

Settlement Payment Option

- 10.6** The Settlement Payment Option will provide for Higher Rate Creditors to receive the 8% Payment in respect of their Higher Rate Claims (in satisfaction of their Statutory Interest entitlements), calculated in the manner described in paragraph 7.3 of this Part I (*Letter from the Administrators*) above, and in accordance with the terms of the Scheme, together with an additional settlement premium equal to 2.5% of the value of their admitted Higher Rate Claims in consideration for not exercising their right to certify for an amount of Statutory Interest higher than the Statutory Minimum (and so sparing the Company the time and expense associated with processing Certifications and, accordingly, enabling the Administrators to make distributions to Scheme Creditors within a shorter timeframe).
- 10.7** A worked example of a Settlement Payment is provided in paragraph 14.3 (*Higher Rate Claims*) of Part III (*Implementing the Scheme, risk factors and expected outcomes*) of this Explanatory Statement for illustrative purposes only.

Certification Option

- 10.8** Higher Rate Creditors who elect for the Certification Option will be required to submit a Certification (as further described in paragraph 7 (*The Certification Option*) of Part II (*Summary of the terms of the Scheme of Arrangement*) of this Explanatory Statement) asserting the rate applicable to, and amount of interest payable in respect of, their Higher Rate Claims, and will receive a payment calculated by reference to one of the following:
- 10.8.1** the amount of Statutory Interest specified in their Certification, where the Company agrees with such amount or where (in the absence of such agreement) the Certifying Creditor's Certification is upheld by the Adjudicator pursuant to the Dispute Resolution Procedure in the Scheme (as further described in paragraph 12 (*Dispute Resolution Procedure*) of this Part I (*Letter from the Administrators*) below);
 - 10.8.2** an amount of Statutory Interest counteroffered by the Company (~~either in consultation with, or in certain circumstances an amount recommended by,~~ the Subordinated Creditor) where the relevant Higher Rate Creditor agrees with such amount or where (in the absence of such an agreement) the Adjudicator approves the Counteroffer pursuant to the Dispute Resolution Procedure;
 - 10.8.3** the Statutory Minimum, where the Certifying Creditor's Certification is rejected by the Company in circumstances where no Counteroffer has been made and, if such rejection is appealed to the Adjudicator, such rejection is upheld by the Adjudicator pursuant to the Dispute Resolution Procedure; or
 - 10.8.4** in certain very limited circumstances (as further described in paragraph 10.5 (*The timings of the Dispute Resolution Procedure*) of Part II (*Summary of the terms of the Scheme of Arrangement*) of this Explanatory Statement), the corrected amount of Statutory Interest calculated by the Adjudicator.
- 10.9** Certifications must be submitted prior to the Effective Date. The Administrators consider this reasonable as Higher Rate Creditors were provided with copies of the (close to) final form Scheme Document and Explanatory Statement several weeks prior to the Effective Date and will likely have given a great deal of thought to the decision as to whether to elect for the Certification Option prior to Voting on the Scheme at the Scheme Meetings.
- 10.10** In no circumstances will a Certifying Creditor receive less than the Statutory Minimum (subject only to any applicable cost deductions).

- 8.5 Certifications should be submitted to the Company in accordance with paragraph 6 (Certifications) of Part III (Implementing the Scheme, risk factors and expected outcomes) of this Explanatory Statement.

9 Determination and payment of the Applicable CI Payment

- 9.1 Within 20 Business Days of the Certification Deadline (or if relevant, the date of the Final Certification) (referred to as the Consultation Period), and provided the relevant Certifying Creditor has not notified the Company of a UCC Challenge prior to the Bar Date (the consequences of which are explained in paragraph 9.6 of this Part II (Summary of the terms of the Scheme of Arrangement) below), the Company will issue a Decision Notice in respect of the Certifications it has received from Certifying Creditors pursuant to which the Company will:

- 9.1.1 accept the Certification;
- 9.1.2 propose a Counteroffer that contains a Counteroffer Sum that is lower than the Certified Sum (which can then be accepted or rejected by the Certifying Creditor as described below);
- 9.1.3 reject the Certification without making a Counteroffer on the basis that the Company's decision is that the Applicable CI Payment should be the Statutory Minimum (with the consequences set out below); and/or
- 9.1.4 make an Additional Information Request in which the Company requests that the Certifying Creditor provides additional information in support of its Certification (following which, if information is duly provided by the Certifying Creditor, the Company may accept or reject the Certification, or make a Counteroffer, as described more fully below).

