledges that it has made its own decision to proceed with the Share Transfer on the terms of this Part G of Schedule 3 on the basis of the information available to it and its own evaluation of the financial position and prospects of the Purchaser.
11. Each party shall from time to time and at its own cost do, execute and deliver or procure to be done, executed and delivered all such further acts, documents and things required by, and in a form satisfactory to, the other party in order to vest title in the Sale Shares in the Transferee.
12. Clauses 11, 17, 20 and 21 of this Agreement shall apply to this Part G of Schedule 3 *mutatis mutandis*, with such amendments as necessary for such clauses to apply between BASF and Letterone only.

**SCHEDULE 4**  
**BASF AND LETTERONE WARRANTIES**

1. BASF TopCo and BHE each are duly established and validly existing under the laws of their jurisdiction of incorporation and have the right, power and authority, and have taken all action necessary, to execute, deliver and exercise their rights and perform their obligations under this Agreement and each document to be executed at or before Completion to which it is expressed to be a Party.
2. Letterone TopCo and L1 Energy each are duly established and validly existing under the laws of their jurisdiction of incorporation and have the right, power and authority, and have taken all action necessary, to execute, deliver and exercise their rights and perform their obligations under this Agreement and each document to be executed at or before Completion to which it is expressed to be a Party.
3. At Completion:
  - (a) NewCo 2 will be duly established and validly existing under the laws of its jurisdiction of incorporation and have the right, power and authority, and have taken all action necessary, to execute, deliver and exercise their rights and perform its obligations under this Agreement and each document to be executed at or before Completion to which it is expressed to be a Party; and
  - (b) Each NewCo Group Company will be wholly-owned, directly or indirectly, by NewCo 2.
4. The execution and delivery of, and the performance by it of its obligations under, this Agreement and each other document to be entered into by it at Completion in accordance with their respective terms, will not:
  - (a) result in a breach of any provision of their articles of association or by-laws or equivalent constitutional documents;
  - (b) result in a breach of, or constitute a default under, any instrument to which BASF and/or Letterone is a party or by which it is bound, and which is material in the context of the transactions contemplated by this Agreement;
  - (c) result in a breach of any order, judgment or decree of any court or governmental agency to which it is a party or by which it is bound or submits, and which is material in the context of the transactions contemplated by this Agreement;
  - (d) save as referred to in clause 3, require it to obtain any consent or approval of, or give any notice to or make any registration with, any Regulatory Authority which has not been obtained or made at the date hereof both on an unconditional basis and on a basis which cannot be revoked (save pursuant to any legal or regulatory entitlement to revoke the same other than by reason of any misrepresentation or misstatement); or
  - (e) require any special resolution to be passed by the shareholders of BASF or Letterone that will not be obtained by Completion.

5. Following completion of the Spin-off, BHE will be the sole legal and beneficial owner of 72.7% of the Shares (the *BHE Shares*).
6. Following completion of the Spin-off, L1 Energy will be the sole legal and beneficial owner of 27.3% of the Shares (the *L1 Energy Shares*).
7. The BHE Shares and the L1 Energy Shares together will comprise the whole of NewCo 2's allotted and issued share capital.
8. The transfer of the Transaction Perimeter Assets from Wintershall DEA to NewCo 2 will not result in a breach of any provision of Wintershall DEA Articles or any Wintershall DEA by-laws or equivalent constitutional documents.
9. Other than this Agreement and the agreements, arrangements or obligations referenced herein, there will be no agreement, arrangement or obligation requiring the creation, allotment, issue, transfer, redemption, repurchase or repayment of, or the grant to a person of the right (conditional or not) to require the allotment, issue, transfer, redemption, repurchase or repayment of, a share or loan note in the capital of NewCo 2 (including an option or right of pre-emption or conversion).
10. BASF and Letterone have not agreed to any restrictions on the right to vote, sell or otherwise dispose of any of the Target Shares other than those waived pursuant to clause 1.2.
11. There are no outstanding obligations of NewCo 2 to, nor has BASF and Letterone resolved to, repurchase, redeem or otherwise acquire any Target Shares.
12. Each Target Share, when allotted and issued, is:
  - (a) duly authorised, validly issued, fully paid or credited as fully paid and free and clear of all Encumbrances and there will be no Encumbrance, and there will be no agreement, arrangement or obligation to create or give an Encumbrance, in relation to any of the Target Shares; and
  - (b) not issued in violation of any statutory pre-emption rights.
13. NewCo 2 does not have any subsidiary undertakings other than listed in Schedule 8.
14. Since 1 July 2023:
  - (a) the business related to the Transaction Perimeter Assets has been carried on in the ordinary course (duly taking into account the Hive-Down and the Spin-off); and
  - (b) no change has occurred in the accounting methods, principles or practices applied by a NewCo Group Company,in each case duly taking into account the Hive-Down and the Spin-off and related preparatory work.
15. None of BASF and/or Letterone, nor any of their respective officers, directors, employees or Affiliates is a Sanctioned Person.

16. None of BASF and/or Letterone nor any of their respective directors or Affiliates has engaged in or is engaging in any activity or conduct which would violate any Economic Sanctions Laws.
17. All written information provided by Letterone relating to its compliance with Economic Sanctions Laws was and remains true and accurate in all material respects.
18. Letterone will not use consideration received pursuant to this Agreement in any manner that violates any Economic Sanctions Laws and will not knowingly transfer or otherwise make available any such consideration to Sanctioned Persons where doing so would result in the relevant Seller acting in breach of Economic Sanctions Laws.
19. Letterone and BASF and their respective Affiliates are in compliance with all applicable Economic Sanctions Laws in all material respects.
20. Letterone and BASF have each instituted policies and procedures reasonably designed to ensure compliance by Letterone, BASF and each of their respective Affiliates, and their respective directors, officers and employees with applicable Economic Sanctions Laws.
21. Neither Letterone, BASF nor any of their respective Affiliates is engaged in any dealings or transactions with any Sanctioned Person, or in any country or territory that at the time of the dealing or transaction is a Sanctioned Territory, where, in each case, doing so would result in any Party acting in breach of Economic Sanctions Laws.
22. BASF and Letterone confirm that:
  - (a) save to the extent (if any) expressly set out in this Agreement, the Purchaser gives no warranty, representation or undertaking as to the accuracy or completeness of any information (including any of the forecasts, estimates, projections, statements of intent or statements of opinion) provided to any Seller or any of their respective advisers or agents (howsoever provided); and
  - (b) they do not rely on and have not been induced to enter into this Agreement on the basis of any warranties, representations, covenants, undertakings, indemnities or other statements whatsoever other than as set out in this Agreement.

**SCHEDULE 5**  
**PURCHASER WARRANTIES**

1. The Purchaser is duly established and validly existing under the laws of its jurisdiction of incorporation and has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights and perform its obligations under this Agreement and each document to be executed at or before Completion to which it is expressed to be a Party.
2. The execution and delivery of, and the performance by it of its obligations under, this Agreement and each other document to be entered into by it at Completion in accordance with their respective terms, will not:
  - (a) result in a breach of any provision of its memorandum or articles of association or by-laws or equivalent constitutional documents;
  - (b) result in a breach of, or constitute a default under, any instrument to which it is a party or by which it is bound, and which is material in the context of the transactions contemplated by this Agreement;
  - (c) result in a breach of any order, judgment or decree of any court or governmental agency to which it is a party or by which it is bound or submits, and which is material in the context of the transactions contemplated by this Agreement;
  - (d) save as referred to in clause 3, require it to obtain any consent or approval of, or give any notice to or make any registration with, any Regulatory Authority which has not been obtained or made at the date hereof both on an unconditional basis and on a basis which cannot be revoked (save pursuant to any legal or regulatory entitlement to revoke the same other than by reason of any misrepresentation or misstatement); or
  - (e) save as referred to in clause 3, require any special resolution to be passed by the shareholders of the Purchaser.
3. As at the Announcement Date, there are 770,370,830 Purchaser Shares in issue (and no Purchaser Shares are held by the Purchaser in treasury).
4. All Purchaser Shares in issue:
  - (a) have been duly authorised, validly issued and are fully paid or credited as fully paid; and
  - (b) were not issued in violation of any pre-emptive or similar rights.
5. The Purchaser has not agreed to any restrictions on the right to vote, sell or otherwise dispose of any of the Purchaser Shares other than as set out in its articles of association.
6. There are no issued or outstanding equity interests or voting securities of the Purchaser other than the Purchaser Shares.
7. There is no agreement, arrangement or obligation requiring the creation, allotment, issue, transfer, redemption or repayment of, or the grant to a person of the right

- (conditional or not) to require the allotment, issue, transfer, redemption or repayment of, a share in the capital of the Purchaser (including an option or right of pre-emption or conversion).
8. There are no options, warrants, calls, subscriptions convertible or exchangeable securities relating to shares or voting securities of the Purchaser or other rights, agreements, arrangements or commitments relating to the shares or voting securities of the Purchaser obligating the Purchaser to issue or sell any Purchaser Shares.
  9. There are no outstanding obligations of the Purchaser to, nor has the Purchaser resolved to, repurchase, redeem or otherwise acquire any Purchaser Shares.
  10. Each Consideration Share will, when allotted and issued pursuant to this Agreement:
    - (a) be duly authorised, validly issued, fully paid or credited as fully paid and free and clear of all Encumbrances;
    - (b) not have been issued in violation of any statutory pre-emption rights;
    - (c) in the case of the BHE Consideration Shares, rank *pari passu* in all respects with Existing Purchaser Shares; and
    - (d) have the right to receive in full all distributions and dividends declared on the Purchaser Shares after Completion.
  11. The Purchaser does not have any subsidiary undertakings other than listed in Schedule 7.
  12. Since 1 July 2023:
    - (a) the Purchaser Group Business has been carried on in the ordinary course; and
    - (b) no change has occurred in the accounting methods, principles or practices applied by a Purchaser Group Company.
  13. The Purchaser is and has at all times in the eighteen (18) month period prior to the Announcement Date been, in compliance in all material respects with its obligations under the Listing Rules, the Disclosure and Transparency Rules and the Market Abuse Regulation.
  14. No public announcements made by the Purchaser in the eighteen (18) months period prior to the Announcement Date contain any untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.
  15. Neither the Purchaser nor any of its Affiliates, nor any of their respective officers or directors, is a Sanctioned Person.
  16. Neither the Purchaser nor any of its respective directors, officers, employees or Affiliates has engaged in or is engaging in any activity or conduct which would violate any Economic Sanctions Laws.

17. The Purchaser and its respective Affiliates are in compliance with all applicable Economic Sanctions Laws in all material respects.
18. The Purchaser has instituted policies and procedures reasonably designed to ensure compliance by the Purchaser and its Affiliates, and its directors, officers and employees with applicable Economic Sanctions Laws.
19. Neither the Purchaser nor any of its Affiliates is engaged in any dealings or transactions with any Sanctioned Person, or in any country or territory that at the time of the dealing or transaction is a Sanctioned Territory, where, in each case, doing so would result in any Party acting in breach of Economic Sanctions Laws.
20. Each Designated Purchaser is, and will at and immediately after Completion be, a member of the Purchaser Group.
21. The Purchaser confirms and acknowledges that:
  - (a) save to the extent (if any) expressly set out in this Agreement, neither BASF nor Letterone gives any warranty, representation or undertaking as to the accuracy or completeness of any information (including any of the forecasts, estimates, projections, statements of intent or statements of opinion) provided to the Purchaser or any of its advisers or agents (howsoever provided); and
  - (b) it does not rely on and has not been induced to enter into this Agreement on the basis of any warranties, representations, covenants, undertakings, indemnities or other statements whatsoever other than as set out in this Agreement.

**SCHEDULE 6**  
**TRANSACTION PERIMETER ASSETS**

**PART A**  
**OVERVIEW**

The Transaction Perimeter Assets comprise:

1. the NewCo Group Companies listed in Schedule 8;
2. the interests in participations and joint operations listed in Part B of this Schedule 6;
3. all Upstream Interests including each of those provided in Folder 1.1.3 in the Data Room;
4. all shipper licences and rights to transportation, entry and processing capacity with upstream or downstream transmission system operators relating to the business of the NewCo Group or to the provision or marketing of hydrocarbons by any NewCo Group Company;
5. all outstanding physical commodity hedge transactions (*Commodity Hedge Transactions*) relating to the business of the NewCo Group including intercompany arrangements that relate to those Commodity Hedge Transactions;
6. all European Federation of Energy Traders (EFET) Agreements entered into by a NewCo Group Company including each of those provided in Folder 14.2 in the Data Room, and all outstanding transactions thereunder;
7. the framework agreement for the delivery and purchase of natural gas between Wintershall Dea Deutschland AG and Wintershall DEA dated as of 2 July 2019 and all outstanding transactions thereunder;
8. the basic agreement for the sale and purchase of natural gas entered into between Wintershall Dea Norge AS and Wintershall DEA as of 1 September 2020 and each Individual Contract (as defined therein) that is subject thereto;
9. the hedge agreement entered into between Wintershall DEA and Wintershall Dea Norge AS as of 1 January 2020 and all outstanding transactions thereunder;
10. all Seismic Contracts relating to the business of the NewCo Group;
11. all Gas Optimisation Contracts; and
12. the German CCS Activities.



**PART B**  
**INTERESTS IN PARTICIPATIONS AND JOINT OPERATIONS**

1. Erdgas Münster GmbH (33.7%)
2. HiiROC Limited (9.6%)
3. Soiltech AS (13.6%)
4. Earth Science Analytics AS (13.5%)
5. AMBARtec AG (24.4%)
6. Wellstarter AS (24.4%)
7. Gasoducto Cruz del Sur S.A. (10%)
8. Gas Link S.A. (5%)
9. Luna Carbon Storage ANS (60%)
10. Havstjerne ANS (60%)

**SCHEDULE 7**  
**PURCHASER SUBSIDIARIES**

1. Chrysaor (U.K.) Alpha Limited;
2. Chrysaor (U.K.) Beta Limited;
3. Chrysaor (U.K.) Delta Limited;
4. Chrysaor (U.K.) Sigma Limited;
5. Chrysaor (U.K.) Theta Limited;
6. Chrysaor (U.K.) Zeta Limited;
7. Chrysaor CNS Limited;
8. Harbour Energy Production Limited;
9. Chrysaor Developments Limited;
10. Chrysaor E&P Finance Limited;
11. Chrysaor E&P Limited;
12. Harbour Energy Services Limited;
13. Chrysaor Holdings Limited;
14. Chrysaor Limited;
15. Chrysaor Marketing Limited;
16. Harbour Energy Norge AS;
17. Chrysaor North Sea Limited;
18. Chrysaor Petroleum Company U.K. Limited;
19. Chrysaor Petroleum Limited;
20. Chrysaor Production (U.K.) Limited;
21. Chrysaor Production Holdings Limited;
22. Chrysaor Production Limited;
23. Chrysaor Resources (Irish Sea) Limited;
24. Chrysaor Resources (UK) Holdings Limited;
25. Ebury Gate Limited;
26. EnCore (NNS) Limited;
27. Encore Oil Limited;
28. FP Mauritania A BV;
29. FP Mauritania B BV;
30. Premier Oil (EnCore Petroleum) Limited;
31. Premier Oil (Vietnam) Limited;
32. Premier Oil Aberdeen Services Limited;
33. Premier Oil and Gas Services Limited;
34. Premier Oil Andaman I Limited;
35. Premier Oil Andaman Limited;
36. Premier Oil ANS Holdings Limited;
37. Premier Oil ANS Limited;
38. Premier Oil Barakuda Limited;
39. Premier Oil do Brasil Petroleo e Gas Ltda;
40. Premier Oil E&P Holdings Limited;
41. Premier Oil E&P UK Energy Trading Limited;
42. Premier Oil E&P UK EU Limited;
43. Premier Oil E&P UK Limited;
44. Premier Oil Exploration (Mauritania) Limited;
45. Premier Oil Exploration and Production Mexico S.A.de C.V.;
46. Premier Oil Far East Limited;
47. Premier Oil Finance (Jersey) Limited;

48. Premier Oil Group Holdings Limited;
49. Premier Oil Group Limited;
50. Premier Oil Holdings Limited;
51. Premier Oil Mauritania B Limited;
52. Premier Oil Mexico Holdings Limited;
53. Premier Oil Mexico Investments Limited;
54. Premier Oil Mexico Recursos S.A. de C.V.;
55. Premier Oil Natuna Sea BV;
56. Premier Oil Overseas BV;
57. Premier Oil South Andaman Limited;
58. Premier Oil Tuna BV;
59. Premier Oil UK Limited;
60. Premier Oil Vietnam 121 Limited;
61. Premier Oil Vietnam Offshore BV;
62. Chrysaor (U.K.) Britannia Limited;
63. Chrysaor (U.K.) Eta Limited;
64. Chrysaor (U.K.) Lambda Limited;
65. Viking CCS Limited;
66. Chrysaor Investments Limited;
67. Chrysaor Supply & Trading Limited;
68. EnCore (VOG) Limited;
69. EnCore CCS Limited;
70. EnCore Natural Resources Limited;
71. EnCore Oil and Gas Limited;
72. Harbour Energy Developments Limited;
73. Chrysaor Production Oil (GB) Limited;
74. Harbour Energy Secretaries Limited;
75. Chrysaor Petroleum Chemicals U.K. Limited;
76. Premier Oil B Limited;
77. Premier Oil Belgravia Holdings Limited;
78. Premier Oil Belgravia Limited;
79. Premier Oil Bukit Barat Limited;
80. Premier Oil Buton BV;
81. Premier Oil CCS Limited;
82. Premier Oil Congo (Marine IX) Limited;
83. Premier Oil Exploration and Production (Iraq) Limited;
84. Premier Oil Exploration Limited;
85. Premier Oil Exploration ONS Limited;
86. Premier Oil International Holding BV;
87. Premier Oil Investments Limited;
88. Premier Oil ONS Limited;
89. Premier Oil Pacific Limited;
90. Premier Oil Pakistan Offshore BV;
91. Premier Oil Philippines BV;
92. Premier Oil Vietnam North BV;
93. Premier Overseas Holdings Limited;
94. XEO Exploration Limited; and
95. Harbour Energy Argentina Limited.

