

Dated 6 March 2020

## Intercreditor Agreement

between, *inter alia*,

**OP CORPORATE BANK PLC**

as Initial Credit Facility Agent

**DANSKE BANK A/S, FINLAND BRANCH, OP CORPORATE BANK PLC and  
SKANDINAVISKA ENSKILDA BANKEN AB (PUBL)**

as Initial Credit Facility Lenders

**DANSKE BANK A/S, OP CORPORATE BANK PLC and SKANDINAVISKA  
ENSKILDA BANKEN AB (PUBL)**

as Initial Credit Facility Arrangers

**OP CORPORATE BANK PLC**

as Bridge Facility Lender

**TORNATOR OYJ**

as Company

and

**OP CORPORATE BANK PLC**

as Common Security Agent

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**This Intercreditor Agreement** (this “**Agreement**”) is dated as first written above and made between:

- (1) **OP CORPORATE BANK PLC** acting in its capacity as agent of the Finance Parties (as defined in the Initial Credit Facility Agreement) (the “**Initial Credit Facility Agent**”);
- (2) **The Financial Institutions** named on the signing pages as Initial Credit Facility Lenders (the “**Initial Credit Facility Lenders**”);
- (3) **DANSKE BANK A/S, OP CORPORATE BANK PLC** and **SKANDINAVISKA ENSKILDA BANKEN AB (PUBL)** as “**Initial Credit Facility Arrangers**”;
- (4) **OP CORPORATE BANK PLC** as bridge facility lender (the “**Bridge Facility Lender**”);
- (5) **TORNATOR OYJ**, a public limited liability company incorporated and existing under the laws of Finland with Business Identity Code 0162807-8 (the “**Company**”);
- (6) **THE HEDGE COUNTERPARTIES** named on the signing pages as Initial Hedge Counterparties; and
- (7) **OP CORPORATE BANK PLC** as common security agent for the Secured Creditors (the “**Common Security Agent**”);

## **Section 1 Interpretation**

It is agreed as follows:

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

#### **1.1 Definitions**

In this Agreement:

“**1992 ISDA Master Agreement**” means the Master Agreement (Multicurrency-Cross Border) as published by the International Swaps and Derivatives Association, Inc.

“**2002 ISDA Master Agreement**” means the 2002 Master Agreement as published by the International Swaps and Derivatives Association, Inc.

“**Acceleration Event**” means a Credit Facility Acceleration Event or a Notes Acceleration Event.

“**Acceleration Notice**” means an acceleration notice issued pursuant to a Credit Facility Agreement or Notes Terms and Conditions.

“**Act on Noteholders’ Agent**” means the Finnish Act on Noteholders’ Agent (Fi: *Laki joukkolainanhaltijoiden edustajasta* 574/2017, as amended).

“**Additional Debt Condition**” means:

- (a) the Loan to Security Asset Value not exceeding the lowest value set out in the Secured Documents for incurring any additional indebtedness to be secured by the Transaction Security or for the release or disposal of any Transaction Security, being on the date hereof 65 per cent; and
- (b) the Loan and Hedging Liabilities to Security Asset Value not exceeding the lowest value agreed with any Hedge Counterparty for incurring any additional indebtedness

to be secured by the Transaction Security or for the release or disposal of any Transaction Security, being on the date hereof 90 per cent.

**"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 and, without limiting the generality of the foregoing and in relation to OP Corporate Bank plc only, any cooperative banks or other financial institutions comprising OP Financial Group.

**"Approved Value of the Finnish Properties"** means the value of the Finnish Properties in accordance with the latest Finnish Valuation.

**"Approved Value of the Estonian Pledged Properties"** means 80% of the value of the Pledged Properties located in Estonia in accordance with the latest Estonian Valuation.

**"Approved Valuer"** means Indufor Oy or any other independent valuer approved by the Common Security Agent.

**"Automatic Early Termination"** means the termination or close-out of any hedging transaction prior to the maturity of that hedging transaction which is brought about automatically by the terms of the relevant Hedging Agreement and without any party to the relevant Hedging Agreement taking any action to terminate that hedging transaction.

**"Available Commitment":**

- (a) in relation to an Initial Credit Facility Lender, has the meaning given to the term "Available Commitment" in the Initial Credit Facility Agreement; and
- (b) in relation to any other Credit Facility Lender, has the meaning given to the term "Available Commitment" in the relevant Credit Facility Agreement.

**"Blocked Account"** means a bank account held by the Company with OP Corporate Bank plc as further specified in the Finnish Security Agreement.

**"Bridge Facility"** means the EUR 250,000,000 term loan facility made available to the Company under the Bridge Facility Agreement.

**"Bridge Facility Agreement"** means the EUR 250,000,000 term loan facility agreement dated 25 April 2019 between the Company and OP Corporate Bank plc.

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in Helsinki and which is a TARGET Day.

**"Close-Out Netting"** means:

- (a) in respect of a Hedging Agreement based on a 1992 ISDA Master Agreement, any step involved in determining the amount payable in respect of an Early Termination Date (as defined in the 1992 ISDA Master Agreement) under section 6(e) (*Payments on Early Termination*) of the 1992 ISDA Master Agreement before the application of any subsequent Set-off (as defined in the 1992 ISDA Master Agreement);
- (b) in respect of a Hedging Agreement based on a 2002 ISDA Master Agreement, any step involved in determining an Early Termination Amount (as defined in the 2002 ISDA Master Agreement) under section 6(e) (*Payments on Early Termination*) of the 2002 ISDA Master Agreement; and
- (c) in respect of a Hedging Agreement not based on an ISDA Master Agreement, any step involved on a termination of the hedging transactions under that Hedging Agreement

pursuant to any provision of that Hedging Agreement which has a similar effect to either provision referenced in paragraph (a) and paragraph (b) above.

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

**“Committed Loans”** means the aggregate amount of:

- (a) the aggregate amount of the Credit Facility Commitments; and
- (b) the nominal value of any outstanding Notes,

however, in each case, so that in connection with a refinancing of any Committed Loan only the higher of: (i) the amount the existing Committed Loan to be refinanced, and (ii) the amount of the new Committed Loan to be applied for such refinancing, will be considered until any such new Committed Loan has been utilised.

**“Common Security Agent Amounts”** means any sums (including but not limited to any fees, remuneration, costs, charges, liabilities, indemnity payments and expenses (and including any taxes (including value added tax) required to be paid)) owing by the Company to the Common Security Agent under or in relation to any Secured Documents (in each case excluding any amounts owed to the Common Security Agent under Clause 14.27 (*Parallel Debt*)).

**“Credit Facility”** means:

- (a) the Initial Credit Facility;
- (b) the Bridge Facility; and
- (c) any other credit facility where:
  - (i) the Additional Debt Condition is met after assuming any additional indebtedness under such credit facility made available to the Company;
  - (ii) the Company designates that credit facility as a Credit Facility and confirms in writing to each Creditor Representative and Hedge Counterparty that the establishment of that credit facility will not breach the terms of any of its existing Notes Documents, Credit Facility Documents or Hedging Agreements;
  - (iii) any agent of the lenders in respect of the credit facility becomes a Party as a Creditor Representative;
  - (iv) any arranger of the credit facility becomes a Party as a Credit Facility Arranger; and
  - (v) any lender in respect of the credit facility becomes a Party as a Credit Facility Lender,

in accordance with Clause 15.8 (*Accession of Credit Facility Creditors under New Credit Facilities*).

**“Credit Facility Acceleration Event”** means:

- (a) the Initial Credit Facility Agent exercising any of its rights under clause 22.16 (*Acceleration*) of the Initial Credit Facility Agreement;
- (b) the Bridge Facility Lender exercising any of its rights under clause 22.16 (*Acceleration*) of the Bridge Facility Agreement; and

- (c) the Creditor Representative in relation to any Credit Facility exercising any of its rights under any Equivalent Provision(s) of the relevant Credit Facility Agreement.

**“Credit Facility Agent”** means:

- (a) the Initial Credit Facility Agent;
- (b) the Bridge Facility Lender; and
- (c) any facility agent of any other Credit Facility which becomes a Party pursuant to Clause 15.8 (*Accession of Credit Facility Creditors under New Credit Facilities*).

**“Credit Facility Agreement”** means:

- (a) the Initial Credit Facility Agreement;
- (b) the Bridge Facility Agreement; and
- (c) in relation to any other Credit Facility, the facility agreement documenting that Credit Facility.

**“Credit Facility Arranger”** means:

- (a) the Initial Credit Facility Arrangers; and
- (b) any arranger of any other Credit Facility which becomes a Party pursuant to Clause 15.8 (*Accession of Credit Facility Creditors under New Credit Facilities*).

**“Credit Facility Commitment”** means “Commitment” (each time including the aggregate amount of all Commitments, if several made available) under and as defined in:

- (a) the Initial Credit Facility Agreement;
- (b) the Bridge Facility Agreement; and
- (c) any relevant other Credit Facility Agreement.

**“Credit Facility Creditors”** means each Credit Facility Agent, each Credit Facility Arranger and each Credit Facility Lender.

**“Credit Facility Discharge Date”** means the first date on which all Credit Facility Liabilities have been fully and finally discharged to the satisfaction of the relevant Creditor Representative(s), whether or not as the result of an enforcement, and the relevant Credit Facility Lenders are under no further obligation to provide financial accommodation to the Company under the relevant Credit Facility Documents.

**“Credit Facility Documents”** means:

- (a) the Initial Credit Facility Documents; and
- (b) the “Finance Documents” under and as defined in any other Credit Facility Agreement, in each case other than any Hedging Agreements.

**“Credit Facility Event of Default”** means an “Event of Default” as defined under any Credit Facility Documents.

**“Credit Facility Lenders”** means:

- (a) the Initial Credit Facility Lenders

- (b) the Bridge Facility Lender; and
- (c) each “Lender” (under, and as defined in the relevant Credit Facility Agreement).

“**Credit Facility Liabilities**” means the Liabilities owed by the Company to the Credit Facility Creditors under or in connection with the Credit Facility Documents.

“**Credit Facility Participation**” means, in relation to a Credit Facility Lender, its aggregate Credit Facility Commitments, if any.

“**Credit Facility Standstill Period**” means:

- (a) a period of 60 days in respect of any Credit Facility Acceleration Event arising due to non-payment under any Credit Facility Documents; and
- (b) a period of 120 days in respect of any other Credit Facility Acceleration Event.

“**Credit Related Close-Out**” means any Permitted Hedge Close-Out which is not a Non-Credit Related Close-Out.

“**Creditor/Creditor Representative Accession Undertaking**” means:

- (a) an undertaking substantially in the form set out in Schedule 1 (*Form of Creditor/Creditor Representative Accession Undertaking*); or
- (b) a Transfer Certificate or Increase Confirmation (each as defined in the relevant Credit Facility Agreement) *provided that* it contains an accession to this Agreement which is substantially in the form set out in Schedule 1 (*Form of Creditor/Creditor Representative Accession Undertaking*),

as the context may require.

“**Creditor Representative**” means:

- (a) in relation to the Initial Credit Facility Lenders, the Initial Credit Facility Agent;
- (b) in relation to the Bridge Facility, the Bridge Facility Lender;
- (c) in relation to the Credit Facility Lenders under any other Credit Facility, the facility agent in respect of that Credit Facility which has acceded to this Agreement as the Creditor Representative of those Credit Facility Lenders pursuant to Clause 15.8 (*Accession of Credit Facility Creditors under New Credit Facilities*);
- (d) in relation to the Initial Noteholders, the Initial Noteholders’ Agent; and
- (e) in relation to any other Noteholders, each person which has acceded to this Agreement as the Creditor Representative of those Noteholders pursuant to Clause 15.9 (*Accession of Notes Creditors under the Notes*).

“**Creditor Representative Amounts**” means fees, costs and expenses of a Creditor Representative payable by the Company to a Creditor Representative for its own account pursuant to the relevant Secured Debt Documents or any engagement letter between a Creditor Representative and the Company (including any amount payable by the Company to a Creditor Representative by way of indemnity, remuneration or reimbursement for expenses incurred), and the costs incurred by a Creditor Representative in connection with any actual or attempted Enforcement Action which is permitted by this Agreement which are recoverable from the Company pursuant to the terms of the Secured Debt Documents.

**“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 Secured Documents or any combination of any of the foregoing) be an Event of Default.

**“Debt Participation”** means Credit Facility Participation or Notes Debt Participation, as applicable.

**“Delegate”** means any delegate, agent, attorney or co-agent appointed by the Common Security Agent.

**“Distress Event”** means any of:

- (a) an Acceleration Event;
- (b) an Insolvency Event; or
- (c) the enforcement of any Transaction Security.

**“Distressed Disposal”** means a disposal of any Security Assets which is:

- (a) being effected at the consent of the Instructing Group (or, in circumstances set out in paragraph (c) of Clause 8.1 (*Instructions to Enforce*), the relevant Creditor Representative representing the relevant Noteholders or Credit Facility Creditors, as applicable) in circumstances where the Transaction Security has become enforceable; or
- (b) being effected by enforcement of the Transaction Security.

**“Enforcement”** means the enforcement of any Transaction Security, the requesting of a Distressed Disposal and/or the release or disposal of Transaction Security on a Distressed Disposal under Clause 10 (*Distressed Disposals*), the giving of instructions as to actions with respect to the Transaction Security and/or the Security Assets following an Insolvency Event under Clause 5.6 (*Common Security Agent Instructions*) and the taking of any other actions consequential on (or necessary to effect) any of those actions (but excluding the delivery of a Primary Enforcement Notice or a Secondary Enforcement Notice).

**“Enforcement Action”** means:

- (a) in relation to any Liabilities owed by the Company under the Secured Documents:
  - (i) the acceleration of any such Liabilities or the making of any declaration that any such Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a creditor to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Secured Documents);
  - (ii) the making of any declaration that any such Liabilities are payable on demand;
  - (iii) the making of a demand in relation to such Liability that is payable on demand;
  - (iv) the exercise of any right of set-off, account combination or payment netting against the Company in respect of any such Liabilities other than the exercise of any such right:
    - (A) as Close-Out Netting by a Hedge Counterparty;



- (B) as Payment Netting by a Hedge Counterparty;
- (C) as Inter-Hedging Agreement Netting by a Hedge Counterparty; and
- (D) which is otherwise expressly permitted under the Credit Facility Documents and the Notes Documents to the extent that the exercise of that right gives effect to a Permitted Payment; and
- (v) the suing for, commencing or joining of any legal or arbitration proceedings against the Company to recover any such Liabilities;
- (b) the premature termination or close-out of any hedging transaction under any Hedging Agreement (other than pursuant to a Permitted Automatic Early Termination);
- (c) the taking of any steps to enforce or require the enforcement of any Transaction Security;
- (d) the entering into of any composition, compromise, assignment or similar arrangement with the Company as a result of actual financial difficulties of the Company; or
- (e) 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, bankruptcy or reorganisation of the Company or any suspension of payments or moratorium of any indebtedness of the Company, 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 paragraph (e) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of such 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; or
- (ii) 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 Secured 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 Secured Document to which it is party with no claim for damages; or
- (iii) allegations of material misstatements or omissions made in connection with the offering materials relating to any Notes or in reports furnished to the Noteholders or any exchange on which the Notes are listed by the Company pursuant to the information and reporting requirements under the Notes Documents.

**“Enforcement Instructions”** means instructions as to Enforcement (including the manner and timing of Enforcement) given by the Instructing Group (or, in circumstances set out in

paragraph (c) of Clause 8.1 (*Instructions to Enforce*), the relevant Noteholders' Agent(s) or Credit Facility Agent(s), as applicable) to the Common Security Agent *provided that* instructions not to undertake Enforcement or an absence of instructions as to Enforcement shall not constitute "Enforcement Instructions".

**"Equivalent Provision"** means:

- (a) with respect to a Credit Facility Agreement, in relation to a provision or term of the Initial Credit Facility Agreement, any equivalent provision or term in the Credit Facility Agreement which is similar in meaning and effect; and
- (b) with respect to Notes, in relation to a provision or term of the Initial Notes, any equivalent provision or term in the Notes which is similar in meaning and effect.

**"Estonian Pledged Properties"** means the Estonian Properties from time to time subject to Transaction Security under any Estonian Security Agreement.

**"Estonian Properties"** means all immovables (Est: *kinnisasjad*) located and registered in Estonia, owned either by the Company or Tornator Eesti OÜ (registered in Estonia, registry code 10013860) at the date of this Agreement or acquired by it at any time thereafter. A reference to an **"Estonian Property"** is a reference to any of the Estonian Properties.

**"Estonian Security Agreement"** means any Estonian law governed mortgage or other security agreement, entered into on the request of the Company after the date of this Agreement in accordance with the Secured Debt Documents, whereby Tornator Eesti OÜ or the Company (as applicable) grants first priority security interest over Estonian Properties of its selection and, to the extent possible, thereto related insurances (if any) and whereby the Company grants first priority security interest over shares and voting rights in Tornator Eesti OÜ in accordance with the Secured Debt Documents. The same security interest shall secure the Hedging Liabilities (and the obligation to pay Parallel Debt related to the Hedging Liabilities) with a second priority (Fin: *jälkipantti*) to the Secured Obligations.

**"Estonian Valuation"** means:

- (a) the Original Estonian Valuation; or
- (b) the latest valuation of the Estonian Pledged Properties as provided under any Credit Facility Agreement or Notes and performed by an Approved Valuer:
  - (i) substantially in the form of the Original Estonian Valuation; or
  - (ii) in a form acceptable to all the Creditor Representatives, the Hedge Counterparties and the Common Security Agent.

**"Event of Default"** means any event or circumstance specified as such in a Credit Facility Agreement or in any Notes Terms and Conditions or in any Hedging Agreement.

**"Final Discharge Date"** means the later to occur of the Credit Facility Discharge Date and the Notes Discharge Date, each time provided that there are no outstanding Common Security Agent Amounts or Paying Agent Amounts.

