



HERBERT
SMITH
FREEHILLS

date

Polar Capital Holdings PLC

and

[DIRECTOR]

DEED OF INDEMNITY

Herbert Smith Freehills LLP

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- 1.6 a reference to a statute, statutory provision, EU instrument, regulation or regulatory provision is a reference to it as amended, extended or re-enacted from time to time.

2. **D&O INSURANCE**

- 2.1 The Company shall take all reasonable steps required to purchase and maintain D&O Insurance to insure the Director (and, in the event of the Director's death, the Director's estate) in respect of the Director's appointment as a director of the Company and any Group Company during the period of the Director's appointment and for at least six years thereafter, to the extent that such insurance can be obtained at such cost and on such terms as the Board considers to be reasonable.
- 2.2 The Company shall not be in breach of its obligations under this clause 2 where its inability to purchase and maintain D&O Insurance to insure the Director is attributable to a failure by the Director to comply with the Director's obligations to any insurer or any failure to meet or comply with a condition of the coverage of the D&O Insurance is attributable to acts or omissions of the Director.
- 2.3 The Company shall ensure that on request the Director is provided with a copy, or summary of the terms, of the Company's current D&O Insurance policy, to the extent it relates to the Director.

3. **INDEMNITY AND FUNDING**

- 3.1 The Company agrees to indemnify the Director in respect of:
- 3.1.1 all charges, losses, liabilities and damages; and
- 3.1.2 all reasonable costs and expenses, including those referred to in sub-clause 3.2, (each a "**Liability**") arising out of any investigation, demand, claim, action or proceeding, (whether in relation to civil or criminal proceedings or in connection with regulatory actions or investigations) brought or threatened against the Director in any jurisdiction for negligence, default, breach of duty, breach of trust or otherwise, or relating to any Application for Relief, in respect of the Director's acts or omissions whilst in the course of acting or purporting to act as a director of the Company or of any Group Company or which otherwise arises by virtue of the Director holding or having held such a position (a "**Claim**").
- 3.2 Without prejudice to the generality of sub-clause 3.1, the Company may, in the Board's absolute discretion, provide the Director with funds to meet reasonable costs and expenditure incurred or to be incurred by the Director in defending (or in the case of an Application for Relief, making) any Claim (the "**Funding Obligation**"). Any funds provided under this clause 3.2 shall:
- 3.2.1 be requested from the Company in writing by the Director;
- 3.2.2 not be subject to accrual of interest on any amount of the funds; and
- 3.2.3 not be subject to repayment of any amount of the funds by the Director except as stated in sub-clause 4.1.5.
- 3.3 The indemnity in this clause 3 is enduring and continues for the benefit of the Director notwithstanding that he may cease to be a director, officer or employee of the Company or any Group Company (as the case may be) and applies, for the avoidance of doubt, in respect of acts or omissions (and the Director's position as a director of the Company) both before and after the execution of this Deed.

4. **EXCLUSIONS AND LIMITATIONS**

- 4.1 Clause 3 is subject always to the following exclusions and limitations:

- 4.1.1 it will not apply to any Claim or Liability to the extent prohibited by the Companies Act, or, in the case of a Group Company which is not subject to the Companies Act, to the extent that it would have been prohibited by the Companies Act had the Companies Act applied to it;
- 4.1.2 it will not apply to the extent that any recovery is made by or on behalf of the Director under any policy of insurance;
- 4.1.3 it will not apply to any Liability incurred by the Director to the Company or any Group Company;
- 4.1.4 it will not apply to any fines imposed on the Director in criminal proceedings or sums payable by the Director to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (howsoever arising);
- 4.1.5 the Director will not be entitled to be indemnified under clause 3 and shall repay to the Company any amount paid by the Company under the Funding Obligation or otherwise under this Deed in respect of legal or other expenses or any other Liability incurred by the Director in defending, or in connection with, the Claim (including for the avoidance of doubt, any amount paid pursuant to sub-clause 7.2):
 - (A) in respect of any Claim brought by the Company or any Group Company, in the event that judgment is given against the Director in relation to that Claim;
 - (B) in respect of any Claim which the Board in its absolute discretion determines as arising out of the Director's fraud or wilful default, recklessness or gross negligence;
 - (C) in respect of any criminal proceedings brought against the Director, in the event that the Director is convicted;
 - (D) in respect of any Application For Relief brought by the Director, in the event that the court refuses to grant the relief applied for,
 and any such repayment must be made no later than the date on which the relevant judgment, conviction or refusal becomes Final or, in the case of paragraph (B) the date which is 14 days after the date on which the Board determination is made; and
- 4.1.6 it will not apply to any Claim against the Director arising from any acts of the Director which, directly or indirectly, result in the summary dismissal of the Director by the Company or any Group Company; and
- 4.1.7 whilst the Company is admitted to trading on the Standard Segment of the Main Market of the London Stock Exchange, the aggregate amount of the liability of the Company to the Director in respect of the Funding Obligation shall not exceed the Permitted Maximum.