## SCHEDULE 8 NEWCO GROUP COMPANIES

1. Wintershall Dea Global Holding GmbH
2. E & A Internationale Explorations- und Produktions -GmbH
3. Wintershall Dea Vermögensverwaltungsgesellschaft GmbH
4. Wintershall Dea Middle East GmbH
5. Wintershall Dea Insurance Limited
6. Wintershall Dea Nederland B.V.
7. Wintershall Dea Global Support B.V.
8. Wintershall Dea Carbon Management Solutions B.V.
9. Wintershall Petroleum (E&P) B.V.
10. Wintershall Dea Norge AS
11. DEA E & P GmbH
12. DEA Cyrenaica GmbH
13. DEA North Africa/Middle East GmbH
14. Wintershall Dea Suez GmbH
15. Wintershall Dea Nile GmbH
16. Wintershall Dea WND GmbH
17. Wintershall Dea Algeria GmbH
18. Wintershall Dea Argentina S.A.
19. DEA Trinidad & Tobago GmbH
20. Wintershall DEA México S. de R.L. de C.V.
21. WD México-Alemania S. de R.L. de C.V.
22. DEM Mexico Erdoel, S.A.P.I. de C.V.
23. Wintershall Dea Mexico Holding B.V.
24. Sierra Oil & Gas Holdings, L.P.
25. Sierra Oil & Gas, S. de R.L. de C.V.
26. Sierra O&G Exploracion y Produccion, S. de R.L. de C.V.
27. Sierra Offshore Exploration, S. de R.L. de C.V.
28. Sierra Perote E&P, S. de R.L. de C.V.
29. Sierra Coronado E&P, S. de R.L. de C.V.
30. Sierra Nevada E&P, S. de R.L. de C.V.
31. Sierra Blanca P&D, S. de R.L. de C.V.
32. Izta Energia, S. de R.L. de C.V.
33. Wintershall Dea Deutschland GmbH
34. Wintershall Dea International GmbH – Branch Denmark
35. Wintershall Dea International GmbH
36. Wintershall Dea Immobilien GmbH & Co. KG
37. Wintershall Dea Finance BV
38. Wintershall Dea TSC GmbH & Co. KG
39. Wintershall Dea Technology Ventures GmbH
40. Wintershall Dea Finance 2 B.V.
41. Wintershall Dea TSC Management GmbH
42. Nordkaspische Explorations- und Produktions GmbH
43. Wintershall Dea Marketing Services GmbH
44. DEA Ukraine LLC i.L.
45. Wintershall Dea South East Asia GmbH
46. Wintershall DEA Mexico Holdings GP Ltd.

**SCHEDULE 9  
FINANCIAL ADJUSTMENTS**

**PART A  
PRELIMINARY**

1. The Actual Balance Sheet Value shall be extracted from the Effective Date Balance Sheet prepared in accordance with:
  - (a) the specific accounting treatments set out in Part B of this Schedule 9;
  - (b) subject to paragraph 1(a) above, the accounting principles, policies, treatments, practices, rules, estimation techniques and procedures which were actually applied in practice in the preparation of the audited consolidated balance sheet of Wintershall DEA for the financial year ended on 31 December 2022 (the *Accounts*); and
  - (c) subject to paragraphs 1(a) and 1(b) above, IFRS in force for accounting periods ended on 31 December 2022.
2. For the avoidance of doubt, in the event of a conflict, paragraph 1(a) shall take precedence over paragraphs 1(b) and 1(c), and paragraph 1(b) shall take precedence over paragraph 1(c).
3. For calculating TPA Free Cash Flow, the same accounting principles in the same sequence as stated under paragraphs 1 and 2 of this Part A of this Schedule 9 shall apply.

**PART B**  
**SPECIFIC ACCOUNTING TREATMENTS**

1. Unless stated to the contrary in paragraphs 2 to 12 below, the Effective Date Balance Sheet and (only in relation to paragraphs (a) to (c) below) TPA Free Cash Flow shall be prepared as follows:
  - (a) on an aggregated basis by reference to the general ledgers drawn up as at the Effective Date of the NewCo Group Companies, adjusted by the transactions described in limbs (b)(i) to (b)(iv) of the definition of Seller Permitted Leakage. A full reconciliation and elimination shall be performed of intragroup balances between the NewCo Group Companies and no intragroup profit shall be included in the Actual Balance Sheet Value;
  - (b) the Actual Balance Sheet Value shall not include items that were not reflected in the Wintershall DEA Q2 Financial Statements;
  - (c) such that no item shall be included more than once in the Actual Balance Sheet Value or the TPA Free Cash Flow;
  - (d) so as to take into account information arising or received between the Effective Date and 27 July 2023 (the *Cut-Off Time*) insofar as it provides evidence of the conditions that existed at the Effective Date; and
  - (e) there shall not be a re appraisal of the value of any of the assets that comprise the Transaction Perimeter Assets solely as a result of the change in their ownership, the Spin-off or the Hive Down (or any changes in the business of the NewCo Group Companies since the Effective Date following any change in ownership).
2. No liability shall be included in the Actual Balance Sheet Value in respect of decommissioning obligations, provided that this paragraph 2 shall not exclude trade liabilities that have accrued prior to the Effective Date and which remain unpaid as at the Effective Date in respect of work performed and/or goods and services received in each case in connection with decommissioning obligations.
3. Subject to the second sentence of this paragraph 3, no provisions shall be included in the Actual Balance Sheet Value unless a provision relates to the Transaction Perimeter Assets, has been identified in the Wintershall DEA Q2 Financial Statements, but was not included in the short-term or long-term provisions balances in the "Jun23 Pro-forma" column of the balance sheet attached at Schedule 10 of this Agreement (in which case such provisions shall be included in the Actual Balance Sheet Value). For the avoidance of doubt, any provisions included in the Target Balance Sheet Value shall be included in the Actual Balance Sheet Value to the extent they relate to the Transaction Perimeter Assets.
4. The Actual Balance Sheet Value shall exclude all fixed assets and non-current assets and all intangible assets, and no balances classified as non-current or fixed assets or intangibles in the Accounts (or assets acquired after 31 December 2022 of a similar nature to such assets), shall be reclassified as current assets or vice versa or otherwise included in the Actual Balance Sheet Value.

5. The Actual Balance Sheet Value shall exclude the Disclosed Commodity Hedge Balances, provided always that, without double counting, an asset or liability (as appropriate) shall be included (on a mark-to-market tax-effected basis) in the Actual Balance Sheet Value for any commodity hedging assets or commodity hedging liabilities of the NewCo Group Companies as at the Effective Date in relation to hedges not described (including to the extent, but only to the extent, not described accurately) in Document 3.5.1.3 in the Data Room.
6. The Actual Balance Sheet Value shall exclude any liability or asset in relation to defined benefit pension arrangements that were included in the calculation of the EUR 83,000,000 amount disclosed to the Purchaser and consequently expressly excluded from the Target Balance Sheet Value. A net liability shall be included in the Actual Balance Sheet Value for each separate defined benefit pension arrangement of the NewCo Group Companies as at the Effective Date in respect of defined benefit pension arrangements that were not included in the calculation of the EUR 83,000,000. For the avoidance of doubt, net liabilities resulting from the replacement of pension arrangements in Germany as of 1 April 2023 for future service shall be considered as included in the calculation of the EUR 83,000,000 and therefore shall not be additionally included. Further, for the avoidance of doubt, no net liability shall be included in the Actual Balance Sheet Value for any employees transferring to the NewCo Group Companies under Schedule 12.
7. The Actual Balance Sheet Value shall exclude any liability for any obligations in relation to the Bonds (and shall exclude any asset in respect of capitalised debt issuance costs in relation thereto).
8. The Actual Balance Sheet Value shall exclude any deferred Tax assets and deferred Tax liabilities.
9. No asset shall be included in the Actual Balance Sheet Value in relation to: (i) Restricted Cash; or (ii) Egyptian overdue receivables, in each case as at the Effective Date.
10. No asset shall be included in the Actual Balance Sheet Value in respect of sales proceeds in relation to the sale or disposal of the Ghasha concession.
11. No asset and no liability shall be included in the Actual Balance Sheet Value in respect of intercompany non-trade payables or intercompany non-trade receivables. No assets, liabilities, obligations or provisions shall be included in the Actual Balance Sheet Value in relation to the PLTAs.
12. The Actual Balance Sheet Value shall exclude any assets, liabilities, obligations or provisions in respect of leases and inventory/inventory spares.

**PART C**  
**ADJUSTMENT STATEMENTS**

1. The Sellers shall, or shall procure that the Sellers' accountants shall:
  - (a) prepare a draft of the Effective Date Balance Sheet, including its calculation of the Effective Date Balance Sheet Value Adjustment (the *Effective Date Balance Sheet Value Adjustment Statement*), which the Sellers shall deliver to the Purchaser no earlier than 31 January 2024 and no later than fifty (50) Business Days following the Announcement Date; and
  - (b) prepare a draft statement showing the TPA Free Cash Flow, including its calculation of the Deferral Amount (the *TPA Free Cash Flow Adjustment Statement*), which the Sellers shall deliver to the Purchaser no later than fifty (50) Business Days after Completion.
2. Any single error or adjustment to a line item of the Effective Date Balance Sheet for the purposes of calculating the Effective Date Balance Sheet Value Adjustment shall only be included in the Effective Date Balance Sheet Value Adjustment Statement if the amount of such error or adjustment exceeds EUR 50,000 (after which the entirety of the error amount shall be included). Where more than one adjustment arises from the same or related subject matter, facts, events or circumstances, those adjustments may be aggregated and shall together be treated as an individual adjustment for this purpose.
3. In preparing the Effective Date Balance Sheet Value Adjustment Statement, the Sellers shall make due and careful enquiry of all relevant management personnel with knowledge of the information included in the Effective Date Balance Sheet (and in particular those personnel who were not consulted prior to the Announcement Date in connection with establishing the Target Balance Sheet Value).
4. The Purchaser shall notify the Sellers in writing either:
  - (a) within forty (40) Business Days after receipt in the event that it does not accept the Effective Date Balance Sheet Value Adjustment Statement for the purposes of this Agreement; or
  - (b) within forty (40) Business Days after receipt in the event that it does not accept the TPA Free Cash Flow Adjustment Statement for the purposes of this Agreement,(each, an *Adjustment Statement Objection Notice*).
5. An Adjustment Statement Objection Notice shall set out the Purchaser's reasons for such non-acceptance and specify each matter in dispute, the amount in dispute for each matter plus the basis for disputing each such matter or amount (in each case, in reasonable detail) and any adjustments which, in the Purchaser's opinion, should be made to the Adjustment Statement in order for it to comply with the requirements of this Agreement. Except for the matters set out in the Adjustment Statement Objection Notice in accordance with the foregoing requirements, the Purchaser shall be deemed to have agreed the Adjustment Statement in full which shall be final and binding on the Parties for all purposes. If the Purchaser fails to provide an Adjustment Statement



Objection Notice to the Seller in accordance with this paragraph 5, then the Adjustment Statement shall be final and binding on the parties to this Agreement for all purposes in respect of the matters set out therein.

6. If the Purchaser serves an Adjustment Statement Objection Notice in accordance with paragraph 4 of this Part C of Schedule 9, the Purchaser and the Sellers shall use all reasonable efforts to meet promptly to discuss the objections of the Purchaser and use all reasonable efforts to agree in writing the adjustments (if any) required to be made to the Adjustment Statement, in each case within thirty (30) Business Days after receipt by the Sellers of the Adjustment Statement Objection Notice.
7. If the Sellers and the Purchaser reach agreement on the matters raised in the Adjustment Statement Objection Notice within such period, the revised Adjustment Statement in the form agreed between the Sellers and the Purchaser shall be final and binding on the parties to this Agreement for all purposes in respect of the matters set out therein.
8. Until the Adjustment Statement is agreed or determined, the Sellers and the Purchaser shall and shall procure that each NewCo Group Company, BASF Undertaking, Letterone Undertaking, Wintershall DEA Group Company and Purchaser Group Company (as relevant) shall each (at their own cost):
  - (a) maintain in their possession or control, and not destroy, all the books, accounts and other records held by them which are relevant to this Agreement or determination of the Effective Date Balance Sheet and TPA Free Cash Flow; and
  - (b) subject to paragraph 9 of this Part C of Schedule 9, ensure that the other Parties and their accountants, advisers and representatives are given access at reasonable times to (and the right to take hard or electronic copies of) books, accounts and other accounting records in their respective possession or control (including their and their accountants' working papers), as well as reasonable access to relevant management personnel and premises, in each case which are relevant to the preparation, review, agreement or determination of the Adjustment Statement.
9. For the avoidance of doubt, none of the provisions of this Schedule 9 shall oblige either of the Sellers or the Purchaser (or any BASF Undertaking, Letterone Undertaking, Wintershall DEA Group Company and Purchaser Group Company) to disclose any information or document that is the subject of legal professional privilege (including litigation privilege and legal advice privilege) or constitutes advice from any other of its advisers.

**PART D**  
**EXPERT DETERMINATION**

1. If the Parties do not reach agreement on the matters raised in the Adjustment Statement Objection Notice within thirty (30) Business Days after receipt of the Adjustment Statement Objection Notice, then those matters in dispute which have been identified in the Adjustment Statement Objection Notice (the *Matters in Dispute*) may be referred by any of the relevant parties acting together or individually for determination by an independent expert (the *Independent Expert*).
2. The Independent Expert shall be an independent firm of chartered accountants of international repute that has suitable experience of determining disputes in relation to the Matters in Dispute, that is:
  - (a) agreed between the Sellers and the Purchaser within ten (10) Business Days of receipt of the relevant notice regarding the Matters in Dispute; or
  - (b) failing agreement within the time specified in paragraph (a) above, nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales (the *ICAEW*) on the joint application of the Sellers and the Purchaser, provided that if one party will not undertake a joint application, the other(s) shall be permitted to make such application on its own following the grant of a court order for such nomination to be made by the ICAEW (and such application shall not be challenged by the other party).
3. If relevant, the Sellers and the Purchaser shall co-operate fully and promptly in all actions necessary to make a joint application to the ICAEW for the nomination of the Independent Expert in accordance with paragraph 2(b) including (but not limited to) completing and signing all required forms, indemnities and other documentation. Any fees, charges or expenses incurred in connection with the application (including fees charged by the ICAEW and the costs of any associated court order) shall be split equally between the Purchaser, BASF and Letterone, or where only two (2) parties are party to the Matters in Dispute, equally between the Purchaser on the one hand, and BASF or Letterone (as relevant) on the other hand.
4. If:
  - (a) the Independent Expert agreed or nominated under paragraph 2 above refuses to accept the appointment; or
  - (b) the Independent Expert becomes unwilling to act or continue to act,the relevant Independent Expert shall be treated as never having become the Independent Expert for the purposes of this Agreement and the procedure set out in paragraphs 1 to 3 above shall be repeated as often as is necessary until the Matters in Dispute have been settled between the relevant parties (but so that any expert previously agreed or nominated shall not be appointed again unless all of the parties to the Matters in Dispute agree in writing).
5. The Sellers and the Purchaser shall each agree the terms of engagement, including any terms of reference and the procedures to be followed to resolve the Matters in Dispute

(the *Terms*) with the Independent Expert as soon as reasonably practicable after the Independent Expert is agreed between them or nominated by the ICAEW and will not withhold or delay their consent to the Terms proposed by the Independent Expert (which may include hold harmless or similar provisions) if they are reasonable. The Sellers and the Purchaser shall share equally (on a several basis) any indemnification or other similar obligations owed to the Independent Expert pursuant to the Terms. Notwithstanding the foregoing, if the Terms have not been agreed within ten (10) Business Days after the Independent Expert is agreed or nominated, then either of the Sellers or the Purchaser may require the Independent Expert to determine the Terms on the basis of its standard terms and conditions for such an appointment, taking into account any comments made by the parties and the provisions of paragraphs 6.

