

## ACQUISITION BY REGUS GROUP LIMITED OF AVANTA SERVICED OFFICE GROUP PLC

### DRAFT Undertakings given by Regus Group Limited to the Competition and Markets Authority pursuant to section 73 of the Enterprise Act 2002

#### Whereas:

- (a) Regus Group Limited (**Regus**) completed the acquisition of Avanta Serviced Office Group plc (of which Avanta Managed Offices Limited is a subsidiary) (**Avanta**) on 10 April 2015 through its acquisition of a special purpose vehicle, Tosca Vehicle Limited by way of a Share Purchase Agreement (the **Transaction**) such that Regus and Avanta ceased to be distinct for the purposes of the Enterprise Act 2002 (the **Act**);
- (b) Under section 22(1) of the Act the Competition and Markets Authority (**CMA**) has a duty to refer a relevant merger situation for a Phase 2 investigation where it believes that it is or may be the case that the creation of that merger situation has resulted or may be expected to result in a substantial lessening of competition within any market or markets in the UK for goods or services;
- (c) Under section 73 of the Act the CMA may, instead of making such a reference and for the purpose of remedying, mitigating or preventing the substantial lessening of competition concerned or any adverse effect which has or may have resulted from it or may be expected to result from it, accept undertakings to take such action as it considers appropriate, from such of the parties concerned as it considers appropriate. In particular, the CMA shall have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it;
- (d) As set out in the CMA's decision of 18 November 2015 (the **Decision**), the CMA believes that, in the absence of appropriate undertakings, it would be under a duty to refer the Transaction for a Phase 2 investigation;
- (e) The CMA considers that the undertakings given below by Regus are appropriate to remedy, mitigate or prevent the substantial lessening of competition, or any adverse effect which has or may have resulted from the Transaction, or may be expected to result from it, as specified in the Decision; and
- (f) The CMA made an Initial Enforcement Order (**IEO**) applying to Regus on 14 May 2015 in respect of the Transaction pursuant to section 72 of the Act for the purposes of preventing pre-emptive action. Pursuant to section 72(6)(b) of the Act, this IEO ceases to be in force on the acceptance by the CMA of the undertakings given below by Regus.

NOW THEREFORE Regus hereby gives to the CMA the following undertakings for the purpose of remedying, mitigating or preventing the substantial lessening of competition, or any adverse effect which has or may have resulted from it or may be expected to result from it.

#### 1. EFFECTIVE DATE OF THE UNDERTAKINGS

- 1.1 These undertakings shall take effect from the date that, having been signed by Regus, they are accepted by the CMA.

## **2. DIVESTMENT OF THE NON-HAMMERSMITH DIVESTMENT BUSINESSES**

- 2.1 Regus shall, using its best endeavours and acting in good faith, as soon as reasonably practicable, effect to the satisfaction of the CMA the divestment of each of the Non-Hammersmith Divestment Businesses as a going concern by the end of the Divestment Period to a purchaser approved by the CMA in accordance with the provisions of these undertakings.
- 2.2 Without prejudice to the generality of paragraph 2.1 above, Regus shall use all reasonable endeavours to ensure the transfer of Key Centre Staff with the divestment of the Non-Hammersmith Divestment Businesses.
- 2.3 Regus shall be deemed to have complied with its obligations at paragraph 2.1 above if, as soon as reasonably practicable and in any event by the end of the Divestment Period, it has entered into a legally binding agreement (or agreements) with a purchaser (or purchasers) approved in advance by the CMA in writing pursuant to these undertakings (or a legally binding agreement (or agreements) conditional on such approval), provided that the completion of the divestment of the Non-Hammersmith Divestment Businesses contemplated by such agreement (or agreements), if later than the end of the Divestment Period, takes place:
- (i) within a period not exceeding [X] after the approval of the purchaser by the CMA (or within [X] of the effective date of these undertakings, as set out in paragraph 1.1 above, whichever is later); or
  - (ii) within a period not exceeding [X] Working Days after all the necessary approvals and consents from third parties have been obtained,
- whichever is later.
- 2.4 Without prejudice to the generality of paragraph 2.1 above, Regus shall take the following measures to the extent they are within its control and may be necessary in the opinion of the CMA to effect the sale of the Non-Hammersmith Divestment Businesses in accordance with the provisions of these undertakings:
- (i) the transfer or vesting of property, assets, rights, personnel, liabilities or obligations (including without prejudice any contracts, licences, authorisations, permits or consents);
  - (ii) the adjustment of contracts, whether by discharge or reduction or assignment of any liability or obligation or otherwise;
  - (iii) the creation, allotment, transfer, surrender or cancellation of any shares, stock or securities; and
  - (iv) the formation or winding up of a company.
- 2.5 Regus shall ensure that the sale and purchase agreement(s) entered into for the purposes of paragraph 2.1 and 2.3 above includes a warranty that the purchaser or purchasers have the financial resources, expertise (including the managerial, operational and technical capability), incentive and intention to maintain and operate the