5. NOTIFICATIONS AND CO-OPERATION

- 5.1 Without prejudice to clause 3, the Director shall (unless, and to the extent, waived by the Company at its sole discretion):
 - 5.1.1 give notice to the Company as soon as reasonably practicable after becoming aware of any Claim or any circumstance that may reasonably be expected to give rise to a Liability under this Deed;

- 5.1.2 as soon as reasonably practicable after a request from the Company provide the Company with written details of the Liability incurred by him, providing such level of detail, and evidence, of the Liability as may reasonably be requested by the Company;
- 5.1.3 not take or omit to take any action which the Director should reasonably be aware would prejudice the Company's ability to recover the loss in respect of the Claim or Liability under any applicable policy of insurance maintained by the Company;
- 5.1.4 take all steps and carry out all actions reasonably required to recover under any applicable policy of insurance and, if applicable, assist the Company in taking all steps and carrying out all actions reasonably required to obtain such recovery;
- 5.1.5 except where the Claim is brought by the Company or a Group Company forward a copy of every letter, claim or other document reasonably relevant to such a Claim or Liability to the Company as soon as reasonably practicable after receipt;
- 5.1.6 except where the Claim is brought by the Company or a Group Company and save as required by law, not make, or permit to be made on his behalf, any admission, compromise, release, waiver, offer or payment relating to the Claim or Liability or take any other action reasonably likely to prejudice the ability to defend such a Claim, in each case without the prior written consent of the Company; and
- 5.1.7 except where the Claim is brought by the Company or a Group Company and subject to applicable law and regulation, give full co-operation and provide such information as the Company may reasonably require, and do everything that the Company may reasonably request to enable the Company to exercise its rights under sub-clause 6.1 or be subrogated to the extent of any payment under this Deed.

6. CONDUCT OF CLAIMS

- 6.1 Except where the Claim is brought by the Company or a Group Company, the Company or the Group Company (as the case may be) will be entitled to take over and conduct in the Director's name the defence or settlement of any Claim or to prosecute in his name for its own benefit any proceedings relating to a Claim.
- 6.2 Except where the Claim is brought by the Company or a Group Company, if the Company or Group Company (as the case may be) exercises its rights under sub-clause 6.1, the Company shall:
 - 6.2.1 consult with the Director in relation to the conduct of the Claim or proceedings on aspects of the Claim or proceedings materially relevant to the Director and keep the Director reasonably informed of material developments in the Claim or proceedings, provided that the Company or Group Company shall be under no obligation to provide any information the provision of which is reasonably likely to adversely affect the Company's or Group Company's ability to claim in respect of the relevant loss under any applicable policy of insurance;
 - 6.2.2 take into account the Director's reasonable requests related to the Claim or proceedings (including any settlement) on issues which may be reasonably likely to result in material damage to the Director's reputation; and
 - 6.2.3 have full discretion in the conduct or settlement of any Claim or proceedings relating to such Claim.

