

**HM TREASURY  
CREDIT GUARANTEE FACILITY PROGRAMME**

**INDICATIVE GUARANTEE FACILITIES TERM SHEET FOR PFI/PPP PROJECTS**

Important Notice: The contents of this term sheet are indicative only and represent no commitment whatsoever on behalf of the Finance Guarantor to provide any financial support in respect of the Project.

**[Name of PFI/PPP Project]**

<b>1</b>	<b>Parties</b>	
<b>1.1</b>	<b>Parties to the Guarantee Facilities Agreement</b>	The Obligor, [the Holding Company,] the Senior Facilities Providers[, the Security Trustee and the Account Bank]
<b>1.2</b>	<b>Obligor</b>	[name of special purpose company][, a special purpose company which is 100 per cent owned by the Holding Company] and is the Borrower for the purposes of the Public Sector Loan Facilities Agreement
<b>1.3</b>	<b>[Holding Company</b>	[name of special purpose holding company], a special purpose holding company owned by the Shareholders in the proportions set out below]
<b>1.4</b>	<b>Shareholders</b>	<p><b>1</b> [name of shareholder] [percentage of shareholding],</p> <p><b>2</b> [name of shareholder] [percentage of shareholding], and</p> <p><b>3</b> [name of third party equity investor] [percentage of shareholding]</p>
<b>1.5</b>	<b>Finance Guarantor</b>	[name of bank/financial institution] who will provide a Finance Guarantee in favour of the Public Sector Finance Provider in respect of outstandings under each of the Term Loan Facility and the Standby Loan Facility made available pursuant to the Public Sector Loan Facilities Agreement
<b>1.6</b>	<b>Account Bank</b>	[name of bank who will hold the accounts of the Obligor]
<b>1.7</b>	<b>[Working Capital Bank[s]</b>	The [Account Bank] <sup>1</sup> in its capacity as provider of the Working Capital Facility
<b>1.8</b>	<b>Senior Facility Providers</b>	The Finance Guarantor [and the Working Capital Bank[s]]
<b>1.9</b>	<b>Beneficiary and Public Sector Finance Provider</b>	[HM Treasury] or [the sponsoring department/Authority] <sup>2</sup>

<sup>1</sup> The likeliest provider of the Working Capital Facility.

<sup>2</sup> HMT will determine the identity of the Public Sector Finance Provider for CGF-funded PFI/PPP Projects.

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<b>1.10</b>	<b>Public Sector Facility Agent</b>	A suitable agent to be appointed who will act as administrative agent for the purposes of, inter alia, (a) assessment of the status of conditions precedent to utilisation and (b) the on-going monitoring of (i) the Project, (ii) the loan facility and (iii) the credit rating of the [Finance Guarantor].
<b>1.11</b>	<b>Finance Parties<sup>3</sup></b>	The Senior Facilities Providers, the Account Bank, the Trustee, the Public Sector Facility Agent and the Public Sector Finance Provider
<b>1.12</b>	<b>Trustee</b>	[name of bank or institution who will hold the security for and on behalf of the Finance Parties]
<b>1.13</b>	<b>Authority</b>	[specify awarder of the Concession]
<b>2</b>	<b>Project</b>	The [design, construction, commissioning, operation, maintenance and financing of [ ] at [the Site] by the Obligor [pursuant to the terms of the Concession Agreement granted by the Authority]
<b>3</b>	<b>Defined Terms</b>	Certain key terms are defined in Schedule 1
<b>4</b>	<b>Facilit[y/ies]</b>	<p><b>1</b> A Sterling guarantee facility of up to £[ ] million (the “<b>Guarantee Facility</b>”) provided by the Finance Guarantor</p> <p><b>[2</b> A Sterling standby guarantee facility of up to £[ ] million (the “<b>Standby Guarantee Facility</b>”) provided by the Finance Guarantor , and]</p> <p><b>[3</b> A Sterling working capital facility of up to £[ ] million (the “<b>Working Capital Facility</b>”)]</p>
<b>5</b>	<b>Purpose[s]</b>	<p><b>1</b> Guarantee Facility: to issue a finance guarantee to the Beneficiary in respect of the Guaranteed Amount</p> <p><b>2</b> Standby Guarantee Facility: to issue a finance guarantee to the Beneficiary in respect of the Guaranteed Amount</p> <p><b>[3</b> Working Capital Facility: to finance [all working capital requirements of the Obligor]]</p>
<b>6</b>	<b>Availability Period</b>	<p><b>1</b> Guarantee Facility: from the date of signature of the Guarantee Facilities Agreement until the earlier of:</p> <p>(a) the [Completion Date], and</p> <p>(b) [ ] months after the date of the Guarantee Facilities Agreement</p> <p><b>2</b> Standby Guarantee Facility: from the date of signature of the Guarantee Facilities Agreement until the earlier of:</p> <p>(a) [ ] months after the Completion Date, and</p> <p>(b) [ ] months after the date of the Guarantee Facilities Agreement</p>

