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GCL-Poly Energy Holdings Limited

保利協鑫能源控股有限公司

(Incorporated in Cayman Islands with limited liability)

(Stock code: 3800)



GCL New Energy Holdings Limited

協鑫新能源控股有限公司

(Incorporated in Bermuda with limited liability)

(Stock code: 451)

**(i) Offer to Exchange at least a Minimum Acceptance Amount of
the Outstanding Existing Notes and
(ii) Invitation for Submission of an Accession Deed to the
Restructuring Support Agreement in Favor of the Bermuda Scheme,
by GCL New Energy Holdings Limited — Interim Results of the Invitation
for Irrevocable Restructuring Support;
Amendments of the Restructuring Support Agreement in favor of the Holders**

This joint announcement is made by GCL-Poly Energy Holdings Limited (“**GCL-Poly**”) and GCL New Energy Holdings Limited (the “**Company**”) pursuant to Rule 13.09(2)(a) of the Listing Rules and the Inside Information Provisions (as defined under the Listing Rules) under Part XIVA of the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong).

Reference is made to the joint announcements of GCL-Poly and the Company dated December 23, 2020, January 12, 2021, January 26, 2021 and February 1, 2021 (the “**Announcements**”) in relation to the Offer and Invitation. Unless otherwise defined, capitalized terms used in this joint announcement shall have the same meaning ascribed to them in the Announcements.

INTERIM RESULTS OF THE INVITATION FOR IRREVOCABLE RESTRUCTURING SUPPORT

The Company is delighted to announce that, as of the date of this joint announcement, holders of the Existing Notes (the “**Holders**”) representing approximately 73% of the outstanding aggregate principal amount of the Existing Notes had validly submitted their respective executed Accession Deeds to the Restructuring Support Agreement (as amended by an amended and restated restructuring support agreement dated February 5, 2021 (the “**Amended and Restated Restructuring Support Agreement**”, as further elaborated below)).

As the Second Extended Expiration Deadline for the Invitation for Irrevocable Restructuring Support (despite termination of the Exchange Offer) has been further extended to 4:00 p.m., London time on February 8, 2021 (the “**Fixed Fee Deadline**”), the Company cordially and continually invites each Holder of the remaining Existing Notes to submit a duly executed Accession Deed to the Amended and Restated Restructuring Support Agreement prior to such extended deadline, which would enable the Restructuring to be executed in an efficient manner for the general interests of both the Holders and the Company. Once the Restructuring is completed under the Bermuda Scheme, the Company will settle the outstanding principal amount and Accrued Interest of the Existing Notes by paying the Restructuring Consideration in accordance with the Amended and Restated Restructuring Support Agreement.

The Company will publish further announcement(s) to provide an update of the above as soon as practicable.

AMENDMENTS OF THE RESTRUCTURING SUPPORT AGREEMENT IN FAVOR OF THE HOLDERS

Over the past week, the Company has been continually working closely with a group of the Holders representing more than a majority of the outstanding aggregate principal amount of the Existing Notes held by existing Consenting Creditors. The Company understands that this group of Holders have formed an ad hoc committee (the “**Bondholder Committee**”) which is advised by its legal and financial advisors (the “**Bondholder Committee Counsel**”) for a consensual resolution that is intended to ensure the best possible outcomes for all stakeholders. In addition to the Amended and Restated Term Sheet which was announced by the Company in the Announcement dated February 1, 2021, further progress has been made on the remaining terms of the Restructuring.

On February 5, 2021, the Company and Holders forming a part of the Bondholder Committee entered into an agreement to amend and restate the Restructuring Support Agreement in the form of the Amended and Restated Restructuring Support Agreement (the “**Amendment and Restatement Agreement**”). The amendment and restatement was effected pursuant to clause 9.1 of the Restructuring Support Agreement, which provides that any term of such agreement may be amended or waived in writing by the Majority Consenting Creditors (as defined below) and the Company. In the Amended and Restated Restructuring Support Agreement, certain key provisions of the Restructuring Support Agreement have been amended in favor of the Holders.

