

THIS DEED is made on 25 November 2020 between:

- (1) **BOC HOLDINGS**, a company registered in accordance with the laws of England under company registration number 212945, whose registered address is The Priestley Centre, 10 Priestley Road, Guildford, Surrey GU2 7XY (hereinafter referred to as "**BOCH**" which expression shall where the context so admits include its successors in title); and
- (2) **CARBACID INVESTMENTS PLC** a public limited liability company registered in accordance with the laws of the Republic of Kenya with company number 32/70 and whose registered office is L.R. No 1870/i/569, ALN House, Eldama Ravine Close, off Eldama Ravine Road, Westlands, Nairobi and whose postal address is P. O. Box 764-00606 Nairobi, Kenya (hereinafter referred to as "**CIL**" which expression shall where the context so admits include its successors in title); and
- (3) **AKSAYA INVESTMENTS LLP** a limited liability partnership registered in accordance with the laws of the Republic of Kenya with registration number LLP-6R1MVM, whose registered address is 7th Floor, Grenadier Tower, 01 Woodvale Close, P.O. Box 44690-00606, Nairobi, Kenya (hereinafter referred to as "**Aksaya**" which expression shall where the context so admits include its successors in title),

(CIL and Aksaya shall collectively be referred to as the **Co-Offerors**).

WHEREAS:

- A. BOC (Kenya) Plc is a public limited liability company registered in accordance with the laws of the Republic of Kenya, with company number C.62/63 which is listed on the Main Investment Segment of the Nairobi Securities Exchange (the "**Company**").
- B. BOCH owns 12,765,582 ordinary shares in the Company representing approximately 65.38% of the issued shares of the Company.
- C. The Co-Offerors intend to make the Offer (defined below) for 100% of the ordinary shares of the Company including all of the ordinary shares held by BOCH in the Company.
- D. BOCH has entered into this Deed to undertake to the Co-Offerors that it will accept the Offer on the terms and conditions stated herein.

NOW THIS DEED WITNESSES:

1 Definitions

- 1.1. In this Deed including its schedules and recitals, except where the context otherwise requires the following words shall have the following meanings:
 - (a) "**BOC Shares**" means 100% of the issued shares in the Company and "**BOC Share**" shall be construed accordingly;
 - (b) "**Business Day**" means a day (other than a Saturday or Sunday or gazetted public holiday) on which banking institutions are generally open for the conduct of business in Kenya;
 - (c) "**Capital Markets Act**" means The Capital Markets Act (Chapter 485A of the Laws of Kenya);
 - (d) "**Closing**" means the completion of the Offer;
 - (e) "**Closing Date**" means the closing date described in the Offer Document as the same may be extended by the Co-Offerors and approved by the CMA in accordance with the Take-Over

Regulations;

- (f) **“CMA”** means the Capital Markets Authority of Kenya established under the Capital Markets Act;
- (g) **“Committed Shares”** shall have the meaning set out in clause 2.1.1;
- (h) **“Draft Press Notice”** means the draft press notice attached at Schedule 1;
- (i) **“Offer”** means the cash offer for the acquisition of up to 100% of the issued shares of the Company made by the Co-Offerors on the terms and conditions contained in the Draft Press Notice;
- (j) **“Offer Price”** means the price per BOC Share offered by the Co-Offerors for purchase of the BOC Shares as set out in the Draft Press Notice;
- (k) **“Offer Document”** means the formal offer document addressed to the shareholders of the Company, together with such additional and further terms and conditions as are usual in transactions of this nature or as may be required to comply with the Take-Over Regulations and/or such additional terms and conditions as may be agreed with the CMA;
- (l) **“Party”** means either BOCH or the Co-Offerors and **Parties** shall be construed accordingly;
- (m) **“Regulatory Conditions”** means the conditions to obtain various regulatory approvals for the Offer as set out in paragraph 9 of the Draft Press Notice; and
- (n) **“Take-Over Regulations”** means the Capital Markets (Take-overs and Mergers) Regulations, 2002.