**"Finnish Pledged Properties"** means the Finnish Properties from time to time subject to Transaction Security under the Finnish Security Agreement by the pledging of mortgage notes.

**"Finnish Properties"** means all immovable property or leasehold with respect to immovable property (including forest and other land properties) located in Finland and any buildings,

fixtures, fittings, fixed plant or machinery from time to time situated on and forming part of the leasehold or immovable property, whether owned by the Company at the date of this Agreement or at any time thereafter acquired by the Company. A reference to a "**Finnish Property**" is a reference to any of the Finnish Properties.

"**Finnish Security Agreement**" means the Finnish law security agreement entered into by and between the Company and the Common Security Agent on or about the date of this Agreement, creating a first and second ranking security interests over:

- (a) mortgage notes relating to the Finnish Pledged Properties;
- (b) insurance proceeds relating to the Finnish Pledged Properties; and
- (c) the Blocked Account,

as supplemented from time to time in accordance with the terms thereof.

"**Finnish Valuation**" means:

- (a) the Original Finnish Valuation; or
- (b) the latest valuation of the Finnish Properties as provided under any Credit Facility Agreement or Notes and performed by an Approved Valuer:
  - (i) substantially in the form of the Original Finnish Valuation; or
  - (ii) in a form acceptable to all the Creditor Representatives, the Hedge Counterparties and the Common Security Agent.

"**Group**" means Company and each of its Subsidiaries from time to time.

"**Hedge Counterparty**" means:

- (a) the Initial Hedge Counterparties; and
- (b) any entity which becomes a Party as a Hedge Counterparty pursuant to Clause 15.4 (*Accession of a New Hedge Counterparty*),

"**Hedging Agreement**" means any agreement entered into by and between a Hedge Counterparty and the Company for the purpose of hedging interest rate risk (but not for speculative purposes) which, at the time such Hedging Agreement is entered into, is not prohibited under the terms of any Secured Debt Document.

"**Hedging Force Majeure**" means:

- (a) in relation to a Hedging Agreement which is based on the 1992 ISDA Master Agreement:
  - (i) an Illegality or Tax Event or Tax Event Upon Merger (each as defined in the 1992 ISDA Master Agreement); or
  - (ii) an event similar in meaning and effect to a "Force Majeure Event" (as referred to in paragraph (b) below);
- (b) in relation to a Hedging Agreement which is based on the 2002 ISDA Master Agreement, an Illegality or Tax Event, Tax Event Upon Merger or a Force Majeure Event (each as defined in the 2002 ISDA Master Agreement); or

- (c) in relation to a Hedging Agreement which is not based on an ISDA Master Agreement, any event similar in meaning and effect to an event described in paragraphs (a) or (b) above.

**“Hedging Liabilities”** means the Liabilities owed by the Company to the Hedge Counterparties under or in connection with the Hedging Agreements.

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

**“IFRS”** means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

**“Initial Credit Facility”** means a Facility as defined in the Initial Credit Facility Agreement.

**“Initial Credit Facility Agreement”** means the term and revolving facilities agreement made between, among others, the Company, the Initial Credit Facility Lenders and Initial Credit Facility Agent dated 5 March 2020.

**“Initial Credit Facility Documents”** means the “Finance Documents” under and as defined in the Initial Credit Facility Agreement, other than Hedging Agreements.

**“Initial Credit Facility Lenders”** means each Lender (as defined in the Initial Credit Facility Agreement).

**“Initial Credit Facility Liabilities”** means the Liabilities owed by the Company to the Credit Facility Creditors under the Initial Credit Facility Documents.

**“Initial Noteholders”** means the holders of the Initial Notes.

**“Initial Noteholders’ Agent”** means Nordic Trustee Oy acting as the noteholders’ agent for and on behalf of the Initial Notes that shall become a Party as a Creditor Representative in accordance with Clause 15.9 (*Accession of Initial Noteholders’ Agent and Initial Notes Paying Agent*).

**“Initial Notes”** means the up to EUR 350,000,000 senior secured green notes to be issued by the Company to refinance the Bridge Facility.

**“Initial Notes Paying Agent”** means OP Custody Ltd acting as the issuer’s agent (in Finnish: *liikkeeseenlaskijan asiamies*) and paying agent in relation to the Initial Notes for and on behalf of the Company as issuer of the Initial Notes and that shall become a Party in accordance with Clause 15.9 (*Accession of Initial Noteholders’ Agent and Initial Notes Paying Agent*), or any other party replacing it as Initial Notes Paying Agent in accordance with the relevant Initial Notes Documents.

**“Initial Notes Terms and Conditions”** means the terms and conditions governing the Initial Notes.

**“Insolvency Event”** means in relation to the Company,

- (a) any resolution is passed or order made for the winding up, dissolution, administration, bankruptcy or reorganisation of the Company, a moratorium is declared in relation to any indebtedness of the Company or an administrator is appointed to the Company;
- (b) any composition, compromise, assignment or arrangement is made with its creditors generally;

- (c) the appointment of any liquidator, administrator or other similar officer in respect of the Company or any of its assets; or
- (d) any analogous procedure or step analogous to any of those set out under paragraphs (a), (b) and (c) above is taken in respect of the Company in any jurisdiction.

**“Instructing Group”** means at any time:

- (a) when the aggregate Credit Facility Participations represent 35 per cent. or more of the Total Debt Participations, the Credit Facility Agent(s) representing the Majority Credit Facility Lenders (each Credit Facility Agent acting upon the instructions of the requisite majority of Credit Facility Lenders determined in accordance with the Credit Facility Agreement in respect of which it is the Creditor Representative); and
- (b) when the aggregate Credit Facility Participations represent less than 35 per cent. of the Total Debt Participations:
  - (i) the Credit Facility Agent(s) (each Credit Facility Agent acting upon the instructions of the requisite majority of Credit Facility Lenders determined in accordance with the Credit Facility Agreement in respect of which it is the Creditor Representative); together with
  - (ii) the Noteholders’ Agent(s) (each Noteholders’ Agent acting upon the instructions of the requisite majority of Noteholders determined in accordance with the Notes Terms and Conditions in respect of which it is the Creditor Representative).
- (c) when the aggregate the Total Debt Participations amount to zero and the Parties have decided to keep this Agreement in place despite of that, the Hedge Counterparties.

At any time, if the Instructing Group consist of more than one Creditor Representative or Hedge Counterparty, decision making in the Instructing Group shall always be through simple majority (meaning, for the avoidance of doubt, in respect of any decision or action, if more than 50% of the represented Debt Participations(or estimated Hedging Liabilities, if applicable) in the Instructing Group support that decision or action).

**“Insurance Policy”** means each policy entered into by the Company in respect of the Pledged Properties.

**“Insurance Proceeds”** means any insurance proceeds (when relevant net of tax and expenses) related to the Pledged Portfolio received in cash by a Group company under any Insurance Policy.

**“Intercreditor Amendment”** means any amendment or waiver which is subject to Clause 21 (*Consents, Amendments and Override*).

**“Inter-Hedging Agreement Netting”** means the exercise of any right of set-off, account combination, close-out netting or payment netting (whether arising out of a cross agreement netting agreement or otherwise) by a Hedge Counterparty against liabilities owed to the Company by that Hedge Counterparty under a Hedging Agreement in respect of Hedging Liabilities owed to that Hedge Counterparty by the Company under another Hedging Agreement.

**“ISDA Master Agreement”** means a 1992 ISDA Master Agreement or a 2002 ISDA Master Agreement.

**“Liabilities”** means all present and future liabilities and obligations of the Company at any time, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, deferral or extension;
- (b) any claim for 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 or restitution; and
- (d) any claim as a result of any recovery by the Company of a Payment on the grounds of preference or otherwise,

and 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.

**“Loan and Hedging Liabilities to Security Asset Value”** means at any time the aggregate amount of the Committed Loans and the Hedging Liabilities (on a mark-to-market basis) divided by the Security Asset Value.

**“Loan to Security Asset Value”** means at any time Committed Loans divided by the Security Asset Value.

**“Majority Credit Facility Lenders”** means, at any time, those Credit Facility Lenders whose Credit Facility Participations at that time aggregate more than 50 per cent. of the total Credit Facility Participations of all Credit Facility Lenders at that time.

**“Majority Noteholders”** means, at any time, those Noteholders whose Notes Debt Participations at that time aggregate more than 50 per cent. of the total Notes Debt Participations of all Noteholders at that time.

**“Non-Credit Related Close-Out”** means a Permitted Hedge Close-Out described in any of paragraphs (a)(i)–(ii) of Clause 4.9 (*Permitted Enforcement: Hedge Counterparties*).

**“Noteholders”** means the holders from time to time of any Notes.

**“Noteholders’ Agency Agreement”** means an agency agreement entered into between the Company as issuer and a Noteholders’ Agent regarding issuance of Notes.

**“Noteholders’ Agent”** means:

- (a) the Initial Noteholders’ Agent; and
- (b) any other noteholders’ agent in respect of the Notes which has acceded to this Agreement as a Creditor Representative pursuant to Clause 15.9 (*Accession of Notes Creditors under Notes*).

**“Notes”** means:

- (a) the Initial Notes; and
- (b) any other secured notes issued by the Company where:

- (i) the Additional Debt Condition is met immediately after issuing such secured notes;
- (ii) the Company confirms in writing to each Creditor Representative and Hedge Counterparty that the issuance of those notes will not breach the terms of any of its existing Credit Facility Documents, Hedging Agreements or Notes Terms and Conditions; and
- (iii) the noteholders' agent in respect of such notes becomes a Party as a Creditor Representative,

in accordance with Clause 15.10 (*Accession of Notes Creditors under the Notes*).

**"Notes Acceleration Event"** means:

- (a) the Initial Noteholders' Agent (or the requisite Initial Noteholders under the terms and conditions of the Initial Notes) exercising any of its or their rights under clause 17 of the terms and conditions of the Initial Notes; or
- (b) the Noteholders' Agent of any other Notes (or the requisite Noteholders under the terms and conditions of any other Notes) exercising any of its or their rights in relation to the acceleration of such Notes in accordance with the terms and conditions of the relevant Notes.

**"Notes Creditors"** means each of the Noteholders, each Noteholders' Agent and each Paying Agent as regards the Paying Agent Amounts.

**"Notes Debt Participation"** means the aggregate outstanding principal amount of the Notes held by a Noteholder.

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

**"Notes Documents"** means each Notes Terms and Conditions, the Transaction Security Documents, this Agreement, each Noteholders' Agency Agreement and each Paying Agent Agreement.

**"Notes Event of Default"** means an "Event of Default" as defined under any Notes Documents.

**"Notes Liabilities"** means the Liabilities owed by the Company to the Notes Creditors under or in connection with the Notes Documents.

**"Notes Standstill Period"** means:

- (a) a period of 90 days in respect of any Notes Acceleration Event arising due to non-payment under any Notes; and
- (b) a period of 180 days in respect of any other Notes Acceleration Event.

**"Notes Terms and Conditions"** means the terms and conditions governing the relevant Notes.

**"Original Finnish Valuation"** means the original valuation of the Finnish Properties based on the valuation report dated 3 September 2019 and prepared by Indufor Oy and setting out the aggregate of (i) the valuation of the discounted perpetual cash flows generated by the Finnish Properties, and (ii) the bare land value of the Finnish Properties.

**"Original Estonian Valuation"** means the original valuation of the Estonian Pledged Properties in a form and substance approved by each Credit Facility Agent.

**"Parallel Debt"** means the amounts for which the Company is liable under Clause 13.23 (*Parallel Debt*).

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

**"Paying Agent"** means:

- (a) the Initial Notes Paying Agent, or any other party replacing it as Paying Agent in accordance with the Initial Notes Terms and Conditions; and
- (b) each party appointed as paying agent in respect of any other Notes, acting as issuer agent (in Finnish: *liikkeeseenlaskijan asiamies*) and paying agent of Notes for and on behalf of the Company as issuer of any Notes, or any other party replacing it as Paying Agent in accordance with the relevant Notes Documents, in each case, only if it is a Party or has acceded to this Agreement, in the capacity of the Paying Agent, pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*).

**"Paying Agent Agreement"** means:

- (a) the "Paying Agent Agreement" as defined in the Initial Notes Terms and Conditions; and
- (b) any equivalent document as defined in any other Notes Terms and Conditions.

**"Paying Agent Amounts"** means all unpaid fees, costs, expenses and indemnities payable by the Company to a Paying Agent in accordance with any Paying Agent Agreement.

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

**"Payment Netting"** means:

- (a) in respect of a Hedging Agreement based on an ISDA Master Agreement, netting under section 2(c) of the relevant ISDA Master Agreement; and
- (b) in respect of a Hedging Agreement not based on an ISDA Master Agreement, netting pursuant to any provision of that Hedging Agreement which has a similar effect to the provision referenced in paragraph (a) above.

**"Permitted Automatic Early Termination"** means an Automatic Early Termination of a hedging transaction under a Hedging Agreement, the provision of which is permitted under Clause 4.12 (*Terms of Hedging Agreements*).

**"Permitted Credit Facility Payments"** means the Payments permitted by Clause 3.1 (*Payment of Liabilities*).

**"Permitted Enforcement Action"** means:

- (a) at any time, any Enforcement Action referred to in paragraph (a) of the definition of "Enforcement Action"; and
- (b) after the occurrence of an Insolvency Event, any Enforcement Action referred to in paragraph (e) of the definition of "Enforcement Action",



in each case, in accordance with the terms of the relevant Secured Document and subject to Clause 8 (*Enforcement of Transaction Security*) and *provided that* any such Permitted Enforcement Action shall, in relation to any Noteholder, be construed as a right of a Noteholders' Agent to take such action on behalf of the Noteholders for which it is the Creditor Representative in accordance with the relevant Notes Terms and Conditions.

**"Permitted Hedge Close-Out"** means, in relation to a hedging transaction under a Hedging Agreement, a termination or close-out of that hedging transaction which is permitted pursuant to Clause 4.9 (*Permitted Enforcement: Hedge Counterparties*).

**"Permitted First Priority Rights"** means

- (a) any right of tenancy (or similar) related to a wind power project or other similar project and belonging to a third party and not materially harmful to the value or use of the relevant Pledged Property for art and practice of planting and growing trees;
- (b) any right that ranks ahead of any mortgage notes and that existed as registered right in the extracts from the Finnish title and mortgage register (Fin: *lainhuuto- ja kiinnitysrekisteri*) and the Land Register (Fin: *kiinteistörekisteri*) dated on or about 31 January to 5 February 2020 and supplied on behalf of the Company to the Common Security Agent by e-mail to Hannes Snellman Attorneys Ltd on 4 February 2020 and 5 February 2020;
- (c) with respect to any new Pledged Properties, any right that existed over such Pledged Properties or ahead of such new mortgage notes, as applicable, as registered right in the extracts from the Finnish title and mortgage register (Fin: *lainhuuto- ja kiinnitysrekisteri*) and the Land Register (Fin: *kiinteistörekisteri*) at the time security interest is granted over such new Pledged Properties or new mortgage notes provided that the Common Security Agent approves such rights (such approval not to be unreasonably withheld or delayed in particular if such right is not materially harmful to the use of the relevant Pledged Property in the business of the Company and such approval not to be withheld if such right would be a Permitted First Priority Right under paragraphs (a) or (b)); and
- (d) with the prior consent of the Common Security Agent any other right belonging to a third party, registered or to be registered as a first priority right over the relevant Pledged Property and not materially harmful to the value or use of the relevant Pledged Property for art and practice of planting and growing trees.

**"Permitted Hedge Payments"** means the Payments permitted by Clause 4.3 (*Permitted Payments: Hedging Liabilities*).

**"Permitted Notes Payments"** means the Payments permitted by Clause 3.1 (*Payment of Liabilities*).

**"Permitted Payment"** means a Permitted Hedge Payment, a Permitted Notes Payment and a Permitted Credit Facility Payment.

**"Permitted Property Transaction"** means the release, replacement or disposal of a Pledged Property, provided that:

- (a) no Default is outstanding or would result from the release or disposal;
- (b) in case of disposal of Transaction Security, that disposal is made at fair market value;

- (c) the Additional Debt Condition will immediately after such release or disposal of any Pledged Properties be fulfilled;
- (d) the Company has delivered less than eleven Pledged Property Release Requests to the Common Security Agent accordance with Clause 9.1 (*Release of Transaction Security upon Permitted Property Transaction*) in that calendar year; and
- (e) the Common Security Agent consents to such release or disposal such consent not to be unreasonably withheld or delayed.

**Permitted Rights**” means:

- (a) any Permitted First Priority Rights;
- (b) any conservation area (Fin: *luonnonsuojelualue*) existing or created on a Pledged Property;
- (c) any Security created solely by operation of law in the ordinary course of business of the Group and not as a result of any default or omission by any member of the Group;
- (d) any easement or similar encumbrance over real estate assets, including but not limited to right to take gravel, hunting rights and electricity power line, gas, water and sewage pipe rights (and alike), created in the ordinary course of the business of the Group and not securing financial indebtedness; and
- (d) any right of tenancy, felling rights on forest or other rights and encumbrances created in the ordinary course of business over the Pledged Properties which, except to the extent they are Permitted First Priority Rights, are not ranking ahead of any mortgage note established on such Pledged Property.

**"Pledged Portfolio"** means, collectively, all Pledged Properties.

**"Pledged Properties"** means:

- (a) the Finnish Pledged Properties; and
- (b) the Estonian Pledged Properties (if any).

**"Pledged Property Release Request"** means a request in a form acceptable to the Common Security Agent by which the Company requests that any Pledged Property to be released or disposed of pursuant to a Permitted Property Transaction shall be released and including:

- (a) information on the Pledged Properties to be released or disposed of pursuant to the Permitted Property Transaction;
- (b) a confirmation that the conditions for the Permitted Property Transaction have been fulfilled; and
- (c) a placeholder for the consent of the Common Security Agent.