6. The Independent Expert shall be requested to make its determination on the Matters in Dispute as soon as reasonably practicable after the end of the period referred to in paragraph 6(c) (or such other date as each of the Sellers and the Purchaser agree in writing). The following procedures shall be applied to resolve the Matters in Dispute:
  - (a) the Sellers and the Purchaser shall each prepare a written statement on the Matters in Dispute (each a *First Statement*) which (together with the relevant supporting documents) shall be submitted to the Independent Expert for determination within fifteen (15) Business Days after the date of execution of the Terms and shared by the Independent Expert simultaneously with the other party/parties once it has received a First Statement from all parties (or after the expiry of the deadline referred to in this paragraph 6(a));
  - (b) each party's First Statement shall set out for each Matter in Dispute: (i) the nature of the Matter in Dispute; (ii) the information and evidence that supports the view of that party; and (iii) its calculation of the Matter in Dispute;
  - (c) following delivery of their respective First Statements, the Purchaser and the Sellers shall each have the opportunity to comment once only on the other's First Statement (and shall not be permitted to introduce new points or matters in dispute) by written comment delivered to the Independent Expert within ten (10) Business Days after receipt of the other's First Statement and shared by the Independent Expert simultaneously with the other party/parties once it has received a comments from all parties (or after the expiry of the deadline referred to in this paragraph 6(c));
  - (d) following the expiry of the period referred to in paragraph 6(c) neither the Sellers nor the Purchaser shall be entitled to make further statements or submissions or adduce further information or documents to the Independent Expert except insofar as the Independent Expert so requests or directs (in which case they shall, on each occasion, give the relevant party a reasonable period of time to respond, and thereafter the other party a reasonable period of time to respond to any statements or submission so made);
  - (e) the Sellers and Purchaser shall each co-operate fully with the Independent Expert and comply in a timely manner with all reasonable requests made by it in relation to its determination;

- (f) if the Sellers or the Purchaser fails to make any submission, comment or statement, or to provide any information or documents in accordance with this paragraph 6 or otherwise as requested by the Independent Expert, the Independent Expert shall be entitled to base its determination upon the information properly provided to it;
  - (g) the Independent Expert shall only make a determination on each of the Matters in Dispute of an amount that is within the range of calculations provided by the Sellers or the Purchaser in the Adjustment Statement or Adjustment Statement Objection Notice and shall not review or make any determination with respect to any matter other than the Matters in Dispute;
  - (h) if the Independent Expert determines that certain of the Matters in Dispute are questions of law, the Independent Expert must seek a written opinion from a King's Counsel nominated by the Independent Expert in relation to such matters, and rely on this opinion for the purposes of making its determination;
  - (i) the Independent Expert shall make its determination as soon as reasonably practicable and, in any event, within twenty (20) Business Days from its last request for information from any party;
  - (j) if the Independent Expert determines that it lacks sufficient evidence or information to determine the Matters in Dispute, it may decline to provide a determination and clause 21 shall apply; and
  - (k) the Independent Expert shall act as an expert (and not as an arbitrator) in making its determination which shall, in the absence of: (i) fraud by or collusion between the parties and/or the Independent Expert; or (ii) manifest error by the Independent Expert, be final and binding on the Parties and, without prejudice to any other rights which they may respectively have under this Agreement, the parties expressly waive, to the extent permitted by law, any rights of recourse they may otherwise have to challenge it. In the case of manifest error by the Independent Expert the determination shall be null and void and shall be remitted to the Independent Expert for correction.
7. The Sellers and the Purchaser shall each be responsible for their own costs in connection with the preparation, review and agreement or determination of the relevant Matters in Dispute. The fees and expenses of the Independent Expert (including any advisers appointed by the Independent Expert) shall be allocated based on the inverse proportion of success of the Sellers or the Purchaser respectively in relation to the Matters in Dispute.

**PART E**  
**FINANCIAL ADJUSTMENTS**

1. When the Effective Date Balance Sheet or TPA Free Cash Flow (as applicable) has been finally agreed between the Sellers and the Purchaser in accordance Part C of this Schedule 9 or determined in accordance with Part D this Schedule 9, the following payments shall be made within ten (10) Business Days of such determination:
  - (a) If applicable pursuant to clause 2.2.2(e)(ii):
    - (i) if the Effective Date Balance Sheet Value Adjustment is greater than the Provisional Balance Sheet Value Adjustment, then the Purchaser shall pay an aggregate amount equal to the difference to the Sellers (and of such amount, to each Seller its Seller Relevant Proportion of such amount); or
    - (ii) if the Effective Date Balance Sheet Value Adjustment is less than the Provisional Balance Sheet Value Adjustment, then the Sellers shall pay an aggregate amount equal to the difference to the Purchaser (and of such amount, each Seller shall pay its Seller Relevant Proportion of such amount).
  - (b) In relation to the Deferral Amount:
    - (i) if the Deferral Amount is less than the Estimated Deferral Amount, then the Purchaser shall pay an aggregate amount equal to the difference to the Sellers (and of such amount, to each Seller its Seller Relevant Proportion of such amount); or
    - (ii) if the Deferral Amount is greater than the Estimated Deferral Amount, then the Sellers shall pay an aggregate amount equal to the difference to the Purchaser (and of such amount, each Seller shall pay its Seller Relevant Proportion of such amount).
2. Any payment made pursuant to paragraph 1 of this Part E of Schedule 9 shall be made in accordance with the provisions of clause 14 of this Agreement.

**SCHEDULE 10**  
**EFFECTIVE DATE BALANCE SHEET FORMAT**

## Target Balance Sheet Value

€ in millions	" Jun23 Pro-forma**	BCA Schedule 9 Part B	
		Included	Excluded
Fixed assets	12,707	-	12,707
Other non-current assets	240	-	240
<b>Non-current asset</b>	<b>12,947</b>	<b>-</b>	<b>12,947</b>
Cash at banks at cost	97	97	-
Restricted cash	243	-	243
Petty cash	0	0	-
Cash & cash equivalents	340	97	243
Commodity Derivative Assets - ST	79	-	79
Financial Derivative Assets - ST	6	6	-
Derivative Assets	85	6	79
Financial receivables	121	7	114
Income tax assets - ST	3	3	-
Inventories	165	-	165
Other receivables - ST	266	266	-
Other trade receivables from all other parties	5	5	-
Trade receivables revenues from all other parties	477	477	-
Egyptian overdue receivables	200	-	200
Trade receivables revenues from consolidated subsidiaries	97	97	-
Trade receivables	779	579	200
Trade & other receivables	1,046	846	200
<b>Current assets</b>	<b>1,761</b>	<b>959</b>	<b>802</b>
<b>Total assets</b>	<b>14,708</b>	<b>959</b>	<b>13,749</b>
Deferred tax liabilities	(3,558)	-	(3,558)
Commodity Derivative Liabilities - LT	(273)	-	(273)
Financial Derivative Liabilities - LT	(53)	(53)	-
Derivative Liabilities	(326)	(53)	(273)
Ported Bonds - LT	(2,992)	-	(2,992)
Other bonds or financial debt	-	-	-
Financial liabilities to consolidated subsidiaries - LT	(0)	-	(0)
Lease liabilities - LT	(95)	-	(95)
Liabilities for financial guarantees at FVPL - LT	(3)	(3)	-
Financial debt - LT	(3,090)	(3)	(3,087)
Income tax liabilities - LT	(3)	(3)	-
Other liabilities - LT	(18)	(18)	-
Decommissioning provisions - LT	(1,998)	-	(1,998)
Other provisions - LT	(75)	-	(75)
Pension provisions - LT	(83)	-	(83)
Provisions - LT	(2,155)	-	(2,155)
<b>Non-current liabilities</b>	<b>(9,151)</b>	<b>(77)</b>	<b>(9,074)</b>
Commodity Derivative Liabilities - ST	(733)	-	(733)
Financial Derivative Liabilities - ST	(38)	(38)	-
Derivative Liabilities	(771)	(38)	(733)
Ported Bonds - ST	-	-	-
Other bonds or financial debt - ST	-	-	-
Financial liabilities to consolidated subsidiaries - ST	(7)	-	(7)
Lease liabilities - ST	(28)	-	(28)
Financial debt - ST	(36)	-	(36)
Income tax liabilities	(922)	(922)	-
Decommissioning provisions - ST	(120)	-	(120)
Other provisions - ST	(179)	-	(179)
Provisions - ST	(299)	-	(299)

Other liabilities - ST	(475)	(475)	-
Trade payables	(392)	(392)	-
Trade & other payables	(868)	(868)	-
<b>Current liabilities</b>	<b>(2,895)</b>	<b>(1,828)</b>	<b>(1,067)</b>
<b>Total Liabilities</b>	<b>(12,046)</b>	<b>(1,905)</b>	<b>(10,141)</b>
<b>Net assets</b>	<b>2,662</b>	<b>(946)</b>	<b>3,608</b>
<b>thereof</b>			
Ported Hybrid Bonds	1,521	-	1,521
Other equity	1,141	(946)	2,087
<b>TARGET BALANCE SHEET VALUE</b>		<b>(946)</b>	<b>3,608</b>

\* **Note:** In the event of any conflict between (a) this Schedule 10 and (b) the remainder of the Business Combination Agreement (and in particular, Schedule 9 of the same), then (b) shall prevail over (a).



## SCHEDULE 11 STEPS PLAN

No.	Step	Comments
1.	Adoption ( <i>Feststellung</i> ) and audit of the balance sheet of Wintershall DEA to serve as the closing balance sheet ( <i>Schlussbilanz</i> ) for the purposes of the Spin-off	Closing balance sheet must not be older than eight (8) months at the time of commercial register filing (step 6). If, for example, annual financial statements of Wintershall DEA for the 2023 financial year shall be used as the closing balance sheet, commercial register filing must take place before 31 August 2024. If a registration based on the regular annual financial statements is not feasible due to lapse of the 8-months-period, an interim balance sheet ( <i>Zwischenbilanz</i> ) must be prepared, adopted and audited, so that commercial register filing can be done on that basis
2.	Submission of the draft Spin-off agreement to Wintershall DEA's works council	Must take place at least one (1) month prior to step 3
3.	<p>Notarisation of</p> <p>i. the Spin-off agreement (<i>Spaltungsvertrag</i>); and</p> <p>ii. shareholders' resolution to be passed by BHE and L1 Energy at Wintershall DEA regarding</p> <ul style="list-style-type: none"> <li>• the Spin-off agreement (<i>Spaltungsvertrag</i>);</li> <li>• waiver declarations to be issued by BHE and L1 Energy with respect to</li> </ul> <p style="margin-left: 40px;">- preparing a Spin-off report</p> <p>(<i>Spaltungsbericht</i>);</p> <ul style="list-style-type: none"> <li>- carrying out a Spin-off audit (<i>Spaltungsprüfung</i>) and to prepare a Spin-off audit report (<i>Spaltungsprüfbericht</i>);</li> <li>- submitting the (draft) Spin-off agreement to the commercial register in advance of the shareholders' meeting;</li> <li>- formalities with regard to convening and holding the shareholders' meeting at Wintershall DEA, including the provision of documents;</li> <li>- granting of compensation/newly created shares in NewCo 2;</li> <li>- challenging the Spin-off resolution;</li> <li>- submission of a cash compensation offer by Wintershall DEA.</li> </ul>	Must take place at least one (1) month later than step 2
4.	Execution of the confirmation regarding the continuing coverage of the share capital of	Must take place before step 6

No.	Step	Comments
	Wintershall DEA by its net assets ( <i>Kapitaldeckungserklärung</i> ) by the management board of Wintershall DEA	
5.	<p>Application for registration of the Spin-Off with the commercial register of NewCo 2 by the managing directors of NewCo 2, incl. in particular</p> <ul style="list-style-type: none"> <li>• Spin-off agreement (Spaltungsvertrag);</li> <li>• Spin-off resolution (Spaltungsbeschluss);</li> <li>• evidence of submission to the competent works council at Wintershall DEA.</li> </ul>	-
6.	<p>Application for registration of the Spin-off with the commercial register of Wintershall DEA by the management board of Wintershall DEA, incl. in particular</p> <ul style="list-style-type: none"> <li>• Spin-off agreement (Spaltungvertrag);</li> <li>• Spin-off resolution (Spaltungsbeschluss);</li> <li>• evidence of submission to the competent works council at Wintershall DEA;</li> </ul> <p>closing balance sheet of Wintershall DEA.</p> <ul style="list-style-type: none"> <li>• confirmation by the management board of Wintershall DEA regarding the continuing coverage of the share capital of Wintershall DEA by its net assets (<i>Kapitaldeckungserklärung</i>);</li> </ul> <p>evidence that Wintershall DEA has been in existence for at least two (2) years.</p>	At the time of commercial register filing, closing balance sheet must not be older than eight (8) months (see step 1)
7.	Registration of the Spin-off with the commercial register of NewCo 2	Must take place before step 8.
8.	Registration of the Spin-off with the commercial register of Wintershall DEA	Due to the registration of the Spin-off with the commercial register of Wintershall DEA, the Spin-off becomes effective

## SCHEDULE 12 EMPLOYMENT

1. The Purchaser plans, expects, and confirms its intention, for a period of twelve (12) months following the Completion Date, and in relation to all employees employed with NewCo Group Companies on the Completion Date who remain employees of the NewCo Group Companies in the twelve (12) month period following the Completion Date (*Protected Employees*):
  - (a) not to make any material amendments to or terminate any existing shop agreements (*Betriebsvereinbarungen*), collective bargaining agreements (*Tarifverträge*) or similar agreements, in particular relating to work conditions, of Protected Employees;
  - (b) not to make any material changes to the existing pension plans for Protected Employees;
  - (c) not to implement compulsory redundancies (*betriebsbedingte Kündigungen*) of Protected Employees;
  - (d) to continue to grant a total compensation and benefit package to Protected Employees, which in the aggregate is no less favourable than the compensation and benefit package of the Protected Employees immediately prior to the Completion Date;
  - (e) to ensure that, if the new place of work of a Protected Employee is not within a reasonable radius from the previous workplace prior to the Completion Date, the Purchaser shall offer hybrid working solutions in line with applicable hybrid working solutions at the Purchaser for a duration of not less than eighteen (18) months after the Completion Date which entitles the Protected Employee to render their contractual services under their employment contract at least partially from their home office or by way of mobile work; and
  - (f) to provide alternative incentive schemes to the Target Incentive Schemes for those Protected Employees who participated in the Target Incentive Schemes immediately prior to the Completion Date, such incentive schemes to be materially comparable with incentive schemes applicable to other employees of the Purchaser Group, and in each case no less favourable for the Protected Employees than the existing Target Incentive Schemes.
  
2. It is the intention of the Purchaser to seamlessly continue, and the intention of BASF and Letterone to enable such continuation of, the operation of the NewCo Group as from Completion. To achieve this objective, BASF and Letterone are willing to grant the Purchaser the right to offer employment to: (i) selected headquarter employees of Wintershall DEA located in Wintershall DEA's headquarters in Kassel and Hamburg, Germany; and (ii) to selected employees of subsidiaries of Wintershall DEA dedicated to headquarter functions as determined by BASF and Letterone, which in each case (i) and (ii) are not already captured by the Transaction Perimeter Assets (together, the *HQ Employees*), through a transfer from Wintershall DEA or the relevant subsidiary of Wintershall DEA employing the HQ Employees (together hereinafter the *HQ Employers*) to a company that will be a NewCo Group Company following the Spin-

off on an "offer and acceptance" basis, subject to the terms and conditions of this paragraph 2:

- (a) No later than 30 days after the Announcement Date, BASF and Letterone shall procure that Wintershall DEA provides to the Purchaser an anonymised list of all HQ Employees as of the date hereof, including the respective employer, location, FTE status and position / job title as well as org-code. Further, BASF and Letterone will procure that Wintershall DEA provides reasonable assistance to the Purchaser in building an organisational structure on its own.
- (b) As soon as reasonably practicable, but in any event no later than ninety (90) days after having been provided with the HQ Employees list under paragraph (a), the Purchaser shall notify BASF and Letterone in writing in relation to which job roles (including job location and eligibility for application) are in the Purchaser's view required to seamlessly continue the operation of the NewCo Group (the **Internal Job Vacancies**). BASF and Letterone shall procure that Wintershall DEA provides a copy of the Internal Job Vacancies to the NewCo Group Companies as determined by the Purchaser and, subject to Applicable Law and company regulations in collective agreements, publishes the Internal Job Vacancies: (i) in a way accessible for all HQ Employees; and (ii) providing for the option that the HQ Employee can expressly consent that their application and all relevant details of their employment with the HQ Employer, including but not limited to their employment contract, respective entry date and term of (recognised) service, compensation and benefit structure (including, if applicable, target amount of variable compensation) and pension entitlements can be made accessible to the Purchaser. The Internal Job Vacancies shall be accessible for all HQ Employees for a period of four (4) weeks, during which HQ Employees will be required to submit an application (the **Application Period**). To the extent the process described in the foregoing conflicts with Applicable Law in collective agreements on posting of job vacancies and/or on guiding principles for filling job vacancies, BASF and Letterone will discuss in good faith with Purchaser solutions to establish an alternative process which achieves to the best reasonably possible extent the result of the process described in the foregoing.
- (c) Prior to notification of the Internal Job Vacancies, the Parties shall agree on a communication concept providing for the possibility for the Purchaser to present itself and undertake joint interviews as required and in order to work towards convincing the relevant HQ Employees to apply for the Internal Job Vacancies at the respective NewCo Group Company. BASF and Letterone shall not, and shall procure that the HQ Employers shall not, take any action that could incentivise HQ Employees to refrain from applying to the Internal Job Vacancies. For the avoidance of doubt, defining social plan conditions in the social plan negotiations with Wintershall DEA's works council which are appropriate (in the reasonable opinion of BASF and Letterone) must not be seen as incentive to refrain from applying.
- (d) If requested by the Purchaser, BASF and Letterone shall procure that during the Application Period, Wintershall DEA facilitates the Purchaser undertaking joint interviews with the Transferring HQ Employees and the relevant HQ Employer and/or arranges for a joint meeting with the Purchaser, the HQ Employer and

the respective Transferring HQ Employees (either in person or via video conference system, as practical and in line with usual business practices at the HQ Employer), in which the Purchaser answers questions raised by the respective Transferring HQ Employees. If a HQ Employee submits an application shortly after the closure of the Application Period, BASF and Letterone will discuss in good faith with the Purchaser whether the application can and will still be considered.