Non-Hammersmith Divestment Businesses as part of a viable and active business in competition with Regus and other competitors in the provision of serviced offices, meeting rooms and virtual office products.

- 2.6 In the event that Regus fails to divest the Non-Hammersmith Divestment Businesses in accordance with paragraphs 2.1, 2.2 and 2.3 above, the CMA may, whether or not initiating the Trustee Functions as set out in paragraph 4 below, require Regus to divest the Non-Hammersmith Divestment Businesses as a going concern at no minimum price to a purchaser approved by the CMA.
- 2.7 Regus shall notify the CMA in writing of the identity of each Proposed Purchaser that makes an offer for the Non-Hammersmith Divestment Businesses together with the value and terms of such offers as soon as reasonably practicable following the receipt of such offers and in any event within 5 Working Days of receipt of such offers.

### **3. APPROVAL OF PURCHASER AND TERMS OF DIVESTMENT**

- 3.1 For the purposes of the CMA approving a Proposed Purchaser of (one or more of) the Non-Hammersmith Divestment Businesses in accordance with these undertakings, Regus shall, save as required or permitted by the CMA, satisfy the CMA that:
- (i) the acquisition by the Proposed Purchaser(s) of the Non-Hammersmith Divestment Businesses, on the terms set out above, remedies, mitigates or prevents the substantial lessening of competition concerned or any adverse effect which has or may have resulted from it, or may be expected to result from it, in particular having regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it;
  - (ii) the Proposed Purchaser is independent of and unconnected to Regus and the Group of Interconnected Bodies Corporate to which Regus belongs and any Associated Person or Affiliate of Regus or such Group of Interconnected Bodies Corporate;
  - (iii) the Proposed Purchaser(s) has the financial resources, expertise (including the managerial, operational and technical capability), incentive and intention to maintain and operate the Non-Hammersmith Divestment Businesses as viable and active businesses in competition with Regus and other competitors in the provision of serviced offices, meeting rooms and virtual office products from the date of completion of the divestment of the relevant Non-Hammersmith Divestment Businesses;
  - (iv) the Proposed Purchaser(s) is reasonably to be expected to obtain all necessary approvals, licences and consents from any regulatory or other authority, including (where applicable) landlord's consent to the transfer of any leasehold or management interest; and
  - (v) the acquisition by the Proposed Purchaser(s) of the Non-Hammersmith Divestment Businesses does not create a realistic prospect of a substantial lessening of competition within any market or markets in the UK.

- 3.2 The CMA may require Regus to provide it with such information and documentation as it may reasonably require to satisfy the CMA that the Proposed Purchaser(s) will fulfil the requirements in paragraph 3.1 above.

#### **4. THE HAMMERSMITH DIVESTMENT BUSINESS**

- 4.1 Where the landlord of the Hammersmith Divestment Business has not served notice to terminate the Hammersmith Divestment Business Lease by [X], these undertakings, including but not limited to paragraphs 2 and 3, shall apply to the Hammersmith Divestment Business as if it was a Non-Hammersmith Divestment Business.
- 4.2 Where the landlord of the Hammersmith Divestment Business has served notice to terminate the Hammersmith Divestment Business Lease on or before [X], in full compliance with the terms of that lease, the provisions of paragraphs 4.3 to 4.4 (and for the avoidance of doubt, paragraphs 5 to 10) shall apply until the Hammersmith Divestment Business Termination Date.
- 4.3 Regus shall ensure that the Hammersmith Divestment Business Prices shall remain available to all customers entering into or renewing a contract in relation to any product within the Hammersmith Divestment Business until the Hammersmith Divestment Business Termination Date.
- 4.4 Regus shall use its best endeavours to maintain the service quality of the Hammersmith Divestment Business and, in particular, shall not:
- (i) reduce the level of staff operating within the Hammersmith Divestment Business;
  - (ii) change the supplier of services within the Hammersmith Divestment Business, or alter the terms on which such supplies are made, without reasonable grounds for doing so; and
  - (iii) alter the fit out of the Hammersmith Divestment Business.
- 4.5 Regus shall make no attempt to influence the landlord of the Hammersmith Divestment Business in relation to its decision whether or not to serve notice under the Hammersmith Divestment Business Lease.