- 9.2 In deciding which course of action to take in relation to any Certifications, the Company will have regard (where applicable) to the Relevant Principles (as described more fully in paragraph 11 (Relevant Principles) of this Part II (Summary of the terms of the Scheme of Arrangement) below).

- 9.3 The Company will consult with the Subordinated Creditor prior to issuing any Decision Notice. This approach is considered acceptable by the Administrators on the basis that the Subordinated Creditor is likely to be the only creditor of the Company with a material economic interest in the adjudication of a Certification (other than the Scheme Creditor to whom a Certification relates). Where agreement cannot be reached as between the Company and the Subordinated Creditor, the Company will (subject to paragraph 9.4 of this Part II (Summary of the terms of the Scheme of Arrangement) below) decide in its sole discretion which Decision Notice to issue.

- 9.4 Where the Company, ~~following consultation with the Subordinated Creditor,~~ decides to make a Counteroffer to the Certifying Creditor, it will ~~seek to agree the terms of the Counteroffer with the Subordinated Creditor. Where agreement cannot be reached, the Company will issue a Decision Notice containing such Counteroffer as the Subordinated Creditor may recommend to the Company~~ consult with the Subordinated Creditor regarding the terms of that Counteroffer; however, the final decision regarding the terms of any Counteroffer shall be made by the Company in its sole discretion and having regard to the Relevant Principles.

- 9.5 Prior to taking any of the steps outlined above, the Company may, for a period of up to 20 Business Days (extendable by agreement with the relevant Certifying Creditor by a further

10.3 The appointment of the Adjudicator

- 10.3.1** Following the submission of an Appeal Form, the Company will as soon as reasonably practicable appoint on reasonable terms an Adjudicator to act in the capacity of an independent expert (and not as an arbitrator) and determine the Appeal.
- 10.3.2** The Company will use reasonable endeavours to appoint (in the following order of priority): Sir Bernard Rix; Michael Brindle QC; or Tim Howe QC as Adjudicator. A copy of the CV for each of the above-named individuals is set out in Appendix 7 (*Adjudicator CVs*) of this Explanatory Statement. If none of these individuals can accept an appointment as Adjudicator, the Company and the Subordinated Creditor will negotiate with each other in good faith to select an alternative suitably qualified, independent Adjudicator [who shall be a former member of the England & Wales judiciary and/or an English law qualified Queen's Counsel](#) and the Company will use reasonable endeavours to appoint such person as Adjudicator in respect of the relevant Appeal. Where agreement cannot be reached as between the Company and the Subordinated Creditor, the Company will in its sole discretion select an alternative former member of the England and Wales judiciary and/or English law qualified Queen's Counsel as Adjudicator.
- 10.3.3** To ensure that appeals are heard expediently, the availability of the preferred individuals for the role of Adjudicator will be checked in respect of each Appeal which is brought. Owing to Adjudicator availability and/or conflicts of interest, it may therefore be the case that different persons act as Adjudicator in respect of different appeals.

10.4 Support Team

- 10.4.1** The Adjudicator may engage the services of a Support Team. The Support Team is not permitted to conduct its own factual investigations. The Support Team's role is limited to helping the Adjudicator to understand fully the Appellant Certifying Creditor's Case and the Company's Case, particularly as regards any calculations set out by the Appellant Certifying Creditor or the Company.