- (e) As soon as reasonably possible, but in any event no later than sixty (60) days after the closure of the Application Period, the Purchaser shall review applications for Internal Job Vacancies and shall notify BASF and Letterone in writing as to the HQ Employees the Purchaser intends to transfer to a NewCo Group Company in accordance with the following provisions of this paragraph 2 (the *Transferring HQ Employees*).
- (f) Following the Purchaser's notification to BASF and Letterone of the Transferring HQ Employees, BASF and Letterone shall procure that the respective NewCo Group Company as determined by the Purchaser shall make an offer of employment within fourteen (14) days in accordance with the following provisions of this paragraph 2.
- (g) Each offer of employment to a Transferring HQ Employee shall be aligned in good faith between the Purchaser, BASF and Letterone and shall include the following terms:
  - (i) subject to paragraph 2(k) below, a commencement of employment with the respective NewCo Group Company as of the day following Completion or, if agreed between all Parties (BASF, Letterone, Wintershall DEA, Purchaser, relevant NewCo Group Company and HQ Employee), at any earlier point in time after closure of the Application Period;
  - (ii) an employment relationship recognising continuous service with the HQ Employer or recognised by the HQ Employer;
  - (iii) a total compensation and benefit package, which in the aggregate is no less favourable than the compensation and benefit package at the relevant HQ Employer prior to the transfer, including, if applicable and legally feasible, a full assumption with discharging effect (*mit schuldbefreiender Wirkung*) for the HQ Employer of the individual pension promise applicable to the relevant HQ Employee immediately prior to the transfer, including past service;
  - (iv) if the new place of work is not within a reasonable radius from the previous workplace of the respective Transferring HQ Employees, the Purchaser shall offer hybrid working solutions in line with applicable hybrid working solutions at the Purchaser for a duration of not less than eighteen (18) months after the Completion Date which entitles the Transferring HQ Employees to render their contractual services under their employment

contract at least partially from their home office or by way of mobile work; and

- (v) the right of the employer to terminate the employment contract (except for good cause as defined in Section 626 of the German Civil Code (*wichtiger Grund nach § 626 BGB*)), shall be excluded for the first twelve (12) months of employment.
- (h) BASF and Letterone shall procure that the HQ Employers shall inform the Purchaser without undue delay of each offer of employment made to the HQ Employees. BASF and Letterone will procure that the respective HQ Employer will then contact the relevant Transferring HQ Employee to discuss termination possibilities and that the respective HQ Employer offer the relevant Transferring HQ Employees to release them from employment with the relevant HQ Employer in time, if they consider accepting the offer of employment with the respective NewCo Group Company as previously determined by the Purchaser.
- (i) The Transferring HQ Employees, to whom an offer of employment has been made, shall be required to accept such offer within a period of two (2) weeks after receipt of the offer of employment. If a Transferring HQ Employee accepts an offer of employment shortly after the closure of the two (2) weeks' period, BASF and Letterone will discuss in good faith with the Purchaser whether the acceptance of the offer can and will still be considered.
- (j) If an offer of employment is accepted by a Transferring HQ Employee (each a ***Transferred HQ Employee***): (i) BASF, Letterone and the HQ Employers shall inform the Purchaser of that fact no later than five (5) days after receipt of the relevant acceptance; and (ii) BASF and Letterone shall procure that the respective HQ Employer will make the respective Transferred HQ Employee an offer to conclude a termination agreement with the relevant HQ Employer, which shall become effective upon the Completion Date. Any costs associated with the termination of employment with the HQ Employers (if any) shall be ultimately borne by the respective HQ Employer, provided that offers have been made in accordance with paragraph 2(h) above.
- (k) Under the “offer and acceptance” approach described above (i.e., in absence of a TUPE Transfer), and save for the transfer of pension entitlements of the Transferred HQ Employees with discharging effect for the HQ Employers in line with paragraph 2(g)(iii) above, the HQ Employers shall retain, and the respective NewCo Group Company shall not assume, any liabilities with respect to the Transferred HQ Employees in relation to time periods before the Completion Date, including but not limited to: (i) any liabilities that have become due prior to Completion Date; (ii) any liabilities accrued under a bonus program and/or Target Incentive Scheme, to the extent such liabilities relate to a period prior to the Completion Date; and (iii) any claims of Transferred HQ Employees relating to holiday and overtime relation to periods until and including the Completion Date. BASF and Letterone shall, and shall cause the HQ Employers to, indemnify the Purchaser and/or the respective NewCo Group Company, as the case may be, from any and all liabilities set forth in this paragraph 2(k).

- (l) The Parties assume that none of the employment relationships of the HQ Employees will transfer to a NewCo Group Company by operation of law according to Section 613 a German Civil Code (BGB) or similar local laws implementing the Acquired Rights Directive or otherwise providing for a similar automatic transfer of employment (the **TUPE Transfer**) and will cooperate in good faith to assess the risk of triggering a potential TUPE Transfer, acknowledging that such risk depends in particular on the Purchaser's choice of HQ Employees to which an offer of employment is made by a NewCo Group Company. If the employment relationship of an employee of the HQ Employers is alleged to have transferred to a NewCo Group Company by way of a TUPE Transfer, the Parties will cooperate in good faith and use reasonable efforts to defend and dismiss any such claim, and all related costs shall be borne by the Purchaser. If any employee of the HQ Employers is found to have actually transferred to a NewCo Group Company by way of a TUPE Transfer (the **Excess Employee**), all obligations and liabilities under and in connection with the employment and termination of employment, if applicable, of such Excess Employee, including but not limited to total compensation and benefits, pension obligations, costs of continued employment, social security contribution, reasonable severance payments (including severance payment resulting from collective agreements), court fees and reasonable legal fees, shall be borne by the Purchaser (regardless of the period of employment to which they relate).
- (m) The Parties will cooperate in good faith with regard to any necessary information or consultation obligations that arise with competent employee representative bodies and employees in connection with the transfer of HQ Employees and will keep each other reasonably informed in this regard, whereby they assume that in absence of a TUPE Transfer, no change of operation (*Betriebsänderung*) will be triggered by the employee transfers and that therefore, no balance of interests process (*Interessenausgleichsverfahren*) with Wintershall DEA's competent works council will be required. If contrary to the Parties' expectations, a balance of interests process becomes necessary, which would be the case in particular if a TUPE Transfer was triggered or if the transfer of HQ Employees would be considered a restriction of operation, BASF and Letterone will procure that such balance of interests process is duly carried out by Wintershall DEA prior to implementation of the employee transfers and the Parties will ensure that the transfers shall be delayed accordingly until the process has been completed. The foregoing shall apply *mutatis mutandis* in case any consultation obligations arise in other jurisdictions in connection with the transfer of HQ Employees from other HQ Employers.
- (n) For the avoidance of doubt, to the extent a transfer of the selected HQ Employees cannot be effected as agreed, the Purchaser assumes no obligation in relation to those HQ Employees.
- (o) The number of Transferring HQ Employees notified by the Purchaser to BASF and Letterone shall be a minimum of 120, each of which shall be selected by the Purchaser in its absolute discretion.
3. There are currently several employees with a (dormant) home country employment relationship with Wintershall DEA, or, in few cases, with a subsidiary of Wintershall DEA not qualifying as NewCo Group Company (**Out-of-Scope Home Employer**), who

are temporarily delegated to NewCo Group Companies (*NewCo Host Employers*) and who are active at such NewCo Host Employers based on a temporary local employment contract with the NewCo Host Employers (the *NewCo Delegates*). Vice versa, there are currently several employees with a (dormant) home country employment relationship with a NewCo Group Company (*NewCo Home Employers*) who are temporarily delegated to Wintershall DEA and who are active at Wintershall DEA based on a temporary local employment contract with Wintershall DEA (the *Wintershall DEA Delegates*).

- (a) BASF and Letterone will use all reasonable endeavours to procure that at the latest on the Completion Date, the (dormant) home country employment relationship of the NewCo Delegates with Wintershall DEA or any Out-of-Scope Home Employer (as applicable) who are delegated to a NewCo Group Company in Germany, Argentina, Egypt, Norway and Mexico (the *In-Scope NewCo Delegates*) is transferred unchanged to: (i) Wintershall DEA Deutschland GmbH as regards NewCo Delegates with a dormant home country employment relationship with Wintershall DEA; or (ii) as regards the few NewCo Delegates with a dormant home country employment relationship with an Out-of-Scope Home Employer, to a NewCo Group Company to be determined by Wintershall DEA in consultation with the Purchaser. The transfers of the employment relationships shall be implemented with all obligations and liabilities thereunder (including but not limited to all past service pension obligations) and fully discharging Wintershall DEA and each Out-of-Scope Home Employer, in respect of all such all obligations and liabilities, while the delegation with the NewCo Host Employer is continued unchanged. If an In-Scope NewCo Delegate does not consent to the transfer of its home country employment relationship (an *Objecting In-Scope NewCo Delegate*), BASF and Letterone will procure that the delegation to the NewCo Host Employer is terminated at the latest upon Completion, unless it terminates earlier automatically due to the expiry of the term of the relevant delegation arrangement.
  - (b) The NewCo Delegates who do not qualify as In-Scope NewCo Delegates because they are delegated to a NewCo Group Company in other jurisdictions than the ones listed in paragraph 3(a) above (the *Out-of-Scope NewCo Delegates*) shall be included in the Internal Job Vacancies process set out in paragraph 2 above and the provisions of paragraph 2(b) to 2(n) shall apply accordingly with the proviso that: (i) if the Purchaser decides not to make an offer to an Out-of-Scope NewCo Delegate; or (ii) if an offer is made but rejected by the Out-of-Scope NewCo Delegate, the relevant Out-of-Scope NewCo Delegate shall be treated as Objecting In-Scope NewCo Delegate in line with paragraph 3(a) above. Transferring Out-of-Scope NewCo Delegates, if any, shall not count towards the minimum number of Transferring HQ Employees notified by the Purchaser to BASF and Letterone pursuant to paragraph 2(o) above.
  - (c) BASF and Letterone will procure that Wintershall DEA and the NewCo Home Employers terminate the delegation of the Wintershall DEA Delegates at the latest upon Completion, unless such delegation terminates earlier automatically due to the expiry of the term of the relevant delegation arrangement.
4. The term "TSA Employee" shall have the meaning ascribed to it in the transitional services agreement entered into between the Purchaser and Wintershall Dea pursuant



to clause 5.10.8 of this Agreement (the *TSA*). In respect of those TSA Employees who are Transferred HQ Employees pursuant to paragraph 2(j) of this Schedule 12 (the *Transferred HQ TSA Employees*), the Parties agree that:

- (a) the Transferred HQ TSA Employees shall count towards the minimum number of Transferring HQ Employees notified by the Purchaser to BASF and Letterone pursuant to paragraph 2(o) above;
- (b) in the case of Transferred HQ TSA Employees only:
  - (i) the commencement date of the offer of employment under paragraph 2(g)(i) shall be the day following the date the relevant Transferred HQ TSA Employee's services are no longer required under the transitional services agreement (such date to be determined by Wintershall Dea in accordance with the terms of the TSA) rather than the day following the Completion Date (the *TSA Services End Date*);
  - (ii) the termination agreement required by the provisions of paragraph 2(j) shall be effective from the TSA Services End Date rather than the Completion Date;
  - (iii) the Parties obligations under paragraph 2(k) of this Schedule 12 shall be varied such that they operate with effect from the TSA Services End Date rather than the Completion Date.

All other provisions of paragraph 2 of this Schedule 12 as applicable to Transferred HQ Employees shall apply to the Transferred HQ TSA Employees.

5. The Parties have agreed that 22 employees of Wintershall DEA (or such other Wintershall Dea Group Company as may be agreed between the parties) (who have been agreed between the Parties in good faith) shall be offered employment with a NewCo Group Company with effect from the Completion Date (the *Wintershall DEA Employees*). The Parties agree that the provisions of paragraphs 2(g) and 2(j) to 2(n) of this Schedule 12 shall apply to the Wintershall DEA Employees and the Wintershall DEA Employees who do in fact transfer to a NewCo Group Company with effect from Completion shall count towards the minimum number of Transferring HQ Employees notified by the Purchaser to BASF and Letterone pursuant to paragraph 2(o) above. The parties agree that the provisions of paragraphs 1 and 2 of Schedule 12 shall otherwise not apply to the Wintershall DEA Employees and for the avoidance of doubt, the Wintershall DEA Employees shall not participate in the job application process outlined at paragraph 2.

**SCHEDULE 13**  
**“WRONG POCKETS” AND RELATED INDEMNITY WORDING**

**Wrong-pockets**

For the purposes of the wrong-pockets clauses set out below, the spin-off agreement shall list the assets, rights, contracts or liabilities that are the subject of this Transaction and transferred to NewCo 2 (including, in any case, the Transaction Perimeter Assets, irrespective of whether transferred directly or indirectly).

1. “Soweit Vermögensgegenstände, Rechte, Verträge oder Verbindlichkeiten, die nach den Bestimmungen dieses Spaltungsplans bei einer Wintershall DEA Group Company hätten verbleiben oder von dieser übernommen werden sollen, direkt oder indirekt auf NewCo 2 übertragen oder von dieser übernommen wurden, einschließlich aller Erlöse, Vorteile oder Mittel und aller Kosten oder Verbindlichkeiten, die an NewCo 2 oder die betreffende NewCo Group Company gezahlt wurden oder NewCo 2 bzw. der betreffenden NewCo Group Company dadurch entstanden sind, dass sie ein Recht und/oder eine Beteiligung an diesen Vermögensgegenständen, Rechten, Verträgen oder Verbindlichkeiten hatten oder haben (***Wintershall Wrong Pockets TPA Asset or Liability***): (i) wird NewCo 2 unverzüglich eine solche Wintershall Wrong Pockets TPA Asset or Liability auf Wintershall DEA oder eine von ihr benannte Wintershall DEA Group Company übertragen oder die betreffende NewCo Group Company veranlassen, diese zu übertragen (auf Kosten von Wintershall DEA oder der betreffenden Wintershall Group Company, einschließlich aller Steuern, die einer Partei im Zusammenhang mit einer solchen Übertragung entstehen); und (ii) wird Wintershall DEA unverzüglich eine solche Wintershall Wrong Pockets TPA Asset or Liability übernehmen oder ihre betreffende Wintershall DEA Group Company veranlassen, diese zu übernehmen (auf Kosten von Wintershall DEA oder der betreffenden Wintershall DEA Group Company, einschließlich aller Steuern, die einer Partei im Zusammenhang mit einer solchen Übertragung entstehen). Falls eine solche Übertragung nicht möglich ist, hält NewCo 2 (oder weist die betreffende NewCo Group Company entsprechend an) die Wintershall Wrong Pockets TPA Asset or Liability treuhänderisch für Wintershall DEA (oder die betreffende Wintershall DEA Group Company) bis zu dem Zeitpunkt, an dem die Übertragung wirksam vollzogen werden kann (soweit nach geltendem Recht zulässig).”

*(reading translation: “To the extent any assets, rights, contracts or liabilities which should have been retained or assumed by any Wintershall DEA Group Company pursuant to the terms of this spin-off agreement, were transferred or assumed, directly or indirectly, by NewCo 2, together with any revenue, benefit or sum and any cost or liability paid or accruing to NewCo 2 or the relevant NewCo Group Company as a result of having or having had any right and/or interest in such assets, rights, contracts or liabilities (***Wintershall Wrong Pockets TPA Asset or Liability***): (i) NewCo 2 shall promptly transfer or cause the relevant NewCo Group Company to transfer (at the cost of Wintershall DEA or the relevant Wintershall DEA Group Company, including any tax incurred by any party in connection with such transfer) such Wintershall Wrong Pockets TPA Asset or Liability to Wintershall DEA or any Wintershall DEA Group Company designated by Wintershall DEA; and (ii) Wintershall DEA shall promptly assume or cause the relevant Wintershall DEA Group Company to assume such Wintershall Wrong Pockets TPA Asset or Liability (at the cost of Wintershall DEA or*

*the relevant Wintershall DEA Group Company, including any tax incurred by any party in connection with such transfer). If such transfer is not possible, NewCo 2 shall hold, or shall instruct the relevant NewCo Group Company to hold, the Wintershall Wrong Pockets TPA Asset or Liability on trust for Wintershall DEA (or the relevant Wintershall DEA Group Company) until such time as the transfer can be validly effected (to the extent permitted by applicable law).” (it being understood that where in this and the other English reading translations in this Schedule 13 capitalised terms are used that are defined in this Agreement, the spin-off agreement shall use corresponding terminology)*

2. “Soweit Vermögensgegenstände, Rechte, Verträge oder Verbindlichkeiten, die nach den Bestimmungen dieses Spaltungsplans direkt oder indirekt auf NewCo 2 hätten übertragen oder von ihr übernommen werden sollen, nicht direkt oder indirekt auf NewCo 2 übertragen oder von ihr übernommen wurden, einschließlich aller Erlöse, Vorteile oder Mittel und aller Kosten oder Verbindlichkeiten, die Wintershall DEA oder der betreffenden Wintershall DEA Group Company gezahlt wurden oder Wintershall DEA bzw. der betreffenden Wintershall DEA Group Company dadurch entstanden sind, dass sie ein Recht und/oder eine Beteiligung an diesen Vermögensgegenständen, Rechten, Verträgen oder Verbindlichkeiten hatte oder hat (***NewCo Wrong Pockets TPA Asset or Liability***): (i) wird Wintershall DEA unverzüglich eine solche NewCo Wrong Pockets TPA Asset or Liability auf NewCo 2 oder eine von ihr benannte NewCo Group Company übertragen oder die betreffende Wintershall DEA Group Company veranlassen, diese zu übertragen (auf Kosten von Wintershall DEA oder der betreffenden Wintershall Group Company, einschließlich aller Steuern, die einer Partei im Zusammenhang mit einer solchen Übertragung entstehen); und (ii) wird NewCo 2 unverzüglich eine solche NewCo Wrong Pockets TPA Asset or Liability übernehmen oder ihre betreffende NewCo Group Company veranlassen, diese zu übernehmen (auf Kosten von Wintershall DEA oder der betreffenden Wintershall DEA Group Company, einschließlich aller Steuern, die einer Partei im Zusammenhang mit einer solchen Übertragung entstehen). Falls eine solche Übertragung nicht möglich ist, hält Wintershall DEA (oder weist die betreffende Wintershall DEA Group Company entsprechend an) die NewCo Wrong Pockets TPA Asset or Liability treuhänderisch für NewCo 2 (oder die betreffende NewCo Group Company)) bis zu dem Zeitpunkt, an dem die Übertragung wirksam vollzogen werden kann (soweit nach geltendem Recht zulässig).”

