

## **Amendment and Restatement Agreement**

dated 12 November 2020

to amend and restate the

**Terms and Conditions**

originally dated 9 March 2020

between

**Azerion Holding B.V.**

as Issuer

and

**Nordic Trustee & Agency AB (publ)**

as Agent

This amendment and restatement agreement (the "**Amendment and Restatement Agreement**") to the Terms and Conditions (as defined below) is entered into on 12 November 2020 and made between:

- (a) Azerion Holding B.V., a limited liability company incorporated in the Netherlands with company registration number 59272449 (the "**Issuer**"), as issuer; and
- (b) Nordic Trustee & Agency AB (publ), a Swedish company with company registration number 556882-1879 (the "**Agent**"), as agent.

## 1. Background

- (a) On 17 March 2020, the Issuer issued senior secured floating rate bonds in an initial aggregate amount of EUR 60,000,000 under a framework of up to EUR 100,000,000 with ISIN SE0013774957 (the "**Bonds**"). The terms and conditions for the Bonds are documented in the terms and conditions originally dated 9 March 2020 between the Agent and the Issuer (the "**Terms and Conditions**") (as amended from time to time).
- (b) In a written procedure for which a notice was given on 16 October 2020 (the "**Notice**") the holders of the Bonds passed certain resolutions (the "**Resolutions**") approving amendments to the Terms and Conditions and waiving any outstanding Event of Defaults as set out in the Notice.
- (c) On 11 November 2020, the written procedure was completed and it was found that a sufficient number of Bondholders participated in the written procedure and a requisite majority of the holders of the Bonds had given their consent to the passing of the Resolutions and therein the amendments of the Terms and Conditions requested in the Notice (the "**Amendments**").
- (d) The purpose of this Amendment and Restatement Agreement is to document the Amendments.

## 2. Definitions and Constructions

- (a) In this Amendment and Restatement Agreement:  
  

"**Amended and Restated Terms and Conditions**" means the Terms and Conditions as amended and restated by this Agreement, which is set out in Schedule 1 (*Amended and Restated Terms and Conditions*).

"**Effective Date**" means the date on which the Agent gives the notification referred to in Clause 4 (*Conditions Precedent*).
- (b) Unless expressly defined in this Amendment and Restatement Agreement or a contrary intention appears, capitalised terms defined in the Amended and Restated Terms and Conditions attached hereto as Schedule 1 (*Amended and Restated Terms and Conditions*), have the same meaning in this Amendment and Restatement Agreement.

- (c) The principles of construction set out in Clause 1.2 (*Construction*) of the Amended and Restated Terms and Conditions attached hereto as Schedule 1 (*Amended and Restated Terms and Conditions*) will apply *mutatis mutandis* to this Amendment and Restatement Agreement.

### **3. Amendment and Restatement**

With effect on and from the Effective Date, the Terms and Conditions shall be amended and restated so that the rights and obligations of the parties to the Terms and Conditions shall, on and from that date, be governed by and construed in accordance with the provisions of the Amended and Restated Terms and Conditions.

### **4. Conditions Precedent**

The provisions of Clause 3 (*Amendment and Restatement*) shall take effect on the date on which the Agent notifies the Issuer that it has received, waived the requirement to receive or is satisfied that it will receive, all of the following documents and evidences:

- (a) a confirmation that there have been no changes to the constitutional documents of the Issuer (or in such a case, the updated constitutional documents);
- (b) corporate authorisations of the Issuer approving the execution of any Finance Document necessary in connection with this Amendment and Restatement Agreement, and the Amended and Restated Terms and Conditions; and
- (c) a legal opinion on the capacity and due execution, in respect of any non-Swedish entity being party to a Finance Document and the validity and enforceability of the Finance Documents not governed by Swedish law, in each case issued by a reputable law firm (if applicable).

### **5. Governing Law and Jurisdiction**

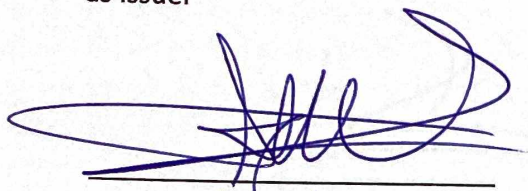
Clause 27 (*Governing Law and Jurisdiction*) of the Amended and Restated Terms and Conditions shall apply to this Amendment and Restatement Agreement *mutatis mutandis* as if such provision were fully set out herein.

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*Signature page to follow*

**Azerion Holding B.V.**

as Issuer

A handwritten signature in blue ink, appearing to read 'A. Aytekin', is written over a horizontal line.

By: A. Aytekin

By: \_\_\_\_\_

**NORDIC TRUSTEE & AGENCY AB (PUBL)**

as Agent

By: \_\_\_\_\_

By: \_\_\_\_\_



**Azerion Holding B.V.**

as Issuer

\_\_\_\_\_


By:

\_\_\_\_\_

By:

**NORDIC TRUSTEE & AGENCY AB (PUBL)**

as Agent

  
\_\_\_\_\_

By: Anna Litewka

\_\_\_\_\_

By:

**SCHEDULE 1**

**The Amended and Restated Terms and Conditions**

*[Separate attachment]*



## **Terms and Conditions**

**Azerion Holding B.V.**

**Up to EUR 100,000,000**

**Senior Secured Callable Floating Rate Bonds**

**ISIN: SE0013774957**

**Originally dated 9 March 2020 and as amended and restated pursuant to an amendment and restatement agreement dated 12 November 2020**

Other than the registration of the Bonds under Swedish law, no action is being taken in any jurisdiction that would or is intended to permit a public offering of the Bonds or the possession, circulation or distribution of this document or any other material relating to the Issuer or the Bonds in any jurisdiction where action for that purpose is required. Persons into whose possession this document comes are required by the Issuer to inform themselves about, and to observe, any applicable restrictions.

## PRIVACY NOTICE

The Issuer, the Security Agent and the Agent may collect and process personal data relating to the Bondholders, the Bondholders' representatives or agents, and other persons nominated to act on behalf of the Bondholders pursuant to the Finance Documents (name, contact details and, when relevant, holding of Bonds). The personal data relating to the Bondholders is primarily collected from the registry kept by the CSD. The personal data relating to other persons is primarily collected directly from such persons.

The personal data collected will be processed by the Issuer, the Security Agent and the Agent for the following purposes:

- (a) to exercise their respective rights and fulfil their respective obligations under the Finance Documents;
- (b) to manage the administration of the Bonds and payments under the Bonds;
- (c) to enable the Bondholders' to exercise their rights under the Finance Documents; and
- (d) to comply with their obligations under applicable laws and regulations.

The processing of personal data by the Issuer, the Security Agent and the Agent in relation to paragraphs (a) - (c) is based on their legitimate interest to exercise their respective rights and to fulfil their respective obligations under the Finance Documents. In relation to paragraph (d), the processing is based on the fact that such processing is necessary for compliance with a legal obligation incumbent on the Issuer, the Security Agent or the Agent. Unless otherwise required or permitted by law, the personal data collected will not be kept longer than necessary given the purpose of the processing.

Personal data collected may be shared with third parties, such as the CSD, when necessary to fulfil the purpose for which such data is processed.

Subject to any legal preconditions, the applicability of which have to be assessed in each individual case, data subjects have the rights as follows. Data subjects have right to get access to their personal data and may request the same in writing at the address of the Issuer, the Security Agent and the Agent, respectively. In addition, data subjects have the right to (i) request that personal data is rectified or erased, (ii) object to specific processing, (iii) request that the processing be restricted and (iv) receive personal data provided by themselves in machine-readable format. Data subjects are also entitled to lodge complaints with the relevant supervisory authority if dissatisfied with the processing carried out.

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# 1. Definitions and Construction

## 1.1 Definitions

In these terms and conditions (the "**Terms and Conditions**"):

**"Account Operator"** means a bank or other party duly authorised to operate as an account operator pursuant to the Financial Instruments Accounts Act and through which a Bondholder has opened a Securities Account in respect of its Bonds.

**"Accounting Principles"** means international financial reporting standards (IFRS) within the meaning of Regulation 1606/2002/EC (or as otherwise adopted or amended from time to time).

**"Adjusted Nominal Amount"** means the Total Nominal Amount less the Nominal Amount of all Bonds owned by a Group Company or an Affiliate, irrespective of whether such Person is directly registered as owner of such Bonds.

**"Advance Purchase Agreements"** means (a) an advance or deferred purchase agreement if the agreement is in respect of the supply of assets or services and payment in the normal course of business with credit periods which are normal for the relevant type of project contracts, or (b) any other trade credit incurred in the ordinary course of business.

**"Affiliate"** means any Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purpose of this definition, **"control"** when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms **"controlling"** and **"controlled"** have meanings correlative to the foregoing.

**"Agency Agreement"** means the agency agreement entered into on or prior to the First Issue Date, between the Issuer and the Agent, or any replacement agency agreement entered into after the First Issue Date between the Issuer and an agent.

**"Billfront Facility"** means the revolving credit facility made between Billfront Limited and the Issuer under the revolving facility agreement dated 4 November 2019 (as amended and restated from time to time).

**"Agent"** means Nordic Trustee & Agency AB (publ), reg. no. 556882-1879, P.O. Box 7329, SE-103 90 Stockholm, Sweden or another party replacing it, as Agent, in accordance with these Terms and Conditions.

**"Bond"** means a debt instrument (Sw. *skuldförbindelse*) for the Nominal Amount and of the type set forth in Chapter 1 Section 3 of the Financial Instruments Accounts Act and which are governed by and issued under these Terms and Conditions, including the Initial Bonds and any Subsequent Bonds.

**"Bondholder"** means the Person who is registered on a Securities Account as direct registered owner (Sw. *ägare*) or nominee (Sw. *förvaltare*) with respect to a Bond.

**"Bondholders' Meeting"** means a meeting among the Bondholders held in accordance with Clause 17 (*Bondholders' Meeting*).

**"Bond Issue"** means the Initial Bond Issue and any Subsequent Bond Issue.

**"Business Day"** means a day in Sweden other than a Sunday or other public holiday. Saturdays, Midsummer Eve (Sw. *midsommarafton*), Christmas Eve (Sw. *julafton*) and New Year's Eve (Sw. *nyårsafton*) shall for the purpose of this definition be deemed to be public holidays.

**"Business Day Convention"** means the first following day that is a Business Day unless that day falls in the next calendar month, in which case that date will be the first preceding day that is a Business Day.

**"Call Option Amount"** mean the amount set out in Clause 9.3 (*Voluntary total redemption (call option)*), as applicable.

**"Change of Control Event"** means the occurrence of an event or series of events whereby one or more Persons, not being a Main Shareholder (or an Affiliate of a Main Shareholder), acting together, acquire control over the Issuer and where "control" means (a) acquiring or controlling, directly or indirectly, more than 50 per cent. of the shares of the Issuer, or (b) the right to, directly or indirectly, appoint or remove all or a majority of the directors of the board of directors of the Issuer.

**"Compliance Certificate"** means a certificate to the Agent, in the agreed form between the Agent and the Issuer, signed by an authorised signatory of the Issuer, certifying (as applicable):

- (a) that so far as it is aware no Event of Default is continuing or, if it is aware that an Event of Default is continuing, specifying the event and steps, if any, being taken to remedy it;
- (b) if the Compliance Certificate is provided in connection with an Incurrence Test, that the Incurrence Test is met (including figures in respect of the relevant financial tests and the basis on which they have been calculated);
- (c) if the Compliance Certificate is provided in connection with that a Financial Report is made available, that the Maintenance Test is met (including figures in respect of the relevant financial tests and the basis on which they have been calculated); and
- (d) if the Compliance Certificate is provided in connection with that audited annual financial statements are made available, the Material Group Companies and confirmation of compliance with Clause 13.7 (*Guarantor Coverage*) of the Guarantor Coverage.

**"CSD"** means the Issuer's central securities depository and registrar in respect of the Bonds, from time to time, initially Euroclear Sweden AB, Swedish Reg. No. 556112-8074, P.O. Box 191, 101 23 Stockholm, Sweden.

**"Debt Instruments"** means bonds, notes or other debt securities (however defined), which are or are intended to be quoted, listed, traded or otherwise admitted to trading on a Regulated Market or an MTF.

**"Delisting Event"** means, following an Equity Listing Event, (i) the delisting of the shares in the Issuer from a Regulated Market or (ii) trading in the ordinary shares of the Issuer on the relevant Regulated Market is suspended for a period of fifteen (15) consecutive Business Days (when that Regulated Market is at the same time open for trading).

**"EBITDA"** means, in respect of the Reference Period, the consolidated profit of the Group from ordinary activities according to the latest Financial Report(s):

- (a) before deducting any amount of tax on profits, gains or income paid or payable by any member of the Group;
- (b) before deducting any Net Finance Charges;
- (c) before taking into account any extraordinary items and any non-recurring items which are not in line with the ordinary course of business provided that such items are not in excess of an amount equal to ten (10) per cent. of EBITDA in the Reference Period;
- (d) before taking into account any Transaction Costs and any transaction costs relating to any acquisition of any additional target company;
- (e) not including any accrued interest owing to any Group Company;
- (f) before taking into account any unrealised gains or losses on any derivative instrument (other than any derivative instruments which is accounted for on a hedge account basis);
- (g) after adding back or deducting, as the case may be, the amount of any loss or gain against book value arising on a disposal of any asset (other than in the ordinary course of trading) and any loss or gain arising from an upward or downward revaluation of any asset;
- (h) after deducting the amount of any profit (or adding back the amount of any loss) of any Group Company which is attributable to minority interests;
- (i) plus or minus the Group's share of the profits or losses of entities which are not part of the Group; and
- (j) after adding back any amount attributable to the amortisation, depreciation or depletion of assets of members of the Group.

**"Equity Listing Event"** means an initial public offering of shares in the Issuer, after which such shares shall be quoted, listed, traded or otherwise admitted to trading on a regulated market or unregulated market.



"Euro" and "EUR" means the single currency of the participating member states in accordance with the legislation of the European Community relating to Economic and Monetary Union.

"EURIBOR" means:

- (a) the applicable percentage rate *per annum* displayed on Reuters screen EURIBOR01 (or through another system or website replacing it) as of or around 11.00 a.m. (Brussels time) on the Quotation Day for the offering of deposits in Euro and for a period comparable to the relevant Interest Period; or
- (b) if no screen rate is available for the relevant Interest Period, the arithmetic mean of the rates (rounded upwards to four decimal places), as supplied to the Issuing Agent at its request quoted by banks reasonably selected by the Issuing Agent, for deposits of EUR 10,000,000 for the relevant period; or
- (c) if no quotation is available pursuant to paragraph (b), the interest rate which according to the reasonable assessment of the Issuing Agent best reflects the interest rate for deposits in Euro offered for the relevant period; and

if any such rate is below zero, EURIBOR will be deemed to be zero.

"Event of Default" means an event or circumstance specified in any of the Clauses 14.1 (*Non-Payment*) to and including Clause 14.10 (*Continuation of the Business*).

"Existing Bonds" means the Issuer's outstanding bonds with ISIN: NO0010851413, NO0010851405 and NO0010851421 in aggregate amounting to approximately EUR 25,000,000.

"Existing CSD" means Verdipapirsentralen ASA, Norwegian Reg. No. 985 140 421, Fred Olsens gate 1, 0152 Oslo, Norway.

"Existing Debt" means:

- (a) the Existing Bonds;
- (b) the loan from DPE Investments B.V. in an amount of approximately EUR 3,483,700;
- (c) the loan from Navus Ventures B.V. in an amount of approximately EUR 1,000,000;
- (d) the loan from Multnomah B.V. in an amount of approximately EUR 2,500,000; and
- (e) the loan from Almi Företagspartner Stockholm Sörmland AB and KreosCapital V (UK) Limited in an amount of approximately EUR 4,534,167.

"Existing Subordinated Loan" means the loan from the Parent to the Issuer in an amount of EUR 13,339,600.

**"Final Maturity Date"** means 17 March 2023.

**"Finance Charges"** means, for the Reference Period, the aggregate amount of the accrued interest, commission, fees, discounts, payment fees, premiums or charges and other finance payments in respect of Financial Indebtedness whether paid, payable or capitalised by any member of the Group according to the latest Financial Report(s) (calculated on a consolidated basis).

**"Finance Documents"** means:

- (a) these Terms and Conditions;
- (b) the Agency Agreement;
- (c) the Proceeds Account Pledge Agreement;
- (d) the Security Documents;
- (e) the Guarantee and Adherence Agreement;
- (f) the Subordination Agreement;
- (g) the Intercreditor Agreement (if any); and
- (h) any other document designated by the Issuer and the Agent or the Security Agent as a Finance Document.

**"Finance Leases"** means any finance leases, to the extent the arrangement is or would have been treated as a finance or a capital lease in accordance with the Accounting Principles applicable on the First Issue Date (a lease which in the accounts of the Group is treated as an asset and a corresponding liability), and for the avoidance of doubt, any leases treated as operating leases under the Accounting Principles as applicable on the First Issue Date shall not, regardless of any subsequent changes or amendments of the Accounting Principles, be considered as a finance lease.

**"Financial Indebtedness"** means any indebtedness in respect of:

- (a) monies borrowed or raised, including Market Loans;
- (b) the amount of any liability in respect of any Finance Leases;
- (c) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (d) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (e) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the mark to market value shall be taken into

account, provided that if any actual amount is due as a result of a termination or a close-out, such amount shall be used instead);

- (f) any counter indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (g) (without double counting) any guarantee or other assurance against financial loss in respect of a type referred to in the above paragraphs (a)-(f).

**"Financial Instruments Accounts Act"** means the Swedish Financial Instruments Accounts Act (*lag (1998:1479) om värdepapperscentraler och kontoföring av finansiella instrument*).

**"Financial Report"** means the Group's consolidated annual audited financial statements or quarterly interim unaudited reports, which shall be prepared and made available according to Clauses 11.1(a)(i) and 11.1(a)(ii).

