

**TEMPLATE PROJECT FINANCE MANDATE LETTER[[1]](#footnote-2) [[2]](#footnote-3)**

[*Mandated Lead Arrangers' Logos/Headed Notepaper*]

To: [*Name of Project Company*] (the "**Project Company**")

 [[*Name of Shareholder(s)/Sponsor(s)*] (the "[**Shareholders/Sponsors**]")][[3]](#footnote-4)

 [*Address*]

 For the attention of:

[*Date*]

**[*Insert base currency/amount/description of the Facilit[y/ies]*] (the "Facilit[y/ies]")**

We [  ] and [  ] (the "**Mandated Lead Arrangers**") are pleased to set out in this letter the terms and conditions on which we are willing to:

* 1. arrange and make available the Facilit[y/ies]; and
	2. [provide interest rate hedging in respect of the Facilit[y/ies] in accordance with the Hedging Strategy (the "**Hedging**")].[[4]](#footnote-5)

In this letter:

["**Accession Date**" has the meaning given to that term in paragraph 16.2 (*[Accession of the Project Company*)*.*][[5]](#footnote-6)

"**Affiliate**" means in relation to a person, a subsidiary or holding company of that person, or a subsidiary of any such holding company.

"**Agent**" means each entity appointed as such in paragraphs 1.1(b) to 1.1(e) (*Appointment*).

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in [ ][[6]](#footnote-7).

"**Commitment**" means, in respect of a Mandated Lead Arranger, the aggregate [*insert currency*] amount that such Mandated Lead Arranger has committed to lend to the Project Company pursuant to paragraph 2.1 (*Commitments*), as such amount may be reduced pursuant to paragraph 5.1 (*Conditions*).

"**Equity Parties**" means [*insert the Sponsors/Shareholders of the Project Company*].

"**Facility Documents**" means a Facilit[y/ies] agreement and related documentation (based on the terms set out in the Term Sheet and this letter) in form and substance satisfactory to the Mandated Lead Arrangers.

"**Fee Letter**" means any fee letter between (a) any of the Mandated Lead Arrangers and/or any Agent and (b) the Project Company dated on or about the date of this letter.

"**Final Credit Approval**" means, in respect of a Mandated Lead Arranger, all internal credit approvals (it being noted that such approvals will be subject to all conditions precedent to Financial Close being satisfied or waived in accordance with the terms of the Facility Documents) required in order for that Mandated Lead Arranger to provide its Commitment to participate in the Facilit[y/ies] [and provide the Hedging] on the terms and conditions of the Mandate Documents.

["**Hedging Participation**" means, in respect of a Mandated Lead Arranger, the amount of its participation in the Hedging as determined in accordance with paragraph 4 ([*Hedging*).]

["**Hedging Strategy**" means the interest rate hedging strategy for the Facilit[y/ies] to be agreed between the Project Company and the Mandated Lead Arrangers.]

"**Major Project Documents**" [means [*list Major Project Documents*]][has the meaning given to that term in the Term Sheet].

["**Majority MLAs**" means [a Mandated Lead Arranger or Mandated Lead Arrangers whose Commitment in aggregate is more than [66 ⅔]% of the Facilit[y/ies]]/[the majority in number of the Mandated Lead Arrangers].][[7]](#footnote-8)

"**Mandate Documents**" means this letter, the Term Sheet and any Fee Letter.

"**Term Sheet**" means the term sheet attached to this letter as Appendix 2 (*Term Sheet*).

"**Transaction**" means the project financing transaction contemplated in the Mandate Documents.

Unless a contrary indication appears, a term defined in any Mandate Document has the same meaning when used in this letter.

1. **Appointment**
	1. The Project Company appoints:
	2. the Mandated Lead Arrangers as exclusive arrangers of the Facilit[y/ies];
	3. [ ] as intercreditor agent in connection with the Facilit[y/ies] (the "**Intercreditor** **Agent**")**[[8]](#footnote-9)**;
	4. [ ] as [ ] facility agent in connection with the Facilit[y/ies] (the "[ ] **Facility** **Agent**")**[[9]](#footnote-10)**;
	5. [ ] as onshore security [agent]/[trustee] in connection with the Facilit[y/ies] (the "**Onshore Security [Agent]/[Trustee]**");
	6. [ ] as offshore security [agent]/[trustee] in connection with the Facilit[y/ies] (the "**Offshore Security [Agent]/[Trustee]**");
	7. [ ] as onshore account bank in connection with the Facilit[y/ies];
	8. [ ] as offshore account bank in connection with the Facilit[y/ies][[10]](#footnote-11); and
	9. each other bank or financial institution in their respective roles as set out in section A3 of the Term Sheet.
	10. Until this mandate terminates in accordance with paragraph [‎](#_Ref27146053)17 (*Termination*):
	11. no other person shall be appointed as mandated lead arranger, [underwriter, bookrunner,] [documentation bank,] [intercreditor agent,] [ ] facility agent [or] [*insert any other role banks appointed pursuant to paragraph 1.1 above*];
	12. subject to this paragraph 1, paragraph 2 (*Commitments*) [and paragraph 4 ([*Hedging*)] no other titles shall be awarded; and
	13. except:
		1. as contemplated by the Mandate Documents;
		2. for fees payable to the Lenders' Advisers;
		3. for fees payable to any Mandated Lead Arranger or the [intercreditor] agent [, the [ ] facility agent], the onshore security [agent]/[trustee] or offshore security [agent]/[trustee] in respect of any role awarded in connection with the Facilit[y/ies] under paragraph 1 (*Appointment*), paragraph 2 (*Commitments*) [and paragraph 4 ([*Hedging*)]; and
		4. for fees payable to legal, financial and technical advisers and any other advisers or consultants providing professional or technical services or advice to one or more Equity Parties,

no other compensation shall be paid to any person in connection with the arrangement of the Facilit[y/ies] [and the Hedging],

[in any such case, without the prior written consent of each of the Mandated Lead Arrangers][[11]](#footnote-12).