*(reading translation: “To the extent any assets, rights, contracts or liabilities which should have been transferred to or assumed, directly or indirectly, by NewCo 2 pursuant to the terms of this spin-off agreement, were not, directly or indirectly, transferred to or assumed by NewCo 2, together with any revenue, benefit or sum and any cost or liability paid or accruing to Wintershall DEA or the relevant Wintershall DEA Group Company as a result of having or having had any right and/or interest in such assets, rights, contracts or liabilities (***NewCo Wrong Pockets TPA Asset or Liability***): (i) Wintershall DEA shall promptly transfer (at the cost of Wintershall DEA or the relevant Wintershall DEA Group Company, including any tax incurred by any party in connection with such transfer) or cause the relevant Wintershall DEA Group Company to transfer such NewCo Wrong Pockets TPA Asset or Liability to NewCo 2 or any NewCo Group Company designated by NewCo 2; and (ii) NewCo 2 shall promptly*

*assume or cause the relevant NewCo Group Company to assume such NewCo Wrong Pockets TPA Asset or Liability (at the cost of Wintershall DEA or the relevant Wintershall DEA Group Company, including any tax incurred by any party in connection with such transfer). If such transfer is not possible, Wintershall DEA shall hold, or shall instruct the relevant Wintershall DEA Group Company to hold, the NewCo Wrong Pockets TPA Asset or Liability on trust for NewCo 2 (or the relevant NewCo Group Company) until such time as the transfer can be validly effected (to the extent permitted by applicable law)."*

3. "Soweit Wintershall DEA oder eine NewCo-Gruppengesellschaft aufgrund der Bestimmungen in § 133 UmwG oder anderer gesetzlicher oder vertraglicher Bestimmungen für Verbindlichkeiten oder Verpflichtungen oder aus Haftungsverhältnissen in Anspruch genommen wird, die nach Maßgabe der Bestimmungen dieses Spaltungsplans dem jeweils anderen Rechtsträger dinglich oder wirtschaftlich zugewiesen sind, so hat dieser andere Rechtsträger den in Anspruch genommenen Rechtsträger auf erstes Anfordern von der jeweiligen Verbindlichkeit, Verpflichtung oder Haftung freizustellen. Entsprechendes gilt für den Fall einer Inanspruchnahme auf Sicherheitsleistung."

*(reading translation: "To the extent that claims are asserted against Wintershall DEA or a NewCo Group Company on the basis of the provisions of Section 133 of the German Transformation Act (Umwandlungsgesetz – UmwG) or other statutory or contractual provisions for liabilities or in relation to obligations or from contingent liabilities, which are assigned in rem or economically to the respective other legal entity in accordance with the provisions of this spin-off agreement, this other legal entity shall indemnify the legal entity against which the claim is asserted against the respective liability, obligation or contingent liability upon first request. The same shall apply in the event of a claim for the granting of collateral.)"*

#### 4. **Tax indemnity**

**(Lesehinweis:** Soweit sich aus dem Zusammenhang nichts anderes ergibt, haben die im [BCA] definierten Begriffe und Ausdrücke in diesem Spaltungsplan die gleiche Bedeutung wie im [BCA].

- 4.1 Wintershall DEA ist verpflichtet, an NewCo 2 (oder, auf Verlangen von NewCo 2, an die jeweilige NewCo Group Company) den Betrag einer Schuld für Tax einer NewCo Group Company, die infolge des Hive-Down, des Spin-off, des IC-Liability Transfer oder jedem anderen Event, das im Zusammenhang mit der Übertragung der Transaction Perimeter Assets oder Verbindlichkeiten auf eine NewCo Group Company durchgeführt wurde, entsteht (in jedem der Fälle einschließlich infolge des Abschlusses oder der Durchführung der entsprechenden Vertragsdokumente) (zusammen die **Hive-Down/Spin-off-Transaktionen**), zu zahlen.
- 4.2 Wintershall DEA haftet nicht in Bezug auf einen Anspruch gemäß Klausel [4.1], soweit
  - (a) die Schuld in dem Effective Date Balance Sheet als Tax Verbindlichkeit oder Tax Rückstellung im Zusammenhang mit einer Hive-Down/Spin-

off Transaktion ausgewiesen und bei der Berechnung des Actual Balance Sheet Value mindernd berücksichtigt wurde;

- (b) die Schuld nach dem Effective Date gezahlt oder abgelöst wurde und diese Zahlung oder Ablösung bei der Berechnung des Actual Balance Sheet Value berücksichtigt wurde;
- (c) die Schuld sich auf einen Betrag bezieht, für den eine NewCo Group Company tatsächlich eine Rückerstattung von jemand anderem als einer NewCo Group Company oder Purchaser Group Company erhalten hat, sei es aufgrund einer Bestimmung des Applicable Law, einer Versicherungspolice oder in sonstiger Weise; oder
- (d) ein liquiditätswirksamer Tax Relief, der sich im Zusammenhang mit der Angelegenheit ergibt, die den Anspruch gemäß Klausel [4.1] begründet hat, für eine Purchaser Group Company zur Verfügung , um gegen die Schuld in demselben Wirtschaftsjahr, in dem die jeweilige freizustellende Tax entstanden ist, oder in den folgenden drei (3) Wirtschaftsjahren (Betrachtung über vier (4) Wirtschaftsjahre) verrechnet zu werden (was von den Parties nach Treu und Glauben zu dem Zeitpunkt der Geltendmachung des Anspruchs gemäß Klausel [4.1] zu bestimmen ist).

4.3 Wenn Wintershall DEA an NewCo 2 einen Betrag für einen Anspruch gemäß Klausel [4.1] zahlt und eine NewCo Group Company anschließend von einer anderen Person (außer einer NewCo Group Company) einen Betrag zurückerstattet bekommt oder berechtigt ist, einen Betrag zurückerstattet zu bekommen, welcher mit dem Sachverhalt zusammenhängt, der zu dem Anspruch geführt hat, soll NewCo 2 unverzüglich Wintershall DEA schriftlich informieren und:

- (a) NewCo soll angemessene Anstrengungen unternehmen, oder soll bewirken, dass eine NewCo Group Company angemessene Anstrengungen unternimmt (auf Kosten von Wintershall DEA), um die Erstattung gegen die andere Person durchzusetzen;
- (b) wenn der Betrag, den Wintershall DEA zum Ausgleich des Anspruchs gezahlt hat, die Sum Recovered übersteigt, soll NewCo 2 so schnell wie angemessen praktikabel, die Sum Recovered an Wintershall DEA zahlen; und
- (c) wenn der Betrag, den Wintershall DEA zum Ausgleich des Anspruchs gezahlt hat, geringer ist als die Sum Recovered, soll NewCo 2 so schnell wie angemessen praktikabel, einen Betrag in Höhe des Betrags, den Wintershall DEA gezahlt hat, an Wintershall DEA zahlen.

4.4 Für Zwecke der Klausel [4.3] oben bedeutet Sum Recovered ein Betrag in Höhe des gesamten Betrags, der von der anderen Person erstattet wurde.

**(Reading translation:** *Unless the context otherwise requires, words and expressions defined in the [BCA] have the same meanings in this spin-off agreement as in the [BCA].*)

- 4.1 *Wintershall DEA shall pay to NewCo 2 (or, upon request of NewCo 2, to the relevant NewCo Group Company) the amount of a NewCo Group Company's liability for Tax which arises in consequence of the Hive-Down, the Spin-off, the IC-Liability Transfer or any other Event carried out in connection with the transfer of the Transaction Perimeter Assets or liabilities to any NewCo Group Company (in each case, including in consequence of entering into or executing the relevant documentation) (together, the Hive-Down/Spin-off Transactions).*
- 4.2 *Wintershall DEA is not liable in respect of a claim under clause [4.1] to the extent that:*
- (a) the liability was provided for in the Effective Date Balance Sheet as a Tax liability or Tax provision in connection with any Hive-Down/Spin-off Transaction and taken into account in computing and decreasing the Actual Balance Sheet Value;*
  - (b) the liability was paid or discharged after the Effective Date and such payment or discharge was taken into account in computing the Actual Balance Sheet Value;*
  - (c) the liability relates to an amount for which a NewCo Group Company has actually recovered against a person other than a NewCo Group Company or Purchaser Group Company, whether under a provision of Applicable Law, insurance policy or otherwise howsoever; or*
  - (d) a cash-effective Tax Relief arising in connection with the matter giving rise to the claim under clause [4.1] is available for a Purchaser Group Company to set-off against the liability in the same accounting period in which the relevant Tax to be indemnified arose or the following three (3) full accounting periods (four (4) year calculation) (determined by the Parties in good faith when the indemnity claim is made).*
- 4.3 *If Wintershall DEA pays to NewCo 2 an amount in respect of a claim under clause [4.1] and a NewCo Group Company subsequently recovers or is or becomes entitled to recover from another person (other than a NewCo Group Company) an amount which is referable to the matter giving rise to the claim, NewCo 2 shall promptly notify Wintershall DEA in writing and:*
- (a) NewCo 2 shall or shall procure that a NewCo Group Company will use reasonable endeavours (at the cost of Wintershall DEA) to enforce the recovery against the person in question;*
  - (b) if the amount paid by Wintershall DEA in satisfaction of the claim is more than the Sum Recovered, NewCo 2 shall as soon as reasonably practicable pay to Wintershall DEA the Sum Recovered; and*
  - (c) if the amount paid by Wintershall DEA in satisfaction of the claim is less than or equal to the Sum Recovered, NewCo 2 shall as soon as reasonably practicable pay to Wintershall DEA an amount equal to the amount paid by Wintershall DEA.*
- 4.4 *For the purposes of clause [4.3] above, Sum Recovered means an amount equal to the total of the amount recovered from the other person.”*

5. **Termination of PLTAs**

"Wintershall DEA verpflichtet sich, spätestens mit Wirkung zum Wirksamwerden der Abspaltung alle Beherrschungs- und/oder Gewinnabführungsverträge, die zwischen einer Wintershall DEA Group Company und einer NewCo Group Company bestehen, zu beenden (sofern solche Verträge bestehen). "

*(reading translation: "Wintershall DEA undertakes to terminate all domination and/or profit and loss transfer agreements between any Wintershall DEA Group Company and any NewCo Group Company (if any such agreements exist) at the latest with effect as of effectiveness of the spin-off.")*

**SCHEDULE 14**  
**DEFINITIONS AND INTERPRETATION**

1. In this Agreement:

*Accounts* has the meaning given to it in paragraph 1(b) of Part A of Schedule 9;

*Act* means the UK Companies Act 2006;

*Actual Balance Sheet Value* means, as at the Effective Date, the net assets (or net liabilities) of the NewCo Group Companies, other than fixed assets and intangible assets and those other items expressly excluded pursuant to Part B of Schedule 9, in each case as set out in the Effective Date Balance Sheet;

*Adjustment Statement* shall mean either, as the context requires:

- (a) the Effective Date Balance Sheet Value Adjustment Statement; or
- (b) the TPA Free Cash Flow Adjustment Statement;

*Adjustment Statement Objection Notice* has the meaning given to it in paragraph 4 of Part C of Schedule 9;

*Admission* means admission of the BHE Consideration Shares and readmission of the Existing Purchaser Shares, in each case to the Official List in accordance with paragraph 3.2.7G and 5.6.21R (as applicable) of the Listing Rules and to trading on the London Stock Exchange's main market for listed securities in accordance with paragraph 2.1 of the Admission Standards;

*Admission Standards* means the London Stock Exchange's Admissions and Disclosure Standards;

*Affiliates* means:

- (a) in relation to the Purchaser, any entity that controls, or is controlled by, or that is under common control with, the Purchaser;
- (b) in relation to BASF, any entity that controls, or is controlled by, or that is under common control with, that person, other than any NewCo Group Company or any Wintershall DEA Group Company; and
- (c) in relation to Letterone:
  - (i) any entity that controls, or is controlled by, or that is under common control with Letterone, other than any NewCo Group Company or any Wintershall DEA Group Company;
  - (ii) any Fund Vehicle in respect of which Letterone or any entity within sub-paragraph (i) above is the general partner and/or principal adviser or in respect of which Letterone or any entity within sub-paragraph (i) above is the principal manager of its assets; or



- (iii) any entity controlled by any Fund Vehicle, provided that Letterone or any entity within sub-paragraph (i) above is the general partner of, the principal adviser to, or the principal manager of, such Fund Vehicle,

on the basis that: (x) **adviser** means, in relation to a Fund Vehicle, an entity that provides advisory services in relation to the management of investments and/or assets of such Fund Vehicle which are substantially the same as the services which would be provided by an investment or asset manager of an entity; and (y) **manager** means, in relation to a Fund Vehicle, an entity that manages investments and/or assets of the relevant Fund Vehicle, provided that the services provided by such entity are substantially the same as the services which would be provided by an investment or asset manager of an entity;

**Aggregate PLTA Consummation Amount** has the meaning given to it in clause 5.17.8;

**Announcement Date** means the date on which the Purchaser Transaction Announcement is released by the Purchaser;

**Anti-Bribery Law** means:

- (a) the U.K. Bribery Act 2010;
- (b) the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on December 17, 1997, which entered into force on February 15, 1999;
- (c) the United States Foreign Corrupt Practices Act of 1977 (as amended by the Foreign Corrupt Practices Act Amendments of 1988 and 1998); or
- (d) any other applicable anti-bribery or anti-corruption laws;

**Anti-Money Laundering Law** means any applicable law or regulation prohibiting the concealment, disguise, conversion, transfer, acquisition, possession, use or transmission of the direct or indirect proceeds of criminal activity, the funding or financing of any criminal activity, or the entry into or participation in any arrangement with the object or effect of either of the foregoing, as applicable to a Party and its operations from time to time, including: (i) the UK Proceeds of Crime Act 2002; and (ii) any anti-money laundering legislation promulgated by the European Union and any implementing provisions adopted by its member states;

**Antitrust Condition** means each Condition set out in clauses 3.1.17 to 3.1.20 and any further antitrust Condition under clause 3.1.27;

**Applicable Law** means, in respect of a person, all applicable civil and common law, statute, subordinate legislation, treaty, regulations, directive, decision, by-law, ordinance, code, policy, regulatory licence, regulatory consent, direction, request, order, decree, injunction or judgment of any competent Regulatory Authority to which it is subject and by which it is bound;

**Application Period** has the meaning given to it in paragraph 2(b) of Schedule 12;

**Argentine Pardon Condition** has the meaning given to it in clause 3.1.12;

**Available BASF Share Limit Headroom** has the meaning given to it in clause 2.6.1;

**BASF** has the meaning given to it in Recital (2);

**BASF's Counsel** means Freshfields Bruckhaus Deringer Rechtsanwälte Steuerberater PartG mbB, Bockenheimer Anlage 44, 60322 Frankfurt am Main, Germany;

**BASF Lock-up Agreement** means the lock-up agreement to be entered into between BASF and the Purchaser;

**BASF Relationship Agreement** means the relationship agreement to be entered into between BASF and the Purchaser in the substantially Agreed Form;

**BASF Share Limit** has the meaning given to it in clause 2.6.1;

**BASF Transaction Announcement** means the announcement relating to the Transaction in the Agreed Form to be released by BASF on or around the date of this Agreement;

**BASF Undertaking** means BASF TopCo or an undertaking which is, from time to time, a subsidiary undertaking of BASF TopCo, excluding any NewCo Group Company and any Wintershall DEA Group Company;

**BHE Consideration Shares** has the meaning given to it in clause 2.4.2;

**BHE Shares** has the meaning given to it in paragraph 5 of Schedule 4;

**Bond ALM Transaction** means the transaction relating to the Senior Bonds and the Subordinated Bonds consisting of the solicitation of consents from holders of the Senior Bonds and the Subordinated Bonds to amend certain terms thereof, as applicable, which shall include the replacement of (i) the current guarantors of the Bonds with the Purchaser as guarantor, and (ii) the current change of control terms with alternative market standard terms for listed issuers/guarantors;

**Bonds** means the Subordinated Bonds and the Senior Bonds;

**bps** means basis points, equivalent to 0.01%;

**Business Day** means a day other than a Saturday or Sunday or public holiday on which banks are open for general banking business in London, England and Frankfurt am Main, Germany, and Luxembourg;