**"Primary Enforcement Notice"** has the meaning given to such term in Clause 8.1 (*Instructions to Enforce*).

**"Recoveries"** has the meaning given to that term in Clause 12.1 (*Order of Application*).

**“Relevant Liabilities”** means:

- (a) in the case of a creditor:
  - (i) the Liabilities owed by the Company under the Secured Documents to creditors ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that creditor;
  - (ii) all present and future liabilities and obligations, actual and contingent, of the Company under the Secured Documents to the Common Security Agent; and
- (b) in the case of the Company, the Liabilities owed by the Company under the Secured Documents to the creditors together with all present and future liabilities and obligations, actual and contingent, of the Company under the Secured Documents to the Common Security Agent.

**“Relevant Secured Creditor Groups”** means:

- (a) each Credit Facility Agent (acting upon the instructions of the requisite majority of Credit Facility Lenders determined in accordance with the Credit Facility Agreement in respect of which it is the Creditor Representative); and
- (b) each Noteholders’ Agent (acting upon the instructions of the requisite majority of Noteholders determined in accordance with the Notes Terms and Conditions in respect of which it is the Creditor Representative).

**“Secondary Enforcement Notice”** has the meaning given to that term in Clause 8.1 (*Instructions to Enforce*).

**“Secured Creditors”** means the Common Security Agent, any Delegate and each of the Credit Facility Creditors, Notes Creditors, the Hedge Counterparties, the Credit Facility Agents and Paying Agents from time to time but, in the case of each such party, only if it (or, in the case of a Noteholder, its Creditor Representative) is a Party or has acceded to this Agreement in the appropriate capacity pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*).

**“Secured Debt Document”** means each of the Credit Facility Documents and the Notes Documents.

**“Secured Document”** means each of the Secured Debt Documents and the Hedging Agreements.

**“Secured Obligations”** means the Credit Facility Liabilities (including, for the avoidance of doubt, the Creditor Representative Amounts owing to any Credit Facility Agent), the Notes Liabilities (including, for the avoidance of doubt, the Creditor Representative Amounts owing to any Noteholders’ Agent), the Common Security Agent Amounts and the Paying Agent Amounts.

**“Security”** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**“Security Asset Value”** means the aggregate amount of:

- (a) the latest Approved Value of the Finnish Properties multiplied by the lower of the following:

- (i) the percentage that the aggregate land area (in hectares) of the Finnish Pledged Properties represent of the aggregate land area (in hectares) of the Finnish Properties; and
- (ii) the percentage that the aggregate Statistical Value of the Finnish Pledged Properties represent of the aggregate Statistical Value of the Finnish Properties,

in each case excluding conservation areas and;

- (iii) deducting the aggregate land area (in hectares) and the aggregate Statistical Value of the Finnish Pledged Properties that have been disposed of pursuant to a Permitted Property Transaction after the date of the latest Finnish Valuation; and
- (iv) each time disregarding:
  - (A) any new Finnish Properties that have been acquired after the latest Finnish Valuation;
  - (B) any new Pledged Property included in the Transaction Security for the first three months of such inclusion unless:
    - (1) such new Pledged Properties have been granted as security in connection the Company acquiring any additional debt as allowed under the Credit Facility Documents or the Notes, each time to the maximum amount that has been prerequisite for assuming that debt; or
    - (2) not more than twice in a financial year or with the prior consent of the Common Security Agent, such inclusion has been made by the Company in order to avoid breach of any financial covenant calculating the Security Asset Value under any Secured Document (or to cure the same to extent permitted by its terms);
- (b) the amount of cash on the Blocked Account; and
- (c) the Approved Value of the Estonian Pledged Properties,

provided that the amount under (c), above, shall be taken into account up to an amount not exceeding 10% of the aggregate amount of (a) – (c).

**“Security Assets”** means all of the assets which from time to time are, or are expressed to be, the subject of the Transaction Security and all proceeds of that Transaction Security.

**"Statistical Value "** means, with respect to a Finnish Property, the value of that Finnish Property calculated on the basis of:

- (a) the applicable regional average of the last three calendar years’ median purchase prices (per hectare) of forest land sales (involving at least 10 hectares) in the public register maintained by the National Land Survey of Finland, as available in January for the purposes of preparing the annual accounts for the Company (e.g. information from the forest land sales made during the last month of the latest calendar year may be missing); and

- (b) the land area of that Finnish Property in hectares (for the avoidance of doubt excluding any water area and conservation area in that Finnish Property).

**"Subsidiary"** means a subsidiary within the meaning of the Finnish Companies Act (statute 21.7.2006/624).

**"TARGET2"** means the Trans-European Automated Real-Time Gross Settlement Express Transfer payment system which utilizes 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.

**"Tax"** 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).

**"Total Debt Participations"** means the aggregate of the Credit Facility Participations and the Notes Debt Participations.

**"Transaction Security"** means the Security created or evidenced or expressed to be created or evidenced under or pursuant to the Transaction Security Documents,

- (a) in the case of Finnish Security Agreement created in favour of:
- (i) the Secured Creditors (other than any Hedge Counterparty) represented by the Common Security Agent with first priority in respect of Liabilities owed to them under the Secured Debt Documents; and
  - (ii) the Hedge Counterparties represented by the Common Security Agent with second priority in respect of Hedging Liabilities owed to them under the Hedging Agreements; or
- (b) in the case of any Estonian Security Agreement is created in favour of:
- (i) the Common Security Agent under a parallel debt, joint and several creditorship, acknowledgement of debt and/or equivalent structure with first priority in respect of the Secured Obligations and the obligation to pay Parallel Debt related to the Secured Obligations, whereby the Common Security Agent will act in the interest of and for the benefit of all the Secured Creditors (other than any Hedge Counterparty), under or pursuant to the Transaction Security Documents; and
  - (ii) the Common Security Agent under a parallel debt, joint and several creditorship, acknowledgement of debt and/or equivalent structure with second priority in respect of Hedging Liabilities and the obligation to pay the Parallel Debt related to the Hedging Liabilities, whereby the Common Security Agent will act in the interest of and for the benefit of the Hedge Counterparties, under or pursuant to the Transaction Security Documents.

**"Transaction Security Document"** means the Finnish Security Agreement and any Estonian Security Agreement.

**"Valuation"** means:

- (a) a Finnish Valuation; or

(b) an Estonian Valuation.

“VAT” means value added tax as provided for in the Value Added Tax Act (1993/1501) and any other tax of a similar nature.

## 1.2 Construction

(a) Unless a contrary indication appears, a reference in this Agreement to:

- (i) any, “**Company**”, “**Initial Credit Facility Agent**”, “**Credit Facility Agent**”, “**Credit Facility Arranger**”, “**Credit Facility Lender**”, “**Bridge Facility Lender**”, “**Creditor Representative**”, “**Secured Creditor**”, “**Hedge Counterparty**”, “**Notes Creditor**”, “**Noteholder**”, “**Noteholders’ Agent**”, “**Party**”, “**Paying Agent**” or “**Common Security Agent**” shall be construed to be a reference to it in its capacity as such and not in any other capacity;
- (ii) any “**Common Security Agent**”, “**Initial Credit Facility Agent**”, “**Credit Facility Agent**”, “**Credit Facility Arranger**”, “**Credit Facility Lender**”, “**Bridge Facility Lender**”, “**Creditor Representative**”, “**Secured Creditor**”, “**Hedge Counterparty**”, “**Notes Creditor**”, “**Noteholder**”, “**Noteholders’ Agent**”, “**Party**” or “**Paying Agent**” or any other 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 Secured Documents and, in the case of the Common Security Agent, any person for the time being appointed as Common Security Agent or Common Security Agents in accordance with this Agreement;
- (iii) “**assets**” includes present and future properties, revenues and rights of every description;
- (iv) a “**Secured Document**” or any other agreement or instrument is (other than a reference to a “**Secured Document**” or any other agreement or instrument in original form) a reference to that Secured Document, or other agreement or instrument, as amended, supplemented, extended or restated as permitted by this Agreement;
- (v) a “**group of Secured Creditors**” includes all the Secured Creditors;
- (vi) “**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;
- (vii) the “**original form**” of a “**Secured Document**” or any other agreement or instrument is a reference to that Secured Document, agreement or instrument as originally entered into;
- (viii) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (ix) “**proceeds**” of a Distressed Disposal includes proceeds in cash;
- (x) 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;

- (xi) words denoting the singular number shall include the plural and vice versa;
  - (xii) references to the Security Assets include, where the context so requires, references to all or any of the constituent parts thereof; and
  - (xiii) a provision of law is a reference to that provision as amended or re-enacted.
- (b) Section, Clause and Schedule headings are for ease of reference only.
- (c) A Default (other than an Event of Default) is “**continuing**” if it has not been remedied or waived and an Event of Default is “**continuing**” if it has not been waived, except where pursuant to the relevant Secured Documents an Event of Default is “**continuing**” if it has not been remedied or waived.
- (d) References to a Creditor Representative acting on behalf of the Secured Creditors of which it is the Creditor Representative means such Creditor Representative acting on behalf of the Secured Creditors of which it is the Creditor Representative with the consent of the proportion of such Secured Creditors required under and in accordance with the applicable Secured Debt Documents (*provided that* if the relevant Secured Debt Documents do not specify a voting threshold for a particular matter, the threshold will be a simple majority of the outstanding principal amount under those Secured Debt Documents). A Creditor Representative will be entitled to seek instructions from the Secured Creditors of which it is the Creditor Representative to the extent required by the applicable Secured Debt Documents, as the case may be, as to any action to be taken by it under this Agreement.
- (e) For the purposes of a calculation relating to the definition of Majority Credit Facility Lenders, Majority Noteholders or Instructing Group,
- (i) Credit Facility Lenders under one Credit Facility Agreement may only provide one vote (acting by its respective Creditor Representative on instructions of the requisite proportion of the relevant Credit Facility Lenders required under the relevant Credit Facility Agreement and which condition the Common Security Agent may assume is satisfied without enquiry) in an amount equal to their total Credit Facility Participations under the relevant Credit Facility Agreement; and
  - (ii) Noteholders of Notes issued pursuant to the same Notes Terms and Conditions may only provide one vote (acting by its respective Creditor Representative on instructions of the requisite proportion of the relevant Noteholders required under the relevant Notes Terms and Conditions and which condition the Common Security Agent may assume is satisfied without enquiry) in an amount equal to their total Notes Debt Participations under the relevant Notes.

## **Section 2**

### **Ranking and Secured Creditors**

## **2. Ranking and Priority**

### **2.1 Secured Debt Liabilities**

Each of the Parties agrees that the Secured Obligations owed by the Company to the Secured Creditors (other than the Hedge Counterparties) shall rank in right and priority of payment *pari passu* and *pro rata* without any preference between them.

### **2.2 Transaction Security**

Each of the Parties agree that the Transaction Security shall rank and secure:

- (a) the Secured Obligations (and, if applicable only insofar as any Estonian Security Agreement is concerned, the obligation to pay Parallel Debt related to the Secured Obligations) *pari passu* and without any preference between them with first priority; and
- (b) the Hedging Liabilities (and, if applicable only insofar as any Estonian Security Agreement is concerned, the obligation to pay Parallel Debt related to the Hedging Liabilities) with a second priority (Fin: *jälkipantti*) to the Secured Obligations.

### **2.3 Creditor Representative Amounts and Common Security Agent Amounts**

Subject to Clause 12 (*Application of Proceeds*) where applicable, nothing in this Agreement will prevent payment by the Company of the Creditor Representative Amounts, the Common Security Agent Amounts or the Paying Agent Amounts or the receipt and retention of such Creditor Representative Amounts by the relevant Creditor Representative(s).

## **3. Credit Facility Creditors and Notes Creditors**

### **3.1 Payments of Credit Facility Liabilities and Notes Liabilities**

- (a) Subject to paragraph (b) below, the Company may make Payments in respect of the Credit Facility Liabilities and the Notes Liabilities at any time in accordance with, and subject to the provisions of, the relevant Secured Debt Documents.
- (b) Following the occurrence of a Distress Event, the Company may not make (and no Credit Facility Creditor or Notes Creditor may receive) Payments in respect of the Credit Facility Liabilities or the Notes Liabilities other than to the Blocked Account or to the Common Security Agent for distribution in accordance with Clause 12 (*Application of Proceeds*).

### **3.2 Amendments and Waivers**

- (a) Subject to paragraphs (b) through (c) below, the Credit Facility Creditors, the Notes Creditors and the Company may amend or waive the terms of the Secured Debt Documents in accordance with their terms (and subject only to any consent required under them) at any time.



- (b) The terms of the Secured Debt Documents may not be amended or waived if such amendment or waiver would:
  - (i) conflict with the provisions of this Agreement; or
  - (ii) create a Default or an Event of Default under a Secured Debt Document with respect to any action or event which is permitted under this Agreement.
- (c) No amendment or waiver may be made in respect of the Transaction Security Documents otherwise than in Clause 21 (*Consents, Amendments and Override*).
- (d) Without limiting the foregoing:
  - (i) the Company undertakes not to propose or accept; and
  - (ii) each Credit Facility Creditor and each Noteholders' Agent undertakes not to propose or (unless instructed by any requisite group of Noteholders to the contrary) accept,  
  
amendments or waivers in deviation of this Clause 3.2 in relation to any Credit Facility Document or Notes Document.

### **3.3 Security: Secured Creditors**

The Secured Creditors may take, accept or receive the benefit of any Security in respect of the Secured Obligations from the Company in addition to the Transaction Security which, at the same time, is also offered to the Common Security Agent as agent for the other Secured Creditors in respect of all the Secured Obligations and ranks in the same order of priority as that contemplated in Clause 2.2 (*Transaction Security*).

### **3.4 Restriction on Enforcement: Credit Facility Creditors and Notes Creditors**

No Credit Facility Creditor or Notes Creditor may take any Enforcement Action (other than a Permitted Enforcement Action) without the prior written consent of the Relevant Secured Creditor Groups other than in accordance with Clause 8 (*Enforcement of Transaction Security*).

## **4. Hedge Counterparties and Hedging Liabilities**

### **4.1 Identity of Hedge Counterparties**

No person providing hedging arrangements to the Company shall be entitled to receive a second priority pledge over any of the Transaction Security in respect of any of the liabilities arising in relation to those hedging arrangements nor shall those liabilities be treated as Hedging Liabilities unless that person is or becomes a party to this Agreement as a Hedge Counterparty.

### **4.2 Restriction on Payment: Hedging Liabilities**

The Company shall not make any Payment of the Hedging Liabilities at any time unless:

- (a) that Payment is permitted under Clause 4.3 (*Permitted Payments: Hedging Liabilities*);  
or
- (b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 4.9 (*Permitted Enforcement: Hedge Counterparties*).

#### 4.3 Permitted Payments: Hedging Liabilities

The Company may make Payments to any Hedge Counterparty in respect of the Hedging Liabilities then due to that Hedge Counterparty under any Hedging Agreement in accordance with the terms of that Hedging Agreement:

- (a) if the Payment is a scheduled Payment arising under the relevant Hedging Agreement;
- (b) to the extent that the Company's obligation to make the Payment arises as a result of the operation of:
  - (i) any of sections 2(d) (*Deduction or Withholding for Tax*), 2(e) (*Default Interest; Other Amounts*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*) and 11 (*Expenses*) of the 1992 ISDA Master Agreement (if the Hedging Agreement is based on a 1992 ISDA Master Agreement);
  - (ii) any of sections 2(d) (*Deduction or Withholding for Tax*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*), 9(h)(i) (*Prior to Early Termination*) and 11 (*Expenses*) of the 2002 ISDA Master Agreement (if the Hedging Agreement is based on a 2002 ISDA Master Agreement); or
  - (iii) any provision of a Hedging Agreement which is similar in meaning and effect to any provision listed in paragraphs (i) or (ii) above (if the Hedging Agreement is not based on an ISDA Master Agreement);
- (c) to the extent that the Company's obligation to make the Payment arises from a Non-Credit Related Close-Out;
- (d) to the extent that:
  - (i) the Company's obligation to make the Payment arises from:
    - (A) a Credit Related Close-Out in relation to that Hedging Agreement; or
    - (B) a Permitted Automatic Early Termination under that Hedging Agreement which arises as a result of an event relating to the Company; and
  - (ii) no Distress Event is continuing at the time of the Payment or would result from that Payment;
- (e) to the extent that no Distress Event is continuing or would result from that Payment and the Company's obligation to make the Payment arises as a result of a close-out or termination arising as a result of:
  - (i) section 5(a)(vii) (*Bankruptcy*) of the 1992 ISDA Master Agreement (if the relevant Hedging Agreement is based on a 1992 ISDA Master Agreement) and the Event of Default (as defined in the relevant Hedging Agreement) has occurred with respect to the relevant Hedge Counterparty;
  - (ii) section 5(a)(vii) (*Bankruptcy*) of the 2002 ISDA Master Agreement (if the relevant Hedging Agreement is based on a 2002 ISDA Master Agreement) and the Event of Default (as defined in the relevant Hedging Agreement) has occurred with respect to the relevant Hedge Counterparty;
  - (iii) any provision of a Hedging Agreement which is similar in meaning and effect to any provision listed in paragraphs (i) or (ii) above (if the Hedging Agreement

is not based on an ISDA Master Agreement) and the equivalent event of default has occurred with respect to the relevant Hedge Counterparty; or

- (iv) the Company terminating or closing-out the relevant Hedging Agreement as a result of a Hedging Force Majeure and the Termination Event (as defined in the relevant Hedging Agreement in the case of a Hedging Agreement based on an ISDA Master Agreement) or the equivalent termination event (in the case of a Hedging Agreement not based on an ISDA Master Agreement) has occurred with respect to the relevant Hedge Counterparty; or
- (f) if the Relevant Secured Creditor Groups give prior consent to the Payment being made.