#### **5. APPOINTMENT OF A TRUSTEE**

- 5.1 The provisions of paragraphs 5.2 to 5.7 and paragraphs 6 to 9 below shall apply only as long as Regus has not satisfied, or where the CMA has reasonable grounds for believing that Regus will not satisfy, all or any part of the obligation to divest the Divestment Businesses in accordance with paragraphs 2 and 4 above.
- 5.2 Within 5 Working Days of the CMA notifying Regus in writing that it must do so, Regus shall propose to the CMA for approval:
- (i) the names of at least two individuals to exercise the Trustee Functions; and

- (ii) the full terms of a mandate in accordance with which the Trustee shall carry out the Trustee Functions.
- 5.3 Regus and/or any individuals nominated pursuant to paragraph 5.2 shall satisfy the CMA that, save as required or permitted by the CMA:
  - (i) such nominated individuals have the necessary qualifications to carry out their mandates, and are employees or partners of an investment bank, retail bank, commercial property agent, building society or law firm or accountancy firm with an established reputation either nationwide or in a substantial part of the UK or in another EU member state;
  - (ii) such nominated individuals are each independent of Regus and of the Group of Interconnected Bodies Corporate to which Regus belongs and of any Associated Person or Affiliate of Regus or of such Group of Interconnected Bodies Corporate and of any Proposed Purchaser of the Divestment Businesses to be sold pursuant to these undertakings, and, in the reasonable opinion of Regus, are appropriate to be appointed as Trustee; and
  - (iii) such nominated individuals neither are, nor are likely to become, exposed, either directly or indirectly, to a conflict of interest that impairs or may be likely to impair their objectivity or independence in discharging the Trustee Functions.
- 5.4 Within 2 Working Days of the CMA approving, at its discretion, one or more of the persons nominated by Regus and their proposed mandates pursuant to paragraph 5.2 above, and subject to any modifications the CMA deems necessary for the Trustee to carry out the Trustee Functions, Regus shall use its best endeavours to appoint from the persons so approved one person to carry out the Trustee Functions in accordance with the mandate approved by the CMA pursuant to paragraph 5.2 above.
- 5.5 In the event that:
  - (i) Regus fails to propose any person or persons in accordance with paragraph 5.2 above;
  - (ii) none of the persons proposed by Regus pursuant to paragraph 5.2 is approved by the CMA; or
  - (iii) Regus is unable for any reason to appoint within the time limit stipulated in paragraph 5.4 above any such person following approval by the CMA,

Regus shall use its best endeavours to appoint from persons nominated by the CMA one person to carry out the Trustee Functions on the terms of a mandate approved by the CMA. Regus shall use its best endeavours to make such appointment within 5 Working Days of receiving the nominations from the CMA.
- 5.6 The appointment of the Trustee pursuant to paragraph 5.4 or paragraph 5.5 above shall be irrevocable unless:
  - (i) a conflict of interest that impairs or may be likely to impair the objectivity or independence of the Trustee in discharging the Trustee Functions arises;

- (ii) the Trustee ceases to perform the Trustee Functions; or
- (iii) the CMA is otherwise satisfied that there is good cause for the appointment to be terminated in advance of the satisfactory fulfilment of the Trustee Functions.

5.7 In the event that the appointment of the Trustee is terminated in accordance with paragraph 5.6 above, Regus shall, if requested to do so in writing by the CMA, use its best endeavours to appoint from persons nominated by the CMA one person to carry out the Trustee Functions in accordance with such mandate as is approved by the CMA. Regus shall use its best endeavours to make such appointment within seven Working Days of receiving the nominations from the CMA. Where required by the CMA, the outgoing Trustee shall continue as Trustee until a new Trustee is in place and a full handover of all relevant information has taken place.

