



In The Supreme Court of Bermuda

CIVIL JURISDICTION COMMERCIAL COURT

2024: No. 333 and 334

**IN THE MATTER OF THE AGREEMENT AND PLAN OF MERGER BY AND
AMONG ENSTAR GROUP LIMITED, ELK BIDCO LIMITED, ELK MERGER SUB
LIMITED, DEER LTD. AND DEER MERGER SUB LTD. DATED AS OF 29 JULY
2024**

**AND IN THE MATTER OF A PROPOSED STATUTORY MERGER AGREEMENT
BY AND AMONG DEER LTD., DEER MERGER SUB LTD. AND ENSTAR GROUP
LIMITED**

**AND IN THE MATTER OF A PROPOSED STATUTORY MERGER AGREEMENT
BY AND AMONG DEER LTD. AND ENSTAR GROUP LIMITED**

**AND IN THE MATTER OF A PROPOSED STATUTORY MERGER AGREEMENT
BY AND AMONG ELK BIDCO LIMITED, ELK MERGER SUB LIMITED AND
ENSTAR GROUP LIMITED**

AND IN THE MATTER OF SECTION 106 OF THE COMPANIES ACT 1981

BETWEEN:

**(1) FOURWORLD GLOBAL OPPORTUNITIES FUND, LTD.
(2) FOURWORLD EVENT OPPORTUNITIES, LP
(acting through its general partner FOURWORLD CAPITAL, LLC)
(3) FOURWORLD SPECIAL OPPORTUNITIES FUND, LLC
(4) FW DEEP VALUE OPPORTUNITIES FUND I, LLC
(5) CORBIN ERISA OPPORTUNITY FUND, LTD.**
Plaintiffs (No. 333)

**HARSPRING CAPITAL, LP
(acting through its general partner HARSPRING CAPITAL ADVISORS, LLC)**
Plaintiff (No. 334)

and

ENSTAR GROUP LIMITED

Defendant

RULING

*Application for general and specific disclosure in relation to fair value of shares in
appraisal proceedings under section 106 (6) of the Companies Act 1981*

Date of hearing: 7 and 8 July 2025

Date of ruling: 4 August 2025

**Appearances: Sharif Shivji KC and Delroy Duncan KC of Trott & Duncan Ltd
for the Dissenters**

**Alexander Cooke KC and Jonathan O'Mahoney of Conyers Dill &
Pearman Limited for the Company**

Ruling of Martin, J

Introduction

1. This is an application for directions in relation to the conduct of proceedings under section 106 (6) of the Companies Act 1981 by which the plaintiffs (the “Dissenters”) seek the appraisal of the fair value of the shares in Enstar Group Limited (the “Company”) that were compulsorily acquired from them as a result of a three-stage amalgamation which concluded on 6 November 2024. This amalgamation process will be referred to as “the Transaction” and the completion date as “the Valuation Date”.
2. The total acquisition price of the shares was in the order of US\$5 billion¹, at a value of US\$383.00 per share. In the event that the acquisition price for the shares was less than their fair value, there are potentially huge sums involved.
3. The Dissenters have taken a comprehensive approach to the need for full disclosure in relation to the valuation of the acquisition shares. The Company has raised a number of objections to the breadth and scope of the documents sought, and the attendant cost and time required to meet the Dissenters’ requests for general and specific disclosure.
4. Thankfully, however, there are quite a number of aspects to the disclosure application which are not in controversy. The parties helpfully provided a draft Order for Directions that incorporated their respective positions on the categories that were in dispute. The Court has used this draft to arrive at a final form of Directions Order that is appended to this Ruling as Schedule 1, taking into account the Court’s decisions on the disputed items that are set out below.

Disclosure (discovery)

5. The Dissenters have sought an order for general disclosure (or “discovery”) under the standard provisions that apply to civil litigation under the Rules of the Supreme Court of Bermuda 1985 (the “RSC”) in relation to all documents relating to the Transaction. This is in order to be able to provide as much information as possible to the valuation experts that will be instructed to prepare appraisal reports both on behalf of the Company and the Dissenters, and which will form the basis of the Court’s ultimate appraisal of the fair value of the acquired shares.

¹Beulne 1 paragraph 33 HB1 at 285

6. The material covered by the general disclosure obligation extends to all information that is reasonably necessary for the valuation experts (i) to assess the correct methodology or combination of methodologies to arrive at an opinion on fair value of the shares of this particular company at the Valuation Date (ii) to prepare a report to assist the Court in reaching its appraisal of the fair value of the shares at the Valuation Date based on all the relevant information and (iii) to enable the expert valuation witnesses to test the assumptions and methodologies that were used in reaching the Fairness Opinion² that supported the Board's recommendation of the Transaction to the shareholders, and to assess the effect of any limitations in the Fairness Opinion.
7. In addition to an order for general disclosure, or perhaps more accurately as part of that process, the Dissenters have also made an application under RSC Order 24 rule 3 for disclosure of specified classes of documents that the Dissenters consider to be relevant. These specific requests are set out in Appendix 3 to the draft Directions Order ("Appendix 3").
8. The Company has proposed a number of revisions to the requests made in Appendix 3 to limit and restrict the range of documents and materials that are to be produced. The Company has also made a request for specific disclosure from the Dissenters, the details of which are set out in Appendix 4 to the draft Directions Order ("Appendix 4"). These requests have been amended and expanded from the range of items originally sought, and the Dissenters have proposed revisions to those requests to bring them in line with what the Dissenters consider to be relevant and established authority.
9. The Dissenters say that the specific requests made in Appendix 3 are not intended to be a substitute or limitation on the Company's obligations to provide general disclosure, but are designed (i) to achieve an early disclosure of materials which should be readily available in advance of general disclosure, and (ii) to serve as a guide for the categories of documents that the Dissenters consider to have particular relevance to the issues the valuation experts will need to consider.

Summary of the positions taken by the parties

10. The main areas of disagreement are concerned with how broadly those requests should be granted. The principal areas of disagreement are as follows (in summary):
 - (i) Company says that the Dissenters' request for disclosure of material which relates to potential transactions or potential transaction opportunities which did not proceed

² Goldman Sachs Fairness Opinion at HB 2 pages 831-4.

is too broad and is irrelevant; (ii) the Company also says that the documents that were not presented to the Board are irrelevant because the valuation exercise only concerns what action the Board took, and the opinions of others at a lower level of management or the documents they may have prepared or considered are peripheral or no relevance to the task that the valuers will be called upon to undertake; (iii) the Company says some categories are also said to be too broad or if they are potentially relevant, their identification and disclosure gives rise to a disproportionate level of expense and time and volume of material relative to their significance that the court should not order disclosure of it; and (v) the Company says some categories are said to be plainly irrelevant or potentially misleading.

11. The Dissenters' valuation consultant, Mr Hopkins³, says that the requests are justified because these broader categories of document inform the valuer and provide insight as to the assumptions and expectations of management, which in turn sheds light on the expected future performance of the Company, and its decision-making approach, which leads to a better understanding of the approach to assessing fair value.
12. The Company has (somewhat belatedly) accepted that it will comply with the request for general discovery and has agreed, subject to various proposed limitations and exceptions, to provide a number of the specific disclosure requests made in Appendix 3, but has objected to a number of categories on the basis that they are irrelevant or that it would be onerous and disproportionate to have to search and produce those categories of documents.
13. A number of requests are objected to on the basis that the documents and information requested are irrelevant (based on the expert evidence on valuation provided by Mr. Beaulne⁴ on behalf of the Company) or its production would be onerous or disproportionate based on evidence provided by Mr. Shettle⁵, a senior in-house lawyer employed by the Company who has sworn an affidavit setting out the amount of information certain requests would involve and the estimated time and costs of searching for and producing the information requested. Mr. Shettle has estimated the time required to search for and produce the documents requested by the Dissenters would take over 400,000 man hours at an estimated cost of US\$100 million⁶.

³ Hopkins 1 HB 1 213

⁴ Beaulne 1 HB 1 278

⁵ Shettle 1 HB 1 251

⁶ Shettle 1 paragraph 18 HB 1 at 256-7 [e.g. 15 attorneys working 10 hours a day for 2708 days].

14. In response to Mr. Shettle's affidavit, the Dissenters have adduced expert evidence from Mr. Theron⁷, who is an experienced ediscovery expert who has explained that (in his view) the costs and time required to comply with the Dissenters' requests have been much exaggerated by Mr. Shettle, and that in actuality the exercise could be achieved within a relatively compressed timeframe at a cost of US\$1.5-2.5 million⁸.
15. Mr Hopkins also responded to Mr. Beaulne's affidavit⁹, explaining the basis on which he disagrees with Mr. Beaulne's rejection of the relevance of the categories of document requested, and maintaining his position that the documents would be relevant for the conduct of the valuation.

The Court's approach to the relevant legal principles

16. Happily, the Court does not need to grapple with any issues of legal principle or complexity and so a fully developed discussion of all the relevant legal principles to be applied in the context of this application is neither necessary nor useful. It is sufficient to record that this Court is indebted to, and will endeavour to follow and apply, the judicial guidance that has already been given by the courts in Bermuda in recent years. The Court will record by way of summary a few of the general principles that the Court has had regard to in approaching the issues on this application.
17. The exercise the Court is engaged in an appraisal action is a quasi-inquisitorial process, as opposed to a purely adversarial process¹⁰. In order to determine fair value, the court needs to have all relevant or potentially¹¹ relevant information to determine fair value. The relevant information will be primarily in the hands of the company and its financial advisers. Accordingly, in the ordinary case, the company should provide general discovery of all relevant information in its possession in relation to the issue of the fair valuation of the shares at the Valuation Date. It will only be in an exceptional case that general disclosure by the company will not be ordered¹².

⁷ Theron 1 HB1.

⁸ Theron 1 paragraph 14 HB1 at 371-2.

⁹ Hopkins 2 HB1 314.

¹⁰ See **APS Holding Corp and Alpine Partners BVI LP v Myovant Sciences Ltd** [2023] SC (Bda) 67 Civ (25 Aug 2023) at paragraph 19 per Hargun CJ.

¹¹ See **Glendina Pty Limited v NKWE Platinum Ltd** [2022] SC (Bda) 31 March 2022 per Hargun CJ.

¹² **APS Holding Corp and Alpine Partners BVI LP v Myovant Sciences Ltd** (supra) per Hargun CJ at paragraphs 23 to 27. See also **Re Qunar Cayman Islands Limited** [2017] (2) CILR 24 paras 22-31 per Parker J.

18. As a matter of fairness, the duty of disclosure also applies to the Dissenters, albeit in a more limited way. If the Dissenters have in their possession documents, reports, analyses, projections and comparative data in respect of the companies in which they invest, their industries, markets, competitors, or other documentary material which relates to the value of the company, then this material is also the subject of the obligation to make disclosure¹³.
19. The Court's approach should be guided by the objectives of justice, expedition and economy, adopting a balanced approach to the opposing contentions in a disputed application for disclosure, and to encourage the parties to cooperate¹⁴.

