

Dated February 6, 2023

SHAREHOLDER'S CUM JOINT VENTURE AGREEMENT

BETWEEN

AND

JSW CEMENT LIMITED

AND

Aquarius Global Fund PCC

AND

JSW CEMENT FZE

## SHAREHOLDERS' CUM JOINT VENTURE AGREEMENT

This shareholders' cum joint venture agreement (the "**Agreement**") is executed on this 6<sup>th</sup> day of February, 2023 (the "**Execution Date**") by and amongst:

1. **JSW Cement Limited**, a company having corporate identity number U26957MH2006PLC160839 and incorporated in India under the Companies Act, 1956, having its registered office at JSW Centre, Bandra Kurla Complex, Bandra (East), Mumbai 400051 (hereinafter referred to as "**JSWCL or Existing Investor**", which expression shall include its successors and permitted assigns); AND
2. **Aquarius Global Fund PCC**, a company incorporated under the laws of Mauritius and having its Registered office at Apex House, Bank Street Twenty-Eight, Cybercity, Ebene 72201, Mauritius represented by its Director/ Authorised Official Sangeeta Bissessur, having (hereinafter referred to as the "**New Investor or Investor**", which expression shall include its successors and permitted assigns.
3. **JSW Cement FZE**, a free zone establishment incorporated in Fujairah Free Zone, United Arab Emirates having Trade Licence No. 3890 and having its address at Fujairah, P.O. Box 50492, Fujairah, United Arab Emirates. (hereinafter referred to as "**Company**", which expression shall include its successors and permitted assigns.)

The Existing Investor and New Investor are hereinafter referred to individually as "**Shareholder**" and collectively as the "**Shareholders**".

Existing Investor and New Investor and the Company are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

### WHEREAS:

- A. The Company is currently engaged in the business of mining, manufacturing and trading of limestone, clinker and related products ("**Business**").
- B. As of the Execution Date (as defined above), the Company has an authorized/issued/paid up share capital of AED 109,939,500 divided into 7,32,930 Equity Shares of par value of AED 150 per equity share.
- C. The shareholding pattern of the Company as on the Execution Date has been set out in Schedule I (*Shareholding Pattern of the Company as on the Execution Date*).
- D. The New Investor will invest in the Company and will hold 49% stake in the Company post the Completion (*as defined in the Share Subscription Agreement entered between the Parties*).
- E. The Parties are desirous of entering into this Agreement to record their understanding

inter alia in relation to: (i) certain agreements and obligations with respect to the operation, management, and assets of the Company (defined below); and (ii) certain rights and obligations of each Party in respect of their respective Shares (defined below) and in respect of any further Shares that may be subsequently acquired by them in the Company.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS SET FORTH HEREIN AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement, the following words shall, to the extent not inconsistent with the context thereof, have the following meanings respectively:

“**Affiliate**” shall mean a Person who, with respect to a specified Person, directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the Person specified;

“**Applicable Law**” or “**Law**” means any applicable statute, law, regulation, ordinance, rule, judgment, rule of law, order, decree, clearance, governmental approval, directive, guideline, policy, requirement, or other restriction imposed by a Governmental Authority or any similar form of decision, or determination by, or any interpretation or administration of any of the foregoing by, any statutory or regulatory authority whether in effect on the Execution Date or thereafter and in each case as amended from time to time;

“**Approved Annual Plan**” has the meaning ascribed to the term in Clause 6.8 (a);

“**Approved Monthly Plan**” has the meaning ascribed to the term in Clause 6.8(b);

“**Articles of Incorporation**” or “**Articles**” means the articles of incorporation of the Company, as amended from time to time;

“**Board of Directors**” or “**Board**” means the board of directors of the Company, as the case maybe;

“**Board Meeting**” means a meeting of the Board;

“**Business**” has the meaning ascribed to the term in Recital A above;

“**Business Day**” means a day on which banks are open for general commercial business (other than a Saturday or Sunday or public holiday);

“**Charter Documents**” means collectively the Articles of Incorporation or other constitutional documents or by-laws of a Person, as amended from time to time;

“**Competitor**” means any Person who is directly or indirectly, engaged in any activity which is the same as and/or substantially similar to the Business or which competes with the Business of the Company;

“**Director**” means a director of the Company;

“**Encumbrance**” shall mean any encumbrance, including any charge, claim, pledge, hypothecation, condition, mortgage, equitable interest, lien (statutory or other), deposit by way of security, bill of sale, tax, option or right of pre-emption, beneficial ownership (including usufruct and similar entitlements), option, security interest, mortgage, easement, encroachment, public / common right, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership, any provisional, conditional or executorial attachment and any other interest held by a third party and the term “**Encumber**” shall be construed accordingly;

“**Equity Shares**” or “**Shares**” means the issued and fully paid up equity shares of the Company of par value of AED 150 each;

“**Financial Investor**” means any private equity fund, financial institution, alternate investment fund, sovereign wealth fund, mutual fund, insurance company, asset manager and any other fund including a portfolio investment schemes managed by such managers, banks, non-banking financial companies (other than a core investment company) or institutional investors, foreign portfolio investors, brokerages, which is engaged in the business of making financial investments as its primary business;

“**Financial Year**” means period from April 1 of a year to March 31 of the following year;

“**General Meeting**” means either an extraordinary general meeting of the Company or an annual general meeting;

“**Governmental Authority**” means any competent governmental, regulatory, statutory or administrative authority, agency, branch, department, commission or instrumentality (whether local, municipal, provincial, state, national or otherwise), domestic or foreign court, judicial body, stock exchange, board or tribunal or other law, rule or regulation making entity or any state or other subdivision thereof or any municipality, district or other subdivision thereof and shall include any governmental regulatory or administrative authority, body or other organization to the extent that the rules, regulations and standards, requirements, procedures or orders of such authority, body or other organization have the force of Applicable Law;