#### **4.4 Payment Obligations Continue**

The Company shall not be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Secured Document by the operation of Clauses 4.2 (*Restriction on Payment: Hedging Liabilities*) and 4.3 (*Permitted Payments: Hedging Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

#### **4.5 No Acquisition of Hedging Liabilities**

The Company shall not, and shall procure that no other member of the Group will, purchase or enter into any sub-participation in respect of any of the Hedging Liabilities or beneficially own all or any part of the share capital in a company that is party to such purchase or sub-participation, in respect of any of the Hedging Liabilities, unless the prior consent of the Relevant Secured Creditor Groups is obtained.

#### **4.6 Amendments and Waivers: Hedging Agreements**

- (a) Subject to paragraphs (b) below, the Hedge Counterparties may not, at any time, amend or waive any term of the Hedging Agreements.
- (b) A Hedge Counterparty may amend or waive any term of a Hedging Agreement in accordance with the terms of that Hedging Agreement if that amendment or waiver does not breach any Secured Debt Document.

#### **4.7 Security: Hedge Counterparties**

The Hedge Counterparties may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Hedging Liabilities other than:

- (a) the second priority pledge over the Transaction Security (which upon the Final Discharge Date shall become first ranking security interest); and
- (b) the indemnities contained in the ISDA Master Agreements (in the case of a Hedging Agreement which is based on an ISDA Master Agreement) or any indemnities which are similar in meaning and effect to those indemnities (in the case of a Hedging Agreement which is not based on an ISDA Master Agreement).

Notwithstanding any terms of the Hedging Agreement in question, the relevant Hedge Counterparty waives its right to any Security, guarantee, indemnity or other assurance against loss from any member of the Group in respect of the Hedging Liabilities not permitted by this

Clause 4.7 and automatically immediately discharges such Security, guarantee, indemnity or other assurance.

#### **4.8 Restriction on Enforcement: Hedge Counterparties**

Subject to Clause 4.9 (*Permitted Enforcement: Hedge Counterparties*) and Clause 4.10 (*Required Enforcement: Hedge Counterparties*), the Hedge Counterparties shall not take any Enforcement Action in respect of any of the Hedging Liabilities or any of the hedging transactions under any of the Hedging Agreements at any time.

#### **4.9 Permitted Enforcement: Hedge Counterparties**

- (a) To the extent it is able to do so under the relevant Hedging Agreement, a Hedge Counterparty may terminate or close-out in whole or in part any hedging transaction under that Hedging Agreement prior to its stated maturity:

##### ***Non-Credit Related Close-Outs***

- (i) if, prior to a Distress Event, the Company has certified to that Hedge Counterparty that that termination or close-out would not result in a breach of any term of a Secured Debt Document; or
- (ii) if a Hedging Force Majeure has occurred in respect of that Hedging Agreement;

##### ***Credit Related Close-Outs***

- (i) if a Distress Event has occurred;
  - (ii) if an Event of Default has occurred under clause 22.7 (*Insolvency*) or clause 22.8 (*Insolvency proceedings*) or clause 22.9 (*Creditors' process*) of the Initial Credit Facility Agreement, clause 22.6 (*Insolvency*) or clause 22.7 (*Insolvency proceedings*) or clause 22.8 (*Creditors' process*) of the Bridge Facility Agreement or any Equivalent Provision of any other Credit Facility Agreement, or under paragraph (g) of clause 14.6 of the Initial Notes Terms and Conditions or any Equivalent Provision of any other Notes Terms and Conditions; or
  - (iii) if the Instructing Group gives its prior consent to that termination or close-out being made; or
  - (iv) if a Hedge Counterparty is no longer a Credit Facility Lender or an Affiliate of a Credit Facility Lender.
- (b) If the Company has defaulted on any Payment due under a Hedging Agreement (after allowing any applicable notice or grace periods) and the default has continued unwaived for more than five (5) Business Days after notice of that default has been given to the Common Security Agent pursuant to paragraph (b) of Clause 18.3 (*Notification of Prescribed Events*), the relevant Hedge Counterparty:
- (i) may, to the extent it is able to do so under the relevant Hedging Agreement, terminate or close-out in whole or in part any hedging transaction under that Hedging Agreement; and
  - (ii) until such time as the Common Security Agent has given notice to that Hedge Counterparty that the Transaction Security is being enforced (or that any

formal steps are being taken to enforce the Transaction Security), shall be entitled to exercise any right it might otherwise have to sue for, commence or join legal or arbitration proceedings against the Company to recover any Hedging Liabilities due under that Hedging Agreement.

- (c) After the occurrence of an Insolvency Event in relation to the Company, each Hedge Counterparty shall be entitled to exercise any right it may otherwise have in respect of the Company to:
  - (i) prematurely close-out or terminate any Hedging Liabilities;
  - (ii) make a demand under any guarantee, indemnity or other assurance against loss given by the Company in respect of any Hedging Liabilities;
  - (iii) exercise any right of set-off or take or receive any Payment in respect of any Hedging Liabilities of the Company; or
  - (iv) claim and prove in any insolvency proceeding of the Company for the Hedging Liabilities owing to it.
- (d) After the Final Discharge Date, the Hedge Counterparties may take any Enforcement Actions (in accordance with the terms of this Agreement).

#### **4.10 Required Enforcement: Hedge Counterparties**

- (a) Subject to paragraph (b) below, a Hedge Counterparty shall promptly terminate or close-out in full any hedging transaction under all or any of the Hedging Agreements to which it is party prior to their stated maturity, following:
  - (i) the occurrence of an Acceleration Event and delivery to it of a notice from the Common Security Agent that that Acceleration Event has occurred; and
  - (ii) delivery to it of a subsequent notice from the Common Security Agent (acting on the instructions of the Instructing Group) instructing it to do so.
- (b) Paragraph (a) above shall not apply to the extent that Acceleration Event occurred as a result of an arrangement made between the Company and any Secured Creditor with the purpose of bringing about that Acceleration Event.
- (c) If a Hedge Counterparty is entitled to terminate or close-out any hedging transaction under paragraph (b) of Clause 4.9 (*Permitted Enforcement: Hedge Counterparties*) (or would have been able to if that Hedge Counterparty had given the notice referred to in that paragraph) but has not terminated or closed out each such hedging transaction, that Hedge Counterparty shall promptly terminate or close-out in full each such hedging transaction following a request to do so by the Common Security Agent (acting on the instructions of the Instructing Group).

#### **4.11 Treatment of Payments due to the Company on Termination of Hedging Transactions**

- (a) If, on termination of any hedging transaction under any Hedging Agreement occurring after a Distress Event, a settlement amount or other amount (following the application of any Close-Out Netting, Payment Netting or Inter-Hedging Agreement Netting in respect of that Hedging Agreement) falls due from a Hedge Counterparty to the Company then that amount shall be paid by that Hedge Counterparty to the Common Security Agent, treated as the proceeds of enforcement of the Transaction Security and applied in accordance with the terms of this Agreement.

- (b) The payment of that amount by the Hedge Counterparty to the Common Security Agent in accordance with paragraph (a) above shall discharge the Hedge Counterparty's obligation to pay that amount to the Company.

#### 4.12 Terms of Hedging Agreements

The Hedge Counterparties (to the extent party to the Hedging Agreement in question) and the Company agree that, at all times:

- (a) each Hedging Agreement documents only hedging arrangements entered into for the purpose of hedging the types of liabilities described in the definition of "**Hedging Agreement**" and that if other hedging arrangements are carried out under or pursuant to a Hedging Agreement, such Hedging Agreement shall no longer be considered a Hedging Agreement for the purposes of this Agreement;
- (b) each Hedging Agreement is based either:
  - (i) on an ISDA Master Agreement; or
  - (ii) on a model hedging agreement commonly used in the Finnish market providing for a legally valid close-out netting; or
  - (iii) another framework agreement which is similar in effect to an ISDA Master Agreement (including master agreements of a Credit Facility Lender or its Affiliate).
- (c) in the event of a termination of the hedging transaction entered into under a Hedging Agreement, whether as a result of:
  - (i) a Termination Event or an Event of Default, each as defined in the relevant Hedging Agreement (in the case of a Hedging Agreement which is based on an ISDA Master Agreement); or
  - (ii) an event similar in meaning and effect to either of those described in paragraph (i) above (in the case of a Hedging Agreement which is not based on an ISDA Master Agreement),

that Hedging Agreement will (and, if not, it shall be deemed amended so that it will):

- (A) if it is based on a 1992 ISDA Master Agreement, provide for payments under the "Second Method" and will make no material amendment to section 6(e) (*Payments on Early Termination*) of the ISDA Master Agreement; or
- (B) if it is based on a 2002 ISDA Master Agreement, make no material amendment to section 6(e) (*Payments on Early Termination*) of the ISDA Master Agreement; or
- (C) if it is not based on an ISDA Master Agreement, provide for any other method the effect of which is that the party to which that event is referable will be entitled to receive payment under the relevant termination provisions if the net replacement value of all terminated transactions entered into under that Hedging Agreement is in its favour;

- (d) each Hedging Agreement will not (and, if not, it shall be deemed amended so that it will not) provide for Automatic Early Termination Date other than to the extent that that Automatic Early Termination is:
  - (i) as provided for in section 6(a) (*Right to Terminate following Event of Default*) of the 1992 ISDA Master Agreement (if the Hedging Agreement is based on a 1992 ISDA Master Agreement);
  - (ii) as provided for in section 6(a) (*Right to Terminate Following Event of Default*) of the 2002 ISDA Master Agreement (if the Hedging Agreement is based on a 2002 ISDA Master Agreement); or
  - (iii) similar in effect to that described in paragraphs (i) or (ii) above (if the Hedging Agreement is not based on an ISDA Master Agreement); and
- (e) to the extent the terms of any Hedging Agreement are in breach of the terms of this Agreement, this Agreement shall prevail.

**Section 4**  
**Insolvency, Turnover and Enforcement**

**5. Effect of Insolvency Event**

**5.1 Distributions**

- (a) After the occurrence of an Insolvency Event in relation to the Company, any Party entitled to receive a distribution out of the assets of the Company in respect of Liabilities owed by the Company under the Secured Documents to that Party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of the Company to pay that distribution to the Common Security Agent (or to such other person as the Common Security Agent shall direct) until the Liabilities owing by the Company under the Secured Documents to the Secured Creditors and the Hedge Counterparties have been paid in the aggregate amount of realisation proceeds obtained from the enforcement of the Transaction Security.
- (b) The Common Security Agent shall apply distributions made to it under paragraph (a) above in accordance with Clause 12 (*Application of Proceeds*).

**5.2 Set-Off**

- (a) Subject to paragraph (b) below, to the extent that any of the Company's Liabilities under the Secured Documents are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to the Company, any Secured Creditor 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 Common Security Agent for application in accordance with Clause 12 (*Application of Proceeds*).
- (b) Paragraph (a) above shall not apply to:
  - (i) any Close-Out Netting by a Hedge Counterparty;
  - (ii) any Payment Netting by a Hedge Counterparty; and
  - (iii) any Inter-Hedging Agreement Netting by a Hedge Counterparty.

**5.3 Non-Cash Distributions**

If the Common Security Agent or any other Secured Creditor receives a distribution in a form other than in cash in respect of any of the Liabilities owed by the Company under the Secured Documents, the Liabilities owed by the Company under the Secured Documents will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities owed by the Company under the Secured Documents.

**5.4 Filing of Claims**

After the occurrence of an Insolvency Event in relation to the Company, each Secured Creditor irrevocably authorises the Common Security Agent (acting in accordance with Clause 5.6 (*Common Security Agent Instructions*)), on its behalf, to:

- (a) take any Enforcement Action (in accordance with the terms of this Agreement) against the Company;



- (b) demand, sue, prove and give receipt for any or all of the Company's Liabilities under the Secured Documents;
- (c) collect and receive all distributions on, or on account of, any or all of the Company's Liabilities under the Secured Documents; and
- (d) file claims, take proceedings and do all other things the Common Security Agent considers reasonably necessary to recover the Company's Liabilities under the Secured Documents.

## **5.5 Further Assurance – Insolvency Event**

- (a) Each Secured Creditor will:
  - (i) do all things that the Common Security Agent requests in order to give effect to this Clause 5; and
  - (ii) if the Common Security Agent is not entitled to take any of the actions contemplated by this Clause 5 or if the Common Security Agent requests that a Secured Creditor take that action, undertake that action itself in accordance with the instructions of the Common Security Agent or grant a power of attorney to the Common Security Agent (on such terms as the Common Security Agent may reasonably require) to enable the Common Security Agent to take such action.
- (b) In relation to any Noteholder, the obligation under paragraph (a) above shall be construed as an obligation of each Noteholders' Agent to:
  - (i) do all things requested by the Common Security Agent on behalf of the Noteholders for which it is the Creditor Representative to the extent it is authorised to do so under the relevant Notes Documents; and
  - (ii) to the extent a Noteholders' Agent is not able to act in accordance with paragraph (a)(ii) above, notify the Noteholders for which it is the Creditor Representative of the Common Security Agent's request.

## **5.6 Common Security Agent Instructions**

For the purposes of Clause 5.1 (*Distributions*), Clause 5.4 (*Filing of Claims*) and Clause 5.5 (*Further Assurance – Insolvency Event*) the Common Security Agent shall act:

- (a) on the instructions of the group of Secured Creditors entitled, at that time, to give instructions under Clause 8.1 (*Instructions to Enforce*); or
- (b) in the absence of any such instructions, as the Common Security Agent sees fit.

## **6. Turnover of Receipts**

### **6.1 Turnover by the Secured Creditors**

Subject to Clause 6.2 (*Exclusions*) and to Clause 6.3 (*Permitted Assurance and Receipts*), if at any time prior to the Final Discharge Date any Secured Creditor receives or recovers:

- (a) any Payment or distribution of, or on account of or in relation to, any of the Liabilities owed by the Company under the Secured Documents which is neither:
  - (i) a Permitted Payment; nor

- (ii) made in accordance with Clause 12 (*Application of Proceeds*);
- (b) other than where paragraph (a) of Clause 5.2 (*Set-Off*) applies, any amount by way of set-off in respect of any of the Liabilities owed by the Company under the Secured Documents to it which does not give effect to a Permitted Payment;
- (c) notwithstanding paragraphs (a) and (b) above, and other than where paragraph (a) of Clause 5.2 (*Set-Off*) applies, any amount:
  - (i) on account of, or in relation to, any of the Liabilities owed by the Company under the Secured Documents:
    - (A) after the occurrence of a Distress Event; or
    - (B) as a result of any other litigation or proceedings against the Company (other than after the occurrence of an Insolvency Event in respect of the Company); or
  - (ii) by way of set-off in respect of any of the Liabilities owed by the Company under the Secured Documents to it after the occurrence of a Distress Event, other than, in each case, any amount received or recovered in accordance with Clause 12 (*Application of Proceeds*);
- (d) the proceeds of any enforcement of any Transaction Security except in accordance with Clause 12 (*Application of Proceeds*); or
- (e) other than where paragraph (a) of Clause 5.2 (*Set-Off*) applies, any distribution or Payment of, or on account of or in relation to, any of the Liabilities owed by the Company under the Secured Documents which is not in accordance with Clause 12 (*Application of Proceeds*) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of the Company,

that Secured Creditor will hold an amount of that receipt or recovery in escrow as agent for the Common Security Agent and promptly pay or distribute that amount to the Common Security Agent for application in accordance with the terms of this Agreement.

## 6.2 Exclusions

Clause 6.1 (*Turnover by the Secured Creditors*) shall not apply to any receipt or recovery by way of:

- (a) Close-Out Netting by a Hedge Counterparty;
- (b) Payment Netting by a Hedge Counterparty; or
- (c) Inter-Hedging Agreement Netting by a Hedge Counterparty.

## 6.3 Permitted Assurance and Receipts

Nothing in this Agreement shall restrict the ability of any Secured 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, the Company (including assurance by way of credit based derivative or sub-participation); or
- (b) make any transfer permitted by Clause 15 (*Changes to the Parties*) which is permitted by the Secured Documents to which such Secured Creditor is a party; and

and that Secured Creditor shall not be obliged to account to any other Party for any sum received by it as a result of that action.

#### **6.4 Amounts Received by Company**

If the Company receives or recovers any amount which, under the terms of any of the Secured Documents, should have been paid to the Common Security Agent, the Company will:

- (a) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) in escrow as agent for the Common Security Agent and promptly pay that amount to the Common 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 Common Security Agent for application in accordance with the terms of this Agreement.

#### **6.5 Turnover by a Paying Agent**

If at any time a Paying Agent receives a payment which it believes to:

- (a) have been made in violation of the terms of this Agreement; or
- (b) be subject to a claw-back, recovery or similar risk under the applicable law;

it may notify the Common Security Agent thereof. The Common Security Agent may decide, in its sole discretion, to instruct such Paying Agent to pay such received funds to the Common Security Agent which funds shall then be held by the Common Security Agent.

### **7. Redistribution**

#### **7.1 Recovering Creditor's Rights**

- (a) Any amount paid or distributed by a Secured Creditor (a "**Recovering Creditor**") to the Common Security Agent under Clause 5 (*Effect of Insolvency Event*) or Clause 6 (*Turnover of Receipts*) shall be treated as having been paid or distributed by the Company and shall be applied by the Common Security Agent in accordance with Clause 12 (*Application of Proceeds*).
- (b) On an application by the Common Security Agent pursuant to Clause 12 (*Application of Proceeds*) of a Payment or distribution received by a Recovering Creditor from the Company, as between the Company and the Recovering Creditor an amount equal to the amount received or recovered by the Recovering Creditor and paid or distributed to the Common Security Agent by the Recovering Creditor (the "**Shared Amount**") will be treated as not having been paid or distributed by the Company.

#### **7.2 Reversal of Redistribution**

- (a) If any part of the Shared Amount received or recovered by a Recovering Creditor becomes repayable or returnable to the Company and is repaid or returned by that Recovering Creditor to the Company, then:
  - (i) each Party that received any part of that Shared Amount pursuant to an application by the Common Security Agent of that Shared Amount under Clause 7.1 (*Recovering Creditor's Rights*) (a "**Sharing Party**") shall (subject to Clause 14 (*Noteholders' Agent Protections*)), upon request of the Common

Security Agent, pay or distribute to the Common Security Agent for the account of that Recovering 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 Creditor for its proportion of any interest on the Shared Amount which that Recovering Creditor is required to pay) (the “**Redistributed Amount**”); and

- (ii) as between the Company and each relevant Sharing Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid or distributed by the Company.
- (b) The Common Security Agent shall not be obliged to pay or distribute any Redistributed Amount to a Recovering 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 Party.