The Court's approach to the expert evidence

20. The valuation experts disagree on which categories of document are strictly necessary or relevant to the appraisal process. The Court is not, however, in a position to determine which expert is "right" or to be able to express any determination of their respective opinions. The Court has therefore taken their respective comments and views into account in making its own decision as to where to draw the line in respect of the relevance or proportionality of the request for disclosure.
21. At the trial of the proceedings, the Court will be able to make a determination of the preferred approach to valuation, with the benefit of reports from each side. At that stage, the Court can determine or evaluate the merits of the approach to valuation that each expert has taken and come to a final view. But until then, the Court must allow each expert to have access to such material as they each consider to be reasonably necessary to prepare their respective reports.
22. The Court's decision in each category is accordingly based on the Court's assessment of what it considers necessary for the fair disposal of the issues in the appraisal action, and what is proportionate and reasonable. In the analysis, the Court did not find that any request for disclosure made by the Dissenters was so plainly irrelevant that it could (or should) be excluded from production, albeit that in some instances the Court has some doubts as to the weight that might be placed upon some categories. But that is not a reason for exclusion from production.
23. The Court is also not in a position to make any assessment of the potential weight that might be attributed to a class of documents, and until the reports have been produced the Court must be astute not to express any tentative views.

¹³ See *In Re Qunar Cayman Islands Limited* [2018] (1) CILR 199 at paragraph 75 per Rix JA.

¹⁴ See *In re Nord Anglia Education Inc.* [2018] (1) CLR 164 at paragraphs 8 and 9 and per Kawaley J.

24. As a result, the Court has approached the question of disclosure on the basis of what appears to be reasonably necessary for the respective parties for the fair presentation of their case and the disposal of the issue(s) in dispute. It may well be that in some categories more information may be required and may be sought by the respective experts under the protocol for making additional requests for information.
25. Before addressing each disputed category of documents listed in Appendices 3 and 4, the Court needs to make some general remarks and observations on some specific points that were raised by the parties in the course of argument, and which have informed the approach the Court has taken.

Proportionality

26. It is necessary to make some general observations on the objections made by the Company as to the proportionality of the requests based on the evidence given in Mr. Shettle's affidavit.
27. The Court acknowledges that some of the categories will include large files of data. However, the Court accepts the Dissenters' submission that the file size of itself is not a guide to relevance or complexity. The Company's objection as to proportionality on these grounds is premature.
28. While the Court acknowledges that there will be significant cost to the production exercise, but that alone is not a bar to ordering it, the Court is satisfied that the cost and complexity of the production exercise will be greatly reduced from the scale predicted by Mr. Shettle by the efficient use of ediscovery techniques, using AI and other forensic software.
29. Although both Mr. Shettle and Mr. Theron are by necessity making "best-guess" estimates of time and cost at this stage, the Court does not consider Mr. Shettle's time and cost estimates, which are based on a manual process of search, production and review, to be realistic in the modern context of commercial litigation. It seems to the Court that the disclosure exercise can be conducted at a much lower cost and take much less time if appropriate use is made of available technology and AI resources.
30. In the event that there is a category of documents that is so large that it is not possible to produce the documents within the timetable provided, an application can be made to the Court to revise it, based on clear evidence and specific information that the Court (and the other parties) can assess. Until then, the Company must take

all reasonable steps to ensure that the disclosure obligation is fulfilled in accordance with the terms of the Court's Order for Directions.

31. The Court notes that it is not satisfied (on the evidence presently before the Court) that the requests made by the Dissenters are oppressive or represent a “drains up” approach to disclosure¹⁵. On the present evidence, the Court accepts that the disclosure of the classes of documents sought by the Dissenters are reasonably required for the fair disposal of the issues in dispute in these proceedings.

Documents that are “potentially relevant”

32. There was debate over the expression of producing documents which were relevant or potentially relevant in Appendix 3 to the Draft Order. The Company took the position that only relevant documents were to be produced. The Dissenters expressed the concern that the Company would exercise its own judgment as to what it (or its experts) considered relevant, and that there was a risk that only documents that were considered from the Company's view of relevance would be produced, thereby limiting the disclosure unfairly.
33. This concern arose because Mr. Beaulne took a much narrower stance on relevance than Mr Hopkins and invited the Court to exclude categories of documents that he considered to be unnecessary or outside the proper scope of the appraisal process. The Court takes the view that at this stage of the proceedings it is necessary to ensure that ‘relevance’ is to be assessed by reference to what both experts consider will be necessary to take into account in preparing their reports. The words “or potentially relevant”¹⁶ have therefore been retained in the Court's final version of the Order as a shorthand expression for those documents which the respective experts reasonably require to prepare their reports, based on what they each consider to be necessary to approach the task of appraisal of the fair value of the shares at the Valuation Date.
34. The Court's focus is on efficiency and expedition, but above all, fairness and transparency.

Limitations placed by the Company on the scope of disclosure

35. The Company expressed its agreement to produce some categories of document on the basis that the Company understood the relevant request was being made on a

¹⁵ The court has in mind the court's duty not to permit a fishing expedition under the guise of disclosure (see e.g. the dictum in **APS Holding Corp v Sumitomo Pharma UK Holdings** [2025] SC (Bda) 16 civ at paragraph 106 per Mussen CJ).

¹⁶ See **Glendina Pty Ltd v NKWE Platinum Ltd** (supra).

particular basis. The Dissenters pointed out that the obligation to produce documents was not limited to the Company's interpretation of what was being requested but extended to the general obligation to provide disclosure of all relevant (or potentially relevant) documents.

36. For the avoidance of doubt, the Court accepts the submission made by the Dissenters that the Company's obligation is to produce all documents relevant or potentially relevant to the issue of fair value, and the Company is not entitled to reduce the scope of that obligation by limiting its disclosure to the Company's "understanding" of what is being sought.

Consolidation of accounts

37. The Company took the position that because the Company is a parent company and that the historic accounting treatment of the group has been presented on a consolidated basis, it would only provide disclosure of the consolidated accounts¹⁷. The Dissenters explained that the unconsolidated accounts for each underlying company are important in order to understand the profit centres within the group, which will have an important bearing on the assessment of the approach to fair value¹⁸.

38. In the Court's view, it is not possible to prepare consolidated accounts without the raw materials which would be constituted by unconsolidated accounts. Those materials are therefore available to the Company. It is entirely reasonable and proportionate for the Dissenters to have disclosure of those materials, which the Court is satisfied fall within the category of documents that are relevant or potentially relevant to the issue of fair value.

Documents provided to the Board

39. The Company also took the position that it would only disclose documents that had been provided to the Board on the basis that any other documents were not considered by the Board and therefore would be irrelevant¹⁹. The Dissenters explained that the documents provided to the Board were likely to be summarised and more limited than the documents prepared by management and therefore would not represent the wider approach that executive management had or were likely to have considered, before presenting those documents to the Board for approval or decision making²⁰.

¹⁷ Beaulne 1 paragraphs 52-3 HB1 page 291. Shettle 1 paragraphs 34-5 HB 1 page 262.

¹⁸ Hopkins 1 paragraph 56 HB1 page 235-6 and Hopkins 2 paragraphs 73-8 HB1 pages 337-8.

¹⁹ Beaulne 1 paragraphs 45-47 and 66-8 HB1 pages 288 and 294-5. Shettle 1 paragraph 27 HB1 p 260.

²⁰ Hopkins 2 paragraphs 18-28 HB1 at pages 320-2

40. The Court accepts the submissions made by the Dissenters on this point. The Company is run by an executive team which has a very deep and thorough understanding of the Company's business and its activities. To limit the disclosure to those documents which were presented to the Board, without including disclosure of those documents which were relevant but which were filtered out in a screening, or which were summarised, would be an unjustified restriction. The test is relevance and the fair disposal of the issues in the proceedings.

Privilege Log

41. The Company took objection to the provision of a "privilege log" on the grounds that it would be a disproportionate exercise. The Court does not see that this is a valid objection. RSC Order 24 rule 5 (2) makes provision for such a log in express terms. This is a requirement of the rules, albeit "*...more honour'd in the breach than the observance*" in practice.
42. The documents will need to be reviewed to exclude items covered by privilege, and it will not add any additional cost to keep a log of the document that for which privilege is claimed, with brief details as to the basis of the claim to privilege.

Highly sensitive documents

43. The Company took objection to providing highly sensitive documents, except under strict limitations as to the conditions on which they could be reviewed and by whom. Again, it is premature to make a general ruling on the way in which those documents need to be addressed, and when disclosure has been prepared, if the Company wishes to seek a direction for special treatment in respect of a particular document or group of documents, then application can be made. However, the Court observes that the usual protection afforded by (i) the usual implied undertaking that disclosed documents will only be used for the purposes of these proceedings and (ii) the terms of the confidentiality agreement between the parties should be sufficient protection. In order to exclude a document on these grounds, the Company will need to provide some compelling evidence to support the application.

Confidentiality Agreement

44. It was suggested by the Company that the Confidentiality Agreement had to be signed by the individual lawyers and experts who are instructed in the case, so that they would each be parties to the agreement with direct rights of enforcement. The Court does not consider that this is appropriate. The usual arrangement is that each party to the agreement will take steps to ensure that its own advisers will observe its terms, and that it would be inappropriate to allow direct enforcement between the

Company and the individual lawyers and experts instructed by the Dissenters (and *vice versa*).

Timetable for disclosure

45. The parties were largely agreed on the time limits for the disclosure process. However, the Court has adjusted the time limits in some areas to give effect to some of the concerns raised by the Company as to the realistic timescale in which some of the disclosure tasks can be accomplished. The time limits are set out in the final form of Directions Order appended to this Ruling.

“Look-back” periods

46. It is not in dispute that the Company will provide disclosure of documents for a period that commences 5 years prior to the Valuation Date, as is now standard in cases is such as these.
47. The Company however seeks also disclosure from the Dissenters of all documents in their possession, custody or control that relate to the valuation of the Company’s shares for a period of 2 years prior to the date each Dissenter first acquired his her or its shares. As a matter of fairness as between the parties, it seems to the Court that this is not so unreasonable or disproportionate as not to be justified.
48. However, the Court is not satisfied that there could be any sensible relevance to documents in the possession power or control of the Dissenters that relate to the value of the shares more than 5 years prior to the Valuation Date. Therefore, the cut off date for this request will be a maximum of 5 years prior to the Valuation Date

Specific disclosure sought by the Dissenters

49. The Court has addressed the request for specific disclosure on an item-by-item basis in respect of the requests for disclosure by the Dissenters in Appendix 3. Rather than itemize each disputed item, the Court has prepared a table which records each category of request and briefly states the party's positions in relation thereto and the Court has recorded in shorthand its conclusion in relation to each item.