## **6. THE MANDATE**

6.1 The terms of the mandate proposed by Regus pursuant to paragraph 5.2 above shall, as a minimum, contain all provisions necessary to enable the Trustee to carry out the Trustee Functions including, without limitation to the generality of this paragraph:

- (i) an exclusive, irrevocable mandate to sell the Divestment Businesses as required by paragraph 7.1 below to a purchaser (or purchasers) as directed or approved in writing in advance by the CMA at no minimum price and on such reasonable terms and conditions as the Trustee considers appropriate to effect an expedient sale;
- (ii) a mandate to take any other steps necessary for, or incidental to, the Trustee's mandate under sub-paragraph (i) above;
- (iii) a comprehensive power of attorney to the Trustee (including the authority to grant sub-powers of attorney to the Trustee's officers, employees and agents) to enable it to take all steps necessary or appropriate to effect the sale of the Divestment Businesses;
- (iv) a mandate to comply with any orders and/or directions given by the CMA; and
- (v) a mandate to appoint at Regus' expense such advisers as the CMA and/or the Trustee reasonably considers necessary or appropriate in connection with the performance of the Trustee Functions.

## **7. FUNCTIONS OF TRUSTEE**

7.1 The Trustee shall seek to procure, within such period as may be specified in writing by the CMA, the completion of the sale of the Non-Hammersmith Divestment Businesses at no minimum price, to a purchaser or purchasers approved by the CMA in accordance with paragraph 7.3 below.

7.2 Without prejudice to the generality of paragraph 7.1 above, the Trustee shall take the following measures in relation to the Non-Hammersmith Divestment Businesses to the extent to which such measures may be necessary to effect the divestment of the Non-

Hammersmith Divestment Businesses in accordance with the provisions of these undertakings:

- (i) the transfer or vesting of property, assets, rights, personnel, liabilities or obligations (including without prejudice any contracts, licences, authorisations, permits or consents);
- (ii) any other transfer of interests that will take effect with the sale;
- (iii) the adjustment of contracts, whether by discharge or reduction or assignment of any liability or obligation or otherwise;
- (iv) the creation, allotment, transfer, surrender or cancellation of any shares, stock or securities; and
- (v) the formation or winding up of a company.

7.3 The Trustee shall not sell or permit the divestment of the Non-Hammersmith Divestment Businesses to a Proposed Purchaser unless it has been directed to do so by the CMA or has obtained the CMA's prior written approval in respect of the identity of that Proposed Purchaser. The Trustee shall notify the CMA of the identity of a Proposed Purchaser as soon as reasonably practicable prior to the signing of a legally enforceable agreement and in any event at least 20 Working Days in advance of the proposed completion of the proposed sale and purchase agreement in question.

7.4 Pending the divestment of the Non-Hammersmith Divestment Businesses pursuant to paragraph 7.1 above, the Trustee shall monitor Regus' compliance with its obligations under paragraph 8.1 and paragraph 8.2 below and shall promptly take such measures as it considers necessary to ensure such compliance, as well as reporting in writing to the CMA, if the Trustee concludes on reasonable grounds that Regus is failing or will fail to comply with such obligations.

7.5 Where paragraph 4.1 applies, paragraphs 7.1 to 7.4 shall apply to the Hammersmith Divestment Business as if it were a Non-Hammersmith Divestment Business.

7.6 Where paragraph 4.2 applies, the Trustee shall monitor Regus' compliance with its obligations under that paragraph as well as its obligations under paragraph 8.1 and paragraph 8.2 below and shall promptly take such measures as it considers necessary to ensure such compliance as well as reporting in writing to the CMA, if the Trustee concludes on reasonable grounds that Regus is failing or will fail to comply with such obligations.

7.7 The Trustee may give written directions to Regus to take such steps as may be specified or described in the directions for the purpose of securing Regus' compliance with its obligations under these undertakings or enabling the Trustee to carry out the Trustee Functions. The Trustee may not require Regus to:

- (i) offer any reverse premium or similar inducement to a purchaser or purchasers; or

- (ii) accept any actual or contingent liability towards a purchaser or purchasers or otherwise in connection with the divestment of any of the Divestment Businesses which would be unusual in scope, duration or financially, having regard to the price and usual market practice in relation to similar disposals.

