

**BOND TERMS**

**FOR**

**Kolibri Beteiligung GmbH FRN senior secured EUR 200,000,000 bonds  
2025/2029**

**ISIN NO0013461384**

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<b>BOND TERMS between</b>	
ISSUER:	Kolibri Beteiligung GmbH, a company incorporated under the laws of Germany, which is registered with the commercial register ( <i>Handelsregister</i> ) at the local court ( <i>Amtsgericht</i> ) of Potsdam with company registration number HRB 39915, and which has LEI-code 391200U9MYPIE8FNYM23 and
BOND TRUSTEE:	Nordic Trustee AS, a company existing under the laws of Norway with registration number 963 342 624 and LEI-code 549300XAKTM2BMKIPT85.
DATED:	12 February 2025
These Bond Terms shall remain in effect for so long as any Bonds remain outstanding.	

## 1. INTERPRETATION

### 1.1 Definitions

The following terms will have the following meanings:

“**Accounting Standard**” means GAAP.

“**Additional Bonds**” means the debt instruments issued under a Tap Issue.

“**Additional Revolving Credit Facility**” means any existing or future Revolving Credit Facility, which is secured by Security created over any assets of any Group Companies that neither are, nor pursuant to the terms hereof, the Agreed Security Principles or the terms of the Intercreditor Agreement should be or become, the subject of any Transaction Security, provided that the total principal amount outstanding under all such Additional Revolving Credit Facilities does not at any time exceed EUR 5,000,000 (or its equivalent in other currencies) in aggregate for the Group.

“**Affiliate**” means, in relation to any person:

- (a) any person which is a Subsidiary of that person;
- (b) any person who has Decisive Influence over that person (directly or indirectly); and
- (c) any person which is a Subsidiary of an entity who has Decisive Influence over that person (directly or indirectly).

“**Affiliated Company Loans**” means the following unsecured loans made prior to the Issue Date to the Issuer:

- (a) by Kolibri Immobilien Holding GmbH in the total amount of EUR 293,970.85;

- (b) by Kolibri Immobilien GmbH in the total amount of EUR 803,238.84; and
- (c) by Kolibri Grundbesitz GmbH & Co. KG in the total amount of EUR 167,424.41,

provided that:

- (i) no such loan may at any time be increased (other than by way of capitalisation of accrued interest);
- (ii) the effective interest rate (including any interest, fees, commissions and similar financing costs) accruing in respect of any such loan may not at any time exceed 3.00 per cent. per annum;
- (iii) each such loan has a final maturity date (and, if applicable, instalment dates or early redemption dates) which occurs no earlier than 6 months after the Maturity Date; and
- (iv) each such loan is subordinated to the obligations of the Obligors under the Finance Documents pursuant to the terms of the Intercreditor Agreement.

**“Agreed Security Principles”** means the security principles set out in Attachment 4 (*Agreed Security Principles*) hereto.

**“Aircraft Financing Facility”** means any credit facility made available to the Issuer or any Guarantor by any banks, financial institutions or insurance companies for the purpose of financing the Group's aviation activities (including the acquisition of aircrafts and other aviation assets forming part thereof), provided that the total principal amount outstanding under all such Aircraft Financing Facilities does not at any time exceed EUR 40,000,000 in aggregate for the Group.

**“Annual Financial Statements”** means the audited consolidated annual financial statements of the Issuer for each of its Financial Years, each of which shall include a balance sheet, profit and loss account and cashflow statement together with adequate revenue splits (and volumes where appropriate or meaningful) and management commentary on the performance.

**“Attachment”** means any schedule, appendix or other attachment to these Bond Terms.

**“Bond Currency”** means the currency in which the Bonds are denominated, as set out in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

**“Bond Terms”** means these terms and conditions, including all Attachments which form an integrated part of these Bond Terms, in each case as amended and/or supplemented from time to time.

**“Bond Trustee”** means the company designated as such in the preamble to these Bond Terms, or any successor, acting for and on behalf of the Bondholders in accordance with these Bond Terms.

**“Bond Trustee Fee Agreement”** means the agreement entered into between the Issuer and the Bond Trustee relating to, among other, the fees to be paid by the Issuer to the Bond Trustee for the services provided by the Bond Trustee relating to the Bonds.

**“Bondholder”** means a person who is registered in the CSD as directly registered owner or nominee holder of a Bond, subject however to Clause 3.3 (*Bondholders’ rights*).

**“Bondholders’ Meeting”** means a meeting of Bondholders as set out in Clause 15 (*Bondholders’ Decisions*).

**“Bonds”** means (i) the debt instruments issued by the Issuer pursuant to these Bond Terms, including any Additional Bonds, and (ii) any overdue and unpaid principal which has been issued under a separate ISIN in accordance with the regulations of the CSD from time to time.

**“Business Day”** means a day on which both the relevant CSD settlement system is open and which is a TARGET Day.

**“Business Day Convention”** means that if the last day of any Interest Period originally falls on a day that is not a Business Day, the Interest Period will be extended to include the first following Business Day unless that day falls in the next calendar month, in which case the Interest Period will be shortened to the first preceding Business Day (*Modified Following*).

**“Call Option”** has the meaning ascribed to such term in Clause 10.2 (*Voluntary early redemption – Call Option*).

**“Call Option Repayment Date”** means the settlement date for the Call Option determined by the Issuer pursuant to Clause 10.2 (*Voluntary early redemption – Call Option*), paragraph (d) of Clause 10.3 (*Mandatory repurchase due to a Put Option Event*) or a date agreed upon between the Bond Trustee and the Issuer in connection with such redemption of Bonds.

**“Cash”** means, at any time, any cash deposited in any bank account held by any Group Company with any reputable and creditworthy bank (including the Escrow Account) which is unencumbered (except for any Transaction Security created pursuant to the terms hereof) and freely and immediately available to such Group Company to be applied in redemption or repayment of the Bonds at the time.

**“Cash Equivalents”** means, at any time, any short-term, low risk and highly liquid investments in money market instruments having a maturity of three months or less held by any Group Company which are unencumbered (except for any Transaction Security created pursuant to the terms hereof) and freely and immediately available to such Group Company to be converted to Cash and applied in redemption or repayment of the Bonds at the time.

**“Change of Control Event”** means if, at any time:

- (a) the Initial Shareholder ceases to (i) own and control (directly) more than 50.00 per cent. of the shares and the voting rights in the Issuer or (ii) have the power to appoint or remove all or the majority of the managing director(s) of the Issuer; or

- (b) any sale, transfer or other disposal of all or substantially all of the assets of the Group occurs whether in a single transaction or a series of related transactions.

**“Compliance Certificate”** means a statement substantially in the form as set out in Attachment 1 hereto.

**“Closing Procedure”** means any closing procedure in respect of the Bond Issue agreed between, among others, the Issuer and the Bond Trustee.

**“CSD”** means the central securities depository in which the Bonds are registered, being Verdipapirsentralen ASA (*Euronext Securities Oslo*).

**“Decisive Influence”** means a person having, as a result of an agreement or through the ownership of shares or ownership interests in another person (directly or indirectly):

- (a) a majority of the voting rights in that other person; or
- (b) a right to elect or remove a majority of the members of the board of directors or the managing director(s) (whichever is applicable) of that other person.

**“Default Notice”** has the meaning ascribed to such term in Clause 14.2 (*Acceleration of the Bonds*).

**“Default Repayment Date”** means the settlement date set out by the Bond Trustee in a Default Notice requesting early redemption of the Bonds.

**“Disbursement”** means the disbursement of the Net Proceeds of the Initial Issue Amount from the Escrow Account to the Issuer as set out in Clause 6.2 (*Conditions precedent for disbursement*).

**“Distribution”** means, in respect of any Group Company, (a) any declaration, making or payment of any dividend, charge, fee or other distribution (or any interest on any unpaid dividend, charge, fee or other distribution) on or in respect of its share capital (or any class thereof), (b) any repayment or distribution of any dividend or share premium reserve, (c) any payment of any management, advisory or other fee to or to the order of any of its (direct or indirect) shareholders or any Affiliate thereof, (d) any redemption, repurchase, defeasance, retirement or repayment of its share capital or the making of any resolution to do so and (e) any prepayment, repayment, purchase, redemption, defeasance or other discharge of any Shareholder Loan or any payment of any interest, fee, charge or premium accrued in respect thereof.

**“EBITDA”** means, in respect of any Relevant Period, the consolidated operating profit of the Group before taxation (excluding the results from discontinued operations):

- (a) before deducting any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable or capitalised by any Group Company (calculated on a consolidated basis) in respect of that Relevant Period;
- (b) not including any accrued interest owing to any Group Company;

- (c) after adding back any amount attributable to the amortisation depreciation, or impairment of assets of any Group Company;
- (d) before taking into account any exceptional, one off, non-recurring or extraordinary items, which together with any other amounts to be covered by the EBITDA Adjustment Basket in respect of such Relevant Period, does not exceed the EBITDA Adjustment Basket;
- (e) before deducting any fees, costs and expenses, stamp, registration and other taxes incurred by any Group Company in connection with the Bond Issue;
- (f) 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;
- (g) plus or minus the Group's share of the profits or losses (after finance costs and tax) of any investment or entity (which is not itself a Group Company (including associates and Joint Ventures)) in which any Group Company has an ownership interest;
- (h) before taking into account any unrealised gains or losses on any derivative or financial instrument (other than any derivative instrument which is accounted for on a hedge accounting basis);
- (i) before taking into account any gain or loss arising from an upward or downward revaluation of any other asset;
- (j) before taking into account any realised and unrealised foreign exchange gains and losses;
- (k) after adding (to the extent not otherwise included) the net proceeds of any business interruption insurance received in cash by any Group Company due to any occurrence of loss of operating profit covered by such insurance (without any double counting);
- (l) before taking into account any income or charge attributable to a post-employment benefit scheme (other than the current service costs and any past service costs and curtailments and settlements attributable to the scheme); and
- (m) excluding the charge to profit represented by the expensing of stock options,

in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining operating profits of the Group before taxation.

**“EBITDA Adjustment Basket”** means an amount not exceeding 15.00 per cent. of EBITDA (prior to making any adjustments for the type of items in question) in respect of any Relevant Period in aggregate for the Group.

**“Escrow Account”** means an account (with the Paying Agent, Nordic Trustee Services AS or a Norwegian bank acceptable to the Bond Trustee) in the name of the Issuer, blocked and pledged on first priority as security for the Issuer’s obligations under the Finance Documents.

**“Escrow Account Pledge”** means the pledge over the Escrow Account, where the bank operating the account has waived any set-off rights.

“**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 the European Interbank Offered Rate being:

- (a) the interest rate displayed on the appropriate page of the LSEG Benchmark screen (or through another system or website replacing it) as of or around 11.00 a.m. (Brussels time) on the Interest Quotation Day for the offering of deposits in EUR and for a period comparable to the relevant interest period;
- (b) if no screen rate is available for the relevant interest period:
  - (i) the linear interpolation between the two closest relevant interest periods, and with the same number of decimals, quoted under paragraph (a) above; or
  - (ii) a rate for deposits in EUR for the relevant interest period as supplied to the Bond Trustee at its request quoted by a sufficient number of commercial banks reasonably selected by the Bond Trustee; or
- (c) if the interest rate under paragraph (a) is no longer available, the interest rate will be set by the Bond Trustee in consultation with the Issuer to:
  - (i) any relevant replacement reference rate generally accepted in the market; or
  - (ii) such interest rate that best reflects the interest rate for deposits in EUR offered for the relevant interest period.

“**Event of Default**” means any of the events or circumstances specified in Clause 14.1 (*Events of Default*).

“**Exchange**” means Nordic ABM (being the Alternative Bond Market of Oslo Stock Exchange).

“**Existing Bonds**” means the aggregate nominal amount of the outstanding bonds issued by Zeitfracht Logistik on 5 May 2021 with ISIN DE000A3H3JC5 (together with any accrued interest, premiums and fees and all other amounts accrued and outstanding), which shall be redeemed, repaid and paid by way of the Net Proceeds of the Initial Issue Amount in the manner set out herein, and which as at the Issue Date constitute approximately EUR 30,500,000 (or its equivalent in other currencies) in total for the Group.

“**Existing Bonds Redemption Date**” has the meaning given to such term in Clause 13.23 (*Redemption, repayment and payment of the Existing Bonds*).

“**Existing Refinancing Debt**” means the Existing Bonds or the Existing Refinancing Indebtedness.

“**Existing Refinancing Indebtedness**” means the aggregate principal amount (together with any accrued interest, premiums and fees and all other amounts accrued and outstanding) in respect of any indebtedness incurred by any Group Company to any commercial banks, financial institutions or debt funds/direct lenders on or prior to the Issue Date, which shall be



repaid and paid by way of the Net Proceeds of the Initial Issue Amount in the manner set out herein, and which as at the Issue Date constitute approximately EUR 104,000,000 (or its equivalent in other currencies) in total for the Group.

**“Finance Charges”** means, in respect of any Relevant Period, the aggregate amount of the accrued interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments in respect of Financial Indebtedness paid or payable by any Group Company (calculated on a consolidated basis) in cash in respect of that Relevant Period:

- (a) excluding any upfront fees or costs which are included as part of the effective interest rate adjustments;
- (b) including the interest (but not the capital) element of payments in respect of any Finance Leases;
- (c) including any commission, fees, discounts and other finance payments payable by (and deducting any such amounts payable to) any Group Company under any interest rate hedging arrangement;
- (d) excluding any fees, costs and expenses, stamp, registration and other taxes incurred by any Group Company in connection with the Bond Issue;
- (e) excluding any interest cost or expected return on plan assets in relation to any post-employment benefit schemes;
- (f) if a Joint Venture is accounted for on a proportionate consolidation basis, after adding the Group's share of the finance costs or interest receivable of the Joint Venture;
- (g) taking no account of any unrealised gains or losses on any derivative or financial instruments other than any derivative instruments which are accounted for on a hedge accounting basis; and
- (h) excluding interest (capitalised or otherwise) in respect of any Shareholder Loans,

together with the amount of any Distributions paid or made in cash by the Issuer in respect of such Relevant Period and so that no amount shall be added (or deducted) more than once.

**“Finance Documents”** means these Bond Terms, the Bond Trustee Fee Agreement, any agreement documenting the terms of the Escrow Account Pledge, the Guarantees, the Intercreditor Agreement, any Tap Issue Addendum, the Transaction Security Documents and any other document designated as such by the Issuer and the Bond Trustee.

**“Finance Lease”** means, at any time, any lease or hire purchase contract, a liability under which would, in accordance with the Accounting Standard applied by the Issuer at the time, be treated as a balance sheet liability (other than a lease or hire purchase contract which would, in accordance with the Accounting Standard in force prior to 1 January 2019, have been treated as an operating lease).

**“Financial Indebtedness”** means any indebtedness for or in respect of:

- (a) moneys borrowed (and debit balances at banks or other financial institutions);
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of any bonds (but not Trade Instruments), notes, debentures, loan stock or any similar instrument, including the Bonds;
- (d) the amount of any liability in respect of any Finance Leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis, provided that the requirements for de-recognition under the Accounting Standard are met);
- (f) any derivative transaction entered into and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that transaction, that amount shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other similar instrument issued by a bank or financial institution in respect of an underlying liability (but not, in any case, Trade Instruments) of an entity which is not a Group Company which liability would fall within one of the other paragraphs of this definition;
- (h) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the Maturity Date or are otherwise classified as borrowings under the Accounting Standard;
- (i) any amount of any liability under an advance or deferred purchase agreement if (i) the primary reason behind entering into the agreement is to raise finance or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 120 calendar days after the date of supply;
- (j) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Standard; and
- (k) without double counting, the amount of any liability in respect of any guarantee for any of the items referred to in any of the preceding paragraphs.

**“Financial Quarter”** means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

**“Financial Report”** means the Annual Financial Statements or the Interim Accounts.

**“Financial Year”** means the annual accounting period of the Group ending on 31 December in each year.

**“First Call Date”** means the Interest Payment Date falling in 13 February 2027 (being the Interest Payment Date falling 24 months after the Issue Date).

**“GAAP”** means generally accepted accounting practices and principles in the country in which the Issuer is incorporated, including IFRS.

**“Group”** means the Issuer and each of its Subsidiaries from time to time.

**“Group Company”** means any person which is a member of the Group.

**“Guarantee”** means a Norwegian law guarantee (*selvskyldnergaranti*) to be issued by each Guarantor (which shall be in form and content satisfactory to the Bond Trustee).

**“Guarantee Facility”** means any existing or future guarantee facility made available to the Issuer or any Guarantor by any other reputable and creditworthy banks, financial institutions or insurance companies for the issue of guarantees, indemnities, bonds, standby or documentary letters of credit or other similar instruments in the ordinary course of business of any Group Company, provided that the total nominal amount of all such instruments issued and outstanding under all such Guarantee Facilities does not at any time exceed EUR 45,000,000 (or its equivalent in other currencies) in aggregate for the Group.

**“Guarantor”** means each Material Group Company to the extent and in the manner set out herein (including in the Agreed Security Principles).

**“Hedge Counterparty”** means any hedge counterparty in respect of any Hedging Liabilities.

**“Hedging Liabilities”** means any liabilities incurred to any hedge counterparty under or in connection with any hedging agreement entered into by the Issuer or any Guarantor in respect of the interest rate liabilities and/or the exchange rate risks of the Issuer or any Guarantor in relation to the Bonds or any Revolving Credit Facility (in each case, not entered into for speculative purposes), which Hedging Liabilities may, at the discretion of the Issuer, be guaranteed and secured to the extent and in the manner contemplated herein and by the Intercreditor Agreement.

**“IFRS”** means the International Financial Reporting Standards and guidelines and interpretations issued by the International Accounting Standards Board (or any predecessor and successor thereof) in force from time to time and to the extent applicable to the relevant financial statement.

**“Incurrence Test”** has the meaning ascribed to such term in Clause 13.27 (*Incurrence Test*).

**“Initial Bond Issue”** means the amount to be issued on the Issue Date as set out in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

**“Initial Material Group Company”** means the Issuer and each other Group Company which is confirmed or nominated by the Issuer as a Material Group Company pursuant to paragraph (a) of Clause 13.20 (*Material Group Companies*).

**“Initial Nominal Amount”** means the Nominal Amount of each Bond on the Issue Date as set out in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

**“Initial Shareholder”** means Jasmin Schröter who is the sole legal and beneficial owner of all the shares in the Issuer as at the Issue Date (together with her spouse and their mutual lineal descendants).

**“Insolvent”** means that a person:

- (a) is unable or admits inability to pay its debts as they fall due;
- (b) suspends making payments on any of its debts generally; or
- (c) is otherwise considered insolvent or bankrupt within the meaning of the relevant bankruptcy legislation of the jurisdiction which can be regarded as its centre of main interest as such term is understood pursuant to Regulation (EU) 2015/848 on insolvency proceedings (as amended from time to time).

**“Intellectual Property Rights”** means:

- (a) any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each Group Company (which may now or in the future subsist).

**“Intercreditor Agreement”** means the intercreditor agreement to be made between, among others, any Shareholder, the Issuer, the other Obligors, any other relevant Group Companies and the relevant creditors of the Obligors on the basis of the Intercreditor Principles.

**“Intercreditor Principles”** means the principles set out in Attachment 3 hereto.

**“Interest Cover”** means, in respect of any Relevant Period, the ratio of EBITDA to Net Finance Charges in respect of that Relevant Period.

**“Interest Payment Date”** means the last day of each Interest Period, the first Interest Payment Date being 13 May 2025 and the last Interest Payment Date being the Maturity Date.

**“Interest Period”** means, subject to adjustment in accordance with the Business Day Convention, the periods between 13 February, 13 May, 13 August and 13 November each year, provided however that an Interest Period shall not extend beyond the Maturity Date.

**“Interest Quotation Day”** means, in relation to any period for which an interest rate shall be determined, two TARGET Days before the first day of that period.