Request	Pff’s position	Def’s Position	Order of court
Appendix 3 Company disclosure			

Request 1: Goldman Sachs	Required In relation to any proposed transaction or any strategic opportunity: not limited on that basis: ie assuming that it is in board packs	Agreed in respect of the Transactions, but otherwise irrelevant and disproportionate	Dissenters' request allowed: no rider
Request 2: decision not to form transaction committee	Required in relation to independence not limited on that basis: ie assuming that it is in board packs	Agreed on basis that docs likely to be in Board Packs but otherwise irrelevant	Dissenters' request allowed: no rider
Request 3: Decision to retain Hogan Lovells Conyers and Paul Weiss	No reason given	Not relevant and disproportionate and privileged	Not pursued
Request 4: any other proposed transaction	Required	Generic and broad and potential transactions irrelevant: willing to provide discovery concerning potential transactions and opportunities similar in kind: acquisitions of Co's shares	Dissenters' request allowed
Request 5 All prior versions of Transaction Docs and analysis or projections	Required all prior versions and drafts: Some overlap but not duplicative	Duplicative and unnecessary: covers all docs submitted to and prepared for and key parties	Dissenters' request allowed

Request 6 All docs between employees directors consultants relating to the analysis sent to Goldman Sachs	Required All docs between employees directors consultants relating to the analysis sent to Goldman Sachs Hopkins 2 pp319 detail on why below board level is relevant to a valuer Para 53 Management projections are necessary	willing to provide subj to limitation to financial advisor and the board including drafts and docs relating to prep of Fairness Opinion	Dissenters' request allowed
Request 7 Key Parties all docs passing between	Transactions and any proposed transactions and strat opps for the company as a business: Acquisition opportunities. Hopkins 45-51 54-68	Duplicative Of 1 and 4	Dissenters' request allowed
Request 8 Potential sources of financing	Transactions and any proposed other transaction or any strategic opp	prepared to accept if limited to transactions of a similar kind to the merger	Agreed by parties
Request 9A Board Minutes		Agreed	Dissenters' request allowed
Request 9 Monthly management accounts		Agreed	Dissenters' request allowed

Request 10 Consolidated and unconsolidated accounts	Unconsolidated: concentration of value Hopkins para 73 et seq Subsid level: limits on dividends: One example but Hopkins explains granularity requirement Para 78: reasonable and necessary Segments are aggregated Co has changed its reporting to 2 segments from 1/1/24	Unconsolidated unnecessary and included in consolidated Quarterly accounts for all subsidiaries? Line of business is obtainable HB 2 tab 14 p 1015 Relevance and burdensome Beaulne paras 34-5	Dissenters' request allowed
Request 11 Monthly/quarterly fin statements	Budgets and p/l statements etc Shettle: lots of forecasts Para 54 p 267 Only GS went to the board Hopkins 73-4	Agree to provide budgets etc which were provided to the Board Otherwise disproportionate	Dissenters' request allowed
Request 12 BMA docs		Agreed	Dissenters' request allowed

Request 13 Value of investments, loans and other receivables and liabilities of Co	Investments, loans and receivables and liabilities etc in excess of 10m actuarial analysis will underpin these figures investments volatile: historic illuminating on valuations co own fin reporting Anaplan would help them organise the fin info. Hopkins 81-6 Accounting conventions are different from valuation conventions	Ins co relies on third party assessments of value Investments at fair value Irrelevant and disproportionate External assessments by valuers done at fair value: year end 2024. 6 November 2024 close enough. Not targeting exotic inv Relevance and proportionality 2.4 gig of data 2750 files: enormous job 10m limit materiality far too low for the value of its investments US\$20.3 billion in assets 2-5% would be \$100m	Dissenters' request allowed
Request 14 Real estate holdings		Market value Irrelevant and disproportionate	Not pursued
Request 15 IP		Agreed but irrelevant	Agreed
Request 16 Credit rating reports	Rating agencies and co and internal	Its own credit rating relevant but not its reinsurers	Dissenters' request allowed

	assessment of its credit rating Hopkins 90 WAAC	Disproportionate Only co credit rating reports	
Request 17 Reserving policy	Documents considering the reserve policies of the co Hopkins 91	Broad and uncertain Irrelevant but will provide the reserving policies themselves	Dissenters' request allowed
Request 18 Capital and solvency ratios	Containing an assessment for the reasons for rationale behind co cap position and impact on co.	Already in f/s Too broad	Dissenters' request allowed
Request 19 off balance sheet	Assessment of off bal sheet or non operating assets and liabilities above 10m Need earlier years to see how reliable the cos assessment of the off bal sheet liabilities Hopkins 80-88	Relevant if went to board and limited to Q3 and Q4 2024	Dissenters' request allowed
Request 20 Value of equity stake in subs	Not include transactions with third parties Hopkins 80-9	Included in Consolidated 1/4ly accts for 5 years but Irrelevant para 64 in Beaulne: proportionality Shettle para 47-8 p 266 And too broad if include actual and	Dissenters' request allowed but time extended until deadline for general disclosure. If need extension apply

		<p>potential transfers of assets</p> <p>Para 17 volume of docs enormous</p> <p>Take longer than 60 days</p>	
<p>Request 21</p> <p>Tax</p>	<p>Advice relating to UK Bermuda and UK</p> <p>Multiple jurisdictions</p> <p>Re charging between cos: tax burden</p>	<p>Effective tax rate is in data room docs</p> <p>Too broad and irrelevant</p>	<p>Dissenters' request allowed</p>
<p>Request 22</p> <p>Projections and valuations</p>	<p>Additional info supporting info</p> <p>GS 3 measures of book value</p> <p>Insight into Managerial judgment?</p>	<p>Agreed</p> <p>22.1-3 to the board</p> <p>Relevance and contemp with transaction Shettle: para 52-5</p> <p>22.4 the additional language is objected to: relevance and proportionality</p> <p>Valuations will contain suff info</p> <p>Beaulne para 69</p> <p>22.5 Book value</p> <p>Unnecessary</p> <p>Book value is in f/s</p> <p>Shettle para 61 disproportionate</p>	<p>Dissenters' request allowed</p>

Request 22.1 Forecasts and budgets		Agreed but only if reviewed by Board and contemp with transaction	Dissenters' request allowed
Request 22.2 external forecasts		Agreed but only if reviewed by Board and contemp with transaction	Dissenters' request allowed
Request 22.3 Minutes		Agreed but only if reviewed by Board and contemp with transaction	Dissenters' request allowed
Request 22.4 valuation and models		Agreed but accompanying docs not necessary	Dissenters' request allowed
Request 22.5 calculation, analysis of book value	GS 3 measures of value: insight into how accounting treatments and management judgments influence reported financial position Book value is one type but GS used diff metrics for its own book value p1722	Agrees relevant but covered by in data room and board packs	Dissenters' request allowed
Request 23 Application of accounting treatments, standards or reg requirements	Application of accounting treatments, standards or reg requirements	Agreed but already disclosed in 10/11 and 22.5 Shettle p 269	Dissenters' request allowed
Request 24 Analyst and Third party industry reports	Comms relevant to understand the market	Agreed but seeks amendment to	Dissenters' request allowed

	Hopkins 105-6	reduce scope to exclude comms Overly broad: and irrelevant and difficult to search for and find	
Request 25 Market share and commission	Internal docs re market share and commission Date range for the 5 years	Irrelevant but agreed: amend to contemp docs and co not required to break down by segment One year only Too burdensome Shettle para 64-5	Dissenters' request allowed
Request 26 Industry positioning	Docs considering Public perception Hopkins 115-9	Irrelevant and generic but agreed but limited to industry positioning and public perception Proportionality of request	Dissenters' request allowed
Request 27 Any other pot acquisition	Potential acquisition considered by management board or member of board Hopkins 55-8	Too broad/duplicative of request 4	Dissenters' request allowed
Request 28 Risk management	Docs discussing Returns, risk management, allocation of assets alt inv management	Not relevant and disproportionate Beaulne para 78 p 298	Dissenters' request allowed

	Hopkins para 122	Shettle: p 271 paras 71-2 37.8 gigs of info	
Request 29	<p>Docs considering Actual or Potential capital transactions, including any discussions of analysis</p> <p>Above 10m</p> <p>Hopkins responded on pot</p>	<p>Actual transaction is already in and potential is irrelevant and disproportionate</p> <p>Too broad</p> <p>37.8 gigs and 10 m too low a value limit</p> <p>Hopkins not respond</p>	Dissenters' request allowed
Request 30	<p>Discussing or assessing claims mgmt and loss reserve performance</p> <p>Hopkins 124</p>	<p>Too broad and irrelevant</p> <p>Hopkins does not respond</p> <p>P 272 para 74 of Shettle: 913 gigs disproportionate</p>	Dissenters' request allowed
Request 31	<p>any loss portfolio transfer</p> <p>Hopkins 126</p>	<p>Already covered by the historical fin statements and not relevant</p> <p>299 Beaulne paras 82-3</p> <p>Hopkins past outcome p 354 but not mgmt. insight</p> <p>Shettle para 75 p 273</p> <p>Disproportionate</p> <p>Take longer than time provided for in order</p>	Dissenters' request allowed

Request 32 Strategic plans	Actual or alt strat plans for Co Side car strategies Hopkins 46-7 and 55-58 and 120	Irrelevant to value at Val date: future proj Beaulne para 84 Duplicative of request 4	Dissenters' request allowed
Request 33 Related party agreements	Agreements with related parties suppliers Only related parties Co will have to do so as part audit p1572	Already dealt with in f/s and irrelevant Source docs not needed the supplier agreements Reinsurance agreements not relevant No material value limit Beaulne para 85 Shettle par 79 750 gigs Disproportionate	Dissenters' request allowed
Request 34 Post transaction plan and post merger IPO docs	Pre transaction docs relating to transaction/IPO	Irrelevant Hopkins 2nd aff can offer insight into but excluded from valuation valuation 127 b Beaulne 86	Dissenters' request allowed
Request 35 Pot benefits as pub traded co	Pre transaction docs of pot benefits as pub traded co Hopkins 127-8	Irrelevant Duplicative of 34 Beaulne para 87	Dissenters' request allowed

		Hopkins not responded?	
Request 36 Issues of shares		Agreed	Dissenters' request allowed
Request 37 Shareholder comms/shareholder voting agreements objections to Transactions	Shareholder comms/shareholder incentives/ voting agreements objections to Transactions Co resists this but asks for app 4 req 3? Not relate to private motives but to assess shareholders own views about the transactions Hopkins para 133	Irrelevant Beaulne para 90 Objected to on basis that goes to subj motives of shareholders Cayman case law: Jardine: p 323: para 102 RE EHI Car p 152 para 61 Para 41 p 169	Dissenters' request allowed
Request 38 Actual or pot transactions	actual or potential signif transactions in co shares incl shares accumulated by members of the board prior to trans Hopkins 134: 5% is public disclosure threshold: good reason not to have threshold	5% or more is publicly available Agreed to provide docs to actual or pot sign transaction Duplicative of 1 and 4 Additional wording not clear as to reason	Dissenters' request allowed
Request 39 Potential future market price	Internal views Docs produced communicated to directors, management or advisers	Irrelevant Subj views not probative or relevant to valuation	Dissenters' request allowed

	Hopkins 138	Objective assessment of value Beaulne para 92 See request 37 also	
Request 40 Non public material info in rel. to value of shares			Not pursued

Disclosure sought by the Company in Appendix 4

50. It is not necessary to set out the rival positions on the categories of documents sought by the Company against the Dissenters which cover broad categories of documents and are not specifically targeted.
51. The Court agrees that the Dissenters' version of this request set out in paragraphs 1, 2 and 3 of the Dissenters' proposed draft capture the range of material which the Dissenters should disclose and covers the items that would fall under paragraphs 2 to 6 of the Company's version of the proposed Order.