“**Person**” means any natural person, limited or unlimited liability company, corporation, partnership (whether limited or unlimited), proprietorship, Hindu undivided family, trust, union, association, Governmental Authority or any agency or political subdivision thereof or any other entity that may be treated as a person under Applicable Law, works council, employee representative body or other entity (whether or not having separate legal personality);

“**Pro Rata Share**” means the proportion that the Shares held by such Shareholder bears to the Total Share Capital;

“**Sanctions List**” means means the “Specially Designated Nationals and Blocked Persons” list maintained by Office of Foreign Assets Control or any similar list maintained by the United States Department of State or any other U.S. government entity, the United Nations Security Council, any United Nations Security Council Sanctions Committee, or the European Union;

“**Shareholder**” means any Person whose name appears in the register of members of the Company and who is a holder of any Shares;

“**Total Share Capital**” means the aggregate paid up value of the Equity Shares;

“**Transfer**” shall mean, with respect to any Equity Shares, to directly or indirectly, (i) sell, pledge, encumber, transfer, dispose of, or grant of an option with respect to such Equity Shares or (ii) enter into an agreement or commitment providing for the sale, pledge, encumbrance, transfer, disposal of or grant of an option with respect to such Equity Shares or any right or interest therein;

“**Warranties**” means the respective representations and warranties of the Company set out in Schedule II.

## 1.2 Interpretation

- (a) Any reference herein to any clause, schedule is to such Clause or Schedule to this Agreement, unless the context otherwise requires. The Schedules and Recital to this Agreement shall be deemed to form part of this Agreement.
- (b) The table of contents hereto, headings, subheadings, titles, subtitles to Clauses are inserted for convenience only and shall not affect the construction of this Agreement.
- (c) Unless the context otherwise requires, words importing the singular include the plural and vice versa, and pronouns importing a gender include each of the masculine, feminine and neuter genders.
- (d) The terms “hereof”, “herein”, “hereby”, “hereto” and derivative or similar words

refer to this entire Agreement or specified Clauses or Schedules of this Agreement, as the case may be.

- (e) Reference to a statute or provisions thereof shall be construed as meaning and including references also to any amendment or re-enactment for the time being in force of such statute or provision, as the case may be and to all statutory instruments or orders made pursuant to such statute or provision(s).
- (f) Reference to the word “include”, “including” or any similar expression shall be construed without limitation.
- (g) Time is of essence in the performance of the Parties’ respective obligations. If any time period specified herein is extended by mutual agreement between the Parties, such extended time shall also be of essence. If the completion of transactions under this Agreement requires approvals from regulatory authorities, then the period specified in the Agreement within which the transaction should be completed, shall be extended by such additional time as may be required for obtaining the necessary approvals.
- (h) The words “directly or indirectly” mean directly, or indirectly through one or more intermediary Persons, or through contractual or other legal arrangements, and “direct or indirect” shall have the correlative meanings.
- (i) References to this Agreement or any other document, are to this Agreement or that document as in force for the time being and as amended from time to time in accordance with the terms of this Agreement or that document; or, as the case may be, with the agreement of the relevant parties.
- (j) Words and phrases, not defined herein but the definitions of which are contained or referred to in the relevant statute/legislation, shall be construed as having the meaning thereby attributed to them.
- (k) Any reference to “writing” or “written” shall include printing, typing, lithography, transmissions by facsimile or in electronic form (including e-mail) and other means of reproducing words in visible form.

## 2. EFFECTIVENESS OF THE AGREEMENT

- 2.1 This Agreement shall be effective from the Execution Date and shall, unless terminated in accordance with the terms of this Agreement, continue to be valid and in full force until its termination in accordance with the provisions herein contained.
- 2.2 The shareholding pattern of the Company as on the Execution Date is as set out in **Schedule I** (*Shareholding Pattern of the Company on the Execution Date*) of this Agreement.

### 3. REPRESENTATIONS AND WARRANTIES AND UNDERTAKINGS

- 3.1 The Company represents and warrants to each of the Shareholders that each of the statements in **Schedule II** is, and shall be, as of the Execution Date, true, correct and not misleading. The Company acknowledges that the Shareholders are entering into this Agreement relying upon such respective Warranties.
- 3.2 The Company shall promptly inform the Shareholders if the Warranties made in or pursuant to this Agreement become inaccurate or incomplete at any time during which the Shareholders, as the case may be, continue to hold any Securities.
- 3.3 The Company shall give to the Shareholders and their representatives, including their legal advisors and accountants, all such information and documentation as each of the Shareholders shall reasonably require to enable it to satisfy itself as to the accuracy and due observance of the Warranties.
- 3.4 No information relating to the Company of which the Shareholders have knowledge (actual or constructive) or reason to believe or suspect, and no investigation by or on behalf of any of the Shareholders shall prejudice any claim made by any of the Shareholders under such Warranties or operate to reduce any amount recoverable by the Shareholders or any liability of the Company.
- 3.5 Each of the Parties represents in respect of itself to the other Parties that:
- 3.5.1. such Party has the full power and authority to enter into, execute and deliver this Agreement and to perform the transactions contemplated hereby and such Party, as applicable, is duly incorporated or organized with limited liability and existing under the laws of the jurisdiction of its incorporation or organization;
  - 3.5.2. the execution and delivery by such Party of this Agreement and the performance by such Party of the transactions contemplated hereby has been duly authorized by all necessary corporate or other action of such Party;
  - 3.5.3. following its execution and delivery, this Agreement constitutes the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally; and
  - 3.5.4. there are no legal, quasi-legal, administrative, arbitration, mediation, conciliation or other proceedings, claims, actions, governmental investigations, orders, judgements or decrees of any nature made, existing, or pending which may prejudicially affect its holding of Shares (if applicable) or the due performance or enforceability of this Agreement or any obligation, act, omission or transactions contemplated hereunder.