**"First Call Date"** means the date falling 18 months after the First Issue Date.

**"First Issue Date"** means 17 March 2020.

**"Floating Rate Margin"** means 8.50 per cent. *per annum*.

**"Force Majeure Event"** has the meaning set forth in Clause 26(a).

**"Group"** means the Issuer and each of its Subsidiaries from time to time and **"Group Company"** means any of them.

**"Guarantee and Adherence Agreement"** means the guarantee and adherence agreement pursuant to which the Guarantors shall, amongst other, (i) guarantee all amounts outstanding under the Finance Documents, including but not limited to the Bonds, plus accrued interests and expenses, (ii) agree to subordinate all subrogation claims, and (iii) undertake to adhere to the terms of the Finance Documents.

**"Guarantees"** means the guarantees provided by the Guarantors under the Guarantee and Adherence Agreement.

**"Guarantor Coverage Ratios"** means the ratios of (a) the aggregate EBITDA of the Guarantors and the Issuer to the aggregate EBITDA of the Group and (b) the aggregate total assets of the Guarantors and the Issuer to the aggregate total assets of the Group, in each case calculated on an unconsolidated basis and excluding all goodwill, intra-group items and investments in Subsidiaries of any member of the Group.

**"Guarantors"** means Azerion Games en Content Holding B.V a limited liability company incorporated in the Netherlands with reg. no. 76432874, Azerion Tech Holding B.V. a limited liability company incorporated in the Netherlands with reg. no. 76432572, Azerion International Holding B.V. a limited liability company incorporated in the Netherlands with reg. no. 76432998, Sellbranch AB a limited liability company incorporated in Sweden with reg. no. 556782-9261, Youda Games Holding B.V. a limited

liability company incorporated in the Netherlands with reg. no. 54136369 and Voidu B.V. a limited liability company incorporated in the Netherlands with reg. no. 67876153.

**"Holdco"** means each of Azerion Games en Content Holding B.V., Azerion Tech Holding B.V. and Azerion International Holding B.V..

**"Incurrence Test"** means the incurrence test set out in Clause 12.4 (*Incurrence Test*)

**"Initial Bond Issue"** means the issuance of the Initial Bonds.

**"Initial Bonds"** means the Bonds issued on the First Issue Date.

**"Insolvent"** means, in respect of a relevant Person, that it is deemed to be insolvent, within the meaning of Chapter 2, Sections 7-9 of the Swedish Bankruptcy Act (*konkurslagen (1987:672)*) (or its equivalent in any other jurisdiction), admits inability to pay its debts as they fall due, suspends making payments on any of its debts or by reason of actual financial difficulties commences negotiations with its creditors with a view to rescheduling any of its indebtedness (including company reorganisation under the Swedish Company Reorganisation Act (*lag (1996:764) om företagsrekonstruktion*) (or its equivalent in any other jurisdiction)) or is subject to involuntary winding-up, dissolution or liquidation.

**"Intercreditor Agreement"** means an intercreditor agreement governing the relationship between the Bondholders (represented by the Agent), the creditors in respect of the Super Senior RCF and the Hedging Agreements and any provider of New Debt (as defined in the Intercreditor Agreement Term Sheet), which the Issuer may request that the Agent enters into.

**"Intercreditor Agreement Term Sheet"** means a term sheet setting out the principle terms of the Intercreditor Agreement, as appended hereto as Schedule 1 (*Intercreditor Principles*)

**"Interest"** means the interest on the Bonds calculated in accordance with Clauses 8(a) to 8(c).

**"Interest Payment Date"** means 17 March, 17 June, 17 September and 17 December each year. The first Interest Payment Date shall be 17 June 2020. The last Interest Payment Date shall be the Final Maturity Date (or such earlier date on which the Bonds are redeemed in full). To the extent any of the above dates is not a Business Day, the Business Day following from an application of the Business Day Convention.

**"Interest Period"** means (i) in respect of the first Interest Period, the period from (but excluding) the First Issue Date to (and including) the first Interest Payment Date, and (ii) in respect of subsequent Interest Periods, the period from (but excluding) an Interest Payment Date to (and including) the next succeeding Interest Payment Date (or a shorter period if relevant).

**"Interest Rate"** means EURIBOR plus 8.50 per cent. *per annum*.

**"Issuer"** means Azerion Holding B.V., a limited liability company incorporated in the Netherlands with reg. no. 59272449.

**"Issuing Agent"** means Pareto Securities AB, or another party replacing it, as Issuing Agent, in accordance with these Terms and Conditions.

**"Leverage Ratio"** means the ratio of Net Interest Bearing Debt to EBITDA.

**"Main Shareholders"** means each of Mr U. Akpinar and Mr. A. Aytekin.

**"Maintenance Test"** means the maintenance test set out in Clause 12.1 (*Maintenance Test*).

**"Market Loan"** means any loan or other indebtedness where an entity issues commercial paper, certificates, subordinated debentures, bonds or any other debt securities (including, for the avoidance of doubt, medium term note programmes and other market funding programmes), provided in each case that such instruments and securities are or can be subject to trade on any Regulated Market, MTF or other unregulated recognised market place.

**"Material Adverse Effect"** means a material adverse effect on:

- (a) the business, financial condition or operations of the Group taken as a whole;
- (b) the Group's ability to perform and comply with the Finance Documents; or
- (c) the validity or enforceability of the Finance Documents.

**"Material Group Company"** means, at any time:

- (a) the Issuer; and
- (b) any other Group Company with earnings before interest, tax, depreciation and amortisation calculated on the same basis as EBITDA representing 10.00 per cent or more of EBITDA, or which has assets representing 10.00 per cent or more of the total assets of the Group, calculated on a consolidated basis according to the latest annual audited consolidated financial statements of the Group.

**"Material Intra-Group Loan"** means (i) any loan provided to the Parent for financing the Share Repurchase or (ii) any intra-group loan provided by the Issuer to any of its Subsidiaries where:

- (a) the term is at least 12 months and;
- (b) the principal amount exceeds EUR 1,000,000.

**"MTF"** means any multilateral trading facility as defined in the Markets in Financial Instruments Directive 2014/65/EU (MiFID II), as amended from time to time.

**"Net Finance Charges"** means, for the Reference Period, the Finance Charges according to the latest Financial Report(s), after deducting any interest payable for that Reference Period to any member of the Group and any interest income relating to cash or cash equivalent investment.

**"Net Interest Bearing Debt"** means the aggregate interest bearing Financial Indebtedness less cash and cash equivalents of the Group in accordance with the Accounting Principles (for the avoidance of doubt, excluding any Bonds owned by the Issuer, guarantees, bank guarantees, Shareholder Loans, any claims subordinated pursuant to a subordination agreement on terms and conditions satisfactory to the Agent and interest bearing Financial Indebtedness borrowed from any Group Company).

**"Net Proceeds"** means the proceeds from a Bond Issue after deduction has been made for the Transaction Costs payable by the Issuer to the Sole Bookrunner (if the Sole Bookrunner has requested that their fees and costs shall be deducted) and the Issuing Agent for the services provided in relation to the placement and issuance of the Bonds.

**"Nominal Amount"** has the meaning set forth in Clause 2(c).

**"Obligors"** means the Issuer and each Guarantor.

**"Parent"** means Azerion Group B.V.

**"Permitted Debt"** means any Financial Indebtedness:

- (a) incurred under the Bonds (other than Subsequent Bonds);
- (b) incurred pursuant to any operating leases entered into in (i) the ordinary course of the Group's business and/or (ii) relating to real estate;
- (c) arising under any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability in the ordinary course of business of a Group Company;
- (d) arising under a foreign exchange transaction or a commodity transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates or prices where the exposure arises in the ordinary course of business or in respect of payments to be made under the Terms and Conditions and/or the Super Senior RCF, but not any transaction for investment or speculative purposes;
- (e) arising under any interest rate hedging transactions in respect of payments to be made under the Terms and Conditions and/or the Super Senior RCF, but not any transaction for investment or speculative purposes;
- (f) incurred under Advance Purchase Agreements;
- (g) incurred under any Shareholder Loan;
- (h) incurred by the Issuer if such Financial Indebtedness (i) is incurred as a result of a Subsequent Bond Issue and meets the Incurrence Test on a pro forma basis, or (ii) ranks pari passu or is subordinated to the obligations of the Issuer under the Finance Documents, and (A) meets the Incurrence Test on a pro forma basis (B) has a final maturity date or a final redemption date; and (C) when applicable,

early redemption dates or instalment dates, in each case of (B) and (C) which occur on or after the Final Maturity Date;

- (i) taken up from a Group Company (including any cash pool arrangements);
- (j) incurred in connection with the redemption of the Bonds in order to fully refinance the Bonds and provided further that such Financial Indebtedness is subject to an escrow arrangement up until the redemption of the Bonds (taking into account the rules and regulations of the CSD), for the purpose of securing, inter alia, the redemption of the Bonds;
- (k) incurred under the Existing Debt provided that the Existing Debt shall be repaid in connection with the Disbursement Date taking into account the payment mechanisms of the Existing CSD (including any requirements of the paying agent) and the currency exchange process to convert relevant amounts of the Net Proceeds to the currencies of the Existing Debt;
- (l) any pension liabilities;
- (m) incurred under a Super Senior RCF or the Billfront Facility (or any facility replacing the Billfront Facility) or any other working capital facility in an aggregate amount not exceeding EUR 9,000,000;
- (n) incurred as a result of any Group Company acquiring another entity and which is due to such acquired entity holding indebtedness, provided that the Incurrence Test is met, tested pro forma on the acquired entity in question on a stand-alone basis (without the Group) and provided that the acquired debt is converted into equity or refinanced by the Issuer, by way of issuance of Subsequent Bonds or otherwise, within six (6) months following the date of the acquisition; and
- (o) any other Financial Indebtedness incurred by Group Companies not in aggregate exceeding EUR 2,000,000.

**"Permitted Merger"** means a merger between Group Companies provided that:

- (a) the transferee Group Company shall be or become a Guarantor if the transferor Group Company is a Guarantor;
- (b) any transferor Group Company which shares are subject to the Transaction Security may only be merged with a transferee Group Company which shares are, or will be, subject to Security in favour of the Secured Parties; and
- (c) following the merger the Transaction Security granted to the Secured Parties is the same or equivalent following the merger except if such Transaction Security constitutes Security over intra-group loans granted between the Group Companies that are to be merged in which case the merger shall be permitted notwithstanding that such Transaction Security will not remain following the merger provided that the Agent (acting in its sole discretion) have given its consent thereto.

**"Permitted Security"** means any Security:

- (a) provided under the Senior Finance Documents and otherwise permitted pursuant to the Intercreditor Agreement (if any);
- (b) over the Proceeds Account;
- (c) arising by operation of law or in the ordinary course of business (including collateral or retention of title arrangements in connection with Advance Purchase Agreements but, for the avoidance of doubt, not including guarantees or security in respect of any monies borrowed or raised);
- (d) provided in relation to any lease agreement entered into by a Group Company;
- (e) arising under any netting or set off arrangements under financial derivatives transactions or bank account arrangements, including any group cash pool arrangements;
- (f) provided over bank accounts and/or proceeds pertaining to sold receivables with respect to factoring on a non-recourse basis;
- (g) until the Disbursement Date, any security provided under the Existing Debt;
- (h) provided for debt permitted under paragraph (n) of Permitted Debt but only over assets held, directly or indirectly, by such acquired entity;
- (i) provided over receivables in relation to the Billfront Facility (or any facility replacing the Billfront Facility); and
- (j) provided pursuant to items (c), (d), (e), (j), (l) and (p) of the definition of Permitted Debt.

**"Person"** means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organisation, government, or any agency or political subdivision thereof or any other entity, whether or not having a separate legal personality.

**"Proceeds Account"** means a bank account of the Issuer, into which the Net Proceeds from the Initial Bond Issue will be transferred and which has been pledged in favour of the Agent and the Bondholders (represented by the Agent) under the Proceeds Account Pledge Agreement.

**"Proceeds Account Pledge Agreement"** means the pledge agreement entered into between the Issuer and the Agent on or prior to the First Issue Date in respect of a first priority pledge over the Proceeds Account and all funds held on the Proceeds Account from time to time, granted in favour of the Agent and the Bondholders (represented by the Agent).

**"Quotation Day"** means, in relation to any period for which an interest rate is to be determined, two (2) Business Days before the first day of that period.



**"Record Date"** means the fifth (5) Business Day prior to (i) an Interest Payment Date, (ii) a Redemption Date, (iii) a date on which a payment to the Bondholders is to be made under Clause 15 (*Distribution of Proceeds*), (iv) the date of a Bondholders' Meeting, or (v) another relevant date, or in each case such other Business Day falling prior to a relevant date if generally applicable on the Swedish bond market.

**"Redemption Date"** means the date on which the relevant Bonds are to be redeemed or repurchased in accordance with Clause 9 (*Redemption and Repurchase of the Bonds*).

**"Reference Date"** means 31 March, 30 June, 30 September and 31 December in each year for as long as any Bonds are outstanding.

**"Reference Period"** means each period of 12 consecutive calendar months.

**"Regulated Market"** means any regulated market as defined in the Markets in Financial Instruments Directive 2014/65/EU (MiFID II), as amended.

**"Restricted Payment"** has the meaning set forth in Clause 13.2(a).

**"Secured Obligations"** means all present and future, actual and contingent, liabilities and obligations at any time due, owing or incurred by any Obligor towards the Secured Parties outstanding from time to time under the Finance Documents and (ii) if the Intercreditor Agreement has been entered into, the meaning given to such term in the Intercreditor Agreement.

**"Secured Parties"** means (i) unless the Intercreditor Agreement has been entered into, the Security Agent, the Bondholders and the Agent (including in its capacity as Agent under the Agency Agreement) and (ii) if the Intercreditor Agreement has been entered into, the meaning given to such term in the Intercreditor Agreement.

**"Securities Account"** means the account for dematerialised securities maintained by the CSD pursuant to the Financial Instruments Accounts Act in which (i) an owner of such security is directly registered or (ii) an owner's holding of securities is registered in the name of a nominee.

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

**"Security Agent"** means (i) unless the Intercreditor Agreement has been entered into, the Agent as security agent or another party replacing it as Security Agent, in accordance with these Terms and Conditions, and (ii) if the Intercreditor Agreement has been entered into, the security agent appointed by the Secured Parties pursuant to the Intercreditor Agreement, holding the Transaction Security on behalf of the Secured Parties.

**"Security Documents"** means the security documents pursuant to which the Transaction Security is created and any other document designated as a Security Document by the Issuer and the Security Agent.

**"Shareholder Loans"** means the Existing Shareholder Loan and any future shareholder loan to the Issuer as debtor, if such shareholder loan:

- (a) is subordinated to the obligations of the Issuer under the Finance Documents;
- (b) according to its terms has a final redemption date or, when applicable, early redemption dates or instalment dates which occur after the Final Maturity Date; and
- (c) according to its terms yield only payment-in-kind interest and/or cash interest that is payable after the Final Maturity Date (unless a Restricted Payment is permitted under the Finance Documents).

**"Share Repurchase Amount"** means up to EUR 25,000,000.

**"Share Repurchase"** means (i) the Issuer's repurchase of shares in the Issuer from a shareholder (not being the Parent) for the Share Repurchase Amount or (ii) the Parent's purchase of shares in the Issuer from an external shareholder for the Share Repurchase Amount in which case the Share Repurchase Amount shall be lent to the Parent and the Issuer shall grant security to the Agent (representing the bondholders) over such loan.

**"Sole Bookrunner"** means Pareto Securities AB.

**"Subordination Agreement"** means the subordination agreement to be entered into between the Issuer, the Parent and the Agent relating to the subordination of the Existing Subordinated Loan in form and substance satisfactory to the Agent.

**"Subsequent Bond Issue"** has the meaning set forth in Clause 2(d).

**"Subsequent Bonds"** means any Bonds issued after the First Issue Date on one or more occasions.

**"Subsidiary"** means, in respect of which such Person, directly or indirectly:

- (a) owns shares or ownership rights representing more than fifty (50) per cent. of the total number of votes held by the owners;
- (b) otherwise controls more than fifty (50) per cent. of the total number of votes held by the owners; or
- (c) has the power to appoint and remove all, or the majority of, the members of the board of directors or other governing body.

**"Super Senior Debt"** has the meaning given thereto in the Intercreditor Agreement, provided that the Intercreditor Agreement has been entered into.

**"Super Senior RCF"** has the meaning given thereto in the Intercreditor Agreement, provided that the Intercreditor Agreement has been entered into.

**"Swedish Kronor"** and **"SEK"** means the lawful currency of Sweden.

**"Total Nominal Amount"** means the total aggregate Nominal Amount of the Bonds outstanding at the relevant time.

**"Transaction Costs"** means all fees, costs and expenses, stamp, registration and other taxes incurred by the Issuer or any other member of the Group in connection with (i) the Bond Issue, (ii) the listing of the Bonds and (iii) acquisitions and divestments of companies.

**"Transaction Security"** means the Security provided for the Secured Obligations pursuant to the Security Documents, initially being:

- (a) a share pledge in respect of all shares in Azerion Games en Content Holding B.V. governed by the laws of the Netherlands;
- (b) a share pledge in respect of all shares in Azerion Tech Holding B.V. governed by the laws of the Netherlands;
- (c) a share pledge in respect of all shares in Azerion International Holding B.V. governed by the laws of the Netherlands;
- (d) a share pledge in respect of all shares in Sellbranch AB governed by Swedish law;
- (e) a share pledge in respect of all shares in Youda Games Holding B.V. governed by the laws of the Netherlands;
- (f) a share pledge in respect of all shares in Voidu B.V. governed by the laws of the Netherlands; and
- (g) pledge over any Material Intra-Group Loans.

**"Written Procedure"** means the written or electronic procedure for decision making among the Bondholders in accordance with Clause 18 (*Written Procedure*).