### **7.3 Deferral of Subrogation**

No Secured Creditor or the Company will exercise any rights which it may have by reason of the performance by it of its obligations under the Secured Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Secured Documents of any Secured 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 12 (*Application of Proceeds*) until such time as all of the Liabilities owing by the Company under the Secured Documents to each prior ranking Secured Creditor (or, in the case of the Company, owing to each Secured Creditor) have been irrevocably discharged in full.

## **8. Enforcement of Transaction Security**

### **8.1 Instructions to Enforce**

- (a) Subject to the Transaction Security having become enforceable, if the Instructing Group wishes to issue Enforcement Instructions, the Creditor Representative(s) representing the Secured Creditors comprising the Instructing Group shall deliver its Enforcement Instructions (an “**Primary Enforcement Notice**”) to the Common Security Agent and, to the extent those Enforcement Instructions relate to the Transaction Security, the Common Security Agent shall promptly forward such Primary Enforcement Notice to each Creditor Representative and each Hedge Counterparty which did not deliver such Primary Enforcement Notice .
- (b) Subject to paragraph (c) below, the Common Security Agent will act in accordance with Enforcement Instructions received from the Instructing Group.
- (c) If the Transaction Security has become enforceable in accordance with its terms but:
  - (i) the Instructing Group has refrained from giving instructions to the Common Security Agent to enforce the Transaction Security;
  - (ii) the Instructing Group has instructed the Common Security Agent not to enforce the Transaction Security; or
  - (iii) otherwise no Enforcement in relation to the Transaction Security has been initiated,

then if:

- (A) an Insolvency Event has occurred and is continuing; or
- (B) in case of any instruction by a Noteholders' Agent, a Notes Acceleration Event has occurred and:
  - (1) that Noteholders' Agent has delivered to the Common Security Agent a copy of an Acceleration Notice by that Noteholders' Agent to the Company concerning such Notes Acceleration Event; and
  - (2) the Notes Standstill Period has expired and at the end of the Notes Standstill Period, the Notes Event of Default giving rise to the Notes Acceleration Event is continuing; or
- (C) in case of any instruction by a Credit Facility Agent, a Credit Facility Acceleration Event has occurred and:
  - (1) that Credit Facility Agent has delivered to the Common Security Agent a copy of an Acceleration Notice by that Credit Facility Agent to the Company concerning such Credit Facility Acceleration Event; and
  - (2) the Credit Facility Standstill Period has expired and at the end of the Credit Facility Standstill Period, the Credit Facility Event of Default giving rise to the Credit Facility Acceleration Event is continuing,

the Creditor Representative representing the Noteholders or Credit Facility Lenders on behalf of which such Acceleration Notice has been delivered, may deliver its Enforcement Instructions (a "**Secondary Enforcement Notice**") to the Common Security Agent and the Common Security Agent shall promptly forward such Secondary Enforcement Notice to each Creditor Representative and each Hedge Counterparty which did not deliver such Secondary Enforcement Notice and the Common Security Agent shall give effect to any instructions to enforce the Transaction Security which such Creditor Representative (acting upon the instructions of the requisite majority of Noteholders or Credit Facility Lenders determined in accordance with the relevant Secured Document in respect of which it is the Creditor Representative) is then entitled to give to the Common Security Agent under this Clause.

- (d) In the event that the Common Security Agent receives Secondary Enforcement Notices from several Creditor Representatives under paragraph (c) above, it shall act in accordance with the Secondary Enforcement Notice delivered first or, if several Secondary Enforcement Notices are delivered simultaneously, in accordance with the Secondary Enforcement Notices delivered by the Creditor Representative(s)

representing the Majority Noteholders and the Creditor Representative(s) representing the Majority Credit Facility Lenders, as applicable.

## **8.2 Enforcement Instructions**

- (a) The Common Security Agent may refrain from enforcing the Transaction Security or taking any other action as to Enforcement unless instructed otherwise by:
  - (i) the Instructing Group; or
  - (ii) to the extent permitted to require the enforcement of the Transaction Security under paragraph (c) of Clause 8.1 (*Instructions to Enforce*), the relevant Creditor Representative(s).

- (b) Subject to the Transaction Security having become enforceable in accordance with its terms:

- (i) the Instructing Group; or
- (ii) to the extent permitted to require the enforcement of the Transaction Security under paragraph (c) of Clause 8.1 (*Instructions to Enforce*), the relevant Creditor Representative(s),

may give or refrain from giving instructions to the Common Security Agent to take action as to Enforcement as they see fit by way of the issuance of Enforcement Instructions.

- (c) The Common Security Agent is entitled to rely on and comply with instructions given in accordance with this Clause 8.2.

## **8.3 Manner of Enforcement**

- (a) If the Transaction Security is being enforced or other action as to Enforcement is being taken pursuant to Clause 8.1 (*Instructions to Enforce*), the Common Security Agent shall enforce the Transaction Security or take other action as to the Enforcement in such manner (including, without limitation, the selection of any administrator or any analogous officer in any jurisdiction of the Company to be appointed by the Common Security Agent) as the Instructing Group; or

- (b) if:

- (i) the Common Security Agent has, pursuant to paragraph (c) of Clause 8.1 (*Instructions to Enforce*), given effect to instructions given by any Creditor Representative to enforce the Transaction Security; and
- (ii) the Instructing Group has not given instructions as to the manner of enforcement of the Transaction Security,

that or those Creditor Representative(s), as applicable, shall instruct.

## **8.4 Exercise of Voting Rights**

- (a) Each Secured Creditor (other than each Creditor Representative and each Credit Facility Arranger) 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, reorganization or similar proceedings relating to the Company as instructed by the Common Security Agent.

- (b) The Common Security Agent shall give instructions for the purposes of paragraph (a) above in accordance with any instructions given to it by the Instructing Group.

#### **8.5 Waiver of Rights**

To the extent permitted under applicable law and subject to Clause 8.2 (*Enforcement Instructions*), Clause 8.3 (*Manner of Enforcement*), Clause 10.2 (*Proceeds of Distressed Disposals*), Clause 10.3 (*Fair Value*) and Clause 12 (*Application of Proceeds*), each of the Secured Creditors and the Company 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.

#### **8.6 Duties Owed**

Each of the Secured Creditors and the Company acknowledges that, in the event that the Common Security Agent enforces or is instructed to enforce the Transaction Security, the duties of the Common Security Agent and of any Delegate owed to them in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to Clause 10.2 (*Proceeds of Distressed Disposals*) and Clause 10.3 (*Fair Value*), be no different to or greater than the duty that is owed by the Common Security Agent or Delegate to the Company under general law.

#### **8.7 Enforcement through Common Security Agent only**

The Secured Creditors 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 the Transaction Security Documents except through the Common Security Agent.

#### **8.8 Automatic Acceleration**

Upon enforcement of all or any part of the Transaction Security:

- a) any and all Credit Facility Liabilities,
- b) any and all Notes Facility Liabilities, and
- c) any and all Hedging Liabilities,

shall fall immediately due and payable regardless of their terms and whether any Acceleration Notice or similar has been issued under the Secured Document governing such Liabilities or not, unless the Creditor Representative representing the Noteholders or Credit Facility Lenders in respect of which it is the Creditor Representative confirms in writing to the Common Security Agent within 2 Business Days from any notification provided by the Common Security Agent to that Creditor Representative under section (d) of Clause 18.3 (*Notification of Prescribed Events*) that such automatic acceleration shall not apply to the Liabilities specified in such confirmation, being Liabilities in respect of which it is the Creditor Representative. In the event of issuance of such non-automatic acceleration notice by a Creditor Representative to the Common Security Agent, the Liabilities specified in such notice shall, when funds are distributed under the Clause 12.1 (*Order of Application*), be taken into account only up to an amount due and payable on the day when the funds are being distributed.

**Section 5**  
**Transaction Security**

**9. Non-Distressed Disposals**

**9.1 Release of Transaction Security upon Permitted Property Transaction**

- (a) The Company shall obtain the consent of the Common Security Agent to the release of any Pledged Property, such consent not to be unreasonably withheld or delayed in case the requirements set out in paragraphs (a) through (d) of the definition of "Permitted Property Transaction" are met.
- (b) If the Company has delivered a Pledged Property Release Request to the Common Security Agent and the conditions for a Permitted Property Transaction have been met, the Common Security Agent is irrevocably authorised (at the request and cost of the Company and without any consent, sanction, authority or further confirmation from any Secured Creditor) to release the Transaction Security over the relevant Pledged Properties identified in the Pledged Property Release Request and to execute and deliver any documentation that is considered necessary or desirable for the purposes of effecting the release of such Pledged Properties.
- (c) The Common Security Agent is not bound to monitor or verify that the conditions for the Permitted Property Transaction have been met.
- (d) Any Insurance Proceeds and any other amounts credited to the Blocked Account may provided that:
  - (i)
    - (A) no Default is continuing: and
    - (B) the Loan to Security Asset Value covenant (when disregarding such Insurance Proceeds (or other amounts) standing to the credit of the Blocked Account) is complied with based on the most recent Valuation in respect of Finnish Properties prepared after the damages resulting in such Insurance Proceeds (or another event resulting in a payment to the Blocked Account, as applicable) having taken place,  
  
at the request of the Company, be released to the Company;and
  - (ii)
    - (A) no Default is continuing: and
    - (B) the Loan to Security Asset Value covenant (when disregarding such Insurance Proceeds (or other amounts) standing to the credit of the Blocked Account) is not complied with based on the most recent Valuation in respect of Finnish Properties prepared after the damages resulting in such Insurance Proceeds (or another event resulting in a payment to the Blocked Account, as applicable) having taken place,  
  
be used for payment of interest, fees and any other outstanding amounts under and/or the prepayment of any amount secured by the Transaction Security to the extent required to be in compliance with the Loan to Security Asset Value covenant and provided that prepayment is allowed by the terms of the relevant Secured Debt



Document (when disregarding such Insurance Proceeds standing to the credit of the Blocked Account) and thereafter the remaining Insurance Proceeds may be applied in accordance with paragraph (i) above. The application of funds on the Blocked Account in accordance with this paragraph (ii) shall not constitute a realisation of enforcement of Transaction Security for the purposes of any Secured Document.

## **9.2 Permitted First Priority Rights**

The Company shall be permitted to create Permitted Rights over the Finnish Pledged Properties. The Common Security Agent shall at the request and cost of the Company take all actions reasonably necessary to enable the registration of the Permitted First Priority Rights with first priority and shall be authorised by each Secured Creditor and Hedge Counterparty to do so without any further consent by them.

## **9.3 Further Assurance Regarding Transaction Security**

- (a) The Company shall promptly at its costs do all such acts or execute all such documents as the Common Security Agent may reasonably specify (and in such form as the Common Security Agent may reasonably require in favour of the Common Security Agent or its nominee(s)):
  - (i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents or for the exercise of any rights, powers and remedies of the Common Security Agent or the Secured Creditors provided by or pursuant to the Secured Documents or by law; and
  - (ii) upon the Transaction Security becoming enforceable, to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security,
- (b) The Company shall take all such action as is reasonably available to it as may be needed for the purpose of the creation, perfection, protection or maintenance of any Transaction Security conferred or intended to be conferred on the Common Security Agent or the Secured Creditors by or pursuant to the Transaction Security Documents.

## **10. Distressed Disposals**

### **10.1 Facilitation of Distressed Disposals**

Subject to Clause 10.4 (*Restriction on Enforcement*), if a Distressed Disposal is being effected, the Common Security Agent is irrevocably authorised (at the cost of the Company and without any consent, sanction, authority or further confirmation from any Secured Creditor or the Company) to release the Transaction Security or any other claim over the asset subject to the Distressed Disposal and execute and deliver or enter into any release of that Transaction Security or claim and issue any consent to dealing that may, in the discretion of the Common Security Agent, be considered necessary or desirable on behalf of the relevant Secured Creditors and the Company.

### **10.2 Proceeds of Distressed Disposals**

The net proceeds of each Distressed Disposal shall be paid, or distributed, to the Common Security Agent for application in accordance with Clause 12 (*Application of Proceeds*).

### **10.3 Fair Value**

In the case of a Distressed Disposal effected by, or at the request of, the Common Security Agent, the Common Security Agent shall act in accordance with Clause 10.5 (*Common Security Agent's Actions*).

### **10.4 Restriction on Enforcement**

If a Distressed Disposal is being effected:

- (a) the Common Security Agent is not authorised to release the Company from any Liabilities owed under the Secured Documents to any Secured Creditor unless those Liabilities will be paid (or repaid) in full, following that release; and
- (b) no Distressed Disposal may be made for Non-Cash Consideration unless the prior consent of the Instructing Group is obtained.

### **10.5 Common Security Agent's Actions**

For the purposes of Clause 10.1 (*Facilitation of Distressed Disposals*) and Clause 10.3 (*Fair Value*), the Common Security Agent shall act:

- (a) if the relevant Distressed Disposal is being effected by way of enforcement of the Transaction Security, in accordance with Clause 8.3 (*Manner of Enforcement*); and
- (b) in any other case on the instructions of the Instructing Group.

## **11. Further Assurance – Disposals and Releases**

- (a) Each Secured Creditor and the Company will:
  - (i) do all things that the Common Security Agent requests in order to give effect to Clause 9 (*Non-Distressed Disposals*) and Clause 10 (*Distressed Disposals*) (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Common Security Agent may consider to be necessary to give effect to the releases or disposals contemplated by those Clauses); and
  - (ii) if the Common Security Agent is not entitled to take any of the actions contemplated by those Clauses or if the Common Security Agent requests that any Secured Creditor or the Company take any such action, take that action itself in accordance with the instructions of the Common Security Agent,  
*provided that*, in the case of Distressed Disposals, the proceeds of those disposals are applied in accordance with Clause 10 (*Distressed Disposals*).
- (b) In relation to any Noteholder, the obligation under paragraph (a) shall be construed as an obligation of each Noteholders' Agent to:
  - (i) do all things requested by the Common Security Agent on behalf of the Noteholders for which it is the Creditor Representative to the extent it is authorised to do so under the Notes Documents; and
  - (ii) to the extent a Noteholders' Agent is not able to act in accordance with paragraph (a) above, notify the Noteholders for which it is the Creditor Representative of the Common Security Agent's request.

## Section 6 Proceeds

### 12. Application of Proceeds

#### 12.1 Order of Application

Subject to Clause 12.2 (*Prospective Liabilities*), in connection with the realisation or enforcement of all or any part of the Transaction Security, any proceeds distributed in connection with an Insolvency Event and any funds obtained pursuant to any other Enforcement Action (for the purposes of this Clause 12, the “**Recoveries**”) shall be held by the Common Security Agent as agent in escrow to apply them at any time as the Common Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 12), in the following order of priority towards satisfaction of the Secured Obligations and in respect of the Hedging Agreements towards Hedging Liabilities:

- (a) **first**, to the Common Security Agent or any Delegate towards the discharge of the Common Security Agent Amounts;
- (b) **secondly**, on a *pro rata* and *pari passu* basis, to each Creditor Representative and Paying Agent towards the discharge of the Creditor Representative Amounts and Paying Agent Amounts;
- (c) **thirdly**, in payment or distribution to:
  - (i) each Creditor Representative in respect of a Credit Facility on behalf of the Credit Facility Creditors for which it is the Creditor Representative; and
  - (ii) each Creditor Representative in respect of the Notes on behalf of the Noteholders for which it is the Creditor Representative;

for application towards the discharge on a *pro rata* basis of:

- (A) the Credit Facility Liabilities (in accordance with the terms of the Credit Facility Documents) on a *pro rata* basis between Credit Facility Liabilities incurred under separate Credit Facility Agreements (excluding any amounts owing to any Credit Facility Agent and discharged under paragraph (b) above); and
  - (B) the Notes Liabilities (in accordance with the Notes Documents) on a *pro rata* basis between the Notes Liabilities incurred under separate issuances of Notes (excluding any amounts owing to any Paying Agent and any Noteholders’ Agent and discharged under paragraph (b) above);
- (d) **fourthly**, after the Final Discharge Date, in payment or distribution to the Hedge Counterparties, for application towards the discharge of the Hedging Liabilities on a *pro rata* basis between the Hedging Liabilities of each Hedge Counterparty; and
  - (e) **fifthly**, the balance, if any, in payment to the Company,

provided that the above order of priority between (c) and (d) above shall not apply after the aggregate amount of realisation proceeds obtained from the enforcement of the Transaction Security have been applied in accordance with the above. As regards any funds other than

received as realisation proceeds obtained from the enforcement of the Transaction Security, items (c) and (d) shall be treated on a *pari passu* basis.

## **12.2 Prospective Liabilities**

Following a Distress Event the Common Security Agent may, in its discretion, hold any amount of the Recoveries in one or more suspense or impersonal account(s) in the name of the Common Security Agent with such financial institution (including itself) as the Common Security Agent shall think fit (the interest being credited to the relevant account, if any) for so long as the Common Security Agent shall think fit, to the extent permitted by applicable law, for later application under Clause 12.1 (*Order of Application*) in respect of:

- (a) any sum owed by the Company under the Secured Documents to any Common Security Agent or any Delegate; and
- (b) any part of the Liabilities owed by the Company under the Secured Documents,

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

## **12.3 Permitted Deductions**

The Common Security Agent shall be entitled, in its discretion and to the extent permitted by applicable law, (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 Security Assets, or as a consequence of performing its duties or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as Common Security Agent under any of the Secured Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

## **12.4 Good Discharge**

- (a) Any distribution or payment to be made by the Common Security Agent:
  - (i) in respect of the Secured Obligations, may be made to the relevant Creditor Representative on behalf of its Secured Creditors; or
  - (ii) in respect of the Hedging Liabilities, shall be made directly to the Hedge Counterparties.
- (b) Any distribution or payment made as described in paragraph (a) above shall be a good discharge, to the extent of that payment or distribution, by the Common Security Agent.
- (c) The Common Security Agent is under no obligation to make the payments to the Creditor Representatives or the Hedge Counterparties under paragraph (a) above in the same currency as that in which the Liabilities owing to the relevant Secured Creditor are denominated pursuant to the relevant Secured Document.