#### 4. TERMINATION

- 4.1 The Agreement may be terminable (i) upon mutual agreement in this respect, (ii) automatically vis-à-vis a Party, upon such Party ceasing to hold any Shares of the Company; and (iii) automatically, in the event the any of the Shareholder acquires 100 % (hundred percent) of the Total Share Capital of the Company (iv) upon the winding up of the Company by resolution of the Shareholders or by a final order of the competent court.

#### 5. MANAGEMENT

##### 5.1 Governance

- 5.1.1. Subject to Applicable Law, the Charter Documents and the terms of this Agreement, the assets, business, and affairs of the Company shall be managed exclusively by and under the direction of the Board of the Company. The Board of the Company may exercise all powers and undertake all such actions as are required or permitted under the Applicable Law, the Charter Documents and this Agreement.
- 5.1.2. The Board of the Company shall comprise of a minimum of 2 (two) directors and a maximum of such number of directors as may be mutually agreed between the Parties in writing, from time to time and in accordance with the Applicable Law.
- 5.1.3. The Existing Investor shall have the right to nominate 50 (fifty) % of its directors on the Board of the Company ("**JSWCL Directors**"). The New Investor shall have the right to nominate 50 (fifty) % of its directors on the Board of the Company ("**New Investor Directors**").
- 5.1.4. On the Execution Date or any other early date as mutually agreed between the Parties, the Company shall ensure the Board of the Company is reconstituted in the manner as provided in this Clause 5.
- 5.1.5. JSWCL shall have the right to require the removal, at any time, of any JSWCL Directors, with or without cause, and to nominate another individual as a JSWCL Director in place of the removed JSWCL Director or to appoint an alternate to an JSWCL Director or to nominate an individual to act as an JSWCL Director in case of any vacancy in the office of an JSWCL Director. New Investor and the Company shall take all necessary actions to give effect to this Clause 5.1.7.
- 5.1.6. The New Investor shall have the right to require the removal, at any time, of any New Investor Directors, with or without cause, and to nominate another individual as a New Investor Director in place of the removed New Investor Director or to appoint an alternate to the New Investor Directors or to nominate an individual to act as the New Investor Director in case of any vacancy in the office of the New Investor Directors. JSWCL and the Company shall take all necessary actions to give effect to this Clause 5.1.8.



5.1.7. The Parties hereby agree that the composition of the Board of the Company at all times, be in compliance with Applicable Laws and be in accordance with Clause 5.1.3 of this Agreement. JSWCL, and New Investor hereby agree to exercise their respective voting rights as Shareholders of the Company to give effect to the provisions of this Clauses 5 within the time prescribed under Applicable Laws.

5.2 **Conduct of the meetings of the Board**

- (a) All Board Meetings shall be conducted in accordance with the Charter Documents, the Applicable Law, and this Agreement.
- (b) The quorum for Board Meetings shall be 2 (two) Directors or such other requirement as may be specified under the Applicable Law, provided however that no quorum as aforesaid shall be validly constituted, unless at least 1 (One) nominee director of each of JSWCL and New Investor is present at the commencement of such meeting and throughout its proceedings.
- (c) All the decisions of the Board except for the Affirmative Vote items shall be passed in accordance with the Applicable Law.

5.3 **Appointment of Key Personnel**

- (a) The Board shall from time to time in compliance with the requirements of the Applicable Law appoint / remove / replace various key personnel of the Company which may without limitation include a chief executive officer (“CEO”), chief financial officer (“CFO”) operations manager(s), company secretary, compliance officers and/or delegate the power to appropriate persons.
- (b) The Company shall appoint one or several Managers and determine their roles, responsibilities, power, and duties as per Charter Documents.
- (c) The CEO shall report to Board and work under the supervision of the Board. All other key managerial persons shall report to the CEO.

5.4 **Affirmative Vote Items**

5.4.1. Notwithstanding anything to the contrary contained in this Agreement, no obligation of the Company shall be entered into, no decision shall be made and no action shall be taken by or with respect to the Company, whether in meetings of the Board or by circulation or by Shareholders of the Company or otherwise, in relation to any of the matters set forth in **Schedule III** (collectively, the “**Affirmative Vote Items**”) without following the procedure set forth in this Clause 5.4.

5.4.2. Any action in relation to an Affirmative Vote Item as specified in **Schedule III** shall be

considered approved only if it has been approved (i) in case of a Board meeting by circulation, by unanimous consent of the Directors present and voting and shall include affirmative vote of the JSWCL Director and New Investor Director; and (ii) in case of the Shareholders meeting by unanimous consent of the Shareholders present and voting and shall include the affirmative vote of at least 1 authorized representative of each JSWCL and New Investor.

## **6. GENERAL MEETINGS**

- 6.1 General Meeting(s) of the Company shall be convened and conducted in accordance with the Charter Documents, the Applicable Laws and this Agreement.
- 6.2 The quorum for any General Meeting including at an adjourned meeting of the Shareholders of the Company shall include the presence, in person or through their proxies/authorized representatives, of such number of Shareholders as required under the Applicable Law. Provided that if such a quorum is not present within 1 (One) hour from the time appointed for the meeting, the meeting shall be adjourned in accordance with the provisions of the Applicable Law. No business shall be transacted at any General Meeting unless there is a valid quorum, both at the time when the meeting is called to order and throughout the meeting.
- 6.3 General Meetings shall be held in accordance with the provisions of the Applicable Law, this Agreement and the Charter Documents. All decisions at a Shareholders' meeting shall be taken by putting the relevant matters to vote by way of show of hands only. Every Shareholder present at a General Meeting shall have one vote for each Equity Share held by such Shareholder, in respect of any matter that is put to vote. No Person shall have a casting vote at a duly convened Shareholder meeting.
- 6.4 The Shareholders shall not consider or take any decision on any matter that is not included in the agenda for any General Meeting, including at any adjourned meeting thereof, unless the inclusion of such additional item is unanimously approved by all the Shareholders.
- 6.5 Each of the Shareholders shall ensure that it, its representatives and proxies representing it at General Meetings shall, at all times, exercise their votes and otherwise act in such manner so as to comply with, and to fully and effectually implement the spirit, intent and specific provisions of this Agreement.
- 6.6 Approval of business plan and other operational matters