Disclosure under Appendix 2

52. The Court agrees that the additional email thread analytics proposed by the Dissenters in paragraph 2A and 11 are sensible and proportionate and they are therefore included in the final form of the Order.
53. The Company's proposed exclusion of metadata in paragraphs 5 and 12 is rejected, but it is noted that the obligation on the Company is to produce the document in the form it was created, and the Company does not need to recreate any information to meet the requirements of paragraph 5.

Principal Directions

54. Paragraph 1: As already addressed above, the individual advisers do not need to execute the NDA directly but will be required to comply with the terms of the NDA by their respective clients. Therefore, the deletion proposed by the Dissenters is accepted.

55. Paragraph 2: the terms of paragraph 2 proposed by the Dissenters are accepted by the Court, but subject to the revision of the time for the Company's disclosure will be:
- Paragraph 2.1: 60 days from the date of the Order, not 30 days.
- Paragraph 2.2: 90 days form the date of the Order, not 60 days.
- Paragraph 2.3: 120 days from the date of the Order not 90 days.
56. Paragraphs 3,4 and 5: the revisions proposed by the Dissenters are accepted by the Court.
57. Paragraph 7: the time for the Dissenters disclosure for Appendix 4 documents will be adjusted from 60 to 90 days from the date of the Order to reflect the additional look-back period up to 5 years prior to the Transaction.
58. Paragraph 8: the proposed revisions of the Dissenters are accepted by the Court.
59. Paragraphs 13 and 13 A: the revisions proposed by the Dissenters are accepted by the Court for the reasons already explained.
60. Paragraph 14: the period of 28 days is too short, and the Court accepts the Company's proposal of 90 days from the date in paragraph 2.3 for the service of factual witness statements.
61. Paragraph 15: The Dissenters' factual evidence is likely to be responsive in nature, so a period of 60 days is considered appropriate.
62. Paragraphs 22 to 26: the proposed revisions made by the Dissenters are accepted by the Court. Although there is a risk of "stacking" of requests, the Company can apply for an extension if one is not agreed by the Dissenters. The Court expects the Dissenters to make reasonable and proper efforts not to make multiple requests, and to proceed as efficiently as possible. The usual safeguards in costs will apply in a case of unreasonable refusal to extend time that is reasonably required to answer the request.
63. Paragraphs 27-31: the proposals made by the Dissenters are accepted by the Court.
64. Paragraph 35: the time for setting down has been extended to 180 days from the date of the Order.

Costs

65. Paragraph 37: although much was said about the incidence of costs, the Court does not consider it appropriate to make an Order for costs based on the substantial acceptance of the proposals made by the Dissenters. It is not unusual for issues as to case management and disclosure to be contested, and the Court should be slow to penalise parties in costs at this stage unless they take entirely unreasonable and unprincipled positions. Although the Court did not find favour with most of the submissions made on behalf of the Company, the Court considers the appropriate order is that the costs of the contested disclosure application should be the costs in the cause.

Order for Directions

66. The Court has also prepared a final version of the draft Directions Order incorporating the conclusions set out above and has appended the Court's version of the final Order to this Ruling as Schedule 1.

67. The Dissenters are to provide a stamped Order (and sufficient additional copies for the parties) reflecting the terms set out in Schedule 1 for the Court's execution as soon as possible²¹.

Dated this 4th August 2025



THE HON. MR. ANDREW MARTIN
PUISNE JUDGE

²¹ The Court consciously delayed releasing the Ruling until after the Cup Match public holiday period in Bermuda.

Schedule 1 to the Ruling of 4 August 2025

**IN THE SUPREME COURT OF BERMUDA
CIVIL JURISDICTION
COMMERCIAL COURT
2024: Nos. 333 & 334**

**IN THE MATTER OF THE AGREEMENT AND PLAN OF MERGER BY AND AMONG
ENSTAR GROUP LIMITED, ELK BIDCO LIMITED, ELK MERGER SUB LIMITED,
DEER LTD. AND DEER MERGER SUB LTD. DATED AS OF 29 JULY 2024**

**AND IN THE MATTER OF A PROPOSED STATUTORY MERGER AGREEMENT BY AND
AMONG DEER LTD., DEER MERGER SUB LTD. AND ENSTAR GROUP LIMITED**

**AND IN THE MATTER OF A PROPOSED STATUTORY MERGER AGREEMENT BY AND
AMONG DEER LTD. AND ENSTAR GROUP LIMITED**

**AND IN THE MATTER OF A PROPOSED STATUTORY MERGER AGREEMENT BY AND
AMONG ELK BIDCO LIMITED, ELK MERGER SUB LIMITED AND ENSTAR GROUP
LIMITED**

AND IN THE MATTER OF SECTION 106 OF THE COMPANIES ACT 1981

BETWEEN:

**(6) FOURWORLD GLOBAL OPPORTUNITIES FUND, LTD.
(7) FOURWORLD EVENT OPPORTUNITIES, LP
(acting through its general partner FOURWORLD CAPITAL, LLC)
(8) FOURWORLD SPECIAL OPPORTUNITIES FUND, LLC
(9) FW DEEP VALUE OPPORTUNITIES FUND I, LLC
(10) CORBIN ERISA OPPORTUNITY FUND, LTD.**

Plaintiffs (No. 333)

**HARSPRING CAPITAL, LP
(acting through its general partner HARSPRING CAPITAL ADVISORS, LLC)**

Plaintiff (No. 334)

and

ENSTAR GROUP LIMITED

Defendant

[FINAL] ORDER FOR DIRECTIONS

UPON the Originating Summonses of the Plaintiffs (the "**Proceedings**")

AND UPON the Originating Summonses being listed together for a first return hearing (which was treated as a directions hearing) on 27 March 2025

AND UPON capitalised terms not otherwise defined having the meaning ascribed in the Defendant's definitive proxy statement filed with the United States Securities and Exchange Commission and dated 11 October 2024 (the "Proxy")

AND UPON hearing Leading Counsel for the Plaintiffs and Leading Counsel for the Defendant

IT IS HEREBY ORDERED THAT:

A. Electronic Data Room and Defendant's Discovery

1 Within **14 days** from the date of this Order, the Defendant shall instruct a data room service provider to open an electronic data room (the "**Data Room**") and provide access to:

- 1.1 the Valuation Experts (as defined below);
- 1.2 any Additional Experts (as defined below) (if appointed);
- 1.3 each person whom the Valuation Experts or any Additional Experts appoint to assist them with any work relating to the proceedings;
- 1.4 the Plaintiffs (including their respective investment managers); and
- 1.5 the Parties' agents, advisers, sub-advisers, representatives, affiliates, service providers and their respective legal advisors ("**Representatives**");

provided always that, before access is provided, the Defendant and the Plaintiffs shall first have entered into the non-disclosure and confidentiality agreement ("**NDA**") at **Appendix 1**.

2 The Defendant shall upload to the Data Room all Documents (as defined in **Appendix 2**), within the Defendant's possession, custody or power, as follows:

- 2.1 Within **60 days** of the date of this Order all Documents:
 - (a) that were provided by the Defendant to the Reinvesting Shareholders, the Buyer Parties, Party A, Sixth Street, the Sixth Street Filing Parties, or the CEO Filing Party

in connection with or as part of their due diligence investigations into the Defendant;
and

(b) that were made available to Goldman Sachs & Co. LLC for the purpose of preparing the fairness opinion dated 29 July 2024.

2.2 within **90 days** of the date of this Order, all Documents set out in **Appendix 3** of this Order which were prepared, created, sent or received in the 5-year period ending on the Valuation Date (as defined below); and

2.3 within **120 days** of the date of this Order, all other Documents prepared, created, sent or received in the 5-year period ending on the Valuation Date which are relevant or potentially relevant to the determination of the fair value of the Plaintiffs' shares in the Defendant as at the Valuation Date.

3 All parties who have been given access to the Data Room shall be given full access rights to the Documents therein whilst the Proceedings (and any appeal therefrom) are extant, save that no party will have the ability to modify Documents in-situ within the Data Room; however, all such Documents shall be in a form which the Parties can download to their own systems either individually or (upon request to, and facilitated by, the Data Room service provider) as a bulk download and, in turn, modify outside of the Data Room. For the avoidance of doubt, the establishment by the Plaintiffs of any alternative data room shall not in any way limit their rights under this Directions Order to access to the Data Room.

4 The reasonable costs of and associated with the establishment and maintenance of the Data Room, including the Data Room provider's costs of (i) uploading, processing and hosting the Documents added to the Data Room, (ii) producing indexes in the form provided for in paragraph 11 and 12 below and any updated versions thereof, (iii) technical support, including the costs of facilitating any bulk export or download of Documents and (iv) persons seeking access to the Data Room in accordance with this Order, shall be borne initially by the Defendant on an ongoing basis but shall ultimately be costs in the Proceedings.

5 The Defendant shall, on an ongoing basis whilst the Proceedings are extant, bear the costs of 10 access codes for the Plaintiffs, in addition to any access codes the Valuation Experts or any Additional Experts may require, to facilitate access to the Data Room (such costs ultimately to be costs in the Proceedings). Should any Plaintiff require additional access to the Data

Room, such Plaintiff shall bear the specific costs of such access, and the Defendant will arrange for such costs to be charged by the Data Room provider to the Plaintiff directly.

- 6 No Data Room usage report, or any other analysis of any Party's usage of the Data Room, shall be run by any Party on the usage of another Party, its Representatives, or its appointed Valuation Expert, or any Additional Expert, or Appointees without that Party's express written consent or order of the Court.

B. Plaintiffs' Discovery

- 7 The Plaintiffs shall upload to the Data Room within **90 days** of this Order, Documents in their possession, custody or power falling within the categories of Documents identified at **Appendix 4** of this Order which were prepared and created in the 5-year period ending on the Valuation Date and which are relevant to the determination of the fair value of the shares in the Defendant as at the Valuation Date.
- 8 The costs of hosting such Documents in the Data Room (but not in any alternative data room, which costs shall be borne initially by the Plaintiffs on an ongoing basis, but shall ultimately be costs in the Proceedings) shall be borne initially by the Defendant on an ongoing basis but shall ultimately be costs in the Proceedings.
- 9 Each Plaintiff's disclosure shall be made available to the Defendant and the Experts but not to any other Plaintiff.

C. Disclosure Protocol

- 10 The Parties shall comply with the disclosure protocol at **Appendix 2** hereto when disclosing and producing Documents (by way of upload to the Data Room or any alternative data room). In relation to Documents that have been redacted pursuant to **Appendix 2**, upon request, Documents shall be provided in their native format manually amended by way of deletion of redacted information.

D. Lists of Documents

- 11 The Parties shall ensure that all Documents they upload to the Data Room are appropriately indexed in an electronically searchable form pursuant to **Appendix 2** ("**Data Room Index**"), which shall be compiled in a manner which complies with the requirements of the *Rules of*

the Supreme Court 1985 ("RSC") O.24, r.5. The Data Room Indices shall be provided (and thereafter updated) at the same time as any Documents are disclosed and uploaded to the Data Room. Any such changes in the content of the Data Room shall be clearly identified at the same time they are made.