**“Interest Rate”** means the percentage rate per annum which is the aggregate of the Reference Rate for the relevant Interest Period plus the Margin.

**“Interim Accounts”** means the unaudited consolidated quarterly financial statements of the Issuer for each Financial Quarter in each of its Financial Years, each of which shall include a balance sheet, profit and loss account and cashflow statement together with adequate revenue

splits (and volumes where appropriate or meaningful) and management commentary on the performance.

**“ISIN”** means International Securities Identification Number.

**“Issue Date”** means 13 February 2025.

**“Issuer”** means the company designated as such in the preamble to these Bond Terms.

**“Issuer Loans”** means the following loans made prior to the Issue Date by the Issuer as lender to:

- (a) Hummingbird SARL as borrower in the total amount of EUR 10,970,000;
- (b) Lakeview Invest GmbH as borrower in the total amount of EUR 60,000; and
- (c) OPUS MARINE GmbH as borrower in the total amount of EUR 6,257,913.94.

**“Issuer’s Bonds”** means any Bonds which are owned by the Issuer or any Affiliate of the Issuer.

**“Joint Venture”** means any joint venture entity, in which a Group Company (either singly or together with other Group Companies) has a percentage ownership interest of 50.00 per cent. or less.

**“Lease Agreement”** means any lease, long lease or other rental agreement for the leasing, long leasing or other rental of any real property entered or to be entered into between any Group Company as lessee or renter and any member of the Real Property Group as lessor or landlord at any time.

**“Leverage”** means, in respect of any Relevant Period, the ratio of Total Net Debt on the last day of that Relevant Period to EBITDA in respect of such Relevant Period (in each case, calculated and adjusted as set out herein).

**“Listing Failure Event”** means:

- (a) that the Bonds have not been admitted to listing on the Exchange within 6 months following the Issue Date; or
- (b) in the case of a successful admission to listing, that a period of 3 months has elapsed since the Bonds ceased to be admitted to listing on the Exchange.

**“LSEG Benchmark”** means the London Stock Exchange Group, provider of financial information and interest rate benchmarks formerly provided under the brands Refinitiv and Thomson Reuters.

**“Main Revolving Credit Facility”** means any existing or future Revolving Credit Facility, which at the discretion of the Issuer, may either:

- (a) be guaranteed and/or secured to the extent and in the manner contemplated herein and by the Intercreditor Principles; or
- (b) be unguaranteed and unsecured,

provided that the total principal amount outstanding under all such Main Revolving Credit Facilities (i.e. both such that are unguaranteed and unsecured and such that are so guaranteed and/or secured) does not in aggregate for the Group at any time exceed an amount equal to EUR 15,000,000 (or its equivalent in other currencies) less the total principal amount outstanding under all Additional Revolving Credit Facilities at the time.

**“Make Whole Amount”** means an amount equal to the sum of the present value on the applicable Repayment Date of each of:

- (a) the Nominal Amount of the redeemed Bonds at the price as set out in paragraph (a)(ii) of Clause 10.2 (*Voluntary early redemption – Call Option*) as if such payment originally had taken place on the First Call Date; and
- (b) the remaining interest payments on the redeemed Bonds to the First Call Date (less any accrued and unpaid interest on the redeemed Bonds as at such Repayment Date),

where the present value shall be calculated by using a discount rate of 2.67 per cent. per annum, and where the Interest Rate applied for the remaining interest payments until the First Call Date shall be equal to the Interest Rate on the applicable Repayment Date.

**“Manager”** means Pareto Securities AS, Frankfurt Branch, Graefstrasse 97, 60487 Frankfurt am Main, Germany.

**“Mandatory Redemption Event”** means the event that the conditions precedent set out in Clause 6.2 (*Conditions precedent for disbursement*) have not been fulfilled within 60 days of the Issue Date (the **“Longstop Date”**).

**“Mandatory Redemption Repayment Date”** means the settlement date for the Mandatory Redemption Event pursuant to Clause 10.5 (*Mandatory early redemption due to a Mandatory Redemption Event*).

**“Margin”** means 7.00 per cent. per annum.

**“Material Adverse Effect”** means a material adverse effect on:

- (a) the ability of any Shareholder or any of the Obligors to perform and comply with its obligations under any of the Finance Documents; or
- (b) the validity or enforceability of any Finance Document.

**“Material Group Company”** means, at any time:

- (a) the Issuer;

- (b) each other Group Company which conducts any business or operations as at the Issue Date;
- (c) each wholly-owned Group Company that holds shares in another Material Group Company;
- (d) any wholly-owned Group Company which has earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA), net assets or turnover (excluding intra-group items) representing 5.00 per cent. or more of EBITDA, the net assets or the turnover of the Group, in each case, calculated on a consolidated basis (where any such Group Company which generates negative EBITDA shall be disregarded and its EBITDA shall be deemed to be zero for the purposes of those calculations and the calculation of the above thresholds (both with respect to the numerator and the denominator in those calculations));
- (e) any Group Company being party to any Lease Agreement; and
- (f) any other wholly-owned Group Company nominated as such by the Issuer under or in accordance with the terms hereof.

**“Maturity Date”** means 13 February 2029, adjusted according to the Business Day Convention.

**“Maximum Issue Amount”** means the maximum amount that may be issued under these Bond Terms as set out in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

**“Net Finance Charges”** means, in respect of any Relevant Period, the Finance Charges for that Relevant Period after deducting any interest payable in that Relevant Period to any Group Company (other than by another Group Company) on any Cash or Cash Equivalents.

**“Net Proceeds”** means the proceeds from the issuance of any Bonds (net of fees and legal costs of the Manager and, if required by the Bond Trustee, the Bond Trustee's fees, and any other costs and expenses incurred in connection with the issuance of such Bonds).

**“Nominal Amount”** means the nominal value of each Bond at any time. The Nominal Amount may be amended pursuant to paragraph (j) of Clause 16.2 (*The duties and authority of the Bond Trustee*).

**“Obligors”** means the Issuer and each Guarantor.

**“Outstanding Bonds”** means any Bonds not redeemed or otherwise discharged.

**“Overdue Amount”** means any amount required to be paid by an Obligor under the Finance Documents but not made available to the Bondholders on the relevant Payment Date or otherwise not paid on its applicable due date.

**“Partial Payment”** means a payment that is insufficient to discharge all amounts then due and payable under the Finance Documents.

**“Paying Agent”** means the legal entity appointed by the Issuer to act as its paying agent with respect to the Bonds in the CSD.

**“Payment Date”** means any Interest Payment Date or any Repayment Date.

**“Permitted Distribution”** means any Distribution made by:

- (a) the Issuer to the Initial Shareholder in any Financial Year, provided that the aggregate amount of such Distributions made in that Financial Year does not exceed the aggregate amount of any profit or income tax payable in cash by the Initial Shareholder in such Financial Year as a result of being a shareholder of the Issuer (which, for the avoidance of doubt, may include any such tax which is payable in such Financial Year in respect of any previous tax year(s) (*Steuernachzahlungen*) up to an aggregate amount during the life of the Bonds not exceeding EUR 5,000,000 (or its equivalent in other currencies)); or
- (b) any Group Company (other than the Issuer) to another Group Company (but not to any other (direct or indirect) shareholder of the distributing Group Company),

in each case, provided that no Event of Default is continuing or would result from the making of such Distribution.

**“Permitted Financial Indebtedness”** means any Financial Indebtedness:

- (a) arising under the Finance Documents in respect of the Initial Issue Amount;
- (b) outstanding or arising under any Main Revolving Credit Facility or any Hedging Liabilities, in each case subject to the terms set out herein and, if such Main Revolving Credit Facility or Hedging Liabilities shall be guaranteed or secured to the extent and in the manner contemplated herein, the Intercreditor Agreement;
- (c) outstanding or arising under any Additional Revolving Credit Facility;
- (d) outstanding or arising under any Guarantee Facility;
- (e) arising under, or to the extent covered by, any guarantee, indemnity, bond, standby or documentary letter of credit or other similar instrument issued under any Revolving Credit Facility (or any ancillary facility relating thereto) or any Guarantee Facility;
- (f) arising under any Shareholder Loans, subject to the terms set out herein and the Intercreditor Agreement;
- (g) up until the Disbursement, in the form of any Existing Refinancing Indebtedness;
- (h) up until the Existing Bonds Redemption Date, in the form of any Existing Bonds;
- (i) arising under any loan, guarantee or indemnity permitted by the definition of “Permitted Financial Support”, subject to the terms of the Intercreditor Agreement;



- (j) incurred by the Issuer after the Issue Date, provided that (i) it complies with the Incurrence Test if tested pro forma immediately after the incurrence of such new Financial Indebtedness and (ii) such Financial Indebtedness:

- (A) is incurred as a result of a Tap Issue;
- (B) is incurred under Aircraft Financing Facility; or
- (C) is incurred under a Subordinated Loan,

and, in each case, (1) provided further that no Event of Default is continuing or would result from the incurrence of any such Financial Indebtedness and (2) subject to the terms set out herein and the Intercreditor Agreement;

- (k) in the form of any seller's credit, earn out, working capital adjustment or other similar arrangement for the adjustment of the purchase price (in each case) on normal commercial terms incurred by the Issuer in relation to any acquisition of any company, business, undertaking, shares or securities (or any interest in any of the foregoing) permitted by the terms hereof, provided that:
  - (i) at least 60.00 per cent. of the total consideration payable by the Group in respect of such acquisition is paid in cash at the closing date of the acquisition; and
  - (ii) in the case of any such seller's credit only, it (A) has a final maturity date (and, if applicable, instalment dates or early redemption dates) which occurs no earlier than 6 months after the Maturity Date and (B) is otherwise subordinated to the obligations of the Obligors under the Finance Documents to an extent and in a manner acceptable to the Bond Trustee;
- (l) incurred under any trade credit or advance or deferred purchase agreement (in each case) on normal commercial terms by any Group Company towards any of its trading partners in the ordinary course of its trading activities;
- (m) in the form of any counter-indemnity granted by a Group Company in respect of any guarantee, indemnity, bond, standby or documentary letter of credit or other similar instrument issued by a bank or financial institution in respect of liabilities incurred by another Group Company in its ordinary course of business;
- (n) in the form of any Finance Lease, provided that the aggregate capital value of all items so leased or hired does not exceed the higher of (i) EUR 2,500,000 (or its equivalent in other currencies) and (ii) an amount equal to 4.00 per cent. of EBITDA, in each case, in aggregate for the Group at any time;
- (o) of any person acquired by a Group Company after the Issue Date (incurred prior to the closing date of the acquisition), provided that such Financial Indebtedness is repaid in full within 90 days of the date of such acquisition;

- (p) arising under any other hedging or other derivative transaction for the protection against or benefit from the fluctuation in any rate or price entered into in the ordinary course of business by a Group Company and not for speculative purposes;
- (q) outstanding or arising under any Affiliated Company Loans;
- (r) the proceeds of which shall be applied towards the refinancing of the Bonds (together with any accrued interest and any other amounts payable under the Finance Documents) in full, provided that if such proceeds are received by the Issuer (or any other Group Company) prior to such refinancing taking place, such proceeds are held in a blocked escrow account which is not accessible to the Issuer (or any other Group Company) unless and until such refinancing occurs; or
- (s) not permitted by the preceding paragraphs and the outstanding amount of which does not exceed the higher of (i) EUR 3,500,000 (or its equivalent in other currencies) and (ii) an amount equal to 7.50 per cent. of EBITDA, in each case, in aggregate for the Group at any time.

**“Permitted Financial Support”** means any:

- (a) guarantee or indemnity granted under the Finance Documents;
- (b) guarantee or indemnity granted in respect of any Main Revolving Credit Facility or any Hedging Liabilities, in each case subject to the terms of the Intercreditor Agreement;
- (c) guarantee or indemnity granted by any Obligor on normal commercial terms and subject to customary limitations in respect of any Guarantee Facility;
- (d) up until the Disbursement, guarantee or indemnity granted in respect of any Existing Refinancing Indebtedness;
- (e) up until the Existing Bonds Redemption Date, guarantee or indemnity granted in respect of any Existing Bonds;
- (f) guarantee or indemnity in respect of any such Financial Indebtedness permitted under paragraph (o) of the definition of “Permitted Financial Indebtedness” granted (prior to the closing date of the acquisition) by any person acquired by a Group Company after the Issue Date, provided that such guarantee or indemnity is discharged and released in full upon the repayment of such Financial Indebtedness as set out therein;
- (g) guarantee or indemnity permitted under the definition of “Permitted Financial Indebtedness”;
- (h) loan or credit granted by any Obligor to another Obligor, subject (if applicable) to the terms of the Intercreditor Agreement;
- (i) Issuer Loans existing at the Issue Date, provided that no such loan may subsequently be increased (other than by way of capitalisation of accrued interest);

- (j) loan or credit granted by any Group Company that is not an Obligor to any other Group Company, subject (if applicable) to the terms of the Intercreditor Agreement;
- (k) loan or credit granted by any Obligor to any other Group Company that is not an Obligor up to the aggregate amount of EUR 2,500,000 (or its equivalent in other currencies) for the Group at any time;
- (l) loan or credit granted by any Group Company to any Joint Venture, provided that it is granted on normal commercial terms and would otherwise constitute a Permitted Joint Venture Investment;
- (m) guarantee or indemnity granted by any Group Company in respect of the liabilities of any Joint Venture, provided that it is granted on normal commercial terms and would otherwise constitute a Permitted Joint Venture Investment;
- (n) trade credit extended by any Group Company to its customers, or any advance payment made by any Group Company to any of its suppliers or trading partners, in each case, on normal commercial terms and in the ordinary course of its trading activities;
- (o) performance or similar bond guaranteeing performance by any Group Company under any contract entered into in its ordinary course of business;
- (p) guarantee given in respect of any netting or set-off arrangements permitted under paragraph (h) of the definition of “Permitted Security”;
- (q) indemnity given in the ordinary course of the documentation of an acquisition or disposal transaction permitted by the terms hereof, which indemnity is on normal commercial terms and subject to customary limitations;
- (r) loan or credit in the form of any seller's credit, earn out, working capital adjustment or other similar arrangement for the adjustment of the purchase price (in each case) on normal commercial terms granted by any Group Company as part of any disposal permitted pursuant to Clause 13.4 (*Disposals*) (and where the aggregate amount of any such loans and credits falls within the limitations set out in paragraph (e)(ii)(B) of Clause 13.4 (*Disposals*));
- (s) guarantee or counter-indemnity on normal commercial terms in respect of any lease of real property entered into by any Group Company; or
- (t) loans, credits, guarantees or indemnities not permitted by the preceding paragraphs which do not (in total) exceed the higher of (i) EUR 3,500,000 (or its equivalent in other currencies) and (ii) an amount equal to 7.50 per cent. of EBITDA, in each case, in aggregate for the Group at any time.

**“Permitted Joint Venture Investment”** means, at any time, any disposal or other transfer of any asset to, any amount subscribed for shares or otherwise invested in, and/or any loan or credit made to, any Joint Venture by any Group Company (each, a **“Joint Venture Investment”**), which when aggregate with any other Joint Venture Investment made by any Group Company in respect of any Joint Venture during:

- (a) any Financial Year, does not exceed EUR 1,000,000 (or its equivalent in other currencies); or
- (b) the term of the Bonds, does not exceed EUR 3,000,000 (or its equivalent in other currencies),

in each case, in aggregate for the Group.

**“Permitted Security”** means any Security:

- (a) created under the Finance Documents;
- (b) created in respect of any Main Revolving Credit Facility or any Hedging Liabilities, in each case subject to the terms of the Intercreditor Agreement;
- (c) created in respect of any Additional Revolving Credit Facility, but only to the extent and in the manner set out in the definition of that term;
- (d) created by any Obligor or any other Group Company on normal commercial terms and subject to customary limitations in respect of any Guarantee Facility either (i) in the form of any cash collateral arrangements of the type and to the extent customarily forming part of such guarantee facilities and/or (ii) over any assets which pursuant to the terms hereof neither are nor shall be or become subject to Transaction Security;
- (e) up until the Disbursement, created in respect of any Existing Refinancing Indebtedness;
- (f) up until the Existing Bonds Redemption Date, created in respect of any Existing Bonds;
- (g) arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any Group Company;
- (h) in the form of any netting or set-off arrangement entered into by any Group Company for the purpose of netting debit and credit balances of Group Companies in the ordinary course of its banking arrangements;
- (i) in the form of rental deposits on normal commercial terms in respect of any lease of real property entered into by any Group Company;
- (j) arising as a consequence of any Finance Lease permitted pursuant to paragraph (n) of the definition of “Permitted Financial Indebtedness”;
- (k) created by any Group Company on normal commercial terms and subject to customary limitations in respect of any non-recourse factoring facility or arrangement permitted by the terms hereof entered into by any Group Company;
- (l) arising under any retention of title (including, without limitation, any extended retention of title (*verlängerter Eigentumsvorbehalt*)), hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a Group Company in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any Group Company;

- (m) in respect of any such Financial Indebtedness permitted under paragraph (o) of the definition of “Permitted Financial Indebtedness” created (prior to the closing date of the acquisition) by any person acquired by a Group Company after the Issue Date, provided that such Security is discharged and released in full upon the repayment of such Financial Indebtedness as set out therein;
- (n) affecting any asset acquired by any Group Company after the Issue Date, provided that such Security is discharged and released in full within 90 days of such acquisition;
- (o) in the form of any payment or close out netting or set-off arrangement (excluding, for the avoidance of doubt, any credit support arrangement) pursuant to any hedging or other derivative transaction permitted under paragraph (p) of the definition of “Permitted Financial Indebtedness”;
- (p) arising pursuant to an order of attachment or injunction restraining disposal of assets or similar legal process arising in connection with any court proceedings which are contested by the relevant Group Company in good faith by appropriate proceedings diligently prosecuted and in respect of which adequate reserves are maintained as, and to the extent, required by and in accordance with the applicable accounting principles;
- (q) created pursuant to any court order or judgment or as security for costs arising pursuant to court proceedings being contested by the relevant Group Company in good faith by appropriate proceedings diligently prosecuted and in respect of which adequate reserves are maintained as, and to the extent, required by and in accordance with the applicable accounting principles;
- (r) arising automatically by operation of law in favour of any government authority, agency or department with respect to any governmental taxes, assessments or charges which are not yet due or are being contested by the relevant Group Company in good faith by appropriate proceedings diligently prosecuted and in respect of which adequate reserves are maintained as, and to the extent, required by and in accordance with the applicable accounting principles;
- (s) in the form of any lien arising under the general terms and conditions of banks in Germany (including, without limitation, any security or quasi-security arising under the standard terms and conditions of banks and Sparkassen (*AGB-Banken oder AGB-Sparkassen*)) or equivalent terms of banks or financial institutions in other jurisdictions with whom any Group Company maintains banking relationships in the ordinary course of its business;
- (t) in favour of landlords or warehouse operators (*Pfandrecht des Vermieters oder Lagerhalters*) arising solely by operation of law in favour of the relevant third party landlord or warehouse operator under a lease or warehousing agreement entered into on normal commercial terms and in the ordinary course of business of the relevant Group Company;
- (u) arising solely by operation of law, or legally required to be created pursuant to, any applicable workmen's compensation laws, unemployment insurance laws, social security laws or similar legislation (including any Security created or subsisting in order to

comply with section 8a of the German Partial Retirement Act (*Altersteilzeitgesetz*) or section 7d of the German Social Security Code IV (*Sozialgesetzbuch IV*) or any works council or similar agreement or arrangement in relation to part-time work or working-time accounts or other flexible work arrangements);

- (v) created in respect of any Aircraft Financing Facility over any aircrafts and other aviation assets the acquisition of which have been financed by that facility;
- (w) in the form of a pledge of an escrow account (or similar escrow arrangement) created in respect of any such refinancing of the Bonds as described in paragraph (r) of the definition of “Permitted Financial Indebtedness”; or
- (x) securing indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of Security given by any Group Company other than any permitted under the preceding paragraphs) does not exceed the higher of (i) EUR 3,500,000 (or its equivalent in other currencies) and (ii) an amount equal to 7.50 per cent. of EBITDA, in each case, in aggregate for the Group at any time.