The Company hereby agrees to put in place appropriate mechanisms to ensure that:

- (a) the Board of the Company determines/amends the financials of every year within 6 (six) months from expiry of the Financial Year);

- (b) the Board of the Company reviews on a regular basis any deviations from the Approved Annual Plans;

## 7. FURTHER ISSUE OF CAPITAL

- 7.1 The Company shall not issue any of its Shares to any Person unless the Board has offered to the existing Shareholders such Shares to the extent of their respective Pro Rata Share.
- 7.2 In the event either of the Shareholders does not subscribe to the Pro Rata Share or any part thereof (the “**Unsubscribed Portion**”), the Board shall be entitled to offer such Unsubscribed Portion to the other Shareholder and thereafter to any third party with prior written consent of all Shareholders and in accordance with Clause 8 (*Restrictions on Transfer of Shares and other Covenants*) of this Agreement, the Charter Documents and Applicable Law.

## 8. RESTRICTIONS ON TRANSFER OF SHARES AND OTHER COVENANTS

### 8.1 Prohibition on Transfer

- 8.1.1. Each Shareholder hereby agrees that it shall not, directly or indirectly, transfer any Shares in the Company, held by it, to any Person other than any Transfer: -
  - 8.1.1.1. in accordance with Clause 8.5 (*Permitted Transfer to Affiliates*);
  - or
  - 8.1.1.2. in accordance with Clause 8.6 (*Transfer to Financial Investor*).
- 8.2 Any Transfer or attempt to Transfer any Shares of the Company in violation of these terms shall be null and void ab initio and the Company shall not register such Transfer and may institute proceedings for this purpose, if required by applicable Law.
- 8.3 No Transfer of Shares of the Company may be made unless the Transfer complies in all respects with the other provisions of Applicable Laws, this Agreement and the Charter Documents.
- 8.4 The Transfer restrictions on Shareholders of the Company under this Agreement and/or in the Charter Documents shall not be capable of being avoided by the holding of Shares indirectly through a company or other entity (or one or more companies or entities either alone or together in any combination or under contract) that can itself (or the Shares in it) be sold in order to Transfer an interest in Shares, to avoid the restrictions imposed under this Agreement and the Charter Documents. Any Transfer or attempted Transfer of any Shares of the Company in violation of the provisions of this Agreement shall be void. Subject to any applicable Laws, the Company shall not register or record the Transfer of any Shares not in compliance with this Clause 8. The Company shall not register or record



any Transfer of Shares in violation of the provisions of this Agreement, and shall not recognize as a shareholder, nor accord any rights (whether relating to payment of dividend or voting) to the purported transferee of any Shares in violation of the provisions of this Agreement, but shall continue to recognize the extant shareholder on the records of the Company as the owner of such Shares.

8.5 **Permitted Transfer to Affiliates.** A Shareholder (“**Original Shareholder**”) may Transfer all or any part of their Shares in Company to an Affiliate (“**Transferee Affiliate**”) and shall not require the consent of the other Shareholder, provided that:

8.5.1. The Transferee Affiliate shall execute the Deed of Adherence in the format as provided in **Schedule IV**;

8.5.2. This Agreement and the Articles shall apply as if the Original Shareholder and the Transferee Affiliate are one Party;

8.5.3. All the rights of the Transferee Affiliate under this Agreement and the Charter Documents shall be exercised either by the Original Shareholder or the Transferee Affiliate; and

8.5.4. The Original Shareholder desiring to Transfer its Shares in the Company and the Transferee Affiliate shall, prior to any Transfer, undertake to the other Shareholder that the Shares so transferred to the Transferee Affiliate shall be re-transferred to the Original Shareholder or another Affiliate (who shall also be compelled to execute a Deed of Adherence), within a period of 15 (Fifteen) calendar days if and when the Transferee Affiliate ceases to be an Affiliate of the Original Shareholder.

8.6 **Transfer to Financial Investor**

8.6.1. Subject to Clause 8.1, the Shareholders shall be entitled to Transfer (but not less than all) its Equity Shares held in the Company to any Financial Investor, provided a right to purchase the Shares is first offered to the existing Shareholders in accordance with this Clause 8.6.

8.6.2. In the event, either, JSWCL or New Investor (“**Offeror**”) proposes to Transfer all (but not less than all) its Shares held in the Company to any Financial Investor (“**Offered Shares**”), it shall first deliver to the other Shareholders (i.e. JSWCL or New Investor, as the case may be) (“**Offeree**”), a written notice to purchase the Offered Shares (“**Offer Notice**”).

8.6.3. On receipt of the Offer Notice and within 60 days of the date thereof, the Offeree(s) shall have the right (but not an obligation) to purchase any or all of the Offered Shares by delivering a written notice to the Offeror to purchase all Offered Shares (“**Purchase Notice**”). The consideration for the Offered Shares shall be the fair market value of the Offered Shares as determined in accordance with Clause 8.6.4 (“**Offered Share Consideration**”).