7.8 The Trustee shall, as soon as reasonably practicable, comply at all times with any reasonable instructions or written directions made by the CMA for the purposes of carrying out or securing compliance with these undertakings (or any matter incidental thereto) and shall provide to the CMA such information and reports in relation to the carrying out of the Trustee Functions as the CMA may require. The Trustee shall promptly report in writing to the CMA if the Trustee concludes on reasonable grounds that Regus is failing or will fail to comply with any of its obligations under these undertakings.

7.9 For the purpose of fulfilling the Trustee Functions, the Trustee shall not be bound by instructions of Regus nor shall the Trustee Functions be extended or varied in any way by Regus save with the prior express written consent of the CMA.

## **8. OBLIGATIONS OF REGUS FOLLOWING APPOINTMENT OF TRUSTEE**

8.1 Regus shall not give any instruction or request to the Trustee which conflicts with the Trustee Functions.

8.2 Regus shall take all such steps as are reasonably necessary to enable the Trustee to carry out the Trustee Functions, including but not limited to:

- (i) complying with such written directions as the Trustee may from time to time give pursuant to paragraph 7.5 above; and
- (ii) providing the Trustee with all such assistance and information as it may reasonably require in carrying out the Trustee Functions.

## **9. REMUNERATION OF TRUSTEE**

9.1 Regus shall pay the Trustee a reasonable remuneration for the services it provides in carrying out the Trustee Functions, and shall pay the Trustee in a way that does not impede the independent and effective fulfilment of the Trustee Functions, which shall be set out in the Trustee's mandate referred to in paragraph 5.2 above.

## **10. INTERIM ACTION**

10.1 Save as otherwise agreed in advance in writing by the CMA, Regus shall minimise as far as possible any risk of loss of competitive potential of the Divestment Business and in particular ensure that, subject to the exception set out (xiii) below:

- (i) the Divestment Businesses are carried on separately from the Regus Business and the Divestment Businesses' brand and separate sales identity is maintained, save that Regus shall be permitted to take such decisions as are necessary to ensure the continued effective operation of the Divestment Businesses;



- (ii) the Divestment Businesses are maintained as a going concern and sufficient resources are made available for the development of the Divestment Businesses, on the basis of the pre-existing plans applicable to the Divestment Businesses at the date of the undertakings;
- (iii) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within, the Divestment Businesses;
- (iv) the nature, description, range and quality of goods and/or services supplied in the UK by the Divestment Businesses are maintained and preserved;
- (v) except in the ordinary course of business for the separate operation of the Divestment Businesses:
  - (a) all of the assets of the Divestment Businesses are maintained and preserved, including facilities and goodwill;
  - (b) none of the assets of the Divestment Businesses are disposed of; and
  - (c) no interest in the assets of the Divestment Businesses is created or disposed of;
- (vi) there is no integration of the information technology of the Divestment Businesses or Regus Businesses, and the software and hardware platforms of the Divestment Businesses shall remain essentially unchanged, except for routine changes and maintenance or where strictly necessary to ensure the continued operation of the Divestment Businesses;
- (vii) the customer lists of the Divestment Businesses shall be operated and updated separately and any negotiations with any existing or potential customers in relation to the Divestment Businesses will be carried out by the Divestment Businesses alone and for the avoidance of doubt the Regus Business will not negotiate on behalf of the Divestment Businesses (and vice versa) or enter into any joint agreements with the Divestment Businesses (and vice versa);
- (viii) all existing contracts of the Divestment Businesses and the Regus Business continue to be serviced by the business to which they were awarded;
- (ix) no changes are made to Key Centre Staff of the Divestment Businesses;
- (x) no Key Centre Staff are transferred between the Divestment Businesses and the Regus Business;
- (xi) all reasonable steps are taken to encourage all Key Centre Staff to remain with the Divestment Businesses; and
- (xii) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature (**Confidential Information**) relating to either of the Divestment Businesses or the Regus Business shall pass, directly or indirectly, from the Divestment

Businesses (or any of its employees, directors, agents or affiliates) to the Regus Business (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (for example, where required for compliance with external regulatory and/or accounting obligations), or where required to ensure the continued operation of the Divestment Businesses or any steps necessary in order for Regus to comply with these undertakings, including the transfer of information necessary for the divestment process, provided that, upon divestment of the Divestment Businesses, any records or copies (electronic or otherwise) of Confidential Information held by Regus in relation to the Divestment Businesses (or vice versa) shall be returned to the relevant business and any copies destroyed (except as may be necessary for the purposes of compliance with the obligations above).