“**Put Option**” has the meaning ascribed to such term in Clause 10.3 (*Mandatory repurchase due to a Put Option Event*).

“**Put Option Event**” means a Change of Control Event.

“**Put Option Repayment Date**” means the settlement date for the Put Option pursuant to Clause 10.3 (*Mandatory repurchase due to a Put Option Event*).

“**Quarter Date**” means each of 31 March, 30 June, 30 September and 31 December.

“**Quotation Business Day**” means a day which is a TARGET Day.

“**Real Property Group**” means, at any time:

- (a) each of Kolibri Immobilien Holding GmbH, Kolibri Grundbesitz GmbH & Co. KG, Kolibri Haibach GmbH & Co. KG and Kolibri Immobilien GmbH and each of their respective Subsidiaries at the time; and
- (b) any other real property-owning company (not being a Group Company) owned (directly or indirectly) in whole or part by the Initial Shareholder at the time.

“**Reference Rate**” means EURIBOR (European Interbank Offered Rate) being:

- (a) the interest rate displayed on the appropriate page of the LSEG Benchmark screen (or through another system or website replacing it) as of or around 11:00 a.m. (Brussels time) on the Interest 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 interest rate under paragraph (a) for the relevant Interest Period:

- (i) the linear interpolation between the two closest relevant interest periods, and with the same number of decimals, quoted under paragraph (a) above; or
  - (ii) a rate for deposits in the Bond Currency for the relevant Interest Period as supplied to the Bond Trustee at its request quoted by a sufficient number of commercial banks reasonably selected by the Bond Trustee; or
- (c) if the interest rate under paragraph (a) is no longer available, the interest rate will be set by the Bond Trustee in consultation with the Issuer to:
  - (i) any relevant replacement reference rate generally accepted in the market; or
  - (ii) such interest rate that best reflects the interest rate for deposits in the Bond Currency offered for the relevant Interest Period.

In each case, if any such rate is below zero, the Reference Rate will be deemed to be zero.

**“Relevant Jurisdiction”** means the country in which the Bonds are issued, being Norway.

**“Relevant Period”** means each consecutive period of twelve months ending on or about the last day of each Financial Year and each consecutive period of twelve months ending on or about the last day of each Financial Quarter, and which (unless the context otherwise requires) shall be construed as a reference to the most recent of such periods having ended for which a Financial Report (together with a Compliance Certificate relating thereto) has been made available by the Issuer pursuant to the terms hereof.

**“Relevant Record Date”** means the date on which a Bondholder’s ownership of Bonds shall be recorded in the CSD as follows:

- (a) in relation to payments pursuant to these Bond Terms, the date designated as the Relevant Record Date in accordance with the rules of the CSD from time to time; or
- (b) for the purpose of casting a vote with regard to Clause 15 (*Bondholders’ Decisions*), the date falling on the immediate preceding Business Day to the date of that Bondholders’ decision being made, or another date as accepted by the Bond Trustee.

**“Repayment Date”** means:

- (a) the settlement date for (i) any voluntary redemption of Bonds determined by the Issuer pursuant to the terms hereof (or a date agreed upon between the Bond Trustee and the Issuer in connection therewith), (ii) any mandatory redemption of Bonds pursuant to the terms hereof or (iii) any repurchase of Bonds pursuant to the terms hereof; or
- (b) the Maturity Date.

**“Revolving Credit Facility”** means any revolving credit facility (including any ancillary facility forming part thereof) made available to the Issuer or any Guarantor by any bank or financial institution for the purpose of financing the general corporate and/or working capital purposes of any Group Companies.

**“Secured Parties”** has the meaning given to that term in the Intercreditor Agreement.

**“Securities Trading Act”** means the Securities Trading Act of 2007 no.75 of the Relevant Jurisdiction.

**“Security”** means any 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 the Bond Trustee or any successor Security Agent, acting for and on behalf of the Secured Parties in accordance with any Security Agent Agreement or any other Finance Document.

**“Security Agent Agreement”** means any agreement other than these Bond Terms whereby the Security Agent is appointed to act as such in the interest of the Bond Trustee (on behalf of itself and the Bondholders).

**“Security Provider”** means any person granting Transaction Security.

**“Shareholder”** means the Initial Shareholder or any Subsequent Shareholder.

**“Shareholder Loan”** means any loan or credit made to the Issuer by any Shareholder, provided that it is unsecured and subordinated to the obligations of the Obligors under the Finance Documents pursuant to the terms of the Intercreditor Agreement.

**“Subordinated Loan”** means any loan or credit made to the Issuer by any person (other than any Shareholder or a Group Company), provided that it (a) is unsecured and subordinated to the obligations of the Obligors under the Finance Documents pursuant to the terms of the Intercreditor Agreement and (b) has a final maturity date (and, if applicable, instalment dates or early redemption dates) which occurs no earlier than 6 months after the Maturity Date.

**“Subsequent Material Group Company”** means each Group Company which is confirmed or nominated by the Issuer as a Material Group Company pursuant to paragraph (b)(i) or (ii) of Clause 13.20 (*Material Group Companies*).

**“Subsequent Shareholder”** has the meaning given to such term in Clause 13.22 (*Ownership of shares in the Issuer*).

**“Subsidiary”** means a company over which another company has Decisive Influence.

**“Summons”** means the call for a Bondholders’ Meeting or a Written Resolution as the case may be.

**“Super Senior Hedging Liabilities”** means any Hedging Liabilities relating to any guaranteed and/or secured Main Revolving Credit Facility.

**“Tap Issue”** has the meaning ascribed to such term in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).



“**Tap Issue Addendum**” has the meaning ascribed to such term in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

“**TARGET Day**” means any day on which T2 is open for the settlement of payments in EUR.

“**Tax Event Repayment Date**” means the date set out in a notice from the Issuer to the Bondholders pursuant to Clause 10.4 (*Early redemption option due to a tax event*).

“**Total Net Debt**” means, at the relevant time, the aggregate amount of all obligations of the Group Companies for or in respect of Financial Indebtedness (other than such referred to in paragraph (f) of the definition of “Financial Indebtedness”) but:

- (a) excluding any such obligations to any other Group Company;
- (b) excluding any such obligations in respect of any Shareholder Loans and (other than in the case of any Incurrence Test made for the purpose of incurring any such Subordinated Loan) any Subordinated Loans;
- (c) excluding any Bonds held by the Issuer;
- (d) including, in the case of any Finance Leases, their capitalised value (as determined in accordance with the Accounting Standard); and
- (e) deducting the aggregate amount of any Cash and Cash Equivalents held by any Group Company at the time,

and so that no amount shall be included or excluded more than once.

“**Trade Instruments**” means any performance bonds, advance payment bonds or documentary letters of credit issued in respect of the obligations of any Group Company arising in the ordinary course of trading of that Group Company.

“**Transaction Security**” means the Security created or expressed to be created in favour of the Security Agent (on behalf of the Secured Parties) pursuant to the Transaction Security Documents.

“**Transaction Security Documents**” means any document evidencing the terms of any Security created or to be created by any Shareholder or by or in respect of any Obligor or any other Group Company pursuant to Clause 2.5 (*Transaction Security*) (which, unless the context otherwise requires, shall include any Guarantees).

“**T2**” means the real time gross settlement system operated by the Eurosystem or any successor system.

“**Zeitfracht Logistik**” means Zeitfracht Logistik Holding GmbH, a company incorporated under the laws of Germany, which is registered with the commercial register (*Handelsregister*) at the local court (*Amtsgericht*) of Potsdam with company registration number HRB 36504 P, which as at the Issue Date is a Subsidiary of the Issuer.

“**Voting Bonds**” means the Outstanding Bonds less the Issuer’s Bonds.

“**Written Resolution**” means a written (or electronic) solution for a decision making among the Bondholders, as set out in Clause 15.5 (*Written Resolutions*).

## 1.2 Construction

In these Bond Terms, unless the context otherwise requires:

- (a) headings are for ease of reference only;
- (b) words denoting the singular number will include the plural and vice versa;
- (c) references to Clauses are references to the Clauses of these Bond Terms;
- (d) references to a time are references to Central European Time unless otherwise stated;
- (e) references to a provision of “**law**” are a reference to that provision as amended or re-enacted, and to any regulations made by the appropriate authority pursuant to such law;
- (f) references to a “**regulation**” includes any regulation, rule, official directive, request or guideline by any official body;
- (g) references to a “**person**” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, unincorporated organisation, government, or any agency or political subdivision thereof or any other entity, whether or not having a separate legal personality;
- (h) references to Bonds being “**redeemed**” means that such Bonds are cancelled and discharged in the CSD in a corresponding amount, and that any amounts so redeemed may not be subsequently re-issued under these Bond Terms;
- (i) references to Bonds being “**purchased**” or “**repurchased**” by the Issuer means that such Bonds may be dealt with by the Issuer as set out in Clause 11.1 (*Issuer’s purchase of Bonds*);
- (j) references to persons “**acting in concert**” shall be interpreted pursuant to the relevant provisions of the Securities Trading Act; and
- (k) an Event of Default is “**continuing**” if it has not been remedied or waived.

## 2. THE BONDS

### 2.1 Amount, denomination and ISIN of the Bonds

- (a) The Issuer has resolved to issue a series of Bonds up to EUR 200,000,000 (the “**Maximum Issue Amount**”). The Bonds may be issued on different issue dates and the Initial Bond Issue will be in the amount of EUR 145,000,000.
- (b) The Issuer may, provided that the conditions set out in Clause 6.4 (*Tap Issues*) are met, at one or more occasions issue Additional Bonds (each a “**Tap Issue**”) until the Nominal Amount of all Additional Bonds equals in aggregate the Maximum Issue Amount less the Initial Bond Issue. Each Tap Issue will be subject to identical terms as the Bonds issued pursuant to the Initial Bond Issue in all respects as set out in these Bond Terms,

except that Additional Bonds may be issued at a different price than for the Initial Bond Issue and which may be below or above the Nominal Amount. The Bond Trustee shall prepare an addendum to these Bond Terms evidencing the terms of each Tap Issue (a “**Tap Issue Addendum**”).

- (c) The Bonds are denominated in Euro (EUR), being the single currency of the participating member states in accordance with the legislation of the European Community relating to Economic and Monetary Union.
- (d) The Initial Nominal Amount of each Bond is EUR 1,000.
- (e) The ISIN of the Bonds is set out on the front page. These Bond Terms apply with identical terms and conditions to (i) all Bonds issued under this ISIN and (ii) any Overdue Amounts issued under one or more separate ISIN in accordance with the regulations of the CSD from time to time.
- (f) Holders of Overdue Amounts related to interest claims will not have any other rights under these Bond Terms than their claim for payment of such interest claim which claim shall be subject to paragraph (b) of Clause 15.1 (*Authority of the Bondholders’ Meeting*).

## **2.2 Tenor of the Bonds**

The tenor of the Bonds is from and including the Issue Date to but excluding the Maturity Date.

## **2.3 Use of proceeds**

- (a) The proceeds of the Initial Issue Amount shall be applied towards (i) refinancing or repaying Existing Refinancing Debt, (ii) financing the general corporate purposes of the Group (other than any Distributions by the Issuer) and (iii) financing any fees, costs and expenses incurred by the Group in respect of any such transactions or the initial Bond Issue.
- (b) The purpose of any Tap Issue shall be set out in the relevant Tap Issue Addendum.

## **2.4 Status of the Bonds**

The Bonds shall constitute senior debt obligations of the Issuer and rank:

- (a) *pari passu* between themselves;
- (b) at least *pari passu* with all other obligations of the Issuer, save for (i) such claims which are preferred by bankruptcy, insolvency, liquidation or other similar laws of general application and (ii), if any Main Revolving Credit Facility or any Hedging Liabilities shall be guaranteed or secured, the super senior ranking of (A) such Main Revolving Credit Facility and/or (B) such Super Senior Hedging Liabilities to the extent and in the manner contemplated herein and by the Intercreditor Principles; and
- (c) ahead of any subordinated debt.

## **2.5 Transaction Security**

- (a) All amounts owing to the Bond Trustee and the Bondholders under the Finance Documents, including (but not limited to) any principal amount and any interest,

premiums, fees, costs and expenses accrued in respect of the Bonds, shall (subject to any mandatory limitations arising under any applicable law and the Agreed Security Principles) be secured by the following:

- (i) a Norwegian law governed first priority Escrow Account Pledge;
- (ii) a German law governed first priority pledge by the Initial Shareholder and any Subsequent Shareholder of all the shares in the Issuer owned or acquired by it;
- (iii) a German law governed security assignment by the Initial Shareholder and any Subsequent Shareholder of any claims arising under any Shareholder Loans made or acquired by it;
- (iv) a German or, if applicable, other local law governed first priority pledge by each Obligor of all the shares in each Material Group Company owned by it;
- (v) a German or, if applicable, other local law governed security assignment by each Obligor of any claims arising under any loan or credit made by it to any other Group Company;
- (vi) a German or, if applicable, other local law governed security assignment by the Issuer of any claims arising under any Issuer Loan;
- (vii) a German or, if applicable, other local law governed first priority pledge by each Obligor of any Intellectual Property Rights held by it;
- (viii) a German or, if applicable, other local law governed first priority floating charge, debenture, security assignment, security transfer or similar Security (including, in case of any Obligor incorporated in Germany, a *Raum- und/oder Listensicherungsübereignung*) by each Obligor over all machinery and plant, vehicles, inventory and (to the extent they are not the subject of any non-recourse factoring facility or arrangement permitted by the terms hereof) trade receivables of such Obligor; and
- (ix) a Guarantee from each Material Group Company,

and (where relevant) any Transaction Security Document creating any such Security shall require that the relevant security provider promptly provides similar Security on substantially the same terms over any such future assets acquired by it.

- (b) Such Security and Guarantees shall be provided at the following times:
  - (A) the Escrow Account Pledge, not later than two Business Days prior to the Issue Date;
  - (B) the initial Transaction Security referred to in paragraphs (ii) and (iii) above, subject to any Closing Procedure, not later than at the time of the Disbursement; and

(C) the Transaction Security and the Guarantees referred to in paragraphs (iv) to (ix) above to be provided:

- (1) by or in respect of the Issuer or any other Initial Material Group Company, not later than at the date occurring 60 days after the Disbursement;
- (2) by or in respect of any Subsequent Material Group Company, not later than at the date occurring 60 days after being confirmed or nominated as such in accordance with paragraphs (b)(i) or (ii) of Clause 13.20 (*Material Group Companies*);
- (3) by any Obligor over any such asset acquired by it after the relevant date referred to in paragraphs (B) or (C)(1) or (C)(2) above (as applicable), not later than at the earlier of (1) the date occurring 60 days after the acquisition of that asset and (2) the date required by the terms of any relevant Transaction Security Document to which such Obligor is a party; and
- (4) by any Shareholder over any such asset acquired by it after the relevant date referred to in paragraph (ii) above (as applicable), not later than at the date of acquisition of such asset.

Such Security (other than the Escrow Account Pledge) shall form part of the Transaction Security and, together with any Guarantee, be shared with the other Secured Parties to the extent and in the manner contemplated by the Intercreditor Principles.

- (c) The Bond Trustee may (at its sole discretion and in each case) postpone the creation or perfection of, or to the extent provided for in the Agreed Security Principles, waive the creation or perfection of, one or more such Security or Guarantee.
- (d) The Transaction Security and the Intercreditor Agreement shall be entered into on such terms and conditions as the Security Agent and the Bond Trustee in its discretion deems appropriate in order to create the intended benefit for the Secured Parties under the relevant document.
- (e) The Security Agent is irrevocably authorised to discharge and release:
  - (i) the Escrow Account Pledge once the Disbursement has taken place;
  - (ii) any Transaction Security created over any asset being disposed of by way of any merger, de-merger, sale or other transaction permitted by the terms hereof;
  - (iii) any Transaction Security or Guarantee to the extent and in the manner set out in the Intercreditor Agreement; and
  - (iv) any Guarantor (including any Guarantee and Transaction Security provided by or in respect of such Guarantor) if (A) such Guarantor no longer qualifies as a Material Group Company pursuant to the requirements set out in any of

paragraphs (b) to (f) of the definition of “Material Group Company” and such Guarantor is not needed for the Issuer to comply with its obligations under Clause 13.20 (*Material Group Companies*), (B) no payment is due from such Guarantor under any Guarantee or any other Finance Document and (C) no Event of Default is continuing or would result from such Guarantor being discharged and released as such (and the Issuer has confirmed in writing to the Security Agent that this is the case).

### **3. THE BONDHOLDERS**

#### **3.1 Bond Terms binding on all Bondholders**

- (a) By virtue of being registered as a Bondholder (directly or indirectly) with the CSD, the Bondholders are bound by these Bond Terms and any other Finance Document, without any further action required to be taken or formalities to be complied with by the Bond Trustee, the Bondholders, the Issuer or any other party.
- (b) The Bond Trustee is always acting with binding effect on behalf of all the Bondholders.

#### **3.2 Limitation of rights of action**

- (a) No Bondholder is entitled to take any enforcement action, instigate any insolvency procedures or take other legal action against the Issuer or any other party in relation to any of the liabilities of the Issuer or any other party under or in connection with the Finance Documents, other than through the Bond Trustee and in accordance with these Bond Terms, provided, however, that the Bondholders shall not be restricted from exercising any of their individual rights derived from these Bond Terms, including the right to exercise the Put Option.
- (b) Each Bondholder shall immediately upon request by the Bond Trustee provide the Bond Trustee with any such documents, including a written power of attorney (in form and substance satisfactory to the Bond Trustee), as the Bond Trustee deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents. The Bond Trustee is under no obligation to represent a Bondholder which does not comply with such request.

#### **3.3 Bondholders’ rights**

- (a) If a beneficial owner of a Bond not being registered as a Bondholder wishes to exercise any rights under the Finance Documents, it must obtain proof of ownership of the Bonds, acceptable to the Bond Trustee.
- (b) A Bondholder (whether registered as such or proven to the Bond Trustee’s satisfaction to be the beneficial owner of the Bond as set out in paragraph (a) above) may issue one or more powers of attorney to third parties to represent it in relation to some or all of the Bonds held or beneficially owned by such Bondholder. The Bond Trustee shall only have to examine the face of a power of attorney or similar evidence of authorisation that has been provided to it pursuant to this Clause 3.3 and may assume that it is in full force and effect, unless otherwise is apparent from its face or the Bond Trustee has actual knowledge to the contrary.

#### **4. ADMISSION TO LISTING**

The Issuer shall:

- (a) use reasonable endeavours to ensure that the Bonds are listed on the Open Market of the Frankfurt Stock Exchange as soon as practically possible and in any event within 30 days of the Issue Date; and
- (b) ensure that the Bonds are listed on the Exchange within 6 months of the Issue Date.

#### **5. REGISTRATION OF THE BONDS**

##### **5.1 Registration in the CSD**

The Bonds shall be registered in dematerialised form in the CSD according to the relevant securities registration legislation and the requirements of the CSD.

##### **5.2 Obligation to ensure correct registration**

The Issuer will at all times ensure that the registration of the Bonds in the CSD is correct and shall immediately upon any amendment or variation of these Bond Terms give notice to the CSD of any such amendment or variation.

##### **5.3 Country of issuance**

The Bonds have not been issued under any other country's legislation than that of the Relevant Jurisdiction. Save for the registration of the Bonds in the CSD, the Issuer is under no obligation to register, or cause the registration of, the Bonds in any other registry or under any other legislation than that of the Relevant Jurisdiction.