- 12 In relation to the Documents which are to be disclosed pursuant to this Order, the Parties shall, on the respective dates for compliance specified in paragraphs 2 and 7 above, and at any other time when disclosure is provided, produce (or update) their respective Data Room Index in accordance with **Appendix 2** and RSC O.24, r.5. So long as the Data Room Index has been compiled and provided in a manner which complies with the requirements of RSC O.24, r.5, it shall be treated as Part 1 of Schedule 1 of the respective Party's list of documents in accordance with RSC O.24, r.5(1).
- 13 Where a Party withholds Documents, or redacts information contained within Documents, in accordance with the **Appendix 2**, it shall provide an itemized list of any such documents ("**Privilege Log**"). The Privilege Log shall include the data described at paragraph 18 of Appendix 2, and a summary of the basis for the privilege claimed. Nothing in this Order or in Appendix 2 hereto shall derogate from each Party's implied obligation not to use the Documents or information obtained thereby for any improper or collateral purpose.

DA Enhanced Confidentiality Measures

- 13A The Parties shall have liberty to apply for further directions for enhanced confidentiality measures in relation to documents individually identified, or within a specific narrow category of documents.

E. Fact Witness Evidence

- 14 Any factual witness evidence to be relied upon at trial by the Defendant shall be filed and served within **90 days** of the date referred to at paragraph 2.3 above.
- 15 The Plaintiffs shall file and serve any factual witness evidence by no later than **60 days** thereafter.
- 16 The Defendant shall file and serve any factual witness evidence in reply to the Plaintiffs' factual witness evidence by no later than **14 days** thereafter.
- 17 Leave is hereby granted to the Parties to cross-examine any fact witness on their evidence and any such witness shall attend for cross-examination. Any Party that intends to cross-examine

a fact witness shall give the other Party's attorneys notice of that fact at least **28 days** before the witness is required to attend for cross-examination.

F. Experts

- 18 The Parties shall have leave to instruct and to call as a witness at trial one expert witness each in the field of valuation (each a "**Valuation Expert**" and together the "**Valuation Experts**") to opine upon the fair value of the Plaintiffs' shares in the Defendant as at 6 November 2024 (the "**Valuation Date**").
- 19 The Valuation Experts shall be appointed, and the Parties shall advise each other of the identities and contact details of the respective Valuation Experts so appointed by no later than **60 days** from this Order.
- 20 No later than **21 days** after the date for the Defendant to file and serve factual evidence in reply pursuant to paragraph 16 above, the Parties shall notify each other of any additional expert evidence they wish to seek leave to adduce (including as to deal process or specific industry sectors) ("**Additional Expert(s)**") and proposed directions for evidence of any Additional Expert. The Parties shall then confer as soon as practicable with the view to determining whether agreement can be reached, subject to the grant of leave, to adduce evidence of any Additional Expert(s) and, if so, directions in respect of such evidence including as to the making of Information Requests.
- 21 In the event of agreement, the Parties shall, as soon as practicable, file a Consent Order with the Court seeking leave to adduce evidence of any Additional Expert(s) and directions for such expert evidence that are agreed. To the extent of any disagreement over whether leave should be granted to adduce evidence of any Additional Expert(s), or in relation to directions for such expert evidence, any application to the Court to resolve such disagreement shall be made no later than **21 days** of the date that the notification was provided pursuant to paragraph 20 above.

G. Experts' Information Requests

- 22 The Valuation Experts shall be entitled, for the purpose of preparing their reports, to make written requests of the Defendant for (a) the provision of Documents and/or (b) the provision of information ("**Information Requests**"). Such requests may be made from the date on which the Valuation Experts are appointed, pursuant to paragraph 19 above. For the avoidance

of doubt, the Valuation Experts shall be entitled to make Information Requests for Documents and information that came into existence before or after the Valuation Date. For the avoidance of doubt, should an Information Request be received by either Party after 5.30 p.m. (Bermuda time), the timeframes above shall begin to run from 8.30 a.m. (Bermuda time) the following business day (being any calendar day on which banks are open in Bermuda).

- 23 The Defendant shall respond in writing to each Information Request as soon as practicable and in any event by no later than **21 days** from the date of the Information Request. If the Defendant is unable or unwilling to provide the Documents and/or information that is subject to an Information Request, it shall, within **21 days** of the request: (i) provide all responses it is able to provide (including requested or responsive documents), and (ii) apply to Court to be relieved of the obligation to comply with the balance of the request and/or to extend the time for complying with the request (if agreement cannot be reached between the Parties).
- 24 The Defendant will, in all cases, disclose with and cite in its responses any Document(s) that support its answers to an Information Request. Where no such Document(s) exist, the Defendant will confirm this as part of its answer to the Information Request. The Defendant shall disclose and produce (by way of upload to the Data Room) all responses and Documents provided in response to an Information Request in accordance with the disclosure protocol at **Appendix 2**.
- 25 Any Information Requests and any responses from the Defendant thereto shall be copied simultaneously by email to the Valuation Experts and the Plaintiffs' attorneys. For the avoidance of doubt, all communications between a Valuation Expert or their Appointees and the Defendant concerning an Information Request (including in relation to the answers to be given thereto), shall be in written form and shall be copied to the Parties' attorneys and the Valuation Expert for the opposing Party.
- 26 Unless otherwise agreed amongst the Parties, the cut-off date for the submission of the final Information Request to the Defendant is **28 days** before the date fixed for the exchange of Expert Reports (as provided for at paragraph 27.2 below).

H. Valuation Expert Reports and Valuation Experts' Joint Memorandum

- 27 Signed reports (the "**Valuation Expert Reports**") of each of the Valuation Experts shall be:
- 27.1 confined to the issue of the fair value of the Plaintiffs' shares as at the Valuation Date;

- 27.2 filed and exchanged simultaneously within **120 days** of the date for the Defendant to file and serve factual evidence in reply pursuant to paragraph 16; and
- 27.3 stated to be prepared in compliance with the Rules of the Supreme Court 1985 and the duties of an expert identified at paragraph 48 of the Supreme Court of Bermuda decision, *A. Brewster et al. v The Premier of Bermuda et al.* [2021] SC (Bda) 45 Civ (9 June 2021).
- 28 The Valuation Experts shall meet at a mutually convenient time, whether in person, by telephone call or video link or howsoever they shall decide (the "**Valuation Experts' Meeting**"), but no later than **14 days** after the exchange of the Valuation Expert Reports, to discuss the differences between their respective reports with a view to narrowing the issues between them and producing the Joint Memorandum required by paragraph 27.
- 29 A joint memorandum of the Valuation Experts (the "**Valuation Experts' Joint Memorandum**") recording:
- 29.1 the fact that they have met;
- 29.2 when and where they met, and that they discussed the issues of expert evidence;
- 29.3 the issues on which they agree;
- 29.4 the issues on which they disagree; and
- 29.5 a brief summary of the reasons for any such disagreement,
- shall be completed and issued to the Parties by the Valuation Experts by no later than **14 days** following the Valuation Experts' Meeting.
- 30 Any supplemental Valuation Expert Reports (the "**Supplemental Valuation Expert Reports**") shall be exchanged simultaneously by no later than **28 days** following the issuance of the Valuation Experts' Joint Memorandum.
- 31 The Parties shall be at liberty to cross-examine the opposing Party's Valuation Expert and any Additional Experts on their report(s) at trial.

I. Case Management, Case Management Conference and Trial Date

- 32 Unless the Parties otherwise agree, a case management conference shall be held on the earliest date convenient to the Court and the Parties' counsel no less than **14 days** after the deadline for exchange of any Supplemental Valuation Expert Reports in accordance with paragraph 31.
- 33 The Parties shall, on an ongoing basis while the proceedings are extant, pay the costs of the recording and transcription of any hearings (such costs to be allocated 50% to the Plaintiffs and 50% to the Defendant in the first instance, but ultimately to be costs in the proceedings), subject to the Parties agreeing on the supplier and fee quote prior to each hearing or to dispense with recording and/or transcription.
- 34 Liberty for any Party to apply to modify this Order or for further directions in respect of the matters addressed in this Order.
- 35 No sooner than **180 days** from the date of this Order, the Parties shall seek to agree and thereafter provide the Court with a provisional estimate together with mutually available dates of Counsel for the trial to be fixed. In the absence of agreement, any Party may apply for further directions in relation to the listing of the trial.
- 36 Originating Summons 2024: No. 333 and Originating Summons 2024: No. 334 shall be consolidated, case managed and tried together.
- 37 Costs in the cause.

Dated this day of August 2025

Hon. Andrew Martin PUISNE JUDGE

APPENDIX 1

Non-Disclosure and Confidentiality Agreement pursuant to paragraph 1 of this Order

This Confidentiality and Non-Disclosure Agreement (the "**Agreement**"), effective [*date*] (the "**Effective Date**"), is entered into

BETWEEN

Enstar Group Limited (the "Company") a company incorporated under the laws of the Bermuda and having its registered office address at c/o Conyers Dill & Pearman, Clarendon House, 2 Church Street, Hamilton, Pembroke HM11, Bermuda (the "**Company**")

AND

[*NAME*], a company incorporated under the laws of [*jurisdiction*] and having its registered office address at [*address*],

(each herein referred to individually as a "**Party**", and collectively as the "**Parties**").

WHEREAS

- (A) On 6 November 2024, at a special meeting of shareholders, the members of the Company passed a resolution approving three mergers which resulted in the merger between the Company and Elk Merger Sub Limited ("**Parent Merger Sub**"), (the "**Merger**"). As a result of the Merger and upon completion thereof, the Company will cease to be a publicly traded company and certain shareholders' shares in the Company will be cancelled in exchange for the right receive a payment of US\$338 per share.
- (B) Certain shareholders of the Company (each a "**Plaintiff**", and collectively the "**Plaintiffs**") commenced proceedings in the Supreme Court of Bermuda on 8 November 2024 to have the fair value of their shares determined by the court pursuant to section 106 of the Companies Act 1981. The proceedings were issued with cause numbers 333 and 334 of 2024 (collectively the "**Proceedings**").
- (C) Pursuant to an order for directions in the Proceedings dated [●] (the "**Directions Order**"), the Company is to establish an electronic data room (the "**Data Room**") to which discovered documents are to be uploaded for the purposes of the Proceedings.

- (D) The Parties are engaged in proprietary and confidential business activities, and could be prejudiced if Confidential Information (as defined herein) is disclosed publicly or to third parties, or used by the Recipient, its Expert, Representatives and/or Appointees (as defined herein) for purposes not reasonably related to the Proceedings.