* 1. The obligations of the Mandated Lead Arrangers under the Mandate Documents are several. No Mandated Lead Arranger is responsible for the obligations of [the]/[any] other Mandated Lead Arranger.
	2. Each Mandated Lead Arranger may separately enforce its rights under the Mandate Documents [and may perform its obligations under the Mandate Documents directly or through one or more of its Affiliates][[12]](#footnote-13).
1. **Commitments**[[13]](#footnote-14)
	1. Each Mandated Lead Arranger is pleased to confirm to the Project Company its commitment (subject only to the terms and conditions of the Mandate Documents and receipt of Final Credit Approval) to arrange, provide, and act [(either itself or through an Affiliate)] as an original lender of, the Facilit[y/ies] on the terms set out in the Mandate Documents in the amount set out opposite its name in Appendix 1 (*Commitments and Pricing*).
	2. Each Mandated Lead Arranger agrees that the Project Company may [at any time prior to the signing of the Facility Documents] allocate the final Commitments in respect of the Facilit[y/ies] [in its absolute discretion (and may reduce the amount of any Mandated Lead Arranger’s Commitment in respect of the Facilit[y/ies] in its absolute discretion)] / [rateably across the Commitments of each Mandated Lead Arranger], provided that any increase in a Mandated Lead Arranger's Commitment beyond that specified in Appendix 1 (*Commitments and Pricing*) shall be subject to that Mandated Lead Arranger's prior written consent.
	3. Each Mandated Lead Arranger confirms to the Project Company that, subject only to the conditions specified in paragraph 5.1 (*Conditions*) below, it has obtained all necessary internal credit and other approvals for it to (subject only to its Final Credit Approval) arrange the Facilit[y/ies] and provide its Commitments [and its Hedging Participation][[14]](#footnote-15) [[15]](#footnote-16).
	4. If this mandate terminates in respect of the Commitment of a Mandated Lead Arranger under this letter (the "**Terminated Commitment**"):
		1. any titles awarded to that Mandated Lead Arranger under paragraph 1.1 (*Appointment*):

### will be automatically revoked; and

### may be awarded by the Project Company to any other Mandated Lead Arranger;

* + 1. the Project Company may (in its absolute discretion) re-allocate the Terminated Commitment across the original credit approved Commitments for the remaining Mandated Lead Arrangers, provided that any increase in a Mandated Lead Arranger's Commitment beyond that specified in Appendix 1 (*Commitments and Pricing*) shall be subject to that Mandated Lead Arranger's prior written consent;
		2. if the additional Commitments provided by the remaining Mandated Lead Arrangers pursuant to any re-allocation under sub-paragraph 2.4.2 above are insufficient to cover the Terminated Commitment in full, the Project Company may appoint one or more replacement Mandated Lead Arrangers on the terms and conditions set out in the Mandate Documents, provided that (i) the Commitments of such replacement Mandated Lead Arrangers in aggregate must not exceed the shortfall between the Terminated Commitment and the additional Commitments provided by the remaining Mandated Lead Arrangers under sub-paragraph 2.4.2 above and (ii) the Project Company must notify the other Mandated Lead Arrangers of the identity of any such replacement Mandated Lead Arrangers prior to their appointment.
1. **Pricing**[[16]](#footnote-17)

Each Mandated Lead Arranger agrees to make its Commitment available and participate in the [relevant] Facilit[y/ies] on the basis of the fees and margins set out in Appendix 1 (*Commitments and Pricing*) ([to be calculated by reference to the final Commitment of each Mandated Lead Arranger as at Financial Close and which shall not be payable unless Financial Close occurs] / [to be calculated and payable in accordance with the terms of the relevant Fee Letter(s)]).