#### **6. CONDITIONS PRECEDENT**

##### **6.1 Conditions precedent for settlement**

- (a) Payment of the Net Proceeds of the Initial Issue Amount into the Escrow Account shall be subject to receipt by the Bond Trustee, not later than two Business Days prior to the Issue Date (or such later date as the Bond Trustee may agree), of the following documents and evidence (in form and content satisfactory to the Bond Trustee):
  - (i) these Bond Terms duly executed by all parties hereto;
  - (ii) copies of the constitutional documents of the Issuer;
  - (iii) copies of all corporate resolutions and authorisations of the Issuer required to issue the Bonds, provide the Escrow Account Pledge and execute the Finance Documents to which it is or shall become a party;
  - (iv) the Escrow Account Pledge, duly executed by all parties thereto and perfected in accordance with applicable law;
  - (v) copies of the Issuer's latest Financial Reports (if any);

- (vi) confirmation that the applicable prospectus requirements (ref. the EU prospectus regulation ((EU) 2017/1129)) concerning the issuance of the Bonds have been fulfilled;
  - (vii) copies of any necessary governmental approval, consent or waiver (as the case may be) required at such time to issue the Bonds;
  - (viii) confirmation that the Bonds are registered in the CSD (by obtaining an ISIN for the Bonds);
  - (ix) copies of any written documentation used in marketing the Bonds or made public by the Issuer or the Manager in connection with the issuance of the Bonds;
  - (x) the Bond Trustee Fee Agreement duly executed by all parties thereto; and
  - (xi) legal opinions or other statements as may be required by the Bond Trustee (including in respect of corporate matters relating to the Issuer and the legality, validity and enforceability of the Finance Documents).
- (b) The Bond Trustee, acting in its sole discretion, may, regarding this Clause 6.1, waive the requirements for documentation or decide that delivery of certain documents shall be made subject to an agreed closing procedure between the Bond Trustee and the Issuer.

## **6.2 Conditions precedent for Disbursement**

- (a) Disbursement of the Net Proceeds of the Initial Issue Amount credited to the Escrow Account to the Issuer shall be subject to receipt by the Bond Trustee, not later than at the time of the Disbursement (or such later date as the Bond Trustee may agree (and subject to any Closing Procedure)), of the following documents and evidence (in form and content satisfactory to the Bond Trustee):
  - (i) a duly executed release notice from the Issuer, as set out in Attachment 2;
  - (ii) evidence that (A) any Existing Refinancing Debt (together with any accrued interest, premiums and fees will be repaid and paid (and, other than in respect of any Existing Refinancing Debt in the form of any Revolving Credit Facility, any commitment in respect thereof will be cancelled) in full not later than upon the Disbursement and (B) any guarantee or Security created in respect thereof at the same time will be released and discharged in full, in each case subject to any Closing Procedure;
  - (iii) evidence that Zeitfracht Logistik has sent an irrevocable and unconditional notice of termination of the Existing Bonds to the holders thereof in accordance with the terms of the Existing Bonds;
  - (iv) the Intercreditor Agreement, duly executed by the parties thereto;
  - (v) a copy of the register of shareholders (*Gesellschafterliste*) of the Issuer evidencing that the Initial Shareholder is the sole direct legal and beneficial owner of all the shares in the Issuer, together with a written confirmation by the Issuer that such



shares are (or immediately after the Disbursement will be) free and clear of any encumbrances other than any Transaction Security;

- (vi) the Transaction Security Documents for the provision of the Transaction Security to be provided by the Initial Shareholder, each duly executed and perfected by the parties thereto together with any notices, acknowledgements, registers of shareholders and other documents which shall be supplied in respect thereof (in each case, subject to any Closing Procedure); and
  - (vii) legal opinions or other statements as may be required by the Bond Trustee (including in respect of corporate matters relating to the Issuer or any other Group Company or the legality, validity and enforceability of any Finance Documents).
- (b) The Bond Trustee, acting in its sole discretion, may, regarding this Clause 6.2, waive the requirements for documentation or decide that delivery of certain documents shall be made subject to an agreed closing procedure between the Bond Trustee and the Issuer.

### **6.3 Conditions precedent for the provision of Transaction Security and Guarantees**

- (a) The Issuer shall deliver to the Bond Trustee, not later than at the date any Shareholder, the Issuer, any other Obligor or any other Material Group Company shall provide Transaction Security, or, to the extent it has not already done so (but is required to or has been nominated a such), become a Guarantor pursuant the terms hereof, the following documents and evidence (in form and content satisfactory to the Bond Trustee):
- (i) if applicable, copies of its constitutional documents;
  - (ii) if applicable, copies of all corporate resolutions and authorisations required for it to provide the Transaction Security and (if applicable) the Guarantee and execute the Finance Documents to which it is or shall become a party;
  - (iii) the Transaction Security Documents for the provision of the Transaction Security to be provided by or in respect of it pursuant to the terms hereof, each duly executed and perfected by the parties thereto together with any notices, acknowledgements, registers of shareholders and other documents which shall be supplied in respect thereof;
  - (iv) in respect of each additional Guarantor only:
    - (A) (if applicable) a copy of its register of shareholders (*Gesellschafterliste*);
    - (B) a Guarantee duly executed by the parties thereto; and
    - (C) evidence that it has acceded to the Intercreditor Agreement in the proper capacities;
  - (v) in respect of any Subsequent Shareholder only, evidence that it has acceded to the Intercreditor Agreement in the proper capacities; and

- (vi) legal opinions or other statements as may be required by the Bond Trustee (including in respect of corporate matters relating to any Shareholder, the Issuer or any other Obligor, Guarantor or Group Company or the legality, validity and enforceability of any Finance Documents).
- (b) The Bond Trustee may (at its sole discretion and in each case) waive or postpone the delivery of one or more of such conditions precedent.

#### **6.4 Tap Issues**

The Issuer may issue Additional Bonds if:

- (a) a Tap Issue Addendum has been duly executed by all parties thereto;
- (b) the representations and warranties contained in Clause 7 (*Representations and Warranties*) of these Bond Terms are true and correct in all material respects and repeated by the Issuer as at the date of issuance of such Additional Bonds; and
- (c) the Issuer meets the Incurrence Test tested pro forma including the new Financial Indebtedness incurred as a result of issuing such Additional Bonds.

### **7. REPRESENTATIONS AND WARRANTIES**

The Issuer makes the representations and warranties set out in this Clause 7 (*Representations and Warranties*), in respect of itself, in respect of each Group Company and, to the extent applicable, any Shareholder, to the Bond Trustee (on behalf of the Bondholders) at the following times and with reference to the facts and circumstances then existing:

- (a) on the date of these Bond Terms;
- (b) on the Issue Date;
- (c) on the date of the Disbursement; and
- (d) on the date of issuance of any Additional Bonds.

#### **7.1 Status**

It is a limited liability company (*Gesellschaft mit beschränkter Haftung*) duly incorporated and validly existing and registered under the laws of its jurisdiction of incorporation, and has the power to own its assets and carry on its business as it is being conducted.

#### **7.2 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, these Bond Terms and any other Finance Document to which it is a party and the transactions contemplated by those Finance Documents.

#### **7.3 Valid, binding and enforceable obligations**

These Bond Terms and each other Finance Document to which it is a party constitutes (or will constitute, when executed by the respective parties thereto) its legal, valid and binding obligations, enforceable in accordance with their respective terms, and (save as provided for

therein) no further registration, filing, payment of tax or fees or other formalities are necessary or desirable to render the said documents enforceable against it.

#### **7.4 Non-conflict with other obligations**

The entry into and performance by it of these Bond Terms and any other Finance Document to which it is a party and the transactions contemplated thereby do not and will not conflict with (i) any law or regulation or judicial or official order; (ii) its constitutional documents; or (iii) any agreement or instrument which is binding upon it or any of its assets.

#### **7.5 No Event of Default**

- (a) No Event of Default exists or is likely to result from the making of any disbursement of proceeds or the entry into, the performance of, or any transaction contemplated by, any Finance Document.
- (b) No other event or circumstance has occurred which constitutes (or with the expiry of any grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which has or is likely to have a Material Adverse Effect.

#### **7.6 Authorisations and consents**

All authorisations, consents, approvals, resolutions, licences, exemptions, filings, notarisations or registrations required:

- (a) to enable it to enter into, exercise its rights and comply with its obligations under these Bond Terms or any other Finance Document to which it is a party; and
- (b) to carry on its business as presently conducted and as contemplated by these Bond Terms,

have been obtained or effected and are in full force and effect.

#### **7.7 Litigation**

No litigation, arbitration or administrative proceedings or investigations of or before any court, arbitral body or agency which, if adversely determined, is likely to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries.

#### **7.8 Financial Reports**

Its most recent Financial Reports fairly and accurately represent the assets and liabilities and financial condition as at their respective dates, and have been prepared in accordance with the Accounting Standard, consistently applied.

#### **7.9 No Material Adverse Effect**

Since the date of the most recent Financial Reports, there has been no change in its business, assets or financial condition that is likely to have a Material Adverse Effect.

**7.10 No misleading information**

Any factual information provided by it to the Bondholders or the Bond Trustee for the purposes of the issuance of the Bonds was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.

**7.11 No withholdings**

The Issuer is not required to make any deduction or withholding from any payment which it may become obliged to make to the Bond Trustee or the Bondholders under the Finance Documents.

**7.12 Pari passu ranking**

Its payment obligations under these Bond Terms or any other Finance Document to which it is a party ranks as set out in Clause 2.4 (*Status of the Bonds*).

**7.13 Security**

No Security exists over any of the present assets of any Group Company in conflict with these Bond Terms.

**8. PAYMENTS IN RESPECT OF THE BONDS**

**8.1 Covenant to pay**

- (a) The Issuer will unconditionally make available to or to the order of the Bond Trustee and/or the Paying Agent all amounts due on each Payment Date pursuant to the terms of these Bond Terms at such times and to such accounts as specified by the Bond Trustee and/or the Paying Agent in advance of each Payment Date or when other payments are due and payable pursuant to these Bond Terms.
- (b) All payments to the Bondholders in relation to the Bonds shall be made to each Bondholder registered as such in the CSD on the Relevant Record Date, by, if no specific order is made by the Bond Trustee, crediting the relevant amount to the bank account nominated by such Bondholder in connection with its securities account in the CSD.
- (c) Payment constituting good discharge of the Issuer's payment obligations to the Bondholders under these Bond Terms will be deemed to have been made to each Bondholder once the amount has been credited to the bank holding the bank account nominated by the Bondholder in connection with its securities account in the CSD. If the paying bank and the receiving bank are the same, payment shall be deemed to have been made once the amount has been credited to the bank account nominated by the Bondholder in question.
- (d) If a Payment Date or a date for other payments to the Bondholders pursuant to the Finance Documents falls on a day on which either of the relevant CSD settlement system or the relevant currency settlement system for the Bonds are not open, the payment shall be made on the first following possible day on which both of the said systems are open, unless any provision to the contrary has been set out for such payment in the relevant Finance Document.

## **8.2 Default interest**

- (a) Default interest will accrue on any Overdue Amount from and including the Payment Date on which it was first due to and excluding the date on which the payment is made at the Interest Rate plus 2.00 percentage points per annum.
- (b) Default interest accrued on any Overdue Amount pursuant to this Clause 8.2 will be added to the Overdue Amount on each Interest Payment Date until the Overdue Amount and default interest accrued thereon have been repaid in full.
- (c) Upon the occurrence of a Listing Failure Event and for as long as such Listing Failure Event is continuing, the interest on any principal amount outstanding under these Bonds Terms will accrue at the Interest Rate plus 1.00 percentage point per annum.

## **8.3 Partial Payments**

- (a) If the Paying Agent or the Bond Trustee receives a Partial Payment, such Partial Payment shall, in respect of the Issuer's debt under the Finance Documents be considered made for discharge of the debt of the Issuer in the following order of priority:
  - (i) firstly, towards any outstanding fees, liabilities and expenses of the Bond Trustee (and any Security Agent);
  - (ii) secondly, towards accrued interest due but unpaid; and
  - (iii) thirdly, towards any other outstanding amounts due but unpaid under the Finance Documents.
- (b) Notwithstanding paragraph (a) above, any Partial Payment which is distributed to the Bondholders, shall, after the above mentioned deduction of outstanding fees, liabilities and expenses, be applied (i) firstly towards any principal amount due but unpaid and (ii) secondly, towards accrued interest due but unpaid, in the following situations:
  - (i) if the Bond Trustee has served a Default Notice in accordance with Clause 14.2 (*Acceleration of the Bonds*); or
  - (ii) if a resolution according to Clause 15 (*Bondholders' Decisions*) has been made.

## **8.4 Taxation**

- (a) The Issuer is responsible for withholding any withholding tax imposed by applicable law on any payments to be made by it in relation to the Finance Documents.
- (b) The Issuer shall, if any tax is withheld in respect of the Bonds under the Finance Documents:
  - (i) gross up the amount of the payment due from it up to such amount which is necessary to ensure that the Bondholders or the Bond Trustee, as the case may be, receive a net amount which is (after making the required withholding) equal to the payment which would have been received if no withholding had been required; and

- (ii) at the request of the Bond Trustee, deliver to the Bond Trustee evidence that the required tax deduction or withholding has been made.
- (c) Any public fees levied on the trade of Bonds in the secondary market shall be paid by the Bondholders, unless otherwise provided by law or regulation, and the Issuer shall not be responsible for reimbursing any such fees.
- (d) The Bond Trustee shall not have any responsibility to obtain information about the Bondholders relevant for the tax obligations pursuant to these Bond Terms.

## **8.5 Currency**

- (a) All amounts payable under the Finance Documents shall be payable in the Bond Currency. If, however, the Bond Currency differs from the currency of the bank account connected to the Bondholder's account in the CSD, any cash settlement may be exchanged and credited to this bank account.
- (b) Any specific payment instructions, including foreign exchange bank account details, to be connected to the Bondholder's account in the CSD must be provided by the relevant Bondholder to the Paying Agent (either directly or through its account manager in the CSD) within 5 Business Days prior to a Payment Date. Depending on any currency exchange settlement agreements between each Bondholder's bank and the Paying Agent, and opening hours of the receiving bank, cash settlement may be delayed, and payment shall be deemed to have been made once the cash settlement has taken place, provided, however, that no default interest or other penalty shall accrue for the account of the Issuer for such delay.

## **8.6 Set-off and counterclaims**

The Issuer may apply or perform any counterclaims or set-off against any payment obligations pursuant to these Bond Terms or any other Finance Document.

## **9. INTEREST**

### **9.1 Calculation of interest**

- (a) Each Outstanding Bond will accrue interest at the Interest Rate on the Nominal Amount for each Interest Period, commencing on and including the first date of the Interest Period, and ending on but excluding the last date of the Interest Period.
- (b) Any Additional Bond will accrue interest at the Interest Rate on the Nominal Amount commencing on the first date of the Interest Period in which the Additional Bonds are issued and thereafter in accordance with paragraph (a) above.
- (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). The Interest Rate will be reset at each Interest Quotation Day by the Bond Trustee on behalf of the Issuer, who will notify the Issuer and the Paying Agent and, if the Bonds are listed, the Exchange, of the new Interest Rate and the actual number of calendar days for the next Interest Period.

## **9.2 Payment of interest**

Interest shall fall due on each Interest Payment Date for the corresponding preceding Interest Period and, with respect to accrued interest on the principal amount then due and payable, on each Repayment Date.

## **10. REDEMPTION AND REPURCHASE OF BONDS**

### **10.1 Redemption of Bonds**

The Outstanding Bonds will mature in full on the Maturity Date and shall be redeemed by the Issuer on the Maturity Date at a price equal to 100.00 per cent. of the Nominal Amount.

### **10.2 Voluntary early redemption - Call Option**

(a) The Issuer may redeem all or some of the Outstanding Bonds (the “**Call Option**”) on any Business Day from and including:

- (i) the Issue Date to, but not including, the First Call Date at a price equal to the Make Whole Amount;
- (ii) the First Call Date to, but not including, the Interest Payment Date falling 30 months after the Issue Date at a price equal to 104.80 per cent. of the Nominal Amount of the redeemed Bonds;
- (iii) the Interest Payment Date falling 30 months after the Issue Date to, but not including, the Interest Payment Date falling 36 months after the Issue Date at a price equal to 102.40 per cent. of the Nominal Amount of the redeemed Bonds;
- (iv) the Interest Payment Date falling 36 months after the Issue Date to, but not including, the date falling 45 months after the Issue Date at a price equal to 100.96 per cent. of the Nominal Amount of the redeemed Bonds;
- (v) the date falling 45 months after the Issue Date to, but not including, the Maturity Date at a price equal to the Nominal Amount of the redeemed Bonds,

and each of the respective call prices set out in the preceding paragraphs, shall be referred to as a “**Call Price**”.

(b) Any redemption of Bonds pursuant to paragraph (a) above shall be determined based upon the redemption prices applicable on the Call Option Repayment Date.

(c) The Call Option may be exercised by the Issuer by written notice to the Bond Trustee at least 10 Business Days prior to the applicable Repayment Date. Any such notice (i) shall be irrevocable, (ii) shall specify the applicable Repayment Date and the aggregate Nominal Amount of the Bonds to be redeemed and (iii) may, at the Issuer's discretion, be subject to the satisfaction of one or more conditions precedent which shall be satisfied or waived at least three Business Days prior to such Repayment Date (and, if any such conditions precedent have not been satisfied or waived within such time, such Call Option shall automatically be cancelled).

- (d) The applicable Call Price shall be determined based on the relevant Repayment Date and not on the date the Issuer exercised the relevant Call Option as described above.
- (e) Any Call Option exercised in part will be used for pro rata payment to the Bondholders in accordance with the CSD.

### **10.3 Mandatory repurchase due to a Put Option Event**

- (a) Upon the occurrence of a Put Option Event, each Bondholder will have the right (the “**Put Option**”) to require that the Issuer purchases all or some of the Bonds held by that Bondholder at a price equal to 101.00 per cent. of the Nominal Amount.
- (b) The Put Option must be exercised within 15 Business Days after the Issuer has given notice to the Bond Trustee and the Bondholders that a Put Option Event has occurred pursuant to Clause 12.3 (*Put Option Event*). Once notified, the Bondholders’ right to exercise the Put Option is irrevocable.
- (c) Each Bondholder may exercise its Put Option by written notice to its account manager for the CSD, who will notify the Paying Agent of the exercise of the Put Option. The Put Option Repayment Date will be the 5<sup>th</sup> Business Day after the end of the 15 Business Days exercise period referred to in paragraph (b) above. However, the settlement of the Put Option will be based on each Bondholder's holding of Bonds at the Put Option Repayment Date.
- (d) If Bonds representing more than 90 per cent. of the Outstanding Bonds have been repurchased pursuant to this Clause 10.3, the Issuer is entitled to repurchase all the remaining Outstanding Bonds at the price stated in paragraph (a) above by notifying the remaining Bondholders of its intention to do so no later than 10 Business Days after the Put Option Repayment Date. Such notice sent by the Issuer is irrevocable and shall specify the Call Option Repayment Date.

### **10.4 Early redemption option due to a tax event**

If the Issuer is or will be required to gross up any withheld tax imposed by law from any payment in respect of the Bonds under the Finance Documents pursuant to Clause 8.4 (*Taxation*) as a result of any change in, or amendment to, any applicable law, or any change in the general application or official interpretation of such law, which change or amendment becomes effective on or after the Issue Date, the Issuer will have the right to redeem all, but not only some, of the Outstanding Bonds at a price equal to 100 per cent. of the Nominal Amount. The Issuer shall give written notice of such redemption to the Bond Trustee and the Bondholders at least 20 Business Days prior to the Tax Event Repayment Date, provided that no such notice shall be given earlier than 40 Business Days prior to the earliest date on which the Issuer would be obliged to withhold such tax were a payment in respect of the Bonds then due.