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in these Terms and Conditions to:
  - (i) "assets" includes present and future properties, revenues and rights of every description;
  - (ii) any agreement or instrument is a reference to that agreement or instrument as supplemented, amended, novated, extended, restated or replaced from time to time;
  - (iii) a "regulation" includes any regulation, rule or official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

- (iv) an Event of Default is continuing if it has not been remedied or waived;
  - (v) a provision of law is a reference to that provision as amended or re-enacted; and
  - (vi) a time of day is a reference to Stockholm time.
- (b) When ascertaining whether a limit or threshold specified in EUR has been attained or broken, an amount in another currency shall be counted on the basis of the rate of exchange for such currency against EUR for the previous Business Day, as published by the European Central Bank on its website [www.ecb.europa.eu](http://www.ecb.europa.eu). If no such rate is available, the most recently published rate shall be used instead.
  - (c) A notice shall be deemed to be sent by way of press release if it is made available to the public within the European Economic Area promptly and in a non-discriminatory manner.
  - (d) No delay or omission of the Agent, the Security Agent or of any Bondholder to exercise any right or remedy under the Finance Documents shall impair or operate as a waiver of any such right or remedy.

## 2. Status of the Bonds

- (a) The Bonds are denominated in Euro and each Bond is constituted by these Terms and Conditions. The Issuer undertakes to make payments in relation to the Bonds and to comply with these Terms and Conditions.
- (b) By subscribing for Bonds, each initial Bondholder agrees that the Bonds shall benefit from and be subject to the Finance Documents and by acquiring Bonds, each subsequent Bondholder confirms such agreement.
- (c) The nominal amount of each Initial Bond is EUR 1,000 (the "**Nominal Amount**"). The maximum total nominal amount of the Initial Bonds is EUR 60,000,000. All Initial Bonds are issued on a fully paid basis at an issue price of 100 per cent. of the Nominal Amount.
- (d) The minimum permissible investment in a Bond Issue is EUR 100,000.
- (e) Provided that the Incurrence Test is met, the Issuer may, at one or several occasions, issue Subsequent Bonds (each such issue, a "**Subsequent Bond Issue**"). Subsequent Bonds shall benefit from and be subject to the Finance Documents, and, for the avoidance of doubt, the ISIN, the Interest Rate, the Nominal Amount and the Final Maturity Date applicable to the Initial Bonds shall apply to Subsequent Bonds. The price of the Subsequent Bonds may be set at a discount or at a premium compared to the Nominal Amount. The maximum total nominal amount of the Bonds (the Initial Bonds and all Subsequent Bonds) may not exceed EUR 100,000,000 unless a consent from the Bondholders is obtained in accordance with Clause 16(e)(i). Each Subsequent Bond shall entitle its holder

to Interest in accordance with Clause 8(a), and otherwise have the same rights as the Initial Bonds.

- (f) The Bonds constitute direct, unconditional, unsubordinated and secured obligations of the Issuer and shall at all times rank (i) without any preference among them and (ii) at least *pari passu* with all direct, unconditional, unsubordinated and unsecured obligations of the Issuer, except (A) those obligations which are mandatorily preferred by law and (B) the super senior ranking of the Super Senior Debt in accordance with the Intercreditor Agreement, if any.
- (g) The Bonds are freely transferable but the Bondholders may be subject to purchase or transfer restrictions with regard to the Bonds, as applicable, under local laws to which a Bondholder may be subject. Each Bondholder must ensure compliance with such restrictions at its own cost and expense.
- (h) No action is being taken in any jurisdiction that would or is intended to permit a public offering of the Bonds or the possession, circulation or distribution of any document or other material relating to the Issuer or the Bonds in any jurisdiction other than Sweden, where action for that purpose is required. Each Bondholder must inform itself about, and observe, any applicable restrictions to the transfer of material relating to the Issuer or the Bonds.

### **3. Use of Proceeds**

The proceeds from the Initial Bond Issue shall be used to (i) refinance the Existing Debt, (ii) finance the Share Repurchase and (iii) finance general corporate purposes of the Group, including capital expenditure and acquisitions.

The proceeds from any Subsequent Bond Issue shall be used to finance general corporate purposes of the Group, including capital expenditure and acquisitions.

### **4. Conditions Precedent**

#### **4.1 Conditions Precedent Initial Bond Issue**

- (a) The payment of the Net Proceeds from the Initial Bond Issue (other than the Share Repurchase Amount) to the Proceeds Account is subject to the Agent having received documents and evidence of the Proceeds Account Pledge Agreement being duly executed and perfected.
- (b) The Issuer shall provide, or procure the provision of, to the satisfaction of the Agent:
  - (i) constitutional documents and corporate resolutions (approving the relevant Finance Documents and authorising a signatory/-ies to execute the Finance Documents) for the Issuer and the Parent together constituting evidence that the Finance Documents have been duly executed;

- (ii) copies of the Finance Documents, duly executed;
  - (iii) a copy of a duly signed unconditional and irrevocable call notice for the repayment of the Existing Bonds, such repayment to take place upon the disbursement of the Net Proceeds from the Proceeds Account with due regard to the payment mechanisms of the Existing CSD (including any requirements of the paying agent) and the currency exchange process to convert relevant amounts of the Net Proceeds to the currencies of the Existing Bonds;
  - (iv) evidence by way of a duly executed release letter from the agent under the Existing Bonds that the security existing in favour of the Existing Bonds will be released and discharged upon repayment of the Existing Bonds;
  - (v) evidence that the Transaction Security either has been or will be perfected in accordance with the terms of the Finance Documents;
  - (vi) a copy of a funds flow statement signed by the Issuer, evidencing that payments in accordance with Purpose of the Bond Issue will be made immediately following disbursement of the Net Proceeds from the Proceeds Account;
  - (vii) an agreed form Compliance Certificate; and
  - (viii) legal opinion(s) on the capacity and due execution, in respect of any non-Swedish entity being party to a Finance Document and the validity and enforceability of the Finance Documents not governed by Swedish law, in each case issued by a reputable law firm (if applicable)
- (c) The Agent may assume that the documentation and evidence delivered to it pursuant to Clause 4.1(b) is accurate, legally valid, enforceable, correct, true and complete unless it has actual knowledge to the contrary and the Agent does not have to verify or assess the contents of any such documentation. The Agent does not have any obligation to review the documentation and evidence referred to in Clause 4.1(b) above from a legal or commercial perspective of the Bondholders.
- (d) When the conditions precedent for disbursement set out in Clause 4.1(b) have been received to the satisfaction of the Agent (acting reasonably), the Agent shall instruct the bank (with which the Issuer holds the Proceeds Account) to transfer the funds (excluding the Share Repurchase Amount) from the Proceeds Account for the purpose set out in Clause 3 (*Use of Proceeds*).
- (e) If the conditions precedent for disbursement set out in Clause 4.1(b) have not been fulfilled to the satisfaction of the Agent (acting reasonably) or waived by the Agent within sixty (60) Business Days from the First Issue Date, the Issuer shall repurchase all Bonds at a price equal to 100 per cent. of the Nominal Amount together with any accrued Interest. Any funds distributed by the Agent to the Bondholders in accordance with the Proceeds Account Pledge Agreement

shall be deemed to be paid by the Issuer for the redemption under this Clause 4.1(e). Any shortfall shall be covered by the Issuer. The repurchase date shall fall no later than thirty (30) Business Days after the ending of the sixty (60) Business Days period referred to above.

#### **4.2 Conditions Precedent for Disbursement of Share Repurchase Amount**

When the conditions precedent for disbursement set out in Clause 4.1(b) have been received to the satisfaction of the Agent (acting reasonably) and the Agent has received evidence that the Share Repurchase will be completed in connection with the disbursement (such evidence to be provided in the form of an execution version or executed copy of a deed of transfer documenting the Share Repurchase and a funds flow setting out that the proceeds will be disbursed as specified in the deed of transfer) , the Agent shall approve disbursement of the Share Repurchase Amount from the Proceeds Account, and the Agent shall thereafter or in connection therewith release the pledge over the Proceeds Account.

### **5. Bonds in Book-Entry Form**

- (a) The Bonds will be registered for the Bondholders on their respective Securities Accounts and no physical notes will be issued. Accordingly, the Bonds will be registered in accordance with the Financial Instruments Accounts Act. Registration requests relating to the Bonds shall be directed to an Account Operator.
- (b) Those who according to assignment, Security, the provisions of the Swedish Children and Parents Code (*Sw. föräldrabalken (1949:381)*), conditions of will or deed of gift or otherwise have acquired a right to receive payments in respect of a Bond shall register their entitlements to receive payment in accordance with the Financial Instruments Accounts Act.
- (c) The Issuer (and the Agent when permitted under the CSD's applicable regulations) shall be entitled to obtain information from the debt register (*Sw. skuldbok*) kept by the CSD in respect of the Bonds. At the request of the Agent, the Issuer shall promptly obtain such information and provide it to the Agent.
- (d) For the purpose of or in connection with any Bondholders' Meeting or any Written Procedure, the Issuing Agent shall be entitled to obtain information from the debt register kept by the CSD in respect of the Bonds.
- (e) The Issuer shall issue any necessary power of attorney to such Persons employed by the Agent, as notified by the Agent, in order for such individuals to independently obtain information directly from the debt register kept by the CSD in respect of the Bonds. The Issuer may not revoke any such power of attorney unless directed by the Agent or unless consent thereto is given by the Bondholders.

## **6. Right to Act on Behalf of a Bondholder**

- (a) If any Person other than a Bondholder wishes to exercise any rights under the Finance Documents, it must obtain a power of attorney or other proof of authorisation from the Bondholder or a successive, coherent chain of powers of attorney or proofs of authorisation starting with the Bondholder and authorising such Person.
- (b) A Bondholder may issue one or several powers of attorney or other authorisation to third parties to represent it in relation to some or all of the Bonds held by it. Any such representative may act independently under the Finance Documents in relation to the Bonds for which such representative is entitled to represent the Bondholder and may further delegate its right to represent the Bondholder by way of a further power of attorney.
- (c) The Agent shall only have to examine the face of a power of attorney or other proof of authorisation that has been provided to it pursuant to Clause 6(b) and may assume that it has been duly authorised, is valid, has not been revoked or superseded and that it is in full force and effect, unless otherwise is apparent from its face.

## **7. Payments in Respect of the Bonds**

- (a) Any payment or repayment under the Finance Documents, or any amount due in respect of a repurchase of any Bonds, shall be made to such Person who is registered as a Bondholder on the Record Date prior to an Interest Payment Date or other relevant due date, or to such other Person who is registered with the CSD on such date as being entitled to receive the relevant payment, repayment or repurchase amount.
- (b) If a Bondholder has registered, through an Account Operator, that principal, interest or any other payment shall be deposited in a certain bank account, such deposits will be effected by the CSD on the relevant payment date. In other cases, payments will be transferred by the CSD to the Bondholder at the address registered with the CSD on the Record Date. Should the CSD, due to a delay on behalf of the Issuer or some other obstacle, not be able to effect payments as aforesaid, the Issuer shall procure that such amounts are paid to the Persons who are registered as Bondholders on the relevant Record Date as soon as possible after such obstacle has been removed.
- (c) If, due to any obstacle for the CSD, the Issuer cannot make a payment or repayment, such payment or repayment may be postponed until the obstacle has been removed. Interest shall accrue without any default interest in accordance with Clause 8(d) during such postponement.
- (d) If payment or repayment is made in accordance with this Clause 7, the Issuer and the CSD shall be deemed to have fulfilled their obligation to pay, irrespective of whether such payment was made to a Person not entitled to receive such amount.



- (e) The Issuer is not liable to gross-up any payments under the Finance Documents by virtue of any withholding tax, public levy or the similar.

## **8. Interest**

- (a) Each Initial Bond carries Interest at the Interest Rate from (but excluding) the First Issue Date up to (and including) the relevant Redemption Date. Any Subsequent Bond will carry Interest at the Interest Rate from (but excluding) the Interest Payment Date falling immediately prior to its issuance (or the First Issue Date if there is no such Interest Payment Date) up to (and including) the relevant Redemption Date.
- (b) Interest accrues during an Interest Period. Payment of Interest in respect of the Bonds shall be made to the Bondholders on each Interest Payment Date for the preceding Interest Period.
- (c) Interest shall be calculated on the basis of the actual number of days in the Interest Period in respect of which payment is being made divided by 360 (actual/360-days basis).
- (d) If the Issuer fails to pay any amount payable by it on its due date, default interest shall accrue on the overdue amount from (but excluding) the due date up to (and including) the date of actual payment at a rate which is two (2) per cent. higher than the Interest Rate. Accrued default interest shall not be capitalised. No default interest shall accrue where the failure to pay was solely attributable to the Agent or the CSD, in which case the Interest Rate shall apply instead.

## **9. Redemption and Repurchase of the Bonds**

### **9.1 Redemption at maturity**

The Issuer shall redeem all, but not only some, of the outstanding Bonds in full on the Final Maturity Date with an amount per Bond equal to 100.30 per cent. of the Nominal Amount together with accrued but unpaid Interest. If the Final Maturity Date is not a Business Day, then the redemption shall occur on the first following Business Day (notwithstanding the Business Day Convention).

### **9.2 Issuer's purchase of Bonds**

The Issuer and any Group Company may, subject to applicable law, at any time and at any price purchase Bonds on the market or in any other way. The Bonds held by the Issuer or any Group Company may at the Issuer's or such Group Company's discretion be retained or sold but not cancelled.

### **9.3 Voluntary total redemption (call option)**

- (a) The Issuer may redeem all, but not only some, of the outstanding Bonds in full:
  - (i) any time from and including the First Issue Date to, but excluding, the First Call Date at an amount per Bond equal to 104.55 per cent. of the

Nominal Amount plus the remaining interest payments, calculated in accordance with Clause 9.3(c), up to and including the First Call Date together with accrued but unpaid Interest;

- (ii) any time from and including the First Call Date to, but excluding, the first Business Day falling 24 months after the First Issue Date at an amount per Bond equal to 104.55 per cent. of the Nominal Amount, together with accrued but unpaid Interest;
  - (iii) any time from and including the first Business Day falling 24 months after the First Issue Date to, but excluding, the first Business Day following 30 months after the First Issue Date at an amount per Bond equal to 102.85 per cent. of the Nominal Amount, together with accrued but unpaid Interest; and
  - (iv) any time from and including the first Business Day falling 30 months after the First Issue Date to, but excluding, the Final Maturity Date at an amount per Bond equal to 101.15 per cent. of the Nominal Amount, together with accrued but unpaid Interest.
- (b) Redemption in accordance with Clause 9.3(a) shall be made by the Issuer giving not less than fifteen (15) Business Days' notice to the Bondholders and the Agent. Any such notice is irrevocable but may, at the Issuer's discretion, contain one or more conditions precedent. Upon expiry of such notice and the fulfillment of the conditions precedent (if any), the Issuer is bound to redeem the Bonds in full at the applicable amounts.
- (c) For the purpose of calculating the remaining interest payments pursuant to Clause 9.3(a)(i) it shall be assumed that the Interest Rate for the period from the relevant record date to the First Call Date will be equal to the Interest Rate in effect on the date on which notice of redemption is given to the Bondholders. The relevant record date shall be agreed upon between the Issuer, the CSD and the Agent in connection with such repayment.

#### **9.4 Mandatory repurchase due to a Change of Control Event or a Delisting Event (put option)**

- (a) Upon the occurrence of a Change of Control Event or Delisting Event, each Bondholder shall have the right to request that all, or some only, of its Bonds be repurchased at a price per Bond equal to 101 per cent. of the Nominal Amount together with accrued but unpaid Interest, during a period of twenty (20) Business Days following a notice from the Issuer of the Change of Control Event or Delisting Event pursuant to Clause 11.1(e) (after which time period such rights lapse). However, such period may not start earlier than upon the occurrence of the Change of Control Event or Delisting Event.
- (b) The notice from the Issuer pursuant to Clause 11.1(e) shall specify the repurchase date and include instructions about the actions that a Bondholder needs to take if it wants Bonds held by it to be repurchased. If a Bondholder has so requested, and acted in accordance with the instructions in the notice from

the Issuer, the Issuer shall repurchase the relevant Bonds and the repurchase amount shall fall due on the repurchase date specified in the notice given by the Issuer pursuant to Clause 11.1(e). The repurchase date must fall no later than forty (40) Business Days after the end of the period referred to in Clause 9.4(a).

- (c) The Issuer shall comply with the requirements of any applicable securities laws or regulations in connection with the repurchase of Bonds. To the extent that the provisions of such laws and regulations conflict with the provisions in this Clause 9.4, the Issuer shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Clause 9.4 by virtue of the conflict.
- (d) Any Bonds repurchased by the Issuer pursuant to this Clause 9.4 may at the Issuer's discretion be retained or sold, but not cancelled.

## **10. Transaction Security and Guarantees**

- (a) Subject to the Intercreditor Agreement (if any), as continuing Security for the due and punctual fulfilment of the Secured Obligations, the Issuer, the Guarantors and each Group Company party to any Security Document and/or the Guarantee and Adherence Agreement grants the Transaction Security and the Guarantees (as applicable) to the Secured Parties as represented by the Security Agent on the terms set out in the Security Documents and the Guarantee and Adherence Agreement (as applicable).
- (b) The Security Agent shall hold the Transaction Security and the Guarantees on behalf of the Secured Parties in accordance with the Security Documents, the Guarantee and Adherence Agreement, and the Intercreditor Agreement (if any) (as applicable). The Issuer shall, and shall procure that the Guarantors and each Group Company party to any Security Document and/or the Guarantee and Adherence Agreement (as applicable) will, enter into the Security Documents and/or the Guarantee and Adherence Agreement (as applicable) and perfect the Transaction Security in accordance with the Security Documents.
- (c) Unless and until the Security Agent has received instructions to the contrary in accordance with the Intercreditor Agreement (or if no Intercreditor Agreement is entered into, in accordance with Clause 16 (*Decisions by Bondholders*)), the Security Agent shall (without first having to obtain the Bondholders' consent) be entitled to enter into agreements with the Issuer or a third party or take any other actions, if it is, in the Security Agent's opinion, necessary for the purpose of maintaining, altering, releasing or enforcing the Transaction Security, creating further Security for the benefit of the Secured Parties or for the purpose of settling the Bondholders', the super senior RCF creditor's under the Super Senior RCF, the creditors' under any New Debt, the hedge counterparties' under the Hedging Agreement or the Issuer's rights to the Transaction Security, in each case in accordance with the terms of the Finance Documents and provided that such agreements or actions are not detrimental to the interest of the Bondholders.