1. **[Hedging**
	1. Each Mandated Lead Arranger shall, directly or through its Affiliates[[17]](#footnote-18), participate in the Hedging as a hedging provider in an amount which is (unless otherwise agreed between that Mandated Lead Arranger and the Project Company) [proportional to its final participation in the Facilit[y/ies]][[18]](#footnote-19) as determined pursuant to paragraph 2 (*Commitments*) (each a "**Hedging Participation**").
	2. Should the aggregate amount of the Hedging Participations of all of the Mandated Lead Arrangers be lower than the final target amount required by the Hedging Strategy, each Mandated Lead Arranger agrees to cooperate in good faith with the Project Company to identify and pursue mutually acceptable ways to procure additional hedging participations from the Mandated Lead Arrangers and/or from third party hedging providers to cover the shortfall.]
2. **Conditions**
	1. This offer to arrange and provide the Facilit[y/ies] [and the Hedging][[19]](#footnote-20) is made on the terms of the Mandate Documents and is subject to satisfaction of the following conditions:[[20]](#footnote-21)
	2. [immediately upon its incorporation, the Project Company acceding to the terms and conditions of this letter and the Fee Letters by returning a duly executed copy of this letter to the Mandated Lead Arrangers and a duly executed copy of each Fee Letter to the relevant Mandated Lead Arranger and each Agent];[[21]](#footnote-22)
	3. compliance by the Project Company in all respects with all the terms of each Mandate Document;[[22]](#footnote-23)
	4. the conditions set out in paragraph 7 ([*Material Adverse Change*);
	5. each of the representations and warranties made by the Project Company [or any other Equity Party] in connection with the Transaction (including, but not limited to, those set out in paragraph 10 (*Information*)) being correct;
	6. the preparation, execution and delivery of the Facility Documents [by no later than [  ] or any later date agreed between the Project Company and each of the Mandated Lead Arrangers];
	7. completion by each of the Mandated Lead Arrangers of client identification procedures (including, if necessary, identification of directors and major shareholders of the [Project Company,] [the Sponsors] [and/or] [the Equity Parties]) in compliance with applicable money laundering and other internal rules;
	8. each of the Mandated Lead Arrangers obtaining Final Credit Approval [and other internal approvals] with respect to [the Project Company, the Equity Parties,] the Transaction, the Facilit[y/ies] [and the Hedging];
	9. this letter not having been terminated pursuant to paragraph 17 (*Termination*) (other than paragraph 17.1(a)); and
	10. completion of [legal, regulatory and financial][[23]](#footnote-24) due diligence in respect of the Transaction, the results being in all respects satisfactory to each of the Mandated Lead Arrangers.[[24]](#footnote-25)
	11. The Borrower and each of the Mandated Lead Arrangers have agreed to the selection of the following advisers as advisers to the Lenders:[[25]](#footnote-26)
	12. [ ] as Lenders' [International] Legal Adviser;
	13. [[ ] as Lenders' Local Law Legal Adviser;]
	14. [[ ] as Lenders' Insurance Adviser;]
	15. [ ] as Lenders' Technical Adviser;
	16. [[ ] as Lenders' Environmental and Social Adviser;] [and]
	17. [ ] as Model Auditor[; and
	18. [*others*]].
	19. The Mandated Lead Arrangers and the Project Company shall each:
		1. acting in good faith, keep each other informed of all material internal developments relating to the Transaction; and
		2. subject to paragraph 5.4, as soon as reasonably practicable notify each other of all events and circumstances of which they are, or become, aware, which could reasonably be expected to have an impact on the successful execution of the Facility Documents by the date set out in paragraph 5.1(e) above.
	20. Nothing in sub-paragraph 5.3.2 above obliges a Party to disclose any information which it is restricted from doing so under law, regulation, internal policies or any other contractual arrangements.
3. **Consultants and Advisers**
	1. Other than the Lenders’ Advisers and other advisers appointed in accordance with paragraph 5.2 (*Conditions*), no consultants or advisers will be appointed by the Mandated Lead Arrangers in connection with the Transaction, unless the Project Company has provided its prior written approval to the identity of such consultant or adviser and the terms of the proposed appointment (including the fees payable).
	2. Subject to the terms of this letter, any fees and expenses of consultants and advisers who are appointed by the Mandated Lead Arrangers (or any of them) without the prior written approval of the Project Company in accordance with paragraph 6.1 above shall be for the account of the relevant Mandated Lead Arranger(s).
4. **[Material Adverse Change**

The obligations of each Mandated Lead Arranger under the Mandate Documents are subject to the absence, in its opinion, of any event(s) or circumstance(s) (including any material adverse change or the continuation of any circumstance(s)) which could reasonably be expected to adversely affect:

* 1. [the business, condition (financial or otherwise), operations, performance, assets or prospects of the Project Company [or any Equity Party] [since the date as at which [its latest/the latest consolidated] [audited] / [unaudited] financial statements were prepared];]
	2. [the ability of the Project Company [or any Equity Party] or any Major Project Participant to perform its material obligations under any Mandate Document, Facility Document or Major Project Document to which it is party;] or
	3. [the international or any relevant domestic [debt, bank, capital or equity][[26]](#footnote-27) market(s)][[27]](#footnote-28),

during the period from the date of [this letter/the Term Sheet] to the date of signing of the Facility Documents.**]**