## **12.5 Calculation of Amounts**

For the purpose of calculating any person's share of any amount payable to or by it, the Common 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 Common Security Agent), that notional conversion to be made at the spot rate at which the Common Security Agent is able to purchase the notional base currency with the actual currency of the Liabilities owed to that person 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 Assets are applied in discharge of the Secured Obligations in accordance with the terms of the Secured Debt Documents under which those Secured Obligations have arisen.

**Section 7**  
**The Parties**

**13. The Common Security Agent**

**13.1 The Common Security Agent as Agent**

- (a) Each Secured Creditor (other than the Common Security Agent and the Hedge Counterparties) and the Paying Agent irrevocably:
  - (i) appoints the Common Security Agent to act as agent and representative, under the Act on Noteholders' Agent, on its behalf upon the terms and conditions set out in this Agreement under and in connection with the Transaction Security Documents; and
  - (ii) confirms its approval of the Transaction Security Documents and any security created or to be created pursuant thereto and irrevocably authorises, empowers and directs the Common Security Agent (by itself or by such person(s) as it may nominate) to execute for and on its behalf the Transaction Security Documents, to perform the duties and to exercise the rights, powers and discretions that are specifically delegated to it under or in connection with the Secured Debt Documents, together with any other rights, powers and discretions which are incidental thereto and to give a good discharge for any moneys payable under the Transaction Security Documents.
- (b) Each Hedge Counterparty irrevocably:
  - (i) appoints the Common Security Agent to act as agent and representative, under the Act on Noteholders' Agent, on its behalf upon the terms and conditions set out in this Agreement under and in connection with the Transaction Security Documents; and
  - (ii) confirms its approval of the Transaction Security Documents and any second priority security in respect of the Hedging Liabilities created or to be created pursuant thereto and irrevocably authorises, empowers and directs the Common Security Agent (by itself or by such person(s) as it may nominate) to execute for and on its behalf the Transaction Security Documents, to perform the duties and to exercise the rights, powers and discretions that are specifically delegated to it under or in connection with the Secured Documents, together with any other rights, powers and discretions which are incidental thereto and to give a good discharge for any moneys payable under the Transaction Security Documents.
- (c) the Common Security Agent will act solely for itself (as Secured Creditor) and as agent and representative for the other Secured Creditors in carrying out its functions as security agent under the relevant Transaction Security Documents and this Agreement; and
- (d) the relationship between the Secured Creditors (other than the Common Security Agent) and the Common Security Agent is that of principal and agent or representative only. The Common Security Agent shall not have, or be deemed to have assumed any obligations to or fiduciary relationship with any party to this Agreement other than those for which specific provision is made by the Transaction Security Documents and this Agreement.

### 13.2 No Independent Power

The Secured Creditors shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any rights or powers arising under the Transaction Security Documents except through the Common Security Agent.

### 13.3 Instructions to Common Security Agent

- (a) The Common 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 Common Security Agent in accordance with any instructions given to it by the Instructing Group (or, if this Agreement stipulates the matter is a decision for any other Secured Creditor or group of Secured Creditors, in accordance with instructions given to it by that Secured Creditor or group of Secured Creditors); 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 Secured Creditor or group of Secured Creditors, in accordance with instructions given to it by that Secured Creditor or group of Secured Creditors).
- (b) The Common 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 Secured Creditor or group of Secured Creditors, from that Secured Creditor or group of Secured Creditors) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Common 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 Secured Creditor or group of Secured Creditors under this Agreement and unless a contrary intention appears in this Agreement, any instructions given to the Common Security Agent by the Instructing Group shall override any conflicting instructions given by any other Parties and will be binding on all Secured Creditors.
- (d) Paragraph (a) above shall not apply:
- (i) where a contrary indication appears in this Agreement;
  - (ii) where this Agreement or applicable law or regulation requires the Common Security Agent to act in a specified manner or to take a specified action;
  - (iii) in respect of any provision which protects the Common Security Agent's own position in its personal capacity as opposed to its role of Common Security Agent for the Secured Creditors including, without limitation, Clauses 13.6 (*No Duty to Account*) to Clause 13.11 (*Exclusion of Liability*), Clause 13.14 (*Confidentiality*) to Clause 13.20 (*Acceptance of Title*);
  - (iv) in respect of the exercise of the Common Security Agent's discretion to exercise a right, power or authority under any of:
    - (A) Clause 9 (*Non-Distressed Disposals*);
    - (B) Clause 12.1 (*Order of Application*);

- (C) Clause 12.2 (*Prospective Liabilities*); and
  - (D) Clause 12.3 (*Permitted Deductions*).
- (e) If giving effect to instructions given by the Instructing Group would (in the Common Security Agent's opinion) have an effect equivalent to an Intercreditor Amendment, the Common Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Common 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 Secured 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 Common Security Agent shall do so having regard to the interests of all the Secured Creditors.
- (g) The Common Security Agent may refrain from acting in accordance with any instructions of any Secured Creditor or group of Secured Creditors until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Secured Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
- (h) Without prejudice to the provisions of Clause 8 (*Enforcement of Transaction Security*) and the remainder of this Clause 13.3, in the absence of instructions, the Common Security Agent may act (or refrain from acting) as it considers in its discretion to be appropriate.

#### **13.4 Duties of the Common Security Agent**

- (a) The Common Security Agent's duties under the Secured Documents are solely mechanical and administrative in nature.
- (b) The Common Security Agent shall promptly:
  - (i) forward to each Creditor Representative and to each Hedge Counterparty a copy of any document received by the Common Security Agent from the Company under any Secured Document; and
  - (ii) subject to (iii) below, forward to a Party the original or a copy of any document which is delivered to the Common Security Agent for that Party by any other Party; and
  - (iii) provide any information to be provided by it to any Noteholders, to the relevant Creditor Representative.
- (c) Except where a Secured Document specifically provides otherwise, the Common 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 18.3 (*Notification of Prescribed Events*), if the Common Security Agent receives notice from a Party referring to any Secured Document,



describing a Default and stating that the circumstance described is a Default, it shall promptly notify each Creditor Representative and each Hedge Counterparty.

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

### **13.5 No Fiduciary Duties to the Company**

Nothing in this Agreement constitutes the Common Security Agent as an agent or fiduciary of the Company.

### **13.6 No Duty to Account**

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

### **13.7 Business with the Group**

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

### **13.8 Rights and Discretions**

- (a) The Common Security Agent may:
  - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
  - (ii) assume that:
    - (A) any instructions received by it from the Instructing Group, any Secured Creditors or any group of Secured Creditors are duly given in accordance with the terms of the Secured 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 Secured Documents for so acting have been satisfied; and
  - (iii) 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 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 Common Security Agent may assume (unless it has received notice to the contrary in its capacity as security agent for the Secured Creditors) that:
  - (i) no Default has occurred; and

- (ii) any right, power, authority or discretion vested in any Party or any group of Secured Creditors has not been exercised.
- (c) The Common Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Common Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Common Security Agent (and so separate from any lawyers instructed by any Secured Creditor) if the Common Security Agent in its reasonable opinion deems this to be desirable.
- (e) The Common 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 Common 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.
- (f) The Common Security Agent and any Delegate may act in relation to the Secured Documents and the Security Assets 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 Common Security Agent's or Delegate's gross negligence or wilful misconduct.
- (g) Unless this Agreement expressly specifies otherwise, the Common Security Agent may disclose to any other Party (for the avoidance of doubt excluding any Noteholders) any information it reasonably believes it has received as security agent under this Agreement.
- (h) The Company hereby unconditionally and irrevocably authorises the Common Security Agent to disclose information about the Company, the Security Assets and any member of the Group or the Secured Documents to any person that the Common Security Agent shall consider appropriate in connection with an Enforcement Action.
- (i) Notwithstanding any other provision of any Secured Document to the contrary, the Common 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.
- (j) Notwithstanding any provision of any Secured Document to the contrary, the Common 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 Common Security Agent nor any Delegate is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Common Security Agent, the Company or any other person in or in connection with any Secured Document or the transactions contemplated in the Secured Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Secured Document; or
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Secured Document, the Security Assets or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Secured Document or the Security Assets; or
- (c) any determination as to whether any information provided or to be provided to any Secured Creditor 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 Common 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 Secured Document; or
- (c) whether any other event specified in any Secured Document has occurred.

### **13.11 Exclusion of Liability**

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Secured Document excluding or limiting the liability of the Common Security Agent or Delegate), none of the Common Security Agent 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 Secured Document or the Transaction Security 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 Secured Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Secured Document or the Transaction Security;
  - (iii) any shortfall which arises on the enforcement or realisation of the Transaction Security; 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; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party (other than the Common Security Agent or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Common Security Agent or a Delegate in respect of any claim it might have against the Common Security Agent or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Secured Document or any Security Assets and any officer, employee or agent of the Common Security Agent or a Delegate may rely on this Clause.
- (c) Nothing in this Agreement shall oblige the Common 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 Secured Creditor,

on behalf of any Secured Creditor and each Secured Creditor confirms to the Common 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 Common Security Agent.

- (d) Without prejudice to any provision of any Secured Document excluding or limiting the liability of the Common Security Agent or Delegate, any liability of the Common Security Agent or Delegate arising under or in connection with any Secured Document or the Security Assets 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 Common Security Agent 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 Common Security Agent or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Common Security Agent or Delegate 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 Common Security Agent or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

### **13.12 Secured Creditors’ Indemnity to the Common Security Agent**

- (a) Subject to paragraph (b) below, each Secured Creditor (other than any Creditor Representative) shall (in the proportion that the Company's Liabilities due to it under the Secured Documents bear to the aggregate of the Company's Liabilities due to all the Secured Creditors (other than any Creditor Representative) under the Secured Documents for the time being (or, if such Liabilities due to the Secured Creditors

(other than any Creditor Representative) are zero, immediately prior to their being reduced to zero)), indemnify the Common Security Agent and every Delegate, within three (3) Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Common Security Agent's or Delegate's gross negligence or wilful misconduct) in acting as Common Security Agent or Delegate under, or exercising any authority conferred under, the Secured Documents (unless the relevant Common Security Agent or Delegate has been reimbursed by the Company pursuant to a Secured Document).

- (b) For the purposes only of paragraph (a) above, to the extent that any hedging transaction under a Hedging Agreement has not been terminated or closed-out, the Hedging Liabilities due to any Hedge Counterparty in respect of that hedging transaction will be deemed to be:
  - (i) if the relevant Hedging Agreement is based on an ISDA Master Agreement, the amount, if any, which would be payable to it under that Hedging Agreement in respect of those hedging transactions, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the Company is the Defaulting Party (as defined in the relevant ISDA Master Agreement); or
  - (ii) if the relevant Hedging Agreement is not based on an ISDA Master Agreement, the amount, if any, which would be payable to it under that Hedging Agreement in respect of that hedging transaction, if the date on which the calculation is made was deemed to be the date on which an event similar in meaning and effect (under that Hedging Agreement) to an Early Termination Date (as defined in any ISDA Master Agreement) occurred under that Hedging Agreement for which the Company is in a position similar in meaning and effect (under that Hedging Agreement) to that of a Defaulting Party (under and as defined in the same ISDA Master Agreement),

that amount, in each case as calculated in accordance with the relevant Hedging Agreement.

- (c) Subject to paragraph (d) below, the Company shall immediately on demand reimburse any Secured Creditor for any payment that Secured Creditor makes to the Common Security Agent pursuant to paragraph (a) above.
- (d) Paragraph (c) above shall not apply to the extent that the indemnity payment in respect of which the Secured Creditor claims reimbursement relates to a liability of the Common Security Agent to the Company.

### **13.13 Resignation of the Common Security Agent**

- (a) The Common Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the Secured Creditors and the Company.
- (b) Alternatively the Common Security Agent may resign by giving 30 days' notice to the Secured Creditors and the Company, in which case the Instructing Group may appoint a successor Common Security Agent.
- (c) If the Instructing Group has not appointed a successor Common Security Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Common Security Agent (after consultation with the Creditor

Representatives and the Hedge Counterparties) may appoint a successor Common Security Agent.

- (d) The retiring Common Security Agent shall make available to the successor Common Security Agent such documents and records and provide such assistance as the successor Common Security Agent may reasonably request for the purposes of performing its functions as Common Security Agent under the Secured Documents. The Company shall, within three (3) Business Days of demand, reimburse the retiring Common Security Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (e) The Common Security Agent's resignation notice shall only take effect upon:
  - (i) the appointment of a successor; and
  - (ii) the transfer of all the rights of the Common Security Agent under the Transaction Security Documents to that successor.
- (f) Upon the appointment of a successor, the retiring Common Security Agent shall be discharged from any further obligation in respect of the Secured Documents (other than its obligations under paragraph (b) of Clause 13.21 (*Termination of Agency and Representation*) and paragraph (d) above) but shall remain entitled to the benefit of this Clause 13 and Clause 17.1 (*Indemnity to the Common Security Agent*) (and any Common Security Agent fees for the account of the retiring Common 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.
- (g) The Instructing Group may, by notice to the Common Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Common Security Agent shall resign in accordance with paragraph (b) above.

#### **13.14 Confidentiality**

- (a) In acting as agent for the Secured Creditors, the Common Security Agent shall be regarded as acting through its agency 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 Common Security Agent, it may be treated as confidential to that division or department and the Common Security Agent shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Secured Document to the contrary, the Common Security Agent is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

#### **13.15 Information from the Secured Creditors**

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

### **13.16 Credit Appraisal by the Secured Creditors**

Without affecting the responsibility of the Company for information supplied by it or on its behalf in connection with any Secured Document, each Secured Creditor confirms to the Common 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 Secured 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 Secured Document, the Security Assets and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Secured Document or the Security Assets;
- (c) whether that Secured Creditor 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 Secured Document, the Security Assets, the transactions contemplated by the Secured Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Secured Document or the Security Assets;
- (d) the adequacy, accuracy or completeness of any information provided by the Common Security Agent, any Party or by any other person under or in connection with any Secured Document, the transactions contemplated by any Secured Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Secured Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Security Assets, the priority of any of the Transaction Security or the existence of any Security affecting the Security Assets.

### **13.17 Reliance and Engagement Letters**

The Common Security Agent may obtain and rely on any certificate or report from the Company'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).

### **13.18 No Responsibility to Perfect Transaction Security**

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

- (a) require the deposit with it of any certificate or document certifying, representing or constituting the title of the Company to any of the Security Assets;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Secured 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 Secured Document or of the Transaction Security;

- (d) take, or to require the Company to take, any step to perfect its title to any of the Security Assets 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 Transaction Security Document.

#### **13.19 Insurance by Common Security Agent**

- (a) The Common Security Agent shall not be obliged:
  - (i) to insure any of the Security Assets;
  - (ii) to require any other person to maintain any insurance; or
  - (iii) to verify any obligation to arrange or maintain insurance contained in any Secured Document,

and the Common 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 Common 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 Common Security Agent fails to do so within fourteen days after receipt of that request.

#### **13.20 Acceptance of Title**

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

#### **13.21 Termination of Agency and Representation**

If the Common Security Agent, with the approval of each Creditor Representative and each Hedge Counterparty, determines that:

- (a) all of the Secured Obligations, the Hedging Liabilities and all other obligations secured by the Transaction Security Documents have been fully and finally discharged; and
- (b) no Secured Creditor is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to the Company pursuant to the Secured Documents,

then the agency and representation of the Secured Creditors by the Common Security Agent set out in this Agreement shall cease and the Common Security Agent shall (at the cost of the Company) release, without recourse or warranty, all of the Transaction Security and the rights of the Common Security Agent under each of the Transaction Security Documents.

#### **13.22 Powers Supplemental**

The rights, powers, authorities and discretions given to the Common Security Agent under or in connection with the Secured Debt Documents shall be supplemental and in addition to any which may be vested in the Common Security Agent by law or regulation or otherwise.



### 13.23 Parallel Debt

- (a) Notwithstanding any other provision of this Agreement, the Company irrevocably and unconditionally undertakes to pay to the Common Security Agent, as creditor in its own right and not as representative of the other Secured Creditors, sums equal to and in the currency of each amount payable by the Company to each of the Secured Creditors (whether present or future and whether actual or contingent) under the other provisions of the Secured Documents as and when the amount falls due for payment under those provisions of Secured Documents or would have fallen due but for any discharge resulting from failure of another Secured Creditor to take appropriate steps, in insolvency proceedings affecting the Company, to preserve its entitlement to be paid that amount. For the avoidance of doubt, interest, fees and any other charges accruing on the Secured Obligations shall be included in the Parallel Debt (without double-counting).
- (b) The obligation to pay Parallel Debt constitutes undertakings, obligations and liabilities of the Company to the Common Security Agent separate and independent from the obligations (whether present or future and whether actual or contingent) of the Company to the Secured Creditors or any of them. The Parallel Debt represents the Common Security Agent's own separate and independent claim to receive payment of the Parallel Debt from the Company.
- (c) For the avoidance of doubt, the aggregate amount due by the Company under the Parallel Debt will be immediately and automatically decreased to the extent the Company has paid any amounts to the Secured Creditors under the other provisions of the Secured Documents, except to the extent such payment shall have been subsequently avoided or reduced by virtue of provisions or enactments relating to bankruptcy, insolvency, preference, liquidation or similar laws of general application.
- (d) For the avoidance of doubt, to the extent the Company has paid any amounts to the Common Security Agent under the Parallel Debt the aggregate amount due by the Company to the Secured Creditors under the other provisions of the Secured Documents will be immediately and automatically decreased accordingly, except to the extent such payment shall have been subsequently avoided or reduced by virtue of provisions or enactments relating to bankruptcy, insolvency, preference, liquidation or similar laws of general application.
- (e) To the extent the Common Security Agent receives any amount in payment of the Parallel Debt, the Common Security Agent shall make such amount available to the relevant Creditor Representative(s) or Hedge Counterparties, as applicable, for distributing among the Secured Creditors in accordance with the terms of the Secured Documents.
- (f) The obligation to pay Parallel Debt is a separate and independent acknowledgement of obligation (est: *võlatunnistus*) by the Company within the meaning of § 30 of the Estonian Law of Obligations Act (est: *võlaõigusseadus*). For the purpose of clarification, the obligation to pay Parallel Debt is a constitutive acknowledgement of obligation (est: *konstitutiivne võlatunnistus*).
- (g) Without limiting and in addition to the above, the Common Security Agent shall have the rights of the joint creditor (est: *solidaarvõlausaldaja*) with the other Secured Creditors in relation to sums payable by the Company to each of the Secured Creditors under the Secured Documents.