### **10.5 Mandatory early redemption due to a Mandatory Redemption Event**

Upon a Mandatory Redemption Event, the Issuer shall promptly, and in any event no later than two Business Days after the Mandatory Redemption Event, redeem all of the Outstanding Bonds at a price of 101.00 per cent. of the Nominal Amount (plus accrued and unpaid interest



thereon), by inter alia applying the funds deposited on the Escrow Account for such redemption.

## **11. PURCHASE AND TRANSFER OF BONDS**

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

The Issuer may purchase and hold Bonds and such Bonds may be retained or sold (but not discharged other than by way of a redemption of Bonds permitted by, and carried out pursuant to, the terms hereof) in the Issuer's sole discretion, including with respect to Bonds purchased pursuant to Clause 10.3 (*Mandatory repurchase due to a Put Option Event*).

### **11.2 Restrictions**

- (a) Certain purchase or selling restrictions may apply to Bondholders under applicable local laws and regulations from time to time. Neither the Issuer nor the Bond Trustee shall be responsible for ensuring compliance with such laws and regulations and each Bondholder is responsible for ensuring compliance with the relevant laws and regulations at its own cost and expense.
- (b) A Bondholder who has purchased Bonds in breach of applicable restrictions may, notwithstanding such breach, benefit from the rights attached to the Bonds pursuant to these Bond Terms (including, but not limited to, voting rights), provided that the Issuer shall not incur any additional liability by complying with its obligations to such Bondholder.

## **12. INFORMATION UNDERTAKINGS**

### **12.1 Financial Reports**

The Issuer shall prepare:

- (a) its Annual Financial Statements and make them available as soon as they become available and, in any event, not later than (i), in respect of the Annual Financial Statements for its Financial Year ended 31 December 2024, six months after the end of that Financial Year and (ii), in respect of any of its subsequent Financial Years, four months after the end of such Financial Year; and
- (b) its Interim Accounts (for each of the three first Financial Quarters in each of its Financial Years) and make them available as soon as they become available and, in any event, not later than two months after the end of each Financial Quarter of each of its Financial Years, for the first time for the first full Financial Quarter to end after the Issue Date,

in each case, in the English language and make them available on its website or another relevant information platform.

### **12.2 Requirements as to Financial Reports**

- (a) The Issuer shall supply a Compliance Certificate (in form and content satisfactory to the Bond Trustee) signed by a managing director of the Issuer to the Bond Trustee:
  - (i) in respect of each set of Financial Reports to be made available pursuant to the terms hereof, promptly upon the making available of such Financial Report

(which shall contain figures and calculations evidencing (in reasonable detail) compliance with the Financial Maintenance Covenant in respect of the applicable Relevant Period);

- (ii) in respect of each confirmation or nomination of Material Group Companies in connection with any acquisition or disposal (by way of any merger, de-merger, sale or similar transaction) of any asset by any Group Company to be made pursuant to the terms hereof, promptly upon the completion of that acquisition or disposal; and
- (iii) in respect of each Incurrence Test to be made pursuant to the terms hereof, promptly upon the making of that Incurrence Test (which shall contain figures and calculations evidencing (in reasonable detail) compliance with the relevant Incurrence Test),

each of which shall list or nominate (as the case may be) the Group Companies being Material Group Companies at the time (other than where the Compliance Certificate is supplied only in respect of an Incurrence Test referred to in paragraph (iii) above).

- (b) The Bond Trustee may make any such Compliance Certificate available to the Bondholders.
- (c) The first set of such Financial Reports published (or delivered) pursuant to the terms hereof shall be prepared in accordance with the Accounting Standard consistently applied (unless expressly disclosed to the Bond Trustee in writing to the contrary), and any subsequent set of Financial Reports published (or delivered) pursuant to the terms hereof shall be prepared in accordance with the Accounting Standard, accounting practices and financial reference periods consistent with those applied in such first set of Financial Reports (unless, there has been a change in that Accounting Standard or those accounting practices, and the Issuer delivers to the Bond Trustee a statement (in form and content satisfactory to the Bond Trustee) describing in reasonable detail any change necessary for such subsequent set of Financial Reports to reflect the Accounting Standard or accounting practices upon which such first set of Financial Reports were prepared).

### **12.3 Put Option Event**

The Issuer shall promptly inform the Bond Trustee in writing after becoming aware that a Put Option Event has occurred.

### **12.4 Listing Failure Event**

The Issuer shall promptly inform the Bond Trustee in writing if a Listing Failure Event has occurred. However, no Event of Default shall occur if the Issuer fails (i) to list the Bonds in accordance with Clause 4 (*Admission to Listing*) or (ii) to inform of such Listing Failure Event, and such failure shall result in the accrual of default interest in accordance with paragraph (c) of Clause 8.2 (*Default interest*) for as long as such Listing Failure Event is continuing.

### **12.5 Information: Miscellaneous**

The Issuer shall:

- (a) promptly inform the Bond Trustee in writing of any Event of Default or any event or circumstance which the Issuer understands or could reasonably be expected to understand may lead to an Event of Default and the steps, if any, being taken to remedy it;
- (b) at the request of the Bond Trustee, report the balance of the Issuer's Bonds (to the best of its knowledge, having made due and appropriate enquiries);
- (c) send the Bond Trustee copies of any statutory notifications of the Issuer, including but not limited to in connection with mergers, de-mergers and reduction of the Issuer's share capital or equity;
- (d) if the Bonds are listed on an Exchange, send a copy to the Bond Trustee of its notices to the Exchange;
- (e) if the Issuer and/or the Bonds are rated, inform the Bond Trustee of its and/or the rating of the Bonds, and any changes to such rating;
- (f) inform the Bond Trustee of changes in the registration of the Bonds in the CSD; and
- (g) within a reasonable time, provide such information about the Issuer's and the Group's business, assets and financial condition as the Bond Trustee may reasonably request.

### **13. GENERAL AND FINANCIAL UNDERTAKINGS**

The Issuer undertakes to (and shall, where applicable, procure that the other Group Companies will) comply with the undertakings set forth in this Clause 13.

#### **13.1 Distributions**

The Issuer shall not, and shall procure that no other Group Company will, make any Distribution other than any Permitted Distribution.

#### **13.2 Mergers and de-mergers and other corporate reconstruction**

The Issuer shall not, and shall procure that no other Group Company will, enter into any amalgamation, merger, demerger, consolidation, liquidation or other corporate reconstruction (for the purpose of this Clause 13.2 only, each a “**reorganisation**”) other than:

- (a) any disposal permitted pursuant to Clause 13.4 (*Disposals*) below;
- (b) any solvent liquidation of any Group Company (other than the Issuer or any other Obligor or Material Group Company), provided that (i) any payments or assets distributed as a result of such liquidation are distributed to another Group Company, (ii) such liquidation would not have a Material Adverse Effect and (iii) no Event of Default is continuing or would result from such liquidation; or
- (c) any other solvent reorganisation of any Group Company (other than the Issuer (except for the merger between the Issuer and Zeitfracht Logistik with the Issuer as the sole surviving entity which shall be permitted on the terms set out in this paragraph (c)), provided that:

- (i) it is carried out at fair market value, on normal commercial terms and would not have a Material Adverse Effect; and
- (ii) if made by any Obligor:
  - (A) any payments or assets distributed as a result of such reorganisation are distributed to another Obligor; and
  - (B) if the transferring Obligor had granted Transaction Security over any assets being transferred to another Obligor, the receiving Obligor grants equivalent Transaction Security over those assets on or prior to the completion of that transfer.

### **13.3 Acquisitions**

The Issuer shall not, and shall procure that no other Group Company will, acquire any company, business, undertaking, shares or securities or any interest in any of the foregoing unless it is made at fair market value, on normal commercial terms and would not have a Material Adverse Effect.

### **13.4 Disposals**

The Issuer shall not, and shall procure that no other Group Company will, sell, transfer or otherwise dispose of any asset (for the purpose of this Clause 13.4 only, each a “**disposal**”) other than:

- (a) any disposal of products, services or current assets in the ordinary course of business of the disposing Group Company;
- (b) any disposal of obsolete or redundant vehicles, plant and equipment for cash;
- (c) in the form of any non-recourse factoring facility or arrangement entered into on normal commercial terms by any Group Company;
- (d) any disposal of any asset to any Joint Venture, which is carried out at fair market value, on normal commercial terms, would not have a Material Adverse Effect and would otherwise constitute a Permitted Joint Venture Investment; or
- (e) any other disposal which:
  - (i) is carried out at fair market value, on normal commercial terms and would not have a Material Adverse Effect; and
  - (ii) if made by any Obligor:
    - (A) to another Obligor, provided that if the disposing Obligor had granted Transaction Security over the assets being disposed, the receiving Obligor grants equivalent Transaction Security over those assets on or prior to the completion of that disposal; or

- (B) to any person not being another Obligor, provided that where the aggregate net proceeds from such disposal (either singly or together with a series of related disposals made by any Obligors) equal or exceed EUR 2,500,000 (or its equivalent in other currencies):
- (1) at least 60.00 per cent. of the total consideration payable to the Group in respect of such disposal is (AA) paid in cash and/or (BB) settled by way of issuance or transfer of shares or other ownership interests in the person to which the disposal is made (or any Affiliate thereof), in each case, at the date of the completion of the disposal; and
  - (2) an amount equal to the total net proceeds received by the Group from such disposal (excluding, for the purpose of the calculation thereof, any such shares or other ownership interests referred to in paragraph (e)(ii)(B)(1) above) is applied, or is designated to be so applied, within 6 months after receipt, and if so designated to be applied, is actually so applied within 12 months after receipt:
    - a. towards the acquisition of any non-current assets (from any third party) required to uphold or develop the business or operations of the Group (and, to the extent the disposed assets were subject to Transaction Security prior to such disposal, Transaction Security shall be created over the acquired assets at the closing date of the acquisition); or
    - b. towards the redemption of Bonds at a price equal to the Call Price that would have applied if such redemption had taken place by way of a Call Option at such time (plus accrued and unpaid interest on the redeemed Bonds).

### **13.5 Financial Indebtedness**

The Issuer shall not, and shall procure that no other Group Company will, incur or maintain any Financial Indebtedness other than any Permitted Financial Indebtedness.

### **13.6 Negative pledge**

The Issuer shall not, and shall procure that no other Group Company will, create or allow to subsist any Security over any of its assets other than any Permitted Security.

### **13.7 Financial Support**

The Issuer shall not, and shall procure that no other Group Company will, grant or allow to subsist (a) any loans or credits to any other person or (b) any guarantees or indemnities in respect of any obligation of any other person, in each case other than any Permitted Financial Support.

### **13.8 Share issues**

The Issuer shall procure that no other Group Company will issue any shares, other than to:

- (a) another Group Company; or

- (b) any existing minority shareholders of that Group Company, provided that the Group's percentage ownership of the share capital of such Group Company is not reduced due to the carrying out of such share issue,

in each case, provided that to the extent that the existing shares in that Group Company owned by another Group Company were subject to Transaction Security, equivalent Transaction Security shall be created over the new shares acquired by any Group Company on or prior to the completion of that share issue.

### **13.9 Continuation of business**

The Issuer shall procure that no substantial change is made to the general nature of the business carried on by it or the Group as of the Issue Date.

### **13.10 Corporate status**

The Issuer shall not, and shall procure that no other Obligor will, change its type of organisation or jurisdiction of incorporation, except that it may change its type of organisation if:

- (a) such change would not be detrimental to the rights or the interests of the Bond Trustee, the Security Agent or the Bondholders under the Bond Terms or the other Finance Documents;
- (b) the Bond Terms and the other Finance Documents, and any Transaction Security, continue to constitute the valid, legal, binding, perfected and enforceable obligations of the Issuer and each other Obligor in accordance with their respective terms both during and after the implementation of such change (and, to the extent required by the Bond Trustee and/or the Security Agent, this is confirmed in a legal opinion (in form and content satisfactory to it) provided at the cost of the Issuer to and in favour of the Bond Trustee and/or the Security Agent (on behalf of itself and the Bondholders)); and
- (c) no Event of Default is continuing or would result from such change.

### **13.11 Centre of main interests (COMI)**

For the purposes of any applicable laws and regulations relating to insolvency proceedings or any similar proceedings, the Issuer shall not, and shall procure that no other Obligor will, change its centre of main interests (COMI).

### **13.12 Holding company**

The Issuer shall not trade, carry on any business or own any material assets, except for (a) the provision of administrative or advisory services to other Group Companies of a type customarily provided by a holding company to its Subsidiaries, (b) the acquisition and ownership of shares in any company, bank accounts, cash and Cash Equivalents, (c) the granting of any loan or credit to other Group Companies and (d) any other business or assets, to an extent and in a manner, and of a type, customarily conducted or owned by such a holding company.

### **13.13 Authorisations**

The Issuer shall, and shall procure that each other Group Company will, obtain, renew and in all material respects comply with, and do all that is necessary to maintain in full force and effect, any licence, authorisation or other consent required to enable it to carry on its business.

### **13.14 Insurances**

The Issuer shall maintain, and shall procure that each other Group Company will maintain (or, through insurances taken out by the Issuer, have the benefit of), insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.

### **13.15 Arm's length transactions**

Notwithstanding any other provision set out herein, the Issuer shall not, and shall procure that no other Group Company will, enter into any transaction with any other person other than on arm's length terms.

### **13.16 Compliance with laws**

The Issuer shall, and shall procure that each other Group Company will, comply in all material respects with all laws and regulations (including, without limitation, any environmental laws, anti-money laundering and anti-corruption laws and sanctions) to which it may be subject at any time.

### **13.17 Intellectual Property Rights**

The Issuer shall, and shall procure that each other Group Company will:

- (a) preserve and maintain the subsistence and validity of the Intellectual Property Rights necessary for the business of the relevant Group Company;
- (b) use reasonable endeavours to prevent any infringement in any material respect of the Intellectual Property Rights;
- (c) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property Rights in full force and effect and record its interest in the Intellectual Property Rights;
- (d) not use or permit the Intellectual Property Rights to be used in a way or take any step or omit to take any step in respect of the Intellectual Property Rights which may materially and adversely affect the existence or value of the Intellectual Property Rights or imperil the right of any Group Company to use such property; and
- (e) not discontinue the use of the Intellectual Property Rights,

where failure to do so, in the case of paragraphs (a) and (b) above, or, in the case of paragraphs (c) to (e) above, such use, permission to use, omission or discontinuation, would have a Material Adverse Effect.

### **13.18 Pari passu ranking**

The Issuer shall procure that at all times any unsecured and unsubordinated claims of the Bond Trustee and the Bondholders under the Finance Documents rank at least pari passu with the

claims of all the other unsecured and unsubordinated creditors of the Issuer, the other Obligors and any other relevant Group Company except those creditors whose claims are mandatorily preferred by laws of general application to companies.

### **13.19 Subordinated Loans**

Subject to the terms of the Intercreditor Agreement, the Issuer shall not, and shall procure that no other Group Company will, (a) repay or prepay any principal amount (or capitalised interest) outstanding under any Subordinated Loan, (b) pay any interest, fee or charge accrued or due under any Subordinated Loan (other than by way of capitalisation of any such interest, fee or charge) or (c) purchase, redeem, defease or discharge any amount outstanding under any Subordinated Loan.

### **13.20 Material Group Companies**

The Issuer shall:

- (a) for the first time, not later than at the date occurring 60 days after the Disbursement; and
- (b) then subsequently:
  - (i) in connection with the delivery by the Issuer to the Bond Trustee of the Compliance Certificate relating to each of its Annual Financial Statements; and
  - (ii) at the closing date of the acquisition or disposal (by way of any merger, de-merger, sale or similar transaction) of any asset by any Group Company for a consideration equal to or exceeding an amount equal to 5.00 per cent. of EBITDA, the consolidated net assets or the consolidated turnover of the Group,

in each case:

- (A) confirm which Group Companies constitute Material Group Companies at the time; and
- (B) nominate such other wholly-owned Group Companies as Material Group Companies as is necessary to ensure that the aggregate earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) and the aggregate net assets and the aggregate turnover of the Material Group Companies (calculated on an unconsolidated basis and excluding all intra-group items and investments in Subsidiaries of any Group Company) represent not less than 85.00 per cent. of EBITDA, the consolidated net assets and the consolidated turnover of the Group,

in each case, (1) determined by reference to the most recent Annual Financial Statements or Interim Accounts (as applicable) (and the Compliance Certificate relating thereto) and the equivalent financial statements of the relevant Group Companies, (2), in the case of paragraph (b)(ii) above, assuming completion of the relevant acquisition or disposal and (3), when calculating EBITDA, any Group Company which generates negative EBITDA shall be disregarded and its EBITDA shall be deemed to be zero for the purposes of those calculations



and the calculation of the above thresholds and tests (both with respect to the numerator and the denominator in those calculations); and

- (C) ensure that each such Material Group Company (to the extent that it has not already done so and subject to the Agreed Security Principles) provides Transaction Security and a Guarantee, and accedes to the Intercreditor Agreement in the proper capacities, in each case, in the manner and to the extent set out in Clause 2.5 (*Transaction Security*) and Clause 6 (*Condition Precedent*).

### **13.21 Subsidiary distribution**

The Issuer shall procure that no other Group Company creates or permits to subsist any contractual restriction on its right to declare, make or pay dividends or other distributions to its shareholders, other than such restrictions which are not reasonably likely to prevent the Issuer from complying with its payment obligations under the Finance Documents.

### **13.22 Ownership of shares in the Issuer**

If, at any time, any person (other than the Initial Shareholder) by acquisition or subscription of shares or in any other way is or becomes a direct owner of any shares in the Issuer (each, a “**Subsequent Shareholder**”), the Issuer:

- (a) shall promptly (i) inform the Bond Trustee and the Security Agent thereof and (ii) provide them with an updated copy of the register of shareholders (*Gesellschafterliste*) of the Issuer; and
- (b) shall (i) ensure that all such shares at all times be, become and remain subject to Transaction Security (to the extent and in the manner contemplated herein and in the Agreed Security Principles) and (ii) promptly provide the Bond Trustee and the Security Agent with such new, amended and/or supplemented Transaction Security Documents, legal opinions and other documents and evidence (including, but not limited to, such referred to in Clause 6.3 (*Conditions Precedent for the provision of Transaction Security and Guarantees*)) as the Bond Trustee or the Security Agent may reasonably request in connection therewith.

### **13.23 Redemption, repayment and payment of the Existing Bonds**

The Issuer shall procure (a) that Zeitfracht Logistik redeems, repays and pays the Existing Bonds (together with any accrued interest, premiums and fees) in full in accordance with the terms of the Existing Bonds not later than at the date occurring 60 days after it sent the notice of termination thereof referred to in paragraph (a)(iii) of Clause 6.2 (*Conditions precedent for Disbursement*)(the “**Existing Bonds Redemption Date**”) and (bb) that any guarantee or Security created in respect thereof at the same time will be released and discharged in full.

### **13.24 Initial Shareholder contribution**

The Initial Shareholder shall, not later than on the Existing Bonds Redemption Date, provide evidence to the Bond Trustee (in form and content satisfactory to the Bond Trustee) that the Initial Shareholder has contributed an amount of not less than EUR 5,000,000 to or into the Issuer in the form of a new Shareholder Loan, an increase of the share capital of the Issuer and/or by returning Existing Bonds held by it to the Issuer (or a combination of the foregoing)

resulting in a corresponding increase of the liquidity of the Issuer upon and immediately after the making of such contribution.

### **13.25 Financial Maintenance Covenant**

The Issuer shall ensure that Interest Cover, in respect of any Relevant Period, shall not be less than 1.75:1.

### **13.26 Equity Cure**

(a) For the purpose of this provision:

- (i) **“Cure Period”** means the period ending 20 Business Days after the original due date for delivery of the Compliance Certificate for the Relevant Period in respect of which the relevant cure shall be made; and
- (ii) **“New Shareholder Injection”** means the aggregate of (A) any amount subscribed for by any Shareholder for ordinary shares in the Issuer (which does not result in any Change of Control) and (B) any Shareholder Loan.