1.2. In this Deed (including its recitals and the Schedule), unless the context otherwise requires:

- (a) references to clauses and Schedules are to clauses and schedule to this Deed;
- (b) any reference to a day (including the phrase Business Day) shall mean a period of 24 hours running from midnight to midnight in Kenya;
- (c) all headings and titles are inserted for convenience only and are to be ignored in the interpretation of this Deed;
- (d) when any number of days is prescribed in this Deed, the same shall exclude the first and include the last day, unless the last day falls on a day which is not a Business Day, in which case the last day shall be the next succeeding Business Day;
- (e) the Schedule forms part of this Deed and shall have the same force and effect as if expressly set out in the body of this Deed, and any reference to this Deed shall include the Schedule;

1.3. If a definition of a particular term or expression in this Deed imposes substantive rights and obligations on a party such rights and obligations shall be given effect to and shall be enforceable notwithstanding that they are contained in a definition.

2 Representations and warranties

2.1 BOCH hereby warrants and represents to the Co-Offerors that:

- 2.1.1 As at the date hereof, BOCH is the legal and beneficial owner of and it is the registered holder of 12,765,582 ordinary shares in the Company representing 65.38% of the issued shares (the **Committed Shares**), which expression shall include:
- (a) any shares in the Company of which BOCH may become the registered holder or beneficial owner after the date of this Deed; and
 - (b) any other shares or interests in shares attributable to or deriving from the existing shares in the Company owned by BOCH;
- 2.1.2 the Committed Shares comprise BOCH's entire interest in the share capital of the Company and BOCH is able to transfer such shares to the Co-Offerors pursuant to the Offer free from all charges, liens, encumbrances or options of or over all or any of such shares and together with all rights now or subsequently attaching to them, including the right to all dividends declared, made or paid after the date of this Deed;
- 2.1.3 BOCH does not hold any options to subscribe for shares in the Company as at the date of this Deed;
- 2.1.4 BOCH is not acting in concert with any other person as defined in the Take-Over Regulations; and
- 2.1.5 BOCH has all relevant rights, power and authority to enter into this Deed and to perform all of its obligations under this Deed and, upon the Offer being made, will be able to accept the Offer and vote in favour of the Offer in respect of the Committed Shares.
- 2.2 The representations and warranties set out in this clause 2 shall survive the transfer of the Committed Shares under the Offer.

3 Acceptance of the offer

- 3.1 BOCH irrevocably undertakes:
- 3.1.1 to accept or procure the acceptance of the Offer in respect of the Committed Shares. BOCH agrees to fulfil this undertaking by validly accepting the Offer in respect of the Committed Shares in accordance with the Offer Document, not later than five (5) Business Days after receipt by BOCH of the Offer Document (and to communicate such acceptance in the manner envisaged in the Offer Document) or, in relation to the Committed Shares falling within either Clauses 2.1.1(a) or 2.1.1(b), as soon as practicable after BOCH becomes the registered holder or beneficial owner of such Committed Shares.; and
 - 3.1.2 that it will not sell, transfer, mortgage, charge or otherwise encumber, grant any option or other right over or otherwise deal with or dispose of any or all of the Committed Shares or any interest (whether actual or contingent) in any or all of them other than pursuant to the Offer or this Deed.

4 Additional undertakings

- 4.1 BOCH further irrevocably undertakes:
- 4.1.1 that BOCH will not effect an indirect transfer of the Committed Shares through a sale of any or all of the shares of BOCH;
 - 4.1.2 that notwithstanding that the terms of the Offer Document will confer rights of withdrawal on accepting shareholders, BOCH shall not withdraw any acceptance of

the Offer in respect of the Committed Shares or any of them and shall procure that no rights to withdraw any acceptance in respect of such Committed Shares are exercised;

- 4.1.3 that BOCH will not exercise the voting rights attaching to the Committed Shares in any manner which is likely to be prejudicial to the Offer or its outcome; and
 - 4.1.4 to take all steps in relation to the Company that as a shareholder of the Committed Shares it is able or entitled to take in order that the Offer may be successfully implemented within the period envisaged by the Offer Document, including the convening of all meetings which may be necessary in this regard.
- 4.2 Until such time as the Offer becomes wholly unconditional or lapses or is withdrawn or if an event set out in clause 5.1 occurs, BOCH will exercise by proxy or in person the votes attaching to the Committed Shares in respect of any resolution (whether or not amended) which is proposed at any general meeting of the Company, or at any adjournment thereof (a **Relevant Resolution**):
- 4.2.1 in favour of any such resolution the passing of which is necessary to fulfil any condition of, or otherwise assist in the implementation of, the Offer; and
 - 4.2.2 against any such resolution which, if passed, might result in any condition of the Offer not being fulfilled or which might impede or frustrate the Offer in any way.
- 4.3 A resolution to adjourn a general meeting of the Company whose business includes the consideration of a Relevant Resolution, and a resolution to amend a Relevant Resolution, are also Relevant Resolutions.