Pursuant to clauses 9.1 and 9.5 of the Restructuring Support Agreement, those Consenting Creditors (other than the Majority Consenting Creditors) who have previously each executed an Accession Deed will be bound by the terms of the Amended and Restated Restructuring Support Agreement, and need not re-submit an Accession Deed or take any further action at this stage.

A copy of the high level summary of the key provisions of the Amended and Restated Restructuring Support Agreement, is attached hereto as Appendix I.

MORE INFORMATION

Holders are encouraged to contact the Company, the Financial Advisor and the Information Agent regarding the Invitation for Irrevocable Restructuring Support (including the Amended and Restated Restructuring Support Agreement) at:

Company: Board Secretarial and Investor Relations Department
GCL New Energy Holdings Limited
Unit 1707A, Level 17, International Commerce Centre
1 Austin Road West, Kowloon
Hong Kong
Tel: (852) 2606 9200
Email: gneir@gclnewenergy.com

Financial Advisor: Admiralty Harbour Capital Limited
Suite 1702, Prosperity Tower,
39 Queen's Road Central,
Hong Kong
Tel: (852) 2110 1116
Email: gclne@ahfghk.com

Information Agent: Lucid Issuer Services Limited

In London:
Tankerton Works
12 Argyle Walk
London WC1H 8HA
United Kingdom
Tel: +44 20 7704 0880

In Hong Kong:
3/F Three Pacific Place
1 Queen's Road East
Admiralty
Hong Kong
Tel: +852 2281 0114
Attention: Mu-yen Lo/Thomas Choquet
Email: gclnewenergy@lucid-is.com

All documents and materials related to the Invitation for Irrevocable Restructuring Support (including the Amended and Restated Restructuring Support Agreement) are available on the Exchange and Tabulation Website: <https://www.lucid-is.com/gclnewenergy>.

Further announcement(s) will be made by the Company to inform the shareholders and potential investors of any material development as and when appropriate.

Shareholders, holders of other securities of the Company and potential investors are advised to exercise caution when dealing in the securities of the Company.

Forward-looking statements in this joint announcement, including, among others, those statements relating to the Invitation for Irrevocable Restructuring Support, the Bermuda Scheme and the Restructuring are based on current expectations. These statements are not guarantees of future events or results. Future events and results involve risks, uncertainties and assumptions and are difficult to predict with any precision. Actual events and results could vary materially from the description contained herein due to many factors beyond the control of the Company.

RELATIONSHIP BETWEEN GCL-POLY AND THE COMPANY

As of the date of this joint announcement, GCL-Poly through Elite Time Global Limited holds 11,241,702,000 shares of the Company, representing approximately 58.94% of the issued share capital of the Company, and therefore the Company is a subsidiary of GCL-Poly.

By order of the GCL-Poly Board
GCL-Poly Energy Holdings Limited
保利協鑫能源控股有限公司
Zhu Gongshan
Chairman

By order of the GNE Board
GCL New Energy Holdings Limited
協鑫新能源控股有限公司
Zhu Yufeng
Chairman

Hong Kong, February 5, 2021

As at the date of this joint announcement, the GCL-Poly Board comprises Mr. Zhu Gongshan (Chairman), Mr. Zhu Zhanjun, Mr. Zhu Yufeng, Ms. Sun Wei, Mr. Yeung Man Chung, Charles, Mr. Jiang Wenwu and Mr. Zheng Xiongjiu as executive directors of GCL-Poly; Ir. Dr. Ho Chung Tai, Raymond, Mr. Yip Tai Him, Dr. Shen Wenzhong and Mr. Wong Man Chung, Francis as independent non-executive directors of GCL-Poly.

As at the date of this joint announcement, the GNE Board comprises Mr. Zhu Yufeng (Chairman), Mr. Liu Genyu and Ms. Hu Xiaoyan as executive Directors; Ms. Sun Wei, Mr. Yeung Man Chung, Charles and Mr. He Deyong as non-executive Directors; and Mr. Wang Bohua, Mr. Xu Songda, Mr. Lee Conway Kong Wai, Mr. Wang Yanguo and Dr. Chen Ying as independent non-executive Directors.