- 10.2 Regus will be permitted to continue to undertake relevant back office and support functions in the manner agreed with the CMA by way of the derogations to the IEO granted on 8 June 2015 and 26 June 2015 in order to ensure that the Divestment Businesses are maintained as a going concern and that the value of the Divestment Businesses are maintained. All relevant employees will be made aware of the obligations in these undertakings and will be instructed not to share any information regarding the Divestment Businesses with people not authorised to view it.
- 10.3 At all times, Regus will actively keep the CMA informed of any material developments relating to the Divestment Businesses, which includes, but is not limited to:
- (i) details of Key Centre Staff who leave the Divestment Businesses;
  - (ii) any interruption of one or more of the Divestment Businesses (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
  - (iii) all substantial customer volumes lost by the Divestment Businesses;
  - (iv) substantial changes in the Divestment Businesses' contractual arrangements or relationships with key suppliers; and
  - (v) any actions taken in order to ensure the continued effective operation of the Divestment Businesses as provided for under paragraphs 10.1(iii), 10.1(vi) and 10.1(ix) above.
- 10.4 Paragraphs 10.1 and 10.3 shall continue to apply:
- (i) in relation to the Non-Hammersmith Divestment Businesses, until the completion of the divestment of the Divestment Businesses to the satisfaction of the CMA in accordance with the provisions of these undertakings; and
  - (ii) in relation to the Hammersmith Divestment Business, until:

- (a) where paragraph 4.1 applies, the completion of the divestment of the Hammersmith Divestment Business to the satisfaction of the CMA in accordance with the provisions of these undertakings; or
- (b) where paragraph 4.2 applies, the Hammersmith Divestment Business Termination Date.

## **11. CONTINUED SEPARATION**

11.1 Except with the prior written consent of the CMA, for a period of 10 years following the divestment of the Divestment Businesses pursuant to these undertakings, Regus, or any member of the Group of Interconnected Bodies Corporate to which Regus belongs:

- (i) shall not, directly or indirectly, hold, acquire, re-acquire or use:
  - (a) an Interest in the Divestment Businesses; or
  - (b) any Interest in any company carrying on or having Control of the Divestment Businesses (other than any investments made in the ordinary course of the operation of any of the employee benefit and pension schemes of Regus or of any members of the Group of Interconnected Bodies Corporate to which Regus belongs of not more than three per cent in aggregate of the issued equity share capital in any such company, whose shares are listed or dealt with on any recognised investment exchange, which carries no more than three per cent of the voting rights exercisable at meetings of such company); or
  - (c) other than in the normal course of business, any of the assets of the Divestment Businesses;
- (ii) shall procure that no employee or director of Regus or any member of the Group of Interconnected Bodies Corporate to which Regus belongs for as long as they are an employee or director of Regus or any member of the Group of Interconnected Bodies Corporate to which Regus belongs holds or is nominated to any directorship or managerial position in the Divestment Businesses or directorship or managerial position in any company or other undertaking carrying on or having control of the Divestment Businesses without the CMA's prior written consent;
- (iii) shall not participate in the formulation of, or (other than in the ordinary course of business) influence or attempt to influence, the policy of the Divestment Businesses or any company or other undertaking carrying on or having control of those Divestment Businesses; and
- (iv) shall not enter into or carry out any agreement or arrangement with any person, if the carrying out of the agreement or arrangement is intended to result or will result in any Associated Person or Affiliate of Regus or of any member of the Group of Interconnected Bodies Corporate to which Regus belongs directly or indirectly acquiring the Divestment Businesses or doing any of the things listed in sub-paragraphs 11.1(i), 11.1(ii) and 11.1(iii) above.

## **12. COMPLIANCE**

12.1 Regus shall comply promptly with such written directions as the CMA may from time to time give:

- (i) to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with these undertakings; or
- (ii) to do or refrain from doing anything so specified or described which it might be required by these undertakings to do or to refrain from doing.