1. **Fees, Costs and Expenses**
	1. All fees shall be paid [in accordance with the Fee Letter(s) or] as set out in the Term Sheet.
	2. The Project Company shall, within [ ] Business Days after the date of termination in accordance with paragraph 17.1 (*Termination*), pay each Agent and the Mandated Lead Arrangers the amount of all costs and expenses (including legal fees [and costs and expenses incurred for due diligence]) reasonably incurred by any of them in connection with the negotiation, preparation, printing and execution of the Facility Documents and the Mandate Documents [whether or not the Facility Documents are signed].
	3. The Project Company shall be under no obligation to pay the individual costs and expenses incurred by the Agents and the Mandated Lead Arrangers (for the avoidance of doubt, not including the Lenders’ Advisers’ fees and expenses) where that Party's rights and obligations under the Mandate Documents are terminated by the Project Company in accordance with the terms of the Mandate Documents:
	4. to the extent that such costs and expenses are incurred after the date of such termination; or
	5. as a result of a breach by that Party of the terms of this letter.
2. **Payments**
	1. All payments to be made under the Mandate Documents:
	2. shall be paid in the currency of invoice and in immediately available, freely transferable cleared funds to such account(s) with such bank(s) as the relevant Mandated Lead Arranger or the relevant Agent entitled to such payment notifies to the Project Company, and without any set-off or counterclaim;
	3. shall be paid without any deduction or withholding for or on account of tax (a "**Tax Deduction**") unless a Tax Deduction is required by law. If a Tax Deduction is required by law to be made, the amount of the payment due shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required (the amount by which each such payment is increased, a "**Tax Deduction Gross-Up Payment**"); and
	4. are exclusive of any goods and services tax, consumption tax, value added tax or any tax of a similar nature ("**Indirect Tax**"). If any Indirect Tax is chargeable, the Project Company shall also and at the same time pay to the recipient of the relevant payment an amount equal to the amount of the Indirect Tax (each such amount, an "**Indirect Tax Gross-Up Payment**") and the payee will promptly issue to the Project Company a tax invoice complying with the relevant law relating to that Indirect Tax.
	5. If, at any time after a Tax Deduction Gross-Up Payment or an Indirect Tax Gross-Up Payment is made by the Project Company to a Party under paragraph 9.1(b) or 9.1(c) above, respectively, that Party receives (or reasonably determines that it is entitled to receive) any amounts from the relevant tax authority in reimbursement of the Tax Deduction or Indirect Tax which gave rise to that Tax Deduction Gross-Up Payment or Indirect Tax Gross-Up Payment (as applicable), the relevant Party shall, promptly following receipt, pay such reimbursed amounts to the Project Company.
3. **Information**
	1. The Project Company represents and warrants that:
		1. to the best of its knowledge and belief, any written factual information (excluding any forecasts or projections) provided to the Mandated Lead Arrangers by or on behalf of it or any Equity Party under or in connection with the Mandate Documents (the "**Information**") is true and accurate in all material respects as at the date it is provided or as at the date (if any) at which it is stated;
		2. to the best of its knowledge and belief, nothing has occurred or been omitted from the Information, and no information has been given or withheld, that results in the Information being untrue or misleading in any material respect; and
		3. any forecasts or projections contained in the Information have been prepared in good faith on the basis of recent historical information and assumptions believed by it to be reasonable (it being understood that such forecasts and projections are subject to significant uncertainties and contingencies, many of which are beyond the control of the Project Company, the Equity Parties and their respective Affiliates and that no assurance can be given that the projections will be realised).
	2. The Project Company shall promptly notify the Mandated Lead Arrangers in writing if any representation and warranty set out in paragraph 10.1 above is incorrect or misleading and agrees to supplement the Information promptly from time to time to ensure that each such representation and warranty is correct when made.
	3. The representations and warranties set out in paragraph 10.1 above are deemed to be made by the Project Company daily by reference to the facts and circumstances then existing commencing on the date of this letter and continuing until the date on which the Facility Documents are signed.
4. **Indemnity**
	1.
	2. Whether or not the Facility Documents are signed, the Project Company shall within [three (3)] Business Days of demand indemnify each Indemnified Person (as defined in paragraph 11.1(c) below) against any cost, expense, loss or liability (including legal fees) incurred by or awarded against that Indemnified Person in each case arising out of or in connection with any action, claim, investigation or proceeding commenced or threatened (including, without limitation, any action, claim, investigation or proceeding to preserve or enforce rights) in relation to:
		1. [the use of the proceeds of the Facilit[y/ies];]
		2. any Mandate Document or any Facility Document; and/or
		3. the arranging of the Facilit[y/ies] [and the Hedging].
	3. In no circumstances shall the Project Company be liable under paragraph (a) above for:

#### any cost, expense, loss or liability (including legal fees) incurred by or awarded against an Indemnified Person to the extent that cost, expense, loss or liability resulted from:

##### any dispute between Indemnified Persons to the extent not arising out of any act or omission of the Project Company;

##### any breach by that Indemnified Person of any Mandate Document or any Finance Document; or

##### the fraud, criminal conduct, gross negligence or wilful misconduct of that Indemnified Person;

#### any indirect, special or consequential losses or damages (in contract, in tort or otherwise); or

#### any loss of profits (whether direct or indirect), business opportunities, revenue or damage to goodwill.

* 1. For the purposes of this paragraph 11:

"**Indemnified Person**" means each Mandated Lead Arranger and each Agent, and in each case, any of their respective Affiliates and each of their (or their respective Affiliates') respective directors, officers, employees and agents.

* 1. No Mandated Lead Arranger shall have any duty or obligation, whether as fiduciary for any Indemnified Person or otherwise, to recover any payment made or required to be made under paragraph [‎](#_Ref43812724)11.1 above.
	2. The Project Company agrees that no Indemnified Person shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Project Company or any of its Affiliates for or in connection with anything referred to in paragraph 11.1 above except, following the Project Company's agreement to the Mandate Documents, for any such cost, expense, loss or liability incurred by the Project Company that results [directly] from any breach by that Indemnified Person of any Mandate Document or any Facility Document which is in each case finally judicially determined to have resulted [directly] from the gross negligence or wilful misconduct of that Indemnified Person.
	3. Notwithstanding paragraph (a) above, no Indemnified Person shall be responsible or have any liability to the Project Company or any of its Affiliates or anyone else for (i) any indirect, special or consequential losses or damages (in contract, in tort or otherwise) or (ii) any loss of profits (whether direct or indirect), business opportunities, revenue or damage to goodwill.
	4. The Project Company represents to the Mandated Lead Arrangersthat:
		1. it is acting for its own account and it has made its own independent decisions to enter into the Transaction and as to whether the Transaction is appropriate or proper for it based upon its own judgement and upon advice from such advisers as it has deemed necessary;
		2. it is not relying on any communication (written or oral) from any or all of the Mandated Lead Arrangersas investment advice or as a recommendation to enter into the Transaction, it being understood that information and explanations related to the terms and conditions of the Transaction shall not be considered investment advice or a recommendation to enter into the Transaction. No communication (written or oral) received from any or all of the Mandated Lead Arrangers shall be deemed to be an assurance or guarantee as to the expected results of the Transaction;
		3. it is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the Transaction. It is also capable of assuming, and assumes, the risks of the Transaction;
		4. no Mandated Lead Arranger is acting as a fiduciary for [or as an adviser to][[28]](#footnote-29) it in connection with the Transaction; and
		5. all personal data it or its Affiliates or agents have or will transfer to the Mandated Lead Arrangers or their respective Affiliates or agents has been collected, processed, transferred or otherwise used in accordance with relevant data privacy laws binding on the Project Company.
	5. The Contracts (Rights of Third Parties) Act, Chapter 53 of Singapore shall apply to this paragraph 11 but only for the benefit of the other Indemnified Persons, subject always to the terms of paragraphs 20.2 (*Third Party Rights*) and 22 (*Governing Law and [Jurisdiction/Arbitration]*).
1. **Confidentiality**