5 Conditions of the undertakings

- 5.1 The irrevocable undertakings in Clauses 3.1 and 4.1 and the obligation in Clause 4.2 shall automatically terminate if:
- 5.1.1 the Offer made by the Co-Offerors is not made on the same or better terms to those contained in the Draft Press Notice; or
 - 5.1.2 any Regulatory Conditions of the Offer are not fulfilled; or
 - 5.1.3 if the Closing does not occur by 31 July 2021 or such later date as may be agreed in writing by the Parties.

If any of the conditions referred to in this paragraph 5.1 are not fulfilled (or in the case of the conditions in paragraphs 5.1.1 and 5.1.3 waived by BOCH and in the case of the condition in paragraph 5.1.2 waived by the Co-Offerors to the extent capable of waiver), then this Deed shall automatically terminate and the provisions of clause 10.2 shall then apply.

- 5.2 BOCH warrants that there are no circumstances which would qualify or condition the representations, warranties and undertakings contained in Clauses 2, 3 and 4 and acknowledges that the Co-Offerors have decided to submit the Offer on the understanding that BOCH would enter into this Deed on the terms set out in this Deed.

6 Withdrawal

BOCH shall not withdraw its acceptance of the Offer in respect of any or all of the Committed Shares unless it may have become entitled to withdraw its acceptance by virtue of the Take-Over Regulations or if clause 5.1 or clause 10.1 applies.

7 Information

BOCH shall promptly on demand supply, or procure the supply of, to the Co-Offerors all information (to the extent that BOCH has or can procure such information and can legally disclose such information) relating to the Company and any other person with whom it is associated or connected for the purposes of fulfilling a requirement of the Take-Over Regulations and/or the Companies Act No. 17 of 2015 (the **Companies Act**) and which in the Co-Offerors reasonable opinion is required to be contained in or provided under any document relating to the Offer by any applicable law, the Take-Over Regulations, the CMA, or any other applicable requirements or in order to fulfil any of the Regulatory Conditions. BOCH shall notify the Co-Offerors promptly of any changes in such information, after becoming aware of the same.

8 Publicity

BOCH consents to particulars of this Deed being included in the press notice similar to the Draft Press Notice and in the Offer Document, and any other document issued in connection with the Offer as required by the Take-Over Regulations.

9 Confidentiality

Each Party undertakes that it will keep the contents of this Deed and the matters referred to in it strictly confidential and not to disclose such or allow the terms and conditions to be disclosed in whole or in part to any third party except to the Parties' legal advisors, bankers, financiers or any competent court of law or any regulatory authority or if required by law or under Clause 8 until such time as this irrevocable undertaking has been publicly announced by the Co-Offerors issuing a press notice similar to the Draft Press Notice.

10 Termination

10.1 Save in respect of Clauses 9 and 14 and this Clause, 10, the provisions of this Deed will terminate if:

10.1.1 the final press notice similar to the Draft Press Notice is not released at or before 12:00 noon on 27 November 2020 or such later date as agreed to in writing by the Parties on the terms and conditions set out or referred to in the Draft Press Notice and/or such other terms and conditions as may be required by the Take-Over Regulations; or

10.1.2 the Offer lapses or is withdrawn and no new, revised or replacement take-over offer is or has been announced by the Co-Offerors at the same time.

10.2 If the provisions of this Deed terminate:

10.2.1 BOCH shall have no claim against the Co-Offerors and the Co-Offerors shall not have any claim against BOCH save in respect of any breaches of contract committed prior to termination;

10.2.2 if BOCH has sent its acceptance of the Offer to the Co-Offerors, the Co-Offerors will promptly return such acceptance to BOCH in the form it was received by the Co-Offerors;

10.2.3 BOCH will be able to sell the Committed Shares to any other person at any time.

11 Time

Time shall be of the essence in relation to this Deed both as regards the times, dates or periods mentioned in it and as regards any times, dates or periods which may, by written agreement between the Co-Offerrors and BOCH, be substituted for them.