- (d) The Agent shall be entitled to give instructions relating to the Transaction Security and the Guarantees to the Security Agent in accordance with the Intercreditor Agreement (if any).
- (e) Guarantees from Material Group Companies and Security (including Security provided pursuant to the Security Documents) shall be subject to customary financial assistance and corporate benefit limitations.

## **11. Information to Bondholders**

### **11.1 Information from the Issuer**

- (a) The Issuer shall make the following information available in the English language by publication on the website of the Group:
  - (i) the annual audited consolidated financial statements of the Group, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors, on its website not later than 4 months after the expiry of each financial year (provided that in relation to the financial year 2019, the issuer shall prepare and make available (i) unaudited consolidated financial statements no later than 31 March 2020 and (ii) audited consolidated financial statements no later than 30 June 2020);
  - (ii) the quarterly interim unaudited consolidated reports of the Group, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors, on its website not later than 2 months after the expiry of each relevant interim period, where the first Financial Report shall be delivered for the period ending on 31 March 2020; and
  - (iii) as soon as practicable following an acquisition or disposal of Bonds by a Group Company, the aggregate Nominal Amount held by Group Companies.
- (b) Any other information required by the Swedish Securities Markets Act (*Sw. lag (2007:528) om värdepappersmarknaden*) and the rules and regulations of the Regulated Market on which the Bonds are admitted to trading.
- (c) When the Bonds have been listed on a Regulated Market:
  - (i) the information set out in Clause 11.1(a) shall also be made available by way of press release; and
  - (ii) the reports referred to in Clause 11.1(a)(i) and Clause 11.1(a)(ii) shall be prepared in accordance with IFRS.
- (d) When the financial statements and other information are made available to the Bondholders pursuant to Clause 11.1(a), the Issuer shall send copies of such financial statements and other information to the Agent.

- (e) The Issuer shall promptly notify the Agent and the Bondholders upon becoming aware of the occurrence of a Change of Control Event or Delisting Event, and shall provide the Agent with such further information as the Agent may request (acting reasonably) following receipt of such notice. A notice regarding a Change of Control Event may be given in advance of the occurrence of a Change of Control Event, conditioned upon the occurrence of such Change of Control Event, if a definitive agreement is in place providing for a Change of Control Event.
- (f) The Issuer shall promptly notify the Agent (with full particulars) upon becoming aware of the occurrence of any event or circumstance which constitutes 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 or any combination of any of the foregoing) constitute an Event of Default, and shall provide the Agent with such further information as it may reasonably request in writing following receipt of such notice. Should the Agent not receive such information, the Agent is entitled to assume that no such event or circumstance exists or can be expected to occur, provided that the Agent does not have actual knowledge of such event or circumstance.
- (g) The Issuer shall submit a duly executed Compliance Certificate to the Agent:
  - (i) in connection with the delivery of a Financial Report;
  - (ii) in connection with the incurrence of Financial Indebtedness as set out in item (h) of the definition of Permitted Debt;
  - (iii) in connection with that the annual financial statements are made available; and
  - (iv) in connection with the distribution of a Restricted Payment.
- (h) The Agent may assume that any information provided by the Issuer in the Compliance Certificate delivered pursuant to paragraph (f) above is correct, and the Agent shall not be responsible or liable for the adequacy, accuracy or completeness of such information.
- (i) The Issuer is only obliged to inform the Agent according to this Clause 11.1 if informing the Agent would not conflict with any applicable laws or, when the Bonds are listed, the Issuer's registration contract with the Regulated Market. If such a conflict would exist pursuant to the listing contract with the Regulated Market or otherwise, the Issuer shall however be obliged to either seek approval from the Regulated Market or undertake other reasonable measures, including entering into a non-disclosure agreement with the Agent, in order to be able to timely inform the Agent according to this Clause 11.1.

## **11.2 Information from the Agent**

- (a) Subject to applicable laws, regulations and the restrictions of a non-disclosure agreement entered into by the Agent in accordance with Clause 11.2(b), the Agent is entitled to disclose to the Bondholders any event or circumstance

directly or indirectly relating to the Issuer or the Bonds. Notwithstanding the foregoing, the Agent may if it considers it to be beneficial to the interests of the Bondholders delay disclosure or refrain from disclosing certain information other than in respect of an Event of Default that has occurred and is continuing.

- (b) If a committee representing the Bondholders' interests under the Finance Documents has been appointed by the Bondholders in accordance with Clause 16 (*Decisions by Bondholders*), the members of such committee may agree with the Issuer not to disclose information received from the Issuer, provided that it, in the reasonable opinion of such members, is beneficial to the interests of the Bondholders. The Agent shall be a party to such agreement and receive the same information from the Issuer as the members of the committee.

### **11.3 Publication of Finance Documents**

- (a) The latest version of these Terms and Conditions (including any documents amending these Terms and Conditions) shall be available on the websites of the Group and the Agent.
- (b) The latest version of the Finance Documents shall be available to the Bondholders at the office of the Agent during the Agent's normal business hours.

## **12. Financial Undertakings**

### **12.1 Maintenance Test**

The Maintenance Test is met if the ratio of Net Interest Bearing Debt to EBITDA is equal to or less than:

- (a) 4.50x from the First Issue Date until (and including) the date falling twelve (12) months after the First Issue Date;
- (b) 4.00x from (but excluding) the date falling twelve (12) months after the First Issue Date until (and including) the date falling twenty-four (24) months after the First Issue Date; and
- (c) 3.50x from (but excluding) the date falling twenty-four (24) months after the First Issue Date until (and including) the Final Redemption Date.

### **12.2 Testing of the Maintenance Test**

The Maintenance Test shall be tested by reference to each of the Financial Reports on each Reference Date with respect to the Reference Period ending on such Reference Date.

### **12.3 Equity Cure**

If there is a breach of any of the Maintenance Test, no Event of Default will occur if, within thirty (30) Business Days of the earlier of (i) a delivery of the relevant Compliance

Certificate evidencing that breach and (ii) the date when such Compliance Certificate should have been delivered, the Issuer has received equity injection in cash in the form of a share issue, an unconditional shareholder contribution or Shareholder Loans in an amount sufficient to ensure compliance with the relevant Maintenance Test, as at the relevant Reference Date (the "**Cure Amount**").

The calculation of the Leverage Ratio shall be adjusted so that the Net Interest Bearing Debt for the Reference Period is reduced with an amount equal to the Cure Amount.

Any Equity Cure must be made in cash and no more than three (3) Equity Cures are to be made over the life of the Bonds. Equity Cures may not be injected in respect of any consecutive calendar quarters.

## **12.4 Incurrence Test**

The Incurrence Test is met if:

- (a) the Leverage Ratio is not greater than;
  - (i) 3.00:1 for the period up to, and including, the date falling twelve (12) months after the First Issue Date;
  - (ii) 2.75:1 for the period up to, but excluding, the date falling twelve (12) months after the First Issue Date to, and including, the date falling twenty-four (24) months after the First Issue Date;
  - (iii) 2.50:1 for the period up to, but excluding, the date falling twenty-four (24) months after the First Issue Date to, and including, the Final Maturity Date;
- (b) no Event of Default is continuing or would occur upon the incurrence of Financial Indebtedness, or distribution (as applicable).

## **12.5 Testing of the Incurrence Test**

The Leverage Ratio for purpose of the Incurrence Test shall be calculated as follows:

- (a) the calculation shall be made as per a testing date determined by the Issuer, falling no more than three (3) months prior to the incurrence of the new Financial Indebtedness or the making of a Restricted Payment (as applicable); and
- (b) the amount of Net Interest Bearing Debt shall be measured on the relevant testing date so determined, but include any new Financial Indebtedness provided it is an interest bearing obligation and exclude any Financial Indebtedness to the extent refinanced with the new Financial Indebtedness incurred (however, any cash balance resulting from the incurrence of any new Financial Indebtedness shall not reduce the Net Interest Bearing Debt).

## 12.6 Calculation Adjustments

EBITDA for the Incurrence Test and the Maintenance Test shall be calculated as set out below.

The figures for EBITDA for the Reference Period ending on the relevant test date shall be used but adjusted so that:

- (a) entities acquired by the Group during the Reference Period, or after the end of the Reference Period but before the relevant testing date, shall be included, pro forma, for the entire Reference Period; and
- (b) entities disposed of by the Group during the Reference Period, or after the end of the Reference Period but before the relevant testing date, shall be excluded, pro forma, for the entire Reference Period.

## 13. General Undertakings

### 13.1 General

The Issuer undertakes to (and shall, where applicable, procure that each other Group Company will and shall procure that each Obligor (pursuant to the Guarantee and Adherence Agreement) undertakes to]) comply with the undertakings set out in this Clause 13 for as long as any Bonds remain outstanding.

### 13.2 Restricted Payments

- (a) The Issuer shall not and shall procure that none of its Subsidiaries will:
  - (i) pay any dividend on its shares (other than to the Issuer or a wholly-owned, direct or indirect, Subsidiary of the Issuer and, if made by a Subsidiary which is not directly or indirectly wholly-owned by the Issuer, is made on a *pro rata* basis);
  - (ii) repurchase or redeem any of its own shares;
  - (iii) redeem or reduce its share capital or other restricted or unrestricted equity with repayment to its shareholders;
  - (iv) repay any Shareholder Loans or pay any interest thereon;
  - (v) make any prepayments or repayments under any long term debt ranking junior or *pari passu* with the Bonds;
  - (vi) grant any loans (other than to the Issuer or a wholly-owned Subsidiary of the Issuer); or
  - (vii) make any other similar distribution or transfers of value to the direct or indirect shareholders of the Issuer, or any Affiliates of the Issuer (other than to the Issuer or a wholly-owned, direct or indirect, Subsidiary of the



Issuer and, if made by a Subsidiary which is not directly or indirectly wholly-owned by the Issuer, is made on a *pro rata basis*).

(paragraphs (i)-(vii) above are together and individually referred to as a "**Restricted Payment**").

- (b) Notwithstanding the above, the Share Repurchase and the repayment of the Existing Debt shall be permitted, and a Restricted Payment may be made by the Issuer if an Equity Listing Event has occurred, provided that at the time of the payment:
  - (i) no Event of Default is outstanding or would occur as a result of such Restricted Payment;
  - (ii) the Incurrence Test is met (calculated on a *pro forma* basis including the relevant Restricted Payment); and
  - (iii) the aggregate amount of all Restricted Payments of the Group in any financial year (including the relevant Restricted Payment in question) does not exceed 50 per cent of the Group's consolidated net profit for the previous financial year.

### 13.3 Listing

The Issuer shall use its best efforts to ensure that:

- (a) the initial Bonds are listed on (A) a Regulated Market within 12 months after the issuance of such Bonds and (B) Frankfurt Stock Exchange Open Market no later than 60 days after the First Issue Date and with an intention to list within 30 days;
- (b) any Subsequent Bonds are listed on (A) the relevant Regulated Market no later than 60 days after the issuance of such Subsequent Bonds and with an intention to list within 30 days (unless such Subsequent Bonds are issued prior to the date falling 12 months from the First Issue Date in which case they shall be listed within 12 months from the First Issue Date and (B) Frankfurt Stock Exchange Open Market no later than 60 days after the issuance of such Subsequent Bonds and with an intention to list within 30 days; and
- (c) the Bonds, if admitted to trading on a Regulated Market and/or Frankfurt Stock Exchange Open Market, continue being listed thereon for as long as any Bond is outstanding (however, taking into account the rules and regulations of the relevant Regulated Market and/or Frankfurt Stock Exchange Open Market and the CSD (as amended from time to time) preventing trading in the Bonds in close connection to the redemption of the Bonds).

### 13.4 Nature of Business

The Issuer shall procure that no substantial change is made to the general nature of the business carried on by the Group as of the First Issue Date if such substantial change would have a Material Adverse Effect.

### **13.5 Financial Indebtedness**

No Obligor shall, and shall procure that none of its Subsidiaries will, incur any Financial Indebtedness, other than Permitted Debt.

### **13.6 Disposal of Assets**

Subject to the terms of the Intercreditor Agreement (if any), the Issuer shall not, and shall procure that no Subsidiary, sell or otherwise dispose of shares in any Subsidiary or of all or substantially all of its or that Subsidiary's assets, or operations to any Person not being the Issuer or any of its wholly-owned Subsidiaries, unless the transaction (i) is carried out at fair market value and on arm's length terms and (ii) does not have a Material Adverse Effect.

### **13.7 Guarantor Coverage**

The Issuer shall, within 60 days from the delivery of the Compliance Certificate delivered in connection with the Group's annual audited consolidated financial statements, ensure that the Guarantor Coverage Ratios are at least 80 %.

### **13.8 Negative Pledge**

The Issuer shall not, and shall procure that none of its Subsidiaries will, provide, prolong or renew any security over any of its/their assets (present or future), other than any Permitted Security.

### **13.9 Dealings at arm's length terms**

The Issuer shall, and shall procure that its Subsidiaries, conduct all dealings with the direct and indirect shareholders of the Group Companies (excluding other Group Companies) and/or any Affiliates of such direct and indirect shareholders at arm's length terms.

### **13.10 Compliance with laws and authorisations**

The Issuer shall, and shall make sure that its Subsidiaries will, (i) comply with all laws and regulations applicable from time to time and (ii), obtain, maintain, and comply with, the terms and conditions of any authorisation, approval, licence, registration or other permit required for the business carried out by a Group Company, in each case, if failure to do so has or is reasonably likely to have a Material Adverse Effect.

### **13.11 Loans Out**

The Issuer shall not, and shall procure that no other Group Company will, extend any loans in any form to any other party than (i) to other Group Companies, (ii) if applicable, to the Parent to make the Share Repurchase, or (iii) in the ordinary course of business.

### 13.12 Additional Security Material Intra-Group Loans

The Issuer shall no later than 60 calendar days, upon the provision of a Material Intra-Group Loan, grant a pledge over that Material Intra-Group Loan as Security (subject to customary financial assistance and corporate benefit limitations) for all amounts outstanding under the Finance Documents and simultaneously therewith deliver to the Agent (unless previously provided):

- (a) constitutional documents and corporate resolutions (approving the relevant Security Documents and authorising a signatory/-ies to execute the relevant Security Document) for the relevant security provider, and each other party to that Security Document (other than the Agent);
- (b) a legal opinion on the capacity and due execution, in respect of any entity being party to the relevant Security Document unless it is incorporated in Sweden, issued by a reputable law firm; and
- (c) any legal opinion on the validity and enforceability in respect of the relevant Security Document unless it is governed by Swedish law which, if requested by the Agent, shall also include customary opinions regarding the role of the Security Agent in such jurisdiction (such as no residency or registration requirement and no need to deposit funds), issued by a reputable law firm.

### 13.13 Reorganisation

- (a) Subject to (b) below, the Issuer shall, before 30 June 2020 (and at all times thereafter), procure that all members of the Group (other than the Issuer) are owned, directly or indirectly, by a Holdco and that each Holdco is directly owned by the Issuer.
- (b) Notwithstanding (a) above, the entities AdUx S.A., French reg. no. 418 093 761, and Sulake Oy, Finnish reg. no. 2011433-9, shall be transferred to a Holdco on or before 31 December 2020.

## 14. Events of Default and Acceleration of the Bonds

Each of the events or circumstances set out in this Clause 14 (other than Clause 14.11 (*Acceleration of the Bonds*)) is an Event of Default.

### 14.1 Non-Payment

The Issuer or Guarantor fails to pay an amount on the date it is due in accordance with the Finance Documents unless:

- (a) its failure to pay is caused by administrative or technical error and
- (b) payment is made within five (5) Business Days of the due date.

## 14.2 Maintenance Test

The Issuer has failed to comply with any of the Maintenance Test and such failure has not been cured in accordance with provisions for an Equity Cure.

## 14.3 Other Obligations

A party (other than the Agent) fails to comply with the Finance Documents, in any other way than as set out in Clause 14.1 (*Non-Payment*), provided that no Event of Default will occur if the failure to comply is capable of being remedied and the Issuer or that party has remedied the failure within twenty (20) Business Days of the earlier (i) the Issuer or that party becoming aware of the failure to comply and (ii) the Agent requesting the Issuer in writing to remedy such failure.

## 14.4 Cross payment default and Cross-acceleration

Any Financial Indebtedness of a Group Company is:

- (a) not paid when due as extended by any originally applicable grace period (if there is one); or
- (b) declared to be due and payable prior to its specified maturity as a result of an event of default (however described),

provided that no Event of Default will occur under this Clause 14.4 if (i) the aggregate amount of Financial Indebtedness that has fallen due is less than EUR 1,000,000 or (ii) it is owed to a Group Company.

## 14.5 Insolvency

- (a) Any Group Company is unable or admits inability to pay its debts as they fall due or is declared to be unable to pay its debts under applicable law, suspends making payments on its debts generally or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors (except for Bondholders) with a view to rescheduling its Financial Indebtedness.
- (b) A moratorium is declared in respect of the Financial Indebtedness of any Group Company.

## 14.6 Insolvency Proceedings

Any corporate action, legal proceedings or other procedures are taken (other than (i) proceedings or petitions which are being disputed in good faith and are discharged, stayed or dismissed within 60 Business Days of commencement or, if earlier, the date on which it is advertised (ii) proceedings or petitions concerning a claim which is less than EUR 1,000,000 (or the equivalent thereof in any other currency) and (iii) in relation to Subsidiaries of the Issuer not being an Obligor or subject to Transaction Security, solvent liquidations) in relation to:

- (a) the suspension of payments, winding-up, dissolution, administration or reorganisation (Sw. *företagsrekonstruktion*) (by way of voluntary agreement, scheme of arrangement or otherwise) of any Group Company; and
- (b) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Group Company or any of its assets or any analogous procedure or step is taken in any jurisdiction.