NOW, THEREFORE, in consideration of the promises and the mutual agreements and covenants hereinafter set forth, and intending to be legally bound, the Parties hereby agree as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following words and expressions shall have the following meanings:

- (i) **"Affiliates"** means a corporation that is related to another corporation by shareholdings or other means of control; a subsidiary, parent or sibling corporation.
- (ii) **"Appointee"** means each person whom an Expert appoints to assist them in any work relating to the Proceedings, including the preparation of the Expert Reports and the Joint Expert Memorandum (such other terms as defined in the Directions Order) and any other preparations in relation to the Proceedings.
- (iii) **"Discloser"** means any Party who discloses Confidential Information (as defined below) in accordance with the Directions Order.
- (iv) **"Expert"** means the respective expert witnesses appointed by the Company and the Plaintiffs in relation to the Proceedings.
- (v) **"Recipient"** means any person who, in accordance with the Directions Order and subject to the provisions of this agreement, is entitled to receive, access, download or review Confidential Information.
- (vi) **"Representatives"** means, with respect to a Recipient, its Affiliates, agents, advisers, sub-advisers, representatives, legal advisors, service providers and consultants.

1.2 References to recitals and clauses are references to the recitals to and clauses of this Agreement.

- 1.3 Headings to clauses and the use of bold type are for convenience only and shall not affect the interpretation or construction of this Agreement.
- 1.4 Words in the singular include the plural and vice versa.

2 CONFIDENTIAL INFORMATION

2.1 **"Confidential Information"** means:

- (i) Any information disclosed by the Discloser to the Recipient, its Representatives and/or Appointees either directly or indirectly, in writing or orally, including related to: trade secrets; business, commercial, or financial information; financial statements; financial or business plans and strategies; financial models and advices; projections or analyses for future or prior periods; tax data; business and marketing plans and strategies; assets and liabilities; proposed strategic transactions or acquisitions, strategic alternatives, or business combinations; or other personally or commercially sensitive or proprietary information of the Discloser and its subsidiaries; and
- (ii) Any notes, analyses, compilations, studies, interpretations, documents or records containing, referring to, relating to, based upon or derived from, such Confidential Information, in whole or in part, created by the Recipient, its Representatives and/or Appointees.

2.2 Confidential Information shall not, however, include any information that:

- (i) Was publicly known or made generally available to the public without a duty of confidentiality prior to the time of disclosure to the Recipient by the Discloser;
- (ii) Has become publicly known or made generally available to the public without a duty of confidentiality, after disclosure to the Recipient by the Discloser, through or as a consequence of no action or inaction of the Recipient in breach of this Agreement; or
- (iii) Is in the rightful possession of the Recipient without confidentiality obligations at the time of disclosure by the Discloser to the Recipient as shown by the Recipient's

then contemporaneous written files and records kept in the ordinary course of business.

- 2.3 If the Recipient or its Representative becomes compelled by applicable law, rule or regulation or request of governmental or regulatory authority to disclose any Confidential Information, the Recipient will, insofar as it is permitted to do so by applicable law, rule or regulation and other than in the case of routine regulatory investigations, provide the Discloser with a written notice at least seven (7) days in advance of such disclosure, where practicable, and will provide such reasonable assistance to the Discloser, as the Discloser may require at the Discloser's sole expense, in seeking a protective order or other appropriate remedy.
- 2.4 If the Discloser waives the Recipient's compliance with this Agreement or fails to obtain a protective order or other appropriate remedy, the Recipient will furnish only that portion of the Confidential Information that it is required to disclose by applicable law, rule or regulation provided that any Confidential Information so disclosed shall maintain its confidentiality protection for all purposes other than such disclosure compelled by applicable law, rule or regulation.

3 MAINTENANCE OF CONFIDENTIALITY

- 3.1 Except as may otherwise be agreed in writing by the Discloser or ordered by the courts of Bermuda by way of relief from the implied undertaking or otherwise, all Confidential Information and its contents received by the Recipient, its Expert, Representatives and/or Appointees shall be:
- (i) Maintained as set forth in this Agreement;
 - (ii) Disclosed only to such persons and in such manner as permitted by this Agreement; and
 - (iii) Used solely for the purposes of or related to the Proceedings, consistent with the implied undertaking.
- 3.2 Prior to its Representatives, Experts and/or Appointees being granted access to the Data Room and/or receiving the Confidential Information, the Recipient shall
- (i) Ensure that its Representatives, Expert and Appointees expressly agree to comply with the confidentiality terms imposed by this Agreement or are otherwise bound by confidentiality obligations no less restrictive than those contained herein; and

- (ii) If requested by the Discloser, confirm that the agreements in clause 3.2(i) above have been obtained or obligations of confidentiality (as contemplated by clause 3.2(i) above) are otherwise in place.
- 3.3 The Recipient, its Representatives, Expert and Appointees shall keep the Confidential Information confidential and shall not, unless for a purpose of or related to these Proceedings (at all times consistent with the implied undertaking):
 - (i) Disclose any Confidential Information or permit any Confidential Information to be disclosed, either directly or indirectly, to any third party (other than other Representatives or Appointees or Recipients who have complied with the terms of this agreement) without the Discloser's prior written consent; or
 - (ii) Use the Confidential Information for any purpose other than as set out at Clause 3.1 above or exploit the Confidential Information in any way in communications with any competitor or competitors of the Discloser or its subsidiaries or affiliates.
- 3.4 The Recipient shall take necessary measures to protect the confidentiality, and to avoid disclosure and unauthorised use, of Confidential Information. Without limiting the foregoing, the Recipient shall take at least those same measures it employs to protect its own confidential information.
- 3.5 The Recipient shall reproduce the Discloser's proprietary rights notices on any copies of documents, in the same manner in which such notices were set forth in or on the original.

4 BREACH OF CONFIDENTIALITY

- 4.1 The Recipient shall notify the Discloser of:
 - (i) Any unauthorised use or disclosure, or suspected unauthorised use or disclosure, of Confidential Information by the Recipient, its Representatives, Expert and/or Appointees as soon as reasonably practicable upon becoming aware of such use or disclosure; and
 - (ii) Any actions by the Recipient, its Representatives, Expert and/or Appointees which are in breach of their respective obligations under this Agreement as soon as reasonably practicable upon becoming aware of such use or disclosure.

- 4.2 In the event of a breach of this Agreement that requires a notice under Clause 4.1 above, the Recipient shall reasonably cooperate with any and all efforts of the Discloser to help the Discloser regain possession of Confidential Information and/or prevent its further unauthorised use or dissemination.
- 4.3 The Recipient agrees to be responsible for any breach of this Agreement by any of its Representatives, Expert and/or Appointees that have received or obtained Confidential Information.
- 4.4 Nothing in this Agreement shall prejudice in any way the rights of the Discloser to file an application with the Bermuda court for a protective order relating to any Confidential Information.

5 DESTRUCTION OF MATERIALS

- 5.1 Upon the earlier of (i) the final determination of the Proceedings (including all appeals therefrom), or (ii) a legally binding agreement having been executed between the Company and the Plaintiff(s) as to the amount payable to it/them as a result of the Merger, and payment having been duly received by the Plaintiff(s) (the "**Final Determination**") the Recipient shall, upon request by the Discloser following the Final Determination, take all reasonable and proportionate steps to:
- (i) subject to clause 5.2, destroy any materials that are in writing or other tangible medium and permanently erase any materials that are in an electronic or other non-tangible medium (to the extent technologically feasible) that constitute Confidential Information obtained or possessed by the Recipient;
 - (ii) procure that all of its Representatives, Expert and/or Appointees destroy any materials that are in writing or other tangible medium and permanently erase any materials that are in an electronic or other non-tangible medium (to the extent technologically feasible) that constitute Confidential Information obtained or possessed by the Recipient's Representatives, Expert and/or Appointees; and
 - (iii) certify in writing to the Discloser that the Recipient has complied with the requirements of this Clause 5.
- 5.2 Notwithstanding the foregoing, the Recipient and its attorneys may each retain one copy of the Confidential Information to the extent necessary to comply with applicable law or

regulation, provided that copies so retained shall continue to be treated as confidential in accordance with the provisions of this Agreement.

- 5.3 Notwithstanding the destruction or erasure of Confidential Information pursuant to this Clause 5, the Recipient and its Representatives, Expert and Appointees shall continue to be bound by their confidentiality obligations and other obligations under this Agreement.

6 INDEMNITY

The Recipient shall indemnify the Discloser against all liabilities, costs, expenses, damages and losses suffered or reasonably incurred arising out of or in connection with any breach of this Agreement by the Recipient, its Representatives, Expert and/or Appointees.

7 INADEQUACY OF DAMAGES

The Recipient agrees that any violation of this Agreement may cause irreparable injury to the Discloser which cannot be adequately remedied in monetary terms or other damages, and accordingly the Discloser may seek and be entitled to obtain relief including specific performance and/or any other equitable relief in addition to all other legal remedies concerning any threatened or actual breach of any of the provisions of this Agreement.

8 TERM

- 8.1 The obligations of the Recipient under this Agreement shall survive until 24 months following compliance with Clause 5 above. Notwithstanding the foregoing, the Recipient's duty to hold in confidence any Confidential Information that was disclosed by the Discloser during the term of this Agreement shall remain in effect for five years from the date the Confidential Information was disclosed, or until the final determination of the Proceedings including any appeals (whichever is later).
- 8.2 The termination of this Agreement shall not affect any accrued rights or remedies to which the Discloser is entitled.

9 NO WARRANTY

The Discloser makes no warranties, express, implied or otherwise, with respect to non-infringement or other violation of any intellectual property rights of a third party or of the Recipient.

10 NO LICENSE

This Agreement shall not be construed as creating, conveying, transferring, granting or conferring upon the Recipient any rights, license or authority in or to the Confidential Information except as expressly set forth in this Agreement. Title to the Confidential Information will vest solely with the Discloser.

11 MISCELLANEOUS

- 11.1 This Agreement shall bind and inure to the benefit of the Parties and their respective successors and permitted assigns. The Recipient hereby represents and warrants that the person executing this Agreement on its behalf has express authority to do so, and, in so doing, to bind the Party thereto.
- 11.2 This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior written and oral agreements between the Parties regarding such subject matter.
- 11.3 If any provision herein shall be determined to be void or unenforceable in whole or in part for any reason whatsoever such invalidity or unenforceability shall not affect the remaining provisions or any part thereof contained within this Agreement and such void or unenforceable provisions shall be deemed to be severable from any other provision or part thereof herein contained.
- 11.4 No provision of this Agreement may be waived except by a written instrument executed by the Party against whom the waiver is to be effective. A Party's failure to enforce any provision of this Agreement shall neither be construed as a waiver of the provision nor prevent the Party from enforcing any other provisions of this Agreement. No provision of this Agreement may be amended or otherwise modified except by a written instrument signed by the Parties to this Agreement.
- 11.5 The Parties may execute this Agreement in one or more counterparts, each of which is deemed an original, but all of which together constitute one and the same agreement. This Agreement may be delivered by email or facsimile transmission, and email or facsimile copies of executed signature pages shall be binding as originals.

12 GOVERNING LAW AND JURISDICTION

- 12.1 This Agreement and any dispute, claim, suit, action or proceeding of whatever nature (including non-contractual disputes or claims) arising out of or in connection with it or its

subject matter or formation shall be governed by and construed in accordance with the laws of Bermuda.