The Project Company acknowledges that the Mandate Documents are confidential and the Project Company shall not, and shall ensure that no Equity Party shall, without the prior written consent of each of the Mandated Lead Arrangers, disclose the Mandate Documents or their contents to any other person except:

* 1. as required by law or by any applicable governmental or other regulatory authority [or by any applicable stock exchange] (provided that the Project Company shall promptly notify the Mandated Lead Arrangers of any disclosure to any applicable governmental or other regulatory authority [or by any applicable stock exchange] to the extent permitted by applicable law [and][,] regulation [and rules of such stock exchange]); and
	2. to its employees or professional advisers for the purposes of the Facilit[y/ies] who have been made aware of and agree to be bound by the obligations under this paragraph 12 or are in any event subject to confidentiality obligations as a matter of law or professional practice.[[29]](#footnote-30)
1. **Publicity/Announcements**
	1. All publicity in connection with the Facilit[y/ies] shall be managed by the Mandated Lead Arrangers in consultation with the Project Company.
	2. [No announcements regarding the Facilit[y/ies] or any roles as arranger, underwriter, bookrunner, lender or agent shall be made without the prior written consent of the Project Company and each of the Mandated Lead Arrangers, unless such announcements are required to be made by law or regulation or rules of any stock exchange or order of court or tribunal or requested to be made by applicable governmental or other regulatory authority and any announcing Mandated Lead Arranger has, to the extent it is permitted to do so by law, provided the Project Company and each other Mandated Lead Arranger prior written notice of such required announcement.]
2. **Conflicts**
	1. The Project Company and each Mandated Lead Arranger acknowledge that any of the Mandated Lead Arrangers or their Affiliates may provide debt financing, equity capital, corporate finance, banking and structured finance, sales and trading of securities and debt (including derivatives) and related research, custodial services, property management, asset management, development capital and related activities, financial advisory services to other persons with whom the Project Company or its Affiliates may have conflicting interests in respect of the Facilit[y/ies] [and the Hedging] in this or other transactions.
	2. The Project Company and each Mandated Lead Arranger acknowledge that the Mandated Lead Arrangers or their Affiliates may act in more than one capacity in relation to the Transaction and may have conflicting interests in respect of such different capacities.
	3. The Mandated Lead Arrangers shall not use confidential information obtained from the Project Company or its Affiliates for the purposes of the Facilit[y/ies] [and the Hedging] in connection with providing services to other persons or furnish such information to such other persons.
	4. The Project Company acknowledges that the Mandated Lead Arrangers have no obligation to use any information obtained from another source for the purposes of the Facilit[y/ies] [and the Hedging] or to furnish such information to the Project Company or its Affiliates.
3. **Assignments and Transfers**
	1. No Mandated Lead Arranger may assign any of its rights or transfer any of its rights or obligations under the Mandate Documents without the prior written consent of the Project Company, unless such assignment or transfer is to an Affiliate of the relevant Mandated Lead Arranger.
	2. The Project Company shall not assign any of its rights or transfer any of its rights or obligations under the Mandate Documents without the prior written consent of each of the Mandated Lead Arrangers.
4. **[Accession of the Project Company**
	1. The [Shareholder[s]/Sponsor[s]] may, at any time prior to the termination of this letter in accordance with paragraph 17 (*Termination*), designate any newly incorporated special purpose vehicle which is [jointly] wholly owned [directly]/[indirectly] by the [Shareholder[s]/Sponsor[s]] as the "Project Company" for the purposes of the Mandate Documents [with the consent of the Mandated Lead Arrangers].
	2. The designation of the Project Company pursuant to paragraph 16.1 above shall become effective upon the delivery of a duly executed copy of this letter to the Mandated Lead Arrangers and a duly executed copy of each Fee Letter to the relevant Mandated Lead Arranger and each Agent (the date of such delivery being the "**Accession Date**").
	3. With effect from the Accession Date:
	4. the Project Company shall become a party to the Mandate Documents and shall be bound by the terms of the Mandate Documents; and
	5. the Project Company shall acquire all of the rights and assume all of the obligations which it is expressed to have under the Mandate Documents as if it were an original party to the Mandate Documents.
	6. [Prior to the accession by the Project Company to each of this letter and the Fee Letters, all of its liabilities and payment obligations under the Mandate Documents shall be [severally [(but not jointly)]] assumed by [*insert one or more Sponsors*] [in the following proportions (each, a "**Sponsor Percentage Interest**"):
	7. [*insert Sponsor 1*]: [●]%; and
	8. [*insert Sponsor 2*]: [●]%.]

Upon accession by the Project Company to this letter and the Fee Letters, [each] / [the] Sponsor shall be [jointly and severally] liable with the Project Company [(but, for the avoidance of doubt, not jointly with each other or any other Sponsor)] for the liabilities and payment obligations of the Project Company under the Mandate Documents [up to that Sponsor's Sponsor Percentage Interest of the amount of such liabilities and payment obligations].][[30]](#footnote-31)

1. **Termination**
	1. Subject to paragraph 18 (*Survival*), the rights and obligations of the Project Company and each Mandated Lead Arranger under this letter shall terminate on the earliest to occur of:

### the date on which the Facility Documents are signed;

### [ ] (the "**End Date**"), unless the Project Company and each Mandated Lead Arranger agree to an extension to the terms of this letter (the latest date of each such extension being the "**Final End Date**"); and

### the date on which the rights andobligations of the Mandated Lead Arrangers under this letter terminate in accordance with the other provisions of this paragraph 17.