APPENDIX I

Key Provisions of the Amended and Restated Restructuring Support Agreement

This below summary of the Amended and Restated Restructuring Support Agreement at a high level does not contain all the information that may be important to you in deciding whether to submit your Irrevocable Restructuring Support. You should read all the clauses in the context of the Amended and Restated Restructuring Support Agreement (available for download at www.lucid-is.com/gclnewenergy) as a whole, before making your own decision. Terms not defined herein have the meanings set forth in the Announcements or the Amended and Restated Restructuring Support Agreement.

The key provisions of the Amended and Restated Restructuring Support Agreement which directly relate to support for the Restructuring came into effect on the Second Extended Expiration Deadline.

For the avoidance of doubt, nothing in the Amendment and Restatement Agreement or the Amended and Restated Restructuring Support Agreement shall affect any accrued rights or interests of the parties under the Restructuring Support Agreement existing immediately prior to February 5, 2021, other than any rights or interests that are expressly superseded by the Amended and Restated Restructuring Support Agreement and/or the Amended and Restated Restructuring Support Agreement.

Amended and Restated Term Sheet

A copy of the Amended and Restated Term Sheet as set out in Schedule 6 of the Amended and Restated Restructuring Support Agreement, had been attached to the Announcement dated February 1, 2021 as Appendix I thereto and is incorporated by reference to this announcement.

The Amended and Restated Term Sheet is available for download at www.lucid-is.com/gclnewenergy.

Undertakings of the Consenting Creditors

Under the terms of the Amended and Restated Restructuring Support Agreement, any Consenting Creditor must perform its obligations thereunder, including but not limited to the following:

- (1) Each Consenting Creditor irrevocably undertakes in favour of the Company and the Subsidiary Guarantors that it shall (or, as applicable, will procure that a duly authorised representative, proxy or nominee will):
 - (a) work in good faith with the Company and its advisors to implement the Restructuring in a timely manner and in a manner consistent with the terms of the Amended and Restated Restructuring Support Agreement and the Amended and Restated Term Sheet;

- (b) take all such actions as are necessary to:
 - (i) cause direct participants in Euroclear or Clearstream which are recorded as being the holders of its Existing Notes to submit to the Information Agent a duly completed account holder letter (as defined in the Amended and Restated Restructuring Support Agreement) in respect of the outstanding principal amount of the Existing Notes in which it holds a beneficial interest as principal by no later than the Record Time for the Bermuda Scheme;
 - (ii) attend the Scheme Meeting either in person or by proxy; and
 - (iii) vote, execute and/or deliver within any applicable time periods any proxies, instructions, directions or consents in respect of all the Existing Notes in which it holds a beneficial interest as principal, including (without limitation) to vote in favour of the Bermuda Scheme in respect of the aggregate outstanding principal amount of all Existing Notes in which it holds a beneficial interest as principal at the Record Time at the Scheme Meeting;
 - (c) support and assist (at the Company's cost) any recognition filing as reasonably requested by the Company;
 - (d) provide reasonable support and assistance to the Company and the Subsidiary Guarantors (at the Company's cost) to prevent the occurrence of an Insolvency Proceeding (as defined in the Amended and Restated Restructuring Support Agreement) in respect of the Company or the Subsidiary Guarantors, including, without limitation, supporting any application, filing and/or petition to the courts of any jurisdiction in connection with the same, including (but not limited to) filing any evidence in support of the Company's opposition to a creditor seeking to commence any adverse action;
 - (e) to the extent any Insolvency Event (as defined in the Amended And Restated Restructuring Support Agreement) occurs in respect of any member of the Group, provide reasonable support and assistance to the relevant obligors (at the Company's cost) to implement the Restructuring through the relevant Insolvency Proceedings and ensure that the Restructuring is recognized in all relevant jurisdictions; and
 - (f) provide confirmation to any other party that it supports the Restructuring (at its sole direction).
- (2) Each Consenting Creditor irrevocably undertakes in favour of the Company and the Subsidiary Guarantors that it shall NOT:
- (a) take, commence or continue any Enforcement Action (as defined in the Amended and Restated Restructuring Support Agreement), whether directly or indirectly, to delay the Scheme Effective Date, interfere with the implementation of the Restructuring and/or the Bermuda Scheme or the consummation of the transactions contemplated thereby;