- (h) Each Secured Creditor must, at the request of the Common Security Agent, perform any act required in connection with the enforcement of any claim under the obligation to pay Parallel Debt.

## **14. Noteholders' Agent Protections**

### **14.1 Limitation of Noteholders' Agent Liability**

It is expressly understood and agreed by the Parties that this Agreement is executed and delivered by each Noteholders' Agent not individually or personally but solely in its capacity as a Noteholders' Agent in the exercise of the powers and authority conferred and vested in it under the relevant Notes Documents and, where the relevant Notes Documents are governed by Finnish law, in accordance with the Act on Noteholders' Agent. It is further understood by the Parties that in no case shall a Noteholders' Agent be (i) responsible or accountable in damages or otherwise to any other Party for any loss, damage or claim incurred by reason of any act or omission performed or omitted by it in good faith in accordance with this Agreement and in a manner that the relevant Noteholders' Agent believed to be within the scope of the authority conferred on the Noteholders' Agent by this Agreement and the relevant Notes Documents or by law, or (ii) personally liable for or on account of any of the statements, representations, warranties, covenants or obligations stated to be those of any other Party, all such liability, if any, being expressly waived by the Parties and any person claiming by, through or under such Party, provided however, that a Noteholders' Agent shall be personally liable under this Agreement for its own gross negligence or wilful misconduct. It is also acknowledged that a Noteholders' Agent shall not have any responsibility for the actions of any individual Noteholder.

### **14.2 Noteholders' Agent not Fiduciary for other Secured Creditors**

The Noteholders' Agent shall not be deemed to owe any fiduciary duty to any of the Secured Creditors (other than the Noteholders for which it is the Creditor Representative) or any member of the Group and shall not be liable to any Secured Creditor (other than the Noteholders for which it is the Creditor Representative) or any member of the Group if the Noteholders' Agent shall in good faith mistakenly pay over or distribute to the Noteholders or to any other person cash, property or securities to which any Secured Creditor (other than the Noteholders for which it is the Creditor Representative) shall be entitled by virtue of this Agreement or otherwise. With respect to the Secured Creditors (other than the Noteholders for which it is the Creditor Representative), the Noteholders' Agent undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in the relevant Notes Documents (including this Agreement) and no implied covenants or obligations with respect to Secured Creditors (other than the Noteholders for which it is the Creditor Representative) shall be read into this Agreement against a Noteholders' Agent.

### **14.3 Reliance on Certificates**

A Noteholders' Agent may rely without enquiry on any notice, consent or certificate of the Common Security Agent, any other Creditor Representative or any Hedge Counterparty as to the matters certified therein.

### **14.4 Noteholders' Agent**

In acting under and in accordance with this Agreement a Noteholders' Agent shall act in accordance with the relevant Notes Documents and shall seek any necessary instruction from the Noteholders for which it is the Creditor Representative, to the extent provided for, and in accordance with, the relevant Notes Document, and where it so acts on the instructions of

the Noteholders for which it is the Creditor Representative, the Noteholders' Agent shall not incur any liability to any person for so acting other than in accordance with the relevant Notes Documents. Furthermore, prior to taking any action under this Agreement or the relevant Notes Documents, as the case may be, the Noteholders' Agent may reasonably request and rely upon an opinion of counsel or opinion of another qualified expert, at the Company's expense, as applicable; provided, however, that any such opinions shall be at the expense of the relevant Noteholders, if such actions are on the instructions of the relevant Noteholders.

#### **14.5 Turnover Obligations**

Notwithstanding any provision in this Agreement to the contrary, a Noteholders' Agent shall only have an obligation to turn over or repay amounts received or recovered under this Agreement by it (i) if it had actual knowledge that the receipt or recovery is an amount received in breach of a provision of this Agreement (a "**Turnover Receipt**") and (ii) to the extent that, prior to receiving that knowledge, it has not distributed the amount of the Turnover Receipt to the Noteholders for which it is the Creditor Representative in accordance with the provisions of the relevant Notes Terms and Conditions. For the purpose of this Clause 14.5, (i) "actual knowledge" of the Noteholders' Agent shall be construed to mean the Noteholders' Agent shall not be charged with knowledge (actual or otherwise) of the existence of facts that would impose an obligation on it to make any payment or prohibit it from making any payment unless a responsible officer of such Noteholders' Agent has received, not less than two (2) Business Days' prior to the date of such payment, a written notice that such payments are required or prohibited by this Agreement; and (ii) "responsible officer" when used in relation to the Noteholders' Agent means any person who is an officer within the agency department of the Noteholders' Agent, including any director, associate director, vice president, assistance vice president, senior associate, assistant treasurer, agency officer, or any other officer of the Noteholders' Agent who customarily performs functions similar to those performed by such officers, or to whom any corporate agency matter is referred because of such individual's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Agreement.

#### **14.6 Secured Creditors and the Noteholders' Agent**

In acting pursuant to this Agreement and the relevant Notes Terms and Conditions, the Noteholders' Agent is not required to have any regard to the interests of the Secured Creditors (other than the Noteholders for which it is the Creditor Representative).

#### **14.7 Noteholders' Agent; Reliance and Information**

- (a) The Noteholders' Agent may rely and shall be fully protected in acting or refraining from acting upon any notice or other document reasonably believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person.
- (b) Without affecting the responsibility of the Company for information supplied by it or on its behalf in connection with any Secured Document, each Secured Creditor (other than the Noteholders for which it is the Creditor Representative) confirms that it has not relied exclusively on any information provided to it by a Noteholders' Agent in connection with any Secured Document. A Noteholders' Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another party.

- (c) A Noteholders' Agent is entitled to assume that:
- (i) any payment or other distribution made to it in respect of the Notes Liabilities has been made in accordance with the provisions of this Agreement;
  - (ii) any Security granted in respect of the Notes Liabilities is in accordance with Clause 3.3 (*Security: Credit Facility Creditors and Notes Creditors*);
  - (iii) no Default has occurred; and
  - (iv) the Notes Debt Discharge Date has not occurred,

unless it has actual notice to the contrary. A Noteholders' Agent is not obliged to monitor or enquire whether any such default has occurred.

#### **14.8 No Action**

A Noteholders' Agent shall not have any obligation to take any action under this Agreement unless it is indemnified or secured to its satisfaction (whether by way of payment in advance or otherwise) by the Company or the Noteholders for which it is the Creditor Representative, as applicable, in accordance with the relevant Notes Terms and Conditions. A Noteholders' Agent is not required to indemnify any other person, whether or not a Party in respect of the transactions contemplated by this Agreement.

#### **14.9 Departmentalisation**

In acting as a Noteholders' Agent, a Noteholders' Agent shall be treated as acting through its agency division which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by a Noteholders' Agent which is received or acquired by some other division or department or otherwise than in its capacity as Noteholders' Agent may be treated as confidential by that Noteholders' Agent and will not be treated as information possessed by that Noteholders' Agent in its capacity as such.

#### **14.10 Other Parties not Affected**

This Clause 14 is intended to afford protection to each Noteholders' Agent only and no provision of this Clause 14 shall alter or change the rights and obligations as between the other parties in respect of each other.

#### **14.11 Common Security Agent and the Noteholders' Agents**

- (a) A Noteholders' Agent is not responsible for the appointment or for monitoring the performance of the Common Security Agent.
- (b) A Noteholders' Agent shall be under no obligation to instruct or direct the Common Security Agent to take any Security enforcement action unless it shall have been instructed to do so by the Noteholders for which it is the Creditor Representative and indemnified and/or secured to its satisfaction.
- (c) The Common Security Agent acknowledges and agrees that it has no claims for any fees, costs or expenses from, or indemnification against, a Noteholders' Agent.

#### **14.12 Provision of Information**

A Noteholders' Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party. A Noteholders' Agent is not responsible for:

- (a) providing any Secured Creditor with any credit or other information concerning the risks arising under or in connection with the Transaction Security Documents or Notes Documents (including any information relating to the financial condition or affairs of the Company or its related entities or the nature or extent of recourse against any party or its assets) whether coming into its possession before, on or after the date of this Agreement; or
- (b) obtaining any certificate or other document from any Secured Creditor.

#### **14.13 Illegality**

A Noteholders' Agent may refrain from doing anything (including disclosing any information) which might, in its opinion, constitute a breach of any law or regulation and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.

#### **14.14 Resignation of Noteholders' Agent**

A Noteholders' Agent may resign or be removed in accordance with the relevant Notes Documents, *provided that* a replacement of such Noteholders' Agent agrees with the Parties to become the replacement agent under this Agreement by the execution of a Creditor/Creditor Representative Accession Undertaking.

#### **14.15 Agents**

A Noteholders' Agent may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any attorney or agent appointed with reasonable care by it hereunder.

#### **14.16 Provisions Survive Termination**

The provisions of this Clause 14 shall survive any termination or discharge of this Agreement and any resignation of a Noteholders' Agent.

### **15. Changes to the Parties**

#### **15.1 Transfers**

No Party may transfer any of its rights, benefits or obligations in respect of any Secured Documents or the Liabilities under the Secured Documents except as permitted by this Clause 15.

#### **15.2 No Change of the Company**

The Company may not transfer any of its rights, benefits or obligations in respect of Liabilities under the Secured Documents.

### **15.3 Change of Secured Creditors**

- (a) A Credit Facility Lender under an existing Credit Facility may transfer any of its rights, benefits and obligations in respect of any Secured Debt Documents or the Credit Facility Liabilities if:
  - (i) that transfer is in accordance with the terms of the Credit Facility Agreement to which it is a party; and
  - (ii) any transferee has (if not already a Party as a Credit Facility Lender) acceded to this Agreement as a Credit Facility Lender pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*).
- (b) Any Noteholder may transfer any of its rights and obligations to any person without the need for such person to execute and deliver to a Common Security Agent a Creditor/Creditor Representative Accession Undertaking, *provided that* such person is subject to the terms and conditions of this Agreement as provided under the terms and conditions of the relevant Notes Terms and Conditions.

### **15.4 Accession of a New Hedge Counterparty**

- (a) The Parties agree that any entity with which the Company has entered into a Hedging Agreement may accede to this Agreement as a new Hedge Counterparty by the execution of a duly completed Accession Undertaking pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*) upon the Company having designated that hedging agreement as a Hedging Agreement and confirmed in writing to the Secured Creditors that the establishment of that Hedging Agreement under this Agreement will not breach the terms of any of its existing Credit Facility Documents or Notes Documents.
- (b) The accession of a new Hedge Counterparty shall become effective as of the Common Security Agent receiving and countersigning such Accession Undertaking duly signed by such new Hedge Counterparty and the Company.
- (c) Each Party accepts and agrees that each new Hedge Counterparty shall upon such accession become entitled to the benefit of the second priority Transaction Security created to secure the Hedging Liabilities owed to it and pledged pursuant to the Finnish Security Agreement as if it had been Party to this Agreement from the date of this Agreement.

### **15.5 Change or Resignation of Hedge Counterparty**

- (a) A Hedge Counterparty may (in accordance with the terms of the relevant Hedging Agreement and subject to any consent required under that Hedging Agreement) transfer any of its rights and benefits or obligations in respect of the Hedging Agreements to which it is a party if any transferee has (if not already a Party as a Hedge Counterparty) acceded to this Agreement pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*) as a Hedge Counterparty.
- (b) In the event that a person party to this Agreement as a Hedge Counterparty is no longer providing any hedging to the Company under a Hedging Agreement, that person may resign (and will resign if required by the Company) as a Hedge Counterparty by giving notice to the Common Security Agent and the Company.

- (c) From the date of receipt by the Common Security Agent and the Company of any such notice of resignation that person shall cease to be party to this Agreement as a Hedge Counterparty and shall have no further rights or obligations under this Agreement as a Hedge Counterparty.

#### **15.6 Change of Creditor Representative**

- (a) A Noteholders' Agent may (in accordance with the terms of the Notes Documents in respect of which it is the Creditor Representative and subject to any consent required under such Notes Documents) transfer all of its rights and obligations in respect of such Notes Documents if any transferee has acceded to:
  - (i) this Agreement as a Creditor Representative pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*); and
  - (ii) the applicable Notes Documents as a Noteholders' Agent.
- (b) A Credit Facility Agent may (in accordance with the terms of the Credit Facility Documents in respect of which it is the Creditor Representative and subject to any consent required under such Credit Facility Documents) transfer all of its rights and obligations in respect of such Credit Facility Documents if any transferee has acceded to:
  - (i) this Agreement as a Creditor Representative pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*); and
  - (ii) the applicable Credit Facility Documents as a Credit Facility Agent .

#### **15.7 Change of Paying Agent**

A Paying Agent may (in accordance with the terms of the Notes Documents in respect of which it is the Paying Agent and subject to any consent required under such Notes Documents) transfer all of its rights and obligations in respect of such Notes Documents if any transferee has acceded to:

- (a) this Agreement as a Paying Agent pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*); and
- (b) the applicable Notes Documents as a Paying Agent.

#### **15.8 Accession of Credit Facility Creditors under New Credit Facilities**

In order for any credit facility (other than the Initial Credit Facility Agreement or the Bridge Facility Agreement) to be a "Credit Facility" and any indebtedness in respect of any credit facility to constitute "Credit Facility Liabilities" for the purposes of this Agreement:

- (a) the Company shall designate that credit facility as a Credit Facility and confirm in writing to the Secured Creditors that:
  - (i) the establishment of that credit facility as a Credit Facility under this Agreement will not breach the terms of any of its existing Credit Facility Documents or Notes Documents; and
  - (ii) the Additional Debt Condition is met after assuming any additional indebtedness under that credit facility;

- (b) each creditor in respect of that credit facility shall accede to this Agreement as a Credit Facility Lender;
- (c) each arranger in respect of that credit facility shall accede to this Agreement as a Credit Facility Arranger; and
- (d) the facility agent in respect of that credit facility shall accede to this Agreement as the Creditor Representative in relation to that credit facility pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*).

**15.9 Accession of Initial Noteholders' Agent and Initial Notes Paying Agent**

Prior to the issuance of the Initial Notes:

- (a) the Initial Noteholders Agent under the Initial Terms and Conditions shall accede to this Agreement (without being required to obtain any prior written consent from any Party to this Agreement); and
- (b) the Initial Notes Paying Agent under the Initial Terms and Conditions shall accede to this Agreement (without being required to obtain any prior written consent from any Party to this Agreement),

by executing and delivering a duly completed Agent Creditor/Creditor Representative Accession Undertaking duly executed and delivered to the Common Security Agent.

**15.10 Accession of Notes Creditors under the Notes**

In order for any debt securities (other than the Initial Notes) to be "Notes" and any indebtedness in respect of any issuance of debt securities to constitute "Notes Liabilities" for the purposes of this Agreement:

- (a) the Company shall designate that issuance of debt securities as Notes and confirm in writing to the Secured Creditors that:
  - (i) the incurrence of those debt securities as Notes Liabilities under this Agreement will not breach the terms of any of its existing Credit Facility Documents or Notes Documents; and
  - (ii) the Additional Debt Condition is met immediately after the issuing of those debt securities;
- (b) the noteholders' agent in respect of those debt securities shall accede to this Agreement as the Creditor Representative in relation to those Notes Liabilities pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*); and
- (c) the paying agent in respect of those debt securities shall accede to this Agreement as the Paying Agent in relation to those Notes Liabilities pursuant to Clause 15.11 (*Creditor/Creditor Representative Accession Undertaking*).
- (d)

**15.11 Creditor/Creditor Representative Accession Undertaking**

With effect from the date of acceptance by the Common Security Agent of a Creditor/Creditor Representative Accession Undertaking duly executed and delivered to the Common Security



Agent by the relevant acceding party or, if later, the date specified in that Creditor/Creditor Representative Accession Undertaking:

- (a) any Party ceasing entirely to be a Secured Creditor shall be discharged from further obligations towards the Common 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
- (b) as from that date, the replacement or new Secured 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 Creditor/Creditor Representative Accession Undertaking.

#### **15.12 Additional Parties**

Each of the Parties appoints the Common Security Agent to receive on its behalf each Creditor/Creditor Representative Accession Undertaking delivered to the Common Security Agent and the Common 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 Secured Document.

### **16. Costs and Expenses**

#### **16.1 Transaction Expenses**

The Company shall, promptly on demand, pay the Common Security Agent the amount of all costs and expenses (including legal fees) (together with any applicable VAT) reasonably incurred by the Common Security Agent and by any Delegate in connection with the negotiation, preparation, execution and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and
- (b) any other Secured Documents executed after the date of this Agreement.