#### **14.7 Creditors' Process**

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Group Company having an aggregate value of an amount equal to or exceeding EUR 1,000,000 and is not discharged within 60 Business Days.

#### **14.8 Mergers and demergers**

A decision is made that any Group Company shall be demerged or merged if such merger or demerger is likely to have a Material Adverse Effect, provided that a merger subject to existing security between Subsidiaries only or between the Issuer and a Subsidiary, where the Issuer is the surviving entity, shall not be an Event of Default and a merger involving the Issuer, where the Issuer is not the surviving entity, shall always be considered an Event of Default and provided that the Issuer may not be demerged.

#### **14.9 Impossibility or Illegality**

It is or becomes impossible or unlawful for the Issuer to fulfill or perform any of the provisions of the Finance Documents or if the obligations under the Finance Documents are not, or cease to be, legal, valid, binding and enforceable.

#### **14.10 Continuation of the Business**

The Issuer or any other Group Company ceases to carry on its business (other than (i) following a Permitted Merger, (ii) a solvent liquidation permitted pursuant to Clause 14.6 (*Insolvency Proceedings*) above or (iii) a disposal permitted under the Finance Documents), if such discontinuation is likely to have a Material Adverse Effect.

#### **14.11 Acceleration of the Bonds**

- (a) Upon the occurrence of an Event of Default which is continuing but subject to the terms of the Intercreditor Agreement (if any), the Agent is entitled to, and shall following a demand in writing from a Bondholder (or Bondholders) representing at least fifty (50) per cent. of the Adjusted Nominal Amount (such demand may only be validly made by a Person who is a Bondholder on the Business Day immediately following the day on which the demand is received by the Agent and shall, if made by several Bondholders, be made by them jointly) or following an instruction given pursuant to Clause 14.11(d), on behalf of the Bondholders (i) by notice to the Issuer, declare all, but not some only, of the outstanding Bonds due and payable together with any other amounts payable

under the Finance Documents, immediately or at such later date as the Agent determines, and (ii) exercise any or all of its rights, remedies, powers and discretions under the Finance Documents.

- (b) The Agent may not accelerate the Bonds in accordance with Clause 14.11(a) by reference to a specific Event of Default if it is no longer continuing or if it has been decided, on a Bondholders Meeting or by way of a Written Procedure, to waive such Event of Default (temporarily or permanently).
- (c) The Agent shall notify the Bondholders of an Event of Default within five (5) Business Days of the date on which the Agent received actual knowledge of that an Event of Default has occurred and is continuing. The Agent shall, within twenty (20) Business Days of the date on which the Agent received actual knowledge of that an Event of Default has occurred and is continuing, decide if the Bonds shall be so accelerated. If the Agent decides not to accelerate the Bonds, the Agent shall promptly seek instructions from the Bondholders in accordance with Clause 16 (*Decisions by Bondholders*).] The Agent shall always be entitled to take the time necessary to consider whether an occurred event constitutes an Event of Default.
- (d) If the Bondholders (in accordance with these Terms and Conditions) instruct the Agent to accelerate the Bonds, the Agent shall promptly declare the Bonds due and payable and take such actions as may, in the opinion of the Agent, be necessary or desirable to enforce the rights of the Bondholders under the Finance Documents, unless the relevant Event of Default is no longer continuing.
- (e) If the right to accelerate the Bonds is based upon a decision of a court of law or a government authority, it is not necessary that the decision has become enforceable under law or that the period of appeal has expired in order for cause of acceleration to be deemed to exist.
- (f) Subject to the Intercreditor Agreement (if any), in the event of an acceleration of the Bonds in accordance with this Clause 14.11, the Issuer shall up to, but excluding, the First Call Date redeem all Bonds at an amount per Bond equal to the Call Option Amount set out in Clause 9.3(a)(ii) and thereafter, as applicable considering when the acceleration occurs, redeem all Bonds at an amount per Bond equal to the Call Option Amount for the relevant period.

## 15. Distribution of Proceeds

- (a) Unless an Intercreditor Agreement has been entered into, all payments by the Issuer relating to the Bonds and the Finance Documents following an acceleration of the Bonds in accordance with Clause 14 (*Events of Default and Acceleration of the Bonds*) and any proceeds received from an enforcement of the Transaction Security or the Guarantees (in the case of Guarantees to the extent proceeds from the Guarantees can be applied towards satisfaction of the below) shall be distributed in the following order of priority:
  - (i) *first*, in or towards payment *pro rata* of (i) all unpaid fees, costs, expenses and indemnities payable by the Issuer to the Agent in

accordance with the Agency Agreement (other than any indemnity given for liability against the Bondholders), (ii) other costs, expenses and indemnities relating to the acceleration of the Bonds, the enforcement of the Transaction Security or the Guarantees or the protection of the Bondholders' rights as may have been incurred by the Agent, (iii) any costs incurred by the Agent for external experts that have not been reimbursed by the Issuer in accordance with Clause 20.2(g), and (iv) any costs and expenses incurred by the Agent in relation to a Bondholders' Meeting or a Written Procedure that have not been reimbursed by the Issuer in accordance with Clause 16(m);

- (ii) *secondly*, in or towards payment *pro rata* of accrued but unpaid Interest under the Bonds (Interest due on an earlier Interest Payment Date to be paid before any Interest due on a later Interest Payment Date);
- (iii) *thirdly*, in or towards payment *pro rata* of any unpaid principal under the Bonds; and
- (iv) *fourthly*, in or towards payment *pro rata* of any other costs or outstanding amounts unpaid under the Finance Documents.

Any excess funds after the application of proceeds in accordance with paragraphs (i) to (iv) above shall be paid to the Issuer (or the Guarantors, as applicable).

- (b) If the Intercreditor Agreement has been entered into, all payments by the Issuer relating to the Bonds and the Finance Documents following an acceleration of the Bonds in accordance with Clause 14 (*Events of Default and Acceleration of the Bonds*) and any proceeds received from an enforcement of the Transaction Security or the Guarantees (in the case of Guarantees to the extent proceeds from the Guarantees can be applied towards satisfaction of the Secured Obligations) shall be distributed in accordance with the Intercreditor Agreement
- (c) If a Bondholder or another party has paid any fees, costs, expenses or indemnities referred to in Clause 15(a)(i), such Bondholder or other party shall be entitled to reimbursement by way of a corresponding distribution in accordance with Clause 15(a)(i).
- (d) Unless the Intercreditor Agreement has been entered into, funds that the Agent receives (directly or indirectly) in connection with the acceleration of the Bonds or the enforcement of the Transaction Security or the Guarantees constitute escrow funds (*Sw. redovisningsmedel*) and must be held on a separate interest-bearing account on behalf of the Bondholders and the other interested parties. The Agent shall arrange for payments of such funds in accordance with this Clause 15 as soon as reasonably practicable. If the Intercreditor Agreement has been entered into, funds that the Agent receives (directly or indirectly) in connection with the acceleration of the Bonds or the enforcement of the Transaction Security or the Guarantees constitute escrow funds (*Sw. redovisningsmedel*) and must be promptly turned over to the Security Agent to be applied in accordance with the Intercreditor Agreement.

- (e) If the Issuer or the Agent shall make any payment under this Clause 15, the Issuer or the Agent, as applicable, shall notify the Bondholders of any such payment at least fifteen (15) Business Days before the payment is made. Such notice shall specify the Record Date, the payment date and the amount to be paid. Notwithstanding the foregoing, for any Interest due but unpaid the Record Date specified in Clause 7(a) shall apply.

## 16. Decisions by Bondholders

- (a) A request by the Agent for a decision by the Bondholders on a matter relating to the Finance Documents shall (at the option of the Agent) be dealt with at a Bondholders' Meeting or by way of a Written Procedure.
- (b) Any request from the Issuer or a Bondholder (or Bondholders) representing at least ten (10) per cent. of the Adjusted Nominal Amount (such request may only be validly made by a Person who is a Bondholder on the Business Day immediately following the day on which the request is received by the Agent and shall, if made by several Bondholders, be made by them jointly) for a decision by the Bondholders on a matter relating to the Finance Documents shall be directed to the Agent and dealt with at a Bondholders' Meeting or by way of a Written Procedure, as determined by the Agent. The Person requesting the decision may suggest the form for decision making, but if it is in the Agent's opinion more appropriate that a matter is dealt with at a Bondholders' Meeting than by way of a Written Procedure, it shall be dealt with at a Bondholders' Meeting.
- (c) The Agent may refrain from convening a Bondholders' Meeting or instigating a Written Procedure if (i) the suggested decision must be approved by any Person in addition to the Bondholders and such Person has informed the Agent that an approval will not be given, or (ii) the suggested decision is not in accordance with applicable laws.
- (d) Only a Person who is, or who has been provided with a power of attorney or other authorisation pursuant to Clause 6 (*Right to Act on Behalf of a Bondholder*) from a Person who is, registered as a Bondholder:
  - (i) on the Record Date prior to the date of the Bondholders' Meeting, in respect of a Bondholders' Meeting, or
  - (ii) on the Business Day specified in the communication pursuant to Clause 18(c), in respect of a Written Procedure,

may exercise voting rights as a Bondholder at such Bondholders' Meeting or in such Written Procedure, provided that the relevant Bonds are included in the definition of Adjusted Nominal Amount.
- (e) The following matters shall require the consent of Bondholders representing at least sixty-six and two thirds ( $66 \frac{2}{3}$ ) per cent. of the Adjusted Nominal Amount for which Bondholders are voting at a Bondholders' Meeting or for which



Bondholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 18(c):

- (i) the issue of any Subsequent Bonds, if the total nominal amount of the Bonds exceeds, or if such issue would cause the total nominal amount of the Bonds to at any time exceed, EUR 100,000,000 (for the avoidance of doubt, for which consent shall be required at each occasion such Subsequent Bonds are issued);
  - (ii) a change to the terms of any of Clause 2(a), and Clauses 2(f) to 2(h);
  - (iii) reduction of the premium payable upon the redemption or repurchase of any Bond pursuant to Clause 9 (*Redemption and Repurchase of the Bonds*);
  - (iv) a change to the Interest Rate or the Nominal Amount;
  - (v) waive a breach of or amend an undertaking set out in Clause 13 (*General Undertakings*);
  - (vi) a change to the terms for the distribution of proceeds set out in Clause 15 (*Distribution of Proceeds*);
  - (vii) a change to the terms dealing with the requirements for Bondholders' consent set out in this Clause 16;
  - (viii) a change of issuer, an extension of the tenor of the Bonds or any delay of the due date for payment of any principal or interest on the Bonds;
  - (ix) a release of the Transaction Security or the Guarantees, except in accordance with the terms of the Security Documents and/or the Guarantee and Adherence Agreement (as applicable);
  - (x) a mandatory exchange of the Bonds for other securities; and
  - (xi) early redemption of the Bonds, other than upon an acceleration of the Bonds pursuant to Clause 14 (*Events of Default and Acceleration of the Bonds*) or as otherwise permitted or required by these Terms and Conditions.
- (f) Any matter not covered by Clause 16(e) shall require the consent of Bondholders representing more than 50 per cent. of the Adjusted Nominal Amount for which Bondholders are voting at a Bondholders' Meeting or for which Bondholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 18(c). This includes, but is not limited to, any amendment to, or waiver of, the terms of any Finance Document that does not require a higher majority (other than an amendment permitted pursuant to Clause 19(a)(i) or 19(a)(ii)), an acceleration of the Bonds, or the enforcement of any Transaction Security or Guarantees.

- (g) Quorum at a Bondholders' Meeting or in respect of a Written Procedure only exists if a Bondholder (or Bondholders) representing at least fifty (50) per cent. of the Adjusted Nominal Amount in case of a matter pursuant to Clause 16(e), and otherwise twenty (20) per cent. of the Adjusted Nominal Amount:
  - (i) if at a Bondholders' Meeting, attend the meeting in person or by telephone conference (or appear through duly authorised representatives); or
  - (ii) if in respect of a Written Procedure, reply to the request.

If a quorum exists for some, but not all, of the matters to be dealt with at a Bondholders' Meeting or by a Written Procedure, decisions may be taken in the matters for which a quorum exists.

- (h) If a quorum does not exist at a Bondholders' Meeting or in respect of a Written Procedure, the Agent or the Issuer shall convene a second Bondholders' Meeting (in accordance with Clause 17(a)) or initiate a second Written Procedure (in accordance with Clause 18(a)), as the case may be, provided that the relevant proposal has not been withdrawn by the Person(s) who initiated the procedure for Bondholders' consent. The quorum requirement in Clause 16(g) shall not apply to such second Bondholders' Meeting or Written Procedure.
- (i) Any decision which extends or increases the obligations of the Issuer or the Agent, or limits, reduces or extinguishes the rights or benefits of the Issuer or the Agent, under the Finance Documents shall be subject to the Issuer's or the Agent's consent, as appropriate.
- (j) A Bondholder holding more than one Bond need not use all its votes or cast all the votes to which it is entitled in the same way and may in its discretion use or cast some of its votes only.
- (k) The Issuer may not, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Bondholder for or as inducement to any consent under these Terms and Conditions, unless such consideration is offered to all Bondholders that consent at the relevant Bondholders' Meeting or in a Written Procedure within the time period stipulated for the consideration to be payable or the time period for replies in the Written Procedure, as the case may be.
- (l) A matter decided at a duly convened and held Bondholders' Meeting or by way of Written Procedure is binding on all Bondholders, irrespective of them being present or represented at the Bondholders' Meeting or responding in the Written Procedure. The Bondholders that have not adopted or voted for a decision shall not be liable for any damages that this may cause other Bondholders.

- (m) All costs and expenses incurred by the Issuer or the Agent for the purpose of convening a Bondholders' Meeting or for the purpose of carrying out a Written Procedure, including reasonable fees to the Agent, shall be paid by the Issuer.
- (n) If a decision shall be taken by the Bondholders on a matter relating to the Finance Documents, the Issuer shall promptly at the request of the Agent provide the Agent with a certificate specifying the number of Bonds owned by Group Companies or (to the knowledge of the Issuer) Affiliates, irrespective of whether such Person is directly registered as owner of such Bonds. The Agent shall not be responsible for the accuracy of such certificate or otherwise be responsible to determine whether a Bond is owned by a Group Company or an Affiliate.
- (o) Information about decisions taken at a Bondholders' Meeting or by way of a Written Procedure shall promptly be sent by notice to the Bondholders and published on the websites of the Group and the Agent, provided that a failure to do so shall not invalidate any decision made or voting result achieved. The minutes from the relevant Bondholders' Meeting or Written Procedure shall at the request of a Bondholder be sent to it by the Issuer or the Agent, as applicable.

## **17. Bondholders' Meeting**

- (a) The Agent shall convene a Bondholders' Meeting by sending a notice thereof to each Bondholder no later than five (5) Business Days after receipt of a request from the Issuer or the Bondholder(s) (or such later date as may be necessary for technical or administrative reasons).
- (b) Should the Issuer want to replace the Agent, it may convene a Bondholders' Meeting in accordance with Clause 17(a) with a copy to the Agent. After a request from the Bondholders pursuant to Clause 20.4(c), the Issuer shall no later than five (5) Business Days after receipt of such request (or such later date as may be necessary for technical or administrative reasons) convene a Bondholders' Meeting in accordance with Clause 17(a).
- (c) The notice pursuant to Clause 17(a) shall include (i) time for the meeting, (ii) place for the meeting, (iii) agenda for the meeting (including each request for a decision by the Bondholders) and (iv) a form of power of attorney. Only matters that have been included in the notice may be resolved upon at the Bondholders' Meeting. Should prior notification by the Bondholders be required in order to attend the Bondholders' Meeting, such requirement shall be included in the notice.
- (d) The Bondholders' Meeting shall be held no earlier than fifteen (15) Business Days and no later than thirty (30) Business Days from the notice.
- (e) Without amending or varying these Terms and Conditions, the Agent may prescribe such further regulations regarding the convening and holding of a Bondholders' Meeting as the Agent may deem appropriate. Such regulations

may include a possibility for Bondholders to vote without attending the meeting in person.

## **18. Written Procedure**

- (a) The Agent shall instigate a Written Procedure (which may be conducted electronically) no later than five (5) Business Days after receipt of a request from the Issuer or the Bondholder(s) (or such later date as may be necessary for technical or administrative reasons) by sending a communication to each such Person who is registered as a Bondholder on the Business Day prior to the date on which the communication is sent.
- (b) Should the Issuer want to replace the Agent, it may send a communication in accordance with Clause 18(a) to each Bondholder with a copy to the Agent.
- (c) A communication pursuant to Clause 18(a) shall include (i) each request for a decision by the Bondholders, (ii) a description of the reasons for each request, (iii) a specification of the Business Day on which a Person must be registered as a Bondholder in order to be entitled to exercise voting rights, (iv) instructions and directions on where to receive a form for replying to the request (such form to include an option to vote yes or no for each request) as well as a form of power of attorney, and (v) the stipulated time period within which the Bondholder must reply to the request (such time period to last at least fifteen (15) Business Days from the communication pursuant to Clause 18(a)). If the voting shall be made electronically, instructions for such voting shall be included in the communication.
- (d) When the requisite majority consents of the total Adjusted Nominal Amount pursuant to Clauses 16(e) and 16(f) have been received in a Written Procedure, the relevant decision shall be deemed to be adopted pursuant to Clause 16(e) or 16(f), as the case may be, even if the time period for replies in the Written Procedure has not yet expired.

## **19. Amendments and Waivers**

- (a) The Issuer and the Agent and/or the Security Agent (as applicable) (in each case acting on behalf of the Bondholders) may agree to amend the Finance Documents or waive any provision in a Finance Document, provided that:
  - (i) such amendment or waiver is not detrimental to the interest of the Bondholders, or is made solely for the purpose of rectifying obvious errors and mistakes;
  - (ii) such amendment or waiver is required by applicable law, a court ruling or a decision by a relevant authority; or
  - (iii) such amendment or waiver has been duly approved by the Bondholders in accordance with Clause 16 (*Decisions by Bondholders*).