(b) If the Issuer at any time:

- (i) becomes aware that it may not comply with the Interest Cover requirement under Clause 13.25 (*Financial Maintenance Covenant*); or
- (ii) fails to comply with such requirement,

then the Issuer shall have the right (but not the obligation) to procure that such potential or actual breach is cured by a New Shareholder Injection made for such purpose during the relevant Cure Period, so that the amount of such New Shareholder Injection shall, for the purpose of calculating Interest Cover, be deemed to increase EBITDA and to have been received by the Issuer on the first day of the Relevant Period in respect of which the relevant cure shall be made (without any double counting), whereupon the Interest Cover requirement shall be recalculated.

- (c) If the Issuer receives a New Shareholder Injection in accordance with paragraph (b) above, it shall immediately supply a revised Compliance Certificate to the Bond Trustee evidencing compliance with the Interest Cover requirement after taking into account the cure made in accordance with this provision. If, after making such recalculation, the Interest Cover requirement is complied with, then the Interest Cover requirement shall be deemed to have been complied with at the relevant testing date (as though there had been no failure to comply with the Interest Cover requirement at such date) and no Event of Default shall be deemed to have occurred as a result or in respect thereof.
- (d) Only three New Shareholder Injections may be made for the purpose set out in this provision during the term of the Bonds, and no such New Shareholder Injection may be made in any consecutive Financial Quarters or more than once during any 12-month period.
- (e) The amount of any New Shareholder Injection included in the recalculation of any Interest Cover requirement in accordance with this provision shall not be used or taken

into account for any other purposes under the Bond Terms and shall, for the avoidance of doubt, be disregarded for the purposes of any other threshold, ratchet, compliance level or requirement under the Bond Terms.

**13.27 Incurrence Test**

The Incurrence Test is met if:

- (a) Leverage is less than 2.75:1; and
- (b) Interest Cover is not less than 2.00:1,

in each case, at the relevant time.

**13.28 Calculations and Adjustments to the Ratios and, where applicable, any EBITDA grower baskets**

- (a) The requirements forming part of:
  - (i) the Financial Maintenance Covenant shall be calculated and tested as at the last day of each consecutive Relevant Period (for the first time at the last day of the Relevant Period ending on 30 June 2025);
  - (ii) any Incurrence Test shall be calculated as at a testing date determined by the Issuer falling no earlier than three months prior to the event in respect of which the Incurrence Test shall be made; and
  - (iii) both the Financial Maintenance Covenant and any Incurrence Test shall (unless otherwise set out below) be:
    - (A) tested with reference to the Financial Report(s) for the applicable Relevant Period (and the Compliance Certificate relating thereto); and
    - (B) calculated in accordance with the Accounting Standard, accounting practices and financial reference periods consistent with those applied in its first set of Financial Reports published (or delivered) pursuant to the terms hereof (unless, there has been a change in that Accounting Standard or those accounting practices, and the Issuer delivers to the Bond Trustee a statement (in form and content satisfactory to the Bond Trustee) (1) describing in reasonable detail any change necessary for the set of Financial Report(s) referred to in paragraph (iii)(A) above to reflect the Accounting Standard or accounting practices upon which such first set of Financial Reports were prepared and (2) confirming that the relevant Financial Maintenance Covenant or Incurrence Test (as applicable) would still have been complied with had such changes not been made).
- (b) For the purpose of calculating the requirements forming part of:
  - (i) the Financial Maintenance Covenant, the Net Finance Charges shall be calculated by reference to the amount of Net Finance Charges derived from the Financial

Report(s) for the applicable Relevant Period (and the Compliance Certificate relating thereto);

- (ii) any Incurrence Test, the Total Net Debt and the Net Finance Charges shall be calculated as at the relevant testing date (but, in terms of the latter, otherwise in the same manner as set out in paragraph (a) above) with the following adjustments:
  - (A) the full (i.e. unutilised and utilised) commitment or facility of any new Financial Indebtedness in respect of which the Incurrence Test shall be made (after deducting any Financial Indebtedness which shall be repaid or refinanced at the time of incurrence of such new Financial Indebtedness (and which may not be redrawn)) shall:
    - (1) for the purpose of calculating Leverage, be added to the Total Net Debt at the relevant testing date; and
    - (2) for the purpose of calculating Interest Cover, be added to the Financial Indebtedness forming the basis for the calculation of the Finance Charges for the relevant period with effect from and including the first day of such period; and
  - (B) any cash balance resulting from the incurrence of such new Financial Indebtedness shall:
    - (1) for the purpose of calculating Leverage, not reduce the Total Net Debt; or
    - (2) for the purpose of calculating Interest Cover, not reduce the Financial Indebtedness forming the basis for the calculation of the Finance Charges; and
- (iii) any Incurrence Test and, unless otherwise set out below, the Financial Maintenance Covenant and any EBITDA grower basket set out herein, EBITDA shall be calculated by reference to the amount of EBITDA derived from the Financial Report(s) for the applicable Relevant Period (and the Compliance Certificate relating thereto) with the following adjustments (where no amount shall be included or excluded more than once):
  - (A) any company, business or undertaking acquired, disposed of or otherwise discontinued by the Group during such Relevant Period, or, in the case of any Incurrence Test only, after the end of that Relevant Period but on or before the relevant testing date, shall be included or excluded (as applicable) pro forma for the entire period;
  - (B) any company, business or undertaking to be acquired with the proceeds from the new Financial Indebtedness to be incurred based on such Incurrence Test shall, in the case of any Incurrence Test only, be included, pro forma, for the entire period; and

- (C) the amount of any net cost savings or net cost reduction synergies projected by the Issuer in good faith to be realised as a result of specific actions taken or to be taken by any Group Company due to the making of an acquisition or a disposal of a company, business or undertaking from or to any third party (in each case) permitted by the terms hereof (calculated on a pro forma basis as though such cost savings and synergies had been realised on the first day of such Relevant Period), net of the amount of actual benefits realised during such Relevant Period from such actions, provided that (1) such cost savings and synergies are reasonably identifiable and factually supportable, (2) such actions have been taken or will be taken within 12 months after the making of that acquisition or disposal, (3) no cost savings or synergies shall be taken into account pursuant to this paragraph (iii)(C) to the extent already taken into account when calculating EBITDA for such Relevant Period and (4) the aggregate amount of any such cost savings and synergies for the Group in respect of any such Relevant Period, together with any other amounts to be covered by the EBITDA Adjustment Basket in respect of that Relevant Period, does not exceed the EBITDA Adjustment Basket.

## **14. EVENTS OF DEFAULT AND ACCELERATION OF THE BONDS**

### **14.1 Events of Default**

Each of the events or circumstances set out in this Clause 14.1 shall constitute an Event of Default:

*(a) Non-payment*

An Obligor fails to pay any amount payable by it under the Finance Documents when such amount is due for payment, unless:

- (i) its failure to pay is caused by administrative or technical error in payment systems or the CSD and payment is made within 5 Business Days following the original due date; or
- (ii) in the discretion of the Bond Trustee, the Issuer has substantiated that it is likely that such payment will be made in full within 5 Business Days following the original due date.

*(b) Financial Maintenance Covenant*

Any requirement of Clause 13.25 (*Financial Maintenance Covenant*) is not satisfied and the failure to satisfy such requirement is not cured in accordance with Clause 13.26 (*Equity Cure*).

*(c) Breach of other obligations*

Any Group Company or any Shareholder does not comply with any provision of the Finance Documents other than set out under paragraph (a) (*Non-payment*) and (b) (*Financial Maintenance Covenant*) above, unless such failure is capable of being

remedied and is remedied within 20 Business Days after the earlier of the Issuer's actual knowledge thereof, or notice thereof is given to the Issuer by the Bond Trustee.

(d) *Misrepresentation*

Any representation, warranty or statement (including statements in Compliance Certificates) made by any Group Company or any Shareholder under or in connection with any Finance Documents is or proves to have been incorrect, inaccurate or misleading in any material respect when made.

(e) *Cross default*

If for any Group Company:

- (i) any Financial Indebtedness is not paid when due nor within any applicable grace period; or
- (ii) any Financial Indebtedness is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described); or
- (iii) any commitment for any Financial Indebtedness is cancelled or suspended by a creditor as a result of an event of default (however described); or
- (iv) any creditor becomes entitled to declare any Financial Indebtedness due and payable prior to its specified maturity as a result of an event of default (however described),

provided however that the aggregate amount of such Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (i) to (iv) above exceeds a total of EUR 2,500,000 (or the equivalent thereof in any other currency) in aggregate for the Group.

(f) *Insolvency and insolvency proceedings*

Any Group Company:

- (i) is Insolvent; or
- (ii) is object of any corporate action or any legal proceedings is taken in relation to:
  - (A) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) other than a solvent liquidation or reorganisation; or
  - (B) a composition, compromise, assignment or arrangement with any creditor which may materially impair its ability to perform its obligations under these Bond Terms; or

- (C) the appointment of a liquidator (other than in respect of a solvent liquidation), receiver, administrative receiver, administrator, compulsory manager or other similar officer of any of its assets; or
- (D) enforcement of any Security over any of its or their assets having an aggregate value exceeding the threshold amount set out in paragraph 14.1 (e) (*Cross default*) above; or
- (E) for paragraphs (A) - (D) above, any analogous procedure or step is taken in any jurisdiction in respect of any such company.

However, this shall not apply to any petition which is frivolous or vexatious and is discharged, stayed or dismissed within 20 Business Days of commencement.

(g) *Creditor's process*

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of any Group Company having an aggregate value exceeding the threshold amount set out in paragraph (e) (*Cross default*) above and is not discharged within 20 Business Days.

(h) *Unlawfulness*

It is or becomes unlawful for an Obligor or a Shareholder to perform or comply with any of its obligations under the Finance Documents to the extent this may materially impair:

- (i) the ability of such Obligor and/or Shareholder (as applicable) to perform its obligations under these Bond Terms; or
- (ii) the ability of the Bond Trustee or any Security Agent to exercise any material right or power vested to it under the Finance Documents.

## 14.2 Acceleration of the Bonds

If an Event of Default has occurred and is continuing, the Bond Trustee may, in its discretion in order to protect the interests of the Bondholders, or upon instruction received from the Bondholders pursuant to Clause 14.3 (*Bondholders' instructions*) below, by serving a Default Notice to the Issuer:

- (a) declare that the Outstanding Bonds, together with accrued interest and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable; and/or
- (b) exercise (or direct the Security Agent to exercise) any or all of its rights, remedies, powers or discretions under the Finance Documents or take such further measures as are necessary to recover the amounts outstanding under the Finance Documents.

## 14.3 Bondholders' instructions

The Bond Trustee shall serve a Default Notice pursuant to Clause 14.2 (*Acceleration of the Bonds*) if:

- (a) the Bond Trustee receives a demand in writing from Bondholders representing a simple majority of the Voting Bonds, that an Event of Default shall be declared, and a Bondholders' Meeting has not made a resolution to the contrary; or
- (b) the Bondholders' Meeting, by a simple majority decision, has approved the declaration of an Event of Default.

#### **14.4 Calculation of claim**

The claim derived from the Outstanding Bonds due for payment as a result of the serving of a Default Notice will be calculated at the call prices set out in Clause 10.2 (*Voluntary early redemption – Call Option*), as applicable at the following dates (and regardless of the Default Repayment Date):

- (a) for any Event of Default arising out of a breach of Clause 14.1 (*Events of Default*) paragraph (a) (*Non-payment*), the claim will be calculated at the call price applicable at the date when such Event of Default occurred; and
- (b) for any other Event of Default, the claim will be calculated at the call price applicable at the date when the Default Notice was served by the Bond Trustee.

However, if the situations described in paragraph (a) or (b) above takes place prior to the First Call Date, the calculation shall be based on the call price applicable on the First Call Date.

### **15. BONDHOLDERS' DECISIONS**

#### **15.1 Authority of the Bondholders' Meeting**

- (a) A Bondholders' Meeting may, on behalf of the Bondholders, resolve to alter any of these Bond Terms, including, but not limited to, any reduction of principal or interest and any conversion of the Bonds into other capital classes.
- (b) The Bondholders' Meeting cannot resolve that any overdue payment of any instalment shall be reduced unless there is a pro rata reduction of the principal that has not fallen due, but may resolve that accrued interest (whether overdue or not) shall be reduced without a corresponding reduction of principal.
- (c) The Bondholders' Meeting may not adopt resolutions which will give certain Bondholders an unreasonable advantage at the expense of other Bondholders.
- (d) Subject to the power of the Bond Trustee to take certain action as set out in Clause 16.1 (*Power to represent the Bondholders*), if a resolution by, or an approval of, the Bondholders is required, such resolution may be passed at a Bondholders' Meeting. Resolutions passed at any Bondholders' Meeting will be binding upon all Bondholders.
- (e) At least 50.00 per cent. of the Voting Bonds must be represented at a Bondholders' Meeting for a quorum to be present.
- (f) Resolutions will be passed by simple majority of the Voting Bonds represented at the Bondholders' Meeting, unless otherwise set out in paragraph (g) below.



- (g) Save for any amendments or waivers which can be made without resolution pursuant to paragraph (a)(i) and (ii) of Clause 17.1 (*Procedure for amendments and waivers*), a majority of at least 2/3 of the Voting Bonds represented at the Bondholders' Meeting is required for approval of any waiver or amendment of these Bond Terms.

## **15.2 Procedure for arranging a Bondholders' Meeting**

- (a) A Bondholders' Meeting shall be convened by the Bond Trustee upon the request in writing of:
  - (i) the Issuer;
  - (ii) Bondholders representing at least 1/10 of the Voting Bonds;
  - (iii) the Exchange, if the Bonds are listed and the Exchange is entitled to do so pursuant to the general rules and regulations of the Exchange; or
  - (iv) the Bond Trustee.

The request shall clearly state the matters to be discussed and resolved.

- (b) If the Bond Trustee has not convened a Bondholders' Meeting within 10 Business Days after having received a valid request for calling a Bondholders' Meeting pursuant to paragraph (a) above, then the requesting party may call the Bondholders' Meeting itself.
- (c) Summons to a Bondholders' Meeting must be sent no later than 10 Business Days prior to the proposed date of the Bondholders' Meeting. The Summons shall be sent to all Bondholders registered in the CSD at the time the Summons is sent from the CSD. If the Bonds are listed, the Issuer shall ensure that the Summons is published in accordance with the applicable regulations of the Exchange. The Summons shall also be published on the website of the Bond Trustee (alternatively by press release or other relevant information platform).
- (d) Any Summons for a Bondholders' Meeting must clearly state the agenda for the Bondholders' Meeting and the matters to be resolved. The Bond Trustee may include additional agenda items to those requested by the person calling for the Bondholders' Meeting in the Summons. If the Summons contains proposed amendments to these Bond Terms, a description of the proposed amendments must be set out in the Summons.
- (e) Items which have not been included in the Summons may not be put to a vote at the Bondholders' Meeting.
- (f) By written notice to the Issuer, the Bond Trustee may prohibit the Issuer from acquiring or dispose of Bonds during the period from the date of the Summons until the date of the Bondholders' Meeting, unless the acquisition of Bonds is made by the Issuer pursuant to Clause 10 (*Redemption and Repurchase of Bonds*).
- (g) A Bondholders' Meeting may be held on premises selected by the Bond Trustee, or if paragraph (b) above applies, by the person convening the Bondholders' Meeting (however to be held in the capital of the Relevant Jurisdiction). The Bondholders'

Meeting will be opened and, unless otherwise decided by the Bondholders' Meeting, chaired by the Bond Trustee. If the Bond Trustee is not present, the Bondholders' Meeting will be opened by a Bondholder and be chaired by a representative elected by the Bondholders' Meeting (the Bond Trustee or such other representative, the "**Chairperson**").

- (h) Each Bondholder, the Bond Trustee and, if the Bonds are listed, representatives of the Exchange, or any person or persons acting under a power of attorney for a Bondholder, shall have the right to attend the Bondholders' Meeting (each a "**Representative**"). The Chairperson may grant access to the meeting to other persons not being Representatives, unless the Bondholders' Meeting decides otherwise. In addition, each Representative has the right to be accompanied by an advisor. In case of dispute or doubt regarding whether a person is a Representative or entitled to vote, the Chairperson will decide who may attend the Bondholders' Meeting and exercise voting rights.
- (i) Representatives of the Issuer have the right to attend the Bondholders' Meeting. The Bondholders Meeting may resolve to exclude the Issuer's representatives and/or any person holding only Issuer's Bonds (or any representative of such person) from participating in the meeting at certain times, however, the Issuer's representative and any such other person shall have the right to be present during the voting.
- (j) Minutes of the Bondholders' Meeting must be recorded by, or by someone acting at the instruction of, the Chairperson. The minutes must state the number of Voting Bonds represented at the Bondholders' Meeting, the resolutions passed at the meeting, and the results of the vote on the matters to be decided at the Bondholders' Meeting. The minutes shall be signed by the Chairperson and at least one other person. The minutes will be deposited with the Bond Trustee who shall make available a copy to the Bondholders and the Issuer upon request.
- (k) The Bond Trustee will ensure that the Issuer, the Bondholders and the Exchange are notified of resolutions passed at the Bondholders' Meeting and that the resolutions are published on the website of the Bond Trustee (or other relevant electronically platform or press release).
- (l) The Issuer shall bear the costs and expenses incurred in connection with convening a Bondholders' Meeting regardless of who has convened the Bondholders' Meeting, including any reasonable costs and fees incurred by the Bond Trustee.

### **15.3 Voting rules**

- (a) Each Bondholder (or person acting for a Bondholder under a power of attorney) may cast one vote for each Voting Bond owned on the Relevant Record Date, ref. Clause 3.3 (*Bondholders' rights*). The Chairperson may, in its sole discretion, decide on accepted evidence of ownership of Voting Bonds.
- (b) Issuer's Bonds shall not carry any voting rights. The Chairperson shall determine any question concerning whether any Bonds will be considered Issuer's Bonds.
- (c) For the purposes of this Clause 15, a Bondholder that has a Bond registered in the name of a nominee will, in accordance with Clause 3.3 (*Bondholders' rights*), be deemed to

be the owner of the Bond rather than the nominee. No vote may be cast by any nominee if the Bondholder has presented relevant evidence to the Bond Trustee pursuant to Clause 3.3 (*Bondholders' rights*) stating that it is the owner of the Bonds voted for. If the Bondholder has voted directly for any of its nominee registered Bonds, the Bondholder's votes shall take precedence over votes submitted by the nominee for the same Bonds.

- (d) Any of the Issuer, the Bond Trustee and any Bondholder has the right to demand a vote by ballot. In case of parity of votes, the Chairperson will have the deciding vote.

#### **15.4 Repeated Bondholders' Meeting**

- (a) Even if the necessary quorum set out in paragraph (e) of Clause 15.1 (*Authority of the Bondholders' Meeting*) is not achieved, the Bondholders' Meeting shall be held and voting completed for the purpose of recording the voting results in the minutes of the Bondholders' Meeting. The Bond Trustee or the person who convened the initial Bondholders' Meeting may, within 10 Business Days of that Bondholders' Meeting, convene a repeated meeting with the same agenda as the first meeting.
- (b) The provisions and procedures regarding Bondholders' Meetings as set out in Clause 15.1 (*Authority of the Bondholders' Meeting*), Clause 15.2 (*Procedure for arranging a Bondholders' Meeting*) and Clause 15.3 (*Voting rules*) shall apply *mutatis mutandis* to a repeated Bondholders' Meeting, with the exception that the quorum requirements set out in paragraph (e) of Clause 15.1 (*Authority of the Bondholders' Meeting*) shall not apply to a repeated Bondholders' Meeting. A Summons for a repeated Bondholders' Meeting shall also contain the voting results obtained in the initial Bondholders' Meeting.
- (c) A repeated Bondholders' Meeting may only be convened once for each original Bondholders' Meeting. A repeated Bondholders' Meeting may be convened pursuant to the procedures of a Written Resolution in accordance with Clause 15.5 (*Written Resolutions*), even if the initial meeting was held pursuant to the procedures of a Bondholders' Meeting in accordance with Clause 15.2 (*Procedure for arranging a Bondholders' Meeting*) and vice versa.