- (b) object to or challenge the Bermuda Scheme or any application to the Bermuda Court in respect thereof or otherwise commence any proceeding(s) to oppose or alter any Scheme Document filed by the Company and/or the Subsidiary Guarantors in connection with the confirmation of the Restructuring, except to the extent that the Bermuda Scheme or any such Scheme Document is materially inconsistent with the terms as set out in the Amended and Restated Term Sheet;
- (c) take any actions inconsistent with, or that would, or are intended to, or would be likely to delay or impede, in each case, approval or confirmation of, the Restructuring or any related documents, except to the extent that the Restructuring and/or any related documents are materially inconsistent with the terms as set out in the Amended and Restated Term Sheet;
- (d) propose or support any alternative proposal or offer from any person or entity in respect of the implementation of the Restructuring other than those contemplated by the Amended and Restated Term Sheet or to otherwise engage in any such discussions or take any action which would delay or impede any approvals for the Restructuring; or
- (e) transfer or agree to transfer any Restricted Notes or any other Existing Notes in which a Consenting Creditor has a beneficial interest as principal (including, without limitation, any Existing Notes purchased or otherwise acquired by a Consenting Creditor after the date of the Amended and Restated Restructuring Support Agreement or any Accession Deed in relation to it) unless in accordance with the terms of the Amended and Restated Restructuring Support Agreement.

Undertakings of the Company and Subsidiary Guarantors

Under the terms of the Amended and Restated Restructuring Support Agreement, each of the Company and the Subsidiary Guarantors undertakes in favour of the Consenting Creditors that they shall perform all actions as are reasonably necessary in order to support, facilitate, implement or otherwise give effect to the Restructuring as soon as reasonably practicable and in a timely manner, including (without limitation) to:

- (a) pay or procure payment of the Fixed Fee (as defined in the Amended and Restated Restructuring Support Agreement);
- (b) implement the Restructuring and the Bermuda Scheme in the manner envisaged by, and on the terms and conditions set out in, the Amended and Restated Restructuring Support Agreement and the Amended and Restated Term Sheet;
- (c) prepare the Scheme Documents and any and all other documents required to implement the Restructuring such that they are consistent in all material respects with the terms as set out in the Amended and Restated Term Sheet;

- (d) upon the Scheme Documents being agreed with the Bondholder Committee (acting in a timely manner, and which may act by Bondholder Committee Majority (as defined below)), promptly propose, file and pursue any legal process or proceedings contemplated by or required to implement the Restructuring, including (without limitation) the Bermuda Scheme;
- (e) take any actions pursuant to any order of, or sanction by, any relevant courts (including, without limitation, the Bermuda Court) as may be required or necessary to implement or give effect to the Restructuring;
- (f) use best endeavours to procure that the Scheme Effective Date occurs and the Restructuring is fully implemented on or before the Longstop Date (as defined below);
- (g) use best endeavours to obtain any necessary regulatory or statutory approval required to permit or facilitate the Restructuring;
- (h) obtain all corporate and regulatory approvals necessary to implement the Restructuring in the manner envisaged by, and on the terms and conditions set out in, the Amended and Restated Restructuring Support Agreement and the Amended and Restated Term Sheet;
- (i) prior to the Record Time, cancel or procure the cancellation of any Existing Notes that it or any other member of the Group has a beneficial interest in or which it or any other member of the Group has redeemed, converted, acquired or purchased, and for the avoidance of doubt, any such Notes shall not be voted at the Scheme Meeting;
- (j) use best endeavours to ensure that each Milestone (as defined in the Amended and Restated Restructuring Support Agreement) is completed on or before the applicable Milestone Deadline (as defined in the Amended and Restated Restructuring Support Agreement);
- (k) seek and obtain the prior written approval of the Bondholder Committee (acting in a timely manner, and which may act by Bondholder Committee Majority) in respect of the final drafts of all material Restructuring Documents (as defined in the Amended and Restated Restructuring Support Agreement) before executing and/or issuing any material Restructuring Documents;
- (l) keep the Consenting Creditors reasonably informed in relation to the status and progress of the Restructuring, including following a reasonable request by any legal advisor to the Consenting Creditors;
- (m) notify the Consenting Creditors:
 - (i) of any matter or thing which it knows or suspects would be reasonably likely to be a material impediment to the implementation of the Restructuring;
 - (ii) if any representation or statement made by it under the Amended and Restated Restructuring Support Agreement proves to have been or to have become, incorrect or misleading in any material respect; or