- 8.6.4. Within 5 (Five) days of the receipt of the Purchase Notice by the Offeror, the Offeror shall sell and Transfer the Offered Shares to the Offeree (and/or its nominees as the case may be), free from any Encumbrances and the Offeree shall pay the Offered Share Consideration to the Offeror and purchase the Offered Shares. For the purpose of determining the fair market value of the Offered Shares, the Offeror and the Offeree shall mutually appoint one valuer (“**Appointed Valuer**”) to determine the value of the Offered Shares. The Offeror and the Offeree agree to appoint the Appointed Valuer within 7 (Seven) days of the Offer Notice and to cause the Appointed Valuer to complete the valuation exercise within 30 (Thirty) days of their respective appointment.
- 8.6.5. In the event, the Offeree(s) communicates its decision not to purchase the Offered Shares within a period of 60 days from the date of the Offer Notice, the Offeror shall be free to Transfer the Offered Shares to any Financial Investor (provided such Financial Investor is not a Competitor) at a price which is not less than the price in the Offer Notice, provided the Financial Investor executes the Deed of Adherence in the format as provided in Schedule IV.
- 8.6.6. Upon any such Transfer of Shares in the Company, any Shareholder shall be entitled to assign all of its rights (but not less than all) under this Agreement to the Financial Investor.
- 8.7. The Parties hereby agree that the provisions of this Clause 8 shall not restrict any Party from holding Shares of the Company through its nominees strictly for the purposes of ensuring that the Company comply with the requirements of having the minimum number of shareholders as per Applicable Laws. Each of JSWCL and Investor shall be freely entitled to change such nominees at their sole discretion.
- 8.8. A prior consent of the other Shareholder shall be required in the event any Shareholder seeks to Encumber its Shares in full or in part in the Company in favour of a bank and/or a financial institution and if such Encumbrance is required for (i) any financing availed by the Company; or (ii) the Company to avail funds from such bank and/or financial institution and the Shareholders have consented to the Company availing such funds as an Affirmative Vote Item. Any enforcement of such Encumbrance by the bank and/or financial institution shall not be considered a breach of the shareholding restrictions contained under this Agreement.
- 8.9. Notwithstanding anything in this Agreement the New Investor shall not have a right to transfer its Shares to any other Financial Investor till the expiry of 3(three) years from the Execution Date (“**Lock in Period**”).
- 8.9 **Call Option Right**
- 8.9.1 Upon the occurrence of a breach by New Investor (“**Breaching Party**”) of a material obligation or any provision of this Agreement and if such breach remains uncured for a

period of 7 (Seven) days of the written notice from JSWCL, then JSWCL in order to protect the interest of the Company shall have the right (but not an obligation) to purchase (by itself and/or through its nominee) (“**Call Option**”) of all and not less than all of the Shares of the Company held by the Breaching Party (“**Call Option Shares**”), by delivering a written notice in the form specified in **Schedule V** to the Breaching Party (“**Call Option Notice**”). The consideration for the Call Option Shares shall be at the fair market value of the Call Option Shares calculated as on the date of exercise of the Call Option (“**Call Option Share Consideration**”).

- 8.9.3 Within 5 (Five) days of the receipt of the Call Option Notice by the Breaching Party, the Breaching Party shall sell and transfer the Call Option Shares to JSWCL (and /or its nominees, as the case may be), free from any Encumbrances, and JSWCL (and/or its nominees, as the case may be) shall, pay the Call Option Share Consideration and purchase the Call Option Shares from the Breaching Party.

#### **8.10 Tag Along Right**

- 8.10.1 If the Existing Investor decides to sell its Shares in full or in part to any third party anytime before the expiry of the Lock in Period, then the New Investor shall have the right to tag along with the Existing Investor and sell its Shares in the same proportion and under the same terms to such buying third party (Tag Along Right).
- 8.10.2 It is clarified that the Tag Along Right of the New Investor shall come to an end after the expiry of the Lock in Period.

### **9. DEADLOCK**

- 9.1. If the Company, or the Board is unable to pass a resolution on any Affirmative Vote Items in a Board meeting, a Shareholders’ meeting, , for any reason whatsoever (including lack of quorum in 2 (Two) consecutive meetings of the Shareholders, the Board), then any of the Shareholders may call such an event as a deadlock (“**Deadlock**”) by issuing a notice in writing to the other Shareholder hereof (“**Deadlock Notification**”).
- 9.2. In the event of a Deadlock, the Shareholders shall negotiate in good faith to resolve the Deadlock within 30 (Thirty) Days from the date the Deadlock Notification has been issued.
- 9.3. If the Shareholders are unable to resolve the Deadlock within the period specified in Clause 9.1, the Shareholders shall appoint a neutral disinterested third party (“**Mediator**”) to assist them in resolving the matter within a period of 14 (Fourteen) Days from the date of reference of the Deadlock to the Mediator (“**Mediation Period**”).
- 9.4. If the Deadlock is not resolved pursuant to Clause 9.2, within the Mediation Period, then

each of the Shareholders shall have the right to issue a notice to the other Shareholder and invoke dispute resolution in the manner provided in Clause 13 of the Agreement.

- 9.5. While negotiations, mediation and sale of Shares under Clause 9 are pending or ongoing, each of the Shareholders shall act in good faith and will do all such acts or things as may be reasonably necessary to preserve the Business and goodwill of the Company. The Company shall continue to operate during any period of Deadlock, but no action shall be taken that would prejudice the outcome of the matter in Deadlock.