- (b) The consent of the Bondholders is not necessary to approve the particular form of any amendment to the Finance Documents. It is sufficient if such consent approves the substance of the amendment or waiver.
- (c) The Agent shall promptly notify the Bondholders of any amendments or waivers made in accordance with Clause 19(a), setting out the date from which the amendment or waiver will be effective, and ensure that any amendments to the Finance Documents are published in the manner stipulated in Clause 11.3 (*Publication of Finance Documents*). The Issuer shall ensure that any amendments to the Finance Documents are duly registered with the CSD and each other relevant organisation or authority, to the extent such registration is possible with the rules of the relevant CSD.
- (d) An amendment to the Finance Documents shall take effect on the date determined by the Bondholders Meeting, in the Written Procedure or by the Agent, as the case may be.

## **20. Appointment and Replacement of the Agent and the Security Agent**

### **20.1 Appointment of Agent and the Security Agent**

- (a) By subscribing for Bonds, each initial Bondholder:
  - (i) appoints the Agent and the Security Agent to act as its agent and security agent (as applicable) in all matters relating to the Bonds and the Finance Documents, and authorises each of the Agent and the Security Agent to act on its behalf (without first having to obtain its consent, unless such consent is specifically required by these Terms and Conditions) in any legal or arbitration proceedings relating to the Bonds held by such Bondholder including any legal or arbitration proceeding relating to the perfection, preservation, protection or enforcement of the Transaction Security and the Guarantees; and
  - (ii) confirms, after the entering into of the Intercreditor Agreement (if any), the appointment under the Intercreditor Agreement of the Security Agent to act as its agent in all matters relating to the Transaction Security, the Security Documents, the Guarantees and the Guarantee and Adherence Agreement, including any legal or arbitration proceeding relating to the perfection, preservation, protection or enforcement of the Transaction Security and the Guarantees and acknowledges and agrees that the rights, obligations, role of and limitations of liability for the Security Agent is further regulated in the Intercreditor Agreement.
- (b) By acquiring Bonds, each subsequent Bondholder confirms the appointment and authorisation for the Agent and the Security Agent to act on its behalf, as set forth in Clause 20.1(a).
- (c) Each Bondholder shall immediately upon request provide the Agent and the Security Agent with any such documents, including a written power of attorney (in form and substance satisfactory to the Agent or the Security Agent, as

applicable), that the Agent or the Security Agent (as applicable) deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents. Neither the Agent nor the Security Agent is under any obligation to represent a Bondholder which does not comply with such request.

- (d) The Issuer shall promptly upon request provide the Agent and the Security Agent with any documents and other assistance (in form and substance satisfactory to the Agent or the Security Agent, as applicable), that the Agent or the Security Agent (as applicable) deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents.
- (e) Each of the Agent and the Security Agent is entitled to fees for its respective work and to be indemnified for costs, losses and liabilities on the terms set out in the Finance Documents and the Agent's and the Security Agent's respective obligations as Agent and Security Agent (as applicable) under the Finance Documents are conditioned upon the due payment of such fees and indemnifications.
- (f) Each of the Agent and the Security Agent may act as agent or trustee for several issues of securities issued by or relating to the Issuer and other Group Companies notwithstanding potential conflicts of interest.

## **20.2 Duties of the Agent and the Security Agent**

- (a) Each of the Agent and the Security Agent shall represent the Bondholders subject to and in accordance with the Finance Documents, including, *inter alia*, holding the Transaction Security pursuant to the Security Documents and the Guarantees pursuant to the Guarantee and Adherence Agreement on behalf of the Bondholders and, where relevant, enforcing the Transaction Security on behalf of the Bondholders. Neither the Agent nor the Security Agent is responsible for the content, valid execution, legal validity or enforceability of the Finance Documents or the perfection of the Transaction Security.
- (b) When acting in accordance with the Finance Documents, each of the Agent and the Security Agent is always acting with binding effect on behalf of the Bondholders. Each of the Agent and the Security Agent shall carry out its duties under the Finance Documents in a reasonable, proficient and professional manner, with reasonable care and skill.
- (c) Each of the Agent's and the Security Agent's duties under the Finance Documents are solely mechanical and administrative in nature and the Agent and the Security Agent only acts in accordance with the Finance Documents and upon instructions from the Bondholders, unless otherwise set out in the Finance Documents. In particular, neither the Agent nor the Security Agent is acting as an advisor (whether legal, financial or otherwise) to the Bondholders or any other Person.
- (d) Neither the Agent nor the Security Agent is obligated to assess or monitor the financial condition of the Issuer or compliance by the Issuer of the terms of the

Finance Documents unless to the extent expressly set out in the Finance Documents, or to take any steps to ascertain whether any Event of Default (or any event that may lead to an Event of Default) has occurred. Until it has actual knowledge to the contrary, each of the Agent and the Security Agent is entitled to assume that no Event of Default (or any event that may lead to an Event of Default) has occurred.

- (e) Each of the Agent and the Security Agent is entitled to delegate its duties to other professional parties, but each of them shall remain liable for the actions of such parties under the Finance Documents.
- (f) Each of the Agent and the Security Agent shall treat all Bondholders equally and, when acting pursuant to the Finance Documents, act with regard only to the interests of the Bondholders and shall not be required to have regard to the interests or to act upon or comply with any direction or request of any other Person, other than as explicitly stated in the Finance Documents.
- (g) Each of the Agent and the Security Agent]is entitled to engage external experts when carrying out its duties under the Finance Documents. The Issuer shall on demand by the Agent and/or the Security Agent pay all costs for external experts engaged after the occurrence of an Event of Default, or for the purpose of investigating or considering (i) an event which the Agent reasonably believes is or may lead to an Event of Default, (ii) a matter relating to the Issuer or the Transaction Security which the Agent and/or the Security Agent reasonably believes may be detrimental to the interests of the Bondholders under the Finance Documents or (iii) as otherwise agreed between the Agent and/or the Security Agent and the Issuer. Any compensation for damages or other recoveries received by the Agent and/or the Security Agent from external experts engaged by it for the purpose of carrying out its duties under the Finance Documents shall be distributed in accordance with Clause 15 (*Distribution of Proceeds*).
- (h) Notwithstanding any other provision of the Finance Documents to the contrary, neither the Agent nor the Security Agent is 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.
- (i) If in the Agent's or Security Agent's (as applicable) reasonable opinion the cost, loss or liability which it may incur (including its respective reasonable fees) in complying with instructions of the Bondholders, or taking any action at its own initiative, will not be covered by the Issuer, or the Bondholders (as applicable), the Agent or the Security Agent (as applicable) may refrain from acting in accordance with such instructions, or taking such action, until it has received such funding or indemnities (or adequate Security has been provided therefore) as it may reasonably require.
- (j) Unless it has actual knowledge to the contrary, each of the Agent and the Security Agent may assume that all information provided by or on behalf of the Issuer (including by its advisors) is correct, true and complete in all aspects.

- (k) Each of the Agent and the Security Agent shall give a notice to the Bondholders
  - (i) before it ceases to perform its obligations under the Finance Documents by reason of the non-payment by the Issuer of any fee or indemnity due to the Agent or the Security Agent under the Finance Documents or
  - (ii) if it refrains from acting for any reason described in Clause 20.2(i).

### **20.3 Limited liability for the Agent and the Security Agent**

- (a) Neither the Agent nor the Security Agent will be liable to the Bondholders for damage or loss caused by any action taken or omitted by it under or in connection with any Finance Document, unless directly caused by its negligence or wilful misconduct. Neither the Agent nor the Security Agent shall be responsible for indirect loss.
- (b) Neither the Agent nor the Security Agent shall be considered to have acted negligently if it has acted in accordance with advice addressed to it from or opinions of reputable external experts or if it has acted with reasonable care in a situation when it considers that it is detrimental to the interests of the Bondholders to delay the action in order to first obtain instructions from the Bondholders.
- (c) Neither the Agent nor the Security Agent shall be liable for any delay (or any related consequences) in crediting an account with an amount required pursuant to the Finance Documents to be paid by it to the Bondholders, provided that it has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by it for that purpose.
- (d) Neither the Agent nor the Security Agent shall have any liability to the Bondholders for damage caused by it acting in accordance with instructions of the Bondholders given in accordance with the Finance Documents.
- (e) Any liability towards the Issuer which is incurred by the Agent or the Security Agent in acting under, or in relation to, the Finance Documents shall not be subject to set-off against the obligations of the Issuer to the Bondholders under the Finance Documents.
- (f) The Agent is not liable for information provided to the Bondholders by or on behalf of the Issuer or any other Person.

### **20.4 Replacement of the Agent and the Security Agent**

- (a) Subject to Clause 20.4(f), each of the Agent and the Security Agent may resign by giving notice to the Issuer and the Bondholders, in which case the Bondholders shall appoint a successor Agent and/or the Security Agent at a Bondholders' Meeting convened by the retiring Agent or by way of Written Procedure initiated by the retiring Agent.
- (b) Subject to Clause 20.4(f), if the Agent and/or the Security Agent is Insolvent, the Agent and/or the Security Agent (as applicable) shall be deemed to resign as



Agent and/or the Security Agent (as applicable) and the Issuer shall within ten (10) Business Days appoint a successor Agent and/or a successor Security Agent (as applicable) which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.

- (c) A Bondholder (or Bondholders) representing at least ten (10) per cent. of the Adjusted Nominal Amount may, by notice to the Issuer (such notice may only be validly given by a Person who is a Bondholder on the Business Day immediately following the day on which the notice is received by the Issuer and shall, if given by several Bondholders, be given by them jointly), require that a Bondholders' Meeting is held for the purpose of dismissing the Agent and/or the Security Agent and appointing a new Agent and/or the new Security Agent (as applicable). The Issuer may, at a Bondholders' Meeting convened by it or by way of Written Procedure initiated by it, propose to the Bondholders that the Agent and/or the Security Agent be dismissed and a new Agent and/or a new Security Agent (as applicable) be appointed.
- (d) If the Bondholders have not appointed a successor Agent and/or successor Security Agent within ninety (90) days after (i) the earlier of the notice of resignation was given or the resignation otherwise took place or (ii) the Agent and/or the Security Agent was dismissed through a decision by the Bondholders, the Issuer shall appoint a successor Agent and/or successor Security Agent (as applicable) which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- (e) The retiring Agent and/or the retiring Security Agent (as applicable) shall, at its own cost, make available to the successor Agent and/or the successor Security Agent (as applicable) such documents and records and provide such assistance as the successor Agent and/or successor Security Agent may reasonably request for the purposes of performing its functions as Agent and/or the Security Agent (as applicable) under the Finance Documents.
- (f) The Agent's and the Security Agent's resignation or dismissal shall only take effect upon the appointment of a successor Agent and/or the successor Security Agent (as applicable) and acceptance by such successor Agent and/or the successor Security Agent (as applicable) of such appointment and the execution of all necessary documentation to effectively substitute the retiring Agent and/or the retiring Security Agent (as applicable).
- (g) Upon the appointment of a successor, the retiring Agent and/or the retiring Security Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of the Finance Documents and remain liable under the Finance Documents in respect of any action which it took or failed to take whilst acting as Agent and/or the Security Agent (as applicable). Its successor, the Issuer and each of the Bondholders shall have the same rights and obligations amongst themselves under the Finance Documents as they would have had if such successor had been the original Agent and/or the Security Agent.

- (h) In the event that there is a change of the Agent and/or the Security Agent in accordance with this Clause 20.4, the Issuer shall execute such documents and take such actions as the new Agent and/or the new Security Agent may reasonably require for the purpose of vesting in such new Agent and/or the new Security Agent (as applicable) the rights, powers and obligation of the Agent and/or the Security Agent and releasing the retiring Agent and/or the retiring Security Agent (as applicable) from its respective further obligations under the Finance Documents. Unless the Issuer and the new Agent and/or the new Security Agent agrees otherwise, the new Agent and/or the new Security Agent shall be entitled to the same fees and the same indemnities as the retiring Agent and/or the retiring Security Agent (as applicable).

## **21. Appointment and Replacement of the CSD**

- (a) The Issuer has appointed the CSD to manage certain tasks under these Terms and Conditions and in accordance with the CSD regulations and the other regulations applicable to the Bonds.
- (b) The CSD may retire from its assignment or be dismissed by the Issuer provided that the Issuer has effectively appointed a replacement CSD that accedes as CSD at the same time as the old CSD retires or is dismissed and provided also that the replacement does not have a negative effect on any Bondholder. The replacing CSD must be authorized to professionally conduct clearing operations pursuant to the Swedish Securities Markets Act (*lag (2007:528) om värdepappersmarknaden*) and be authorized as a central securities depository in accordance with the Financial Instruments Accounts Act.

## **22. Appointment and Replacement of the Issuing Agent**

- (a) The Issuer appoints the Issuing Agent to manage certain specified tasks under these Terms and Conditions and in accordance with the legislation, rules and regulations applicable to and/or issued by the CSD and relating to the Bonds.
- (b) The Issuing Agent may retire from its assignment or be dismissed by the Issuer, provided that the Issuer has approved that a commercial bank or securities institution approved by the CSD accedes as new Issuing Agent at the same time as the old Issuing Agent retires or is dismissed. If the Issuing Agent is Insolvent, the Issuer shall immediately appoint a new Issuing Agent, which shall replace the old Issuing Agent as issuing agent in accordance with these Terms and Conditions.

## **23. No Direct Actions by Bondholders**

- (a) A Bondholder may not take any steps whatsoever against the Issuer or with respect to the Transaction Security or the Guarantees to enforce or recover any amount due or owing to it pursuant to the Finance Documents, or to initiate, support or procure the winding-up, dissolution, liquidation, company reorganisation (Sw. *företagsrekonstruktion*) or bankruptcy (Sw. *konkurs*) (or its equivalent in any other jurisdiction) of the Issuer in relation to any of the liabilities of the Issuer under the Finance Documents.

- (b) Clause 23(a) shall not apply if the Agent has been instructed by the Bondholders in accordance with the Finance Documents to take certain actions but fails for any reason to take, or is unable to take (for any reason other than a failure by a Bondholder to provide documents in accordance with Clause 20.1(c)), such actions within a reasonable period of time and such failure or inability is continuing. However, if the failure to take certain actions is caused by the non-payment by the Issuer of any fee or indemnity due to the Agent under the Finance Documents or by any reason described in Clause 20.2(i), such failure must continue for at least forty (40) Business Days after notice pursuant to Clause 20.2(k) before a Bondholder may take any action referred to in Clause 23(a).
- (c) The provisions of Clause 23(a) shall not in any way limit an individual Bondholder's right to claim and enforce payments which are due to it under Clause 9.4 (*Mandatory repurchase due to a Change of Control Event or a Delisting Event (put option)*) or other payments which are due by the Issuer to some but not all Bondholders.

## 24. Prescription

- (a) The right to receive repayment of the principal of the Bonds shall be prescribed and become void ten (10) years from the Redemption Date. The right to receive payment of interest (excluding any capitalised interest) shall be prescribed and become void three (3) years from the relevant due date for payment. The Issuer is entitled to any funds set aside for payments in respect of which the Bondholders' right to receive payment has been prescribed and has become void.
- (b) If a limitation period is duly interrupted in accordance with the Swedish Act on Limitations (Sw. *preskriptionslag (1981:130)*), a new limitation period of ten (10) years with respect to the right to receive repayment of the principal of the Bonds, and of three (3) years with respect to receive payment of interest (excluding capitalised interest) will commence, in both cases calculated from the date of interruption of the limitation period, as such date is determined pursuant to the provisions of the Swedish Act on Limitations.

## 25. Notices and Press Releases

### 25.1 Notices

- (a) Any notice or other communication to be made under or in connection with the Finance Documents:
  - (i) if to the Agent, shall be given at the address registered with the Swedish Companies Registration Office (Sw. *Bolagsverket*) on the Business Day prior to dispatch or, if sent by email by the Issuer, to the email address notified by the Agent from time to time;
  - (ii) if to the Issuer, shall be given at the address registered with the Netherlands Companies Registration Office on the Business Day prior to

dispatch or if sent by email by the Agent, to the email address notified by the Issuer to the Agent from time to time; and

- (iii) if to the Bondholders, shall be given at their addresses as registered with the CSD, on the Business Day prior to dispatch, and by either courier delivery (if practically possible) or letter for all Bondholders. A notice to the Bondholders shall also be published on the websites of the Group and the Agent.
- (b) Any notice or other communication made by one Person to another under or in connection with the Finance Documents shall be sent by way of courier, personal delivery or letter, or if between the Issuer and the Agent, by email, and will only be effective:
  - (i) in case of courier or personal delivery, when it has been left at the address specified in Clause 25.1(a);
  - (ii) in case of letter, three (3) Business Days after being deposited postage prepaid in an envelope addressed to the address specified in Clause 25.1(a); or
  - (iii) in case of email, on the day of dispatch (unless a delivery failure message was received by the sender), save that any notice or other communication sent by email that is sent after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.
- (c) Failure to send a notice or other communication to a Bondholder or any defect in it shall not affect its sufficiency with respect to other Bondholders.

## 25.2 Press releases

- (a) Any notice that the Issuer or the Agent shall send to the Bondholders pursuant to Clauses 9.3 (*Voluntary total redemption (call option)*), 11.1(e), 14.11(c), 16(o), 17(a), 18(a) and 19(c) shall also be published by way of press release by the Issuer or the Agent, as applicable.
- (b) In addition to Clause 25.2(a), if any information relating to the Bonds or the Group contained in a notice the Agent may send to the Bondholders under these Terms and Conditions has not already been made public by way of a press release, the Agent shall before it sends such information to the Bondholders give the Issuer the opportunity to issue a press release containing such information. If the Issuer does not promptly issue a press release and the Agent considers it necessary to issue a press release containing such information before it can lawfully send a notice containing such information to the Bondholders, the Agent shall be entitled to issue such press release.

## 26. Force Majeure and Limitation of Liability

- (a) None of the Agent, the Security Agent or the Issuing Agent shall be held responsible for any damage arising out of any legal enactment, or any measure

taken by a public authority, or war, strike, lockout, boycott, blockade or any other similar circumstance (a "**Force Majeure Event**"). The reservation in respect of strikes, lockouts, boycotts and blockades applies even if the Agent, the Security Agent or the Issuing Agent itself takes such measures, or is subject to such measures.