12.2 Regus shall co-operate fully with the CMA when the CMA is:

- (i) monitoring compliance with the provisions of these undertakings; and
- (ii) investigating potential breaches of the provisions of these undertakings.

12.3 Regus shall procure that any member of the same Group of Interconnected Bodies Corporate as Regus complies with these undertakings as if it had given them and actions and omissions of the members of the same Group of Interconnected Bodies Corporate as Regus shall be attributed to Regus for the purposes of these undertakings.

12.4 Where any Affiliate of Regus is not a member of the same Group of Interconnected Bodies Corporate as Regus, Regus shall use its best endeavours to procure that any such Affiliate shall comply with these undertakings as if it had given them.

## **13. PROVISION OF INFORMATION**

13.1 Regus shall furnish promptly to the CMA such information as the CMA considers necessary in relation to or in connection with the implementation and/or enforcement of and/or the compliance with these undertakings, including for the avoidance of doubt, any Confidential Information.

## **14. EXTENSION OF TIME LIMITS**

14.1 The CMA may, in response to a written request from Regus, or otherwise at its own discretion, grant an extension to any time period referred to in these undertakings.

## **15. SERVICE**

15.1 Regus hereby authorises Slaughter and May, whose address for service is One Bunhill Row, London EC1Y 8YY, to accept service on its behalf of all documents connected with these undertakings (including any document of any kind which falls to be served on or sent to Regus, or any of its Subsidiaries in connection with any proceedings in Courts in the UK, orders, requests, notifications or other communications connected with these undertakings).

15.2 Unless Regus inform the CMA in writing that Slaughter and May has ceased to have authority to accept and acknowledge service on its or any of its Subsidiaries' behalf, any document, order, request, notification or other communication shall be validly served on

Regus if it is served on Slaughter and May; and service shall be deemed to have been acknowledged by Regus if it is acknowledged by Slaughter and May or such other nominee.

15.3 Paragraph 15.2 above has effect irrespective of whether, as between Regus and Slaughter and May or other nominees, Slaughter and May or other nominees has or continues to have any authority to accept and acknowledge service on Regus' or any of its respective Subsidiaries' behalf.

15.4 No failure or mistake by Slaughter and May or other nominees (including a failure to notify Regus of the service of any document, order, request, notification or other communication) shall invalidate any action taken in respect of these undertakings including any proceedings or judgment.

15.5 Any communication from Regus to the CMA under these undertakings shall be addressed to Manager, Market and Mergers Remedies Monitoring, Competition and Markets Authority, Victoria House, Southampton Row, London WC1B 4AD or such other person or address as the CMA may direct in writing.

## **16. EFFECT OF INVALIDITY**

16.1 Should any provision of these undertakings be contrary to law or invalid for any reason, Regus undertake to continue to observe the remaining provisions.

## **17. GOVERNING LAW**

17.1 Regus recognises and acknowledges that these undertakings shall be governed and construed in all respects in accordance with English law.

17.2 In the event that a dispute arises concerning these undertakings, Regus undertakes to submit to the courts of England and Wales.

## **18. TERMINATION**

18.1 Regus recognises and acknowledges that these undertakings shall be in force until such time as they are varied, released or superseded under the Act.

18.2 Regus recognises and acknowledges that the variation, release or supersession of these undertakings shall not affect the validity and enforceability of any rights or obligations that arose prior to such variation, release or supersession.

## **19. INTERPRETATION**

19.1 The Interpretation Act 1978 shall apply to these undertakings as it does to Acts of Parliament.

19.2 References in these undertakings to any English law term for any legal status, interest, concept or thing shall in respect of any jurisdiction other than England and Wales be deemed to include what most nearly approximates in that jurisdiction to the English law term.

19.3 In these undertakings the word "including" shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word and the word "include" and its derivatives shall be construed accordingly.