(iii) if it breaches any undertaking given by it under the Amended and Restated Restructuring Support Agreement;

in each case promptly upon becoming aware of the same.

- (n) ensure that the Company does not pay any dividends or make other distributions to the Shareholders or buyback any of the Company's shares, in each case, prior to the Restructuring Effective Date;
- (o) except as expressly contemplated under the Amended and Restated Restructuring Support Agreement (including in respect of Significant Asset Sales (as defined in the Amended and Restated Term Sheet) to the extent such sales are permitted under the Notes (but for the Default (as defined in the Notes) caused by the failure to make payment of the principal of and interest (or Additional Amounts (as defined in the Notes)) due on the Notes at maturity)), continue to operate its business in the ordinary course and consistent with past practice, using its reasonable endeavours to preserve its assets and business organisation, in each case, in all material respects; and
- (p) not incur any indebtedness, or make any payment or provide any additional credit support, in each case, in connection with any of the existing indebtedness owed to any holder of the Notes (unless such payments and/or credit support are also made on a *pari passu* basis to all other holders of the Notes), in each case, prior to the Restructuring Effective Date, excluding such indebtedness, payment or additional credit support which (A) is permitted under the terms of the Notes, or (B) is made in the ordinary course of business.

Fees under the Amended and Restated Restructuring Support Agreement

Fixed Fee

Pursuant to the terms of the Amended and Restated Restructuring Support Agreement, the Company undertakes to pay or procure payment of the Fixed Fee in an amount of US\$17,800,000, which forms part of the Upfront Cash (as defined in the Amended and Restated Term Sheet) and is in lieu of the Instruction Fee. The Fixed Fee with respect to each Eligible Creditor shall be an amount equal to that Eligible Creditor's pro rata share of the Fixed Fee amount (or, at our sole discretion, any amount in excess thereof), calculated on the basis of the proportion that the Eligible Notes held (in aggregate) by that Eligible Creditor bears to the Eligible Notes held (in aggregate) by all Eligible Creditors.

For the avoidance of doubt, a Consenting Creditor must (i) accede to the Amended and Restated Restructuring Support Agreement on or prior to the Fixed Fee Deadline by delivery of duly executed Accession Deed and Initial Restricted Notes Notice; (ii) vote all of the Existing Notes then held by it in favor of the Bermuda Scheme at the Scheme Meeting; and (iii) not have exercised any right to terminate the Amended and Restated Restructuring Support Agreement and has not breached any provision thereof in any material respect, in order to receive the Fixed Fee pursuant to the Amended

and Restated Restructuring Support Agreement. A Consenting Creditor that does not vote all of the Existing Notes then held by it in favor of the Bermuda Scheme at the Scheme Meeting shall not be entitled to any Fixed Fee.

Advisors' Fee

Subject to the Bermuda Scheme being sanctioned by the Bermuda Court, the Company undertakes to pay the fees of Houlihan Lokey, Hogan Lovells and Moorlander Consulting Limited in their capacity as advisors to certain Scheme Creditors in a maximum amount of US\$4,500,000 as a condition precedent to completion of the Restructuring. Such Advisors' fees forms a part of the Upfront Cash.