- (b) The Issuing Agent shall have no liability to the Bondholders if it has observed reasonable care. The Issuing Agent shall never be responsible for indirect damage with exception of gross negligence and wilful misconduct.
- (c) Should a Force Majeure Event arise which prevents the Agent, the Security Agent or the Issuing Agent from taking any action required to comply with these Terms and Conditions, such action may be postponed until the obstacle has been removed.
- (d) The provisions in this Clause 26 apply unless they are inconsistent with the provisions of the Financial Instruments Accounts Act which provisions shall take precedence.

## **27. Governing Law and Jurisdiction**

- (a) These Terms and Conditions, and any non-contractual obligations arising out of or in connection therewith, shall be governed by and construed in accordance with the laws of Sweden.
- (b) The Issuer submits to the non-exclusive jurisdiction of the City Court of Stockholm (Sw. *Stockholms tingsrätt*).

**SCHEDULE 1****Intercreditor Principles**

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### INTERCREDITOR TERM SHEET

Initially EUR 60,000,000 Senior Secured Callable Floating Rate Bonds 2020/2023 (the "**Bonds**")  
and EUR [10,000,000] Super Senior Revolving Facility Agreement

This intercreditor term sheet (this "**ICA Term Sheet**") should be read together with the term sheet for the Bonds (the "**Bond Term Sheet**").

Unless otherwise defined in this ICA Term Sheet, terms defined in the Bond Term Sheet shall have the same meanings when used in this ICA Term Sheet.

- |                          |  |
|--------------------------|--|
| <b>Original Parties:</b> | <p>To establish the relative rights of creditors under various financing arrangements, the Intercreditor Agreement will be entered into by:</p> <ol style="list-style-type: none"> <li>1. the Issuer and the Guarantors (the "<b>Original ICA Group Companies</b>");</li> <li>2. [Azerion Group B.V.] as Shareholder Creditor under certain Shareholder Debt (each as defined below);</li> <li>3. Nordic Trustee &amp; Agency AB (publ), acting as Bonds agent (on behalf of the Bondholders) (the "<b>Original Bonds Agent</b>"); and</li> <li>4. Nordic Trustee &amp; Agency AB (publ) acting as security agent (on behalf of the Secured Parties) (the "<b>Original Security Agent</b>").</li> </ol>  |
| <b>Acceding Parties:</b> | <p>Each of the following Person(s) shall accede to the Intercreditor Agreement (without being required to obtain any prior consent from any other party to the Intercreditor Agreement):</p> <ol style="list-style-type: none"> <li>(a) any party becoming a Guarantor;</li> <li>(b) any party acceding as a Hedge Counterparty;</li> <li>(c) any party providing and any Group Company incurring Shareholder Debt;</li> <li>(d) a Person providing Super Senior Debt or refinancing of the Bonds or the Super Senior Debt or assuming rights or obligations with respect to, any of the Secured Obligations provided that such Person will not be obliged to accede if its agent or representative have acceded to the Intercreditor Agreement; or</li> <li>(e) a Person providing New Debt which in accordance with the Senior Finance Documents and subject to the terms of the Intercreditor Agreement shall rank <i>pari passu</i> with the Bonds.</li> </ol> |
| <b>Background:</b>       | <p>The Security provided for the benefit of the Secured Parties will (to the extent permitted by applicable law and practically possible) be a single Security package which will be held pursuant to Swedish and other relevant law and the Intercreditor Agreement.</p>  |

The Security Agent will be appointed as initial Security Agent to hold the Security on behalf of each of the Secured Parties.

The waterfall arrangements in the Intercreditor Agreement will reflect the ranking of the liabilities owed by the ICA Group Companies to the Secured Parties, as set out in this ICA Term Sheet.

The Intercreditor Agreement will incorporate, amongst others, the principles set out in the following paragraphs.

**Definitions:**

**"Bonds Agent"** means (i) the Original Bonds Agent or (ii) a new agent replacing the Original Bonds Agent in accordance with the Terms and Conditions.

**"Conflicting Enforcement Instructions"** means instructions (or proposed instructions) as to enforcement of the Transaction Security or the taking of any Enforcement Action delivered to the Security Agent by a Representative that are inconsistent as to the manner of enforcement (including any inconsistency as to the timeframe for realising value from an Enforcement Action in respect of the Transaction Security or the Guarantees or a distressed disposal), it being understood that, for the purpose of triggering the consultation requirements under paragraph (b)(ii) under Section "Enforcement" only and not for any other purpose (including, without limitation, determining the Instructing Party), the failure to give instructions by either the Super Senior Representative or Senior Representative will be deemed to be an instruction inconsistent with any other instructions given.

**"Collective Majority Senior Creditors"** means the Senior Creditors representing a majority of the Senior Debt under any Bonds and New Debt, based on the Senior Creditors under any Bonds and any New Debt voting as one creditor class.

**"Debt"** means any indebtedness under or in connection with the Bonds, the Super Senior Debt (including in each case any replacement debt referred to in "Replacement of debt" below), any New Debt, the Shareholder Debt and the Intercompany Debt.

**"Enforcement Action"** means any action of any kind to:

- (a) declare prematurely due and payable or otherwise seek to accelerate payment of or place a demand on all or any part of any Debt (notwithstanding whether such Debt has fallen due or not) or Guarantee (other than as a result of it becoming unlawful for a Secured Party to perform its obligations under, or of any voluntary or mandatory prepayment under, the Senior Finance Documents);
- (b) recover all or any part of any Debt (including by exercising any set-off, save as required by law and normal netting and set-off transactions in the ordinary course of business);



- (c) exercise or enforce any enforcement right under the Transaction Security, in each case granted in relation to (or given in support of) all or any part of any Debt;
- (d) petition for (or take or support any other step which may lead to) an Insolvency Event;
- (e) sue, claim or bring proceedings against the Issuer, any Guarantor or any ICA Group Company in respect of recovering any Debt; or
- (f) in relation to any Hedging Obligation only, designate an Early Termination Date (as defined in the relevant Hedging Agreement) under any Hedging Agreement, or terminate, or close out any transaction under, any Hedging Agreements, prior to its stated maturity, or demand payment of any amount which would become payable on or following an Early Termination Date (as defined in the relevant Hedging Agreement) or any such termination or close-out, unless voluntary or in accordance with a partial termination in accordance with the terms of the Senior Finance Documents and not related to any default.

**"Enforcement Instructions"** means instructions as to take Enforcement Actions (including the manner and timing of enforcement) given by a Representative to the Security Agent provided that instructions not to undertake enforcement or an absence of instructions as to enforcement shall not constitute "Enforcement Instructions".

**"Facility Agent"** means any agent or representative in relation to any Super Senior RCF.

**"Finance Documents"** has the meaning given to such term in the Terms and Conditions.

**"Final Discharge Date"** means the date when all principal, interest and any other costs or outstanding amounts under the Senior Finance Documents have been irrevocably discharged in full and all commitments of the Secured Parties under the Senior Finance Documents have expired, been cancelled or terminated.

**"Guarantee"** means the guarantees provided under the Guarantee and Adherence Agreement to the Secured Parties.

**"Guarantee and Adherence Agreement"** has the meaning given to such term in the Terms and Conditions.

**"Hedge Counterparty"** means any person who is or becomes a hedge counterparty pursuant to any Hedging Agreement.

**"Hedging Agreement"** means any hedging agreements regarding hedging transactions in respect of payments to be made under the Bonds or for hedging exposures (including hedging exposures in relation to fluctuation in currency rates) arising in the ordinary course of business, but not for speculative or investment

purposes, entered into or to be entered into by the Issuer or any other Group Company with any Hedge Counterparty.

**"Hedging Obligations"** means all present and future moneys, debts and liabilities due, owing or incurred from time to time by any Group Company to any Hedge Counterparty under or in connection with any Hedging Agreement.

**"ICA Group Companies"** means the Original ICA Group Companies and any other entity which has acceded to the Intercreditor Agreement as an ICA Group Company in accordance with the terms of the Intercreditor Agreement.

**"Insolvency Event"** means:

- (a) any Group Company is unable or admits inability to pay its debts as they fall due or is declared to be unable to pay its debts under applicable law, suspends making payments on its debts generally or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors with a view to rescheduling its Financial Indebtedness; or
- (b) a moratorium is declared in respect of the Financial Indebtedness of any Group Company; or
- (c) any corporate action, legal proceedings or other procedure or step is taken in relation to:
  - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, bankruptcy, dissolution, administration or reorganisation of any Group Company;
  - (ii) a composition, compromise, assignment or arrangement with any creditor of any Group Company; or
  - (iii) the appointment of a liquidator, trustee in bankruptcy, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Group Company or any of its assets; or

any analogous procedure or step is taken in any jurisdiction other than:

- (i) proceedings which are vexatious or frivolous or are being disputed in good faith and are discharged, stayed or dismissed within 60 days of commencement; or
- (ii) in relation to Group Companies (other than the Issuer), solvent liquidations that are permitted under the Senior Finance Documents.

**"Intercompany Debt"** means any intercompany loan provided by a Guarantor to a Group Company that shall be subordinated in

accordance with the Intercreditor Agreement, excluding any intercompany loans that are pledged to the Secured Parties.

**"Instructing Party"** means the Senior Representative or, following replacement in accordance with paragraph (b)(v) under Section "Enforcement", the Super Senior Representative.

**"Major Obligations"** means an obligation with respect to any Group Company pursuant to any negative pledge undertaking or restriction on financial indebtedness, disposals, loans out or holding company activities under any Super Senior RCF.

**"New Debt"** means Financial Indebtedness incurred pursuant to paragraph (h)(ii) in the definition of "Permitted Debt" in the Terms and Conditions provided that the creditors under such debt has acceded to the Intercreditor Agreement.

**"New Debt Documents"** means each document or instrument entered into after the date hereof between the Issuer and a New Debt Creditor setting out the terms of any credit which creates or evidences New Debt.

**"New Debt Creditors"** means each creditor under and as defined in the relevant New Debt Documents.

**"Payment Block Event"** means when the Super Senior Representative serves a written notice to the Issuer, the Security Agent, the Bonds Agent and any New Debt Creditor(s) (or its agent(s)) that an event of default (for the avoidance of doubt, after the expiration of any applicable grace period in respect of the default giving rise to the event of default) relating to:

- (a) a non-payment;
- (b) a breach of financial covenants;
- (c) non-compliance with any of the Major Obligations;
- (d) a cross default;
- (e) insolvency;
- (f) insolvency proceedings;
- (g) creditors' process;
- (h) impossibility or illegality; or
- (i) cession of business,

under the Super Senior RCF has occurred or the Super Senior Representative serves a written notice of acceleration to the Issuer, the Security Agent, the Bonds Agent and any New Debt Creditor(s) (or its/their agent).

**"Representatives"** means the Super Senior Representative and the Senior Representative.

**"Secured Obligations"** means all present and future, actual and contingent, liabilities and obligations at any time due, owing or incurred by any Group Company towards the Secured Parties outstanding from time to time under any Senior Finance Documents.

**"Secured Parties"** means the creditors under the Senior Finance Documents but only if it (or, in the case of a Bondholder, its Representative) is a Party or has acceded to the Intercreditor Agreement in the appropriate capacity pursuant to the terms of the Intercreditor Agreement, the Bonds Agent, the Facilities Agent and the Security Agent.

**"Security Agent"** means (i) the Original Security Agent or (ii) any new agent replacing the Original Security Agent in accordance with the relevant clause in the Intercreditor Agreement.

**"Security Enforcement Objective"** means maximising, so far as is consistent with prompt and expeditious realisation of value from enforcement of the Transaction Security and the Guarantees, the recovery by the Secured Parties, always provided that such enforcement is made in compliance with the fiduciary duties of the Security Agent and the Secured Parties.

**"Senior Creditor"** means the Bondholders, the Bonds Agent and any New Debt Creditor acceding to the Intercreditor Agreement as a Senior Creditor.

**"Senior Debt"** means (i) all indebtedness outstanding under the Finance Documents and (ii) any New Debt.

**"Senior Finance Documents"** means the Finance Documents, the Super Senior RCF Documents, the Hedging Agreements and any New Debt Documents.

**"Senior Representative"** means, at any time, the representative of:

- (a) those Senior Creditors whose Senior Debt at that time aggregate more than 50.00 per cent. of the total Senior Debt at that time; or
- (b) for as long as any New Debt is larger than the debt outstanding under the Bonds, those Senior Creditors, voting for the relevant decision, whose Senior Debt at that time aggregate more than 50.00 per cent. of the total Senior Debt at that time, calculated based on the Senior Creditors under any Bonds and any New Debt voting as one creditor class with a representative of the majority of such creditor class being the senior representative.

The Bonds Agent shall represent all Bondholders and act on the instructions of and on behalf of the Bondholders unless the New Debt is larger than the debt outstanding under Bonds in which case the Bonds Agent or another representative selected by the

Collective Majority Senior Creditors shall represent all the Senior Creditors and act on the instructions of the Collective Majority Senior Creditors and on behalf of all the Senior Creditors.

**"Shareholder Creditor"** means any direct or indirect shareholder of the Issuer in its capacity as creditor in respect of Shareholder Debt.

**"Shareholder Debt"** means all present and future moneys, debts and liabilities due, owing or incurred from time to time by the Issuer to any Shareholder Creditor, including any dividends and any advisory, monitoring or management fee.

**"Super Senior Creditors"** means the Super Senior RCF Creditors and the Hedge Counterparty.

**"Super Senior Credit Participation"** means, in relation to a Super Senior RCF Creditor or a Hedge Counterparty, the aggregate of:

- (a) its aggregate commitment under the Super Senior RCF, if any;
- (b) in respect of any hedging transaction of that Hedge Counterparty under any Hedging Agreement that has, as of the date the calculation is made, been terminated or closed out in accordance with the terms of this Agreement, the amount, if any, payable to it under any Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out) to the extent that amount is unpaid (that amount to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement) and to the extent it is a Hedging Obligation; and
- (c) only if no principal, interest and any other costs or other amounts is outstanding under any Super Senior RCF and no commitments is outstanding under any Super Senior RCF, in respect of any hedging transaction of that Hedge Counterparty under any Hedging Agreement to the extent it constitutes a Hedging Obligation that has, as of the date the calculation is made, not been terminated or closed out:
  - (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 that hedging transaction, 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 relevant debtor 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 relevant debtor 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, to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

**"Super Senior Debt"** means all indebtedness to the Super Senior Creditors outstanding under the Super Senior RCF Documents and the Hedging Agreements.

**"Super Senior Representative"** means the Facility Agent or another representative acting on the instructions of and on behalf of the Super Senior Creditors whose Super Senior Credit Participations at that time aggregate more than 50.00 per cent. of the total Super Senior Credit Participations at that time.

**"Super Senior RCF"** means any revolving capital facility or similar agreement incurred pursuant to the Section titled "Super Senior RCF" or any other revolving capital facility agreement or similar agreement providing financing for general corporate purposes (including investments) and/or working capital purposes between any Group Company and a Super Senior RCF Creditor replacing a super senior revolving capital facility in accordance with the Section titled "Replacement of Debt".

**"Super Senior RCF Creditor"** means any person who is or becomes a lender under a Super Senior RCF.

**"Super Senior RCF Discharge Date"** means the date when all principal, interest and any other costs or outstanding amounts under the Super Senior RCF have been irrevocably discharged in full and all commitments of the Super Senior RCF Creditor under the Super Senior RCF Documents have expired, been cancelled or terminated.

**"Super Senior RCF Documents"** means (i) the Super Senior RCF, (ii) the Intercreditor Agreement, (iii) the Guarantee and Adherence Agreement and (iv) the Security Documents.

**"Terms and Conditions"** means the terms and conditions of the Bonds entered into between the Issuer and the Original Bonds Agent.

**"Transaction Security"** means the Security provided to the Secured Parties under the Security Documents.

**"Triggering Event"** means the occurrence of an event of default (however described) under any Senior Finance Document.

**Ranking and priority:** Each of the parties to the Intercreditor Agreement will agree that the Secured Obligations owed by the ICA Group Companies to the Secured Parties and the other relevant parties shall rank in respect of proceeds in right and priority following an application of an Enforcement Action in the following order:

- (a) first, the Super Senior Debt (*pari passu* between all indebtedness under the Super Senior RCF and the Hedging Obligations);
- (b) secondly, the Senior Debt (*pari passu* between all indebtedness under the Bonds and any New Debt);
- (c) thirdly, any liabilities raised in the form of Intercompany Debt; and
- (d) fourthly, any liabilities raised in the form of Shareholder Debt.

**Sharing of Transaction Security and Guarantees with New Debt:**

A Group Company may grant Security and Guarantees for New Debt to a New Debt Creditor provided that:

- (a) (i) the New Debt shares in the Transaction Security and the Guarantees, and/or (ii) such Security and guarantees which are not Transaction Security or Guarantees are granted also to the Secured Parties (including the New Debt Creditor), in each case to be shared between the Senior Creditors and the Super Senior Creditors as set forth in the Intercreditor Agreement; and
- (b) the New Debt Creditor shall accede to the Intercreditor Agreement as a Senior Creditor and the New Debt shall rank as Senior Debt pursuant to the terms of the Intercreditor Agreement.

Any Security and guarantee granted shall constitute Transaction Security and any documents regarding such Security or guarantee shall constitute a Security Document or a Guarantee and Adherence Agreement, as the case may be.

**Hedging arrangements:** The Intercreditor Agreement will contain customary provisions regarding the hedging arrangements and the rights and obligations of the Hedge Counterparties, including without limitation (i) certain qualification requirements for Hedge Counterparties, (ii) any hedging agreement to be based on the 1992 or 2002 ISDA Master Agreement, (iii) no voting rights and no enforcement rights for Hedge Counterparties and (iv) restrictions on over-hedging relating to interest.

**Subordination of Intercompany Debt and restrictions on intercompany debt subject to Transaction Security:**

Any Intercompany Debt shall be subordinated to the Secured Obligations.