12 Assignment and Successor

12.1 Each Party agrees that it shall not assign or purport to assign any of its rights, benefits or obligations under this Deed.

12.2 Each Party agrees that this Deed shall be binding and continue for the benefit of its successors.

13 Counterparts

This Deed may be executed in several counterparts, each of which shall be an original but all of which shall together constitute one and the same instrument.

14 Governing law and Jurisdiction

This Deed, and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by and construed in accordance with Kenyan law.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

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The Co-Offerors

Executed and delivered as a deed by:)

and)

Duly authorised for and on behalf of)

CARBACID INVESTMENTS PLC)

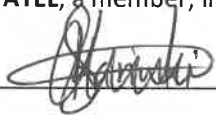
A handwritten signature in blue ink, appearing to read "D. R. Wood", written over a horizontal line.

) Director

A handwritten signature in black ink, appearing to read "A. Wood", written over a horizontal line.

) Director

Executed and delivered as a deed by)
AKSAYA INVESTMENTS LLP)
acting by BALOOBHAI)
CHHOTABHAI PATEL, a member, in)
the presence of)



SIMON PETER KARILUKI)
P.O. Box 764 - 00606)
NAIROBI, KENYA)

Schedule 1 Draft Press Notice

CARBACID INVESTMENTS PLC

**Incorporated in Kenya on 21 July 1970 under the Companies Act, 2015, Laws of Kenya
(Registration Number C. 32/70)**

AND

AKSAYA INVESTMENTS LLP

**Registered in Kenya on 20 June 2018 under the Limited Liability Partnership Act (Chapter 30A, Laws of Kenya)
(Registration Number LLP-6R1MVM)**

THE CAPITAL MARKETS ACTS (CHAPTER 485A OF THE LAWS OF KENYA)

**NOTICE OF INTENTION TO ACQUIRE UP TO 100% OF THE ORDINARY SHARES OF BOC KENYA PLC (BOC)
ISSUED PURSUANT TO REGULATION 4 (1) OF THE CAPITAL MARKETS (TAKE-OVER & MERGERS)
REGULATIONS, 2002**

1 Notice of Intention

Pursuant to regulation 4(1) of The Capital Markets (Take-overs & Mergers) Regulations, 2002, we, Carbacid Investments Plc (**CIL**) and Aksaya Investments LLP (**Aksaya**) (CIL and Aksaya shall be collectively referred to as the **Co-Offerors**) hereby give you notice that we intend to acquire up to 100% of the ordinary shares (the **Offer**) with a par value of KES 5.00 each of BOC (the **Offer Shares**) in accordance with the terms of this notice and the terms and conditions of the document setting out the offer by CIL and Aksaya for the purchase of up to 100% of the share capital of BOC (the **Offer Document**). CIL and Aksaya will purchase such amounts of the Offer Shares each as detailed in paragraph 7.7 below.

2 Rationale for Offer

The Co-Offerors have chosen to make the offer as they believe that the combination of BOC's product portfolio and services with CIL's existing business is an excellent match that will position the enlarged group to become the East and Central African region's supplier of choice for industrial, medical

and special gases and related equipment and services. CIL will bring its effective business and strategic acumen and deep knowledge and experience of the local market which can build on the synergies of the two businesses. In addition, a new local investor will lead to swifter decision making. The enlarged group will also provide greater opportunities for employee development, advancement and growth for BOC. The Co-Offerors believe in the underlying business of BOC and believe that they are well placed to improve the business performance of BOC.

3 The Offer

- 3.1 The Offer shall be for a total cash consideration of KES 1,239,865,821.00, for the Offer Shares which amounts to KES 63.50 per ordinary share of BOC (the **Take-Over Offer Price**).
- 3.2 In all respects, the Offer Shares will be acquired free from all liens, charges, encumbrances and other interests and together with all rights now and hereafter attaching to the Offer Shares.