## 10. COVENANTS

- 10.1 The Company hereby covenants that it shall take all necessary steps to ensure compliance with all laws relating to bribery and money-laundering that are applicable to the Company, including, without limitation, maintenance of adequate controls to comply with any bribery and money-laundering laws and any applicable financial recordkeeping and reporting requirements. The Company further covenants that should any Shareholder notify the Company of its concern that there has been a violation of the provisions of this Clause 10, the Company shall cooperate in good faith with it and its representatives in determining whether such a violation has occurred, and shall respond promptly and in reasonable detail to any notice from such Shareholder, and shall furnish documentary support for such response upon such Shareholder's request.
- 10.2 The Shareholders are entitled to, and hereby reserve the right to take appropriate actions necessary to ensure compliance with applicable anti-corruption laws or money laundering laws.
- 10.3 The Company hereby agrees that it shall not engage in and shall not authorize or permit any other Person acting on its behalf to engage in any dealings or transactions with any Person, or in any country or territory, that is on the Sanctions List, nor are they currently engaged in any such activities.

## 11. CONFIDENTIALITY

- 11.1. The Parties acknowledge that in the course of performing their obligations under the Agreement each of the Parties may get access to confidential information ("**Confidential Information**") of the other Party. Each of the Parties ("**Receiving Party**") agrees not to disclose Confidential Information received (whether in writing, verbally or by any other means and whether directly or indirectly) by the other Party ("**Disclosing Party**") including in relation to matters contemplated by this Agreement or its performance or in any agreement in furtherance of the performance of this Agreement, to any Person without the prior written consent of the Disclosing Party or use the Confidential Information other than for carrying out the purposes of this Agreement.
- 11.2. The Receiving Party shall keep confidential any Confidential Information it receives from



the Disclosing Party and shall employ all such reasonable steps that it would have taken to protect its own Confidential Information. The Receiving Party shall disclose Confidential Information received from the Disclosing Party to its officers, employees, agents or representatives only for the purposes of carrying out its obligations under this Agreement and strictly on a “need to know” basis only. The Parties shall also cause their respective directors, employees, officers and any other Persons to whom the above-mentioned information is disclosed to be bound by confidentiality obligations similar to those provided in this Clause 11.

11.3. Notwithstanding anything contained in Clause 11.1 and Clause 11.2, a Receiving Party’s obligation of confidentiality shall not extend to any Confidential Information:

- (a) to the extent that the Confidential Information received is in the public domain other than by breach of this Agreement;
- (b) to the extent that the Confidential Information is lawfully acquired by the Receiving Party from a third party who owes the Disclosing Party no obligation of confidence in respect of such Confidential Information;
- (c) to the extent that the Confidential Information was previously known or already in the lawful possession of the Receiving Party prior to receipt from the Disclosing Party;
- (d) to the extent that the Confidential Information received is required to be disclosed by any Applicable Law or by any Governmental Authority to whose jurisdiction the Receiving Party is subject or with whose instructions it is customary to comply under notice to the Disclosing Party;
- (e) in so far as it is disclosed to the employees, directors or professional advisers of the Receiving Party, provided that the Receiving Party shall procure that such persons treat the Confidential Information received as confidential; or
- (f) to the extent that information, materially similar to the Confidential Information received, has been independently developed by the Receiving Party without reference to any Confidential Information furnished by the Disclosing Party.

## 12. GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with, English laws.

## 13. DISPUTE RESOLUTION

13.1. In the event of dispute arising out of this Agreement, including any question regarding its existence, validity, or termination the Parties shall first seek settlement of that dispute by mediation in accordance with the Mediation Rules of the DIFC-LCIA Arbitration Centre,



which rules are deemed to be incorporated.

- 13.2. If the dispute is not settled by mediation within 30 days of commencement of the mediation, or such other period as the Parties shall agree in writing, the dispute shall be referred to and shall be finally resolved by the arbitration under the Arbitration Rules of the DIFC-LCIA Arbitration Centre, which rules are deemed to be incorporated by reference into this clause.
- 13.3. The language to be used in mediation and arbitration shall be English.
- 13.4. The governing law of the Agreement shall be the substantive law of England.
- 13.5. The number of Arbitrators shall be 3 (three).
- 13.6. The seat/place of the arbitration shall be Dubai International Financial Centre.
- 13.7. The cost of the arbitration proceedings shall be borne equally by the Parties unless otherwise determined by the arbitrator. Except for the matters under dispute before the arbitrator, the Parties shall continue to perform and fulfil their respective rights and obligations under this Agreement unless the same is impossible without resolution of the said dispute.

## 14. MISCELLANEOUS

### 14.1. Specific performance

The Parties agree that damages may not be an adequate remedy and the Parties shall be entitled to an injunction, restraining order, right for recovery, suit for specific performance or such other equitable relief as a court of competent jurisdiction may deem necessary or appropriate to restrain the other Parties hereto from committing any violation or enforce the performance of the covenants, representations and obligations contained in this Agreement. These injunctive remedies are cumulative and are in addition to any other rights and remedies the Parties may have at law or in equity, including a right for damages.

### 14.2. Counterparts

This Agreement may be executed in any number of separate counterparts, each of which is an original but all of which taken together shall constitute one and the same instrument. The delivery of signed counterparts by facsimile transmission or electronic mail in "portable document format" (".pdf") shall be as effective as signing and delivering the counterpart in person.