7. **PAYMENTS**

- 7.1 The Company shall, in the event that a payment is made to the Director under this Deed in respect of a particular Liability, be entitled to recover from the Director an amount equal to any payment received by the Director under any policy of insurance or from any other third party source to the extent that such payment relates to the Liability, or if the payment received by the Director is greater than the payment made under this Deed, a sum equal to the payment made under this Deed. The Director shall pay over such sum promptly upon the Company's request.
- 7.2 The Company shall pay such amount to the Director as shall after the payment of any tax thereon leave the Director with sufficient funds to meet any Liability to which this Deed applies. For the avoidance of doubt, when calculating the amount of any such tax the amount of any tax deductions, credits or reliefs which are or may be available to the Director in respect of the relevant payment under this Deed received by the Director or any payment made by the Director to a third party in respect of the relevant Liability is to be taken into account. In the event that any amount is paid to the Director under this Deed but a tax deduction, credit or relief is (or becomes) available to the Director in respect of the relevant payment under this Deed, or in respect of any payment made by the Director to a third party in respect of the relevant Liability, which was not taken into account in calculating the amount payable in respect of the relevant payment under this Deed, the Director shall make a payment to the Company of such an amount as is equal to the benefit of such deduction, credit or relief which was not taken into account.

8. **NOTICES**

- 8.1 A notice (including any approval, consent or other communication) in connection with this Deed:

8.1.1 must be in writing;

- 8.1.2 must be left at or delivered by courier to the address of the addressee or sent by pre-paid first class post to the address of the addressee or sent by facsimile to the facsimile number of the addressee in each case which is specified in this sub-clause in relation to the party to whom the notice is addressed, and marked for the attention of the person so specified, or to such other address or facsimile number in the United Kingdom as the relevant party may from time to time specify by notice given in accordance with this clause.

The relevant details of each party at the date of this Deed are:

Company

Address: 16 Palace Street, London, SW1E 57D

Facsimile: 020 7227 2799

Attention: Neil Taylor

Director

Address: [•]

Facsimile: [•]

Attention: [•]

- 8.1.3 must not be sent by electronic mail.

- 8.2 In the absence of evidence of earlier receipt, any notice shall take effect from the time that it is deemed to be received in accordance with sub-clause 8.1.

- 8.3 Subject to sub-clause 8.4, a notice is deemed to be received:

- 8.3.1 in the case of a notice left at the address of the addressee, upon delivery at that address;
 - 8.3.2 in the case of a posted letter, on the third day after posting or, if posted to or from a place outside the United Kingdom, the seventh day after posting; and
 - 8.3.3 in the case of a facsimile, on production of a transmission report from the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient.
- 8.4 A notice received or deemed to be received on a day which is not a Business Day in the place of receipt or after 5pm on any business day in the place of receipt shall be deemed to have been received on the next following Business Day in the place of receipt.

9. GENERAL

Assignment

- 9.1 Neither Party may:
- 9.1.1 assign, transfer, mortgage, charge, hold on trust or otherwise dispose (in any manner whatsoever) of the benefit of this Deed; or
 - 9.1.2 subcontract or delegate in any manner whatsoever its performance under this Deed.
- 9.2 Any such purported action in contravention of this clause shall be ineffective.

Severance

- 9.3 If any provision or part of any provision of this Deed is or becomes invalid or unenforceable in any respect under the law of any relevant jurisdiction, such invalidity or unenforceability shall not affect:
- 9.3.1 the validity or enforceability in that jurisdiction of any other provision of this Deed; or
 - 9.3.2 the validity or enforceability under the law of any other jurisdiction of that or any other provision of this Deed.

- 9.4 If any provision of this Deed is or becomes invalid or unenforceable in any respect under the law of any jurisdiction, but would be valid and enforceable if some part of the provision were deleted, the provision in question shall apply with such deletion as may be necessary to make it valid and enforceable.

Conflicts

- 9.5 In so far as the provisions of this Deed conflict with any of the provisions of any Applicable Law, the provisions of the Applicable Law shall take precedence.