**Business Plan** means the business plan relating to the NewCo Group and approved by the supervisory board of Wintershall DEA on 1 December 2023;

**Carbon Storage Licence** means each of Carbon Dioxide Appraisal and Storage Licence CS011, Carbon Dioxide Appraisal and Storage Licence CS012, Carbon Dioxide Appraisal and Storage Licence CS023 and Carbon Dioxide Appraisal and Storage Licence CS024, each dated 4 September 2023 and **Carbon Storage Licences** shall be construed accordingly;

**Carbon Storage Licensee** means each of Chrysaor Limited (registered number 06418649) and Chrysaor Production (U.K.) Limited (registered number 00524868), each being a party to a Carbon Storage Licence;

**CET** means Central European Time, also referring to, as the case may be, applicable summer time/daylight saving time (CEST, Central European Summer Time);

**Circular Condition** has the meaning given to it in clause 3.1.1;

**CIT** has the meaning given to it in clause 5.17.1;

**Claim** means any claim against any Party under or for breach of this Agreement;

**Clear Days** means, in relation to a period of notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

**Clearances** means all authorisations, orders, grants, consents, clearances, permissions, and approvals, and all expirations, lapses, and terminations of any required waiting periods (including extensions thereof), in each case under the Applicable Law of any Regulatory Authority with jurisdiction to review the Transaction;

**CMA** means the UK Competition and Markets Authority;

**CME 3M Term SOFR** means the Term SOFR reference rate administered by CME Group Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant three month period published (before any correction, recalculation or republication by the administrator) by CME Group Benchmark Administration Limited (or any other person which takes over the publication of that rate);

**Code** means the UK City Code on Takeovers and Mergers as from time to time amended and interpreted by the Panel;

**Completion** means completion of the sale and purchase of the Target Shares in accordance with this Agreement;

**Completion Consideration Cash Amount** has the meaning given to it in clause 2.2.2;

**Completion Date** has the meaning given to it in clause 6.3.2;

**Condition** means a condition set out in clause 3;

**Consideration Shares** means the BHE Consideration Shares and the L1 Energy Consideration Shares;

**Contingent Payment Date** has the meaning given to it in clause 2.5;

**Contingent Payments** has the meaning given to it in clause 2.5;

**Covered Person** has the meaning given to it in clause 17.11.1;

**CREST** means the UK based system for the paperless settlement of trades in listed securities, of which Euroclear UK & Ireland Limited is the operator;

**Cure Period** means the period starting on the date of the Sanctions Notice and ending on the earlier of the Longstop Date and (if applicable) the date on which this Agreement terminates pursuant to clause 4.17(ii);

**Current Fiscal Unity Subsidiary** has the meaning given to it in clause 5.17.2 (and **Current Fiscal Unity Subsidiaries** shall be construed accordingly);

**Current PLTA** has the meaning given to it in clause 5.17.2 (and **Current PLTAs** shall be construed accordingly);

**Data Room** means the virtual data room compiled by the Sellers virtually held by Datasite called "Project Warwick", as it existed two (2) Business Days prior to the Announcement Date;

**Deemed Satisfied** and **Deemed Satisfaction** have the meaning given to such terms in clause 4.19;

**Default Rate** means two and a half (2.5) per cent. above the official "Bank Rate" from time to time of the Bank of England;

**Deferral Amount** means the amount by which US\$ 750,000,000 exceeds the TPA Free Cash Flow (if any), and the Deferral Amount shall be zero if the TPA Free Cash Flow is equal to or greater than US\$ 750,000,000;

**Deferral Amount Due Date** has the meaning given to it in clause 2.3.1;

**Designated Purchaser** means a company in the Purchaser Group designated by the Purchaser with the consent of the Sellers (such consent not to be unreasonably withheld or delayed) as the purchaser of the Target Shares at least thirty (30) Business Days prior to the Completion Date;

**Disclosed Commodity Hedge Balances** means those assets and liabilities in relation to the hedges described specifically in Folder 3.5.1.3 in the Data Room;

**Disclosure and Transparency Rules** means the disclosure and transparency rules made by the FCA under Part VI of FSMA as amended from time to time;

**Economic Sanctions Law** means any applicable law, rule, regulation, judgment, order, or other measure relating to economic or financial sanctions administered, implemented or enforced by any Sanctions Authority;

**Effective Date** means 30 June 2023, 23:59 hours;

**Effective Date Balance Sheet** means the balance sheet for the NewCo Group as at the Effective Date prepared and agreed or finally determined in accordance with Schedule 9, and presented substantially in the format set out in Schedule 10;

**Effective Date Balance Sheet Value Adjustment** means the Actual Balance Sheet Value *minus* the Target Balance Sheet Value (and such resulting sum can be a negative number as well as a positive number), provided that if the absolute value of such resulting sum is; (a) less than EUR 30,000,000, the Effective Date Balance Sheet Value Adjustment shall be deemed to be zero, or (b) greater than or equal to EUR 30,000,000, the Effective Date Balance Sheet Value

Adjustment shall be equal to the entire amount and not just the excess, and any such value in Euros shall be translated into US dollars at the Exchange Rate as at the Effective Date;

**Effective Date Balance Sheet Value Adjustment Statement** has the meaning given to it in paragraph 1(a) of Part C of Schedule 9;

**EGAS** means the Egyptian Natural Gas Holding Company;

**EGPC** means the Egyptian General Petroleum Corporation;

**EIG** means EIG Asset Management LLC, EIG Separate Investments (Cayman) LP and Potomac View Investments, LP;

**Encumbrance** means a lien, charge or other encumbrance or right exercisable by a third party having similar effect;

**Estimated Deferral Amount** means the estimate of the Deferral Amount;

**Estimated TPA Free Cash Flow** means the estimate of the TPA Free Cash Flow;

**EU Merger Regulation** has the meaning given in clause 3.1.18;

**EUR** means euro, a reference to the lawful currency of the European Union;

**Event** means an event, act or transaction, including a receipt or accrual of income or gains, distribution, failure to distribute, acquisition, disposal, transfer, payment, loan or advance;

**Excess Employee** has the meaning given to it in paragraph 2(1) of Schedule 12;

**Exchange Rate** means with respect to a particular currency for a particular day the spot rate of exchange (the closing mid-point) for that currency into US dollars on such date as published in the London edition of the Financial Times first published thereafter or, where no such rate is published in respect of that currency for such date, at the rate quoted by Barclays Bank plc as at 17.00 GMT in London as at such date;

**Existing Purchaser Shares** means all of the Purchaser's issued Ordinary Shares immediately prior to Completion;

**Expat SIP** means the Harbour Energy Expat Share Incentive Plan (as amended from time to time);

**FCA** means the United Kingdom Financial Conduct Authority (or, where applicable, a person or persons which subsequently has responsibility for any function for which the United Kingdom Financial Conduct Authority had responsibility);

**FCA Admission Condition** has the meaning given to it in clause 3.1.4;

**Final Consideration Cash Amount** has the meaning given to it in clause 2.2.1;

**First Statement** has the meaning given to in paragraph 6(a) of Part D of Schedule 9;

**Fiscal Unity Subsidiary** has the meaning given to it in clause 5.17.3 (and **Fiscal Unity Subsidiaries** shall be construed accordingly);

**Foreign Investment Condition** means each Condition set out in clauses 3.1.21 to 3.1.25 and any further Foreign Investment Condition under clause 3.1.27;

**Former Fiscal Unity Subsidiary** has the meaning given to it in clause 5.17.3 (and **Former Fiscal Unity Subsidiaries** shall be construed accordingly);

**FSMA** means the Financial Services and Markets Act 2000;

**FSR** has the meaning given to it in clause 3.1.25;

**FSR Condition** means each Condition set out in clause 3.1.25;

**Fully Diluted Basis** means the number of Ordinary Shares in issue at the relevant time, calculated on the basis that all Non-Voting Ordinary Shares in issue at such time shall have converted into Ordinary Shares at the Conversion Ratio;

**Fund Vehicle** means: (a) any unit, trust, limited partnership or fund; or (b) any corporate entity, the primary purpose of which is the aggregation of investments;

**German CCS Activities** means the non-disclosure agreements, memoranda of understanding and letters of intent entered into by Wintershall DEA and set out in a list which is in the Agreed Form;

**Gas Optimisation Contracts** means each of the natural gas sales optimisation positions (sales and purchases) entered into by Wintershall DEA prior to or on 30 June 2024 and which are settled following 30 June 2024;

**Ghasha SPA** means the sale and purchase agreement to be entered into between Wintershall Middle East (as seller), PTTEP Mena Limited (as purchaser) and Wintershall DEA (as guarantor) in respect of a 10% interest in the Ghasha concession, substantively in the form set out in Document 3.8.1 in the Data Room, subject to any amendments that would not breach clause 5.3.2(a)(vii);

**Ghasha SPA Condition** has the meaning given to it in clause 3.1.8;

**Harbour Argentina** has the meaning given to it in clause 3.1.12;

**Hive-Down** has the meaning given to it in recital (F);

**HQ Employees** has the meaning given to it in paragraph 2 of Schedule 12;

**HQ Employers** has the meaning given to it in paragraph 2 of Schedule 12;

**ICAEW** has the meaning given to in paragraph 2(b) of Part D of Schedule 9;

**IC-Liability Transfer** means the transfer of certain intercompany liabilities which, amongst other intercompany balances, have been transferred by way of assignment and assumption from Wintershall DEA to Wintershall Global Holding GmbH based on a framework agreement entered into by Wintershall DEA and Wintershall Global Holding GmbH on 18 October 2023;

**Identified Officer** means Dawn Summers, Paul Smith and Mario Mehren;

**IFRS** means the International Financial Reporting Standards or International Accounting Standards issued or adopted by the International Accounting Standards Board (or a predecessor body) and interpretations issued by the IFRS Interpretations Committee (or a predecessor body), each as and to the extent from time to time adopted by the European Union in accordance with

EC Regulation No. 1606/2002;

***Independent Expert*** has the meaning given to it in paragraph 1 of Part D of Schedule 9;

**Initial Consideration Cash Amount** has the meaning given to it in clause 2.2.1;

**Intercompany Balances** means any amounts owed by or to any NewCo Group Company (together with accrued interest if applicable) to or from a Seller Group Company, or a Wintershall DEA Group Company, immediately prior to Completion, including under any cash pooling arrangements and/or shareholder loans, excluding all amounts owed, outstanding or accrued in the ordinary course of trading (including any VAT arising on such amounts) or in connection with the PLTA settlement as between any NewCo Group Company and any Seller Group Company or Wintershall DEA Group Company, in each case immediately prior to Completion in respect of inter-company trading activity and the provision of services, facilities and benefits between them;

**Interim Period** means the period beginning on the Announcement Date and ending on Completion;

**Internal Job Vacancies** has the meaning given to it in paragraph 2(b) of Schedule 12;

**Jurisdictions List** means the list of possible jurisdictions to be agreed in writing between the Parties in which any Clearances or Sector Regulatory Consents may be required to be obtained in accordance with clause 3.1.27;

**Known Fiscal Unity Subsidiary** has the meaning given to it in clause 5.17.1 (and **Known Fiscal Unity Subsidiaries** shall be construed accordingly);

**Known PLTA** has the meaning given to it in clause 5.17.1 (and **Known PLTAs** shall be construed accordingly);

**L1 Energy Consideration Shares** has the meaning given to it in clause 2.4.3;

**L1 Energy Shares** has the meaning given to it in paragraph 6 of Schedule 4;

**Leakage Dispute** has the meaning given to it in clause 5.2.5;

**Leakage Notice** has the meaning given to it in clause 5.2.5;

**Leakage Objection Notice** has the meaning given to it in clause 5.2.5;

**Letterone's Counsel** means Akin Gump Strauss Hauer & Feld LLP;

**Letterone Extended Group** means Letterone Investment Holdings S.A. and Letterone TopCo or an undertaking which is, from time to time, a subsidiary undertaking of Letterone TopCo or Letterone Investment Holdings S.A. excluding any NewCo Group Company and any Wintershall DEA Group Company;

**Letterone Lock-up Agreement** means the lock-up agreement to be entered into between Letterone and the Purchaser;

**Letterone Option Exercise Date** has the meaning given to it in clause 2.6.5;

**Letterone Option Period** has the meaning given to it in clause 2.6.5;

**Letterone Option Price** has the meaning given to it in clause 2.6.5;



**Letterone Purchase Option** has the meaning given to it in clause 2.6.5;

**Letterone Relationship Agreement** means the relationship agreement to be entered into between Letterone and the Purchaser in the substantially Agreed Form;

**Letterone Standstill Agreement** means the standstill agreement to be entered into between Letterone and the Purchaser;

**Letterone Transaction Announcement** means the announcement relating to the Transaction in the Agreed Form to be released by Letterone on or around the date of this Agreement;

**Letterone Undertaking** means Letterone TopCo or an undertaking which is, from time to time, a subsidiary undertaking of Letterone TopCo, excluding any NewCo Group Company and any Wintershall DEA Group Company;

**Listing Rules** means the listing rules published by the FCA under Part VI of FSMA;

**London Stock Exchange** means the London Stock Exchange plc;

**Longstop Date** means the date falling eighteen (18) months from the Announcement Date, or such other date as the Parties may agree in writing;

**LSE Admission Condition** has the meaning given to it in clause 3.1.5;

**LTIP** means the Harbour Energy 2017 Long Term Incentive Plan (as amended from time to time);

**Market Abuse Regulation** means the Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse, including as it forms part of UK domestic law by virtue of the European Union (Withdrawal) Act 2018;

**Matching Right** has the meaning given to it in clause 2.6.3;

**Matching Right Notice** has the meaning given to it in clause 2.6.3;

**Monthly Operations Report** has the meaning given to it in clause 5.10.4;

**NewCo 1** has the meaning given to it in recital (F);

**NewCo 2** has the meaning given to it in recital (E);

**NewCo 2 MNPI** has the meaning given to it in clause 4.9.1;

**NewCo Delegates** has the meaning given to it in paragraph 3 of Schedule 12;

**NewCo Group Company** means NewCo 1, NewCo 2 or any of their respective subsidiary undertakings (including each of those subsidiary undertakings set out in Schedule 8 of this Agreement) and **NewCo Group** shall be construed accordingly;

**NewCo Home Employer** has the meaning given to it in paragraph 3 of Schedule 12;

**NewCo Host Employers** has the meaning given to it in paragraph 3 of Schedule 12;

*Non-Notifying Parties* has the meaning given to it in clause 5.2.5;

*Non-Voting Ordinary Shares* has the meaning given to it in clause 2.4.3;

*Non-Voting Ordinary Shares Terms* has the meaning given to it in clause 2.4.3;

*Notice* has the meaning given to it in clause 20.1;

*Notifying Party* has the meaning given to it in clause 5.2.5;

*NS&I Act* has the meaning given to it in clause 3.1.21;

*Officer's Certificate* has the meaning given to it in clause 5.15.1;

*Official List* means the official list maintained by the FCA pursuant to Part VI of FSMA;

*Option Exercise Notice* has the meaning given to it in clause 5.15.1;

*Ordinary Shares* means ordinary shares of 0.002 pence each in the issued share capital of the Purchaser;

*Panel* means the UK Panel on Takeovers and Mergers;

*Payee* has the meaning given to it in clause 14.1.1;

*Payer* has the meaning given to it in clause 14.1.1;

*Per Share Transaction Equity Value* has the meaning given to it in clause 2.6.5;

*Permitted Letterone Share Purchases* has the meaning given to it in clause 2.6.1;

*Permitted Third Party Sale* has the meaning given to it in clause 2.6.2;

*Permitted Third Party Sale Price* has the meaning given to it in clause 2.6.3;

*Phase 2 CMA Reference* has the meaning given in clause 3.1.17(b)(i);

*PLTA* has the meaning given to it in clause 5.17.3 (and *PLTAs* shall be construed accordingly);

*PLTA Financial Year(s)* has the meaning given to it in clause 5.17.5;

*PLTA Loss* has the meaning given to it in clause 5.17.6;

*PLTA Profit* has the meaning given to it in clause 5.17.3;

*PLTA Termination Dates* has the meaning given to it in clause 5.17.5;

*Proposed BASF Sale Shares* has the meaning given to it in clause 2.6.2;

*Prospectus Condition* has the meaning given to it in clause 3.1.3;

*Prospectus Regulation Rules* means the prospectus regulation rules published by the FCA under section 73A of FSMA;

**Provisional Balance Sheet Value** means the arithmetic mean between the Purchaser's determination of the Actual Balance Sheet Value (as set out in the Adjustment Statement Objection Notice) and the Sellers' determination of the Actual Balance Sheet Value (as set out in the draft Effective Date Balance Sheet Value Adjustment Statement), in each case, as adjusted to take into account any amount relating to any Matters in Dispute identified in the Adjustment Statement Objection Notice which has subsequently been agreed by the Parties in writing prior to the date falling five (5) Business Days before Completion;

**Provisional Balance Sheet Value Adjustment** means the Provisional Balance Sheet Value *minus* the Target Balance Sheet Value (and such resulting sum can be a negative number as well as a positive number), provided that if the absolute value of such resulting sum is (a) less than EUR 30,000,000, the Provisional Balance Sheet Value Adjustment shall be deemed to be zero, or (b) greater than or equal to EUR 30,000,000, the Provisional Balance Sheet Value Adjustment shall be equal to the entire amount and not just the excess, and any such value in Euros shall be translated into US dollars at the Exchange Rate as at the Effective Date;