The Intercreditor Agreement shall include provisions for turnover of payments received under any Intercompany Debt in conflict with this ICA Term Sheet which will be set out in the full Intercreditor Agreement.

Repayment of principal and payment of interest on Intercompany Debt shall be allowed for as long as no Triggering Event is continuing.

Payment of interest, but not repayment of principal, on intercompany loans subject to Transaction Security shall be allowed provided that no Triggering Event is continuing.

Notwithstanding the above, payment of principal and interest on Intercompany Debt and intercompany loans subject to Transaction Security shall always be permitted if made for the purpose of servicing Debt to the Secured Parties and such payment is made directly to the Secured Parties (represented by the Security Agent) for repayment of principal or payment of interest on such Debt owed to the Secured Parties.

**Subordination of Shareholder Debt:**

Any Shareholder Debt shall be subordinated to the Secured Obligations and any repayment of, or payment of interest under, any Shareholder Debt shall be subject to all Secured Obligations having been discharged in full (other than as permitted by the Senior Finance Documents).

The Intercreditor Agreement shall include provisions for turnover of payments received under any Shareholder Debt in conflict with the terms of the Intercreditor Agreement.

The Shareholder Creditors shall (i) not consent to or receive any repayment of, or payment of interest under, any Shareholder Debt (unless the payment is permitted under the Senior Finance Documents), (ii) not propose or consent to amendment of terms of any Shareholder Debt (unless such amendment are not prejudicial to the Secured Parties and (iii) ensure that any Shareholder Debt remains fully subordinated to the Secured Obligations.

**Payment Block:**

Following a Payment Block Event and for as long as such is continuing and until the earlier of (i) the taking of Enforcement Actions in accordance with the Intercreditor Agreement and (ii) a written notice from Super Senior Representative to the Security Agent to the contrary, no payments of principal or interest in respect of the Senior Debt shall be made to the Senior Creditors (notwithstanding any other provisions to the contrary herein). However, interest shall continue to accrue during such period and any overdue amounts shall carry default interest pursuant to the terms of the Terms and Conditions and the New Debt Documents.



For the avoidance of doubt, the failure to repay principal or pay interest on a due date shall constitute an event of default (however described) under the Terms and Conditions and the New Debt Documents.

Upon the occurrence of a Payment Block Event, any amounts paid under the Senior Debt (despite the Payment Block) shall be applied in accordance with the Section "Application of Enforcement Proceeds".

**Release of Transaction Security and Guarantees - General:**

The Security Agent may at any time, acting in its sole discretion, or if in respect of release and granting of Security upon disposals, acting on instructions of the Super Senior Representative, release the Transaction Security and the Guarantees in accordance with the terms of the Security Documents, the Guarantee and Adherence Agreement and the Intercreditor Agreement. For the avoidance of doubt any Transaction Security or Guarantee will always be released in such way which does not affect the sharing between the Senior Creditors and the Super Senior Creditors of the remaining Transaction Security and Guarantees and/or the ranking and priority of the Senior Creditors and the Super Senior Creditors as specified by the Intercreditor Agreement.

**Super Senior RCF:**

The Issuer shall be entitled to enter into a Super Senior RCF for general corporate purposes (including investments) and/or working capital purposes up to the amount of the Super Senior Headroom and provided that the creditor(s) of such Super Senior Debt directly or through an agent or another representative accedes to the Intercreditor Agreement as a Super Senior RCF Creditor such creditor(s) of such Super Senior Debt shall have a right to the Transaction Security as a Super Senior RCF Creditor pursuant to the Intercreditor Agreement and the Security Agent shall hold the Transaction Security on behalf of the new creditors on the same terms, *mutatis mutandis*, as the Transaction Security is held by the Security Agent on behalf of the Secured Parties.

The Security Agent may from time to time, at the request of the Issuer, amend vary and/or restate the Security Documents to give effect to the above.

**Replacement of debt:**

The Issuer shall from time to time be entitled to (i) replace the Super Senior RCF in full with one or several new revolving debt facilities for general corporate purposes and/or working capital purposes up to the amount of the Super Senior Headroom (the "**Replacement Super Senior Debt**") and/or (ii) replace the Bonds with new bonds or debt facilities (the "**Replacement Senior Debt**"); provided that:

- (a) the Transaction Security shall secure the Replacement Super Senior Debt on the same terms, *mutatis mutandis*, as it secures the previous Super Senior RCF, including the terms of the Intercreditor Agreement;

- (b) the Security shall secure the Replacement Senior Debt on the same terms, *mutatis mutandis*, as it secures the Bonds including the terms of the Intercreditor Agreement;
- (c) the new creditor(s) shall directly or through an agent or a trustee be a party to the Security Documents;
- (d) the Security Agent shall hold the Transaction Security on behalf of the new creditors on the same terms, *mutatis mutandis*, as the Transaction Security is held by the Security Agent on behalf of the Secured Parties;
- (e) the new creditor(s) of the Replacement Super Senior Debt shall:
  - (i) directly or through an agent or a trustee accede to the Intercreditor Agreement as a Super Senior RCF Creditor; and
  - (ii) have the same right to the Transaction Security and any Guarantees and the proceeds pertaining thereto as the previous Super Senior RCF Creditor; and
- (f) the new creditor(s) of the Replacement Senior Debt shall:
  - (i) directly or through an agent or a trustee accede to the Intercreditor Agreement as a Senior Creditor; and
  - (ii) have the same right to the Transaction Security and any Guarantees and the proceeds pertaining thereto as the previous Senior Creditors.

Provided that the terms set out above are complied with, the Security Agent may from time to time, at the request of the Issuer, amend vary and/or restate the Transaction Security Documents and the Guarantee and Adherence Agreement on behalf of itself and the Secured Parties in order to release Transaction Security and/or any Guarantee provided to an existing Secured Party (with the prior consent of such existing Secured Party) and/or to create Transaction Security and/or Guarantees in favour of a new creditor(s).

Following any replacement of debt in accordance with this paragraph any reference to Bonds and any reference to related finance documents (including the Finance Documents) shall instead refer to the debt incurred under the Replacement Senior Debt and related finance documents.

**Super Senior  
Headroom:**

The principal amount under the Super Senior RCF (excluding, for the avoidance of doubt, any hedging liabilities related thereto) shall not exceed EUR [10,000,000] (plus premium, accrued and unpaid interest, fees and costs).

<b>Limitation on Secured Obligations:</b>	All Transaction Security, Guarantees and subordination shall be subject to applicable customary limitation language.
<b>Appointment of Security Agent and power of attorney:</b>	<p>The Secured Parties will appoint and authorise the Security Agent to hold and to act as its agent with respect to the Security Documents, to the extent permitted by applicable law.</p> <p>Any change of Security Agent shall require the consent of the Bonds Agent, the Super Senior Creditors and any New Debt Creditor. The Bonds Agent shall be authorised (in its sole discretion) to grant such consent without any approval or consent from the Bondholders.</p>
<b>New Security:</b>	Any new Security created (and guarantees and indemnities granted) in respect of any Secured Obligation shall be extended to and shared between the Secured Parties on a <i>pro rata</i> basis and in accordance with the ranking and priority set forth above.
<b>Enforcement:</b>	<p>The Intercreditor Agreement will contain provisions regulating the Secured Parties' respective rights to take Enforcement Actions and to vote and instruct the Security Agent to enforce the Transaction Security, according to the following principles:</p> <p><b>(a) Enforcement Actions and Enforcement Instructions</b></p> <ul style="list-style-type: none"> <li>(i) Other than as expressly permitted by the terms of the Intercreditor Agreement, no Secured Party may independently accelerate, seek payment and exercise other rights and powers to take Enforcement Actions under the Senior Finance Documents.</li> <li>(ii) The Security Agent may refrain from enforcing the Transaction Security and/or Guarantees or take other Enforcement Actions unless instructed otherwise by the Instructing Party in accordance with paragraph (b) below but always subject to paragraph (a)(iv) below.</li> <li>(iii) Subject to the Transaction Security or the Guarantees having become enforceable in accordance with its terms and subject to paragraph (b) below, the Representatives may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit, provided that the instructions are consistent with the Security Enforcement Objective.</li> <li>(iv) Notwithstanding anything to the contrary in paragraphs (a) and (b), the Senior Representative may only give an Enforcement Instruction if the proceeds to be received from the proposed Enforcement Actions is expected to</li> </ul>

amount to or exceed the amount of the Super Senior Debt.

- (v) The Security Agent is entitled to rely on and comply with instructions given in accordance with this paragraph (a).
- (vi) In relation to any Hedging Obligation only, the Security Agent may not designate an Early Termination Date (as defined in the relevant Hedging Agreement) under any Hedging Agreement, or terminate, or close out any transaction under, any Hedging Agreements, prior to its stated maturity, or demand payment of any amount which would become payable on or following an Early Termination Date (as defined in the relevant Hedging Agreement) or any such termination or close-out, unless voluntary or in accordance with a partial termination not prohibited by the Senior Finance Documents and not related to any default.

**(b) Consultation**

- (i) If either the Super Senior Representative or the Senior Representative wishes to issue Enforcement Instructions in accordance with paragraph (a)(iii) above, such Representative shall deliver a copy of those proposed Enforcement Instructions (an "**Enforcement Proposal**") to the Security Agent and the Security Agent shall promptly forward such Enforcement Proposal to the other Representative.
- (ii) Subject to paragraph (b)(iii) below, if the Security Agent has received Conflicting Enforcement Instructions, the Security Agent shall promptly notify the Representatives and the Representatives will consult with each other and the Security Agent (as the case may be) in good faith for a period of not more than thirty (30) days (or such shorter period as the Representatives may agree) (the "**Consultation Period**") from the earlier of (A) the date of the latest of such Conflicting Enforcement Instructions and (B) the date falling ten (10) Business Days after the date on which the first Enforcement Instruction was delivered in accordance with paragraph (b)(i) above, with a view to agreeing instructions as to enforcement.
- (iii) The Representatives shall not be obliged to consult (or, in the case of (B) below, shall be obliged to consult for such shorter period as the Instructing Party may determine) in accordance with paragraph (b)(ii) above if:

- (A) the Transaction Security and/or the Guarantees have become enforceable as a result of an Insolvency Event; or
  - (B) each of the Super Senior Representative and the Senior Representative agree that no Consultation Period is required.
- (iv) Following the Consultation Period there shall be no further obligation to consult and the Security Agent shall, provided that no joint Enforcement Instructions has been agreed during the Consultation Period, act in accordance with the Enforcement Instructions then received from the Instructing Party and the Instructing Party may issue instructions as to enforcement to the Security Agent at any time thereafter.
  - (v) If (A) no Enforcement Action has been taken by the Security Agent within three (3) months from the end of the Consultation Period, or (B) the Super Senior RCF Discharge Date has not occurred within six (6) months from the end of the Consultation Period, then the Super Senior Representative shall become the Instructing Party and be entitled to give Enforcement Instructions.
  - (vi) If a Secured Party (acting reasonably) considers that the Security Agent is enforcing the Security in a manner which is not consistent with the Security Enforcement Objective, such Secured Party shall give notice to the other Secured Parties after which the Representatives and the Security Agent shall consult, prior to taking any further enforcement action, for a period of twenty (20) days (or such lesser period that the Secured Parties may agree) with a view to agreeing on the manner of enforcement.
  - (vii) Notwithstanding the foregoing, following an Insolvency Event in respect of a Group Company, the Facility Agent may take the same Enforcement Action as the Bondholder Agent and/or the Bondholders in respect of that Group Company in order to prove its debt in such insolvency.

**(c) Miscellaneous**

- (i) Upon Enforcement Actions in respect of the Transaction Security, the proceeds shall be distributed in accordance with the section "Application of Enforcement Proceeds" set out below.

- (ii) Any Enforcement Action required to be taken by the Representative in accordance with agreed Enforcement Instructions pursuant to (b) above, shall be taken by such Representative at the request of the Security Agent.
- (iii) All Security and/or Guarantees or arrangement having similar effects may be released by the Security Agent, without the need for any further referral to or authority from anyone, upon any Enforcement Action provided that the proceeds are distributed in accordance with the provisions set out in the Intercreditor Agreement.
- (iv) Funds that the Security Agent receives (directly or indirectly) in connection with an Enforcement Action in respect of the Transaction Security shall constitute escrow funds (Sw. redovisningsmedel) and must be held on a separate account on behalf of the Secured Parties or the Issuer as the case may be. The Security Agent shall promptly arrange for payments to be made in accordance with the application of proceeds set forth in the Intercreditor Agreement.
- (v) Nothing herein shall preclude the rights of the Super Senior RCF Creditors or the Bonds Agent to join or intervene in or otherwise support any proceedings arising from insolvency proceedings or do such other things as may be necessary to maintain a claim or Security, always as long as such action does not adversely affect the rights of the other Secured Creditors or the Security Agent and is not inconsistent with its obligations contained in the Intercreditor Agreement and each of the Facility Agent and the Bonds Agent shall give prompt notice to the other of any action taken by it to join, intervene or otherwise support any such proceedings.
- (vi) For avoidance of doubt, customary provisions regarding permitted (or required) actions once an Insolvency Event has occurred to be included in the Intercreditor Agreement.

**Voting provisions for Senior Creditors:**

The Intercreditor Agreement will contain voting provisions for the Senior Creditors and appointment of representative for the Senior Creditors to be applied when the New Debt is larger than the debt outstanding under the Bonds, according to the following:

- (a) If, and for as long as, the New Debt is larger than the debt outstanding under the Bonds, the Bonds Agent and any representative of any New Debt Creditors shall conduct the respective voting procedures under the respective debt instruments and any representative of any New Debt

Creditors shall share its result from such procedure with the Bonds Agent. The Bonds Agent shall, based on such results, determine the decision of the Collective Majority Senior Creditors and act as the Senior Representative if not replaced with another representative appointed by the Collective Majority Senior Creditors.

- (b) If, and for as long as, the New Debt is larger than the Bonds, each of the Senior Creditors hereby irrevocably appoints the Bonds Agent to act as Senior Representative. The Collective Majority Senior Creditors may, if requested by more than 10.00 per cent. of the Collective Majority Senior Creditors, replace the Bonds Agent as Senior Representative with a new representative. Such resolution shall be taken with a more than 50.00 per cent. majority requirement of all Senior Debt and a quorum of at least 20.00 per cent. of all Senior Debt. The Bonds Agent and the representatives of any New Debt shall conduct the respective voting procedures under the respective debt instruments and any representative of any New Debt Creditors shall share its result from such procedure with the Bonds Agent.

**Application of**

**Enforcement Proceeds:**

The proceeds of any Enforcement Action shall be paid to the Security Agent for application in the following order:

- (a) firstly, in or towards payment *pro rata* of unpaid fees, costs, expenses and indemnities payable by the Group Companies to the Security Agent (or its delegate);
- (b) secondly, in or towards payment *pro rata* of unpaid fees, costs, expenses and indemnities payable by the Issuer to the Issuing Agent, the Facility Agent, the Bonds Agent and any agent representing creditors of any New Debt;
- (c) thirdly, towards payment *pro rata* of accrued interest unpaid under the Super Senior RCF Documents;
- (d) fourthly, towards payment *pro rata* of principal under the Super Senior RCF and any other costs or outstanding amounts under the Super Senior RCF Documents, and any close out amount and any other outstanding amounts under the Hedging Obligations;
- (e) fifthly, towards payment *pro rata* of accrued interest unpaid under the Senior Debt (interest due on an earlier Interest Payment Date to be paid before any interest due on a later Interest Payment Date);
- (f) sixthly, towards payment *pro rata* of principal under the Senior Debt;
- (g) seventhly, in or towards payment *pro rata* of any other costs or outstanding amounts unpaid under the Finance Documents and any New Debt Documents;

- (h) eightly, after the Final Discharge Date, towards payment *pro rata* of accrued interest unpaid and principal under the Intercompany Debt;
- (i) ninthly, after the Final Discharge Date, towards payment *pro rata* of accrued interest unpaid and principal under the Shareholder Debt; and
- (j) tenthly, after the Final Discharge Date, in payment of the surplus (if any) to the relevant ICA Group Company or other person entitled to it.

**Turnover:**

The Intercreditor Agreement shall include provisions for turnover of funds in the event of any creditor receiving payment in conflict with this ICA Term Sheet which will be set out in the full Intercreditor Agreement, after action has been initiated to enforce the Transaction Security, any Guarantees or other Enforcement Action. The payment waterfall provisions shall apply regardless of any Transaction Security or Guarantees not being (for whatever reason) valid or enforceable in respect of the relevant Secured Party. Any funds payable to the Security Agent under the turnover provisions that have not been paid to the Security Agent shall be considered in the waterfall provisions.

**Exercise of voting rights:**

- (a) Each Secured Party agrees with the Security Agent that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any Group Company as instructed by the Security Agent.
- (b) The Security Agent shall give instructions for the purposes of paragraph (a) above as directed by the Instructing Party.

**Modifications:**

Each Secured Party may amend or waive the terms of the finance documents for the Secured Obligations owed to such Secured Party (other than the Intercreditor Agreement or any Security Document) in accordance with their terms at any time.

No amendment or waiver may be made or given that has the effect of changing or which relates to an amendment to any material term of the Intercreditor Agreement (including to the order of priority or subordination under the Intercreditor Agreement) without the prior written consent of the Bonds Agent, the Senior Representative, the Super Senior Representative and the Security Agent.

The prior consent of the Secured Parties is required to authorise any amendment or waiver of, or consent under, any Transaction Security which would affect the nature or scope of the Security assets or the manner in which the proceeds of an Enforcement Action in respect of the Transaction Security are distributed.



- Miscellaneous:** The Bonds Agent and the Facility Agent shall have a duty to inform the other creditor classes of any default which is continuing, event of default or acceleration. The ICA Group Companies shall use all reasonable endeavours to facilitate any necessary establishment of new Security or change of the Transaction Security pursuant to the Intercreditor Agreement.
- Governing law:** The Intercreditor Agreement shall be governed by Swedish law.
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