4 The Proposed Co-Offerors

- 4.1 CIL is a public limited liability company incorporated in Kenya on 21 July 1970 with company registration number C. 32/70 under the Companies Act, No. 17 of 2015 (**Companies Act**). CIL is listed on Main Market Segment of the Nairobi Securities Exchange (**NSE**). Its registered address is L.R. No. 1870/1/569 ALN House, Eldama Ravine Close, off Eldama Ravine Road, Westlands, P.O. Box 764-00606, Sarit Centre, Nairobi, Kenya.
- 4.2 CIL is acting jointly with Aksaya in making the Offer.
- 4.3 Aksaya is a limited liability partnership with registration number LLP-6R1MVM. Aksaya was registered on 20 June 2018. Its registered address is 7th Floor, Grenadier Tower, 01 Woodvale Close, P.O. Box 44690-00606, Nairobi, Kenya.
- 4.4 The following are companies related to, and persons associated with CIL:

Name	Country of Incorporation	Beneficial Ownership
Carbacid (Co2) Limited	Kenya	CIL
Goodison Twenty Nine Limited	Kenya	CIL
Goodison Forty Seven Limited	Kenya	CIL

5 The Proposed Offeree

BOC is a public limited liability company incorporated in Kenya on 9 December 1940 with company registration number C. 62/63 under the Companies Act and listed on the Main Investment Market Segment of the NSE and whose registered address is Kitui Road, P.O. Box 18010-00500 Nairobi, Industrial Area. The principal activity of BOC is the manufacture and sale of industrial gases, medical gases and welding products.

6 Proposed Offer Price

6.1 The Offer price will be KES 63.50 for each ordinary share of BOC (the **Take-Over Offer Price**).

6.2 The Offer values 100% of the share capital of BOC (being 19,525,446 shares) at KES 1,239,865,821. The Take-Over Offer Price represents a premium, as at 24 November 2020, of:

6.2.1 KES 4.67 (7.94%) over the 30-day volume-weighted average price per ordinary share; and

6.2.2 KES 6.62 (11.64%) over the 90-day volume-weighted average price per ordinary share.

7 Persons acting in concert, irrevocable undertakings and options to acquire the Offer Shares

7.1 CIL does not currently own any shares in BOC.

7.2 Amarjeet Baloobhai Patel and Baloobhai Chhotabhai Patel jointly hold 40.38% of the issued shares in CIL. The remaining 59.62% of the issued shares in CIL are held by a diverse range of nearly 3,000 shareholders. Baloobhai Chhotabhai Patel is also a non-executive director of CIL.

7.3 Rohan Baloobhai Patel is a non-executive director of CIL and is the son of Baloobhai Chhotabhai Patel and Amarjeet Baloobhai Patel.

7.4 Baloobhai Chhotabhai Patel holds 2,554 ordinary shares in the share capital of BOC jointly with Amarjeet Baloobhai Patel.

7.5 Baloobhai Chhotabhai Patel is the majority owner of Aksaya, owning 99% of the membership interest. Amarjeet Baloobhai Patel owns the remaining 1% membership interest in Aksaya. Baloobhai Chhotabhai Patel is an investor and has various holdings in both public and private companies with a focus on investments in the real estate, financial services and hospitality sectors in Kenya, in addition to his interest in CIL.

7.6 BOC currently holds 14,850,000 shares (representing 5.83%) in CIL.

7.7 Section 108 of the Companies Act, 2015 prohibits a subsidiary from being a member of its holding company and provides that a transaction that would have the effect of making a body corporate a member of a company that is its holding company is void. Therefore, CIL cannot at this stage acquire more than 49.99% of the shares of BOC. For this reason, CIL is acting jointly with Aksaya in making the Offer. The following allocation criterion will apply for acceptances of the Offer:

- 7.7.1 If by the Closing Date (as defined in the Offer Document) of the Offer (being the latest time by which shareholders in BOC can accept the Offer in the manner provided for in the Offer Document) BOC no longer owns shares in CIL, CIL will proceed to acquire up to 100% of the Offer Shares and Aksaya will waive its rights to acquire any Offer Shares; and
- 7.7.2 If by the Closing Date BOC still holds shares in CIL then, CIL will acquire 49% of the Offer Shares and Aksaya will acquire up to 51% of the Offer Shares. Aksaya has agreed with CIL that if the Offer Shares held by Aksaya are acquired by CIL within and up to six calendar months of the Closing Date, then the price for such Offer Shares shall be the Take-Over Offer Price and in addition Aksaya shall charge CIL a fee equivalent to 1% per month (and *pro rated* for periods less than a month) of the value of the Offer Shares actually acquired by Aksaya for agreeing to be a co-offeror. If the sale is effected after such six calendar month period, the price shall be a price as may be agreed between CIL and Aksaya. Such a sale by Aksaya to CIL will be subject to approval by the Capital Markets Authority for it to be effected as an off-market sale under Section 31(1A) of the Capital Markets Act (Chapter 485A, Laws of Kenya) and Regulation 57 of the Capital Markets (Licensing Requirements) (General) Regulations 2002.
- 7.8 The Co-Offerors have on [25 November 2020] received an irrevocable undertaking from BOC Holdings, a company registered in accordance with the laws of England under company registration number 212945, whose registered address is The Priestley Centre, 10 Priestley Road, Guildford, Surrey, GU2 7XY (BOCH) which holds 12,765,582 ordinary shares in BOC, which constitutes 65.38% of the issued and fully paid up share capital of BOC (the **Committed Shares**). The Committed Shares shall include any shares in BOC of which BOCH may become the registered holder or beneficial owner after the date of the irrevocable undertaking and any other shares or interests in shares attributable to or deriving from the existing shares in BOC owned by BOCH.
- 7.9 Under the terms of the irrevocable undertaking BOCH *inter alia*:
- 7.9.1 irrevocably undertakes to accept or procure the acceptance of the Offer in respect of the Committed Shares. BOCH agrees to fulfil this undertaking by validly accepting the Offer in respect of the Committed Shares in accordance with the Offer Document, not later than five (5) Business Days after receipt by BOCH of the Offer Document (and to communicate such acceptance in the manner envisaged in the Offer Document) or, in relation to the Committed Shares that BOCH becomes the registered shareholder or beneficial owner of after the date of the irrevocable undertaking or any other shares or interests in shares attributable to or deriving from the existing shares in BOC owned by BOCH, as soon as practicable after BOCH becomes the registered holder or beneficial owner of such Committed Shares;
- 7.9.2 irrevocably undertakes that it will not sell, transfer, mortgage, charge or otherwise encumber, grant any option or other right over or otherwise deal with or dispose of any or all of the Committed Shares or any interest (whether actual or contingent) in any or all of them other than pursuant to the Offer or the undertaking;

- 7.9.3 irrevocably undertakes that BOCH will not effect an indirect transfer of the Committed Shares through a sale of any or all of the shares of BOCH;
 - 7.9.4 irrevocably undertakes that notwithstanding that the terms of the Offer Document will confer rights of withdrawal on accepting shareholders, BOCH shall not withdraw any acceptance of the Offer in respect of the Committed Shares or any of them and shall procure that no rights to withdraw any acceptance in respect of such Committed Shares are exercised;
 - 7.9.5 irrevocably undertakes that BOCH will not exercise the voting rights attaching to the Committed Shares in any manner which is likely to be prejudicial to the Offer or its outcome;
 - 7.9.6 irrevocably undertakes to take all steps in relation to BOC that as a shareholder of the Committed Shares it is able or entitled to take in order that the Offer may be successfully implemented within the period envisaged by the Offer Document, including the convening of all meetings which may be necessary in this regard; and
 - 7.9.7 agrees to exercise its votes in relation to the Committed Shares in a manner which is supportive of the Offer, to assist in the implementation of the Offer.
- 7.10 The conditions of the irrevocable undertaking are:
- 7.10.1 that the Offer made by the Co-Offerors is made on the same or better terms to those contained in this Notice;
 - 7.10.2 that the regulatory conditions of the Offer are fulfilled; and
 - 7.10.3 completion of the Offer occurs by 31 July 2021 or such later date as may be agreed in writing by the Co-Offerors and BOCH, (hereinafter referred to as the **Conditions** and each a **Condition**).
- 7.11 If any of the Conditions are not fulfilled (or in the case of the Conditions in paragraphs 7.10.1 and 7.10.3 waived by BOCH, and in the case of the Condition in paragraph 7.10.2 waived by the Co-Offerors to the extent capable of waiver), then the irrevocable undertaking shall automatically terminate.
- 7.12 In addition, the provisions of the irrevocable undertaking terminate if the Offer lapses or is withdrawn and no new, revised or replacement take-over offer is or has been announced by the Co-Offerors at the same time.
- 7.13 Neither CIL nor Aksaya nor any related companies or any person associated with any of them has an option to acquire any of the Offer Shares.