<sup>3</sup> There may also be senior facilities arrangers, a requirement for a guarantee facilities agent and, if a fronting bank issues the Finance Guarantee(s), counter-indemnifying banks (on this latter point please refer to paragraph 11.3 of HMT’s CGF Technical Note 1).

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		[3 Working Capital Facility: [on a revolving basis] from the date of signature of the Guarantee Facilities Agreement until the date falling [1] month (being the minimum duration of an advance under the Working Capital Facility) prior to the Final Maturity Date]
<b>7</b>	<b>Issue/[Utilisation]</b>	
<b>7.1</b>	<b>Issue of Finance Guarantees and Confirms</b>	Finance Guarantee(s) will be issued by the Finance Guarantor pursuant to the Guarantee Facility and the Standby Guarantee Facility following receipt of the first Issue Request made under the Guarantee Facility or (as the case may be) the Standby Guarantee Facility after Financial Close and upon satisfaction of Conditions Precedent to Each Request/Utilisation; thereafter, upon receipt of subsequent Issue Requests and satisfaction of Conditions Precedent to Each Issue, the Finance Guarantor will issue a notice (a “ <b>Confirm</b> ”) confirming that the Finance Guarantee covers all scheduled payments of principal and interest under the Public Sector Loan Facilities Agreement including amounts utilisation pursuant to the latest Public Sector Utilisation Notice
<b>7.2</b>	<b>[Utilisation of the Working Capital Facility</b>	Advances will be made available by the Working Capital Banks under the Working Capital Facility following [the Completion Date] and upon satisfaction of Conditions Precedent to Each Utilisation]
<b>8</b>	<b>Conditions Precedent</b>	
<b>8.1</b>	<b>Conditions Precedent to First Issue/[First Utilisation]</b>	[To be agreed between the Obligor and the Finance Guarantor. The Guarantee Facilities Agreement and the Public Sector Loan Facilities Agreement will be inter-conditional.]
<b>8.2</b>	<b>Conditions Precedent to Each Issue of a Guarantee</b>	Each issue of a Finance Guarantee (or subsequent issue of a Confirm) shall be subject to the fulfilment of the following conditions precedent: <ol style="list-style-type: none"> <li>1 Receipt of a satisfactory issue request (an “<b>Issue Request</b>”) not less than [ ] Business Days in advance of the proposed date of issue</li> <li>2 A corresponding Public Sector Utilisation Notice has been issued by the Obligor under the terms of the Public Sector Loan Facilities Agreement (the “<b>Relevant Public Sector Utilisation</b>”)</li> <li>3 All conditions precedent to the Relevant Public Sector Utilisation have been satisfied other than in respect of the issue of either the Finance Guarantee or the corresponding Confirm under the Guarantee Facilities Agreement</li> </ol>
		4 The Relevant Public Sector Utilisation has been drawn to finance: <ol style="list-style-type: none"> <li>(a) in the case of a Term Loan Advance: items [1, 2, 3, 5 and/or 6] of Project Costs during the Availability Period</li> <li>(b) in the case of a Standby Advance: item 4 of Project Costs</li> </ol>