#### **15.5 Written Resolutions**

- (a) Subject to these Bond Terms, anything which may be resolved by the Bondholders in a Bondholders' Meeting pursuant to Clause 15.1 (*Authority of the Bondholders' Meeting*) may also be resolved by way of a Written Resolution. A Written Resolution passed with the relevant majority is as valid as if it had been passed by the Bondholders in a Bondholders' Meeting, and any reference in any Finance Document to a Bondholders' Meeting shall be construed accordingly.
- (b) The person requesting a Bondholders' Meeting may instead request that the relevant matters are to be resolved by Written Resolution only, unless the Bond Trustee decides otherwise.
- (c) The Summons for the Written Resolution shall be sent to the Bondholders registered in the CSD at the time the Summons is sent from the CSD and published at the Bond Trustee's web site, or other relevant electronic platform or via press release.

- (d) The provisions set out in Clause 15.1 (*Authority of the Bondholders' Meeting*), 15.2 (*Procedure for arranging a Bondholders' Meeting*), Clause 15.3 (*Voting rules*) and Clause 15.4 (*Repeated Bondholders' Meeting*) shall apply *mutatis mutandis* to a Written Resolution, except that:
  - (i) the provisions set out in paragraphs (g), (h) and (i) of Clause 15.2 (*Procedure for arranging Bondholders Meetings*); or
  - (ii) provisions which are otherwise in conflict with the requirements of this Clause 15.5,
 shall not apply to a Written Resolution.
- (e) The Summons for a Written Resolution shall include:
  - (i) instructions as to how to vote to each separate item in the Summons (including instructions as to how voting can be done electronically if relevant); and
  - (ii) the time limit within which the Bond Trustee must have received all votes necessary in order for the Written Resolution to be passed with the requisite majority, which shall be at least 10 Business Days but not more than 15 Business Days from the date of the Summons (the “**Voting Period**”).
- (f) Only Bondholders of Voting Bonds registered with the CSD on the Relevant Record Date, or the beneficial owner thereof having presented relevant evidence to the Bond Trustee pursuant to Clause 3.3 (*Bondholders' rights*), will be counted in the Written Resolution.
- (g) A Written Resolution is passed when the requisite majority set out in paragraph (e) or (f) of Clause 15.1 (*Authority of Bondholders' Meeting*) has been obtained, based on a quorum of the total number of Voting Bonds, even if the Voting Period has not yet expired. A Written Resolution will also be resolved if the sufficient numbers of negative votes are received prior to the expiry of the Voting Period.
- (h) The effective date of a Written Resolution passed prior to the expiry of the Voting Period is the date when the resolution is approved by the last Bondholder that results in the necessary voting majority being obtained.
- (i) If no resolution is passed prior to the expiry of the Voting Period, the number of votes shall be calculated at the time specified in the summons on the last day of the Voting Period, and a decision will be made based on the quorum and majority requirements set out in paragraphs (e) to (g) of Clause 15.1 (*Authority of Bondholders' Meeting*).

## **16. THE BOND TRUSTEE**

### **16.1 Power to represent the Bondholders**

- (a) The Bond Trustee has power and authority to act on behalf of, and/or represent, the Bondholders in all matters, including but not limited to taking any legal or other action, including enforcement of these Bond Terms, and the commencement of bankruptcy or other insolvency proceedings against the Issuer, or others.

- (b) The Issuer shall promptly upon request provide the Bond Trustee with any such documents, information and other assistance (in form and substance satisfactory to the Bond Trustee), that the Bond Trustee deems necessary for the purpose of exercising its and the Bondholders' rights and/or carrying out its duties under the Finance Documents.

## **16.2 The duties and authority of the Bond Trustee**

- (a) The Bond Trustee shall represent the Bondholders in accordance with the Finance Documents, including, inter alia, by following up on the delivery of any Compliance Certificates and such other documents which the Issuer is obliged to disclose or deliver to the Bond Trustee pursuant to the Finance Documents and, when relevant, in relation to accelerating and enforcing the Bonds on behalf of the Bondholders.
- (b) The Bond Trustee is not obligated to assess or monitor the financial condition of the Issuer or any other Obligor unless to the extent expressly set out in these Bond Terms, or to take any steps to ascertain whether any Event of Default has occurred. Until it has actual knowledge to the contrary, the Bond Trustee is entitled to assume that no Event of Default has occurred. The Bond Trustee is not responsible for the valid execution or enforceability of the Finance Documents, or for any discrepancy between the indicative terms and conditions described in any marketing material presented to the Bondholders prior to issuance of the Bonds and the provisions of these Bond Terms.
- (c) The Bond Trustee is entitled to take such steps that it, in its sole discretion, considers necessary or advisable to protect the rights of the Bondholders in all matters pursuant to the terms of the Finance Documents. The Bond Trustee may submit any instructions received by it from the Bondholders to a Bondholders' Meeting before the Bond Trustee takes any action pursuant to the instruction.
- (d) The Bond Trustee is entitled to engage external experts when carrying out its duties under the Finance Documents.
- (e) The Bond Trustee shall hold all amounts recovered on behalf of the Bondholders on separated accounts.
- (f) The Bond Trustee shall facilitate that resolutions passed at the Bondholders' Meeting are properly implemented, provided, however, that the Bond Trustee may refuse to implement resolutions that may be in conflict with these Bond Terms, any other Finance Document, or any applicable law.
- (g) Notwithstanding any other provision of the Finance Documents to the contrary, the Bond Trustee is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation.
- (h) If the cost, loss or liability which the Bond Trustee may incur (including reasonable fees payable to the Bond Trustee itself) in:
  - (i) complying with instructions of the Bondholders; or
  - (ii) taking any action at its own initiative,

will not, in the reasonable opinion of the Bond Trustee, be covered by the Issuer or the relevant Bondholders pursuant to paragraphs (e) and (g) of Clause 16.4 (*Expenses, liability and indemnity*), the Bond Trustee may refrain from acting in accordance with such instructions, or refrain from taking such action, until it has received such funding or indemnities (or adequate security has been provided therefore) as it may reasonably require.

- (i) The Bond Trustee shall give a notice to the Bondholders 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 Bond Trustee under the Finance Documents.
- (j) The Bond Trustee may instruct the CSD to split the Bonds to a lower nominal value in order to facilitate partial redemptions, write-downs or restructurings of the Bonds or in other situations where such split is deemed necessary.

### **16.3 Equality and conflicts of interest**

- (a) The Bond Trustee shall not make decisions which will give certain Bondholders an unreasonable advantage at the expense of other Bondholders. The Bond Trustee shall, 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.
- (b) The Bond Trustee may act as agent, trustee, representative and/or security agent for several bond issues relating to the Issuer notwithstanding potential conflicts of interest. The Bond Trustee is entitled to delegate its duties to other professional parties.

### **16.4 Expenses, liability and indemnity**

- (a) The Bond Trustee will not 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 gross negligence or wilful misconduct. The Bond Trustee shall not be responsible for any indirect or consequential loss. Irrespective of the foregoing, the Bond Trustee shall have no liability to the Bondholders for damage caused by the Bond Trustee acting in accordance with instructions given by the Bondholders in accordance with these Bond Terms.
- (b) The Bond Trustee will not be liable to the Issuer for damage or loss caused by any action taken or omitted by it under or in connection with any Finance Document, unless caused by its gross negligence or wilful misconduct. The Bond Trustee shall not be responsible for any indirect or consequential loss.
- (c) Any liability for the Bond Trustee for damage or loss is limited to the amount of the Outstanding Bonds. The Bond Trustee is not liable for the content of information provided to the Bondholders by or on behalf of the Issuer or any other person.
- (d) The Bond Trustee shall not be considered to have acted negligently in:
  - (i) acting in accordance with advice from or opinions of reputable external experts;  
or

- (ii) taking, delaying or omitting any action if acting with reasonable care and provided the Bond Trustee considers that such action is in the interests of the Bondholders.
- (e) The Issuer is liable for, and will indemnify the Bond Trustee fully in respect of, all losses, expenses and liabilities incurred by the Bond Trustee as a result of negligence by the Issuer (including its directors, management, officers, employees and agents) in connection with the performance of the Bond Trustee's obligations under the Finance Documents, including losses incurred by the Bond Trustee as a result of the Bond Trustee's actions based on misrepresentations made by the Issuer in connection with the issuance of the Bonds, the entering into or performance under the Finance Documents, and for as long as any amounts are outstanding under or pursuant to the Finance Documents.
- (f) The Issuer shall cover all costs and expenses incurred by the Bond Trustee in connection with it fulfilling its obligations under the Finance Documents. The Bond Trustee is entitled to fees for its work and to be indemnified for costs, losses and liabilities on the terms set out in the Finance Documents. The Bond Trustee's obligations under the Finance Documents are conditioned upon the due payment of such fees and indemnifications. The fees of the Bond Trustee will be further set out in the Bond Trustee Fee Agreement.
- (g) The Issuer shall on demand by the Bond Trustee pay all costs incurred for external experts engaged after the occurrence of an Event of Default, or for the purpose of investigating or considering (i) an event or circumstance which the Bond Trustee reasonably believes is or may lead to an Event of Default or (ii) a matter relating to the Issuer or any Finance Document which the Bond Trustee reasonably believes may constitute or lead to a breach of any Finance Document or otherwise be detrimental to the interests of the Bondholders under the Finance Documents.
- (h) Fees, costs and expenses payable to the Bond Trustee which are not reimbursed in any other way due to an Event of Default, the Issuer being Insolvent or similar circumstances pertaining to any Obligors, may be covered by making an equal reduction in the proceeds to the Bondholders hereunder of any costs and expenses incurred by the Bond Trustee or the Security Agent in connection therewith. The Bond Trustee may withhold funds from any escrow account (or similar arrangement) or from other funds received from the Issuer or any other person, irrespective of such funds being subject to Transaction Security, and to set-off and cover any such costs and expenses from those funds.
- (i) As a condition to effecting any instruction from the Bondholders (including, but not limited to, instructions set out in Clause 14.3 (*Bondholders' instructions*) or Clause 15.2 (*Procedure for arranging a Bondholders' Meeting*)), the Bond Trustee may require satisfactory Security, guarantees and/or indemnities for any possible liability and anticipated costs and expenses from those Bondholders who have given that instruction and/or who voted in favour of the decision to instruct the Bond Trustee.

## **16.5 Replacement of the Bond Trustee**

- (a) The Bond Trustee may be replaced by a majority of 2/3 of Voting Bonds in accordance with the procedures set out in Clause 15 (*Bondholders' Decisions*), and the Bondholders may resolve to replace the Bond Trustee without the Issuer's approval.
- (b) The Bond Trustee may resign by giving notice to the Issuer and the Bondholders, in which case a successor Bond Trustee shall be elected pursuant to this Clause 16.5, initiated by the retiring Bond Trustee.
- (c) If the Bond Trustee is Insolvent, or otherwise is permanently unable to fulfil its obligations under these Bond Terms, the Bond Trustee shall be deemed to have resigned and a successor Bond Trustee shall be appointed in accordance with this Clause 16.5. The Issuer may appoint a temporary Bond Trustee until a new Bond Trustee is elected in accordance with paragraph (a) above.
- (d) The change of Bond Trustee shall only take effect upon execution of all necessary actions to effectively substitute the retiring Bond Trustee, and the retiring Bond Trustee undertakes to co-operate in all reasonable manners without delay to such effect. The retiring Bond Trustee shall be discharged from any further obligation in respect of the Finance Documents from the change takes effect, but shall remain liable under the Finance Documents in respect of any action which it took or failed to take whilst acting as Bond Trustee. The retiring Bond Trustee remains entitled to any benefits and any unpaid fees or expenses under the Finance Documents before the change has taken place.
- (e) Upon change of Bond Trustee, the Issuer shall co-operate in all reasonable manners without delay to replace the retiring Bond Trustee with the successor Bond Trustee and release the retiring Bond Trustee from any future obligations under the Finance Documents and any other documents.

## **16.6 Security Agent**

- (a) The Bond Trustee is appointed to act as Security Agent for the Bonds, unless any other person is appointed. The main functions of the Security Agent may include holding Transaction Security on behalf of the Secured Parties and monitoring compliance by the Issuer and other relevant parties of their respective obligations under the Transaction Security Documents with respect to the Transaction Security on the basis of information made available to it pursuant to the Finance Documents.
- (b) The Bond Trustee shall, when acting as Security Agent for the Bonds, at all times maintain and keep all certificates and other documents received by it, that are bearers of right relating to the Transaction Security in safe custody on behalf of the Bondholders. The Bond Trustee shall not be responsible for or required to insure against any loss incurred in connection with such safe custody.
- (c) Before the appointment of a Security Agent other than the Bond Trustee, the Issuer shall be given the opportunity to state its views on the proposed Security Agent, but the final decision as to appointment shall lie exclusively with the Bond Trustee.



- (d) The functions, rights and obligations of the Security Agent may be determined by a Security Agent Agreement to be entered into between the Bond Trustee and the Security Agent, which the Bond Trustee shall have the right to require each Obligor and any other party to a Finance Document to sign as a party, or, at the discretion of the Bond Trustee, to acknowledge. The Bond Trustee shall at all times retain the right to instruct the Security Agent in all matters, whether or not a separate Security Agent Agreement has been entered into.
- (e) The provisions set out in Clause 16.4 (*Expenses, liability and indemnity*) shall apply *mutatis mutandis* to any expenses and liabilities of the Security Agent in connection with the Finance Documents.

## **17. AMENDMENTS AND WAIVERS**

### **17.1 Procedure for amendments and waivers**

- (a) The Issuer and the Bond Trustee (acting on behalf of the Bondholders) may agree to amend the Finance Documents or waive a past default or anticipated failure to comply with any provision in a Finance Document, provided that:
  - (i) such amendment or waiver is not detrimental to the rights and benefits of the Bondholders in any material respect, 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 15 (*Bondholders' Decisions*).
- (b) Any changes to these Bond Terms necessary or appropriate in connection with the appointment of a Security Agent other than the Bond Trustee shall be documented in an amendment to these Bond Terms, signed by the Bond Trustee (in its discretion). If so desired by the Bond Trustee, any or all of the Transaction Security Documents shall be amended, assigned or re-issued, so that the Security Agent is the holder of the relevant Security (on behalf of the Bondholders). The costs incurred in connection with such amendment, assignment or re-issue shall be for the account of the Issuer.

### **17.2 Authority with respect to documentation**

If the Bondholders have resolved the substance of an amendment to any Finance Document, without resolving on the specific or final form of such amendment, the Bond Trustee shall be considered authorised to draft, approve and/or finalise (as applicable) any required documentation or any outstanding matters in such documentation without any further approvals or involvement from the Bondholders being required.

### **17.3 Notification of amendments or waivers**

- (a) The Bond Trustee shall as soon as possible notify the Bondholders of any amendments or waivers made in accordance with this Clause 17, setting out the date from which the amendment or waiver will be effective, unless such notice according to the Bond

Trustee's sole discretion is unnecessary. The Issuer shall ensure that any amendment to these Bond Terms is duly registered with the CSD.

- (b) Prior to agreeing to an amendment or granting a waiver in accordance with paragraph (a)(i) of Clause 17.1(a)(i) (*Procedure for amendments and waivers*), the Bond Trustee may inform the Bondholders of such waiver or amendment at a relevant information platform.

## **18. MISCELLANEOUS**

### **18.1 Limitation of claims**

All claims under the Finance Documents for payment, including interest and principal, will be subject to the legislation regarding time-bar provisions of the Relevant Jurisdiction.

### **18.2 Access to information**

- (a) These Bond Terms will be made available to the public and copies may be obtained from the Bond Trustee or the Issuer. The Bond Trustee will not have any obligation to distribute any other information to the Bondholders or any other person, and the Bondholders have no right to obtain information from the Bond Trustee, other than as explicitly stated in these Bond Terms or pursuant to statutory provisions of law.
- (b) In order to carry out its functions and obligations under these Bond Terms, the Bond Trustee will have access to the relevant information regarding ownership of the Bonds, as recorded and regulated with the CSD.
- (c) The information referred to in paragraph (b) above may only be used for the purposes of carrying out their duties and exercising their rights in accordance with the Finance Documents and shall not disclose such information to any Bondholder or third party unless necessary for such purposes.

### **18.3 Notices, contact information**

- (a) Written notices to the Bondholders made by the Bond Trustee will be sent to the Bondholders via the CSD with a copy to the Issuer and the Exchange (if the Bonds are listed). Any such notice or communication will be deemed to be given or made via the CSD, when sent from the CSD.
- (b) The Issuer's written notifications to the Bondholders will be sent to the Bondholders via the Bond Trustee or through the CSD with a copy to the Bond Trustee and the Exchange (if the Bonds are listed).
- (c) Notwithstanding paragraph (a) above and provided that such written notification does not require the Bondholders to take any action under the Finance Documents, the Issuer's written notifications to the Bondholders may be published by the Bond Trustee on a relevant information platform only.
- (d) Unless otherwise specifically provided, all notices or other communications under or in connection with these Bond Terms between the Bond Trustee and the Issuer will be given or made in writing, by letter or e-mail. Any such notice or communication will be deemed to be given or made as follows:

- (i) if by letter, when delivered at the address of the relevant party;
  - (ii) if by e-mail, when received; and
  - (iii) if by publication on a relevant information platform, when published.
- (e) The Issuer and the Bond Trustee shall each ensure that the other party is kept informed of changes in postal address, e-mail address and telephone and contact persons.
- (f) When determining deadlines set out in these Bond Terms, the following will apply (unless otherwise stated):
- (i) if the deadline is set out in days, the first day of the relevant period will not be included and the last day of the relevant period will be included;
  - (ii) if the deadline is set out in weeks, months or years, the deadline will end on the day in the last week or the last month which, according to its name or number, corresponds to the first day the deadline is in force. If such day is not a part of an actual month, the deadline will be the last day of such month; and
  - (iii) if a deadline ends on a day which is not a Business Day, the deadline is postponed to the next Business Day.

#### 18.4 Defeasance

- (a) Subject to paragraph (b) below and provided that:
- (i) an amount sufficient for the payment of principal and interest on the Outstanding Bonds to the relevant Repayment Date (including, to the extent applicable, any premium payable upon exercise of a Call Option), and always subject to paragraph (c) below (the “**Defeasance Amount**”) is credited by the Issuer to an account in a financial institution acceptable to the Bond Trustee (the “**Defeasance Account**”);
  - (ii) the Defeasance Account is irrevocably pledged and blocked in favour of the Bond Trustee on such terms as the Bond Trustee shall request (the “**Defeasance Pledge**”); and
  - (iii) the Bond Trustee has received such legal opinions and statements reasonably required by it, including (but not necessarily limited to) with respect to the validity and enforceability of the Defeasance Pledge,
- then;
- (A) the Issuer will be relieved from its obligations under paragraph (a) of Clause 12.2 (*Requirements as to Financial Reports*), Clause 12.3 (*Put Option Event*), Clause 12.5 (*Information: miscellaneous*) and Clause 13 (*General and Financial Undertakings*);
  - (B) any Transaction Security shall be released and the Defeasance Pledge shall be considered replacement of the Transaction Security; and

- (C) any Obligor shall be released from any Guarantee or other obligation applicable to it under any Finance Document.
- (b) The Bond Trustee shall be authorised to apply any amount credited to the Defeasance Account towards any amount payable by the Issuer under any Finance Document on the due date for the relevant payment until all obligations of the Issuer and all amounts outstanding under the Finance Documents are repaid and discharged in full.
- (c) The Bond Trustee may, if the Defeasance Amount cannot be finally and conclusively determined, decide the amount to be deposited to the Defeasance Account in its discretion, applying such buffer amount as it deems necessary.