Accession, Position Disclosure and Transfer and Purchase

Each Holder may accede to the Amended and Restated Restructuring Support Agreement as a Consenting Creditor by submitting to the Information Agent (i) a properly completed and executed Accession Deed; and (ii) a properly completed and executed initial Restricted Notes Notice. Upon such submission, the Consenting Creditor shall henceforth be a party to the Amended and Restated Restructuring Support Agreement and be bound by, and entitled to enforce, the terms of the Amended and Restated Restructuring Support Agreement as if they were an original party to the same in the capacity of a Consenting Creditor.

While the Amended and Restated Restructuring Support Agreement remains in effect, any transfer or disposal of all or any part of any Existing Notes in which a Consenting Creditor has a beneficial interest or any other transaction of a similar or equivalent economic effect shall only be effective if:

- (a) the relevant transferee is either (i) already a Consenting Creditor or (ii) agrees to be bound by the terms of the Amended and Restated Restructuring Support Agreement as a Consenting Creditor by acceding to Amended and Restated Restructuring Support Agreement through execution of the Accession Deed at or prior to the time of the relevant Transfer; and
- (b) the transferor and transferee provide written notice of the transfer by submitting a properly completed and executed Transfer Notice (in the form set out in Schedule 5 to the Amended and Restated Restructuring Support Agreement) to the Information Agent on or before the proposed effective date of the transfer.

Any transfer by a Consenting Creditor in breach of the above paragraph shall be deemed void for the purposes of the Amended and Restated Restructuring Support Agreement.

If any Consenting Creditor purports to transfer its Restricted Notes other than in accordance with the requirements of the Amended and Restated Restructuring Support Agreement, then that Consenting Creditor shall remain liable as a Consenting Creditor in respect of its obligations and liabilities under the Amended and Restated Restructuring Support Agreement, in respect of the relevant Restricted Notes, until the relevant transferee is bound by the terms of the Amended and Restated Restructuring Support Agreement.

Termination

- (1) The Amended and Restated Restructuring Support Agreement shall automatically and immediately terminate on the earliest of the occurrence of any of the following:
 - (a) the Bermuda Scheme not being approved by the requisite majorities of Scheme Creditors at the Scheme Meeting; provided however, that such automatic termination shall not occur if such Scheme Meeting is adjourned to a date falling on or prior to the Longstop Date and the Bermuda Scheme is approved at such adjourned Scheme Meeting by the requisite majorities of the Scheme Creditors;
 - (b) the Bermuda Court not granting a Scheme Sanction Order at the hearing of the Bermuda Court convened for such purpose and there being no reasonable prospect of the Restructuring being effected and the Company has exhausted all avenues of appeal;
 - (c) the Restructuring Effective Date; and
 - (d) the Longstop Date.
- (2) The Amended and Restated Restructuring Support Agreement may be terminated:
 - (a) by mutual written agreement of the Company and the Super Majority Consenting Creditors (as defined below);
 - (b) at the election of the Consenting Creditors who hold an aggregate outstanding principal amount of more than 50% of the outstanding principal amount of the Existing Notes (the “**Majority Consenting Creditors**”) by and upon a written notice of termination to the Company (which shall notify the other parties), following the Company making any payment in respect of the Existing Notes, other than in accordance with the Amended and Restated Restructuring Support Agreement and/or the terms set out in the Amended and Restated Term Sheet;
 - (c) at the election of the Consenting Creditors who hold an aggregate outstanding principal amount of more than 66.67% of the outstanding principal amount of the Existing Notes (the “**Two Thirds Majority Consenting Creditors**”) by and upon a written notice of termination to the Company (which shall notify the other parties), following the occurrence of any failure to achieve any Milestone by its respective Milestone Deadline (as such Milestone Deadline may be extended from time to time in accordance with the terms of the Amended and Restated Restructuring Support Agreement);
 - (d) at the election of the Consenting Creditors who hold an aggregate outstanding principal amount of more than 75% of the outstanding principal amount of the Existing Notes (the “**Super Majority Consenting Creditors**”) by and upon a written notice of termination to the Company (which shall notify the other parties), following the occurrence of any of the following certain events:

- (i) the occurrence of certain Insolvency Events in respect of the Company or any of the Subsidiary Guarantors;
 - (ii) the Company launching a Bermuda Scheme that is materially inconsistent with the terms as set out in the Amended and Restated Term Sheet;
 - (iii) the Bermuda Court refusing to convene a Scheme Meeting, where all avenues of appeal are also exhausted by the Company;
 - (iv) an uncured material breach of the Amended and Restated Restructuring Support Agreement by the Company or the Subsidiary Guarantors; or
 - (v) occurrence of a change of control other than as contemplated under the Restructuring;
- (e) in respect of a Consenting Creditor, (i) at the election of the Company (in its sole and absolute discretion) by the delivery of a written notice of termination by the Company to a Consenting Creditor if that Consenting Creditor fails to comply with the Amended and Restated Restructuring Support Agreement in any material respect, and such non-compliance is not remedied within ten (10) business days of delivery of notice of such non-compliance by the Company to the relevant Consenting Creditor; or (ii) at the election of that Consenting Creditor (in its sole and absolute discretion) by the delivery of a written notice of termination by that Consenting Creditor to the Company if the Company or any Subsidiary Guarantor fails to comply with the Amended and Restated Restructuring Support Agreement in any material respect and such non-compliance is not remedied within ten (10) business days of delivery of notice of such non-compliance by that Consenting Creditor to the Company; or
- (f) at the written election of the Company (in its sole and absolute discretion), in circumstances where there is no reasonable prospect of the Restructuring being effected by way of a Bermuda Scheme.

Longstop Date

For the purposes of the Amended and Restated Restructuring Support Agreement, Longstop Date means June 30, 2021, or such later date as the Company may notify to the parties subject to the prior written consent of the Majority Consenting Creditors and provided that: (a) such later date shall be a date no later than September 30, 2021; and (b) any amendment to this definition or extension of the Longstop Date beyond September 30, 2021 will require the prior written consent of the Company and the Super Majority Consenting Creditors.

Amendment and Waiver

Subject to the next two paragraphs and as described in the Amended and Restated Restructuring Support Agreement, the Amended and Restated Restructuring Support Agreement may be amended or waived by the Company and the Majority Consenting Creditors.

Subject to the next paragraph, (i) any term of the Restructuring as set out in the Amended and Restated Term Sheet, (ii) the definition of the “Longstop Date”, and (iii) any clauses relating to termination, amendments and waiver of the Amended and Restated Restructuring Support Agreement, may only be amended or waived by the Super Majority Consenting Creditors and the Company.

The Company (acting in its sole discretion) may amend any term of the Amended and Restated Restructuring Support Agreement, among other things, to make any other change to the terms of the Restructuring or the Amended and Restated Restructuring Support Agreement that is beneficial to and does not have a material adverse effect on the rights of any Consenting Creditor when compared to the terms then in effect.

Furthermore, any amendment or waiver which would amend the clauses relating to the undertakings of the Consenting Creditors, the definitions of the definitions of “Majority Consenting Creditors”, “Two Thirds Majority Consenting Creditors” or “Super Majority Consenting Creditors”, may only be made in writing by the Company and each Consenting Creditor. Any amendment or waiver which would amend the definition of “Bondholder Committee” or “Bondholder Committee Majority” or “Bondholder Committee Counsel” may only be amended or waived in writing by each of the Company and the Bondholder Committee Majority.

For the purposes of the Amended and Restated Restructuring Support Agreement, the term “Bondholder Committee Majority” means, in relation to any approval, consent or opinion, any member or members of the Bondholder Committee who in aggregate are the beneficial owners of more than 50% in outstanding principal amount of the Notes held by the Bondholder Committee collectively at the time any such approval, consent or opinion is provided.