### 14.3. Notices

- (a) Notices, demands or other communication required or permitted to be given or made under this Agreement shall be in writing and delivered personally or sent by prepaid post with recorded delivery, or by telex or legible telefax addressed to the intended recipient at its address set forth below, or to such other address or telex or telefax number as either Party may from time to time duly notify to the others:

<b>Company</b>	<b>Address</b>	<b><i>Email</i></b>
<b>Existing Investor</b>	<b>JSW Centre, Bandra Kurla Complex, Bandra (East), Mumbai 400 051</b>	<b>Narinder.singh@jsw.in</b>
<b>Investor</b>	Apex House, Bank Street, TwentyEight, Cybercity, Ebene 72201, Mauritius Attn: Sangeeta Bissessur Tel. +230 467 5052	<b>Sangeeta.Bissessur@apexfs.group</b>
<b>Company</b>	Fujairah, P.O. Box 50492, Fujairah, United Arab Emirates, Tel 2282097, Fax 2282979	<b>Vivek.ranawat@jsw.in</b>

- (b) Any such notice, demand or communication shall, unless the contrary is proved, be deemed to have been duly served: (i) at the time of delivery in the case of service by delivery in person; (ii) on the expiry of 7 (seven) Business Days after posting, if sent by post; and (iii) on the same Business Day, if sent by email, if it is sent before 1700 hours on such day, or on the next following Business Day in all other cases, unless an “email undelivered” (or other similar) message is generated and/or received.
- (c) Any Party may, from time to time, change its address for the purpose of notices to that Party by giving a notice to the other Parties specifying a new address, but no such notice will be deemed to have been given until it is actually received by the other Parties.

#### 14.4. Costs

Each Party shall bear its own legal, accounting, professional and advisory fees, commissions and other costs and expenses incurred by it in connection with this Agreement.

#### 14.5. Relationship

Each Party hereto is an independent party and nothing contained in this Agreement shall

be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be in any way construed to constitute either Party as the agent, employee or representative of the other. None of the provisions of this Agreement shall be deemed to constitute a partnership between the Parties hereto and no Party shall have any authority to bind the other Party otherwise than under this Agreement or shall be deemed to be the agent of the other in any way.

14.6. **Waivers, Rights and Remedies**

The Party that is entitled to the benefit thereof may, subject to Applicable Law, waive any term or condition of this Agreement at any time. Such waiver must be in writing and must be executed by an authorized officer of such Party. A waiver on one occasion will not be deemed to be a waiver of the same or any other breach or non-fulfilment on a future occasion. All remedies, either under this Agreement, or by Applicable Law or otherwise afforded, will be cumulative and not alternative.

14.7. **Authorisation**

The Persons signing this Agreement on behalf of the Parties represent and covenant that they have the authority to so sign and execute this Agreement on behalf of the Parties for whom they are signing.

14.8. **Assignment**

Unless the Parties specifically agree in writing, no Party shall assign, transfer, charge or otherwise deal with all or any of its rights under this Agreement nor grant, declare, create or dispose of any right or interest in it.

14.9. **Entire Agreement**

Except for the documents executed by the Parties pursuant hereto, this Agreement supersedes all prior discussions and agreements (whether oral or written, including all correspondence) between the Parties with respect to, or in relation to the subject matter of this Agreement, and contains the sole and entire agreement between the Parties hereto with respect to the subject matter hereof.

14.10. **Further Assurance**

Subject to Applicable Law and the terms and conditions of this Agreement, the Parties will use their best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under Applicable Law to consummate the transactions contemplated herein.

14.11. Invalidity

Each of the provisions of this Agreement is severable. If any such provision is held to be or becomes invalid or unenforceable in any respect under the law of any jurisdiction, the remainder of this Agreement and the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law. The invalid provision shall have no effect in that respect and the Parties shall use all reasonable efforts to replace it in that respect with a valid and enforceable substitute provision the effect of which shall be as close to its intended effect as possible.

14.12. Variation

No variation of this Agreement shall be valid unless it is in writing (which, for this purpose, does not include email) and signed by or on behalf of each of the Parties. The expression 'variation' includes any variation, supplement, deletion or replacement however effected.



IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THIS AGREEMENT TO BE DULY EXECUTED AND DELIVERED BY THEIR DULY AUTHORISED REPRESENTATIVES AS OF THE EXECUTION DATE.

Signed and delivered for and on behalf of

Signed and delivered for and on behalf of

**JSW CEMENT LIMITED**

A circular purple ink stamp of JSW Cement Limited is visible. Overlaid on the stamp is a handwritten signature in black ink that reads "N. Kahlon".

Name: Narinder S kahlon

Designation: Director, Finance & Commercial

Date: February 6, 2023

Signed and delivered for and on behalf of

Aquarius Global Fund PCC



Name: Sangeeta Bissessur

Designation: Director

Date: 6 February 2023



Signed and delivered for and on behalf of

**JSW Cement FZE**



Name: **CHETAN VALDYA**

Designation: **HEAD FINANCE & ACCOUNTS**

Date:



## SCHEDULE I

### SHAREHOLDING PATTERN OF THE COMPANY AS ON 6 FEBRUARY 2023

Name of the Shareholder	Number of Shares	Par Value	Percentage of Total Shareholding
Existing Investor	7,32,930	150	100%

## SCHEDULE II

### REPRESENTATIONS AND WARRANTIES

The Company hereby represents and warrants that as of the Execution Date and as of the Closing Date, the statements set forth in this part of the Schedule are true, correct and not misleading.

1. Authority and Enforceability

1.1 The Company has delivered to the Shareholders accurate and complete copies of its Articles of Incorporation as currently in effect.

2. Capital and Shareholding

2.1 As of 6 February 2023, (a) the authorized/paid up/issued share capital of the Company is AED 109,939,500 divided into 7,32,930 Equity Shares at par value of AED 150 each.

2.2 The shareholding pattern of the Company as on the Execution Date is as set out in **Schedule I** of this Agreement. The Company has not issued any Shares and save for as set out in this Agreement.

2.3 The Company has not filed in any court or tribunal, any application for its bankruptcy or liquidation and to the best of the Company's knowledge, no application for its bankruptcy or liquidation has been filed against it in any court or tribunal.

2.4 Other than the Agreement, there are no voting trusts, shareholder's agreements, proxies or other agreements in effect with respect to the voting, transfer or dividend rights of the Securities.