#### **16.2 Amendment Costs**

If the Company requests an amendment, waiver or consent, the Company shall, within three (3) Business Days of demand, reimburse the Common Security Agent for the amount of all costs and expenses (including legal fees) (together with any applicable VAT) reasonably incurred by the Common Security Agent (and by any Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

#### **16.3 Enforcement and Preservation Costs**

The Company shall, within three (3) Business Days of demand, pay to the Common Security Agent the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it in connection with the enforcement of or the preservation of any rights under any Secured Document and the Transaction Security and any proceedings instituted by or against the Common Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

## **16.4 Interest on Demand**

If any Secured Creditor or the Company fails to pay any amount payable by it under this Agreement on its due date, interest shall accrue on the overdue amount (and be compounded with it) 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 equal to the Common Security Agent's cost of funds.

## **17. Other Indemnities**

### **17.1 Indemnity to the Security Agent**

- (a) The Company shall promptly indemnify the Common Security Agent and every 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 Company to comply with its obligations under Clause 16 (*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 Common Security Agent and each Delegate by the Secured Documents or by law;
  - (v) any default by the Company in the performance of any of the obligations expressed to be assumed by it in the Secured 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 Common Security Agent or Delegate under the Secured Documents or which otherwise relates to any of the Security Assets (otherwise, in each case, than by reason of the relevant Common Security Agent's or Delegate's gross negligence or wilful misconduct).
- (b) The Company expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 17.1 will not be prejudiced by any release or disposal under Clause 10 (*Distressed Disposals*) taking into account the operation of that Clause 10 (*Distressed Disposals*).
- (c) The Common Security Agent and every Delegate may, in priority to any payment to the Secured Creditors, indemnify itself out of the Security Assets in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 17.1 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.

### **17.2 Company's Indemnity to Secured Creditors**

The Company shall promptly and as principal obligor indemnify each Secured 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 10 (*Distressed Disposals*).

## **18. Information**

### **18.1 Dealings with Common Security Agent and Creditor Representatives**

- (a) Each Credit Facility Lender, each Credit Facility Arranger and each Noteholder shall deal with the Common Security Agent exclusively through its Creditor Representative and the Hedge Counterparties shall deal directly with the Common Security Agent and shall not deal through any Creditor Representative.
- (b) No Creditor Representative shall be under any obligation to act as agent or otherwise on behalf of any Hedge Counterparty except as expressly provided for in, and for the purposes of, this Agreement.

### **18.2 Disclosure between Secured Creditors and Common Security Agent**

Notwithstanding any agreement to the contrary, the Company consents to the disclosure by any Secured Creditor and the Common Security Agent to each other (whether or not through a Creditor Representative or the Common Security Agent) of such information concerning the Company and the Group as any Secured Creditor or the Common Security Agent shall see fit, provided that such disclosure is in compliance with applicable laws and does not result in unequal treatment of creditors.

### **18.3 Notification of Prescribed Events**

- (a) If an Event of Default under a Credit Facility Document or Notes Document either occurs or ceases to be continuing the relevant Creditor Representative shall, upon becoming aware of that occurrence or cessation, notify the Common Security Agent and the Common Security Agent shall, upon receiving that notification, notify each other Creditor Representative and each Hedge Counterparty.
- (b) If a Credit Facility Acceleration Event occurs the relevant Creditor Representative(s) shall notify the Common Security Agent and the Common Security Agent shall, upon receiving that notification, notify each other Creditor Representative and each Hedge Counterparty.
- (c) If a Notes Acceleration Event occurs the relevant Creditor Representative(s) shall notify the Common Security Agent and the Common Security Agent shall, upon receiving that notification, notify each other Creditor Representative and each Hedge Counterparty.
- (d) If the Common Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each Creditor Representative and each Hedge Counterparty of that action.
- (e) If the Company defaults on any Payment due under a Hedging Agreement, the Hedge Counterparty which is party to that Hedging Agreement shall, upon becoming aware of that default, notify the Common Security Agent and the Common Security Agent shall, upon receiving that notification, notify each Creditor Representative and each other Hedge Counterparty.
- (f) If a Hedge Counterparty terminates or closes-out, in whole or in part, any hedging transaction under any Hedging Agreement under Clause 4.9 (*Permitted Enforcement*:

*Hedge Counterparties*) it shall notify the Common Security Agent and the Common Security Agent shall, upon receiving that notification, notify each Creditor Representative and each other Hedge Counterparty.

## **19. Notices**

### **19.1 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 email or letter.

### **19.2 Common Security Agent's Communications with Secured Creditors**

The Common Security Agent shall be entitled to carry out all dealings:

- (a) with the Credit Facility Lenders, the Credit Facility Arrangers and Noteholders through their respective Creditor Representatives and may only give to the Creditor Representatives, as applicable, any notice, document or other communication required to be given by the Common Security Agent to a Credit Facility Lender, a Credit Facility Arranger or Noteholder; and
- (b) with each Hedge Counterparty directly with that Hedge Counterparty.

### **19.3 Addresses**

The address and 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 the Company, that identified with its name below;
- (b) in the case of the Common Security Agent, the Initial Credit Facility Agent, any Initial Credit Facility Lender, the Bridge Facility Lender and each original Hedge Counterparty that identified with its name below; and
- (c) in the case of each other Party, that notified in writing to the Common 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 Common Security Agent (or the Common Security Agent may notify to the other Parties, if a change is made by the Common Security Agent) by not less than five (5) Business Days' notice.

### **19.4 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 email, when received in readable form; or
  - (ii) if by way of letter, when it has been left at the relevant address or five (5) 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 19.3 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Common Security Agent will be effective only when actually received by the Common Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Common Security Agent's signature below (or any substitute department or officer as the Common Security Agent shall specify for this purpose).
- (c) Any communication or document which becomes effective, in accordance with paragraphs (a) to (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### **19.5 Notification of Address and Email**

Promptly upon receipt of notification of an address or change of address pursuant to Clause 19.3 (*Addresses*) or changing its own address or email the Common Security Agent shall notify the other Parties.

#### **19.6 Electronic Communication**

- (a) Any communication to be made between any two Parties under or in connection with this Agreement may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five (5) Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Common Security Agent only if it is addressed in such a manner as the Common Security Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (d) Any reference in this Agreement to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 19.6.

#### **19.7 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 Common 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.

## **20. Preservation**

### **20.1 Partial Invalidity**

If, at any time, any provision of a Secured Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision under the law of any other jurisdiction will in any way be affected or impaired.

### **20.2 No Impairment**

If, at any time after its date, any provision of a Secured 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 Secured Document, neither the binding nature nor the enforceability of that provision or any other provision of that Secured Document will be impaired as against the other party(ies) to that Secured Document.

### **20.3 Remedies and Waivers**

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under a Secured Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Secured Document. No election to affirm any Secured Document on the part of a Secured Creditor 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 Secured Document are cumulative and not exclusive of any rights or remedies provided by law.

### **20.4 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 20.4, would reduce, release or prejudice the subordination and 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, the Company or other person;
- (b) the release of the Company or any other person under the terms of any composition or arrangement with any creditor of the Company;
- (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, the Company or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Transaction Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Company any or other person;
- (e) any amendment, novation, 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 Secured Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Secured Document or any other document or security;

- (g) any intermediate Payment of any of the Liabilities owing to the Secured Creditors in whole or in part; or
- (h) any insolvency or similar proceedings.

## **20.5 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 Secured Creditors or by any intermediate reduction or increase in, amendment or variation to any of the Secured 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 Secured Documents are executed or registered or notice of them is given to any person; and
- (c) secure the Liabilities of the Company under the Secured Documents owing to the Secured Creditors in the order specified, regardless of the date upon which any of such Liabilities arise or of any fluctuations in the amount of any of such Liabilities outstanding.

## **21. Consents, Amendments and Override**

### **21.1 Required Consents**

- (a) Subject to paragraphs (b) through (d) below and subject to Clause 21.4 (*Exceptions*), this Agreement may be amended or waived only with the consent of the Company, the Common Security Agent and:
  - (i) each Credit Facility Agent acting on the instructions of the Credit Facility Lenders for which it is the Creditor Representative;
  - (ii) the Bridge Facility Lender as long as any amount is outstanding under the Bridge Facility Agreement;
  - (iii) each Noteholders' Agent acting on the instructions of the Noteholders for which it is the Creditor Representative; and
  - (iv) each Hedge Counterparty.
- (b) The Company and the Common Security Agent may amend or waive any term of this Agreement or a Transaction Security Document without the consent of the Secured Creditors if that amendment or waiver is (A) to cure defects or omissions, resolve ambiguities or inconsistencies or reflect changes of a minor, technical or administrative nature, (B) to reflect a change that has taken place in accordance with this Agreement, or (C) for the benefit of all the Secured Creditors.
- (c) Any amendment that has the effect of changing or which relates to the requirements of any person proposing to act as a Creditor Representative which are customary for persons acting in such capacity, may be made by the relevant Creditor Representative, the Common Security Agent and the Company without the need for consent from any other Party.

- (d) An amendment that has the effect of including any parallel debt, covenant to pay or similar provisions for the purpose of the Company granting Transaction Security in a jurisdiction where such provisions are necessary or advisable for the Common Security Agent to hold and administering the Transaction Security on behalf of each of the Secured Creditors, may be made by the Company and the Common Security Agent.
- (e) To the extent that an amendment or consent or waiver only affects the rights or obligations of the Credit Facility Creditors (or any group of them), the Noteholders (or any group of them) or the Hedge Counterparties and could not reasonably be expected to adversely affect the interests of any other Party, such amendment may be made, and a consent and waiver granted, between the Company, the Common Security Agent and the relevant Creditor Representative(s) in respect of the relevant Credit Facility Creditors or Noteholders for which it is the Creditor Representative, or the Hedge Counterparties, as applicable, without the need for consent from any other Party.

### **21.2 Amendments and Waivers: Transaction Security Documents**

- (a) Subject to paragraph (b) below and to Clause 21.4 (*Exceptions*) and unless the provisions of any Secured Debt Document expressly provide otherwise, the Common Security Agent may, if authorised by the Relevant Secured Creditor Groups, and if the Company 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) An amendment of a Transaction Security Document (or a confirmation in respect of a Transaction Security Document) that is entered into as a result of any new Credit Facility Document, new Hedging Agreements or Notes Document (or any amendment thereof) may be made by the Common Security Agent and the Company without the need for consent from any other Party.

### **21.3 Effectiveness**

- (a) Any amendment, waiver or consent given in accordance with this Clause 21 will be binding on all Parties and the Common Security Agent may effect, on behalf of any Secured Creditor, any amendment, waiver or consent permitted by this Clause 21.
- (b) Without prejudice to the generality of Clause 13.8 (*Rights and Discretions*) the Common Security Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.

### **21.4 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 other than in the case of a Secured Creditor (other than any Creditor Representative), in a way which affects or would affect Secured Creditors of that Party's class generally, the consent of that Party is required.
- (b) Subject to paragraphs (c) and (d) below, an amendment, waiver or consent which relates to the rights or obligations of a Creditor Representative, an Arranger, the Common Security Agent (including, without limitation, any ability of the Common Security Agent to act in its discretion under this Agreement) or a Hedge Counterparty



may not be effected without the consent of that Creditor Representative or, as the case may be, that Arranger, the Common Security Agent or that Hedge Counterparty.

(c) Neither paragraph (a) nor (b) above, nor paragraph (a) of Clause 21.2 (*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 Common Security Agent gives in accordance with Clause 9 (*Non-Distressed Disposals*) or Clause 10 (*Distressed Disposals*).

(d) Paragraphs (a) and (b) above shall apply to a Credit Facility Arranger only to the extent that Liabilities are then owed by the Company under the Secured Debt Documents to that Credit Facility Arranger.

### **21.5 Excluded Debt Participations**

(a) Subject to paragraph (b) below, if in relation to:

- (i) a request for a Consent in relation to any of the terms of this Agreement;
- (ii) a request to participate in any other vote of Secured Creditors under the terms of this Agreement;
- (iii) a request to approve any other action under this Agreement; or
- (iv) a request to provide any confirmation or notification under this Agreement;

any Secured Creditor (other than a Noteholder):

- (A) fails to respond to that request within thirty (30) Business Days of that request being made; or
- (B) fails to provide details of its Debt Participation to the Common Security Agent within the timescale specified by the Common Security Agent;
- (v) in the case of paragraphs (i) to (iii) above, that Secured Creditor's Participation shall be deemed to be zero for the purpose of calculating the Debt Participations when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Debt Participations has been obtained to give that Consent, carry that vote or approve that action;
- (vi) in the case of paragraphs (i) to (iii) above, that Secured Creditor's status as a Secured Creditor shall be disregarded for the purposes of ascertaining whether the agreement of any specified group of Secured Creditors has been obtained to give that Consent, carry that vote or approve that action; and
- (vii) in the case of paragraph (iv) above, that confirmation or notification shall be deemed to have been given.

(b) Paragraph (a) above shall not apply to an amendment or waiver that has the effect of amending or waiving:

- (i) Clause 12 (*Application of Proceeds*) or this Clause 21; or

- (ii) the order of priority or subordination under this Agreement, in which case the Common Security Agent shall be deemed to have been instructed to take no action.

**21.6 No Liability**

None of the Secured Creditors will be liable to any other Secured Creditor, or the Company for any Consent given or deemed to be given under this Clause 21.

**21.7 Agreement to Override**

- (a) Subject to paragraph (b) below, unless expressly stated otherwise in this Agreement, this Agreement overrides anything in the Secured Documents to the contrary.
- (b) Notwithstanding anything to the contrary in this Agreement, paragraph (a) above will not cure, postpone, waive or negate in any manner any default or event of default (however described) under any Secured Document as between any Secured Creditor and the Company.

**22. 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 8**  
**Governing Law and Enforcement**

**23. Governing Law**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by Finnish law.

**24. Enforcement**

**24.1 Jurisdiction**

- (a) The courts of Finland, with the District Court of Helsinki as the court of first instance shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a “**Dispute**”).
- (b) The Parties agree that the District Court of Helsinki is the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) Notwithstanding paragraph (a) above, no Secured Creditor shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Creditors may take concurrent proceedings in any number of jurisdictions.

**This Agreement** has been entered into on the date stated at the beginning of this Agreement.

## Schedule 1

### Form of Creditor/Creditor Representative Accession Undertaking

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

From: [Acceding Secured Creditor]

**This Undertaking** is made on [date] by [insert full name of new Initial Noteholders' Agent/Initial Notes Paying Agent/Credit Facility Lender/Hedge Counterparty/Creditor Representative/ Credit Facility Arranger] (the "**Acceding Initial Noteholders' Agent/Initial Notes Paying Agent/Credit Facility Lender/Hedge Counterparty/Credit Facility Agent/Noteholders' Agent/Paying Agent/Credit Facility Arranger**") in relation to the intercreditor agreement (the "**Intercreditor Agreement**") dated [●] between, among others, Tornator Oyj as company, OP Corporate Bank plc as common security agent, OP Corporate Bank plc as initial credit facility agent and the other Secured Creditors (each as defined in the Intercreditor Agreement). Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding [Initial Noteholders' Agent/Initial Notes Paying Agent/Credit Facility Lender/Hedge Counterparty/Credit Facility Agent/Noteholders' Agent/Paying Agent/ Credit Facility Arranger] being accepted as a [Initial Noteholders' Agent/Initial Notes Paying Agent/Credit Facility Lender/Hedge Counterparty/Credit Facility Agent/Noteholders' Agent/Paying Agent/ Credit Facility Arranger] for the purposes of the Intercreditor Agreement, the Acceding [Initial Noteholders' Agent/Initial Notes Paying Agent/Credit Facility Lender/Hedge Counterparty/Credit Facility Agent/Noteholders' Agent/Paying Agent/ Credit Facility Arranger] confirms that, as from [date], it intends to be party to the Intercreditor Agreement as a [Initial Noteholders' Agent/Initial Notes Paying Agent/Credit Facility Lender/Hedge Counterparty/Credit Facility Agent/Noteholders' Agent/Paying Agent/Credit Facility Arranger] and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a [Initial Noteholders' Agent/Initial Notes Paying Agent/Credit Facility Lender/ Hedge Counterparty/Credit Facility Agent/Noteholders' Agent/Paying Agent/Credit Facility Arranger] 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.

This Undertaking and any non-contractual obligations arising out of or in connection with it are governed by Finnish law.

**This Undertaking** has been entered into on the date stated above.

Acceding [Secured Creditor]

[insert full name of Acceding Secured Creditor]

---

By:

Address:

Fax:

Email:

Accepted by the **Common Security Agent**

**OP Corporate Bank plc**

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By:

Name:

Title:

Date:

**SIGNATURES**

**TORNATOR OYJ**

as Company

By:

Address: Äyritie 8 D, 01510 Vantaa

Attention: CFO

Email: antti.siirtola@tornator.fi

**DANSKE BANK A/S**

as Initial Credit Facility Arranger

By:

Address: c/o Danske Bank A/S, Finland Branch

Kasarmikatu 21 B, P.O. Box 1613, 00075 Danske Bank

Attention: Janne Aura

Email: [janne.aura@danskebank.com](mailto:janne.aura@danskebank.com)

**DANSKE BANK A/S, FINLAND BRANCH**

as Initial Credit Facility Lender and Initial Hedge Counterparty

By:

Address: Danske Bank A/S, Finland Branch

Kasarmikatu 21 B, P.O. Box 1613, 00075 Danske Bank

Attention: Janne Aura

Email: [janne.aura@danskebank.com](mailto:janne.aura@danskebank.com)

**OP CORPORATE BANK PLC**

as Initial Credit Facility Lender, Initial Credit Facility Arranger, Initial Hedge Counterparty,  
Common Security Agent, Bridge Facility Lender and Initial Credit Facility Agent

By:

Address: P.O. Box 308, FI-00013 OP

Attention: Agency operations

Email: [agency@op.fi](mailto:agency@op.fi)



**SKANDINAVISKA ENSKILDA BANKEN AB (PUBL)**

Initial Credit Facility Lender and Initial Credit Facility Arranger

By:

Address: SEB Structured Credit Operations

Stjärntorget 4, Solna, 106 40 Stockholm, Sweden

Email: sco@seb.se

Attention: Samantha Jazdauskaitė