* 1. Subject to paragraph 18 (*Survival*), any Mandated Lead Arrangermay terminate its obligations under this letter with immediate effect by notifying the Project Company and the other Mandated Lead Arranger(s) if:
	2. in its opinion, any of the conditions set out in paragraph 5 (*Conditions*) is not satisfied and the failure to satisfy that condition is not capable of remedy or, if it is capable of remedy, is not remedied within [ ] Business Days of it being notified to the Project Company;
	3. any circumstance occurs that would result in such Mandated Lead Arranger, acting contrary to any law, regulation, treaty, sanctions or official directive, judgment or request applicable to it, that is issued by a competent authority or regulatory body; [or
	4. the Project Company fails or has failed to disclose to any of the Mandated Lead Arrangers information which could be relevant to their decision to arrange the Facilit[y/ies] [and the Hedging]].
	5. Subject to paragraph 18 (*Survival*), at any time prior to the date of signing of the Facility Documents, the Project Company may terminate the appointment of any Mandated Lead Arranger in its respective capacities in connection with the Transaction if:
	6. that Mandated Lead Arranger is (in the reasonable opinion of the Project Company) in breach of this letter and the failure to remedy that breach is not capable of remedy or, if it is capable of remedy, is not remedied within [ ] Business Days of it being notified by the Project Company to that Mandated Lead Arranger;
	7. that Mandated Lead Arranger does not agree to extend the End Date or the Final End Date, following any request by the Project Company, within [ ] Business Days of the date it receives any such extension request; or
	8. the Project Company notifies all Mandated Lead Arrangers that it will no longer proceed with the Transaction.
	9. A termination in respect of a Mandated Lead Arranger pursuant to paragraph 17.2 or 17.3 above will not affect the rights and obligations of the other Parties to this letter, in respect of which this letter shall continue in full force and effect. No fee shall be payable to any Mandated Lead Arranger under this letter following a termination in respect of that Mandated Lead Arranger pursuant to paragraph 17.2 or 17.3 above.
1. **Survival**
	1. If this letter is terminated other than upon the execution of the Facility Documents, paragraphs 6 (*Consultants and Advisers*), 8 (*Fees, Costs and Expenses*), 9 (*Payments*), 11 (*Indemnity*), 12 (*Confidentiality*), 13 (*Publicity/Announcements*), 14 (*Conflicts*), 15 (*Assignments and Transfers*), and 18 (*Survival*) to 22 (*Governing Law and [Jurisdiction/Arbitration]*) inclusive will remain in full force and effect, and shall survive and continue after any termination of the obligations of any Mandated Lead Arranger under the Mandate Documents (whether that termination is undertaken by a Mandated Lead Arranger, or by the Project Company).
	2. If this letter is terminated upon the execution of the Facility Documents:
		1. paragraphs 6 (*Consultants and Advisers*), 9 (*Payments*), 13 (*Publicity/Announcements*) , 14 (*Conflicts*), 15 (*Assignments and Transfers*), and 18 (*Survival*) to 22 (*Governing Law and [Jurisdiction/Arbitration]*) inclusive; and
		2. paragraphs 8 (*Fees, Costs and Expenses*) and 11 (*Indemnity*), but only to the extent the obligations of the Project Company under the Facility Documents do not extend to cover the obligations under such paragraphs from the execution of the Facility Documents,

will remain in full force and effect, and shall survive and continue after any termination of the obligations of any Mandated Lead Arranger under the Mandate Documents (whether that termination is undertaken by a Mandated Lead Arranger, or by the Project Company). [For the avoidance of doubt, if a Mandated Lead Arranger does not execute the Facility Documents, paragraph 18.1 above would apply in respect of that Mandated Lead Arranger.]

1. **Entire Agreement**
	1. The Mandate Documents set out the entire agreement between the Project Company and the Mandated Lead Arrangers as to arranging the Facilit[y/ies] and supersede any prior oral and/or written understandings or arrangements relating to the Facilit[y/ies].
	2. Any provision of a Mandate Document (other than any Fee Letter entered into between the Project Company and any Agent in respect of fees payable to such Agent in its capacity as such) may only be amended or waived in writing signed by the Project Company and each of the Mandated Lead Arrangers
	3. Any provision of a Fee Letter entered into between the Project Company and an Agent in respect of fees payable to such Agent in its capacity as such may be amended or waived in writing signed by the Project Company and such Agent.
2. **Third Party Rights**
	1. Unless expressly provided to the contrary in this letter, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act, Chapter 53 of Singapore to enforce or to enjoy the benefit of any of its terms.
	2. Notwithstanding any term of this letter, the consent of any person who is not a party to this letter is not required to rescind or vary this letter at any time.
3. **Counterparts**

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

1. **Governing Law and [Jurisdiction/Arbitration]**
	1. This letter (including the agreement constituted by your acknowledgement of its terms) (the "**Letter**") is governed by Singapore law.
	2. [The courts of Singapore have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter.][[31]](#footnote-32)

***OR*[[32]](#footnote-33)**

[(a) Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre in accordance with the Arbitration Rules of the Singapore International Arbitration Centre for the time being in force, which rules are deemed to be incorporated by reference in this paragraph 22.

(b) The seat of the arbitration shall be [Singapore].

(c) The tribunal shall consist of [one/three][[33]](#footnote-34) arbitrators.