Variation and waiver

- 9.6 No variation of this Deed shall be effective unless it is in writing (which for this purpose, does not include email) and signed by or on behalf of each of the Parties. The expression "variation" includes any variation, supplement, deletion or replacement, however effective.
- 9.7 No waiver of any right or remedy under this Deed or provided by law shall be effective unless it is in writing and signed by the Party granting it.
- 9.8 The failure to exercise, or delay in exercising, any right or remedy under this Deed or provided by law shall not:

9.8.1 constitute a waiver of that right or remedy;

9.8.2 restrict any further exercise of that right or remedy;

9.8.3 affect any other rights or remedies.

9.9 A single or partial exercise of any right or remedy shall not prevent any further or other exercise of that right or remedy or the exercise of any other right or remedy.

Termination

9.10 Either party shall be entitled to terminate this Deed in their absolute discretion on giving not less than 12 months' notice in writing to the other party, upon expiry of which this Deed shall automatically terminate and the rights and obligations under this Deed shall cease save in respect to any claims or liabilities which have arisen prior to the date of termination or those which are expressly stated in this Deed to survive the termination of the engagement of the Director.

9.11 This Deed does not modify or waive any of the duties which the Director owes as an employee, officer or director as a matter of law or under the rules of any relevant stock exchange or other regulatory body.

Third Party Rights

9.12 Other than the rights of Group Companies pursuant to clause 6, no term of this Deed is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Deed.

9.13 Any term of this Deed may be amended or waived without the consent of any person who is not a party to this Deed.

No set off

9.14 The Parties shall pay all amounts due under this Deed in full without any set-off or counterclaim whatsoever and without any deduction or withholding, except as expressly provided in this Deed or to the extent required by any Applicable Law.

Counterparts

9.15 This Deed may be executed in any number of counterparts and by each party on separate counterparts. Each counterpart shall be an original, but all the counterparts shall together constitute one and the same instrument.

Entire Agreement

9.16 This Deed constitutes the entirety of any indemnity and funding obligation given by the Company to the Director. It supersedes and expressly terminates with immediate effect all prior arrangements between the Company and the Director whether written or oral which in any way purport to indemnify him in his capacity as a director of the Company.

Confidentiality Clause

9.17 9.17.1 The Company and the Director shall treat as strictly confidential and not disclose or use any information received or obtained as a result of entering into or performing this deed which relates to:

(A) the existence and the provisions of this deed; or

(B) the negotiations relating to this deed.

9.17.2 Sub-clause 9.17.1 shall not prohibit disclosure of any information if and to the extent:

- (A) the disclosure or use is required by law or regulation, any regulatory body or recognised stock exchange on which the shares of the Company or any Group Company are listed;
- (B) the disclosure or use is required for the purpose of any judicial proceedings arising out of this deed;
- (C) the disclosure is made to professional advisors of the Company or the Director, or by the Company to its Directors and employees and Directors and employees of any Group Company who need to know such information to discharge their duties, on terms that such professional advisers, Directors or employees agree to keep such information confidential;
- (D) the information is or becomes publicly available (other than by breach of this Deed); or
- (E) the other party has given prior approval to the disclosure or use, provided that prior to disclosure or use by either party of any information pursuant to this sub-clause, that party shall promptly notify the other party of such requirement.

9.17.3 The provisions of this sub-clause 9.17 shall continue to apply after the termination of the Director's appointment as a Director of the Company and/or any Group Company without any limitation in time.

Governing Law and Jurisdiction

- 9.18 This Deed and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 9.19 Each Party irrevocably agrees for the benefit of the Company that the Courts of England shall have exclusive jurisdiction in relation to any dispute or claim arising out of or in connection with this Deed or its subject matter, existence, negotiation, validity, termination or enforceability (including non-contractual disputes or claims).
- 9.20 Each Party irrevocably waives any right that it may have to object to an action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.

This Indemnity has been executed as a Deed and is delivered on the date shown above.

Executed as a Deed by
Polar Capital Holdings Plc acting by
John Mansell in the
presence of:

.....
(Signature of director)

Neil Taylor
(Name of witness)

16 Palace Street London SW1E 5JD
(Address of witness)

.....
(Signature of witness)

Executed as a Deed by
[insert name of director]
in the presence of:

.....
(Signature of director)

.....
(Name of witness)

.....
.....

.....
(Address of witness)

.....
(Signature of witness)