- 12.2 Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts of Bermuda over any claim or matter arising under or in connection with this Agreement or the legal relationship established by this Agreement.

IN WITNESS WHEREOF, the Parties acknowledge that they have read and understood this Agreement and have executed this Agreement as of the Effective Date.

**Signed for and on behalf of
ENSTAR GROUP LTD**

Name:

Title/position:

Date:

In the presence of:

Name:

**Signed for and on behalf of
Plaintiff:**

Name:

Title/position:

Date:

In the presence of:

Name:

APPENDIX 2

Disclosure Protocol pursuant to paragraph 10 of this Order

A. Definitions

1. **Document** means original, draft and non-identical copies of all written, typed or printed items and electronically or digitally stored information (which for the avoidance of doubt includes all forms of communications, including any written, or electronic transmission of information (in the form of facts, ideas, inquiries, or otherwise), all meetings, discussions, dialogues, conversations, telephone calls, interviews, negotiations, cablegrams, mailgrams, telegrams, telexes, cables, correspondence, facsimiles, emails, text messages, oral/voice recordings, voice mails, voice notes, chat messages (including, but not limited to, Bloomberg messages, Instant Bloomberg chats, WeChat messages, Signal messages, WeCom messages, QQ messages, Microsoft Teams, Slack and WhatsApp messages), or any other forms of written interchange, however transmitted, including reports, models, spreadsheets, notes, memoranda, lists, agenda, proposals, opinions, messages, video tapes, and other documents or records of communication.
2. **Custodians** means those persons likely to have discoverable Documents in their possession, custody or power.
- 2A. **Email Thread Analytics** means the eDiscovery feature that groups emails into threads based on content and metadata (e.g., sender, subject, timestamp) and identifies *most-inclusive* emails, which consolidate all previous replies and forwards into a single version.
3. **Metadata** means data about data. In the case of an electronic Document, metadata is typically embedded information about the Document that is not readily accessible once the native electronic Document has been converted into an electronic image or paper Document, for example, the date on which the Document was last printed or amended. Metadata may be created automatically by a computer system (system metadata) or may be created manually by a user (application metadata).
4. **MD5 Hash Value** means the Message Digest algorithm 5 which is used to provide a 128-bit hash or "digital signature" for electronic Documents and is generated upon the basis of the binary data of a file; where two or more items have the same MD5 Hash Value they are deemed to be duplicates.

5. **Native File Format** means an electronic Document stored in the original form in which it was created by a computer software program (including all metadata).
6. **Non-Custodial Data Sources** means those data sources (such as shared drives, servers, etc.) likely to contain electronically stored information that would be subject to disclosure.
7. **Parent Document** means a Document with one or more attachments and/or embedded and/or linked or otherwise connected files. For example, an email is a parent Document and any Documents attached to and/or embedded within the email are its attachments. A parent Document and its attachments are family-inclusive, or family Documents.

B. Preservation of Documents

8. The Parties will preserve all potentially discoverable Documents, including the metadata of such Documents, and ensure no metadata is altered during the preservation, collection, review or disclosure process.

C. De-duplication

9. Stand-alone electronic Documents or entire Document families with the same MD5 Hash Value will be identified and any duplicates removed, except:
 - 9.1. where duplicates are added to a List of Documents because they are family members of other Documents which are also disclosed. Duplicates which are part of a family are not to be removed, unless the whole of the family is in fact a duplicate of another family; and
 - 9.2. scanned hard copy Documents.
10. A deNIST filter will be applied to the Documents during processing to identify and remove files that are generally created by operating systems or applications and contain no user-generated information or data.
11. Subject to the rest of this protocol, every email in a chain shall be provided in its original, native format as a separate document, together with its attachments (if any). If Email Thread Analytics are used to group emails into the same thread, and a relevant email is part of that thread, then all *most-inclusive* versions of the thread should be produced as separate documents in native format, in accordance with this protocol. A *most-inclusive* version means any end-point of the

thread that contains unique content or attachments. For the avoidance of doubt, if the *most-inclusive* version of a thread does not show the full date, time, and sender information for all emails in the thread, then each individual email in the thread shall be produced in native format, in accordance with this protocol. Any email in a thread with a unique attachment must be produced separately with its attachments, in native format in accordance with this protocol. All attachments to any produced email will also be produced with their relationship to the parent email identified by their Bates number.

D. Format

12. Electronic Documents are to be provided in their Native File Format, with all functionality, such as formulae and computations intact and enabled, and without watermarking or hardcoding subject to:
 - 12.1. Documents, other than excel spreadsheets, that have been redacted in accordance with this protocol, which Documents will be produced in Tagged Image File Format ("**TIFF**") with the relevant .opt file and Document ID coding;
 - 12.2. Excel spreadsheets, that have been redacted in accordance with this protocol, which Documents will be produced in a Native Format or near Native Format by using a software solution that retains the full functionality of the excel spreadsheet while applying redactions, such as Milyli, Evolver, or Redact Assistant. For the avoidance of doubt, documents disclosed in this way will not be hardcoded and will be disclosed containing (or, where that is not possible, together with) all native formulae and computations; and
 - 12.3. For the avoidance of doubt, any documents redacted and not produced in their Native File Format in accordance with this paragraph 12, shall be produced with all required metadata.
13. All PDF and TIFF Documents will be provided with corresponding Document level OCR text files where possible. All PDF and TIFF Documents will also be bates stamped with the Document ID.
14. The Parties will ensure Documents are decrypted, or that passwords are supplied. To the extent encryption for Documents cannot be successfully processed despite reasonable efforts, a slip sheet stating that the Documents cannot be decrypted shall be inserted in its place, including the

metadata required, to the extent it can be reasonably extracted from the file in its encrypted form.

15. Unless otherwise agreed or ordered by the Court, Parties should not place any restrictions on Documents that prevent opposing Parties from accessing them.
16. Family-inclusive Documents will be produced with metadata load files containing the family attachment range and parent Document with all Documents from the same family linked. Subject to any claim to privilege or irrelevance and confidentiality, all family Documents are to be disclosed where only one (or more) member(s) of a family of Documents is identified as relevant.
17. The following applies in relation to attachments to Documents:
 - 17.1. Attachments must be listed as separate Documents;
 - 17.2. Attachments will be linked to their Parent documents (and vice versa) in the Data Room; and
 - 17.3. In general, attachments will appear immediately after the Parent Document in any Data Room Index and Privilege Log.

E. Document Coding

18. The Parties shall provide the following metadata detail for each Document, where such detail is reasonably available:
 - 18.1. Document ID: The document ID must be a unique reference and should be 8 digits in length following the arty indicator, utilising zeros if necessary, e.g. ESGR-00001234, FWCM-00001234 or HARS-00001234. The Document ID shall appear as a bates stamp on each Document uploaded to the Data Room when the Document is viewed in image format and the bates stamping shall be visible when the document is downloaded or printed.
 - 18.2. Parent Document ID: If there is no parent document, leave this field blank.
 - 18.3. Last Modified Date: This should be the date and time last modified, or the manually coded date in the format DD/MM/YYYY, 00:00:00.

- 18.4. Date Created: This should be the original date and time a file was created and may be the same as the Last Modified Date.
- 18.5. Sent Date: The date and time that the Document was sent in the case of an email or other form of message and may be the same as the Date Created.
- 18.6. File Name/Subject/Description: This may be the file name or subject line of an email or other form of message or chat, or other descriptor.
- 18.7. Document Title: The extracted title of the Document.
- 18.8. Document Type: A descriptor enabling the specific file type to be identified (e.g., .pdf, .xls, .msg, etc.).
- 18.9. Sender/Author: The name of the author of a Document or sender of an email or other form of message.
- 18.10. CC: The name of the recipient(s) of the Document in a CC. Use a semi-colon (;) symbol as the multi-value separator.
- 18.11. BCC: The name of the recipient(s) of the Document in a BCC. Use a semi-colon (;) symbol as the multi-value separator.
- 18.12. Recipient: The name of the recipient(s) of the Document. Use a semi-colon (;) symbol as the multi-value separator.
- 18.13. Custodian or Non-Custodian Data Source: The name of the custodian from whom the Document was drawn, and the names of any other custodians who had duplicate copies of the Document.
- 18.14. MD5 Hash Value: as defined.
- 18.15. Contains Redactions: This will be a binary "Yes/No" code applying where the whole or part of a Document has been redacted.
- 18.16. Reason for Redaction or reason for being withheld: This will identify the reason for the redaction or withholding a document using the following labels, as applicable:

18.16.1. Legal advice privilege (if applicable);

- 18.16.2.** Irrelevance and confidentiality;
- 18.16.3.** Litigation privilege;
- 18.16.4.** Without prejudice privilege; and
- 18.16.5.** Common interest privilege.

F. Excluded Documents

- 19. Temporary internet files, cookies and irrelevant gif files (i.e. company logos) are to be excluded from searches and discovery (to the extent possible).

G. Withholding Disclosure

- 20. Nothing in this Protocol will prevent a Party from withholding Documents from production on the basis of any applicable Bermuda law.
- 21. If a claim of privilege is asserted over a portion of a Document only, that portion will be redacted and the Document produced.
- 22. The redacted section/s of a Document are to be identified as such either by being blacked out or by otherwise being marked as having been redacted and stating the reason for the redaction in the List of Documents.

H. List of Documents

- 23. The following information shall be provided in any Data Room Index to the extent that this information is reasonably available:
 - 23.1. Document ID;
 - 23.2. Parent document ID;
 - 23.3. Last modified date;
 - 23.4. Date created;
 - 23.5. Email sent date;

- 23.6. Conversion ID;
 - 23.7. Title/subject/description;
 - 23.8. Document type: (i.e. .pdf, .xls, .msg etc.);
 - 23.9. Sender/Author;
 - 23.10. Recipient;
 - 23.11. Contains redactions; and
 - 23.12. Reason for redaction.
- 24. The Data Room Index will be ordered by family group, with attachments listed below parent documents.
 - 25. In respect of attachments to Documents, the above paragraph shall apply and attachments must be listed as separate Documents.
 - 26. The Data Room Index will be provided in an excel spreadsheet format (.xls) or such other format as may be agreed by the Parties.

I. Form of Production

- 27. Unless otherwise agreed, production by the Parties is to be given via a "load file" which meets the requirements of this protocol.

J. Translation

- 28. Where a document uploaded to the Data Room is not in the English language, the disclosing Party shall obtain a certified English translation thereof and an electronic copy of such translation shall be uploaded by the disclosing Party to the Data Room. The English translation shall be uploaded to the Data Room together with the source document, which shall be cross-referenced and/or linked to the translation.
- 29. In the event that any Party wishes to rely on a document which is not in the English language and a certified English translation is not available, that Party shall request, and the disclosing Party shall procure and provide a certified English translation of the document, an electronic copy of

which shall be uploaded to the Data Room as soon as practicable. The costs of any such translations shall be borne by the disclosing Party but shall ultimately be costs in the proceedings.

K. Variation

30. This protocol may be varied by agreement of the Parties in writing or by order of Court.

APPENDIX 3

Categories of Defendant Discovery pursuant to paragraph 2 of this Order

Unless otherwise defined, all capitalised terms have the same meaning ascribed to them in the Proxy. "Documents" shall have the same meaning ascribed to it in Appendix 2.