(d) The language of the arbitration shall be [English].][[34]](#footnote-35)

[*Waiver of immunities*

* 1. [*Sovereign Entity/Public Sector Entity*] irrevocably waives, to the extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from:
	2. suit;
	3. jurisdiction of any court;
	4. relief by way of injunction or order for specific performance or recovery of property;
	5. attachment of its assets (whether before or after judgment); and
	6. execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction (and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any immunity in any such proceedings).][[35]](#footnote-36)

[*Service of process*

* 1. Without prejudice to any other mode of service allowed under any relevant law, the Project Company:
	2. irrevocably appoints [              ][[36]](#footnote-37) as its agent for service of process in relation to any proceedings before the Singapore courts in connection with any Mandate Document; and
	3. agrees that failure by a process agent to notify the Project Company of the process will not invalidate the proceedings concerned.][[37]](#footnote-38)

If you agree to the above, please acknowledge your agreement and your acceptance of the offer by signing and returning the enclosed copy of this letter [together with the Fee Letter(s) countersigned by you] to [                    ] at [                             ].

Yours faithfully

…………………………….
For and on behalf of
**[*insert name*]**

as Mandated Lead Arranger

…………………………….
For and on behalf of
**[*insert name*]**

as Mandated Lead Arranger

…………………………….
For and on behalf of
**[*insert name*]**

as Intercreditor Agent

…………………………….
For and on behalf of
**[*insert name*]**

as [ ] Facility Agent

…………………………….
For and on behalf of
**[*insert name*]**

as Onshore Security [Agent]/[Trustee]

…………………………….
For and on behalf of
**[*insert name*]**

as Offshore Security [Agent]/[Trustee]

We acknowledge and agree to the above:

…………………………….

For and on behalf of
**[*Shareholder/Sponsor*][[38]](#footnote-39)**

We acknowledge and agree to the above:[[39]](#footnote-40)

…………………………….
For and on behalf of
**[*The Project Company*]**

as the Project Company

[Date of accession to this letter: ……………………………………]

**APPENDIX 1 – COMMITMENTS AND PRICING**

*Commitments*

|  |  |
| --- | --- |
| **Mandated Lead Arranger** | **Commitments**[Note: if more than one Facility, commitments to be allocated pro rata across the Facilities.]  |
|  | **[*Insert*] Facility** **(*[Insert currency]*)** | **[[*Insert*] Facility** **(*[Insert currency]*)** |
| [*Insert name*] | [*Insert amount*] | [*Insert amount*] |
| [*Insert name*] | [*Insert amount*] | [*Insert amount*] |
| **Total**  | [*Insert amount*] | [*Insert amount*]] |

*Pricing*

| **Facility** | **Upfront Fee****(% flat)** | **Margin** | **Commitment Fee****(%)** |
| --- | --- | --- | --- |
|  **(% p.a.)** |
| [*Insert*] Facility |  |  |  |  |

**APPENDIX 2 – TERM SHEET**

[***Attach Term Sheet***]

1. This mandate letter is intended to be used with the Infrastructure Asia Term Sheet. [↑](#footnote-ref-2)
2. This mandate letter assumes that the Mandated Lead Arrangers would only be participating in the Facilit[y/ies] as lenders, and will not be syndicating or underwriting the same. To the extent that underwriting and syndication will be adopted, the relevant provisions of the APLMA underwritten mandate letter should be included, relating to Clear Market, Market Flex, Syndication, and No Front-running. Consequential amendments will need to be made to the rest of the mandate letter to include the bookrunners (if required) and underwriters. [↑](#footnote-ref-3)
3. The Project Company may not exist at the time that the mandate letter is being negotiated and executed. In such case, one or more of the Sponsors would execute the Mandate Letter first, and subsequently the Project Company would accede to the mandate letter. In such case, the optional paragraph 16 (*[Accession of the Project Company*) which provides for the accession by the Project Company and the liabilities and obligations of the Sponsors prior to such accession could be inserted within the mandate letter.

Also check and update the references to Project Company in the mandate letter as necessary. [↑](#footnote-ref-4)
4. To include if the Mandated Lead Arrangers will also be providing hedging in connection with the Facilit[y/ies]. [↑](#footnote-ref-5)
5. See footnote 3 above. [↑](#footnote-ref-6)
6. This would typically include the principal financial centre of the currency in which payments will be made under the Mandate Documents and locations at which the Mandated Lead Arrangers/Agent and the Project Company are based. [↑](#footnote-ref-7)
7. This concept can be included if there is a need to reduce the consent thresholds for making amendments to certain terms of this mandate letter (currently, this would require the consent of all of the Mandated Lead Arrangers – see for instance the longstop date for preparation of the Facility Documents in paragraph 5.1(e) (*Conditions*). [↑](#footnote-ref-8)
8. Where there are a number of Facilities, there is generally one overall agent coordinating the facilities and an individual facility agent for each separate facility, this overall agent is referred to as the Intercreditor Agent. [↑](#footnote-ref-9)
9. As per the above, if there are a number of facilities, include additional facility agents for each separate facility and add a new signature block for each additional facility agent to the signature page. [↑](#footnote-ref-10)
10. Consider whether it is necessary for the account banks to be parties to this letter. [↑](#footnote-ref-11)
11. Consideration should be given to whether there are any competition law implications associated with the rights provided for in this paragraph. [↑](#footnote-ref-12)
12. Consideration should be given to whether performance by an Affiliate may have tax/compliance consequences. [↑](#footnote-ref-13)
13. Note that the structure of the mandate letter and the level of commitment of the Mandated Lead Arrangers in the mandate letter vary on a case by case basis depending on the type of transaction being financed. On the one hand, in a 'normal' financing financial institutions may not be in a position to confirm their commitment at signing of the mandate letter as internal approvals are obtained at a later stage; on the other hand, where the financing is part of a competitive tender then a stronger commitment (with less conditionality) may be required to demonstrate greater certainty of funding. [↑](#footnote-ref-14)
14. Consider adding a similar confirmation from the Agents (and the account bank(s) if they are parties to this letter) as to necessary internal approvals having been obtained to act in such roles. [↑](#footnote-ref-15)
15. The commitment period for the pricing for the hedging participation may not be the same as that for the pricing of the loan commitments, and the draft should be updated to reflect the commercial position of the particular transaction. [↑](#footnote-ref-16)
16. Consideration should be given to whether there are any competition law implications associated with the rights provided for in this paragraph. [↑](#footnote-ref-17)
17. Note that such Affiliates may be required to have a minimum credit rating and, in some jurisdictions, authorisations. [↑](#footnote-ref-18)
18. Various formulations may be used, including rights to match or rights of first refusal. [↑](#footnote-ref-19)
19. Consider whether there are any additional conditions for the Agents (and the account bank(s) if they are parties to this letter) to act in such roles (e.g. satisfaction of KYC requirements) and update this paragraph as necessary. [↑](#footnote-ref-20)
20. If this Mandate Letter is being signed in connection with a competitive tender process (where the Borrower must demonstrate "certain funds" to finance the acquisition if selected as preferred bidder), a more limited set of conditions may be agreed between the Project Company and the Mandated Lead Arrangers on a case-by-case basis. [↑](#footnote-ref-21)
21. To include if the Project Company does not exist at the time the mandate letter is executed and instead one or more of the Sponsors execute the same in its stead. See footnote 3 above. [↑](#footnote-ref-22)
22. Consider whether this should be qualified by materiality and/or whether a grace period should be included to enable the Project Company to remedy any non-compliance. [↑](#footnote-ref-23)
23. Consider whether "accounting", "tax", "technical", "insurance", "industry", "business", "pensions", "environmental and social" or other due diligence is relevant. [↑](#footnote-ref-24)
24. Other conditions that the parties may wish to consider including on a case-by-case basis include:

 (i) that there have been no material updates to the Base Case or any due diligence reports delivered prior to the date of this letter which are reasonably likely to be adverse to the interests of the Finance Parties; and

 (ii) the Project Company having obtained all necessary regulatory approvals in connection with the Facilit[y/ies] from any relevant authorities in the Project jurisdiction and any other relevant jurisdictions. [↑](#footnote-ref-25)
25. All advisers appointed as advisers to the Lenders to be listed here. This is a suggested list, but there will be variations depending on the project. [↑](#footnote-ref-26)
26. Refer specifically to material adverse change in the capital markets and equity markets if the debt financing relies on refinancing in the capital or equity markets. [↑](#footnote-ref-27)
27. Transactions in emerging markets or involving a sovereign Project Company should refer to material adverse change in the market or economic conditions of the relevant jurisdiction or in the ability of persons within that jurisdiction to continue to access the international loan market. Amend paragraph (c) and insert a new paragraph (d) "the market or economic conditions of [*insert country of incorporation of the Project Company or country where principal assets of the Project Company are located*]" and a new paragraph (e) "the ability of persons incorporated in and/or operating out of [*insert country of incorporation of the Project Company or country where principal assets of the Project Company are located*] to raise finance in the international debt, bank, capital or equity market(s)". [↑](#footnote-ref-28)
28. Amend where any such party is also acting as adviser, e.g. financial adviser. [↑](#footnote-ref-29)
29. If this letter is being executed in connection with a competitive tender, the confidentiality provision ought to allow disclosure to the seller (and its officers, Affiliates, employees and professional advisers). Consider also whether disclosure ought to be permitted to potential transferees of Lenders. [↑](#footnote-ref-30)
30. See footnote 3 above. [↑](#footnote-ref-31)
31. Use this option for dispute resolution by way of court process. [↑](#footnote-ref-32)
32. Parties to consider whether to include a prior negotiation / mediation step before arbitration proceedings. In deciding this, parties should ensure it is clearly documented as to whether recourse to mediation is mandatory and thus a pre-condition to arbitration proceedings under this paragraph. If this is the case, then paragraph (a) should also be amended to apply only in the event of a failure of mediation under the inserted mediation clause. If parties agree to adopt mediation, the documentation could incorporate the model clause on the SIAC-SIMC Arb-Med-Arb Protocol – more information on the AMA Protocol, including the model clause, can be found here: https://simc.com.sg /dispute-resolution/arb-med-arb/.

Parties may also consider agreeing to a mandatory fixed duration of negotiations in good faith as a further prior step to mediation. [↑](#footnote-ref-33)
33. Most complex or high-value disputes will tend to be heard by a three-person (or, very occasionally, five-person) arbitral tribunal. Pre-conditions to the nomination of an arbitrator may also be appropriate (e.g. a lawyer of a given number of years' experience in a certain field or a sector/industry specialist).

Parties to consider their preferred selection process for appointment of the tribunal bearing the existing appointment process under prevailing SIAC rules in mind. Further, in the rare event that a five-person arbitral tribunal is preferred, parties will need to provide for the selection process and/or expressly modify existing appointment process under SIAC Rules in the event that it is not addressed under the prevailing set of rules. [↑](#footnote-ref-34)
34. Use this option for dispute resolution by way of arbitration. [↑](#footnote-ref-35)
35. Include if any Equity Party may be entitled to assert sovereign or crown immunity. [↑](#footnote-ref-36)
36. If a third party is appointed as process agent, insert a requirement for the Project Company to provide a copy of such third party's acceptance letter. [↑](#footnote-ref-37)
37. Delete if the Project Company is incorporated in Singapore. [↑](#footnote-ref-38)
38. To include if the Shareholder(s)/Sponsor(s) will first be party to the mandate letter pending the incorporation of the Project Company. [↑](#footnote-ref-39)
39. Following its incorporation, the Project Company shall accede to, and agree to be bound by, the terms of this letter. The name of the Project Company should be kept blank to the extent it is not known if it has not been incorporated at the time this mandate letter is signed by the original parties and completed at the time of accession by the Project Company. [↑](#footnote-ref-40)