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8.3	<b>[Conditions Precedent to Each Utilisation under the Working Capital Facility]</b>	<p>5 In respect of funds being drawn under the Public Sector Loan Facilities Agreement to meet payments under the Construction Contract, evidence that such payments are due within the next 30 days</p> <p>6 [CPs usual for a PFI/PPP loan facility to be agreed between the Borrower and the Finance Guarantor.]</p> <p>Each utilisation under the Working Capital Facility shall be subject to the fulfilment of the following conditions precedent: [to be agreed between the Borrower and the Working Capital Bank]</p>
9	<b>Obligor's Payment Obligations</b>	
9.1	<b>Counter-Indemnity by the Obligor</b>	[The Obligor agrees to indemnify the Finance Guarantor in respect of claims under the Finance Guarantee(s)] [terms of the counter-indemnity to be agreed between the Borrower and the Finance Guarantor]
9.2	<b>[Repayment of the Working Capital Facility]</b>	<p>The Obligor shall repay all Advances under the Working Capital Facility on the last day of an Interest Period</p> <p>Any sum so repaid may be redrawn]</p>
9.3	<b>Mandatory Cash Collateral</b>	<p>The Obligor shall be obliged to provide and continue to maintain cash cover of an amount equal to the aggregate amount guaranteed by the Finance Guarantor under the Finance Guarantee(s) where the Obligor has not prepaid [in full]<sup>4</sup> outstandings under the Public Sector Loan Facilities Agreement, in circumstances where:</p> <ol style="list-style-type: none"> <li>1 Compensation is payable under the terms of any of the Project Documents, or</li> <li>2 The Obligor receives any insurance proceeds under any business interruption or, to the extent that any economic reinstatement test has been passed, physical damage insurance policy under a relevant Project Document</li> </ol>
9.4	<b>Cash Collateral in Non-Default Circumstances</b>	The Obligor shall be obliged to provide and continue to maintain cash cover in circumstances where it is illegal for the Finance Guarantor to issue a Finance Guarantee [Terms upon which cash cover is to be provided is to be agreed between the Obligor and the Finance Guarantor]
9.5	<b>Voluntary Prepayment under the Public Sector Loan Facilities Agreement</b>	The Obligor may prepay amounts drawn under the Public Sector Loan Agreement on the terms set out therein and provided further that no Event of Default or potential Event of Default under either the Guarantee Facilities Agreement or the Public Sector Loan Facilities Agreement will arise as a result of the payment

<sup>4</sup> Cash cover required to extent compensation/insurance proceeds received has not been applied in prepayment of outstandings under the Public Sector Loan Facilities Agreement.

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<b>9.6</b>	<b>[Final Maturity Date for the Working Capital Facility]</b>	[ ] years from the date of the Guarantee Facilities Agreement
<b>10</b>	<b>Cancellation</b>	
<b>10.1</b>	<b>Cancellation of the Guarantee Facility and the Standby Guarantee Facility</b>	The Obligor may cancel all or any of the unutilised commitments at any time, [without penalty,] on [30] days' notice in minimum amounts of £[ ] and multiples of £[ ] (or, in the case of a cancellation under the Standby Guarantee Facility, in minimum amounts of £[ ] and multiples of £[ ] provided that the Agent is satisfied that the Obligor does not need such cancelled commitments in order to guarantee the utilisation of amounts under the Public Sector Loan Facilities Agreement necessary in order to satisfy the [funding shortfall] test
<b>10.2</b>	<b>Cancellation of the Working Capital Facility</b>	The Obligor may cancel the whole (but not part) of the Working Capital Facility if it can demonstrate to the reasonable satisfaction of the [Guarantee Facilities Agent/Finance Guarantors] that its cashflow requirements do not necessitate a Working Capital Facility.
<b>10.3</b>	<b>Cancellation under the Public Sector Loan Facilities Agreement</b>	The Obligor may only exercise any right to cancel all or any of the undrawn Facilities under the Public Sector Loan Facilities Agreement on the terms set out therein provided that no [funding shortfall] would arise as a result of such cancellation
<b>11</b>	<b>Fees[, Margins] and Commissions</b>	
<b>11.1</b>	<b>Guarantee Fee</b>	[ ] per cent per annum of the Guaranteed Amount calculated and paid [every six months/quarterly] [in arrears]
<b>11.2</b>	<b>[Working Capital Facility Margin]</b>	[ ] per cent p.a.]
<b>11.3</b>	<b>Commitment Fee</b>	<ol style="list-style-type: none"> <li>1 Guarantee Facility: [ ] per cent p.a.</li> <li>2 Standby Guarantee Facility: [ ] per cent p.a.</li> <li>3 Working Capital Facility: [ ] per cent p.a.]</li> </ol> <p>payable quarterly in arrears on all amounts during the relevant period committed but undrawn until cancellation or termination of commitments</p>
<b>11.4</b>	<b>Arranging Fees</b>	[[For each Facility,] [ ] per cent flat on the amount of [each Facility] (which includes all arranging[, underwriting] and participating fees) payable on the date of signature of the Guarantee Facilities Agreement]
<b>12</b>	<b>Shareholder Commitments</b>	<p>The Shareholders shall on [Financial Close]:</p> <ol style="list-style-type: none"> <li>1 subscribe in aggregate for £[•] ordinary share capital of the Holding Company to be paid in full, and</li> <li>2 [pay £[•] of subordinated debt]</li> </ol> <p>[The Shareholder Commitments shall be callable on an Event of</p>