2.5 There are no liabilities (contingent or otherwise) that may arise, accrue and/or attach to the Shareholder or any Affiliate of the Shareholder as a result of the consummation of the transactions contemplated by this Agreement or as a result of the Shareholder owning any Securities.

3. No Conflicts.

Neither the execution and delivery of this Agreement nor the performance of the transactions contemplated by this Agreement shall conflict with any agreement or instrument binding upon the Company or any of its assets.

## SCHEDULE III

### AFFIRMATIVE VOTE ITEMS

1. Granting of any loans and advances, guarantees or security by Company other than in the ordinary course of business;
2. Any variation to the issued and paid up share capital including preference share capital (or the rights attaching to it or any class of it), debt instruments or any other security or creation or issue of any Shares (including equity shares, preference shares, warrants, options, debentures or bonds) or granting of any options to acquire Shares or to convert into Shares of company or any reclassification, buyback/redemption, reduction of capital, reorganization, amalgamation, reconstruction, merger, demerger, arrangement or compromise with creditors or shareholders of Company;
3. Any amendment to the Charter Documents including any change in the name, legal status, or the registered office of the Company;
4. Declaration or payment of any dividend or distribution of any profits or commissions by Company to any shareholders or directors of Company;
5. Adoption or modification of the annual business plan (if any) by the Company;
6. Any acquisitions, investments, creation of joint ventures, partnerships or subsidiaries by the Company other than in ordinary course of business;
7. Purchase, sale, transfer, leasing, licensing or disposal of any of the undertaking or assets other than in ordinary course of business by Company except in accordance with this Agreement;
8. Any change in the size, composition and structure of the Board of the Company other than as provided under this Agreement;
9. Any material change in the general nature of the business of Company, or expansion of the existing business of Company, or commencement of any new line of business by Company which is unrelated to the existing business of Company;
10. Appointment or replacement of the statutory auditors or the internal auditors of Company;
11. Entering into, or modification of the terms of any related party transactions by Company other than in ordinary course of business;



12. Any alteration of the Financial Year or the accounting policies or practices of Company;
13. Commencement, compromise or settlement of any litigation, arbitration, or any other proceeding before any judicial, quasi-judicial or Governmental Authority.

## SCHEDULE IV

### DEED OF ADHERENCE

To

- 1) \_\_\_\_\_
- 2) \_\_\_\_\_ (collectively, “**the Parties to the Deed**”)  
\_\_\_\_\_ (the Company)

Dear Sirs,

RE: Shareholders’ Agreement dated [●] (“**Agreement**”) between the Company, [●], [●] and [●].

- 1) [●], [●], [●] and the Company (“**Parties**”) have entered into the Agreement providing terms and conditions for regulating the relationship of the Parties *inter se* and between the Parties and the Company.
- 2) In terms of the Agreement, a transferee who acquires any Shares from a Shareholder in the Company shall accede to the terms and conditions of the Agreement by way of executing Deed of Adherence to such effect and confirm to the requirements of Clause [●].
- 3) We confirm that the acquisition of Shares by us is in compliance with the provisions of the Agreement and that we qualify to accede to the Agreement.
- 4) We hereby record our accession to the Agreement by way of execution of this Deed of Adherence.
- 5) By our execution of this Deed of Adherence, we have become a Party to the Agreement.
- 6) We also hereby covenant, undertake and agree that we have become subject to the same obligations of every nature whatsoever of \_\_\_\_\_ (*name of transferring shareholder*) that we would have been subject to as if we had executed the Agreement on [●] and we will assume, keep, observe and perform, duly and punctually, all the terms, covenants, undertakings, agreements, provisions and conditions in the Agreement.
- 7) We hereby confirm to the Company and the Parties that we have received a copy of the Agreement and the provisions thereof are incorporated by reference herein and deemed to be part of this Deed of Adherence to the same extent as if such provisions had been set

forth in full herein.

- 8) For all purposes of the Agreement, [Other Party] shall not be required to comply with any communication from us purporting to exercise a right under the Agreement unless such communication has been confirmed in writing by [Party]. Until such confirmation from [Party] has been received by [Other Party], such communication shall be deemed to have not been delivered.
- 9) For the purposes of the Agreement, our address and other details for notices shall be:
- |         |       |
|---------|-------|
| Address | : [●] |
| E-mail  | : [●] |
| Attn.   | : [●] |
- 10) Words and expressions not expressly defined herein shall bear the meanings assigned to them in the Agreement. Further, the definition and interpretation clause set out under Clause 1 shall be applied to this Deed of Adherence.
- 11) This Deed of Adherence shall be governed by and construed in accordance with the provisions set out under Clause 12 (*Governing Law*) and 13 (*Dispute Resolution*) of the Agreement.

Yours faithfully,

For \_\_\_\_\_  
[Authorised Signatory]

Confirmed and Accepted  
For and on behalf of the Company

Authorised Signatory



## SCHEDULE V

### CALL OPTION NOTICE

To:

Date: [●]

[insert address]

Email: [●]

Attn: [●]

Dear Sir,

**Sub: Notice for exercise of Call Option (“Call Option Notice”) under the Shareholders’ Agreement dated [●] (“Agreement”)**

1. This Call Option Notice is being issued by JSWCL pursuant to Clause [●] of the Agreement.
2. Unless otherwise defined in this Call Option Notice, capitalized terms used in this Call Option Notice shall have the meanings given to them under the Agreement.
3. Pursuant to the exercise of the Call Option, please see below:

<b>Number and description of Call Option Shares</b>	[●]
<b>Call Option Share Consideration</b>	[●]
<b>Name of JSW’s nominees (if any) for purchase of the Call Option Shares</b>	[●]

4. This Call Option Notice is governed by and in accordance with the English Laws.

Yours faithfully,

**For and on behalf of JSW Cement Limited**

\_\_\_\_\_  
Name:

Designation:

