

# **I N T E R C R E D I T O R   A G R E E M E N T**

\_\_\_\_ January 2026

entered into by and between

**SIJ D.D.** and others  
as Original Debtors

with

**NOVA LJUBLJANSKA BANKA d.d., Ljubljana**

acting as Facility Agent

the Original Pari Passu FA Lenders

**GLAS Trust Corporation Limited**

acting as Notes Agent

**NOVA LJUBLJANSKA BANKA d.d., Ljubljana**

acting as Security Agent

and **others**

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**THIS INTERCREDITOR AGREEMENT** (the "**Agreement**") is dated \_\_\_\_\_ and made between:

1. **NOVA LJUBLJANSKA BANKA d.d., Ljubljana** as agent under the Pari Passu FA (as defined below) (the "**Facility Agent**");
2. **THE FINANCIAL INSTITUTIONS** named on the signing pages as Original Pari Passu FA Lenders (the "**Original Pari Passu FA Lenders**");
3. **GLAS TRUST CORPORATION LIMITED** as notes agent under the Pari Passu Notes (as defined below) (the "**Notes Agent**");
4. **SIJ D.D.** (the "**Parent**");
5. **THE PERSONS** named on the signing pages as Debtors (together with the Parent and as listed in SCHEDULE 5 (*Original Debtors*), which sets out an overview of certain of their respective roles, the "**Original Debtors**"); and
6. **NOVA LJUBLJANSKA BANKA d.d., Ljubljana** as security agent for the Secured Parties (as defined below) and as appointed by them as set out in this Agreement (the "**Security Agent**").

**IT IS AGREED** as follows:

## **PREAMBLE**

- (A) WHEREAS, upon the terms and subject to the conditions of the Pari Passu FA (as hereinafter defined), the Pari Passu FA Lenders (as hereinafter defined) agreed to make available the Pari Passu Facilities (as hereinafter defined) to the Parent and the Debtors specified in the Pari Passu FA.
- (B) WHEREAS, subject to a Pari Passu Noteholder receiving its Pari Passu Notes, each Pari Passu Noteholder (as hereinafter defined) agrees to be bound by this Agreement.
- (C) WHEREAS, the purpose of this Agreement is to set out the intercreditor arrangements between the Pari Passu Creditors (as hereinafter defined) as well as the appointment of the Security Agent and the arrangements regarding the Transaction Security (as hereinafter defined).
- (D) WHEREAS, the Subordination Agreement (as hereinafter defined) complements this Agreement by regulating (i) the subordination of, and (ii) certain other arrangements related to matters dealt with by this Agreement with, certain shareholder creditors towards members of the Group (as hereinafter defined), including the enforcement of Transaction Security (as hereinafter defined) given by the Sponsor (as hereinafter defined) over its shares in the Parent, as well as the claims of Intra-Group Lenders (as hereinafter defined and whether owing by or to Debtors (as hereinafter defined) or other members of the Group (as hereinafter defined)) in respect of Intra-Group Liabilities (as hereinafter defined), in each case, including, without limitation, the agreement of such persons to be bound by certain matters set out in this Agreement.

## **SECTION 1**

### **INTERPRETATION**

**IT IS AGREED** as follows:

#### **1 Definitions and Interpretation**

##### **1.1 Definitions**

In this Agreement:

**"Affiliate"** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**"Bill of Exchange"** means any bill of exchange or promissory note (including any blank bill of exchange and promissory note) issued or to be issued to or at the direction of the Security Agent, by any member of the Group.

**"Bill of Exchange Declaration"** means any declaration in relation to a Bill of

Exchange, whereby the beneficiary of that Bill of Exchange is authorized and empowered to complete the relevant Bill of Exchange in accordance with its terms.

**"Borrowing Liabilities"** means, in relation to a member of the Group, a Debtor or a grantor of Transaction Security, the liabilities and obligations (not being Guarantee Liabilities) it may have as a principal debtor to a Pari Passu Creditor (other than Pari Passu Creditor Representative Amounts) or a Debtor in respect of Liabilities arising under the Debt Documents (whether incurred solely or jointly).

**"Business Day"** means:

(A) for payments:

a day (other than a Saturday or Sunday) on which banks are open for general business in the jurisdiction of the relevant Debtor(s) paying and the relevant Pari Passu Creditor Representative on their behalf receiving the relevant payment and, in addition, for the settlement of payments in euros, any TARGET Day; and

(B) for grace periods, notice periods and decision-making:

a day (other than a Saturday or Sunday) on which banks are open for general business in Ljubljana and the principal financial centre in the jurisdiction of the relevant Pari Passu Creditor Representative.

**"Charged Property"** means all of the assets which from time to time are, or are expressed to be, the subject of the Transaction Security.

**"Common Assurance"** means any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible and given to (or to the benefit of) all the Secured Parties in respect of their Liabilities.

**"Common Transaction Security"** means any Transaction Security which to the extent legally possible:

(A) is created in favour of the Security Agent as trustee for the other Secured Parties in respect of their Liabilities; or

(B) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee for the Secured Parties is created in favour of:

(i) all the Secured Parties in respect of their Liabilities; or

(ii) the Security Agent as joint and several creditor (*solidarni upnik*) under this Agreement and under the Parallel Debt Deeds or any other parallel debt structure created for the benefit of all the Secured Parties,

and which (subject to the terms of this Agreement) ranks in the order of priority contemplated in Clause 2.2 (*Transaction Security*).

**"Consent"** means any consent, approval, release or waiver or agreement to any amendment.

**"Debt Disposal"** means any disposal of any Liabilities or Debtors' Intra-Group Receivables pursuant to paragraphs (C) or (D) of Clause 9.1 (*Facilitation of Distressed Disposals*).

**"Debt Document"** means each of this Agreement, the Pari Passu Documents, the Security Documents, any Debtor Accession Agreement and any other document designated as such by the Security Agent and the Parent.

**"Debtor"** means each Original Debtor and any person which becomes a Party as a Debtor in accordance with the terms of Clause 14 (*Changes to the Parties*), and which in each case has not ceased to be a Party as a Debtor in accordance with those terms.

**"Debtor Accession Agreement"** means:

- (A) an agreement substantially in the form set out in Schedule 1 (*Form of Debtor Accession Agreement*); or
- (B) (only in the case of a member of the Group which is acceding as a borrower or guarantor under a Pari Passu FA) an accession document in the form required by the relevant Pari Passu FA (**provided that** it contains an accession to this Agreement which is substantially in the form set out in Schedule 1 (*Form of Debtor Accession Agreement*)).

**"Debtor Resignation Request"** means a notice substantially in the form set out in Schedule 3 (*Form of Debtor Resignation Request*).

**"Debtors' Intra-Group Receivables"** means, in relation to a member of the Group or a Debtor, any liabilities and obligations owed to any member of the Group or any Debtor (whether actual or contingent and whether incurred solely or jointly) by that member of the Group or a Debtor.

**"Default"** means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Debt Documents or any combination of any of the foregoing) be an Event of Default.

**"Delegate"** means any delegate, agent, attorney or co-trustee appointed by the Security Agent in accordance with this Agreement.

**"Distress Event"** means the taking of any action comprised within limb (A) or (B) of Enforcement Action.

**"Distressed Disposal"** means a disposal of any Charged Property which is:

- (A) being effected at the request of the Instructing Group in circumstances where the Transaction Security has become enforceable;
- (B) being effected by enforcement of the Transaction Security; or
- (C) being effected, after the occurrence of a Distress Event, by a Debtor to a person or persons which is, or are, not a member, or members, of the Group.

**"EBRD"** means the European Bank for Reconstruction and Development.

**"Enforcement"** means the enforcement or disposal of any Transaction Security, the requesting of a Distressed Disposal and/or the release or disposal of claims and/or Transaction Security on a Distressed Disposal under Clause 9 (*Distressed Disposals*), the giving of instructions as to actions with respect to the Transaction Security and/or the Charged Property following an Insolvency Event under Clause 4.6 (*Security Agent instructions*) and the taking of any other actions consequential on (or necessary to effect) any of those actions.

**"Enforcement Action"** means any of the following:

- (A) in relation to any Liabilities any of the following:
  - (i) the acceleration of any Liabilities owed by the Parent or the making of any declaration that any Liabilities owed by the Parent are prematurely due and payable (other than as a result of it becoming unlawful for a Pari Passu Creditor to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Debt Documents);
  - (ii) the making of any declaration that any Liabilities owed by the Parent are payable on demand;
  - (iii) the making of a demand on a Liability of the Parent that is payable on demand (other than in respect of a demand or automatic entitlement for reimbursement for amounts called under any performance guarantee issued by a Pari Passu FA Lender on behalf of any member of the Group, pursuant to the Pari Passu FA, to the extent that such reimbursement is a Permitted Payment);
  - (iv) the making of any demand against the Parent in relation to any Guarantee Liabilities of the Parent;
  - (v) the exercise of any right of set-off, account combination or payment netting against the Parent in respect of any Liabilities other than the exercise of any such right which is otherwise expressly not prohibited under the Pari Passu Documents to the extent that the exercise of that right gives effect to a Permitted Payment; and

- (vi) the suing for, commencing or joining of any legal or arbitration proceedings against the Parent to recover any Liabilities;
- (B) the taking of any steps to enforce or require the enforcement of any Transaction Security (including the crystallisation of any floating charge or comparable Security forming part of the Transaction Security);
- (C) the entering into of any composition, compromise, assignment or arrangement with any member of the Group which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities, or with any other grantor of Transaction Security; or
- (D) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to, the winding up, dissolution, administration or reorganisation of any member of the Group which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such member of the Group's assets or any suspension of payments or moratorium of any indebtedness of any such member of the Group, or in relation to any other grantor of Transaction Security or any of its assets or indebtedness, or any analogous procedure or step in any jurisdiction,

except that the following shall not constitute Enforcement Action:

- (i) the taking of any action falling within paragraphs (A)(ii), (iii), (iv) or (vi) or paragraph (D) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods; and
- (ii) a Pari Passu Creditor bringing legal proceedings against any person solely for the purpose of:
  - (a) obtaining injunctive relief (or any analogous remedy) to restrain any actual or putative breach of any Debt Document to which it is party;
  - (b) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages; or
  - (c) requesting judicial interpretation of any provision of any Debt Document to which it is party with no claim for damages; or
- (iii) bringing legal proceedings against any person in connection with any fraud, securities violation or securities or listing regulations; or

- (iv) to the extent entitled by law, the taking of action against any Pari Passu Creditor (or any agent, trustee or receiver acting on behalf of such Pari Passu Creditor) to challenge the basis on which any sale or disposal is to take place pursuant to powers granted to such persons under any security documentation.

**"Enforcement Instructions"** means instructions as to Enforcement (including the manner and timing of Enforcement) given by the Instructing Group to the Security Agent, in each case in accordance with the requirements of this Agreement, **provided that** instructions not to undertake Enforcement or an absence of instructions as to Enforcement shall not constitute "Enforcement Instructions".

**"Enforcement Objective"** has the meaning given to that term in Schedule 4 (*Enforcement Principles*).

**"Enforcement Principles"** means the principles set out in Schedule 4 (*Enforcement Principles*).

**"Enforcement Proceeds"** means any amount paid to or otherwise realised by a Secured Party under or in connection with any Enforcement and, following the occurrence of a Distress Event, any other proceeds of, or arising from, any of the Charged Property.

**"Event of Default"** means any event or circumstance constituting a Pari Passu Notes Default or a Pari Passu FA Default.

**"Fairness Opinion"** has the meaning given to that term in Schedule 4 (*Enforcement Principles*).

**"Financial Adviser"** has the meaning given to that term in Schedule 4 (*Enforcement Principles*).

**"Group"** means the Parent and its Subsidiaries.

**"Guarantee Liabilities"** means, in relation to a member of the Group, a Debtor or a grantor of Transaction Security, the liabilities and obligations under the Debt Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Pari Passu Creditor (other than Pari Passu Creditor Representative Amounts) or Debtor as or as a result of its being a guarantor or surety (including, without limitation, liabilities and obligations arising by way of guarantee, indemnity, contribution or subrogation).

**"Holding Company"** means, in relation to a person, any other person in respect of which it is a Subsidiary.

**"Insolvency Event"** means any of:

- (A) a Debtor or any other person that is a grantor of Transaction Security:

- (i) is unable or admits inability to pay its debts as they fall due;
  - (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law;
  - (iii) suspends or threatens to suspend making payments on any of its Financial Indebtedness (as defined in the Pari Passu FA); or
  - (iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Pari Passu Creditor in its capacity as such) with a view to rescheduling any of its indebtedness;
- (B) a Debtor or any other person that is a grantor of Transaction Security is insolvent within the meaning of the relevant provisions of the Slovenian Insolvency Act or any equivalent and applicable provisions under the laws of any other relevant jurisdiction;
- (C) the value of the assets of any Debtor or any other person that is a grantor of Transaction Security is less than its liabilities (taking into account contingent and prospective liabilities);
- (D) a moratorium is declared in respect of any indebtedness of any Debtor or any other person that is a grantor of Transaction Security (irrespective of the ending thereof); or
- (E) any corporate action, legal proceedings or other procedure or step is taken in relation to:
  - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Debtor, or any other person that is a grantor of Transaction Security, or member of the Group, or the Sponsor;
  - (ii) a composition, compromise, assignment or arrangement with any creditor of any Debtor, or any other person that is a grantor of Transaction Security, or any member of the Group;
  - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Debtor or any other person that is a grantor of Transaction Security, member of the Group or the Sponsor or, in each case, any of its assets;
  - (iv) enforcement of any Security over any assets of any Debtor or any other person that is a grantor of Transaction Security, or any member of the Group; or

- (v) preventive restructuring procedure, court-supervised preventive restructuring procedure, bankruptcy proceeding, compulsory settlement proceeding, simplified compulsory settlement proceeding according to the Slovenian Insolvency Act or any equivalent and applicable provisions under the laws of any other relevant jurisdiction against any Debtor or any other person that is a grantor of Transaction Security, member of the Group or the Sponsor,

or any analogous procedure or step is taken in any jurisdiction **provided that** the foregoing shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement.

**"Instructing Group"** means, subject to Clause 20.5 (*Voting of Pari Passu Credit Participations*), those Pari Passu FA Lenders and Pari Passu Noteholders whose Pari Passu Credit Participations at that time aggregate more than 66.67 per cent. of the total Pari Passu Credit Participations at that time.

**"Intercreditor Amendment"** means any amendment or waiver which is subject to Clause 20 (*Consents, Amendments and Override*).

**"Intra-Group Lenders"** means each person that is a party to the Subordination Agreement as an "Intra-Group Lender".

**"Intra-Group Liabilities"** has the meaning given to that term in the Subordination Agreement.

**"Junior Creditor Liabilities"** has the meaning given to that term in the Subordination Agreement.

**"Liabilities"** means all present and future liabilities and obligations at any time of any Debtor, person that is a grantor of Transaction Security, or member of the Group to any Pari Passu Creditor under the Debt Documents, both actual and contingent and whether incurred solely or jointly or as principal obligor, guarantor or surety or in any other capacity whatsoever together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (A) any refinancing, replacement, novation (*novacija*), deferral, extension, amendment, supplement or restatement;
- (B) any claim for procedural interest (*procesne obresti*), breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (C) any claim for damages, restitution, unjust enrichment, or based on termination, nullity (*ničnost*), voidness (*izpodbojnost*) and/or other ineffectiveness

(*neveljavnost*) of a Debt Document, or otherwise made in connection with such obligations and liabilities;

- (D) any claim as a result of any recovery by any Debtor or any person of a Payment on the grounds of preference or otherwise, and
- (E) any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings (including without limitation, all interest, fees, costs and charges that accrue after the commencement of a bankruptcy or other insolvency proceeding at the applicable contract rate, whether or not a claim for such interest, fees, costs or charges is permitted in any such proceedings).

**"Liabilities Acquisition"** means, in relation to a person and to any Liabilities, a transaction where that person:

- (A) purchases by way of assignment or transfer;
- (B) enters into any sub-participation in respect of; or
- (C) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,

the rights in respect of those Liabilities.

**"Liabilities Sale"** means a Debt Disposal pursuant to paragraph (E) of Clause 9.1 (*Facilitation of Distressed Disposals*).

**"Non-Distressed Disposal"** has the meaning given to that term in Clause 8 (*Non-Distressed Disposals*).

**"OZ"** means the Slovenian Code of Obligations (*Obligacijski zakonik*).

**"Parallel Debt Deeds"** means each of the Parallel Debt (FA) Deed and the Parallel Debt (Notes) Deed.

**"Parallel Debt (FA) Deed"** means the parallel debt deed dated on or about the date of this Agreement and entered into by, *inter alios*, the Parent and the Debtors in favour of the Security Agent.

**"Parallel Debt (Notes) Deed"** means the parallel debt deed dated on or about the date of this Agreement and entered into by, *inter alios*, the Parent in favour of the Security Agent.

**"Pari Passu Acceleration Event"** means any of:

- (A) the Facility Agent exercising any of its rights under clause 23.18 (*Acceleration*) of the Pari Passu FA other than the right to declare any amount payable on demand; and
- (B) the Pari Passu Notes becoming immediately due and payable following a Pari Passu Notes Default.

**"Pari Passu Agreement"** means any of:

- (A) the Pari Passu FA; and
- (B) the Pari Passu Notes.

**"Pari Passu Borrowers"** means, at the point in time of determination:

- (A) any "Borrower" as defined in the Pari Passu FA; and
- (B) the Parent under the Pari Passu Notes.

**"Pari Passu Credit Participation"** means, at the point in time of determination:

- (A) in relation to a Pari Passu FA Lender, the aggregate of its Pari Passu FA Commitments; and
- (B) in relation to a Pari Passu Noteholder, the aggregate of the principal amount of the Pari Passu Notes held by it.

**"Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking"** means an undertaking substantially in the form set out in Schedule 2 (*Form of Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking*).

**"Pari Passu Creditor Representative"** means:

- (A) in relation to the Pari Passu FA Lenders, the Facility Agent; and
- (B) in relation to the Pari Passu Noteholders, the Notes Agent.

**"Pari Passu Creditor Representative Amounts"** means fees, costs and expenses of a Pari Passu Creditor Representative payable to a Pari Passu Creditor Representative for its own account pursuant to the relevant Debt Documents or any engagement letter between a Pari Passu Creditor Representative and a Debtor (including any amount payable to a Pari Passu Creditor Representative by way of indemnity, remuneration or reimbursement for expenses incurred), and the costs incurred by a Pari Passu Creditor Representative in connection with any actual or attempted Enforcement Action which is permitted by this Agreement which are recoverable pursuant to the terms of the Debt Documents, but, in the case of the Security Agent, not amounts owing to it comprised of the principal amount owing under any Parallel Debt Deed.

**"Pari Passu Creditors"** means each Pari Passu FA Creditor and each Pari Passu Notes Creditor, and which in each case has not ceased to be a Party as a Pari Passu Creditor in accordance with those terms.

**"Pari Passu Discharge Date"** means the first date on which all Pari Passu Liabilities have been fully and finally discharged to the satisfaction of the relevant Pari Passu Creditor Representative(s), whether or not as the result of an enforcement, and the Pari Passu Creditors are under no further obligation to provide financial accommodation to any of the Debtors under the Pari Passu Documents.

**"Pari Passu Documents"** means any of this Agreement, the Subordination Agreement, the Transaction Security Documents:

- (A) the "Finance Documents" as defined in the Pari Passu FA; and
- (B) the Pari Passu Notes and the Pari Passu Notes Agent Engagement T&Cs.

**"Pari Passu FA"** means the senior term and revolving facilities agreement originally dated on or around the date of this Agreement between the Parent and the Original Debtors as borrowers and/or guarantors, the Facility Agent and the Pari Passu FA Lenders.

**"Pari Passu FA Commitment"** means any "Commitment" under and as defined in the Pari Passu FA from time to time.

**"Pari Passu FA Creditors"** means:

- (A) the Facility Agent; and
- (B) each Pari Passu FA Lender.

**"Pari Passu FA Default"** means an "Event of Default" as defined in the Pari Passu FA.

**"Pari Passu Facility"** means any "Facility" under and as defined in the Pari Passu FA.

**"Pari Passu FA Guarantors"** means any Debtor that is a "Guarantor" under, and as defined, in the Pari Passu FA.

**"Pari Passu FA Lender"** means, for so long as such person has any Pari Passu FA Commitments at the point in time of determination:

- (A) each Original Lender, as defined in the Pari Passu FA; and
- (B) any other person that has provided a Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking, as Pari Passu Creditor, in conjunction with it becoming a "Lender" under the Pari Passu FA.

**"Pari Passu FA Liabilities"** means the Liabilities owed to the Pari Passu FA Creditors under or in connection with the Pari Passu Documents.

**"Pari Passu Liabilities"** means the Pari Passu FA Liabilities and the Pari Passu Notes Liabilities.

**"Pari Passu Noteholder"** means each holder of any Pari Passu Notes from time to time.

**"Pari Passu Notes"** means the bonds (*obveznice*) issued by the Parent in a dematerialized form (*v nematerializirani obliki*), with designation (*oznaka VP*) "SIJ9" including the terms and conditions thereof.

**"Pari Passu Notes Agent Engagement T&Cs"** means the terms of engagement between the Parent and the Notes Agent setting out certain terms applicable to the appointment of the Notes Agent on behalf of the Pari Passu Noteholders.

**"Pari Passu Notes Creditors"** means:

- (A) the Notes Agent; and
- (B) each Pari Passu Noteholder.

**"Pari Passu Notes Default"** means an "Event of Default" (*Kršitev*) as defined in the Pari Passu Notes.

**"Pari Passu Notes Liabilities"** means the Liabilities owed by any relevant Debtor to the Pari Passu Notes Creditors under or in connection with the Pari Passu Documents.

**"Party"** means a party to this Agreement.

**"Payment"** means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations).

**"Permitted Pari Passu Amendment"** means:

- (A) an amendment of, or waiver by the Pari Passu FA Lenders under, the Pari Passu FA made or to be made in accordance with the terms of the Pari Passu FA and that would not result in a breach of this Agreement or the Pari Passu Notes, including, without limitation, the inception of additional Pari Passu Facility Commitments such that, (i) the resulting amount of the Pari Passu Facility Commitments, when aggregated with the total principal amount then outstanding under the Pari Passu Notes, does not exceed EUR 450,000,000, and (ii) the total existing Pari Passu FA Commitments relating to the Super Senior Revolving Facility (as defined in the Pari Passu FA) do not exceed EUR 25,000,000; or

- (B) an amendment of, or waiver by the Pari Passu Noteholders under, the Pari Passu Notes (or an amendment of, or waiver by the Notes Agent under, the Pari Passu Notes Agent Engagement T&Cs) made or to be made in accordance with the terms of the Pari Passu Notes provided that, in the case of a proposed amendment, the Facility Agent (acting on the instructions of the requisite Pari Passu FA Lenders) has given its prior written consent thereto (such consent not to be unreasonably withheld, and provided that it shall be reasonable to withhold such consent where it is determined in good faith that such amendment could reasonably be expected adversely to affect the interests of the Pari Passu FA Lenders).

**"Permitted Payment"** means a Payment of Pari Passu Liabilities:

- (A) subject to (B):
  - (i) by the Parent to the Notes Agent on account of Pari Passu Notes Liabilities otherwise then due and payable; and
  - (ii) by a Debtor to the Facility Agent on account of Pari Passu FA Liabilities otherwise then due and payable; and
- (B) if and for so long as a Default is continuing and an Instructing Group gives notice requiring the same in relation to all Payments, where such Payment is made to the Security Agent for application in accordance with Clause 11.1 (*Order of application*).

**"Receiver"** means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property that has been appointed in accordance with this Agreement and/or pursuant to applicable law.

**"Recoveries"** has the meaning given to that term in Clause 11.1 (*Order of application*).

**"Relative"** means a person's spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece, cousin or in-law.

**"Relevant Liabilities"** means the Liabilities owed to the Pari Passu Creditors together with all present and future liabilities and obligations, actual and contingent, of the Debtors and grantors of Transaction Security to the Security Agent.

**"Secured Obligations"** means:

- (A) all obligations and liabilities described in the definition of "Liabilities" of the persons referred to therein, in each case, owed to any of the Secured Parties, including, for the avoidance of doubt and without limitation, the relevant obligations and liabilities owed to the Security Agent under paragraph (A) of Clause 13.2 (*Security Agent as joint and several creditor and parallel debts*)

and the obligations and liabilities owed to the Security Agent as holder of the parallel debt claims constituted by the Parallel Debt Deeds and as beneficiary of the Bills of Exchange (in each case including, without limitation, any further (or, subject to it resulting from a Permitted Pari Passu Amendment, any increased) advances or other utilisations under the Pari Passu FA); and

- (B) all costs, charges and expenses incurred by the Security Agent in connection with the protection, preservation or enforcement of rights under or in connection with the Debt Documents.

**"Secured Parties"** means the Security Agent, any Receiver or Delegate and each of the Pari Passu Creditors from time to time but, in the case of each Pari Passu Creditor, only if it is a Party or is otherwise duly bound by this Agreement in the appropriate capacity, including, without limitation, pursuant to Clause 14.5 (*Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking*).

**"Security"** means a mortgage, maximum mortgage, charge, pledge, assignment in security, transfer in security, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"Security Documents"** means:

- (A) each of the Transaction Security Documents;
- (B) each Parallel Debt Deed;
- (C) any other document entered into at any time by any of the Debtors creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations and that is contemplated as being or to be provided by this Agreement or is permitted to have been granted in accordance with this Agreement; and
- (D) any Security granted under any covenant for further assurance in any of the documents referred to in paragraphs (A) to (C) above.

**"Security Property"** means:

- (A) the Transaction Security expressed to be granted in favour of the Security Agent and all proceeds of that Transaction Security;
- (B) all obligations expressed to be Secured Obligations together with all representations and warranties expressed to be given by a Debtor in favour of the Security Agent; and
- (C) any other amounts or property, whether rights, entitlements, claims or otherwise, actual or contingent, which the Security Agent is required by the terms of the Debt Documents to hold on behalf of the Secured Parties.

**"Sponsor"** means Dilon d.o.o.

**"Sponsor Affiliate"** means the UBO, each of his Relatives, any trust of which the UBO or any of his Relatives is a trustee or any of its Affiliates, any partnership of which the UBO or any of his Relatives is a partner or any of its Affiliates and any trust, fund or other entity which is managed by, or is under the control of, the UBO or any of its Affiliates or his Relatives provided that any such trust, fund or other entity which has been established for at least six months solely for the purpose of making, purchasing or investing in loans or debt securities and which is managed or controlled independently from all other trusts, funds or other entities managed or controlled by the UBO or any of his Relatives which have been established for the primary or main purpose of investing in the share capital of companies shall not constitute a Sponsor Affiliate.

**"Spot Rate of Exchange"** means the mid-rate of exchange rate for the purchase of the relevant currency with EUR published by the Bank of Slovenia, which rate shall be notified by the Security Agent in accordance with paragraph (E) of Clause 13.4 (*Duties of the Security Agent*).

**"Subordinated Creditor"** means each person that is a party to the Subordination Agreement as a "Subordinated Creditor".

**"Subordination Agreement"** means the subordination agreement to be entered into between, among others, the Security Agent, the Intra-Group Lenders and the Subordinated Creditors and, among other things, in relation to the subordination by such persons of their claims against those members of the Group and other related entities, and regulating the enforcement of any Transaction Security given by such persons, as specified therein.

**"Subsidiary"** means an entity from time to time of which a person has direct or indirect control or owns directly or indirectly more than 50 percent of the share capital or similar right of ownership.

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**"TARGET2"** means the Trans-European Automated Real-Time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

**"TARGET Day"** means any day on which TARGET2 is open for the settlement of payment in euro.

**"Transaction Security"** means:

- (i) the Security or subordination arrangements set out in the Subordination Agreement and/or created or to be created over the assets specified in

SCHEDULE 6 (*Transaction Security*);

- (ii) the Security created or expressed to be created under the Bills of Exchange (and, for the avoidance of doubt, each of the Bill of Exchange Declarations); and
- (iii) any other Security or subordination arrangements established or to be established by any person who is a grantor of Transaction Security covered by (i) above, or otherwise with the consent of the Parent, as may be required by the Pari Passu FA Lenders in accordance with the terms of the Pari Passu FA,

in each case, in favour of the Security Agent as security for the Secured Obligations, in any event, subject to the release mechanisms set out in this Agreement and the Transaction Security Documents to permit disposals otherwise permitted by the other Debt Documents.

**"Transaction Security Documents"** means:

- (A) each of the Bills of Exchange (and, for the avoidance of doubt, each of the Bill of Exchange Declarations);
- (B) each of the documents creating the Transaction Security listed in SCHEDULE 6 (*Transaction Security*); and
- (C) any other document creating or expressed to create any Transaction Security.

**"UBO"** means Mr. Andrey Zubitskiy.

1.2 Construction

- (A) Unless a contrary indication appears, a reference in this Agreement to:
  - (i) any **"Pari Passu Creditor Representative", "Pari Passu Creditor", "Debtor", "Pari Passu Creditor", "Pari Passu FA Creditor", "Pari Passu Notes Creditor", "Pari Passu FA Lender", "Pari Passu Noteholder", "Parent", "Party", "Pari Passu Creditor", "Intra-Group Lender", "Subordinated Creditor", "Security Agent", "Pari Passu Borrower", "Pari Passu FA Guarantor"**, shall be construed to be a reference to it in its capacity as such and not in any other capacity;
  - (ii) any person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Debt Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with this Agreement;
  - (iii) **"assets"** includes present and future properties, revenues and rights of every description;

- (iv) a "**Debt Document**" or any other agreement or instrument is (other than a reference to a "**Debt Document**" or any other agreement or instrument in "**original form**") a reference to that Debt Document, or other agreement or instrument, as amended, novated, supplemented, extended or restated as permitted by this Agreement;
- (v) "**disposal**" means any sale, lease, licence, transfer or other disposal of any asset (including, without limitation, the creation of any Security in respect thereof);
- (vi) "**enforcing**" (or any derivation) the Transaction Security includes:
  - (a) the filing for initiation of any judicial enforcement proceeding (*izvršilni postopek*) or the appointment of an administrator (or any analogous officer in any jurisdiction) of a Debtor by the Security Agent;
  - (b) the taking of any of the enforcement steps described in, or contemplated by, the Transaction Security Documents or applicable law (including any out of court enforcement, appropriation or notarial enforcement) and/or the exercising of any rights granted to the Security Agent that, pursuant to the Transaction Security Documents, are expressed thereunder to be exercisable on an "Acceleration Event" (including, without limitation, to use any powers of attorney granted to it and or to require information from the relevant grantor of Transaction Security in relation to the assets expressed thereby to be subject to the Transaction Security), excluding, however, for the avoidance of doubt such steps as are envisaged for the purposes of initial perfection of Transaction Security;
  - (c) the making of a payment demand in relation to a Bill of Exchange including from the payer or account holding bank specified in a Bill of Exchange (where relevant after completing the Bill of Exchange); and
  - (d) the making of a demand by the Security Agent under/or by reference to Clause 13.2 (*Security Agent as joint and several creditor and parallel debt*) and/or a Parallel Debt Deed;
- (vii) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (viii) the "**original form**" of a "**Debt Document**" or any other agreement or instrument is a reference to that Debt Document, agreement or instrument as originally entered into;

- (ix) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
  - (x) "**proceeds**" of a Distressed Disposal or of a Debt Disposal includes proceeds in cash;
  - (xi) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
  - (xii) "**includes**" and "**including**" are not limiting, irrespective of whether or not expressly referenced where such term is used;
  - (xiii) a provision of law is a reference to that provision as amended or re-enacted;
  - (xiv) a person "**ensuring**" or "**procuring**" that another person takes any action or does not take any action shall be construed as *odgovornost za uspeh (del credere)* in the meaning of OZ;
  - (xv) a person "**indemnifying**" any other person shall be a reference to the first person indemnifying and holding harmless (*odškodovati*) such other person;
  - (xvi) words imparting the singular include the plural and vice versa;
  - (xvii) a member of the Group being or becoming "**aware**" of a certain fact or circumstance shall include knowledge (*vedenje*) by management of that member of the Group as well as negligent (using the standard of care of a diligent entrepreneur (*skrben gospodarstvenik*)) lack of knowledge of that fact or circumstance; and
  - (xviii) a time of day is a reference to Ljubljana (Slovenia) time unless indicated expressly otherwise.
- (B) Section, Clause and Schedule headings are for ease of reference only.
- (C) A Pari Passu Notes Default is "continuing" if it has not been remedied or waived by the relevant majority of Pari Passu Noteholders under the Pari Passu Notes. A Pari Passu FA Default is "continuing" if it is deemed continuing under the Pari Passu FA.
- (D) Nothing in this Agreement shall be construed as to impose an ongoing obligation on any Debtor to observe any provisions of a Debt Document after the

Liabilities to which such Debt Document relates have been fully and finally discharged.

- (E) Any provision of a Debt Document purporting to entitle the Security Agent to appoint any third party to act together with it, as custodian, as its substitute, delegate, attorney or similar shall be construed as entitling the Security Agent (or any person validly acting on its behalf) to appoint any third person it reasonably considers suitable and otherwise fulfilling any requirements of this Agreement.
- (F) Notwithstanding anything to the contrary in this Agreement or any Transaction Security Document, nothing in this Agreement or Transaction Security Documents shall be construed as extending, creating or implying any recourse of any Pari Passu Notes Creditor to any member of the Group other than the Parent (in accordance with the terms of the Pari Passu Notes and this Agreement) beyond the right to participate in the proceeds from enforcement of the Security Property in accordance with this Agreement.
- (G) References to a Pari Passu Creditor Representative acting on behalf of the Pari Passu Creditors of which it is the Pari Passu Creditor Representative means such Pari Passu Creditor Representative acting on behalf of those Pari Passu Creditors of which it is the Pari Passu Creditor Representative with the consent of the proportion of such Pari Passu Creditors required under and in accordance with the applicable Debt Documents. Without prejudice to Clause 20.5 (*Voting of Pari Passu Credit Participations*), a Pari Passu Creditor Representative will be entitled to seek instructions from those Pari Passu Creditors of which it is the Pari Passu Creditor Representative to the extent required by the applicable Debt Documents, as the case may be, as to any action to be taken by it under this Agreement.

### 1.3 Third party rights

- (A) Unless expressly provided to the contrary in this Agreement, a person who is not a Party has no right to enforce or to enjoy the benefit of any term of this Agreement.
- (B) Notwithstanding any term of this Agreement, the consent of any person referred to in (C) and who is not a Party is not required to rescind or vary this Agreement at any time.
- (C) Any Receiver, Delegate or any other person described in paragraph (B) of Clause 13.11 (*Exclusion of liability*) may, subject to this Clause 1.3, rely on any Clause of this Agreement which expressly confers rights on it as a genuine contract for the benefit of third persons (*pogodba v korist tretjega*) pursuant to Article 126 (1) OZ.
- (D) This Agreement shall, subject to this Clause 1.3, be deemed to constitute a genuine contract for the benefit of third persons (*pogodba v korist tretjega*)

pursuant to Article 126 (1) OZ for the benefit of each Pari Passu Noteholder. Third party rights under this Agreement shall apply to any Pari Passu Noteholder which, by their act of acceptance of and holding of a Pari Passu Note, has agreed to be regulated (*zavezan*) by the provisions of this Agreement in relation to those matters dealt with by this Agreement and any such Pari Passu Noteholder will be deemed to receive the benefits of this Agreement, and be subject to the terms and conditions of this Agreement, as if such person was a Party hereto, with the effect that, without limitation, despite Article 127(1) OZ, this Agreement can be rescinded or varied without the consent of any Pari Passu Noteholder other than where the consent of that Pari Passu Noteholder is expressly required under Clause 20 (*Consents, amendments and override*).

#### 1.4 EBRD – preferred payment

Notwithstanding any other provision of this Agreement (and with no adverse inference to be drawn to the applicability hereof because this Clause 1.4 may be mentioned expressly in some provisions but not others), in circumstances where there is a Default arising as a direct result of Foreign Exchange Restrictions, EBRD shall not be required to share with any other Pari Passu Creditor any amount received or recovered by or on behalf of EBRD and as a result of EBRD's status as an International Financial Institution, including by virtue of it being exempted from:

- (A) the existence of Foreign Exchange Restrictions in a Relevant Jurisdiction; or
- (B) any prohibition or restriction imposed on the payment of amounts outstanding under any Finance Document (as defined in the Pari Passu FA) by a moratorium or other debt rescheduling, whether in law or practice.

For the purpose of the foregoing:

**"Amount Outstanding"** means the aggregate of the amounts at any time and from time to time owing to any Pari Passu Creditor and unpaid in respect of principal, interest, default interest, commissions, charges, fees, expenses, indemnities or other amounts payable under or in respect of, in each case, any Debt Document.

**"Foreign Exchange Restrictions"** means the unavailability of foreign exchange in Slovenia or any prohibition or restriction imposed within Slovenia on the payment of all or any part of any Amount Outstanding by a moratorium or other debt rescheduling, whether in law or in practice.

**"International Financial Institution"** means any financial institution, including multilateral development banks and regional development banks, that is established and owned, directly or indirectly, by multiple governments or an intergovernmental institution.

**"Relevant Jurisdiction"** means, in relation to a Debtor:

- (A) Slovenia;

- (B) any other jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (C) any other jurisdiction where it conducts its business; and
- (D) any other jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

#### 1.5 Effectiveness of certain provisions of this Agreement

- (A) Until notification is given by the Facility Agent to the Security Agent under paragraph (A)a. of Clause 17.3 (*Notification of prescribed events*):
  - (i) no Pari Passu Creditor shall have any rights under any of Clauses 2 (*Ranking*) to 11 (*Application of proceeds*) of this Agreement; and
  - (ii) no Enforcement Action under paragraph (A) (insofar as this relates to Liabilities under this Agreement or a Transaction Security Document) or paragraph (B) of the definition thereof, or any other Enforcement Action under any Parallel Debt Deed, may be taken by any Pari Passu Creditor,

provided that this shall be without prejudice to (a) any rights of any Pari Passu Creditors otherwise arising under any Debt Documents to which they are a party, and (b) the right and/or capacity of the Security Agent to enter into the Transaction Security Documents and to take the benefit of the Transaction Security.

- (B) If the notification anticipated to be given by the Facility Agent to the Security Agent under paragraph (A)a. of Clause 17.3 (*Notification of prescribed events*) is not given by 31 March 2026, then unless the Parent and the Instructing Group agree otherwise, the Security Agent may and shall release the Transaction Security then otherwise held by it.

## **SECTION 2**

### **RANKING AND PARI PASSU PARI PASSU CREDITORS**

#### **2 Ranking and Priority**

##### **2.1 Pari Passu Creditor Liabilities**

Each of the Parties agrees that the Pari Passu Liabilities owed by the Debtors to the Pari Passu Creditors shall rank in right and priority of payment *pari passu* and without any preference between them. The previous sentence is without prejudice to the application of Clause 2.3 (*Pari Passu Creditor Representative Amounts*) and Clause 11 (*Application of Proceeds*).

##### **2.2 Transaction Security**

Each of the Parties agrees that the Transaction Security shall rank and secure the Pari Passu Liabilities (subject to the terms of this Agreement) *pari passu* and without any preference between them (but, in relation to a Pari Passu FA Creditor or a Pari Passu Notes Creditor, only to the extent that such Transaction Security secures those Liabilities).

##### **2.3 Pari Passu Creditor Representative Amounts**

Subject to Clause 11 (*Application of Proceeds*) where applicable, nothing in this Agreement will prevent payment by any Debtor of the Pari Passu Creditor Representative Amounts or the receipt and retention of such Pari Passu Creditor Representative Amounts by the relevant Pari Passu Creditor Representative(s).

#### **3 Pari Passu Creditors and Pari Passu Liabilities**

##### **3.1 Payment of Pari Passu Liabilities**

Without prejudice to Clause 3.2 (*Restriction on Enforcement Action*) and Clause 5.1 (*Turnover by the Pari Passu Creditors*), the Debtors may make, and the Pari Passu Creditor Representatives may receive (on behalf of the corresponding Pari Passu Pari Passu Creditors), Permitted Payments at any time in accordance with, and subject to the provisions of, the Pari Passu Documents.

##### **3.2 Restriction on Enforcement Action**

- (A) Subject to Clause 3.4 (*Permitted Enforcement*), so long as any of the Pari Passu Liabilities are or may be outstanding, none of the Pari Passu Creditors shall be entitled to take any Enforcement Action in respect of any of the Liabilities owed to it without the prior written consent of the Instructing Group.
- (B) The Notes Agent and the Facility Agent (in each case acting in accordance with their authority and/or any instruction duly given to them by any required

quorum of Pari Passu Noteholders or, as applicable, Pari Passu FA Lenders, in each case under their respective terms of appointment) may request the Security Agent to seek the consent of the Instructing Group at any time in relation to any proposed Enforcement Action.

### 3.3 Security: Pari Passu Creditors

The Pari Passu Creditors may take, accept or receive, in each case in accordance with the provisions of this Agreement, the benefit of:

- (A) the Common Transaction Security;
- (B) any Security in respect of the Pari Passu Liabilities from any member of the Group in addition to the Common Transaction Security which to the extent legally possible is, at the same time, also offered either:
  - (i) to the Security Agent as trustee for the other Secured Parties in respect of their Liabilities; or
  - (ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee for the other Secured Parties:
    - (a) to the other Secured Parties in respect of their Liabilities; or
    - (b) to the Security Agent as joint and several creditor (*solidarni upnik*) as well as under the parallel debt structure constituted by the Parallel Debt Deeds for the benefit of the other Secured Parties,

and (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2.2 (*Transaction Security*);

- (C) any guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Pari Passu Liabilities in addition to those:
  - (i) contained in (and/or as otherwise contemplated as being required to be granted in the future) pursuant to the original form of the Pari Passu FA or comprised of any Pari Passu Creditor Representative Amounts;
  - (ii) in this Agreement; or
  - (iii) in any Common Assurance,

if and to the extent legally possible at the same time it also offered to the other Secured Parties in respect of their respective Liabilities and (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*); and

- (D) the Transaction Security created under any Bill of Exchange, provided that:

- (i) the Pari Passu FA Liabilities may be secured by Bills of Exchange issued by any Debtor;
- (ii) the Pari Passu Notes Liabilities may be secured by Bills of Exchange issued by the Parent; and
- (iii) such Transaction Security (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*).

Each Pari Passu Creditor confirms at the date of this Agreement that it does not hold any Bill of Exchange that can be used for any of the Liabilities owed to it other than as permitted under the foregoing provisions of this Clause 3.3.

#### 3.4 Permitted Enforcement

- (A) Each Pari Passu Notes Creditor may take Enforcement Action which would be available to it but for Clause 3.2 (*Restriction on Enforcement Action*) if:
  - (i) at the same time as, or prior to, that action, Enforcement Action has been taken in respect of the Pari Passu FA Liabilities, in which case the Pari Passu Notes Creditors may take the same Enforcement Action as has been taken in respect of those Pari Passu FA Liabilities (and acting exclusively through the Notes Agent who shall act exclusively on the instructions of the requisite Pari Passu Noteholders);
  - (ii) at the same time as or prior to, that action, the consent of the Instructing Group is obtained; or
  - (iii) an Insolvency Event has occurred in relation to the Parent, in which case after the occurrence of that Insolvency Event, each Pari Passu Notes Creditor (acting exclusively through the Notes Agent, who shall act exclusively on the instructions of the requisite Pari Passu Noteholders) shall be entitled (if it has not already done so) to exercise any right it may otherwise have in respect of the Parent, subject in any event to Clauses 4.4 (*Filing of claims*) and 4.5 (*Further assurance – Insolvency Event*) to:
    - (a) accelerate any of the Parent's Pari Passu Notes Liabilities owing to it or declare them prematurely due and payable on demand;
    - (b) make a demand under any guarantee, indemnity or other assurance against loss given to in respect of any of the Parent's Pari Passu Notes Liabilities owing to it; or
    - (c) without prejudice to the other terms of claim and prove in the liquidation of the Parent for the Pari Passu Notes Liabilities owing to it.

- (B) Each Pari Passu FA Lender may take Enforcement Action which would be available to it but for Clause 3.2 (Restriction on Enforcement Action) if:
- (i) at the same time as, or prior to, that action, Enforcement Action has been taken in respect of the Pari Passu Notes Liabilities, in which case the Pari Passu FA Creditors may take the same Enforcement Action as has been taken in respect of those Pari Passu Notes Liabilities (and acting exclusively through the Facility Agent);
  - (ii) at the same time as or prior to, that action, the consent of the Instructing Group is obtained; or
  - (iii) an Insolvency Event has occurred in relation to any Debtor or a person that is a grantor of Transaction Security, in which case after the occurrence of that Insolvency Event, each Pari Passu FA Creditor (acting exclusively through the Facility Agent) shall be entitled (if it has not already done so) to exercise any right it may otherwise have in respect of that person, subject in any event to Clauses 4.4 (*Filing of claims*) and 4.5 (*Further assurance – Insolvency Event*), to:
    - (a) accelerate that person's Pari Passu FA Liabilities owing to it or declare them prematurely due and payable on demand;
    - (b) make a demand under any guarantee, indemnity or other assurance against loss given to it in respect of any Pari Passu FA Liabilities owing to it; or
    - (c) claim and prove in the liquidation of that person for the Pari Passu FA Liabilities owing to it.

### 3.5 Amendments to Pari Passu Notes and Pari Passu FA

- (A) No:
- a. Pari Passu Noteholder shall:
    - i. amend or waive any of its rights or any obligations owed to it by the Parent under the Pari Passu Notes; or
    - ii. request any change to the provision of the Pari Passu Notes imposing any obligations more onerous on the Parent than those existing at the date of this Agreement;
  - b. Pari Passu FA Lender shall:
    - i. amend or waive any of its rights or any obligations owed to it by any Debtor under the Pari Passu FA; or

- ii. request any change to the provision of the Pari Passu FA imposing any obligations more onerous on any Debtor than those existing at the date of this Agreement,

in each case, other than a Permitted Pari Passu Amendment.

- (B) The Notes Agent shall be entitled to request the Facility Agent for a confirmation of whether any proposed amendment or waiver of any provision of the Pari Passu Notes would be in breach of, or require the consent of the requisite majority of Pari Passu FA Lenders under, the Pari Passu FA.
- (C) The Facility Agent shall be entitled to request the Notes Agent for a confirmation of whether any proposed amendment or waiver of any provision of the Pari Passu FA would be in breach of, or require the consent of the requisite majority of Pari Passu Noteholders under, the Pari Passu Notes.
- (D) The Notes Agent or the Facility Agent shall promptly reply to any request received by it under paragraph (B) or (C).

## SECTION 3

### INSOLVENCY, TURNOVER AND ENFORCEMENT

#### 4 Effect of Insolvency Event

##### 4.1 Distributions

- (A) Subject to Clause 1.4 (*EBRD - preferred payment*) to the extent of EBRD's obligations under this Clause, after the occurrence of an Insolvency Event in relation to any Debtor, any person that is a grantor of Transaction Security, or any member of the Group, any Party (other than the Security Agent) entitled to receive a distribution out of the assets of that person (in the case of a Pari Passu Creditor, only to the extent that such amount constitutes Enforcement Proceeds) in respect of Liabilities owed to that Party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that person to make that distribution to the Security Agent (or to such other person as the Security Agent shall direct) until the Liabilities owing to the Secured Parties have been paid in full.
- (B) The Security Agent shall apply distributions made to it under paragraph (A) above in accordance with Clause 11 (*Application of Proceeds*).

##### 4.2 Set-Off

Subject to Clause 1.4 (*EBRD - preferred payment*) to the extent of EBRD's obligations under this Clause, to the extent that any Liabilities of a Debtor or provider of Transaction Security are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to that Debtor or provider of transaction Security, any Pari Passu Creditor or other Debtor which benefited from that set-off shall pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Agent for application in accordance with Clause 11 (*Application of Proceeds*).

##### 4.3 Non-cash distributions

If the Security Agent or any other Secured Party receives a distribution referred to in Clause 4.1 or Clause 4.2 in a form other than cash in respect of any of the Liabilities, the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.

##### 4.4 Filing of claims

After the occurrence of an Insolvency Event in relation to any Debtor or a person that is a grantor of Transaction Security, each Pari Passu Creditor irrevocably authorises the Security Agent, on its behalf, to:

- (A) take any Enforcement Action (in accordance with the terms of this Agreement) against that person;
- (B) demand, sue, prove and give receipt for any or all of that person's Liabilities;
- (C) collect and receive all distributions on, or on account of, any or all of that person's Liabilities; and
- (D) file claims, take proceedings and do all other things the Security Agent considers reasonably necessary to recover that person's Liabilities.

#### 4.5 Further assurance – Insolvency Event

Each Pari Passu Creditor will:

- (A) do all things that the Security Agent requests in order to give effect to this Clause 4; and
- (B) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 4 or if the Security Agent requests that a Pari Passu Creditor take that action, undertake that action itself in accordance with the instructions of the Security Agent or grant a power of attorney to the Security Agent (on such terms as the Security Agent may reasonably require) to enable the Security Agent to take such action.

#### 4.6 Security Agent instructions

For the purposes of Clause 4.1 (*Distributions*), Clause 4.4 (*Filing of claims*) and Clause 4.5 (*Further assurance – Insolvency Event*) the Security Agent shall act:

- (A) on the instructions of the Instructing Group; or
- (B) in the absence of any such instructions, as the Security Agent sees fit.

### 5 Turnover of Receipts

#### 5.1 Turnover by the Pari Passu Creditors

Subject to Clause 1.4 (*EBRD - preferred payment*) (to the extent of EBRD's obligations under this Clause) and Clause 5.2 (*Permitted assurance and receipts*), if at any time prior to the Pari Passu Discharge Date, any Pari Passu Creditor receives or recovers (including by way of set-off):

- (A) any distribution or Payment other than a Permitted Payment; or
- (B) any distribution or Payment, in each case required by this Agreement to be applied in accordance with Clause 11 (*Application of proceeds*), except in accordance with Clause 11 (*Application of Proceeds*),

that receipt or recovery shall, to the fullest extent permitted by applicable law, not be considered to be a good discharge thereof and in any event, that Pari Passu Creditor will promptly pay an amount equal to that receipt or recovery to the Security Agent for application in accordance with the terms of this Agreement.

## 5.2 Permitted assurance and receipts

Nothing in this Agreement shall restrict the ability of any Pari Passu Creditor to:

- (A) arrange with any person which is not a member of the Group, any assurance against loss in respect of, or reduction of its credit exposure to, a Debtor (including assurance by way of credit based derivative, credit insurance, or sub-participation); or
- (B) make any assignment or transfer permitted by Clause 14 (*Changes to the Parties*),

and that Pari Passu Creditor shall not be obliged to account to any other Party for, or share with any other Party, any sum received by it as a result of that action.

## 5.3 Amounts received by Debtors

If any of the Debtors receives or recovers any amount which, under the terms of any of the Debt Documents, should have been paid to the Security Agent, that Debtor will:

- (A) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on behalf of the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and
- (B) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement.

# 6 Redistribution

## 6.1 Recovering Pari Passu Creditor's rights

- (A) Any amount paid or distributed by a Pari Passu Creditor (a "**Recovering Pari Passu Creditor**") to the Security Agent under Clause 4 (*Effect of Insolvency Event*) or Clause 5 (*Turnover of Receipts*) shall be treated as having been paid or distributed by the relevant Debtor and distributed to the Security Agent and Pari Passu Creditors (each a "**Sharing Pari Passu Creditor**") in accordance with the terms of this Agreement.
- (B) On a distribution by the Security Agent under paragraph (A) above of a Payment or distribution received by a Recovering Pari Passu Creditor from a

Debtor, as between the relevant Debtor and the Recovering Pari Passu Creditor an amount equal to the amount received or recovered by the Recovering Pari Passu Creditor and paid or distributed to the Security Agent (the "**Shared Amount**") will be treated as not having been paid or distributed by that Debtor.

## 6.2 Reversal of redistribution

- (A) If any part of the Shared Amount received or recovered by a Recovering Pari Passu Creditor becomes repayable or returnable to a Debtor and is repaid or returned by that Recovering Pari Passu Creditor to that Debtor, then:
  - (i) each Sharing Pari Passu Creditor shall, upon request of the Security Agent, pay or distribute to the Security Agent for the account of that Recovering Pari Passu Creditor an amount equal to the appropriate part of its share of the Shared Amount (together with an amount as is necessary to reimburse that Recovering Pari Passu Creditor for its proportion of any interest on the Shared Amount which that Recovering Pari Passu Creditor is required to pay) (the "**Redistributed Amount**"); and
  - (ii) as between the relevant Debtor and each relevant Sharing Pari Passu Creditor, an amount equal to the relevant Redistributed Amount will be treated as not having been paid or distributed by that Debtor.
- (B) The Security Agent shall not be obliged to pay or distribute any Redistributed Amount to a Recovering Pari Passu Creditor under paragraph (A)(i) above until it has been able to establish to its satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Pari Passu Creditor.

## 6.3 Deferral of subrogation

No Pari Passu Creditor or Debtor will exercise any rights which it may have by reason of the performance by it of its obligations under the Debt Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any Pari Passu Creditor which ranks ahead of it in accordance with the priorities set out in Clause 2 (*Ranking and Priority*) or the order of application in Clause 11 (*Application of Proceeds*) until such time as all of the Liabilities owing to each prior ranking Pari Passu Creditor (or, in the case of any Debtor, owing to each Pari Passu Creditor) have been irrevocably discharged in full.

# 7 Enforcement of Transaction Security

## 7.1 Enforcement Instructions

- (A) The Security Agent may refrain from enforcing the Transaction Security or taking any other action as to Enforcement unless instructed otherwise by the Instructing Group.

- (B) The Notes Agent or the Facility Agent, in each case acting in accordance with their respective terms of appointment, may request the Security Agent to seek Enforcement Instructions.
- (C) The Instructing Group may give or refrain from giving instructions to the Security Agent to take action as to Enforcement in accordance with the Enforcement Principles and otherwise as they see fit by way of the issuance of Enforcement Instructions.
- (D) The Security Agent is entitled to rely on and shall comply with Enforcement Instructions given in accordance with this Clause 7.1.
- (E) At any time following the receipt by the Security Agent of Enforcement Instructions from the Instructing Group in accordance with this Agreement, and to the extent so instructed, the Security Agent may and shall make payment demands under:
  - (i) any of the Parallel Debt Deed(s); and
  - (ii) any Bill(s) of Exchange,and, as applicable, any corresponding Bills of Exchange Declaration.

## 7.2 Manner of enforcement

The Security Agent shall enforce the Transaction Security or take other action as to Enforcement in such manner (including, without limitation, the selection of any administrator (or any analogous officer in any jurisdiction) of any Debtor to be appointed by the Security Agent) as the Instructing Group shall instruct or, in the absence of any such instructions, as the Security Agent considers in its discretion to be appropriate and consistent with the Enforcement Principles.

## 7.3 Exercise of voting rights

- (A) Subject to paragraph (C) below, each Pari Passu Creditor (other than each Pari Passu Creditor Representative) will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any Debtor, as instructed by the Security Agent.
- (B) Subject to paragraph (C) below, the Security Agent shall give instructions for the purposes of paragraph (A) above in accordance with any instructions given to it by the Instructing Group provided that any such instructions have been given in accordance with Clause 7.1 (*Enforcement Instructions*).
- (C) Nothing in this Clause 7.3 (but without prejudice to any other provision of this Agreement including, without limitation, anything in Section 4 (*Non-Distressed Disposals, Distressed Disposals and Claims*)) entitles any Party to exercise or

require any Pari Passu Creditor to exercise such power of voting or representation to waive, reduce, discharge, extend the due date for (or change the basis for accrual of any) payment of or reschedule any of the Liabilities owed to that Pari Passu Creditor.

#### 7.4 Waiver of rights

To the extent permitted under applicable law and subject to Clause 7.1 (*Enforcement Instructions*), Clause 7.2 (*Manner of enforcement*), Clause 9.2 (*Proceeds of Distressed Disposals and Debt Proposals*), Clause 9.3 (*Fair value*) and Clause 11 (*Application of Proceeds*), each of the Secured Parties and the Debtors waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any amount received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

#### 7.5 Duties owed

Each of the Secured Parties and the Debtors acknowledges that, in the event that the Security Agent enforces or is instructed to enforce the Security Property, the duties of the Security Agent and of any Receiver or Delegate owed to the other Secured Parties in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Security Property shall, subject to Clause 9.2 (*Proceeds of Distressed Disposals and Debt Proposals*) and Clause 9.3 (*Fair value*), be no different to or greater than the duty that is owed by the Security Agent, Receiver or Delegate to the Debtors under general law.

#### 7.6 Enforcement through Security Agent

- (A) Without prejudice to (B) and (C) below and without prejudice to the obligations of the Security Agent (but subject in any event to any limitations thereon set out in this Agreement), the Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under this Agreement, any Parallel Debt Deed, any Bill of Exchange and/or Bill of Exchange Declaration, the Transaction Security Documents or under applicable law in relation to the Transaction Security except through the Security Agent.
- (B) Without prejudice to the existence of any rights of a Secured Party under any Transaction Security:
  - (i) no Secured Party shall enforce any rights thereunder other than in accordance with the instructions of the Instructing Group and, to the fullest extent permissible by applicable law, doing so through the Security Agent; and

- (ii) if the Security Agent cannot, for whatever reason, enforce its rights under any Transaction Security or validly act on behalf of any Secured Party and/or if the Instructing Group and the Security Agent consider it in the best interests of all Secured Pari Passu Creditors for any Transaction Security to be enforced collectively, each Secured Pari Passu Creditor shall fully cooperate in doing so and shall join in any action proposed by the Instructing Group and the Security Agent to be taken in relation to the enforcement of any Transaction Security.
- (C) Each Secured Party will:
  - (i) do all things that the Security Agent requests in order to give effect to this Clause 7.6; and
  - (ii) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 7.6 or if the Security Agent requests that a Pari Passu Creditor take that action, undertake that action itself in accordance with the instructions of the Security Agent or grant a power of attorney to the Security Agent (on such terms as the Security Agent may reasonably require) to enable the Security Agent to take such action.

## SECTION 4

### NON-DISTRESSED DISPOSALS, DISTRESSED DISPOSALS AND CLAIMS

#### 8 Non-Distressed Disposals

##### 8.1 Definitions

In this Clause 8:

(A) "**Disposal Proceeds**" means the proceeds of a Non-Distressed Disposal; and

(B) "**Non-Distressed Disposal**" means a disposal of:

- (i) an asset of a member of the Group; or
- (ii) an asset which is subject to the Transaction Security,

to a person or persons outside the Group where:

- (A) that disposal is not prohibited under the Pari Passu Agreements; and
- (B) that disposal is not a Distressed Disposal.

##### 8.2 Facilitation of Non-Distressed Disposals

(A) If a disposal of an asset is a Non-Distressed Disposal, the Security Agent is entitled (at the cost of the Parent and, without prejudice to any requirement of a Pari Passu Agreement, without any consent, sanction, authority or further confirmation from any Pari Passu Creditor, other Secured Party or Debtor) but subject to paragraph (B) below:

- (i) to release and/or surrender the Transaction Security or any other claim (relating to a Debt Document) over or in relation to that asset;
- (ii) where that asset consists of shares in the capital of a member of the Group or a Debtor, to release and/or surrender the Transaction Security or any other claim (relating to a Debt Document) over the assets of that person or any of its Subsidiaries; and
- (iii) to execute and deliver or enter into any release and/or surrender of the Transaction Security or any claim described in paragraphs (i) and (ii) above and issue any certificates of non-crystallisation of any floating charge (or comparable Security) or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable.

- (B) Each step that may be taken by the Security Agent pursuant to (A) shall be taken by it without undue delay save that any release and/or surrender of Transaction Security or any claim described in paragraph (A) above shall become effective only on the making of the relevant Non-Distressed Disposal.

### 8.3 Disposal Proceeds

If any Disposal Proceeds are required under any Pari Passu Agreement to be applied in mandatory prepayment of any Liabilities, then those Disposal Proceeds shall be applied in accordance with the relevant Pari Passu Agreement and the consent of any other Party shall not be required for that application.

## 9 Distressed Disposals

### 9.1 Facilitation of Distressed Disposals

Subject to Clause 9.4 (*Restriction on enforcement*) and without prejudice to any requirement of a Pari Passu Agreement, if a Distressed Disposal is being effected the Security Agent is entitled (at the cost of the Parent and without any consent, sanction, authority or further confirmation from any Pari Passu Creditor, other Secured Party or Debtor):

- (A) **release of Transaction Security/non-crystallisation certificates:** to release and/or surrender the Transaction Security or any other claim over the asset subject to the Distressed Disposal and execute and deliver or enter into any release and/or surrender of that Transaction Security or claim and issue any letters of non-crystallisation of any floating charge (or comparable Security) or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable;
- (B) **release of liabilities and Transaction Security on a share sale (Debtor):** if the asset subject to the Distressed Disposal consists of shares in the capital of a Debtor, to release and/or surrender:
  - (i) that Debtor and any Subsidiary of that Debtor from all or any part of:
    - (a) its Borrowing Liabilities; and
    - (b) its Guarantee Liabilities; and
    - (c) its other Liabilities and/or Junior Creditor Liabilities;
  - (ii) any Transaction Security granted by that Debtor or any Subsidiary of that Debtor over any of its assets; and
  - (iii) any other claim of a Subordinated Creditor, an Intra-Group Lender or another Debtor over that Debtor, its assets or over the assets of any Subsidiary of that Debtor,

on behalf of itself, the relevant Pari Passu Creditors, any Subordinated Creditors, any Intra-Group Lenders, and Debtors;

- (C) **release of liabilities and Transaction Security on a share sale (Holding Company):** if the asset subject to the Distressed Disposal consists of shares in the capital of any Holding Company (and which itself is not a Debtor) of a Debtor, to release:

- (i) that Holding Company and any Subsidiary of that Holding Company from all or any part of:
  - i. its Borrowing Liabilities;
  - ii. its Guarantee Liabilities; and
  - iii. its other Liabilities and/or Junior Creditor Liabilities;
- (ii) any Transaction Security granted by any Subsidiary of that Holding Company over any of its assets; and
- (iii) any other claim of a Subordinated Creditor, an Intra-Group Lender or another Debtor over any Subsidiary of that Holding Company or its assets,

on behalf of the relevant Pari Passu Creditors, any Subordinated Creditors, any Intra-Group Lenders, and Debtors;

- (D) **facilitative disposal of liabilities on a share sale:** if the asset subject to the Distressed Disposal consists of shares in the capital of a Debtor and the Security Agent decides to dispose of all or any part of:

- (i) the Liabilities and/or Junior Creditor Liabilities (other than Liabilities due to any Pari Passu Creditor Representative); or
- (ii) the Debtors' Intra-Group Receivables,

owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company on the basis that any transferee of those Liabilities or Debtors' Intra-Group Receivables (the "**Transferee**") will not be treated as a Pari Passu Creditor or a Secured Party for the purposes of this Agreement, to execute and deliver or enter into any agreement to dispose of all or part of those Liabilities or Debtors' Intra-Group Receivables on behalf of the relevant Pari Passu Creditors and Debtors **provided that** notwithstanding any other provision of any Debt Document the Transferee shall not be treated as a Pari Passu Creditor or a Secured Party for the purposes of this Agreement;

(E) ***sale of liabilities on a share sale***: if the asset subject to the Distressed Disposal consists of shares in the capital of a Debtor or the Holding Company of the Debtor and the Security Agent decides to dispose of all or any part of:

- (i) the Liabilities (other than Liabilities due to any Pari Passu Creditor Representative); or
- (ii) the Debtors' Intra-Group Receivables,

owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company on the basis that any transferee of those Liabilities or Debtors' Intra-Group Receivables will be treated as a Pari Passu Creditor or a Secured Party for the purposes of this Agreement, to execute and deliver or enter into any agreement to dispose of:

- (a) all (and not part only) of the Liabilities owed to the Pari Passu Creditors (other than to any Pari Passu Creditor Representative); and
- (b) all or part of any other Liabilities and/or Junior Creditor Liabilities (other than Liabilities owed to any Pari Passu Creditor Representative) and the Debtors' Intra-Group Receivables,

on behalf of, in each case, the relevant Pari Passu Creditors and Debtors;

(F) ***transfer of obligations in respect of liabilities on a share sale***: if the asset subject to the Distressed Disposal consists of shares in the capital of a Debtor or the Holding Company of a Debtor (the "**Disposed Entity**") and the Security Agent decides to transfer to another Debtor (the "**Receiving Entity**") all or any part of the Disposed Entity's obligations or any obligations of any Subsidiary of that Disposed Entity in respect of:

- (i) the Intra-Group Liabilities; or
- (ii) the Debtors' Intra-Group Receivables,

to execute and deliver or enter into any agreement to:

- (i) agree to the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtors' Intra-Group Receivables on behalf of the relevant Intra-Group Lenders and Debtors to which those obligations are owed and on behalf of the Debtors which owe those obligations; and
- (ii) to accept the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtors' Intra-Group Receivables on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of those Intra-Group Liabilities or Debtors' Intra-Group Receivables are to be transferred.

## 9.2 Proceeds of Distressed Disposals and Debt Disposals

The net proceeds of each Distressed Disposal and each Debt Disposal shall be paid, or distributed, to the Security Agent for application in accordance with Clause 11 (*Application of Proceeds*) and, to the extent that any Liabilities Sale has occurred, as if that Liabilities Sale had not occurred.

## 9.3 Fair value

In the case of:

- (A) a Distressed Disposal; or
- (B) a Debt Disposal,

effected by, or at the request of, the Security Agent, the Security Agent may and shall act in accordance with this Agreement.

## 9.4 Restriction on enforcement

If a Distressed Disposal or a Debt Disposal is being effected:

- (A) the Security Agent is not authorised to release any Debtor, Subsidiary or Holding Company from any Borrowing Liabilities or Guarantee Liabilities owed to any Pari Passu Creditor except in accordance with this Clause 9 (*Distressed Disposals*);
- (B) no Distressed Disposal or Debt Disposal may be made for consideration in a form other than cash; and
- (C) the relevant Pari Passu Creditors shall simultaneously effect the unconditional release (or unconditional transfer to the purchaser of the relevant member of the Group) of all Borrowing Liabilities and Guarantee Liabilities owing to the Pari Passu Creditors by the relevant Debtor and each of its direct and indirect Subsidiaries.

## 9.5 Appointment of Financial Adviser

Without prejudice to Clause 13.8 (*Rights and discretions*), the Security Agent may engage, or approve the engagement of, pay for and rely on the services of a Financial Adviser in accordance with Schedule 4 (*Enforcement Principles*).

## 9.6 Security Agent's actions

For the purposes of Clause 9.1 (*Facilitation of Distressed Disposals*) and Clause 9.3 (*Fair Value*) the Security Agent shall act:

- (A) on the instructions of the Instructing Group; or

- (B) in the absence of any such instructions as the Security Agent, acting reasonably, considers to be in accordance with the Enforcement Principles.

## **10 Further Assurance – Disposals and Releases**

Each Pari Passu Creditor and Debtor will:

- (A) do all things that the Security Agent requests in order to give effect to Clause 8 (*Non-Distressed Disposals*) and Clause 9 (*Distressed Disposals*) (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Agent may consider to be necessary to give effect to the releases or disposals contemplated by those Clauses); and
- (B) if the Security Agent is not entitled to take any of the actions contemplated by those Clauses or if the Security Agent requests that any Pari Passu Creditor or Debtor take any such action, take that action itself in accordance with the instructions of the Security Agent or grant a power of attorney to the Security Agent (on such terms as the Security Agent may reasonably require) to enable the Security Agent to take such actions,

**provided that** the proceeds of those disposals are applied in accordance with Clause 8 (*Non-Distressed Disposals*) or Clause 9 (*Distressed Disposals*) as the case may be.

## SECTION 5

### PROCEEDS

#### 11 Application of Proceeds

##### 11.1 Order of application

To the fullest extent permitted by mandatory law (including, without limitation, such mandatory laws a breach of which would result in the officers of the relevant Debtor of (x) contravening their fiduciary duties and/or (y) incurring civil or criminal liability) and subject to Clause 1.4 (*EBRD - preferred payment*), and Clause 11.2 (*Prospective liabilities*) all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Debt Document or otherwise in connection with the realisation or enforcement of all or any part of the Security Property (for the purposes of this Clause 11, the "**Recoveries**") shall be held by the Security Agent on behalf of the Secured Parties to apply them at any time as the Security Agent (acting reasonably (including, without limitation, requiring written confirmation of release of the corresponding Liabilities from any recipient) or in accordance with the instructions of the Instructing Group) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 11), in the following order of priority:

- (A) in discharging any sums owing to the Security Agent (other than pursuant to Clause 13.2 (*Security Agent as joint and several creditor (solidarni upnik)*) and under the Parallel Debt Deed), any Receiver or any Delegate and in payment to the Pari Passu Creditor Representatives of the Pari Passu Creditor Representative Amounts;
- (B) in discharging:
  - a. all costs and expenses incurred by any Pari Passu Creditor in connection with any realisation or enforcement of the Transaction Security taken by it or with its consent in accordance with the terms of this Agreement or any action taken at the request of the Security Agent under Clause 4.5 (*Further assurance – Insolvency Event*) paragraph (B) of Clause 7.6 (*Enforcement through the Security Agent*) and/or paragraph (B) of Clause 10 (*Further Assurance - Disposals and Releases*); and
  - b. any amounts paid by any Pari Passu FA Creditor to the Security Agent under Clause 13.12 (*Pari Passu FA Lenders' indemnity to the Security Agent*) and for which that Pari Passu FA Creditor has not then been reimbursed by any Debtor;
- (C) in discharging the then due and payable Pari Passu Liabilities relating to the Super Senior Revolving Facility (as defined in the Pari Passu FA) comprised of,

among other things, a principal amount as at the date of this Agreement of EUR 25,000,000.

- (D) in discharging the remaining due and payable Pari Passu Liabilities on a *pro rata* basis save that:
- a. in relation to any Recoveries (or part thereof) (the "**Affected Recoveries**"), if, by operation of law or other legal challenge that has been upheld by a final decision of a competent court, any Pari Passu Liabilities (or corresponding amount under any Parallel Debt Deed) are determined to be ineligible to be recovered as secured claims as part of an Enforcement ("**Ineligible Pari Passu Liabilities**"), the denominator for the *pari passu* determination under b. shall exclude the Ineligible Pari Passu Liabilities;
  - b. the Affected Recoveries shall be paid first, on a *pro rata* basis as between those Pari Passu Liabilities that are not Ineligible Pari Passu Liabilities; and
  - c. the then remaining Pari Passu Liabilities shall then, subject to applicable law, be paid, on a *pro rata* basis as between such remaining Pari Passu Liabilities;
- (E) if none of the Debtors is under any further actual or contingent liability under any Pari Passu Document, in payment or distribution to any person to whom the Security Agent is obliged to pay or distribute in priority to any Debtor; and
- (F) the balance, if any, in payment or distribution to the relevant Debtor,

and such that, in relation to any entitlement of a Pari Passu FA Lender or Pari Passu Noteholder under the foregoing, the Security Agent (i) shall not be obligated to make a disbursement of Recoveries under (D) until it is satisfied as to whether or not there would be any Ineligible Pari Passu Liabilities, and (ii) shall make the corresponding payment(s) or distribution(s) to that person's Pari Passu Creditor Representative for application by such Pari Passu Creditor Representative otherwise in accordance with the terms of the relevant Pari Passu Agreement.

## 11.2 Prospective liabilities

Following a Distress Event the Security Agent may, in its reasonable discretion hold any amount of the Recoveries in one or more interest bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) as the Security Agent shall think fit (the interest being credited to the relevant account for so long as the Security Agent shall think fit) for later application under Clause 11.1 (*Order of application*) in respect of:

- (A) any sum to any Security Agent, any Receiver or any Delegate; and
- (B) any part of the Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future.

## 11.3 Investment of cash proceeds

Prior to the application of the proceeds of the Security Property in accordance with Clause 11.1 (*Order of Application*) the Security Agent may hold all or part of any cash proceeds in one or more interest bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent (the interest being credited to the relevant account) pending the application from time to time of those monies in the Security Agent's discretion in accordance with the provisions of this Clause 11.

## 11.4 Currency conversion

- (A) For the purpose of, or pending the discharge of, any of the Secured Obligations the Security Agent may:
  - (i) convert any moneys received or recovered by the Security Agent (including, without limitation, any cash proceeds) from one currency to another, at the Spot Rate of Exchange at the time at which the conversion is made; and
  - (ii) notionally convert the valuation provided in any opinion or valuation from one currency to another, at the Spot Rate of Exchange at the time at which the notional conversion is made.
- (B) The obligations of any Debtor to pay in the due currency shall only be satisfied:
  - (i) in the case of paragraph (A)(i) above, to the extent of the amount of the due currency purchased after deducting the costs of conversion; and
  - (ii) in the case of paragraph (A)(ii) above, to the extent of the amount of the due currency which results from the notional conversion referred to in that paragraph.

### 11.5 Permitted Deductions

The Security Agent (acting reasonably) shall, to the fullest extent permitted by mandatory law (including, without limitation, such mandatory laws a breach of which would result in the officers of the relevant Debtor (x) contravening their fiduciary duties and/or (y) incurring civil or criminal liability), be entitled (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any law or regulation to make from any distribution or payment made by it under this Agreement, and to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as Security Agent under any of the Debt Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

### 11.6 Good Discharge

- (A) Any distribution or payment to be made in respect of the Secured Obligations by the Security Agent may be made to the relevant Pari Passu Creditor Representative on behalf of its Pari Passu Creditors.
- (B) Any distribution or payment made as described in paragraph (A) above shall be a good discharge (*pravilna izpolnitev*), to the extent of that payment or distribution, by the Security Agent.
- (C) If any proceeds received by the Security Agent on account of any of the Liabilities are not in the currency of the Liabilities to be satisfied thereby, the Security Agent is under no obligation to make the payments to the Pari Passu Creditor Representatives, or the other Pari Passu Creditors under paragraph (A) above in the same currency as that in which the Liabilities owing to the relevant Pari Passu Creditor are denominated pursuant to the relevant Debt Document.

### 11.7 Calculation of Amounts

For the purpose of calculating any person's share of any amount payable to or by it, the Security Agent shall be entitled to:

- (A) notionally convert the Liabilities owed to any person into a common base currency (decided in its discretion by the Security Agent), that notional conversion to be made at the Spot Rate of Exchange at the time at which that calculation is to be made; and
- (B) assume that all amounts received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Liabilities in accordance with the terms of the Debt Documents under which those Liabilities have arisen.

## **SECTION 6**

### **THE PARTIES**

#### **12 THE NOTES AGENT**

##### **12.1 Exclusions of liability - Notes Agent**

The Pari Passu Noteholders are bound by the provisions of the Pari Passu Notes Agent Engagement T&Cs, as if they were parties thereto, with the effect that the terms and conditions applicable to the appointment of the Notes Agent as set out therein (including any exclusions of liability) are binding on each Pari Passu Noteholder. Each Pari Passu Noteholder undertakes not to assert to the contrary. In any event (subject to any more restrictive exclusions of liability set out in the Pari Passu Notes Agent Engagement T&Cs), as between the Notes Agent and the Pari Passu Noteholders, the provisions of Clause 13.3 (*Instructions*), paragraphs (A), (C) and (E) of Clause 13.4 (*Duties of the Security Agent*), Clauses 13.5 (*No duty to Debtors*) to 13.11 (*Exclusion of Liability*), and 13.13 (*Resignation of the Security Agent*) to 13.14 (*Confidentiality*) shall apply to the Notes Agent and its duties, obligations and liabilities to the Pari Passu Note Holders under the Debt Documents, *mutatis mutandis*, and, without limitation, the Notes Agent shall have no liability to any Pari Passu Noteholder under the Debt Documents to the extent this is limited or excluded by the operation of this Clause 12.1. Nothing in the foregoing shall otherwise limit the rights or obligations between (i) any of the Notes Agent and the Pari Passu Noteholders on the one part and (ii) any other Party to this Agreement other than the Notes Agent or any Pari Passu Noteholder on the other part.

#### **13 THE SECURITY AGENT**

##### **13.1 Security Agent**

- (A) The Security Agent declares that it holds the Security Property on behalf of the Secured Parties on the terms contained in this Agreement. It is also acknowledged that the Security Agent holds all amounts from time to time received or recovered by the Security Agent under clause 3 (*Parallel Debt (Covenant to pay the Security Agent)*) of each of the Parallel Debt Deeds as more fully set out in the relevant Parallel Debt Deed.
- (B) Each of the Pari Passu Creditors authorises the Security Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Debt Documents together with any other incidental rights, powers, authorities and discretions.

### 13.2 Security Agent as joint and several creditor and parallel debts

- (A) Notwithstanding anything to the contrary in any of the Debt Documents, (a) the Security Agent, the Debtors, each grantor of Transaction Security, and each of the other Secured Parties, except for any Pari Passu Notes Creditor, agree that the Security Agent shall be the joint and several creditor (*solidarni upnik*) (together with such Secured Parties) of the Pari Passu FA Liabilities, and, separately, (b) the Security Agent, the Parent and each of the Pari Passu Notes Creditors agree that the Security Agent shall be the joint and several creditor (*solidarni upnik*) (together with the Pari Passu Notes Creditors) of the Parent's Pari Passu Notes Liabilities, and that accordingly the Security Agent will have its own right to demand performance by the relevant Debtors of those obligations in full, such right being exercisable in accordance with the provisions of such Debt Documents and this Agreement, including, without limitation as to the obtaining of the necessary instructions.
- (B) The Parties acknowledge and agree:
  - (i) that the Security Agent will hold the benefit of those parallel debt claims constituted by clause 3 (*Parallel Debt (Covenant to pay the Security Agent)*) of each of the Parallel Debt Deeds; and
  - (ii) that any amount payable by a Debtor to a Secured Party (including any amount payable to the Security Agent as joint and several creditor (*solidarni upnik*) or a creditor under the relevant Parallel Debt Deed) shall be reduced to the extent that the Security Agent has received (and is able to retain for application in accordance with this Agreement) payment in full of the corresponding amount under clause 3 (*Parallel Debt (Covenant to pay the Security Agent)*) of each of the Parallel Debt Deeds.
- (C) The Parties acknowledge and agree to the terms of the Parallel Debt Deeds, and (i) the Pari Passu FA Creditors agree to be bound by, and receive any benefit under, the Parallel Debt (FA) Deed, and (ii) the Pari Passu Notes Creditors agree to be bound by, and receive any benefit under, the Parallel Debt (Notes) Deed, as if they were parties thereto.

### 13.3 Instructions

- (A) The Security Agent shall:
  - (i) subject to paragraphs (D) and (E) below, exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Agent in accordance with any instructions given to it by the Instructing Group; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above (or, if this Agreement stipulates the matter is a decision for any other Pari Passu Creditor(s), in

accordance with instructions given to it by such Pari Passu Creditor(s) in accordance with this Agreement).

- (B) The Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Instructing Group (or, if this Agreement stipulates the matter is a decision for any other Pari Passu Creditor(s), in accordance with instructions given to it by such Pari Passu Creditor(s) in accordance with this Agreement) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security Agent may refrain from acting unless and until it receives those instructions or that clarification.
- (C) Save in the case of decisions stipulated to be a matter for any other Pari Passu Creditor(s) under this Agreement and unless a contrary intention appears in this Agreement, any instructions given to the Security Agent by the Instructing Group shall override any conflicting instructions given by any other Parties and will be binding on all Secured Parties.
- (D) Paragraph (A) above shall not apply:
  - (i) where a contrary indication appears in this Agreement;
  - (ii) where this Agreement requires the Security Agent to act in a specified manner or to take a specified action;
  - (iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the Secured Parties including, without limitation, Clauses 13.6 (*No duty to account*) to Clause 13.11 (*Exclusion of liability*), Clause 13.14 (*Confidentiality*) to Clause 13.21 (*Custodians and nominees*), Clause 13.24 (*Acceptance of title*) and Clause 13.25 (*Release in final discharge*);
  - (iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:
    - (a) Clause 8 (*Non-Distressed Disposals*);
    - (b) Clause 11.1 (*Order of application*);
    - (c) Clause 11.2 (*Prospective liabilities*); and
    - (d) Clause 11.5 (*Permitted Deductions*).
- (E) If giving effect to instructions given by the Instructing Group would (in the Security Agent's opinion) have an effect equivalent to an Intercreditor Amendment, the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the

Security Agent) whose consent would have been required in respect of that Intercreditor Amendment.

- (F) In exercising any discretion to exercise a right, power or authority under the Debt Documents where either:
  - (i) it has not received any instructions as to the exercise of that discretion; or
  - (ii) the exercise of that discretion is subject to paragraph (D)(iv) above,the Security Agent shall do so having regard to the interests of all the Secured Parties.
- (G) The Security Agent may refrain from acting in accordance with any instructions of any Pari Passu Creditor(s) until it has received any indemnification and/or security that it may in its discretion (acting reasonably) require (which may be greater in extent than that contained in the Debt Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may reasonably be expected to incur in complying with those instructions.
- (H) Without prejudice to the provisions of Clause 7 (*Enforcement of Transaction Security*) and the other provisions of this Clause 13.3, in the absence of instructions, the Security Agent may act (or refrain from acting) as it considers in its discretion to be appropriate.

#### 13.4 Duties of the Security Agent

- (A) The Security Agent's duties under the Debt Documents are solely mechanical and administrative in nature.
- (B) The Security Agent shall promptly:
  - (i) forward to each Pari Passu Creditor Representative, a copy of any document received by the Security Agent from any Debtor under any Debt Document; and
  - (ii) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.
- (C) Except where a Debt Document specifically provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (D) Without prejudice to Clause 17.3 (*Notification of prescribed events*), if the Security Agent receives notice from a Party referring to any Debt Document,

describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Pari Passu Creditors.

- (E) The Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Debt Documents to which it is expressed to be a party (and no others shall be implied).

#### 13.5 No duties to Debtors

Nothing in this Agreement constitutes the Security Agent as an agent (*zastopnik*), trustee (*skrbnik*) or fiduciary (*fiduciar*) of any Debtor.

#### 13.6 No duty to account

The Security Agent shall not be bound to account to any other Secured Party for any sum or the profit element of any sum received by it for its own account.

#### 13.7 Business with the Group

The Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Debtor, grantor of Transaction Security or other member of the Group.

#### 13.8 Rights and discretions

- (A) The Security Agent may:

- (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
- (ii) rely on any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within the knowledge and/or power to verify of the individual making the statement;
- (iii) assume that:
  - (a) any instructions received by it from the Instructing Group, or, to the extent such matter is not an Instructing Group decision, any other Pari Passu Creditor(s) are duly given in accordance with the terms of the Debt Documents;
  - (b) unless it has received notice of revocation, that those instructions have not been revoked; and
  - (c) if it receives any instructions to act in relation to the Transaction Security, that all applicable conditions under the Debt Documents for so acting have been satisfied; and

- (iv) rely on a certificate from any person:
  - (a) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge (*vedenje*) of that person; or
  - (b) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (a) above, may assume the truth and accuracy of that certificate.
- (B) The Security Agent may assume (unless it has received notice to the contrary in its capacity as security agent for the Secured Parties) that:
  - (i) no Default has occurred;
  - (ii) any right, power, authority or discretion vested in any Party or any Pari Passu Creditor(s) has not been exercised; and
  - (iii) any notice made by the Parent is made on behalf of and with the consent and knowledge (*vedenje*) of all the Debtors.
- (C) Without prejudice to the generality of paragraph (E) below, the Security Agent may at any time engage and pay for the services of any appraisers or valuers or any lawyers to act as independent counsel to the Security Agent (and so separate from any lawyers instructed by any Pari Passu Creditor) if the Security Agent in its reasonable opinion deems this to be necessary (including, without limitation, in relation to the enforcement of any Transaction Security or the taking of any Transaction Security required to be provided after the date of this Agreement) and, other than whilst a Default is continuing or is reasonably considered by the Security Agent to be imminent, in consultation with the Parent.
- (D) The Security Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Security Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (E) The Security Agent, any Receiver and any Delegate may act in relation to the Debt Documents and the Security Property through its officers, employees and agents and shall not:
  - (i) be liable for any error of judgment made by any such person; or

- (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,

unless such error or such loss was directly caused by the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct.

- (F) Unless this Agreement expressly specifies otherwise, the Security Agent may disclose to any other Party any information it reasonably believes it has received as Security Agent under this Agreement.
- (G) Notwithstanding any other provision of any Debt Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (H) Notwithstanding any provision of any Debt Document to the contrary (other than and without prejudice to paragraph (A) of Clause 13.12 to the extent of the circumstances covered thereby), the Security Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

### 13.9 Responsibility for documentation

None of the Security Agent, any Receiver nor any Delegate is responsible or liable for:

- (A) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent, a Debtor or any other person in or in connection with any Debt Document or the transactions contemplated in the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document;
- (B) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property; or
- (C) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

### 13.10 No duty to monitor

The Security Agent shall not be bound to enquire:

- (A) whether or not any Default has occurred;
- (B) as to the performance, default or any breach by any Party of its obligations under any Debt Document; or
- (C) whether any other event specified in any Debt Document has occurred.

### 13.11 Exclusion of liability

- (A) Without limiting paragraph (B) below (and without prejudice to any other provision of any Debt Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate), none of the Security Agent, any Receiver nor any Delegate will be liable for:
  - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Debt Document or the Security Property unless directly caused by its gross negligence or wilful misconduct;
  - (ii) exercising or not exercising any right, power, authority or discretion given to it by, or in connection with, any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Debt Document or the Security Property;
  - (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
  - (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
    - (a) any act, event or circumstance not reasonably within its control; or
    - (b) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets;

breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

(B) No Party (other than the Security Agent, that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim save for claims based on wilful misconduct it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Debt Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause 13.11 as a genuine contract for the benefit of third persons (*pogodba v korist tretjega*) pursuant to Article 126 (1) OZ.

(C) Nothing in this Agreement shall oblige the Security Agent to carry out:

- (i) any "know your customer" or other checks in relation to any person; or
- (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Pari Passu Creditor,

on behalf of any Pari Passu Creditor and each Pari Passu Creditor confirms to the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Agent.

(D) Without prejudice to any provision of any Debt Document excluding or limiting the liability of the Security Agent, any Receiver or Delegate, any liability of the Security Agent, any Receiver or Delegate arising under or in connection with any Debt Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Agent, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Agent, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. To the maximum extent permitted by laws, the Security Agent, any Receiver or Delegate shall not be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Agent, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

### 13.12 Pari Passu FA Lenders' indemnity to the Security Agent

- (A) Each Pari Passu FA Lender shall (in the proportion that the Liabilities due to it bear to the aggregate of the principal amount of the Liabilities due to all Pari Passu FA Lenders for the time being (or, if the Liabilities due to the Pari Passu Creditors (other than any Pari Passu Creditor Representative) are zero, immediately prior to their being reduced to zero)), indemnify the Security Agent and every Receiver and every Delegate, within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under, or exercising any authority conferred under, the Debt Documents (unless the relevant Security Agent, Receiver or Delegate has been reimbursed by a Debtor pursuant to a Debt Document) provided that in any event, (i) the Security Agent shall promptly advise the Parent and the Pari Passu Creditors of any third party claims against the Security Agent and (ii) for so long as the Pari Passu Creditors and/or, as applicable, the Parent have confirmed they will (directly or indirectly) indemnify the Security Agent in accordance with paragraphs (B) and (C), the Security Agent shall not admit any such liability or, to the extent reasonably practicable, not incur such cost or loss without the consent of the Pari Passu Creditors and/or, as applicable, the Parent unless to do so would have material and adverse consequences for it.
- (B) Subject to paragraph (C) below, the Parent shall immediately on demand reimburse any Pari Passu FA Lender for any payment that Pari Passu FA Lender makes to the Security Agent pursuant to paragraph (A) above.
- (C) Paragraph (B) above shall not apply to the extent that the indemnity payment in respect of which the Pari Passu FA Lender claims reimbursement relates to a liability of the Security Agent to a Debtor.

### 13.13 Resignation of the Security Agent

- (A) The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the Pari Passu Creditors and the Parent.
- (B) Alternatively the Security Agent may resign by giving 30 days' notice to the Pari Passu Creditors and the Parent, in which case the Instructing Group may appoint a successor Security Agent.
- (C) If the Instructing Group have not appointed a successor Security Agent in accordance with paragraph (B) above within 20 days after notice of resignation was given, the retiring Security Agent (after consultation with the Pari Passu Creditor Representatives) may appoint a successor Security Agent.
- (D) The retiring Security Agent shall, at its own cost, make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the

purposes of performing its functions as Security Agent under the Debt Documents.

- (E) The Security Agent's resignation notice shall only take effect upon:
  - (i) the appointment of a successor; and
  - (ii) the transfer of all the Security Property to that successor.
- (F) The Parties undertake to take all such steps as may be required by applicable law for the Security Property and all the rights and obligations of the Security Agent as joint and several creditor (*solidarni upnik*) together with the Secured Parties and the rights and obligations of the Security Agent under the Parallel Debt Deed to be transferred to, and to vest in, the successor Security Agent (such steps shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Agent may consider to be necessary to this effect).
- (G) Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under paragraph (B) of Clause 13.25 (*Release in final discharge*) and paragraph (D) above) but shall remain entitled to the benefit of this Clause 13.13 and Clause 16.1 (*Indemnity to the Security Agent*) (and any Security Agent fees for the account of the retiring Security Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (H) The Instructing Group may, by notice to the Security Agent, require it to resign in accordance with paragraph (B) above. In this event, the Security Agent shall resign in accordance with paragraph (B) above but the cost referred to in paragraph (D) above shall be for the account of the Parent.

#### 13.14 Confidentiality

- (A) In acting on behalf of the Secured Parties, the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any other of its divisions or departments.
- (B) If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

#### 13.15 Information from the Pari Passu Creditors

Each Pari Passu Creditor shall supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent.

### 13.16 Credit appraisal by the Secured Parties

Without affecting the responsibility of any Debtor for information supplied by it or on its behalf in connection with any Debt Document, each Secured Party confirms to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Debt Document including but not limited to:

- (A) the financial condition, status and nature of each member of the Group;
- (B) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
- (C) whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Debt Document, the Security Property, the transactions contemplated by the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;
- (D) the adequacy, accuracy or completeness of any information provided by the Security Agent, any Party or by any other person under or in connection with any Debt Document, the transactions contemplated by any Debt Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document; and
- (E) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

### 13.17 Security Agent's management time and additional remuneration

Save as otherwise agreed between the Security Agent and the Parent, including without limitation in a Fee Letter, nothing in any Debt Document shall entitle the Security Agent to seek any reimbursement whatsoever on account of utilizing the Security Agent's management time or other resources.

### 13.18 Reliance and engagement letters

The Security Agent may obtain and rely on any certificate or report from any Debtor's auditor and may enter into any reliance letter or engagement letter relating to that certificate or report on such terms as it may consider appropriate (including, without limitation, restrictions on the auditor's liability and the extent to which that certificate or report may be relied on or disclosed).

### 13.19 No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

- (A) require the deposit with it of any deed or document certifying, representing or constituting the title of any Debtor to any of the Charged Property;
- (B) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Debt Document or the Transaction Security;
- (C) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Debt Document or of the Transaction Security;
- (D) take, or to require any Debtor to take, any step to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or
- (E) require any further assurance in relation to any Security Document.

### 13.20 Insurance by Security Agent

- (A) The Security Agent shall not be obliged:
  - (i) to insure any of the Charged Property;
  - (ii) to require any other person to maintain any insurance; or
  - (iii) to verify any obligation to arrange or maintain insurance contained in any Debt Document,and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.
- (B) Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Instructing Group requests it to do so in writing and the Security Agent fails to do so within fourteen days after receipt of that request.

### 13.21 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to this Agreement and the Security Agent shall, to the maximum

extent permitted by law, not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

#### 13.22 Delegation by the Security Agent

- (A) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.
- (B) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.
- (C) No Security Agent, Receiver or Delegate shall be bound to supervise, or be to the maximum extent permitted by law in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

#### 13.23 Additional Security Agents

- (A) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate agent or trustee or as a co-agent or co-trustee jointly with it:
  - (i) if it considers that appointment to be in the interests of the Secured Parties;
  - (ii) for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent deems to be relevant; or
  - (iii) for obtaining or enforcing any judgment in any jurisdiction,and the Security Agent shall give prior notice to the Parent and the Pari Passu Creditors of that appointment.
- (B) Any person so appointed shall, upon taking such steps as may be required by applicable law, have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Debt Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.
- (C) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the

purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

#### 13.24 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any Debtor may have to any of the Charged Property and shall not be liable for, or bound to require any Debtor to remedy, any defect in its right or title.

#### 13.25 Release in final discharge

Promptly upon the Security Agent being satisfied (acting reasonably) as to the occurrence of the Pari Passu Discharge Date:

- (A) the Security Agent shall release, discharge, and/or surrender without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and
- (B) any Security Agent which has resigned pursuant to Clause 13.13 (*Resignation of the Security Agent*) shall release, discharge and/or surrender, without recourse or warranty, all of its rights under each Security Document.

#### 13.26 Further assurance

- (A) In relation to any future claims that, in accordance with this Agreement, are expressed to share in the Transaction Security, the Security Agent may enter into such amendments and supplements to the Security Documents (including, if agreed between the Security Agent and the Parent, any release and re-take of any of the Transaction Security and irrespective of whether any such action would re-commence hardening periods) and, to the extent that amendments to an existing Security Document would trigger a re-commencement of hardening periods, enter into such additional (including junior or pari passu ranking) Security Documents (including over assets then already subject to Security in favour of Secured Parties) as is required for such claims to constitute Secured Obligations benefitting from the Transaction Security.
- (B) Each Secured Party:
  - (i) appoints the Security Agent to be its attorney to do anything which is required to give effect to paragraph (A) above;
  - (ii) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 13.26 or if the Security Agent requests that a Secured Party takes that action, undertakes that action itself in accordance with the instructions of the Security Agent;

- (iii) acknowledges and consents to the granting by any Debtor of Transaction Security over a Debtor's rights in, under or to the bank accounts (the "**Charged Bank Accounts**") held by any Debtor with that Secured Party (the "**Charged Bank Accounts Rights**") (including, without limitation, any credit balances on the same);
  - (iv) agrees to subordinate any preferential rights and claims it may have to any of the Charged Bank Accounts Rights (including, without limitation arising under its ordinary terms of business and/or by operation of law) (but excluding any rights and claims arising under the Transaction Security Documents), to the Transaction Security over such Charged Bank Account; and
  - (v) undertakes, as account bank, to comply with any instructions given under any Transaction Security Document relating to a Charged Bank Account, including instructions to furnish any countersignature on an account bank notification requested by the Security Agent and/or the account holding Debtor.
- (C) Each Debtor hereby confirms that the consents to disclosure in accordance with this Agreement are, to the extent of any such disclosure (but otherwise without prejudice to such data privacy and banking (secrecy) laws) also given by express reference to applicable data privacy and banking (secrecy) laws (including in particular Article 146 of the Slovenian Banking Act (*Zakon o bančništvu* – ZBan-3)).

## **14 CHANGES TO THE PARTIES**

### **14.1 Assignments and transfers**

No Party may:

- (A) assign (*odstopi*) any of its rights; or
- (B) transfer by way of assumption of contract (*prenos pogodbe*) any of its rights and obligations,

in respect of any Debt Documents or the Liabilities except as permitted by this Clause 14.

### **14.2 Change of Pari Passu FA Lender**

(A) A Pari Passu FA Lender may:

- (i) assign (*odstopi*) any of its rights; or
- (ii) transfer by way of assumption of contract (*prenos pogodbe*) any of its rights and obligations,

in respect of any Debt Documents or the Liabilities if:

- (a) that assignment or transfer is in accordance with the terms of the Pari Passu FA; and
- (b) subject to paragraph (B) below, any assignee or transferee has (if not already a Party as a Pari Passu FA Lender) acceded to this Agreement, as a Pari Passu FA Lender, pursuant to Clause 14.5 (*Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking*).

#### 14.3 Change of Pari Passu Noteholder

- (A) Any Pari Passu Noteholder may assign, transfer or novate any of its rights and obligations in respect of its Pari Passu Notes to any person without the need for such person to execute and deliver to the Security Agent a Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking.
- (B) By accepting a Pari Passu Note, each Pari Passu Noteholder shall be deemed to have appointed and authorized the Notes Agent to act on its behalf under, to enter into, and to comply with, and to give effect to, the provisions of this Agreement, and shall be bound by the provisions of this Agreement and be deemed to receive the benefits of this Agreement and be subject to the terms and conditions hereof, as if such Pari Passu Noteholder were a Party hereto.

#### 14.4 Change of Pari Passu Creditor Representative

No person shall become a Pari Passu Creditor Representative unless at the same time, it accedes to this Agreement as a Pari Passu Creditor Representative pursuant to Clause 14.5 (*Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking*).

#### 14.5 Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking

With effect from the date of acceptance by the Security Agent of a Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking duly executed and delivered to the Security Agent by the relevant acceding party or, if later, the date specified in that Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking:

- (C) any Party ceasing entirely to be a Pari Passu Creditor shall be discharged from further obligations towards the Security Agent and other Parties under this Agreement and their respective rights against one another shall be cancelled (except in each case for those rights which arose prior to that date); and
- (D) as from that date, the replacement or new Pari Passu Creditor shall assume the same obligations and become entitled to the same rights, as if it had been

an original Party in the capacity specified in the Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking.

#### 14.6 New Debtor

(A) If any member of the Group:

- (i) incurs any Liabilities; or
- (ii) gives any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities,

the Debtors will procure that the person incurring those Liabilities or giving that assurance accedes to this Agreement, the Subordination Agreement, and the Parallel Debt Deeds as a Debtor, in accordance with paragraph (B) below, no later than contemporaneously with the inurrence of those Liabilities or the giving of that assurance.

(B) With effect from the later of (i) the date of acceptance by the Security Agent of a Debtor Accession Agreement duly executed and delivered to the Security Agent by the new Debtor (ii) the date of accession to the Parallel Debt Deed or (iii) the date specified in the Debtor Accession Agreement, the new Debtor shall assume the same obligations and become entitled to the same rights as if it had been an original Party as a Debtor.

#### 14.7 Additional parties

Each of the Parties appoints the Security Agent to receive on its behalf each Debtor Accession Agreement and Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking delivered to the Security Agent and the Security Agent shall, as soon as reasonably practicable after receipt by it, sign and accept the same if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement or, where applicable, by the relevant Debt Document.

#### 14.8 Resignation of a Debtor

(A) The Parent may request that a Debtor (other than the Parent) ceases to be a Debtor by delivering to the Security Agent a Debtor Resignation Request.

(B) The Security Agent shall accept a Debtor Resignation Request and notify the Parent and each other Party of its acceptance if:

- (i) the Parent has confirmed that no Default results from the acceptance of the Debtor Resignation Request; and
- (ii) to the extent that the Pari Passu Discharge Date has not occurred, the Facility Agent notifies the Security Agent that the Debtor (subject only

(if applicable) to the Security Agent accepting the Debtor Resignation Request) is not, or has ceased to be, in accordance with the Pari Passu FA, a Pari Passu Borrower or a Pari Passu FA Guarantor; and

- (iii) the Parent confirms that that Debtor is under no actual or contingent obligations as debtor in respect of the Intra-Group Liabilities.
- (C) Upon notification by the Security Agent to the Parent of its acceptance of the resignation of a Debtor (such notification to be given promptly), that member of the Group shall cease to be a Debtor and shall have no further rights or obligations under this Agreement as a Debtor.

## **SECTION 7**

### **ADDITIONAL PAYMENT OBLIGATIONS**

#### **15 COSTS AND EXPENSES**

##### **15.1 Transaction expenses**

The Parent shall, within five Business Days of demand, pay the Security Agent the amount of all costs and expenses (including legal fees) (together with any applicable VAT) reasonably incurred by the Security Agent and by any Receiver or Delegate in connection with the negotiation, preparation, printing, execution and perfection of:

- (A) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and
- (B) any other Security Documents executed by it after the date of this Agreement.

Despite any other provision of a Debt Document, no provision of a Debt Document shall entitle the Security Agent (or any Receiver or Delegate appointed by it) to any reimbursement of costs incurred by or on account of a Receiver or Delegate other than and to the extent such Receiver or Delegate is appointed (a) as a result of the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation after the date of this Agreement or (b) in the context of enforcement of the Transaction Security).

##### **15.2 Amendment costs**

If a Debtor requests an amendment, waiver or consent, the Parent shall, within five Business Days of demand, reimburse the Security Agent for the amount of all costs and expenses (including legal fees) (together with any applicable VAT) reasonably incurred by the Security Agent (and by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

##### **15.3 Enforcement and preservation costs**

The Parent shall, within five Business Days of demand, pay to the Security Agent and each other Secured Party the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it in connection with:

- (A) the enforcement of or the preservation of any rights under any Debt Document and the Transaction Security; and
- (B) any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

#### 15.4 Stamp taxes

The Parent shall pay and, within five Business Days of demand, indemnify the Security Agent against any cost, loss or liability the Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Debt Document.

#### 15.5 Interest on demand

If any Pari Passu Creditor or Debtor fails to pay any amount (other than an amount of interest) payable by it under this Agreement on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment and to the extent interest at a default rate is not otherwise being paid on that sum) at the rate which is 2 per cent. per annum over the rate at which the Security Agent was being offered, by leading banks in the European interbank market, deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Security Agent may from time to time select **provided that** if such rate is below zero, that rate will be deemed to be zero.

#### 15.6 Security Agent fee

The Parent shall pay to the Security Agent (for its own account) a security agent fee in the amount and at the times agreed in a fee letter.

#### 15.7 Notes Agent fee

The Parent shall pay to the Notes Agent (for its own account) a notes agent fee in the amount and at the times agreed in the relevant engagement letter.

### 16 OTHER INDEMNITIES

#### 16.1 Indemnity to the Security Agent

(A) The Parent shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability (together with any applicable VAT) incurred by any of them as a result of:

- (i) any failure by the Parent to comply with its obligations under Clause 15 (*Costs and Expenses*);
- (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
- (iii) the taking, holding, protection or enforcement of the Transaction Security;

- (iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent, each Receiver and each Delegate by the Debt Documents or by law;
  - (v) any default by any Debtor in the performance of any of the obligations expressed to be assumed by it towards the Security Agent in the Debt Documents;
  - (vi) instructing lawyers, accountants, tax advisers, surveyors, a Financial Adviser or other professional advisers or experts as permitted under this Agreement; or
  - (vii) acting as Security Agent, Receiver or Delegate under the Debt Documents or which otherwise relates to any of the Security Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (B) Each Debtor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 16.1 will not be prejudiced by any release or disposal under Clause 9 (*Distressed Disposals*) taking into account the operation of that Clause 9.
- (C) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 16.1 and shall have a retention right (*pridržna pravica*) on the proceeds of the enforcement of the Transaction Security for all moneys payable to it.
- (D) Paragraphs (A) and (C) above shall constitute a genuine contract for the benefit of third persons (*pogodba v korist tretjega*) and any Receiver and Delegate may rely on paragraphs (A) and (B) pursuant to Article 126 (1) OZ, in each case as more fully set out in Clause 1.3 (*Third party rights*).

#### 16.2 Parent's indemnity to Pari Passu Creditors

The Parent shall promptly and as principal obligor indemnify each Pari Passu Creditor against any cost, loss or liability (together with any applicable VAT), whether or not reasonably foreseeable, incurred by any of them in relation to or arising out of the operation of Clause 9 (*Distressed Disposals*).

## **SECTION 8**

### **ADMINISTRATION**

#### **17 INFORMATION**

##### **17.1 Dealings through Pari Passu Creditor Representatives**

Each Pari Passu FA Lender and each Pari Passu Noteholder shall deal with the Parties to this Agreement in respect of any matters regulated by this Agreement exclusively through its Pari Passu Creditor Representative (save that if the Security Agent becomes aware (without duty to investigate the same) that the Facility Agent has become an "Impaired Agent" as defined in the Pari Passu FA, the Security Agent may and shall, for so long as the Facility Agent is an "Impaired Agent", deal directly with each Pari Passu FA Lender and, for such purposes, any notification required to be given by a Pari Passu FA Lender to the Facility Agent in relation to a matter that would be (required to be) communicated to the Security Agent, shall be deemed validly given by that Pari Passu FA Lender if it notifies the Security Agent directly).

##### **17.2 Disclosure between Pari Passu Creditors and Security Agent**

Notwithstanding any agreement to the contrary, each of the Debtors consents, until the Pari Passu Discharge Date, to the disclosure by any Pari Passu Creditor and the Security Agent to each other (whether or not through a Pari Passu Creditor Representative or the Security Agent) of such information howsoever relating to any of the Debtors as any Pari Passu Creditor or the Security Agent shall see fit.

##### **17.3 Notification of prescribed events**

(A) If:

- a. the first utilisation (conclusively evidencing the occurrence of the "Effective Date") under the Pari Passu FA occurs;
- b. a Default either occurs or ceases to be continuing; or
- c. a Pari Passu Acceleration Event occurs,

the relevant Pari Passu Creditor Representative shall, upon becoming aware of that occurrence or, in addition, in the case of b. and c. cessation, promptly notify the Security Agent and the Security Agent shall, upon receiving that notification, promptly notify the other Pari Passu Creditor Representative and the Parent, it being understood that such notification is for information purposes only and does not give rise to any express or implied representation or duty between any Pari Passu Notes Creditor and any Pari Passu FA Creditor whatsoever, whether at law or otherwise (including, without limitation, any inference as to the creditworthiness of any Debtor, for which each Pari Passu Creditor is individually responsible (but without prejudice to any obligations

or representations of any Debtor under any Debt Document in relation to any such matters)).

- (B) If the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each Party of that action.

#### 17.4 Other information

The Parent shall supply to the Security Agent (in sufficient copies for all the Pari Passu Creditors, if the Security Agent so requests) promptly, such information as the Security Agent may reasonably require regarding any assets subject to security in favour of the Secured Parties and the compliance of any Debtor with any Transaction Security Document.

### 18 NOTICES

#### 18.1 Communications in writing

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by electronic mail or letter.

#### 18.2 Communications with Pari Passu Creditors

Any notice given:

- (A) to a Pari Passu FA Lender or a Pari Passu Noteholder, shall be considered effectively given if given to that person's Pari Passu Creditor Representative; and
- (B) to a Debtor shall be considered effectively given if given to the Parent.

#### 18.3 Addresses

The address and the electronic email address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is:

- (A) in the case of an original Party, that identified with its name below;
- (B) in the case of any acceding Party, that notified in writing to the Security Agent on or prior to the date on which it becomes a Party,

or any substitute address, email address or department or officer which that Party may notify to the Security Agent (or the Security Agent may notify to the other Parties, if a change is made by the Security Agent) by not less than five Business Days' notice.

#### 18.4 Delivery

- (A) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
  - (i) if by way of electronic mail, when actually received (or made available) in readable form; or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,and, if a particular department or officer is specified as part of its address details provided under Clause 18.3 (*Addresses*), if addressed to that department or officer.
- (B) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).
- (C) Any communication or document made or delivered to the Parent in accordance with this Clause 18.4 will be deemed to have been made or delivered to each of the Debtors.
- (D) Any communication or document which becomes effective, in accordance with paragraphs (A) to (C) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### 18.5 Notification of address

Promptly upon receipt of notification of an address and email address or change of address or email address pursuant to Clause 18.3 (*Addresses*) or changing its own address or email address, the Security Agent shall notify the other Parties.

#### 18.6 Electronic communication

- (A) Any communication or document to be made or delivered under or in connection with this Agreement may be made or delivered by electronic means other than electronic email (including by way of posting to a secure website) if those two Parties:
  - (i) notify each other in writing of the information required to enable the transmission to them of information by that means; and
  - (ii) notify each other of any change to any such information supplied by them by not less than five Business Days' notice.

- (B) Any such electronic communication or delivery as specified in paragraph (A) above may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication or delivery.
- (C) Any such electronic communication or document as specified in paragraph (A) above made or delivered by one Party to another will be effective only when actually received (or made available) in readable form and in the case of any electronic communication or document made or delivered by the Security Agent or a Pari Passu Creditor Representative only if it is addressed in such a manner as that Party shall specify for this purpose.
- (D) Any electronic communication or document which becomes effective, in accordance with paragraph (C) above, after 3.00 p.m. in the place in which the Party to whom the relevant communication or document is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following Business Day.

#### 18.7 English language

- (A) Any notice given under or in connection with this Agreement must be in English.
- (B) All other documents provided under or in connection with this Agreement must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

### 19 PRESERVATION

#### 19.1 Partial invalidity

- (A) The Parties agree that should at any time, any provisions of a Debt Document be or become void (*ničnost*), invalid or due to any reason ineffective (*neveljavnost*) this will indisputably not affect the validity or effectiveness of the remaining provisions and the relevant Debt Document will remain valid and effective, save for the void, invalid or ineffective provisions, without any Party having to argue and prove the Parties intent to uphold the relevant Debt Document even without the void, invalid or ineffective provisions.
- (B) The void, invalid or ineffective provision shall be deemed replaced by such valid and effective provision that in legal and economic terms comes closest to what the Parties intended or would have intended in accordance with the

purpose of the relevant Debt Document if they had considered the point at the time of conclusion of the relevant Debt Document.

- (C) The foregoing shall apply mutatis mutandis to fill in a gap (*praznina*) in a Debt Document.

#### 19.2 No impairment

If, at any time after its date, any provision of a Debt Document (including this Agreement) is not binding on or enforceable in accordance with its terms against a person expressed to be a party to that Debt Document, neither the binding nature nor the enforceability of that provision or any other provision of that Debt Document will be impaired as against the other party(-ies) to that Debt Document.

#### 19.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under a Debt Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Debt Document. No election to affirm any Debt Document on the part of a Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Debt Document are cumulative and not exclusive of any rights or remedies provided by law.

#### 19.4 Waiver of defences

The provisions of this Agreement or any Transaction Security will not be affected by an act, omission, matter or thing which, but for this Clause 19.4, would reduce, release or prejudice the priorities expressed to be created by this Agreement including (without limitation and whether or not known to any Party):

- (A) any time, waiver or consent granted to, or composition with, any Debtor or other person;
- (B) the release of any Debtor or any other person under the terms of any composition or arrangement with any *Pari Passu* Creditor of any member of the Group;
- (C) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor or other person or any non-presentation or non-ob-servance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (D) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Debtor or other person;

- (E) any amendment, novation (*novacija*), supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Debt Document or any other document or security;
- (F) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security;
- (G) any intermediate Payment of any of the Liabilities owing to the Pari Passu Creditors in whole or in part; or
- (H) any insolvency or similar proceedings.

#### 19.5 Priorities not affected

Except as otherwise provided in this Agreement, the priorities referred to in Clause 2 (*Ranking and Priority*) will:

- (A) not be affected by any reduction or increase in the principal amount secured by the Transaction Security in respect of the Liabilities owing to the Pari Passu Creditors or by any intermediate reduction or increase in, amendment or variation to any of the Debt Documents, or by any variation or satisfaction of, any of the Liabilities or any other circumstances;
- (B) apply regardless of the order in which or dates upon which this Agreement and the other Debt Documents are executed or registered or notice of them is given to any person; and
- (C) secure the Liabilities owing to the Pari Passu Creditors in the order specified, regardless of the date upon which any of the Liabilities arise or of any fluctuations in the amount of any of the Liabilities outstanding.

## 20 CONSENTS, AMENDMENTS AND OVERRIDE

#### 20.1 Required consents

- (A) Subject to paragraph (B) below and Clause 20.4 (*Exceptions*), this Agreement may be:
  - (i) amended (and may be amended with) the consent of the Instructing Group and the Parent; and
  - (ii) to the extent of any rights of any Secured Party, waived by the Instructing Group.
- (B) An amendment or waiver that has the effect of changing:
  - (i) Clause 1.5 (*Effectiveness of certain provisions of this Agreement*);

- (ii) Clause 6 (*Redistribution*), Clause 7 (*Enforcement of Transaction Security*), Clause 11 (*Application of Proceeds*) or this Clause 20 (*Consents, Amendments and Override*);
- (iii) Clause 13.3 (*Instructions*) or the definition of "Instructing Group";
- (iv) the order of priority under this Agreement;
- (v) Clause 13.26 (*Further assurance*); or
- (vi) Schedule 4 (*Enforcement Principles*) or the definition of "Enforcement Objective",

shall not be made without the consent of:

- (a) a decision of the Pari Passu Noteholders that, under the Pari Passu Notes (applying paragraph (B)(i) of Clause 20.5) would be expressed to be binding on all Pari Passu Noteholders;
- (b) a decision of the Pari Passu FA Lenders that, under the Pari Passu FA would be expressed to be binding on all Pari Passu FA Lenders; and
- (c) the Security Agent.

## 20.2 Amendments and Waivers: Transaction Security Documents and Pari Passu Documents

- (A) Subject to paragraph (B) below and to Clause 20.4 (*Exceptions*), the Security Agent may, if authorised by the Instructing Group, and if the Parent consents, amend the terms of, waive any of the requirements of or grant consents under, any of the Transaction Security Documents which shall be binding on each Party.
- (B) Subject to paragraph (C) of Clause 20.4 (*Exceptions*), any amendment or waiver of, or consent under, any Transaction Security Document which has the effect of changing:
  - (i) the nature or scope of the Charged Property;
  - (ii) the manner in which the proceeds of enforcement of the Transaction Security are distributed; or
  - (iii) the release of any Transaction Security,

shall not be made without the prior consent of the Pari Passu Creditors and save that the consent of a Pari Passu Creditor shall not be required if, under the Pari Passu Agreement(s) to which it is a party, its consent would not be required (including, without limitation, as a result of decision by a requisite

quorum thereunder that, under the terms of such Pari Passu Agreement, is expressed to bind all Pari Passu Creditors thereunder (and applying paragraph (B)(i) of Clause 20.5).

### 20.3 Effectiveness

Any amendment, waiver or consent given in accordance with this Clause 20 will be binding on all Parties and the Security Agent may effect, on behalf of any Pari Passu Creditor, any amendment, waiver or consent permitted by this Clause 20.

### 20.4 Exceptions

- (A) Subject to paragraphs (C) and (D) below, if the amendment, waiver or consent may impose new or additional obligations on or withdraw or reduce the rights of any Party, that amendment, waiver or consent shall not be made without the consent of that Party other than:
  - (i) in the case of a Pari Passu FA Lender, in a way which affects or would affect Pari Passu FA Lenders generally and there has been a decision in support thereof under the Pari Passu FA that would be binding on all Pari Passu FA Lenders;
  - (ii) in the case of a Pari Passu Noteholder, in a way which affects or would affect Pari Passu Noteholders generally and there has been a decision in support thereof under the Pari Passu Notes that would be binding on all Pari Passu Noteholders (applying paragraph (B)(i) of Clause 20.5); or
  - (iii) in the case of a Debtor, to the extent consented to by the Parent under paragraph (A) of Clause 20.2 (*Amendments and Waivers: Transaction Security Documents*).
- (B) Subject to paragraphs (C) and (D) below, an amendment of rights and/or obligations of, a waiver of rights or a consent by, a Pari Passu Creditor Representative, the Security Agent (including, without limitation, any ability of the Security Agent to act in its discretion under this Agreement) may not be effected without the consent of that Pari Passu Creditor Representative or, as the case may be, the Security Agent.
- (C) Neither paragraph (A) nor (B) above, nor paragraph (B) of Clause 20.2 (*Amendments and Waivers: Transaction Security Documents*) shall apply:
  - (i) to any release of Transaction Security, claim or Liabilities; or
  - (ii) to any consent,which, in each case, the Security Agent gives in accordance with Clause 8 (*Non-Distressed Disposals*) or Clause 9 (*Distressed Disposals*).

- (D) In addition to any consent required under paragraph (A)(i), an amendment or waiver which relates to an EBRD Reserved ICA Matter shall not be made or given, without the prior written consent of EBRD. For such purposes, an **"EBRD Reserved Matter"** means any of:
- (i) Clause 1.4 (*EBRD - preferred payment*);
  - (ii) anything in Clauses 22 (*Governing law*), 23 (*Enforcement*) or 24 (*Privileges and immunities of EBRD*); or
  - (iii) this paragraph (D) including, without limitation, the definition of "EBRD Reserved Matter".

## 20.5 Voting of Pari Passu Credit Participations

- (A) Subject to paragraphs (C) and (D) below, in relation to:
- (i) a request for a decision of an Instructing Group or any other Consent in relation to any of the terms of this Agreement; or
  - (ii) a request to provide any confirmation or notification under this Agreement;

the Pari Passu Credit Participations of the relevant Pari Passu Creditors shall be determined in accordance with paragraph (B).

- (B) For the purpose of paragraph (A):
- (i) in relation to the Pari Passu Notes, the Pari Passu Credit Participations of the Pari Passu Noteholders to be included in the numerator and the denominator of any determination under (A) will be a block vote such that:
    - i. in the case of a vote by the Pari Passu Noteholders under the Pari Passu Notes (i) for or against a particular course of action that would, under the Pari Passu Notes (also having regard to paragraph (D) below), have the requisite level of consent to bind all Pari Passu Noteholders and (ii) that is communicated by the Notes Agent to the Security Agent within ten (10) Business Days of the request by the Security Agent for instructions (which notification shall also certify the percentage (if any) of any Pari Passu Credit Participations held by Sponsor Affiliates to the actual knowledge of the Notes Agent), the Pari Passu Credit Participations of all Pari Passu Noteholders will be considered as having voted for, or as applicable, against the relevant course of action; and
    - ii. in all other cases, the Pari Passu Credit Participations of the Pari Passu Noteholders for the purpose of such determination will be

ignored (meaning that the consent of the Pari Passu Noteholders shall not be required);

- (ii) in relation to the Pari Passu FA Lenders, the Pari Passu Credit Participations of the Pari Passu FA Lenders to be included in the numerator and the denominator of any determination under (A) will be:
    - i. (if any) as communicated by the Facility Agent to the Security Agent, which will split out Credit Participations voting (or deemed voting) for, voting (or deemed voting) against and not (or deemed not) included (having regard to any voting disenfranchisement provisions thereunder whether by reference to committed but unfunded Credit Participations of "Defaulting Lenders" (as defined therein) and/or of Sponsor Affiliates), within ten (10) Business Days of the request by the Security Agent for instructions; and
    - ii. in all other cases (including, without limitation, as a result of such decision not resulting in any requisite threshold being reached for a particular decision to be taken), the Pari Passu Credit Participations of the Pari Passu FA Lenders for the purpose of such determination will be deemed to be zero.
- (C) Where the consent of an individual Pari Passu Noteholder or a Pari Passu FA Lender is required under paragraph (B) of Clause 20.1 (*Required Consents*), the foregoing paragraph (B) shall apply **provided that** references therein to ten (10) Business Days shall be disregarded.
- (D) For so long as a Sponsor Affiliate (i) beneficially owns a Pari Passu Credit Participation or (ii) has entered into a sub-participation agreement relating to a Pari Passu Credit Participation or other agreement or arrangement having a substantially similar economic effect (each, an "**Arrangement**") and such Arrangement has not been terminated, in ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Pari Passu Credit Participations, or the agreement of any specified group of Pari Passu Creditors, has been obtained to approve any request for a Consent or to carry any other vote or approve any action under this Agreement, that Pari Passu Credit Participation shall be deemed to be zero (meaning the numerator and denominator for any Consent calculation are reduced accordingly) and, subject to paragraph (E) below, that Sponsor Affiliate (or the person with whom it has entered into that Arrangement (a "**Counterparty**")) shall be deemed not to be a Pari Passu Creditor.
- (E) Each Sponsor Affiliate that is a Pari Passu Creditor agrees that:
  - (i) in relation to any meeting or conference call to which all the Pari Passu Creditors or any of them are invited to attend or participate, it shall not attend or participate in the same if so requested by the Security Agent

or, unless the Security Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same;

- (ii) it shall not, unless the Security Agent otherwise agrees, be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Security Agent or one or more of the Pari Passu Creditors; and
- (iii) it shall, by 5.00 pm on the Business Day following the day on which it entered into the Arrangement or acquired Pari Passu Credit Participation, notify the Security Agent of the extent of the Pari Passu Credit Participation or amount outstanding to which that Arrangement relates. The Security Agent shall promptly disclose such information to the Pari Passu Creditor Representatives.

#### 20.6 No liability

None of the Pari Passu Creditors will be liable to any other Pari Passu Creditor or any Debtor for any Consent given or deemed to be given under this Clause 20.

#### 20.7 Agreement to override

- (A) Subject to paragraph (B) below, unless expressly stated otherwise in this Agreement, this Agreement overrides anything in the Debt Documents to the contrary.
- (B) Notwithstanding anything to the contrary in this Agreement, paragraph (A) above:
  - (i) will not cure, postpone, waive or negate in any manner any Default under any Debt Document as between any Pari Passu Creditor and any Debtor that are party to that Debt Document;
  - (ii) shall not be construed as entitling a Pari Passu Creditor to an additional or deviating vote on any matter where a valid decision has been taken thereon by the relevant Pari Passu Creditors under a Debt Document that, thereunder, would bind that Pari Passu Creditor; and
  - (iii) shall not, as between any Debtor(s) and any Pari Passu Creditor(s) be construed as imposing more onerous obligations on any Debtor(s) towards any Pari Passu Creditor(s) where, under the terms of any other agreement binding on any such Debtor(s) and Pari Passu Creditor(s), whether or not other persons are party thereto, the relevant circumstances are regulated less onerously.

## **21 COUNTERPARTS**

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

## SECTION 9

### GOVERNING LAW AND ENFORCEMENT

#### 22 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with this Agreement shall be governed by and construed in accordance with Slovenian law excluding its conflict of law rules.

#### 23 ENFORCEMENT

(A) Any dispute, controversy or claim arising out of or relating to:

- (i) this Agreement;
- (ii) the breach, termination or invalidity of this Agreement; or
- (iii) any non-contractual obligations arising out of or in connection with this Agreement,

(a "**Dispute**") shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules (in effect as at the date of this Agreement) (the "**UNCITRAL Rules**").

(B) There shall be one arbitrator and the appointing authority shall be LCIA (London Court of International Arbitration). For the purposes of Article 6.7 of the UNCITRAL Rules (or any Article supplementing it), EBRD shall be deemed not to have any nationality. The seat and place of arbitration shall be London, England and the English language shall be used throughout the arbitral proceedings. English law shall be the law applicable to the arbitration agreement contained in this Clause 23.

(C) The Parties hereby waive any rights under the Arbitration Act 1996 or otherwise to appeal any arbitration award to, or to seek determination of a preliminary point of law by, the courts of England.

(D) The arbitral tribunal shall not be authorised to grant, and each Party agrees that it shall not seek from any judicial authority, any interim measures or pre-award relief against EBRD, any provisions of the UNCITRAL Rules notwithstanding.

(E) The arbitral tribunal shall have authority to consider and include in any proceeding, decision or award any further dispute properly brought before it by EBRD insofar as such dispute arises out of any Debt Document, but, subject to the foregoing, no other parties or other disputes shall be included in, or consolidated with, the arbitral proceedings.

- (F) In any arbitral proceeding, the certificate of EBRD as to any amount due to EBRD under any Debt Document shall be prima facie evidence of such amount.
- (G) Notwithstanding the present agreement to arbitrate under paragraphs (A) to (F) above, this Agreement and/or any other Debt Document, and any rights of the Secured Parties arising out of or relating to this Agreement and/or any other Debt Document (except for any rights of the Secured Parties vis-à-vis EBRD), may at the option of any of the Secured Parties, be enforced by any of the Secured Parties in the courts of Slovenia or in any other courts having jurisdiction, including by means of any application for interim or conservatory measures (*začasni ukrepi ali ukrepi zavarovanja*). For the benefit of the Secured Parties, each of the Sponsor and Debtors hereby irrevocably submit to the non-exclusive jurisdiction of the courts of Slovenia with respect to any dispute, controversy or claim arising out of or relating to this Agreement and/or any other Debt Document, or the breach, termination or invalidity hereof. Nothing herein shall affect the right of any of the Secured Parties to commence legal actions or proceedings against any of the Sponsor or the Debtors in any manner authorised by the laws of any relevant jurisdiction. The commencement by any of the Secured Parties of legal actions or proceedings in one or more jurisdictions shall not preclude any of the Secured Parties from commencing legal actions or proceedings in any other jurisdiction, whether concurrently or not. Each of the Sponsor and Debtors irrevocably waives any objection it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal action or proceeding and any claim it may now or hereafter have that any such legal action or proceeding has been brought in an inconvenient forum. For the avoidance of doubt, EBRD may not be joined to or named as a party in any legal action or proceedings in the courts of any jurisdiction without its prior written consent.
- (H) Each Debtor irrevocably designates, appoints and empowers TMF Global Services (UK) Limited at its registered office (being, on the date hereof, at 8th Floor, 20 Farringdon Street, London, EC4A 4AB, United Kingdom) to act as its authorised agent to receive service of process and any other legal summons in England for purposes of any legal action or proceeding brought by EBRD or any other Secured Party in respect of any Debt Document.
- (I) Failure by a process agent to notify a Debtor of the process will not invalidate the proceedings concerned. Each Debtor hereby irrevocably consents to the service of process or any other legal summons out of such courts by mailing copies thereof by registered airmail postage prepaid to its address specified herein.
- (J) Each Debtor covenants and agrees that, so long as it has any obligations under this Agreement, it shall maintain a duly appointed agent to receive service of process and any other legal summons in England for purposes of any legal action or proceeding brought by EBRD or any other Secured Party in respect

of any Debt Document and shall keep EBRD and each other Secured Party advised of the identity and location of such agent.

- (K) Nothing herein shall affect the right of EBRD or any other Secured Party to commence legal actions or proceedings against a Debtor against which it otherwise has a claim in any manner authorised by the laws of any relevant jurisdiction. The commencement by EBRD or any other Secured Party of legal actions or proceedings in one or more jurisdictions shall not preclude EBRD or any other Secured Party from commencing legal actions or proceedings in any other jurisdiction, whether concurrently or not. Each Debtor irrevocably waives any objection it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal action or proceeding and any claim it may now or hereafter have that any such legal action or proceeding has been brought in an inconvenient forum.

## **24 PRIVILEGES AND IMMUNITIES OF EBRD**

Nothing in this Agreement shall be construed as a waiver, renunciation or other modification of any immunities, privileges or exemptions of EBRD accorded under the Agreement Establishing the European Bank for Reconstruction and Development, international convention or any applicable law. Notwithstanding the foregoing, EBRD has made an express submission to arbitration under Clause 23 (*Enforcement*) and accordingly, and without prejudice to its other privileges and immunities (including the inviolability of its archives), it acknowledges that it does not have immunity from suit and legal process under Article 5(2) of Statutory Instrument 1991, No. 757 (The European Bank for Reconstruction and Development (Immunities and Privileges) Order 1991), or any similar provision under English law or Slovenian law, in respect of the enforcement of an arbitration award duly made against it as a result of its express submission to arbitration pursuant to Clause 23 (*Enforcement*).

## **SCHEDULE 1**

### **Form of Debtor Accession Agreement**

**THIS AGREEMENT** is made on [ ] and made between:

1. [Insert Full Name of New Debtor] (the "**Acceding Debtor**"); and
2. [Insert Full Name of Current Security Agent] (the "**Security Agent**"), for itself and each of the other parties to the Intercreditor agreement referred to below.

This agreement is made on [date] by the Acceding Debtor in relation to an Intercreditor agreement (the "**Intercreditor Agreement**") dated [•] between, amongst others, SIJ d.d. as Parent, [•] as Security Agent, [•] as Facility Agent, [•] as Notes Agent, the other Pari Passu Creditors and the other Debtors (each as defined in the Intercreditor Agreement).

The Acceding Debtor intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:

[Insert details (date, parties and description) of relevant documents]

the "**Relevant Documents**".

**IT IS AGREED** as follows:

1. Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Agreement, bear the same meaning when used in this Agreement.
2. The Acceding Debtor and the Security Agent agree that the Security Agent shall:
  - (i) hold the Security Property on behalf of the Secured Parties; and
  - (ii) be the joint and several creditor (*solidarni upnik*) of each and every obligation of the Acceding Debtor towards each of the Secured Parties; and
  - (iii) hold the benefit of a parallel debt claim constituted under the Parallel Debt Deeds,

on the terms and conditions contained in the Intercreditor Agreement and the Parallel Debt Deeds (as applicable).

3. The Acceding Debtor confirms that it intends to be party to the Intercreditor Agreement, the Subordination Agreement, and the Parallel Debt (FA) Deed as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Intercreditor Agreement, the Subordination Agreement, and the Parallel Debt (FA) Deed, and agrees that it shall be bound by all the provisions of the Intercreditor Agreement the Subordination Agreement, and the Parallel Debt (FA) Deed, as if it

had been an original party to the Intercreditor Agreement, the Subordination Agreement, and the Parallel Debt (FA) Deed.

4. This Agreement and any non-contractual obligations arising out of or in connection with this Agreement shall be governed by and construed in accordance with Slovenian law excluding its conflict of law rules.

**THIS AGREEMENT** has been signed on behalf of the Security Agent and the Acceding Debtor and is delivered on the date stated above.

**The Acceding Debtor**

*[Full Name of Acceding Debtor]*

By:

Address for notices:

Address:

Fax:

**The Security Agent**

*[Full Name of Current Security Agent]*

By:

Date:

**SCHEDULE 2**  
**Form of Pari Passu Creditor/Pari Passu Creditor Representative Accession Undertaking**

To: *[Insert full name of current Security Agent]* for itself and each of the other parties to the Intercreditor Agreement referred to below.

From: *[Acceding Pari Passu Creditor]*

THIS UNDERTAKING is made on [date] by [insert full name of new Pari Passu Creditor/Pari Passu Creditor Representative] (the "**Acceding Pari Passu Creditor/Pari Passu Creditor Representative**") in relation to the Intercreditor agreement (the "**Intercreditor Agreement**") dated [ ] between, among others, SIJ d.d. as Parent, [INSERT NAME] as Security Agent, [INSERT NAME] as Facility Agent, [INSERT NAME] as Notes Agent, the other Pari Passu Creditors and the other Debtors (each as defined in the Intercreditor Agreement).

1. Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.
2. In consideration of the Acceding [Pari Passu Creditor/Pari Passu Creditor Representative] being accepted as a [Pari Passu Creditor/Pari Passu Creditor Representative] for the purposes of the Intercreditor Agreement, the Acceding [Pari Passu Creditor/Pari Passu Creditor Representative] confirms that, as from [date], it intends to be party to the Intercreditor Agreement as a [Pari Passu Creditor/Pari Passu Creditor Representative] and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a [Pari Passu Creditor/Pari Passu Creditor Representative] and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.
3. This Undertaking and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with Slovenian law excluding its conflict of law rules.

**THIS UNDERTAKING** has been entered into on the date stated above.

Acceding [Pari Passu Creditor/Pari Passu Creditor Representative]

*[insert full name of Acceding entity]*

By:

Address:

Fax:

Accepted by the Security Agent

[Accepted by *INSERT SIGNATURE BLOCK FOR EACH OF NOTES AGENT/FACILITY AGENT OTHER THAN IF IT IS THE PARTY BEING REPLACED*]

---

for and on behalf of

*[Insert full name of current Security Agent]*

Date:

---

for and on behalf of

*[Insert full name of relevant Pari Passu Creditor Representative]*

Date:] \*\*\*\*

**SCHEDULE 3**  
**Form of Debtor Resignation Request**

To: [ ] as Security Agent

From: [*resigning Debtor*] and [*Parent*]

Dated:

Dear Sirs

**[Parent] - [ ] Intercreditor Agreement**  
**dated [ ] (the "Intercreditor Agreement")**

1. We refer to the Intercreditor Agreement. This is a Debtor Resignation Request. Terms defined in the Intercreditor Agreement have the same meaning in this Debtor Resignation Request unless given a different meaning in this Debtor Resignation Request.
2. Pursuant to Clause 14.8 (*Resignation of a Debtor*) of the Intercreditor Agreement we request that [*resigning Debtor*] be released from its obligations as a Debtor under the Intercreditor Agreement.
3. We confirm that:
  - (A) no Default is continuing or would result from the acceptance of this request; and
  - (B) [*resigning Debtor*] is under no actual or contingent obligations in respect of the Intra-Group Liabilities.
4. This letter and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with Slovenian law excluding its conflict of law rules.

[Parent]

[*resigning Debtor*]

By:

By:

## **SCHEDULE 4**

### **Enforcement Principles**

1. In this Schedule 4:

**"Enforcement Objective"** means maximising, to the extent consistent with a prompt and expeditious realisation of value, the value realised from Enforcement (and, if the relevant Enforcement is being taken at the instruction of an Instructing Group, such Instructing Group giving those instructions in good faith having regard to the interests of all Secured Parties, but in any event having regard to the other provisions of this Agreement and taking account of the Instructing Group's good faith assessment of any limitations that may apply to any of the Secured Parties by virtue of anything in this Agreement, any circumstances specific to any of them and/or otherwise at law).

**"Fairness Opinion"** means, in respect of any Enforcement, an opinion from a Financial Adviser that the proceeds received or recovered in connection with that Enforcement are fair from a financial point of view taking into account all relevant circumstances.

**"Financial Adviser"** means any:

- (A) independent internationally recognised investment bank;
- (B) independent internationally recognised accountancy firm; or
- (C) other independent internationally recognised professional services firm which is regularly engaged in providing valuations of businesses or financial assets or, where applicable, advising on competitive sales processes.

2. Any Enforcement shall be consistent with the Enforcement Objective.

- (A) The Transaction Security will be enforced and other action as to Enforcement will be taken such that all proceeds of Enforcement are received by the Security Agent in cash for distribution in accordance with Clause 11 (*Application of Proceeds*).

3. Without prejudice to the Enforcement Objective, on:

- (A) a proposed Enforcement in relation to assets comprising Charged Property other than shares in a member of the Group over which Transaction Security exists, where the aggregate book value of such assets exceeds EUR 10,000,000 (or its equivalent in any other currency or currencies); or
- (B) a proposed Enforcement in relation to Charged Property comprising some or all of the shares in a member of the Group over which Transaction Security exists,

which, in either case, is not being effected through a public auction or a judicial enforcement proceeding the Security Agent shall, if requested by the Instructing Group, appoint a Financial Adviser to provide a Fairness Opinion in relation to that Enforcement, **provided that** the Security Agent shall not be required to appoint a Financial Adviser nor obtain a Fairness Opinion if a proposed Enforcement:

- (i) would result in the receipt of sufficient Enforcement Proceeds in cash by the Security Agent to ensure that, after application in accordance with Clause 11 (*Application of Proceeds*), the Pari Passu Discharge Date would occur;
  - (ii) is in accordance with any applicable law; and
  - (iii) complies with Clause 9 (*Distressed Disposals*).
- 4. The Security Agent shall be under no obligation to appoint a Financial Adviser or to seek the advice of a Financial Adviser unless expressly required to do so by this Schedule 4 or any other provision of this Agreement.
- 5. The Fairness Opinion will be conclusive evidence that the Enforcement Objective has been met.

**SCHEDULE 5  
ORIGINAL DEBTORS**

<b>Entity</b>	<b>Role under Pari Passu FA</b>	<b>Role under Pari Passu Notes</b>	<b>Provides Parallel Debt (FA) Deed to the Security Agent</b>	<b>Provides Parallel Debt (Notes) Deed to the Security Agent</b>	<b>Provides asset security/Bills of Exchange to the Security Agent securing the Secured Obligations, including the Parallel Debt Deeds (subject to cl.1.2(F))</b>
SIJ d.d.	Borrower, Guarantor	Issuer	Yes	Yes	Yes
SIJ ACRONI d.o.o.	Borrower, Guarantor	None	Yes	No	Yes
SIJ METAL RAVNE d.o.o.	Borrower, Guarantor	None	Yes	No	Yes
ARMAS d.o.o.	Guarantor	None	Yes	No	Yes
SIJ Americas	Guarantor	None	Yes	No	Yes
ODPAD d.o.o. Pivka	Borrower, Guarantor	None	Yes	No	Yes
SIJ RAVNE SYSTEMS d.o.o.	Borrower, Guarantor	None	Yes	No	Yes
Griffon & Romano SpA	Guarantor	None	Yes	No	Yes

**SCHEDULE 6**  
**TRANSACTION SECURITY**

<b>Name of Debtor or other grantor</b>	<b>Charged Property</b>	<b>Subordinated claims</b>
Dilon Coop- eratief U.A.		Claims against the Sponsor (subor- dinated to the Parent's claims un- der its existing shareholder loans to the Sponsor)
Sponsor	The issued share capital owned by the Sponsor in:  (i) the Parent; and  (ii) ARMAS d.o.o.	Claims against the Parent
Each Group member that owns shares in a Debtor	The issued share capital owned by the relevant Group member in each Debtor.	
Each Debtor	The following assets of each Debtor:  (iii) plant, property, machinery and equipment;  (iv) inventories;  (v) bank accounts;  (vi) (for the Parent) amounts ow- ing under its existing share- holder loans to the Sponsor;  (vii) receivables (including insur- ance receivables, lease re- ceivables, trade receivables and intra-Group receiva- bles), subject to any excep- tions agreed between the Parent and the Pari Passu FA	Intra-Group claims

	<p>Lenders in accordance with the terms of the Pari Passu FA;</p> <p>(viii) intellectual property (comprising trademarks, registered (own) brands and domain-names).</p>	
--	--	--

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**NOVA LJUBLJANSKA BANKA d.d., Ljubljana** as Pari Passu FA Lender, Facility Agent and Security Agent

---

Represented by:

Position:

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**OTP banka d.d.** as Pari Passu FA Lender

---

Represented by:

Position:

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**UNICREDIT BANKA SLOVENIJA d.d.** as Pari Passu FA Lender

---

Represented by:

Position:

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**SID - Slovenska izvozna in razvojna banka, d.d., Ljubljana** as Pari Passu FA Lender

---

Represented by:

Position:

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**Banka Intesa Sanpaolo d.d.** as Pari Passu FA Lender

---

Represented by:

Position:

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**ERSTE GROUP BANK AG** as Pari Passu FA Lender

---

Represented by:

Position:

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**European Bank for Reconstruction and Development** as Pari Passu FA Lender

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**BANKA SPARKASSE d.d.** as Pari Passu FA Lender

---

Represented by:

Position:

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Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**GORENJSKA BANKA D.D., KRANJ** as Pari Passu FA Lender

---

Represented by:

Position:

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**GLAS TRUST CORPORATION LIMITED** as Notes Agent

\_\_\_\_\_

Represented by:

Position:

\_\_\_\_\_

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**SIJ d.d.** as Parent and Debtor

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**SIJ ACRONI d.o.o.** as Debtor

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**SIJ METAL RAVNE d.o.o.** as Debtor

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**ARMAS d.o.o.** as Debtor

\_\_\_\_\_

Represented by:

Position:

\_\_\_\_\_

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**SIJ Americas** as Debtor

\_\_\_\_\_

Represented by:

Position:

\_\_\_\_\_

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**ODPAD d.o.o. Pivka** as Debtor

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**SIJ RAVNE SYSTEMS d.o.o.** as Debtor

---

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:

**SIGNATURE PAGE**

This Agreement has been executed on the date stated at the beginning of this Agreement.

**Griffon & Romano S.p.A.** as Debtor

\_\_\_\_\_

Represented by:

Position:

\_\_\_\_\_

Represented by:

Position:

Address for notices:

Address:

Attention:

E-Mail:



To: **SIJ D.D.** (the **Parent** or **you**),

From: **GLAS Trust Corporation Limited (GLAS, we, us or our, as the case may be)**

Date: \_\_\_\_\_ 2026

55 Ludgate Hill  
Level 1, West,  
London EC4M 7JW  
+44 (0) 20 3597 2940  
emea@glas.agency

Dear Sir/Madam

## Engagement Letter

1. We refer to the Intercreditor Agreement concluded or to be concluded between, among others, the Parent and GLAS (as Notes Agent) (**Intercreditor Agreement**). Terms used but not otherwise defined in this Letter shall bear the meanings ascribed to them in the Intercreditor Agreement.
2. We are delighted to send to you this engagement letter (this **Letter**) in relation to GLAS acting as Notes Agent under the Intercreditor Agreement and in connection with the proposed note issuance by the Parent (the **Appointment**). The Services (as defined below) will be performed by GLAS employees based in London, England. We will take a proactive approach and will work closely with the Parent and other deal parties to meet transaction deadlines.

## Services

3. GLAS hereby accepts the Appointment as Notes Agent and agrees to perform the services set out in Schedule 1 hereto in connection with the note issuance to be undertaken by the Parent (as issuer) (the "**Services**") in accordance with the terms and conditions set out in this Letter.

## Commencement and termination

4. The Appointment to provide the Services will commence on the date of this Letter.
5. Notwithstanding the terms of the Intercreditor Agreement, GLAS may resign as Notes Agent, and terminate the Appointment, at any time and without cause on 30 days' written notice to the Parent

## Fees and expenses

6. A fee of [REDACTED] per annum (the **Notes Agent Fee**) is payable by you to us for our own account as Note Agent. The Notes Agent Fee is payable on the date of this Letter (the **Fee Payment Date**) and subject to paragraph 9, on each anniversary thereof (each a **Successive Payment Date**) for so long as our Appointment as Notes Agent remains effective.

7. Payment of the Notes Agent Fee should be made to the following account in immediately available, freely transferrable funds:

Bank: [REDACTED]

Address: [REDACTED]

Account Name: [REDACTED]

Account Number: [REDACTED]

Sort Code: [REDACTED]

BIC: [REDACTED]

IBAN: [REDACTED]

8. The Parent shall promptly and on demand, pay to GLAS (or procure the payment of) the amount of:
- a. all costs and expenses (including legal fees) (together with any applicable VAT) reasonably incurred by GLAS in connection with Appointment or the note issuance; and
  - b. all reasonable out of pocket expenses and third-party charges (including in relation to the publication of any notices in any newspapers or other media publications or on any stock exchange website; any bank payment charges, couriers, notary costs, court fees or charges, or Debt domain or other charges),
- (the “**Additional Charges**”).
9. On each Successive Payment Date, the annual Notes Agent Fee which is payable on that Successive Payment Date will be increased in line with CPI (in accordance with, and as defined in, Schedule 2).
10. The Notes Agent Fees payable under this Letter shall be paid together with any applicable VAT or any other tax and free and clear of any withholding or deduction. If any withholding or deduction is required by law, you will pay us such additional amount as will result in us receiving, following any withholding or deduction required by law, an amount equal to the amount which we would have received if no such withholding or other deduction was required by law.
11. The Notes Agent Fees shall not be subject to reduction by way of set-off or counterclaim or otherwise be affected by any claim or dispute relating to any other matter.
12. The Notes Agent Fee and all Additional Charges payable under this Letter shall be paid together with any applicable VAT or any other tax and free and clear of any withholding or deduction. If any withholding or deduction is required by law, you will pay us such additional amount as will result in us receiving, following any withholding or deduction required by law, an amount equal to the amount which we would have received if no such withholding or other deduction was required by law.
13. GLAS is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of the Services or any other obligation or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

14. GLAS shall not be responsible or liable for:
- a. the adequacy, accuracy, or completeness of any information (whether oral or written) supplied to GLAS by or on behalf of the Parent (or any company within the Parent's group of companies), a Noteholder or any other person;
  - b. the legality, validity, effectiveness, adequacy or enforceability of any document; or
  - c. any determination as to whether any information provided or to be provided to any Noteholder or the Parent is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.
15. GLAS may obtain and rely on any certificate or report from any Noteholder or the Parent as conclusive evidence of the facts to which such certificate or report relate.
16. The Parent shall supply GLAS with such information that GLAS may reasonably specify as being necessary or desirable to enable the GLAS to perform the Services.
17. GLAS may:
- a. rely on any representation, communication, notice, or document believed by it to be genuine, correct and appropriately authorised;
  - b. assume that any instructions received by it from the Parent, or (if applicable) any Noteholder, are duly given and valid in accordance with the terms of any document under which it is entitled to give such instructions; and
  - c. rely on a representation from any person as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person.
18. GLAS may act in relation to the Appointment through its officers and employees and shall not:
- a. be liable for any error of judgment made by any such person; or
  - b. be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission, or default on the part of any such person,
- unless such error or such loss was directly caused by such person's or GLAS' gross negligence or willful misconduct.
19. GLAS shall not be obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

## **Indemnity and Liability**

20. The Parent shall hold harmless, indemnify and reimburse GLAS against any loss, liability, cost, tax (including stamp duty), claim, action, demand or expense (including, but not limited to, all reasonable and properly documented costs, charges and expenses paid or incurred (including legal fees) in disputing or defending any of the foregoing) that GLAS or any of its directors, officers, employees, agents or controlling persons may reasonably and properly incur arising out of or in relation to or in connection with the Appointment or the performance of the Services, except as such may result from any breach by it of the terms of this Letter, its own fraud, gross negligence or willful misconduct.
21. Under no circumstances shall GLAS (or its directors, officers, employees, agents or controlling persons) be liable to the Parent in contract, tort (including negligence) or otherwise for any consequential, special, indirect or speculative loss or damage (including but not limited to loss of business, goodwill, opportunity or profit) which arises out of or in connection with the Services to be provided, or in relation to the Appointment, even if advised of the possibility of such loss or damage. Nothing in this foregoing paragraph limits or excludes a claim, loss or expense that arises out of or is based upon any action or failure to act by GLAS (other than by GLAS complying with instructions from the Parent to take or refrain from taking any such action) which is found in a final judicial determination to constitute fraud, willful misconduct or gross negligence. Notwithstanding any other term of this Letter, the foregoing indemnities shall survive the termination or expiry of this Letter.
22. The indemnities provided in this Letter by the Parent in favour of GLAS shall survive any termination of this Letter and the Appointment.

## **Confidentiality**

23. GLAS understands the confidential nature of the issuance, and the information provided by or on behalf of the Parent to GLAS in connection with the Appointment and the issuance. GLAS will:
  - a. keep all such information confidential and ensure that all information relating to the Parent, including, but not limited to, (i) the fact that the issuance is under consideration and all discussions and negotiations relating thereto, (ii) the existence and contents of this Letter; (iii) all information (in whatever form) relating to or derived from the Issuance that is or has been disclosed to us, and (iv) any original or copy document, electronic file or other item to the extent that it contains or reflects any information described in (i) to (iii) in this clause 23(a), is kept secret and confidential and protected with security measures and a degree of care that we would apply to our own confidential information;
  - b. use such information only in connection with the Appointment and in respect of the provision of the Services; and
  - c. subject to paragraph 26 below, will not disclose such information to any person without the consent of the Parent.

24. The obligations set out above do not apply to any information which:
- a. is or becomes public knowledge other than as a direct or indirect result of any breach of this Letter;
  - b. is known by GLAS before the date the information is disclosed by the Parent or is lawfully obtained by GLAS after that date, which, in either case, as far as GLAS is aware, has not been obtained in violation of, and is not otherwise subject to, any obligation of confidentiality;
  - c. is independently developed by or for us without use of the information that is subject to an obligation of confidentiality;
  - d. is permitted to be disclosed pursuant to or as permitted by the documentation in respect of the Issuance; or
  - e. is required to be disclosed by law or the rules or regulations of any applicable governmental or regulatory bodies, provided that, to the extent legally permissible, the party required to make such disclosure must consult in advance with the other party and take such steps as the other party.
25. The obligations set out in paragraph 25 shall remain in full force for 12 months after the date of termination of the Appointment.

#### **Miscellaneous**

26. If any provision of this Letter is prohibited or unenforceable in any jurisdiction it shall, in respect of such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating any remaining provision of this Letter, and any such prohibition or unenforceability shall not invalidate or render unenforceable such provision, in any other jurisdiction. To the extent permitted by applicable law, GLAS and the Parent hereby waive any provision of law which renders any provision of this Letter prohibited or unenforceable in any respect.
27. This Letter may be executed in any number of counterparts, each of which when taken together shall constitute one instrument. Delivery of a counterpart of this Letter by e-mail attachment or telecopy shall be an effective mode of delivery.
28. A person who is not party to this Letter has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Letter.

#### **Governing law**

29. This Letter and any non-contractual obligations arising from it shall be governed by and construed in accordance with English law.

#### **Confirmation**

30. Please confirm your understanding and acceptance of the terms of this engagement letter by signing and returning a copy of it.

Yours faithfully

.....

for and on behalf of **GLAS Trust Corporation Limited** as Notes Agent

We hereby acknowledge and accept the above terms.

.....

for and on behalf of **SIJ D.D.**

Date:

The GLAS group of companies may wish to use transaction details, Parent names and logos for certain marketing purposes, provided the transaction is not subject to a non-disclosure agreement.

If you would like to withhold such consent, please tick this box ☐.

## **SCHEDULE 1**

1. Distributing to the Noteholders any communication or documents (including payment notices) received from the Parent which the Parent confirms are to be sent to the Noteholders.
2. At the request of the Parent, advising the Noteholders of any Noteholder meetings requested by the Parent, collating any responses or communications from the Noteholders in this regard and providing same to the Parent. Co-ordinating Noteholder meetings and providing any dial in details or calendar invitations (unless provided by the Parent). All such meetings to take place electronically.
3. Receive and distribute to the Noteholders (or the Parent as the case may be) any amendment, consent, waiver or other requests and collating responses and providing any proof of holdings (if necessary).
4. Distribute all Parent related information and financials to the Noteholders once received from the Parent.
5. Keep a record of all contacts and enquiries made by the Noteholders.
6. Be party to the Intercreditor Agreement as Notes Agent and perform its obligations under the Intercreditor Agreement in its capacity as Notes Agent (including facilitating communication in connection with the Intercreditor Agreement).
7. Following an enforcement of Transaction Security receive on behalf of the Noteholders any payment made to it pursuant to the Intercreditor Agreement and facilitate the distribution of such amount to the Noteholders through the KDD.

## Schedule 2

1. The increase to the annual Note Agent Fee is calculated by multiplying the annual Note Agent Fee paid on the previous Successive Payment Date (or the Fee Payment Date, if there has not been a Successive Payment Date) by the following factor, or otherwise in such other manner as agreed between you and us:

$$1 + (N \div 100)$$

where:

**N** is the CPI 12-month rate published immediately before the Successive Payment Date; and

**CPI 12-month rate** is the rate entitled “CPI 12-month rate”, expressed as a percentage, published by the UK Office for National Statistics,

*provided that* (i) if the factor calculated above is less than 1.00, a factor equal to 1.00 shall be used; and (ii) if the CPI 12-month rate for the month in which the Successive Payment Date or the Fee Payment Date (as applicable) falls is not available on the date on which the above calculation is to be run, the CPI 12-month rate for the previous month shall be used instead.

2. If the CPI 12-month rate is not published for any reason (or is not available in the scenario described in paragraph 1(ii) above), you and we shall endeavour to agree on a substitute index or base. If we fail to agree within 14 days commencing from the time a calculation is to be made, either you or we may request the President for the time being of the Institute of Chartered Accountants in England and Wales to nominate an expert to determine a substitute index. Such expert shall act as an expert and not as an arbitrator and their decision shall be final and binding.