**PSA** means any production sharing contract, concession agreement or other comparable contract entered into by a NewCo Group Company relating to the business of the NewCo Group;

**Purchaser Circular** means the circular (which may be combined into a single document with the Purchaser's Prospectus) to be approved by the FCA pursuant to the Listing Rules and published and made available by the Purchaser in the manner specified in the Listing Rules and the Prospectus Regulation Rules, including to Purchaser Shareholders in relation to the transactions contemplated by this Agreement, enclosing a notice of the Purchaser General Meeting and incorporating the Purchaser Directors' Recommendation;

**Purchaser Directors** means the directors of the Purchaser from time to time;

**Purchaser Directors' Recommendation** means a unanimous and unqualified recommendation from the Purchaser Directors to the Purchaser Shareholders to vote in favour of the Purchaser Resolutions to be proposed at the Purchaser General Meeting;

**Purchaser General Meeting** means the general meeting of the Purchaser (and any adjournment of such meeting) to be duly convened to consider and, if thought fit, pass the Purchaser Resolutions;

**Purchaser Group Business** means the business of the Purchaser Group;

**Purchaser Group Company** means the Purchaser or any subsidiary undertaking of the Purchaser from time to time, including from Completion, each NewCo Group Company and **Purchaser Group** shall be construed accordingly;

**Purchaser Leakage** means in each case to, or on behalf of, or for the benefit of any Purchaser Shareholder or its Affiliates (other than any Purchaser Group Company or any NewCo Group Company) (without double counting):

- (a) any dividend or distribution (whether in cash or in kind) declared, paid or made by any Purchaser Group Company, and any such amount in Sterling shall be translated into US dollars at the Exchange Rate as at the date on which such dividend or distribution is declared;

- (b) any payments made in respect of any share capital of any Purchaser Group Company being redeemed, purchased or repaid, or any other return of share capital (whether by reduction of capital or redemption or purchase of shares) by any Purchaser Group Company;
- (c) any payments made (whether in cash or in kind) by any Purchaser Group Company;
- (d) any waiver, deferral or release by any Purchaser Group Company of any amount or obligation owed to that Purchaser Group Company or any incurrence, indemnification, assumption or discharge of any liability by any Purchaser Group Company;
- (e) the transfer, sale, purchase, surrender or disposal of any asset, right or benefit by any Purchaser Group Company;
- (f) any Encumbrance granted over the assets of a Purchaser Group Company but only to the extent giving rise to a payment in respect thereof; and
- (g) any agreement or arrangement made or entered into by any Purchaser Group Company to do or give effect to any matter referred to in paragraph (a) to (f) above,

in each case:

(A) including any Tax, whenever arising (notwithstanding the period referred to in clause 5.2.1), cash-effectively suffered by any Purchaser Group Company, in connection with any of the matters referred to in (a) to (g); and

(B) any such amounts that are in a currency other than US dollars, shall be translated into US dollars at the Exchange Rate as at the date of such Purchaser Leakage, save for matters referred to in (a);

***Purchaser Monthly Operations Report*** has the meaning given to it in clause 5.10.5;

***Purchaser Notified Leakage*** means the aggregate of all amounts of Purchaser Leakage (which is not Purchaser Permitted Leakage) notified by the Purchaser pursuant to clause 5.2.2 on or before the date falling ten (10) Business Days prior to the Completion Date;

***Purchaser Obligation*** means any representation, covenant, warranty or undertaking to indemnify given by the Purchaser to any Seller under this Agreement;

***Purchaser Permitted Leakage*** means:

- (a) any distributions, dividends or other returns of share capital to or for the benefit of any Purchaser Shareholder or its Affiliates (other than any Purchaser Group Company) declared, paid, made or agreed to be paid or made up to an aggregate amount of US\$300,000,000;
- (b) any matters or amounts that would otherwise constitute Purchaser Leakage under limbs (c) through (f) (and (g) in respect of those limbs) which are

undertaken or paid to any Purchaser Shareholder or its Affiliates, other than EIG and any of its Affiliates;

- (c) any matter expressly agreed to by the Sellers as constituting Purchaser Permitted Leakage; and
- (d) any fees, costs and expenses (and bonus payments, but only to any directors, officers, employees and/or individual consultants of a Purchaser Group Company) (including any Tax relating thereto) which are incurred by or on behalf of a Purchaser Group Company and which relate directly to the negotiation or implementation of the Transaction,

in each case:

(A) including any Tax cash-effectively suffered by any Purchaser Group Company, whenever arising and in connection with any of the matters referred to in (a) to (d) above; and

(B) any such amounts that are in a currency other than US dollars, shall be translated into US dollars at the Exchange Rate as at the date of such Purchaser Permitted Leakage, save for matters referred to in (a);

***Purchaser Prospectus*** means the prospectus (which may be combined into a single document with the Purchaser Circular) to be approved by the FCA pursuant to the Listing Rules and the Prospectus Regulation Rules and published and made available by the Purchaser in the manner specified in the Listing Rules and the Prospectus Regulation Rules for the readmission of all of the Existing Purchaser Shares and admission of all of the BHE Consideration Shares, in each case to the premium listing segment of the Official List of the FCA or a listing on the single category for equity shares in commercial companies if such new listing category as contemplated in FCA Consultation Paper CP23/31 has been implemented by the FCA and taken effect at the relevant time has been approved and (after satisfaction of any conditions to which such approval is expressed to be subject);

***Purchaser Public Documents*** means the Purchaser Circular, the Purchaser Prospectus and any Purchaser Supplementary Document;

***Purchaser Resolutions*** means those ordinary resolutions of the Purchaser as may be necessary or incidental to:

- (a) approve, implement and effect the purchase of the Target Shares and the other transactions contemplated by the Transaction Documents, including as required under Listing Rule 10.5.1R;
- (b) authorise the directors of the Purchaser to allot and issue the Consideration Shares to the Sellers, in the case of the Non-Voting Ordinary Shares, on the terms, and with the rights, set out in Schedule 2; and
- (c) approve a waiver by the Panel of any obligation which might fall on a Seller or any person acting in concert with it under Rule 9 of the Code to make a general offer for the Purchaser as a result of the issue of the Consideration Shares;

***Purchaser Share Plans*** means the Expat SIP, LTIP, SAYE and SIP;

**Purchaser Shareholders** means the holders of the Purchaser's Ordinary Shares from time to time;

**Purchaser Shares** means: (i) the Ordinary Shares; and (ii) the L1 Energy Consideration Shares;

**Purchaser Supplementary Document** means any supplementary circular to be issued by the Purchaser to Purchaser Shareholders pursuant to the Listing Rules and/or any supplementary prospectus required to be published by the Purchaser pursuant to Article 23 of the UK Prospectus Regulation, in each case in relation to the Transaction;

**Purchaser Supplementary Working Capital Report** means any working capital report in relation to the Purchaser Group to be prepared by the Purchaser's reporting accountants and dated the date of the Purchaser Supplementary Document;

**Purchaser Transaction Announcement** means the announcement relating to the Transaction in the Agreed Form to be released by the Purchaser on or around the date of this Agreement;

**Purchaser Working Capital Report** means the working capital report in relation to the Purchaser Group to be prepared by the Purchaser's reporting accountants and dated the date of the Purchaser Circular;

**Purchaser's Counsel** means Clifford Chance LLP, 10 Upper Bank Street, London, E14 5JJ;

**Regulatory Authority** means any national, state, municipal or local or any supranational or other governmental, quasi-governmental (including a national oil or energy company), administrative, trade, antitrust or regulatory authority, agency, body or commission, or any court, tribunal, or judicial or arbitral body, including, for the avoidance of doubt, any Tax Authority;

**Regulatory Condition** means each of the Conditions set out in clauses 3.1.9 to 3.1.16;

**Relevant Brent Oil Price** has the meaning given to it in clause 2.5.4;

**Relevant Date** has the meaning given to it in clause 5.18.2;

**Relevant Issuance** means the issue in December 2023 of 1,585 Ordinary Shares in the ordinary course pursuant to the SAYE;

**Relevant Licence** means an authorisation, licence and/or approval from a relevant Sanctions Authority (howsoever such authorisation arises and including by the grant of a general or specific licence or otherwise);

**Relevant Tax** has the meaning given to it in clause 5.17.19;

**Relevant VAT** has the meaning given to it in clause 5.18.2;

**Representation** means an assurance, commitment, condition, covenant, guarantee, indemnity, representation, statement, undertaking or warranty of any sort whatsoever (whether contractual or otherwise, oral or in writing, or made negligently or otherwise);

**Restricted Cash** means any cash that is not freely available to the NewCo Group Companies for: (a) spending in the ordinary course of business or to settle a liability included in the Actual

Balance Sheet Value; (b) lending outside the NewCo Group Companies; or (c) distributing outside the NewCo Group Companies and for these purposes, Restricted Cash shall include all Argentinian Pesos and all Egyptian pounds;

**Right of First Refusal** has the meaning given to it in clause 2.6.2;

**ROFR Acceptance Notice** has the meaning given to it in clause 2.6.2;

**ROFR Offer Date** has the meaning given to it in clause 2.6.2;

**ROFR Offer Notice** has the meaning given to it in clause 2.6.2;

**ROFR Period** has the meaning given to it in clause 2.6.2;

**ROFR Price** has the meaning given to it in clause 2.6.2;

**Rule 9 Obligation** means the obligation to make a general offer for Purchaser Shares under rule 9 of the Code;

**Sale Shares** has the meaning given to it in paragraph 1 of Part G of Schedule 3;

**Sanctioned Person** means any person or entity:

- (a) listed on any list of restricted entities, individuals or organisations (or equivalent) subject to asset freezing measures published by any Sanctions Authority (a **Listed Person**);
- (b) that is: (i) owned in the aggregate (directly or indirectly) as to 50 per cent. or more by; or (ii) controlled (as defined by the relevant Economic Sanctions Law or in guidance issued by a Sanctions Authority) by, any Listed Person (or a person acting on behalf of such Listed Person) where such owned or controlled person is, by virtue of applicable Economic Sanctions Law, subject to the same or substantially equivalent prohibitions or restrictions as a Listed Person;
- (c) located or resident in, incorporated or organised under the laws of a Sanctioned Territory or acting on behalf of or at the direction of such a person; or
- (d) that is otherwise a person with whom transactions are prohibited under any Economic Sanctions Law;

**Sanctioned Territory** means at any time, a country or territory that is the subject of comprehensive country-wide or territory-wide Economic Sanctions Laws, comprising as of the date hereof, Cuba, Crimea region of Ukraine, Iran, North Korea, Syria, the so-called Luhansk People's Republic and the so-called Donetsk People's Republic;

**Sanctions Authority** means, in respect of the jurisdictions set out below, any official institution, agency or person which is duly appointed, empowered, or authorised to enact, administer, implement and/or enforce Economic Sanctions Law:

- (a) the United States of America (including the Office of Foreign Assets Control, the United States Department of State and the United States Department of Commerce);

- (b) the Security Council of the United Nations;
- (c) the European Union and its Member States; and
- (d) the United Kingdom (including His Majesty's Treasury);

**Sanctions Condition** means the Condition set out in clause 3.1.26;

**Sanctions Financing Condition** means that the debt financing arranged in connection with the Transaction (or suitable alternative financing) is capable of being utilised, notwithstanding the relevant circumstances which are the subject of the Sanctions Notice;

**Sanctions Licence Requirement** means that each relevant Party has received a Relevant Licence such that Completion would not cause any Party to be in violation of any Economic Sanctions Law;

**Sanctions Notice** means a notice served by a Party pursuant to clause 4.24.2 in respect of the Sanctions Condition;

**SAYE** means the Harbour Energy Save As You Earn Plan (as amended from time to time);

**Sector Regulatory Consents** means any authorisations, consents, permissions, and approvals required in connection with the Transaction under (a) the Applicable Law of any Regulatory Authority with jurisdiction in respect of the petroleum assets owned by any Purchaser Group Company and/or the production licences owned by any NewCo Group Company, and/or (b) the key licence, concession agreement or petroleum sharing contract which grants the relevant Purchaser Group Company or NewCo Group Company title to its petroleum assets or production licences (respectively);

**Seismic Contracts** means all agreements to which any NewCo Group Company is party relating to the licensing of third party seismic data;

**Seller Group** means (a) BASF and any BASF Undertaking from time to time; and (b) Letterone and any Letterone Undertaking from time to time;

**Seller Group Company** means any BASF Undertaking and any Letterone Undertaking;

**Seller Leakage** means, in each case to, or on behalf of, or for the benefit of any Seller or their respective Affiliates or any Wintershall DEA Group Company (without double counting):

- (a) any dividend or distribution (whether in cash or in kind) declared, paid or made by any NewCo Group Company;
- (b) any payments made in respect of any share capital of any NewCo Group Company being redeemed, purchased or repaid, or any other return of share capital (whether by reduction of capital or redemption or purchase of shares) by any NewCo Group Company;
- (c) any payments made (whether in cash or in kind) by any NewCo Group Company;



- (d) any cash repayment to the Sellers or their respective Affiliates or any Wintershall DEA Group Company after the Effective Date (including pursuant to clause 5.7) in respect of any intercompany non-trade payable owed by a NewCo Group Company as at the Effective Date;
- (e) any waiver, deferral or release by any NewCo Group Company of any amount or obligation owed to that NewCo Group Company or any incurrence, indemnification, assumption or discharge of any liability or obligation by any NewCo Group Company (as applicable);
- (f) the transfer, sale, purchase, surrender or disposal of any asset, right or benefit by any NewCo Group Company;
- (g) any Encumbrance granted over the assets of any NewCo Group Company but only to the extent giving rise to a payment in respect thereof; and
- (h) any agreement or arrangement made or entered into by any NewCo Group Company to do or give effect to any matter referred to in paragraphs (a) to (g) (inclusive) above;

in each case:

(A) excluding any payments under clause 5.17 which shall not be treated as Seller Leakage;

(B) including any Tax, whenever arising (notwithstanding the period referred to in clause 5.4.1) cash-effectively suffered by any NewCo Group Company in connection with any of the matters referred to above; and

(C) any such amounts in Euros shall be translated into US dollars at the Exchange Rate as at the date of such Seller Leakage;

***Seller Notified Leakage*** means the aggregate of all amounts of Seller Leakage (which is not Seller Permitted Leakage) notified by the Sellers pursuant to clause 5.4.2 on or before the date falling ten (10) Business Days prior to the Completion Date;

***Seller Notified Reverse Leakage*** means the aggregate of all amounts of Seller Reverse Leakage notified by the Sellers pursuant to clause 5.4.2 on or before the date falling ten (10) Business Days prior to the Completion Date;

***Seller Obligation*** means any representation, covenant, warranty or undertaking to indemnify given by a Seller to the Purchaser under this Agreement;

***Seller Permitted Leakage*** means:

- (a) any payment of any amounts which have been specifically reserved, accrued or provided for in the calculation of the Actual Balance Sheet Value;
- (b) any of the following matters in the following amounts which have been paid or will be paid or otherwise settled on or after the Effective Date:

- (i) hedging arrangements entered into by any Wintershall DEA Group Company with third parties on request by or on behalf of any NewCo Group Company, and transferred to NewCo Group Companies with a net aggregate liability equal to EUR 58,364,440 and a deferred tax asset of EUR 17,509,332;
  - (ii) the reduction of certain intercompany non-trade receivables (including interest thereon) owed to the NewCo Group Companies by Wintershall DEA in an aggregate amount of EUR 933,872,999 as at the Effective Date as a result of the repayment by Wintershall DEA on behalf of the NewCo Group Companies of certain bonds (including interest thereon) in an aggregate amount equal to EUR 933,872,999;
  - (iii) in accordance with clause 5.17, without double-counting and for the avoidance of doubt, any PLTAs in respect of the 2022 financial year up to a net aggregate amount equal to EUR 698,816,559 non-cash settled by way of an offset against intercompany non-trade receivables and intercompany non-trade payables;
  - (iv) the reduction of net intercompany non-trade receivables as at the Effective Date by EUR 6,000,000,000 as a result of the reduction in share capital by NewCo 2 in favour of Wintershall DEA in an amount equal to EUR 6,000,000,000 (and without any cash outflow from the NewCo Group Companies after the Effective Date) leading to an intercompany non-trade receivable as at the Effective Date of EUR 114,294,457 (after taking into account a reduction in intercompany non-trade receivables as at the Effective Date of EUR 455,945,827) and an intercompany non-trade payable as at the Effective Date of EUR 7,347,468 (after taking into account a reduction in intercompany non-trade payables as at the Effective Date of EUR 455,945,827);
- (c) any payments made or amounts that become owed by a member of the NewCo Group to (A) any Wintershall DEA Group Company or (B) BASF or its Affiliates, in each case after the Effective Date and before Completion in respect of or pursuant to:
- (i) the first USD 65,000,000 of the aggregate of unrecoverable “general & administrative” costs and charges (after Tax) incurred by the NewCo Group Companies, where “unrecoverable” means such costs or charges that cannot be recharged or recovered by the relevant NewCo Group Companies as capital expenditure or operating expenditure from third party partners, or otherwise under Applicable Law or the key documentation in respect of the Upstream Interests (including licences, PSAs, concessions and/or joint operating agreements);
  - (ii) any operational services that are provided to the NewCo Group Companies (other than “general & administrative” costs) and accounted for as operating expenditure or capital expenditure, and/or valid expenditure incurred related to personnel or licence costs in connection with the Upstream Interests, on arm’s length terms and in the ordinary course of business consistent with past practice;

- (iii) amounts loaned to any Wintershall DEA Group Company pursuant to the cash pooling arrangements and/or shareholder loans between the NewCo Group and any Wintershall DEA Group Company, in each case only to the extent such amounts have been repaid in full in cash to the NewCo Group by any relevant Wintershall DEA Group Company prior to Completion;
- (d) charges or fees relating to any Wintershall Dea Credit Support on arm's length terms in the ordinary course of business and consistent with past practice;
- (e) any sales of hydrocarbons or related products including hedging arrangements on arm's length terms, in the ordinary course of business and consistent with past practice;
- (f) any other transactions or arrangements between the NewCo Group and any Wintershall DEA Group Company in the ordinary course of business, on arm's length terms and consistent with past practice not exceeding in aggregate EUR 30,000,000 per annum;
- (g) direct insurance costs relating to the Upstream Interests on arm's length terms, in the ordinary course of business and consistent with past practice, up to an aggregate amount of US\$ 35,000,000 per annum;
- (h) any fees, costs and expenses (and bonus payments, but only to any directors, officers, employees and/or individual consultants of a NewCo Group Company or a Seller Group Company) (including any Tax relating thereto) which are incurred by a NewCo Group Company and which relate directly to the negotiation or implementation of the Transaction, but excluding, for the avoidance of doubt, any recharges or novation and/or transfer of fees, costs or expenses by the Seller Group to a NewCo Group Company;
- (i) any matter expressly agreed to by the Purchaser after the Announcement Date as constituting Seller Permitted Leakage; and
- (j) any payment made by NewCo 1 or NewCo 2 to Wintershall DEA in each case arising out of or in connection with the transfer of the Gas Optimisation Contracts from Wintershall DEA to NewCo 1 or NewCo 2 (as applicable);

in each case:

(A) including any Tax, cash-effectively suffered by any NewCo Group Company, whenever arising and in connection with any of the matters referred to above; and

(B) to the extent payment of any such Seller Permitted Leakage is made in a different currency to the applicable cap, any such amounts in Euros shall be translated into US dollars at the Exchange Rate as at the date of such Seller Permitted Leakage;

***Seller Relevant Proportion*** means:

- (a) in the case of BHE, 72.7%; and
- (b) in the case of L1 Energy, 27.3%;

***Seller Reverse Leakage*** means any cash payment by any Seller Group Company or Wintershall DEA Group Company after the Effective Date (including pursuant to clause 5.7) in respect of any intercompany non-trade receivable owed to a NewCo Group Company as at the Effective Date (without double counting in connection with the PLTA settlement), including any Tax, cash-effectively suffered by any Seller Group Company or Wintershall DEA Group Company, whenever arising and in connection with any such any cash payments;

***Sellers*** means:

- (a) BHE; and
- (b) L1 Energy;

***Sellers' Counsels*** means BASF's Counsel and Letterone's Counsel;

***Senior Bonds*** means EUR 1,000,000,000 Notes 0.84% 2019/2025 (ISIN: XS2054209833), EUR 1,000,000,000 Notes 1.332% 2019/2028 (ISIN: XS2054210252) and EUR 1,000,000,000 Notes 1.832% 2019/2031 (ISIN: XS2055079904), in each case issued by Wintershall Dea Finance B.V.;

***Shareholder Approval Condition*** has the meaning given to it in clause 3.1.2;

***Shares*** means ordinary shares in the share capital of NewCo 2 from time to time;

***SIP*** means the Harbour Energy Share Incentive Plan (as amended from time to time);

***Spin-off*** means a spin-off for assumption (*Abspaltung zur Aufnahme*) pursuant to which Wintershall Dea will transfer to NewCo 2 certain of the Transaction Perimeter Assets, in accordance with the Steps Plan in all material respects;

***Spin-off Condition*** has the meaning given to in clause 3.1.7;

***Steps Plan*** means the plan in Schedule 11 containing the steps to be taken by the Seller Group, Wintershall DEA and their relevant respective Affiliates in order to give effect to the Spin-off;

***Subordinated Bonds*** means EUR 650,000,000 2.4985% Undated Subordinated Resettable Fixed Rate Notes 2021/PERP-NC5.5 (ISIN: XS2286041517) and EUR 850,000,000 Undated Subordinated Resettable Fixed Rate Notes 3% 2021/PERP-NC8.0 (ISIN: XS2286041947), in each case, issued by Wintershall Dea Finance 2 B.V.;

***Surviving Provisions*** means clauses 9 (*No Rescission*), 11 (*Confidential Information*), 12 (*Announcements*), 13 (*Costs*), 16 (*Tax*), 17.2 (*Liability*), 17.5 (*Cumulative rights*), 18 (*Double Recovery and Double Counting*), 19 (*Entire Agreement*), 20 (*Notices*), 21 (*Governing Law and Jurisdiction*) and Schedule 14 (*Definitions and Interpretation*);

***Target Balance Sheet Value*** means negative EUR 946,000,000;

***Target Incentive Schemes*** means:

- (a) the Wintershall Dea Pre-IPO Long-Term Incentive Plan;
- (b) the Wintershall Dea Short-Term Incentive Plan; and

(c) the Wintershall Dea Spot Awards;

**Target Shares** has the meaning given to it in clause 1.1;

**Tax Authority** means any governmental or other authority, agency or body responsible for the assessment, imposition, collection or administration of any Tax;

**Tax** or **Taxes** means: (i) any taxes within the meaning of section 3 of the German General Tax Code (*AO*), withholding taxes and social security contributions; and respective taxes, withholding taxes and social security contributions and any other form of taxation, levy, duty, charge, contribution, withholding or impost in the nature of taxation under the laws of any other jurisdiction; (ii) any penalties, fines, interest and other ancillary charges, and surcharge on any of the Taxes as set forth in (i); and (iii) any of the aforementioned listed payments imposed as a secondary liability (*Haftungsschuld*) or contractual liability (e.g. under a tax sharing or allocation agreement); but excluding, for the avoidance of doubt, deferred taxes and/or, unless specifically provided otherwise in this Agreement and excluding any notional tax losses (such as reductions of loss carry forwards or future depreciation);

**Tax Relief** means any loss, relief, remission, refund, rebate, allowance, set-off, deduction, right to repayment or credit or other relief of a similar nature granted by or available in relation to Tax pursuant to any Applicable Law;

**Terminated PLTA** has the meaning given to it in clause 5.17.3 (and **Terminated PLTAs** shall be construed accordingly);

**Terms** has the meaning given to it in paragraph 5 of Part D of Schedule 9;

**Total Purchaser Leakage** means the aggregate amount payable by the Purchaser pursuant to clause 5.2.3;

**Total Seller Leakage** means the aggregate amount payable by the Sellers pursuant to 5.4.3(a);

**Total Seller Reverse Leakage** means the aggregate amount payable by the Purchaser pursuant to 5.4.3(b);

**TPA Free Cash Flow** means (a) in each case, in local currency, the amount of all cash in hand and cash at banks or other financial institutions of the NewCo Group Companies as of immediately prior to Completion, but (x) excluding any such cash that (i) is Restricted Cash as of immediately prior to Completion, (ii) results from borrowing (cash inflow) by the NewCo Group Companies between the Effective Date and immediately prior to Completion, or (iii) results from the receipt of a PLTA Loss compensation between the Effective Date and immediately prior to Completion (y) adding back (i) any cash that was paid by any NewCo Group Company in respect of a PLTA Profit between the Effective Date and immediately prior to Completion, (ii) any Seller Notified Leakage paid in cash between the Effective Date and immediately prior to Completion and (iii) any cash that was used to make non-discretionary repayments of borrowings between the Effective Date and immediately prior to Completion, in each case translated from the local currency amounts into US dollars at the Exchange Rate as at the Completion Date; minus (b) in each case, in local currency, the amount of all cash in hand and cash at banks or other financial institutions of the NewCo Group Companies, but excluding any such cash that is Restricted Cash, in each case as at the Effective Date and

translated from the local currency amounts into US dollars at the Exchange Rate as at the Completion Date;

**TPA Free Cash Flow Adjustment Statement** has the meaning given to it in paragraph 1(b) of Part C of Schedule 9;

**Transaction** means the transactions contemplated by the Transaction Documents;

**Transaction Document** means this Agreement, the BASF Relationship Agreement, the Letterone Relationship Agreement, any documents in Agreed Form and/or any other agreement or document designated by the Parties from time to time in writing as a “Transaction Document”;

**Transaction Perimeter Asset** means each asset set out in Schedule 6;

**Transferred HQ Employees** has the meaning given to it in paragraph 2(j) of Schedule 12;

**Transferring HQ Employee** has the meaning given to it in paragraph 2(e) of Schedule 12;

**TT** has the meaning given to it in clause 5.17.1;

**TUPE Transfer** has the meaning given to it in paragraph 2(l) of Schedule 12;

**UK Prospectus Regulation** means the Regulation (EU) No 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as it forms part of UK domestic law by virtue of the European Union (Withdrawal) Act 2018 and as amended and in force from time to time and any legislation that (either with or without modification) re-enacts, consolidates or enacts in rewritten form any such regulation;

**Unconditional Date** means the first Business Day by which all of the Conditions (other than the Sanctions Condition) have been satisfied (or waived in accordance with the terms of this Agreement);

**Unknown Fiscal Unity Subsidiary** has the meaning given to it in clause 5.17.2 (and **Unknown Fiscal Unity Subsidiaries** shall be construed accordingly);

**Unknown PLTA** has the meaning given to it in clause 5.17.2 (and **Unknown PLTAs** shall be construed accordingly);

**Upstream Interests** means the entire undivided participating interest owned by any NewCo Group Company in any PSA, and the corresponding participating interest under each associated joint operating agreement and/or unit operating agreement, any petroleum field and any vessel, facility, pipeline, infrastructure or equipment which is designed for the exploitation, development, transportation or operation of any of the same, and all present and future interests in any such PSA, joint operating agreement and/or unit operating agreement, petroleum field, vessel, facility, pipeline, infrastructure of equipment together, in each case, with all rights, assets, benefits and liabilities and obligations attaching thereto and including but not limited to:

- (a) the right to take and receive a consequent share of all petroleum produced under the relevant PSA and to receive the gross proceeds from the sale of other disposition thereof; and
- (b) a consequent share of any such NewCo Group Company's right, title and interest in and to jointly owned funds, jointly owned property and all other assets (including data and information) which are or may be owned pursuant to or under any of the relevant agreements, in each case, insofar as it relates to the business of the NewCo Group;

**US\$, USD, US dollars or dollars** is to the functional currency of the United States of America;

**VAT** means: (i) any Tax as may be levied by any member state of the European Union on the basis of the Directive 2006/112/EC (as amended from time to time); and (ii) any other Tax of a similar nature, whether imposed in a member state of the European Union or elsewhere in substitution for, or levied in addition to, such Tax referred to in (i);

**VAT Group** has the meaning given to it in clause 5.18.1;

**VAT Target Companies** has the meaning given to it in clause 5.18.1;

**Whitewash Condition** has the meaning given to it in clause 3.1.6;

**Wintershall DEA** has the meaning given to in recital (C);

**Wintershall DEA Articles** means the articles of association of Wintershall DEA from time to time;

**Wintershall Dea Credit Support** means any parent company guarantees, letters of credit or comparable credit support provided by Letterone, BASF or any Wintershall DEA Group Company, with regard to the Transaction Perimeter Assets, including those which:

- (a) are set out in Document 3.6.4 in the Data Room; or
- (b) if not replaced with effect as of Completion, may result in a default or breach of any associated licence or project document (including any joint operating agreement, unit operating agreement, transportation agreement, and / or agreement relating to the provision of decommissioning security) with respect to any of the Transaction Perimeter Assets;

**Wintershall DEA Delegates** has the meaning given to it in paragraph 3 of Schedule 12;

**Wintershall DEA Group Company** means Wintershall DEA and any undertaking which is, from time to time, a subsidiary undertaking of Wintershall DEA, excluding any NewCo Group Company;

**Wintershall DEA Q2 Financial Statements** means the Wintershall DEA group financial statements for the half year ended 30 June 2023 and published by Wintershall DEA on 27 July 2023;

**Wintershall Dea Rules of Procedure** means the rules of procedure for the management board (vorstand) of Wintershall DEA dated 4 September 2023;

**Wintershall DEA SFA** means the multicurrency, bridge, term and revolving credit facilities agreement dated 1 March 2019 between, among others, Wintershall DEA and Wintershall Norge AS the original borrowers, Commerzbank Aktiengesellschaft as the agent and various financial institutions as the original lenders, as amended and restated from time to time;

**Wintershall DEA SFA Agent** means Commerzbank Aktiengesellschaft as the agent under the Wintershall DEA SFA;

**Wintershall Middle East** means Wintershall Dea Middle East GmbH (formerly known as Wintershall Middle East GmbH) a company duly organised and existing under the laws of Germany with its registered office address at Friedrich-Ebert-Straße 10,34119 Kassel and registered with the commercial register at local court Kassel under registration number HRB 13736 and having a registered branch office in Abu Dhabi with a postal address at P.O. Box 62643, 18th Floor, Tower 2, Nation Towers, Abu Dhabi, United Arab Emirates with VAT tax registration number 100613141900003; and

**Wrong Pockets Asset or Liability** has the meaning given to it in clause 5.9.3.

2. In this Agreement, a reference to:

- (a) a "subsidiary" or "holding company" is to be construed in accordance with section 1159 (and Schedule 6) of the Act and for the purposes of this definition, a person shall be treated as a member of another person if any of that person's subsidiaries is a member of that other person, or if any shares in that other person are held by a person acting on behalf of it or any of its subsidiaries and
  - (ii) a "subsidiary undertaking" or "parent undertaking" is to be construed in accordance with section 1162 (and Schedule 7) of the Act. A subsidiary and a subsidiary undertaking shall include any person the shares or ownership interests in which are subject to security and where the legal title to the shares or ownership interests so secured are registered in the name of the secured party or its nominee pursuant to such security;
- (b) liability under, pursuant to or arising out of (or any analogous expression) any agreement, contract, deed or other instrument includes a reference to contingent liability under, pursuant to or arising out of (or any analogous expression) that agreement, contract, deed or other instrument;
- (c) a Party being liable to another Party, or to liability, includes, but is not limited to, any liability in equity, contract or tort (including negligence) or under the Misrepresentation Act 1967;
- (d) a document in the "Agreed Form" is a reference to a document in a form approved and for the purposes of identification initialled or otherwise confirmed in writing (including by way of email) by or on behalf of each Party (including by any such Party's counsel);
- (e) a reference to a statute, statutory provision or subordinate legislation ("legislation") refers to such legislation as amended and in force from time to time and to any legislation that (either with or without modification) re-enacts, consolidates or enacts in rewritten form any such legislation, provided that as between the parties no such amendment, re-enactment or modification that



becomes effective after the date of this Agreement shall apply for the purposes of this Agreement, even if such legislation is intended or deemed to have retrospective effect, to the extent that it would impose any new or extended obligation, liability or restriction on, or would otherwise adversely affect the rights of, any Party;

- (f) a Transaction Document or any other document referred to in this Agreement is a reference to that document as amended, varied, novated, supplemented or replaced from time to time (other than in breach of the provisions of this Agreement);
- (g) a "person" includes a reference to any individual, firm, company, corporation or other body corporate, government, state or agency of a state or any joint venture, trust, association or partnership, works council or employee representative body (whether or not having separate legal personality) and includes a reference to that person's legal personal representatives, successors and permitted assigns;
- (h) a "Party" includes a reference to that Party's successors and permitted assigns;
- (i) a clause, paragraph or schedule, unless the context otherwise requires, is a reference to a clause or paragraph of, or schedule to, this Agreement;
- (j) "£", "GBP", or "pounds sterling" is to the functional currency of the United Kingdom;
- (k) "US\$", "USD", "US dollars" or "dollars" is to the functional currency of the United States of America;
- (l) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include what most nearly approximates in that jurisdiction to the English legal term and to any English statute shall be construed so as to include equivalent or analogous laws of any other jurisdiction;
- (m) books, records or other information means books, records or other information in any form, including paper and electronically stored data;
- (n) "cash-effective" or "cash-effectively" (i) in connection with an amount of Tax or refund of Tax is a reference to such amount being paid or received (as applicable) in cash or being set-off or credited against a receivable or payable (as applicable) which would otherwise have been received or paid (as applicable) in cash, and (ii) in connection with an amount of Tax or Tax liability saved is a reference to such amount that would have been paid or received (as applicable) in cash or would have been set-off or credited against a receivable or payable (as applicable) which would otherwise have been received or paid (as applicable) in cash;
- (o) one gender shall include each gender;
- (p) the singular includes a reference to the plural and vice versa;

- (q) a time of the day is to CET;
  - (r) any undertaking given by Letterone and/or BASF under this Agreement or Transaction Document to ensure or procure that an act (or omission) of any Wintershall DEA Group Company or any NewCo Group Company or any director or other officer or employee of any such company shall be deemed to be qualified by the phrase “so far as it is able to do so through the exercise of the rights and powers available to it as a shareholder, unless otherwise prohibited by Applicable Law”.
3. The ejusdem generis principle of construction shall not apply to this Agreement. Accordingly, general words shall not be given a restrictive meaning by reason of their being preceded or followed by words indicating a particular class of acts, matters or things or by examples falling within the general words. Any phrase introduced by the terms "other", "including", "include" and "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
  4. The headings in this Agreement do not affect its interpretation.