8 Agreement, arrangement and understanding regarding the Offer Shares

- 8.1 Save for the irrevocable undertaking referred to in paragraph 7 above, there is no existing or proposed agreement, arrangement or understanding relating to the Offer Shares between the Co-Offerors or any related company or person associated with the Co-Offerors and the holders of the voting shares to which the Offer relates.
- 8.2 The Co-Offerors have on [25 November 2020] entered into a termination agreement in respect of certain arrangements provided to BOC by BOCH's group (the **Termination Services Agreement**). The Termination Services Agreement provides for *inter alia*, the termination of certain intra-group agreements between the BOCH group and BOC, the resignation of the BOCH appointed directors from BOC, the change of name of the BOC group entities (save for East African Oxygen Limited) once the Offer is completed as certain names belong to the BOCH group as well as acknowledgement by the Co-Offerors that they no longer have the right to certain designations (including *inter alia* various names, trademarks (whether registered or unregistered, business names, logos and domain names) that are vested in the BOCH group. There are also provisions that cater for the re-branding of BOC's equipment and products once the Offer is completed.

9 Conditions of the Take-Over Offer

The Offer will be subject to fulfilment or waiver (at the sole discretion of the Co-Offerors where legally capable of waiver) of the following conditions by no later than the Closing Date:

- 9.1 receipt of applicable regulatory approvals, including approval from the Competition Authority;
- 9.2 to the extent that any of the approvals listed herein have conditions attached to them, such conditions being acceptable to the Co-Offerors;
- 9.3 CIL receiving its shareholders' approval for the transaction;
- 9.4 no governmental, revenue collection or regulatory body having decided to take any action or proceedings or make an investigation which might:
- 9.4.1 make the acquisition of the Offer Shares pursuant to the Offer void or illegal;
 - 9.4.2 impose any restriction on the ability of BOC to carry on its business as the same was carried on prior to the date of this Offer;
 - or
 - 9.4.3 otherwise materially affect the business profits or prospects of BOC or the Co-Offerors;
- 9.5 there being no Material Adverse Change in the trading position or prospects or financial position of BOC,
for purposes of paragraph 9.5, Material Adverse Change means:

- (a) a material change in an event, matter or circumstance, or in any combination of such events, matters or circumstances, existing at any time from the date of this notice which in the aggregate, has resulted in a reduction by more than 15% in the net asset value of BOC as compared to the net asset value of BOC as at 31 December 2019 (the **Reduction**), provided that any dividend distribution by BOC that may be declared at any time from the date of this notice up to and including the Closing Date of an amount up to but not exceeding KES 4.25 per share shall be excluded for purposes of calculating the Reduction; or
- (b) the loss of any material asset, licence or consent necessary for BOC to continue to conduct business as a going concern,

9.6 no material litigation or other legal proceedings having been commenced against BOC and no order being given by a court or authority in Kenya to prevent or restrict the transfer of any shares in BOC under the Offer.

10 Continued Listing

On the closing of the Offer, BOC shall continue to be listed. However, should the Co-Offerors achieve acceptances of 75% or more of the Offer Shares, the Co-Offerors will evaluate the continued efficacy of BOC remaining listed and may then, subject to approval from the Capital Markets Authority, apply for BOC to be de-listed from the NSE.

11 Offer Documentation and Timetable

- 11.1 The Offer Document will be sent to shareholders of BOC together with a Form of Acceptance prepared by the Co-Offerors and a Shareholders' circular prepared by the Board of Directors of BOC containing an Independent Financial Advisor's report.
- 11.2 The Offer Document will include a transaction timetable, instructions to shareholders of BOC on how to deal with the Offer and arrangements for payment of the cash consideration by the Co-Offerors to shareholders of BOC who accept the Offer.

By Order of the Board



SIGNATURE

NAME: NALIN KOTHARI

GROUP COMPANY SECRETARY OF CARBACID INVESTMENTS PLC

DATE 18th November 2020

By Order of the majority Partner

SIGNATURE



NAME: BALOOBHAI CHHOTABHAI PATEL

PARTNER OF AKSAYA INVESTMENTS LLP

DATE 25th November 2020.

Disclaimer:

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