19.4 For the purposes of these undertakings:

**"the Act"** means the Enterprise Act 2002;

**"Affiliate"** a person is an affiliate of another person if they or their respective enterprises would be regarded as being under common control for the purposes of section 26 of the Act;

**"Associated Person"** means a person or persons associated with Regus within the meaning of section 127(4) of the Act and includes any Subsidiary of such a person or persons;

**"Avanta"** means Avanta Serviced Office Group plc incorporated and domiciled in the United Kingdom with the registered number 04031883;

**"business"** has the meaning given by section 129(1) and (3) of the Act;

**"CMA"** means the Competition and Markets Authority or any successor body;

**"Confidential Information"** means any business secrets, know-how, commercially sensitive information, intellectual property or any other information of a confidential or proprietary nature;

**"Control"** shall be construed in accordance with section 26 of the Act, and in the case of a body corporate, a person shall be deemed to Control it if he holds, or has an interest in, shares of that body corporate amounting to 10 per cent or more of its issued share capital or carrying an entitlement to vote at meetings of that body corporate of 10 per cent or more of the total number of votes which may be cast at such meetings;

**"Decision"** means the CMA's decision under section 22 of the Act dated 18 November 2015 in connection with the Transaction;

**"Divestment Businesses"** means each of the following Avanta serviced office centres and centre level employees subject to transfer under TUPE: (i) 1 Lyric Square (W6 0NB); (ii) 83 Victoria Street (SW1H 0HW); (iii) Merchant Square (W2 1AY); (iv) Evergreen House North (NW1 2DX); and (v) 5 Harbour Exchange (E14 9GE);

**"Divestment Period"** means the period of time determined by the CMA and notified in writing to Regus by the CMA;

**"enterprise"** has the meaning given in section 129(1) of the Act;

**"Group of Interconnected Bodies Corporate"** has the meaning given in section 129(2) of the Act; references to a Group of Interconnected Bodies Corporate shall be to the Group of Interconnected Bodies Corporate as constituted from time to time;

**"Hammersmith Divestment Business"** means the Avanta serviced office centre and centre level employees subject to transfer under TUPE at 1 Lyric Square (W6 0NB);

**“Hammersmith Divestment Business Lease”** means that lease currently entered into by Avanta or its Affiliate for the serviced office centre at 1 Lyric Square (W6 0NB);

**“Hammersmith Divestment Business Prices”** means the prices determined by Avanta for each of the products and services on offer within the Hammersmith Divestment Business and which at the date hereof have the values specified in the table provided at Appendix 1;

**“Hammersmith Divestment Business Termination Date”** means the date on which the Hammersmith Divestment Business Lease shall terminate pursuant to the notice referred to in paragraph 4.2;

**“Interest”** includes shares, an interest in shares and any other interest carrying an entitlement to vote at shareholders’ meetings but does not include a contract to acquire shares in the future; and for this purpose “an interest in shares” includes an entitlement by a person other than the registered holder, to exercise any right conferred by the holding of these shares or an entitlement to Control the exercise of such right;

**“Key Centre Staff”** means staff in positions of managerial responsibility within and/or whose performance affects the viability of the Divestment Businesses;

**“Non-Hammersmith Divestment Businesses”** means all Divestment Businesses except the Hammersmith Divestment Business;

**“Proposed Purchaser”** means any proposed purchaser or purchasers for some or all of the Divestment Businesses;

**“Regus”** means Regus Group Limited incorporated and domiciled in the United Kingdom with the registered number 04868977;

**“Regus Business”** means the business of Regus and its Group of Interconnected Bodies Corporate carried on as at 14 May 2015;

**“Subsidiary”** shall be construed in accordance with section 1159 of the Companies Act 2006 (as amended), unless otherwise stated;

**“the Transaction”** means Regus’ completed acquisition of Avanta on 10 April 2015 through its acquisition of a special purpose vehicle, Tosca Vehicle Limited by way of a Share Purchase Agreement;

**“Trustee”** means the person appointed pursuant to paragraph 4.4, paragraph 4.5 or paragraph 4.7 to carry out the Trustee Functions;

**“Trustee Functions”** means the functions set out in paragraph 6;

**“UK”** means the United Kingdom of Great Britain and Northern Ireland;

**“Working Day”** means any day of the week other than a Saturday or a Sunday or any day that is a public holiday in England and Wales; and

unless the context requires otherwise, the singular shall include the plural and vice versa.

**FOR AND ON BEHALF OF REGUS**

Signature

Name

Title

Date

**DATE ACCEPTED BY THE CMA:**



## **Appendix 1**

### **Hammersmith Divestment Business Prices<sup>1</sup>**

[X]

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<sup>1</sup> [X]