10.5 The timings of the Dispute Resolution Procedure

- 10.5.1** Once an Adjudicator has been formally appointed in respect of the Appeal as described in paragraph 10.3 (*The appointment of the Adjudicator*) of this Part II (*Summary of the terms of the Scheme of Arrangement*) above, the Appellant Certifying Creditor must within 10 Business Days of the appointment serve upon the Adjudicator and the Company the Appellant Certifying Creditor's Case (as described in paragraph 10.6.1(i) of this Part II (*Summary of the terms of the Scheme of Arrangement*) below).
- 10.5.2** The Company will then have a period of 20 Business Days in which to serve on the Adjudicator and the Appellant Certifying Creditor the Company's Case (as described in paragraph 10.6.1(ii) of this Part II (*Summary of the terms of the Scheme of Arrangement*) below). The Company will consult with the Subordinated Creditor concerning the Company's Case, however, the Company shall have the final decision in respect of the Company's Case.
- 10.5.3** Prior to making his/her determination, the Adjudicator may, having regard to the Relevant Principles where relevant, require the Appellant Certifying Creditor and/or

Voting Rights Letter	means the letter sent by the Company to any Scheme Creditor with an Undetermined Provable Claim(s) setting out the Company's determination of that Scheme Creditor's Voting Rights in respect of its Undetermined Provable Claim(s)
Waterfall I	means a joint application issued on 14 February 2013 by the respective administrators of the Company, LBL and LBHI2, with LBHI as a respondent, seeking a determination as to, among other things, the existence and priority ranking of certain claims in respect of the Surplus, and the rights and obligations of the Company as against its contributories, heard by the High Court, the Court of Appeal and the Supreme Court, the Supreme Court judgment being given on 17 May 2017
Waterfall II	means the application issued on 12 June 2014 (as amended pursuant to the orders of David Richards J dated 9 March 2015 and Hildyard J dated 9 October 2015) by the Administrators, with Burlington Loan Management Limited, CVI GVF (Lux) S.à r.l., Hutchinson Investors, LLC, the Subordinated Creditor and York Global Finance BDH, LLC as respondents, seeking determination of issues that impact the potential entitlements of the Company's creditors to payments from the Surplus, split into Tranche A and Tranche B (with case citation, in respect of the Court of Appeal decision, [2017] EWCA Civ 1462), and Tranche C (with case citation, in respect of the first instance decision, [2016] EWHC 2417 (Ch))
Waterfall III	means the application issued on 25 April 2016 by the Administrators with the respective joint administrators of LBHI2, LBL and LBEL as respondents, seeking determination of issues relating to the rights and obligations of the Company, LBHI2, LBL, LBEL and LBH PLC arising out of (i) the Company's status as an unlimited liability company and (ii) certain recharge arrangements among those entities, and the associated cross-application issued on 17 October 2016 by the administrators of LBL
Waterfall Judgments	means the judgments made by the Courts in the Waterfall Proceedings
Waterfall Proceedings	means Waterfall I, Waterfall II and Waterfall III as the context requires
Website	means the website which can be accessed at https://www.pwc.co.uk/services/business-recovery/administrations/lehman.html
Wentworth Group	means the Subordinated Creditor and the Wentworth Parties, but excluding the Shareholder
Wentworth Parties	means: (i) LBHI; (ii) Wentworth Sons Senior Claims S.à r.l.; (iii) the Subordinated Creditor; (iv) (iii) the Shareholder; (v) (iv) King Street Capital Management, L.P.;

	(vi) (v) Elliott Management Corporation; and (vii) (vi) in respect of (v) (v) and (vi) (v) above, their respective Affiliates that are parties to the Lock-Up Agreement
WHT Deduction	has the meaning given to it in clause 18.1.1 of the Scheme Document
WHT Deduction Certificate	has the meaning given to it in clause 18.1.3(ii) of the Scheme Document
WHT Determination Event	has the meaning given to it in clause 18.3 of the Scheme Document
WHT Proceedings	means the application issued by the Administrators on 22 December 2015, with HMRC as respondent, seeking directions of the High Court in relation to the application of section 874 of the Income Tax Act to payments of Statutory Interest (with case citations, in respect of the first instance decision, [2016] EWHC 2492 (Ch), and in respect of the Court of Appeal decision, [2017] EWCA Civ 2124)
WHT Repayment	has the meaning given to it in clause 18.3.1 of the Scheme Document
WHT Repayment Event	has the meaning given to it in clause 18.3.2 of the Scheme Document