In this Appendix 3, headings are for convenience only and shall not affect the interpretation or construction of this Appendix, and the following definitions apply:

The following definitions shall apply herein:

- a. **Go-Shop Parties** means any of the 34 parties contacted for the purpose of the "go shop" process, referred to in the Proxy, including their respective Representatives (each a "**Go-Shop Party**").
- b. **Investor Group Parties** means the following: the Buyer Parties, Sixth Street, the Sixth Street Filing Parties, JCF, and the CEO Filing Party, including their respective Representatives (each an "**Investor Group Party**").
- c. **Key Parties** means the persons referred to in paragraph 1 (including its sub-paragraphs) of this Appendix 3, including their respective Representatives (each a "**Key Party**").
- d. **Potential Purchaser** means Party A, the Go-Shop Parties, and any other party that was approached for the purposes of, expressed any interest in, or submitted any proposal to acquire the Company (whether solicited or not), including their respective Representatives.
- e. **Recused Directors** means Dominic Silvester, Orla Gregory and James Carey, including their respective representatives (each a "**Recused Director**").
- f. **Representatives** means, in respect of a person of legal entity, that person or legal entity's representatives, management, officers, employees, agents, legal or other advisors, subsidiaries or affiliates.

The Company, the Board and their advisors

- 1 Documents produced by, provided to or received from Goldman Sachs or its Representatives or affiliates (the "**Financial Advisor**") relating to the Transactions, any proposed other transaction, or any strategic opportunity for the acquisition of shares in the Company, which includes the matters set out in the Proxy (including but not limited to the Financial Advisor's

fairness opinion dated 29 July 2024 ("**Fairness Opinion**")), including Documents passing between the Financial Advisor and the following parties or their Representatives:

- 1.1 The Company's Board or any of its constituent members from time to time, including but not limited to any Recused Director;
 - 1.2 The Company;
 - 1.3 The Company's investors, including those who were approached to, but ultimately did not, rollover their equity interests as part of the Transactions;
 - 1.4 Any Investor Group Party;
 - 1.5 CPPIB;
 - 1.6 The Preferred Equity Investor;
 - 1.7 Liberty Strategic Capital LP;
 - 1.8 Any Potential Purchaser; and/or
 - 1.9 Any financing source for a Potential Purchaser, Investor Group Party, or Reinvesting Shareholder.
- 2 Documents relating to (i) the Company's decision to not form a committee to consider and negotiate the Transactions (ii) the recusal of any member of the Board for any purposes relating to the Transactions, including but not limited to any of the Recused Directors and (iii) the suitability or independence of any non-recused member of the Board for any purposes relating to the Transactions.
- 3
- 4 Documents relating to the Transactions, any proposed other transaction, or any strategic opportunity for the acquisition of shares in the Company, which includes the matters set out in the Proxy, produced by, provided to, received from, concerning, or passing between any of the Key Parties.

- 5 Documents (including all prior versions and drafts) in relation to the negotiation of the Transactions (and related Documents), including analysis or projections prepared by or for the Company, any member(s) of the Board (or their Representatives), the Financial Advisor, or any Key Party.
- 6 Documents produced by, provided to, received from or communicated between employees, directors, officers, management or consultants of the Company concerning the production and calculation of any analysis or projections sent to (or intended to be sent to): (i) the Financial Advisor and/or any member of the Board; and (ii) any other sets of projections (including, for the avoidance of doubt, in respect of the Fairness Opinion) including drafts or relating to discussions of any such Documents.

Buyer Parties, Reinvesting Shareholders, financiers, and potential purchasers

- 7 Documents produced by, provided to or received from any Key Party in relation to the Transactions or any proposed other transaction, or any strategic opportunity for the Company or its shares, which includes the matters set out in the Proxy (including the negotiation of the same, due diligence on the Company, all projections, budgets, models or reports, including prior versions and drafts of such documents).
- 8 Documents produced by, provided to or received from any Key Party, or any of their actual, potential or prospective sources of financing, relating to the financing of the Transactions, any proposed other transaction, or any strategic opportunity for the acquisition of shares in the Company, which includes the matters set out in the Proxy.

Corporate and financial documents

- 9A Minutes and agendas of Board meetings and any supporting documentation, board packs, and any other Documents prepared for Board meetings of the Company (including meetings of any subset of the Board or non-recused directors).
- 9 Monthly management accounts for the Company.
- 10 Consolidated and unconsolidated quarterly accounts for the Company.

- 11 To the extent not covered by requests 9 and 10 above, any, budgets, profit and loss statements, balance sheets, cash flow statements and any accompanying notes, commentary, reports or business plans.
- 12 Documents provided to the Bermuda Monetary Authority, including but not limited to periodic statutory financial statements and statutory financial returns, opinions of the Company's loss reserve specialist, alternative capital schedules, and Documents containing any analysis of or otherwise pertaining to the Company's solvency requirements and target capital level.
- 13 Documents assessing the values of investments, loans and other receivables, and liabilities (including groupings of related liabilities) of the Company above US\$10 million (including the rationale behind such values).
- 14
- 15 Documents relating to the expiry timeline and/or value of patents owned or licensed by the Company.
- 16 Documents (i) between the rating agencies and the Company and (ii) internal to the Company considering the assessment of the credit rating of the Company and its reinsurers.
- 17 Documents considering the reserve policy of the Company.
- 18 Documents containing an assessment of (or the reasons or rationale behind) the company's capital position and solvency ratio (including analysis of the impact on Company performance metrics).
- 19 Documentation containing an assessment of any off-balance sheet or non-operating assets and liabilities of the Company, including pension and foreign exchange liabilities above US\$10 million.
- 20 Documents relating to the value of, or the Company's equity stake in, any subsidiary entities or affiliates, and any actual or potential transactions (other than transactions with third parties described in Category 31) involving the transfer of assets, liabilities, or capital among the Company and its subsidiaries or affiliates.

- 21 Advice or analysis relating to Bermuda, US federal and UK corporation tax, withholding tax or other tax prepared by or for the Company's management.

Projections and valuations

- 22 Financial projections, forecasts, valuations, budgets, reports and models and supporting documentation, including final versions, any draft versions, and Documents discussing:
- 22.1 Internal forecasts, budgets, projections, reports and models including source data and any supporting documentation, including as to the Company's reported, economic, adjusted, target, or potential return on equity, including any comparison to competitors or industry benchmarks;
 - 22.2 External forecasts, budgets, projections, reports and models relating to the Company's long-term plans including any supporting documentation;
 - 22.3 Any minutes or other Documents relating to the Company's projections (for the avoidance of doubt including but not limited to those Documents previously produced by, provided to, or communicated between employees of the Company in the production and calculation of the projections sent to the Financial Adviser and any other sets of projections in existence);
 - 22.4 Valuations or models of the Company (or any part of it, and whether for financial reporting, tax or investment appraisal purposes or otherwise) prepared by or for the Company, including any accompanying or supporting Documents provided to or obtained from any financial adviser in relation to any such valuation, including as to the effect of any applicable interest rate or discount rate applicable to the Company and its assets and liabilities; and
 - 22.5 Documents discussing or containing the calculation, analysis, comparison, or reconciliation of (or the rationale behind such calculation, analysis, comparison, or reconciliation) GAAP book value, regulatory book value, and/or any other economic or adjusted book value of the Company (including the Management Adjusted Book Value and any prior versions or drafts).

- 23 Documents relating to the application or effect of any accounting treatments, standards, or regulatory requirements on any valuation model of the Company as referred to in paragraph 22 above.
- 24 Analyst, third party market and industry reports relevant to the Company and/or the markets in which the Company operates, including any Communications with and Documents produced by, provided to or received from any such analyst, third party and/or industry member.

Operations and strategy

- 25 Internal Documents considering the market share and commission broken down by business segment, including those relating to the consideration of competition in the Company's markets, and the impact of competitor exits, or changes in risk appetite, on the market.
- 26 Documents considering the Company's industry positioning and public perception and any communications with journalists, industry and market analysts (including any discussion of the potential impact of analyst coverage on the Company or its share price).
- 27 Documents relating to any other potential acquisition of the Company or any part of it considered by the Company's management or Board or any member of the Board.
- 28 Documents discussing or assessing returns, risk management, and allocation of the Company's investable assets, including any scenario analyses, potential alternative approaches to investment management, or comparison to competitors or industry benchmarks.
- 29 Documents considering any actual or potential capital transactions (other than transactions with third parties described in Category 31), including any discussions or analysis of such transactions, and any comparisons against alternative uses of capital above US\$10 million.
- 30 Documents containing, discussing or assessing the Company's claims management and loss reserve policies and performance data provided to management, including any comparison to competitors or industry benchmarks.
- 31 Documents considering any loss portfolio transfer, adverse development cover or other transaction involving the provision of insurance or reinsurance coverage or transfer of risk on a portfolio of liabilities and/or assets presented to, considered or consummated by the Company or its affiliates.

- 32 Documents considering any actual or potential alternative strategic plans for the Company, including any low-capital or sidecar strategies, strategic partnerships, or the generation of asset management fees.
- 33 Agreements with the Company's related parties, including reinsurance or service agreements.
- 34 Documents considering the Company's post-Transactions plan, including valuation and analysis and any potential relisting or IPO of the Company.
- 35 Documents considering the potential benefits, risks, and comparative differences for the Company of operating as a publicly traded or private company.

Shares and shareholders

- 36 The number, terms and class of shares issued by the Company and any changes thereto, and the terms and conditions of any outstanding share options and Documents relating to any potential dividends or stock buybacks.
- 37 Documents produced by, provided to, received from or passing between the Company and/or any of its shareholders in relation to the Transactions, including shareholders' interests and incentives including, without limitation, Documents in relation to the exercise of shareholders' voting rights or voting agreements, or objections, including all written objections to and correspondence regarding the Transactions received by the Company and Documents responding to, discussing, analyzing or commenting on the feedback or other communications received from the shareholders.
- 38 Documents considering any actual or potential significant transactions of the Company's shares, including shares accumulated by the members of the Board, or any Investor Group Party prior to and/or in anticipation of the Transactions.
- 39 Documents produced by, provided to, received from or communicated between directors, management or consultants, advisors or officers of the Company considering the market price, potential future market price, or value of the shares of the Company as well as whether the Company's market price was believed to have reflected the Company's intrinsic value.

APPENDIX 4

Categories of Plaintiff Discovery pursuant to paragraph 7 of this Order

Unless otherwise defined, all capitalised terms have the same meaning ascribed to them in the Proxy. "Documents" shall have the same meaning ascribed to it in Appendix 2.

- 1 A schedule setting out the full history of the Plaintiffs' sale and purchase of shares of the Company in the 2-year period ending on the Valuation Date.
- 2 Any valuations or valuation analyses of the Company or the Company's shares that the Plaintiffs prepared, reviewed or considered for the purposes of the merger.
- 3 All Documents provided to, reviewed or considered by the Plaintiffs' investment committees, if applicable, for their consideration of the merger.