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		<p>Default if so required by the [Guarantee Facilities Agent (acting on the instructions of the Senior Facility Providers/Finance Guarantor)]</p> <p>The liability of each Shareholder (calculated by reference to the percentage shareholding of the relevant Shareholder in the Holding Company) shall be several</p>
<b>13</b>	<b>Representations and Warranties</b>	[To be agreed between the Obligor and the Senior Facilities Providers]
<b>14</b>	<b>Undertakings</b>	[To be agreed between the Obligor and the Senior Facilities Providers]
<b>15</b>	<b>Defaults and Remedies</b>	
<b>15.1</b>	<b>Events of Default</b>	[To be agreed between the Obligor and the Senior Facilities Providers and to include cross-default under the Public Sector Loan Facilities Agreement]
<b>15.2</b>	<b>Remedies</b>	<p>Following an Event of Default, the Senior Facilities Providers shall be entitled to:</p> <ol style="list-style-type: none"> <li>1 cancel all available Commitments under the Facilities, and/or</li> <li>2 require on demand the Obligor to provide and continue to maintain cash cover which shall be provided by payment by the Obligor to a Finance Guarantee Account, established for the purpose, of an amount equal to the aggregate amount guaranteed by the Finance Guarantors under the Finance Guarantees at such time, and/or</li> <li>3 accelerate all amounts outstanding under the Working Capital Facility, and/or</li> <li>4 declare all unsubscribed amounts of equity and any undrawn amounts of subordinated debt to be due and payable immediately upon demand.</li> </ol>
<b>16</b>	<b>Cashflow and Accounts</b>	
<b>16.1</b>	<b>Project Accounts</b>	[To be agreed between the Obligor and the Senior Facilities Arrangers]
<b>16.2</b>	<b>Available Cash Flow Priorities:</b>	<p>The cash flow (as defined below) of the Obligor will be applied [on each repayment date] in the following priorities:</p> <ol style="list-style-type: none"> <li>1 payment of Security Trustee and Account Bank fees</li> <li>2 payments to the [Operating Account] in accordance with the most recent Operating Budget]</li> <li>3 payment of financing costs under the Public Sector Loan Facilities Agreement and, provided there is no default under the Finance Guarantee(s) (in which case such payments shall be subordinated to all payments under the Public Sector Loan Facilities Agreement) financing costs under the Guarantee Facilities Agreement</li> <li>4 payment of financing principal under each of the Guarantee Facilities Agreement and the Public Sector Loan Facilities</li> </ol>

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		<p>Agreement and, provided there is no default under the Finance Guarantee(s) (in which case such payments shall be subordinated to all payments under the Public Sector Loan Facilities Agreement) financing principal under the Guarantee Facilities Agreement</p> <p><b>5</b> payments to reserve accounts (as required), and</p> <p><b>6</b> subordinated debt/dividend distributions/loans to shareholders</p>
<b>17</b>	<b>Security Package</b>	The Security Package is set out in Schedule 3
<b>18</b>	<b>Increased Costs</b>	<p>The Obligor will indemnify the Senior Facility Providers against any increased costs resulting from:</p> <p><b>1</b> any change in law or regulation, and</p> <p><b>2</b> compliance with any request or requirement of any central bank or others, including those which affect the manner in which the Senior Facility Providers are required to maintain capital reserves</p>
<b>19</b>	<b>Qualifying Lender</b>	Each Working Capital Bank warrants to the Obligor that it is a Qualifying Lender. If on the date of payment of interest by the Obligor to the Working Capital Bank, the Working Capital Bank is not a Qualifying Lender, the Obligor is not required to pay an additional amount following a deduction of income tax from that payment of interest, unless it results from a change in taxation after the Guarantee Facilities Agreement was entered into
<b>20</b>	<b>Expenses</b>	The Obligor will pay the reasonable out-of-pocket expenses of the Finance Parties relating to the Project, including costs of the advisers. All such expenses and costs should be supported by reasonably detailed information
<b>21</b>	<b>Governing Law</b>	The Relevant Documents to be governed by the laws of England and Wales

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**Schedule 1  
Definitions**

The following terms have, in this term sheet, the meanings given below:

<b>Completion Date</b>	The date of issue of the [Certificate of Completion] (subject to the reasonable satisfaction of the [Senior Facilities Providers] Technical Adviser) under the Concession Agreement
<b>Finance Documents</b>	The documents set out in Part 2 of Schedule 2
<b>Finance Guarantee</b>	A financial guarantee of the Guaranteed Amount issued by the Finance Guarantor in favour of the Beneficiary under either of the Guarantee Facility or the Standby Guarantee Facility (as the case may be)
<b>Financial Close</b>	The date on which each Condition Precedent to First Issue is satisfied or waived by the Senior Facilities Providers
<b>Guaranteed Amount</b>	The amount from time to time guaranteed pursuant to a Finance Guarantee in respect of the relevant Public Sector Loan Facility under the Public Sector Loan Facilities Agreement.
<b>Project Costs</b>	<p>To comprise the following:</p> <ol style="list-style-type: none"><li>1 all costs, expenses and fees incurred or to be incurred by any member of the Obligor's Group for the [design, construction and commissioning of [ ]];</li><li>2 all development costs, tender costs [and Sponsors' fees];</li><li>3 all financing costs [during the construction phase];</li><li>4 [change in law costs required to be funded by the Obligor under the Concession Agreement];</li><li>5 funding the Debt Service Reserve Account; or</li><li>6 as otherwise agreed by the Senior Facility Providers;</li></ol> <p>in each case as approved by the Senior Facilities Providers</p>
<b>Project Documents</b>	The documents set out in Part 1 of Schedule 2
<b>Relevant Documents</b>	The Project Documents and the Finance Documents
<b>Security</b>	The security described in Schedule 3
<b>Standard Public Sector PFI/PPP Loan Facility Term Sheet</b>	The Term Sheet setting out the terms for the Public Sector Loan Facilities Agreement

Terms defined in the Standard Public Sector PFI/PPP Loan Facility Term Sheet have the same meaning in this Term Sheet.

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Schedule 2

Part 1

Project Documents

- 1 **Concession Agreement:** the agreement to be entered into between the Obligor and the [Authority] for the [design, construction, commissioning, operation, maintenance and financing of [ ]].
- 2 **[Lease:** the lease of the Site granted by the [Authority] to the Obligor pursuant to and co-terminous with the Concession Agreement.]
- 3 **Construction Contract:** the agreement to be entered into between the Obligor and [name of construction contractor (the “Contractor”)] for the [design, construction and commissioning of [ ] by the Contractor.
- 4 **Contractor Parent Company Guarantee:** the guarantee of the obligations of the Contractor under the Construction Contract to be provided by the Contractor Guarantor in favour of the Obligor.
- 5 **O&M Agreement:** the agreement to be entered into between the Obligor and [name of operator (the “Operator”)] for the [operation and maintenance of [ ] by the Operator.
- 6 **[Operator Parent Company Guarantee:** the guarantee of the obligations of the Operator under the O&M Agreement to be provided by [ ] in favour of the Obligor.]
- 7 **[Management Contract(s):** the contract(s) to be entered into between the Obligor and [ ] for the management of the Obligor.]
- 8 **Shareholders Agreement:** the agreement to be entered into between the Shareholders and the Holding Company.

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### Schedule 2

#### Part 2 Finance Documents

- 1 Public Sector Loan Facilities Agreement:** The loan facilities agreement between, inter alia, the Borrower and the Public Sector Finance Provider pursuant to which the Public Sector Finance Provider will make available to the Borrower a Term Loan Facility and a Standby Loan Facility or the terms and subject to the conditions set out therein.
- 2 Guarantee Facilities Agreement:** The guarantee facilities agreement between, inter alia, the Obligor and the Senior Facility Providers pursuant to which the Finance Guarantor will make available to the Obligor the Guarantee Facility and the Standby Guarantee Facility [and the Working Capital Bank will make available to the Obligor the Working Capital Facility] in each case on the terms and subject to the conditions set out therein.
- 3 Finance Guarantee:** A financial guarantee of the Guaranteed Amount issued by the Finance Guarantor in favour of the Public Sector Finance Provider under the Guarantee Facility or the Standby Guarantee Facility (as the case may be) pursuant to the terms of the Guarantee Facilities Agreement
- 4 Intercreditor Agreement and Trust Deed:** the agreement to be entered into between the Borrower, the Holding Company, the Shareholders and the Finance Parties providing for, inter alia, the terms of the contractual subordination between the parties and turnover of any amounts received by any party in connection with the Project other than as permitted by the Finance Documents, the terms of appointment of the security trustee, enforcement rights, post enforcement cashflows and prescribing the Finance Parties voting rights and decision-making process.
- 5 Co-financiers' Agreement:** An agreement between the Finance Parties pursuant to which, inter alia, (a) the Public Sector Finance Provider will undertake (i) to notify the other Finance Parties of any defaults under the Public Sector Loan Facilities Agreement, (ii) to confirm that, upon issue of any Finance Guarantee or Confirm, the Public Sector Finance Provider will make the corresponding amount under the Term Loan Facility (or, as the case may be, the Standby Loan Facility) available to the Borrower, and (iii) not to amend the Public Sector Finance Documents in any respect material to the interests of the Senior Facilities Providers without the prior written consent of the [Senior Facilities Providers] (b) the Senior Facility Providers will undertake [(i) to purchase at par the debt outstanding under the Public Sector Loan Facilities Agreement upon which from the Public Sector Loan Facilities Agent in circumstances where the Finance Guarantor is [insolvent] or its credit rating no longer satisfies the Minimum Credit Rating and neither the Borrower nor the Indemnifying Banks have procured a satisfactory replacement Finance Guarantor] (ii) to notify the other Finance Parties of any defaults under the Guarantee Facilities Agreement and (iii) [ ]<sup>5</sup> and (c) the Finance Guarantor will represent to the Public Sector Finance Provider that its obligations under the Finance Guarantee(s) constitute legal, valid, binding and enforceable obligations.
- 6 Security Documents:** the documents evidencing the security to be created in favour of the Finance Parties as more particularly described in Part 3 of this Schedule.

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<sup>5</sup> HMT to consider any requirements; these would include further information covenants.

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**7 Direct Agreements:** each of the agreements to be entered into between the Senior Facilities Providers and:

- (a) the Authority;
- (b) the Contractor; and
- (c) the Operator,

in each case to cover acknowledgement of security and step-in rights exercisable by the Security Trustee (for and on behalf of the Finance Parties).

**8 Shareholder Support Agreement:** the agreement to be entered into between the Obligor, the Holding Company, the Shareholders and the Security Trustee (for and on behalf of the Finance Parties) containing the equity subscription and subordinated loan participation obligations of the Shareholders and the Holding Company.

The term "Finance Documents" will include all finance documents entered into by all or any of the Finance Parties; the term "Public Sector Finance Documents" will include all finance documents entered into by either or both of the "Public Sector Finance Provider" and the "Public Sector Facility Agent".

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**Schedule 3  
Security**

The security package will comprise, *inter alia*:

- 1** First ranking fixed and floating charges over the assets of the Obligor including project accounts, insurances, the [Site] and security assignment of Project Documents.
- 2** Direct Agreements with the Authority, the Contractor and the Operator.
- 3** Fixed and floating charge over the assets of the Holding Company.
- 4** Finance Parties named as additional insured under all policies of insurance and, where proceeds exceed a certain figure, reinstatement if a project forecast demonstrates that reinstatement is economically viable; otherwise, proceeds may be used to prepay debt.
- 5** Contractor Parent Company Guarantee and Operator Parent Company Guarantee.
- 6** An intercreditor agreement which shall, *inter alia*, include provisions appointing the Security Trustee and regulating the relationship among the creditors generally.

The Shareholders will rank second (behind the Finance Parties) in respect of the Shareholder Debt.