A defeasance established according to this Clause 18.4 may not be reversed.

## **19. GOVERNING LAW AND JURISDICTION**

### **19.1 Governing law**

These Bond Terms are governed by the laws of the Relevant Jurisdiction, without regard to its conflict of law provisions.

### **19.2 Main jurisdiction**

The Bond Trustee and the Issuer agree for the benefit of the Bond Trustee and the Bondholders that the City Court of the capital of the Relevant Jurisdiction shall have jurisdiction with respect to any dispute arising out of or in connection with these Bond Terms. The Issuer agrees for the benefit of the Bond Trustee and the Bondholders that any legal action or proceedings arising out of or in connection with these Bond Terms against the Issuer or any of its assets may be brought in such court.

### **19.3 Alternative jurisdiction**

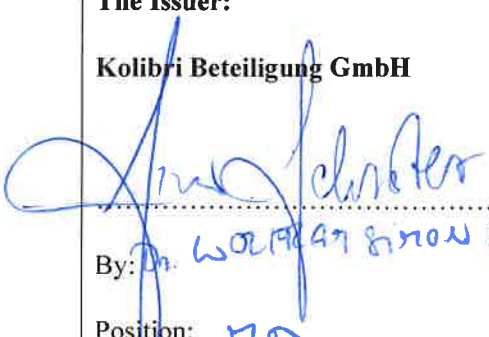
Clause 19 (*Governing law and jurisdiction*) is for the exclusive benefit of the Bond Trustee and the Bondholders and the Bond Trustee have the right:

- (a) to commence proceedings against the Issuer or any other Obligor or any of their respective assets in any court in any jurisdiction; and
- (b) to commence such proceedings, including enforcement proceedings, in any competent jurisdiction concurrently.


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These Bond Terms have been executed by way of electronic signatures.

**SIGNATURES:**

<p><b>The Issuer:</b></p> <p><b>Kolibri Beteiligung GmbH</b></p> <p></p> <p>By: <i>WOLFGANG SCHROEDER</i></p> <p>Position: <i>MD</i></p>	<p><b>As Bond Trustee and Security Agent:</b></p> <p><b>Nordic Trustee AS</b></p> <p>By:</p> <p>Position:</p>
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**SIGNATURES:**

<b>The Issuer:</b>  <b>Kolibri Beteiligung GmbH</b>  .....  By:  Position:	<b>As Bond Trustee and Security Agent:</b>  <b>Nordic Trustee AS</b>   .....  By: <b>Lars Erik Lærum</b> Position: <b>Authorised signatory</b>
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**ATTACHMENT 1**  
**COMPLIANCE CERTIFICATE**

[date]

**Kolibri Beteiligung GmbH senior secured EUR 200,000,000 bonds 2025/2029 - ISIN  
NO0013461384**

We refer to the Bond Terms for the above captioned Bonds made between Nordic Trustee AS as Bond Trustee on behalf of the Bondholders and the undersigned as Issuer. Pursuant to Clause 12.2 (*Requirements as to Financial Reports*) of the Bond Terms, a Compliance Certificate shall be issued in connection with each delivery of Financial Reports to the Bond Trustee.

This letter constitutes the Compliance Certificate for the period [●].

Capitalised terms used herein will have the same meaning as in the Bond Terms.

With reference to Clause 12.2 (*Requirements as to Financial Reports*), we hereby certify that all information delivered under cover of this Compliance Certificate is true and accurate. Copies of our latest consolidated [Annual Financial Statements] / [Interim Accounts] are enclosed.

[The financial covenants set out in Clause 13.25 (*Financial Maintenance Covenants*) are met, please see the calculations and figures in respect of the covenants attached hereto.]

[With reference to Clause 13.20 (*Material Group Companies*) the following Group Companies are nominated as Material Group Companies: [●]]

We confirm that, to the best of our knowledge, no Event of Default has occurred or is likely to occur.

Yours faithfully,

**Kolibri Beteiligung GmbH**

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Name of authorised person

*Enclosure: Annual Financial Statements / Interim Accounts; [and any other written documentation]*

**ATTACHMENT 2**  
**RELEASE NOTICE – ESCROW ACCOUNT**

[date]

Dear Sirs,

**Kolibri Beteiligung GmbH senior secured EUR 200,000,000 bonds 2025/2029 - ISIN  
NO0013461384**

We refer to the Bond Terms for the above captioned Bonds made between Nordic Trustee AS as Bond Trustee on behalf of the Bondholders and the undersigned as Issuer.

Capitalised terms used herein will have the same meaning as in the Bond Terms.

We hereby give you notice that we on [date] 2025 wish to draw the amount specified in Enclosure I (*Flow of Funds*) from the Escrow Account to be applied pursuant to the purpose set out in the Bond Terms, and request you to instruct the bank to release the above mentioned amount.

We hereby represent and warrant that (i) no Event of Default has occurred and is continuing or is likely to occur as a result of the release from the Escrow Account, and (ii) we confirm that the representations and warranties set out in the Bond Terms are true and accurate in all material respects at the date hereof.

Yours faithfully,

**Kolibri Beteiligung GmbH**

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Name of authorised person

*Enclosure I: Flow of Funds*



### ATTACHMENT 3

#### **Intercreditor Principles**

The main principles on which the intercreditor agreement (the "**Intercreditor Agreement**") will be based are as follows:

<b>Parties:</b>	The Intercreditor Agreement will be entered into between, among others, (a) Jasmin Schröter and any other shareholder of the Issuer (collectively, the " <b>Shareholders</b> "), as third party security providers, (b) the Issuer and the other debtors (collectively, the " <b>Debtors</b> "), (c) certain intra-group lenders (the " <b>Intra-Group Lenders</b> "), (d) the agent (the " <b>Credit Facility Agent</b> "), the arranger(s) (the " <b>Credit Facility Arranger</b> ") and the lenders (the " <b>Credit Facility Lenders</b> ") under any Credit Facility, (e) any hedge counterparties (the " <b>Hedge Counterparties</b> "), (f) any other subordinated creditors including any Shareholder in its capacity as such (collectively, the " <b>Subordinated Creditors</b> "), (g) the Bond Trustee and (h) the Security Agent.
<b>Ranking and priority:</b>	<p>The Credit Facility Liabilities, the Hedging Liabilities and the Pari Passu Debt Liabilities owed by the Debtors to the Primary Creditors shall (subject to the terms of the Intercreditor Agreement) rank in right and priority of payment <i>pari passu</i> and without any preference between them.</p> <p>Any Guarantee and the Transaction Security shall rank and secure the Credit Facility Liabilities, the Hedging Liabilities and the Pari Passu Debt Liabilities (subject to the terms of the Intercreditor Agreement) <i>pari passu</i> and without any preference between them.</p> <p>The Subordinated Liabilities and the Intra-Group Liabilities are postponed and subordinated to the liabilities owed by the Debtors to the Primary Creditors.</p>
<b>Option to purchase and hedge transfer:</b>	The Bond Trustee and any other bond trustee (in each case, on behalf of some or all or the relevant pari passu bondholders) and/or some or all of the lenders which are owed any Pari Passu Debt Liabilities may after a Distress Event and subject to certain customary conditions being fulfilled (and after having given each other such bond trustee and all lenders which are owed any Pari Passu Debt Liabilities the opportunity to participate in such purchase), by giving not less than 10 days' notice to the Security Agent, require the transfer to them of all, but not part, of the rights, benefits and obligations in respect of the Credit Facility Liabilities and (at the same time or after the discharge date of the Credit Facility Lenders) each hedging agreement.
<b>Permitted payments in respect of Intra-Group Liabilities and</b>	The Debtors may make payments in respect of Intra-Group Liabilities from time to time when due until an acceleration event has occurred under the relevant Debt Documents, provided that such payments may in

<b>Subordinated Liabilities:</b>	<p>any event be made if (a) the Majority Super Senior Creditors and the Required Pari Passu Creditors consent to that payment being made, (b) that payment is made to facilitate payment of Credit Facility Liabilities, Hedging Liabilities or Pari Passu Debt Liabilities in accordance with the terms of the Intercreditor Agreement or (c) that payment is required for the relevant Debtor (or its general partner, as the case may be) to comply with its obligations under sections 30 and/or 43 of the German Limited Liability Companies Act (<i>Gesetz betreffend die Gesellschaften mit beschränkter Haftung</i>).</p> <p>Prior to the final discharge date of the Primary Creditors, neither the Issuer nor any other Debtor shall, and the Issuer shall procure that no other member of the Group will, make any payment of the Subordinated Liabilities at any time, unless (a) that payment is not prohibited under the Credit Facility, the Bond Terms or any of the other Pari Passu Debt Liabilities, (b) the Majority Super Senior Creditors and the Required Pari Passu Creditors consent to that payment being made, (c) (subject to any applicable restrictions, conditions or provisions in any of the other Debt Documents) by way of conversion of Subordinated Liabilities into share capital in the Issuer or (d) that payment is required for the relevant Debtor (or its general partner, as the case may be) to comply with its obligations under sections 30 and/or 43 of the German Limited Liability Companies Act (<i>Gesetz betreffend die Gesellschaften mit beschränkter Haftung</i>).</p>
<b>Effect of insolvency event:</b>	<p>After the occurrence of an insolvency event in relation to any member of the Group or, to the extent applicable, any Shareholder, any party entitled to receive a distribution out of the assets of that member of the Group or Shareholder (in the case of a Primary Creditor, only to the extent that such amount constitutes enforcement proceeds) in respect of liabilities owed to that party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that member of the Group or Shareholder to make that distribution to the Security Agent (or to such other person as the Security Agent shall direct) until the liabilities owing to the Secured Parties have been paid in full.</p> <p>The Security Agent shall apply such distributions made to it in accordance with section "Application of proceeds" below.</p>
<b>Turnover of receipts:</b>	<p>If at any time prior to the final discharge date of the Primary Creditors, any Creditor receives or recovers any payment other than as permitted by the Intercreditor Agreement, that Creditor will promptly pay or distribute an amount equal to that receipt or recovery to the Security Agent for application in accordance with the terms of the Intercreditor Agreement.</p>
<b>Enforcement of Transaction Security:</b>	<p>If either the Majority Super Senior Creditors or the Majority Pari Passu Creditors wish to issue instructions as to enforcement of any Transaction</p>

	<p>Security ("<b>Enforcement Instructions</b>"), the creditor representatives (and, if applicable, the Hedge Counterparties) representing the relevant Primary Creditors shall deliver a copy of those proposed Enforcement Instructions (an "<b>Initial Enforcement Notice</b>") to the Security Agent and the Security Agent shall promptly forward such Initial Enforcement Notice to each creditor representative and each Hedge Counterparty which did not deliver such Initial Enforcement Notice.</p> <p>Subject to the exceptions set out below, the Security Agent will act in accordance with Enforcement Instructions received from the Majority Pari Passu Creditors.</p> <p>If (a) the Majority Pari Passu Creditors have not either (i) made a determination as to the method of enforcement they wish to instruct the Security Agent to pursue (and notified the Security Agent of that determination in writing) or (ii) appointed a financial adviser to assist them in making such a determination, within 3 months of the date of the Initial Enforcement Notice or (b) the discharge date of the Super Senior Creditors has not occurred within 6 months of the date of the Initial Enforcement Notice, then the Security Agent will act in accordance with Enforcement Instructions received from the Majority Super Senior Creditors until that discharge date has occurred.</p> <p>If an insolvency event is continuing with respect to a Debtor or, to the extent applicable, any Shareholder, then the Security Agent will, to the extent the Majority Super Senior Creditors elect to provide such Enforcement Instructions, act in accordance with Enforcement Instructions received from the Majority Super Senior Creditors until the discharge date of the Super Senior Creditors has occurred.</p> <p>If the Majority Pari Passu Creditors have not either (a) made a determination as to the method of enforcement they wish to instruct the Security Agent to pursue (and notified the Security Agent of that determination in writing) or (b) appointed a financial adviser to assist them in making such a determination, and the Majority Super Senior Creditors (i) determine in good faith (and notify the other creditor representatives, the Hedge Counterparties and the Security Agent) that a delay in issuing Enforcement Instructions could reasonably be expected to have a material adverse effect on the ability to effect a distressed disposal or on the expected realisation proceeds of any enforcement and (ii) deliver Enforcement Instructions which they reasonably believe to be consistent with section "Enforcement principles" below before the Security Agent has received any Enforcement Instructions from the Majority Pari Passu Creditors, then the Security Agent will act in accordance with the Enforcement Instructions received from the</p>
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	Majority Super Senior Creditors until the discharge date of the Super Senior Creditors has occurred.
<b>Manner of enforcement:</b>	<p>If the Transaction Security is being enforced, the Security Agent shall enforce the Transaction Security in such manner as the Instructing Group shall instruct (provided that such instructions are consistent with section "Enforcement principles" below) or, in the absence of any such instructions, as the Security Agent considers in its discretion to be appropriate and consistent with those principles.</p> <p>The other Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the documents evidencing the terms of the Transaction Security except through the Security Agent.</p>
<b>Non-distressed disposals:</b>	<p>If a disposal of an asset is a non-distressed disposal, the Security Agent shall be irrevocably authorised to, among others, release the Transaction Security or any claim over the relevant asset or the relevant member of the Group's other property.</p> <p>If any disposal proceeds are required to be applied in mandatory prepayment of the Credit Facility Liabilities or the Pari Passu Debt Liabilities, then those disposal proceeds shall be applied in accordance with the Debt Documents and the consent of any other party shall not be required for that application.</p>
<b>Distressed disposals:</b>	<p>If a disposal of an asset is a distressed disposal, the Security Agent shall be irrevocably authorised:</p> <ul style="list-style-type: none"> <li>(a) to release the Transaction Security and any other claim over the relevant asset; and</li> <li>(b) if the relevant asset consists of shares or ownership interests in a Debtor or a holding company of a Debtor (each, a "<b>Disposed Entity</b>"), (i) to release any Transaction Security granted by the Disposed Entity, or any subsidiary of the Disposed Entity, over any of its assets, (ii) to release the Disposed Entity, or any subsidiary of the Disposed Entity, from all or any part of its liabilities, (iii) to release any other claim of any Creditor, any Shareholder or another Debtor over that Disposed Entity's assets or over the assets of any subsidiary of that Disposed Entity, (iv) to release the Disposed Entity, any subsidiary of the Disposed Entity, any other member of the Group and any Shareholder from all or any part of its liabilities arising out of or in connection with that distressed disposal, or dispose of all or any part of those liabilities, (v) to dispose of all or any part of the liabilities owing by the Disposed Entity, or any subsidiary of the Disposed Entity, (vi) to</li> </ul>

	<p>dispose of all or any part of the liabilities owing to the Disposed Entity, or any subsidiary of the Disposed Entity and/or (vii) to transfer to another Debtor all or any part of the obligations of the Disposed Entity, or any Subsidiary of the Disposed Entity, in respect of any Intra-Group Liabilities,</p> <p>in each case, (A) that may, in the discretion of the Security Agent, be considered necessary or desirable and (B) on behalf of the relevant Creditors, Secured Parties and Debtors and any Shareholder, and the Security Agent shall be irrevocably authorised to enter into, execute, file and deliver any document or instrument needed to effect any such release, disposal or transfer. For the avoidance of doubt, any transferee in respect of any such disposal or transfer referred to above will not be treated as a Primary Creditor or a Secured Party for the purposes of the Intercreditor Agreement (unless the contrary is explicitly confirmed in writing to such transferee by the Security Agent).</p> <p>The net proceeds of each distressed disposal (and each debt disposal) shall be paid, or distributed, to the Security Agent for application in accordance with section "Application of proceeds" below.</p> <p>For the purposes of distressed disposals, the Security Agent (a) shall act on the instructions of the Instructing Group, or in the absence of any such instructions, as the Security Agent sees fit and (b) may engage, or approve the engagement of, pay for and rely on the services of a financial adviser in accordance with section "Enforcement principles" below.</p>
<b>Application of proceeds:</b>	<p>All amounts from time to time received or recovered by the Security Agent (a) pursuant to the terms of any Debt Document, (b) in connection with the realisation or enforcement of all or any part of the Transaction Security or (c) in connection with the making of any demand under any Guarantee shall be applied by the Security Agent in the following order of priority:</p> <ul style="list-style-type: none"> <li>(i) in discharging any sums owing to the Security Agent, any receiver, any delegate or any other creditor representatives (for its own account);</li> <li>(ii) in payment or distribution to: <ul style="list-style-type: none"> <li>(A) the Credit Facility Agent on its own behalf and on behalf of the Credit Facility Creditors for application towards the discharge of the Credit Facility Liabilities up to an aggregate maximum amount equal to the Credit Facility Liabilities Maximum Amount; and</li> <li>(B) the Super Senior Hedge Counterparties for application towards the Super Senior Hedging Liabilities,</li> </ul> </li> </ul>

	<p>1 in each case, on a pro rata basis;</p> <p>(iii) in payment or distribution to:</p> <p>(A) the creditor representatives in respect of any Pari Passu Debt Liabilities on its own behalf and on behalf of the Pari Passu Creditors for which it is the creditor representative for application towards the Pari Passu Debt Liabilities; and</p> <p>(B) the Pari Passu Hedge Counterparties for application towards the Pari Passu Hedging Liabilities,</p> <p>2 in each case, on a pro rata basis;</p> <p>(iv) if none of the Debtors is under any further actual or contingent liability under any document evidencing the terms of any Credit Facility Liabilities, Hedging Liabilities or Pari Passu Debt Liabilities, in payment or distribution to any person to whom the Security Agent is obliged to pay or distribute in priority to any Debtor; and</p> <p>(v) the balance, if any, in payment or distribution to the relevant Debtor,</p> <p>subject to certain customary exceptions in respect of prospective liabilities and treatment of cash cover in respect of any Credit Facility.</p>
<b>Enforcement principles:</b>	<p>The main enforcement principles are as follows:</p> <p>(a) it shall be the primary and over-riding aim of any enforcement of any Transaction Security to maximise, to the extent consistent with a prompt and expeditious realisation of value, the value realised from any such enforcement;</p> <p>(b) the Security Agent shall be under no obligation to appoint a financial adviser or to seek the advice of a financial adviser unless expressly required to do so by the Intercreditor Agreement; and</p> <p>(c) any fairness opinion from a financial adviser will be conclusive evidence that the enforcement objective set out above has been met.</p>
<b>Bond                      Trustee protection:</b>	Customary Bond Trustee protection provisions will be included in the Intercreditor Agreement.
<b>Governing law and jurisdiction:</b>	The Intercreditor Agreement shall be governed by Norwegian law and be subject to the jurisdiction of the Oslo District Court ( <i>Oslo tingrett</i> ).

<p><b>Definitions:</b></p>	<p><b>"Credit Facility"</b> means any guaranteed and secured Main Revolving Credit Facility made available to the Issuer or any other Debtor in accordance with the Bond Terms.</p> <p><b>"Credit Facility Creditors"</b> means any Credit Facility Agent, any Credit Facility Arranger and each Credit Facility Lender.</p> <p><b>"Credit Facility Liabilities"</b> means the liabilities owed by any Debtor to any Credit Facility Creditors under or in connection with the relevant Debt Documents.</p> <p><b>"Credit Facility Liabilities Maximum Amount"</b> means the aggregate principal amount of EUR 15,000,000 (or its equivalent in any other currency) plus any accrued but unpaid interest, fees, costs and expenses under the Debt Documents evidencing the terms of the Credit Facility Liabilities, less the aggregate of (a) the total principal amount outstanding under any unguaranteed and unsecured Main Revolving Credit Facility and (b) the total principal amount outstanding under all Additional Revolving Credit Facilities, in each case, at the time.</p> <p><b>"Creditors"</b> means the Primary Creditors, the Intra-Group Lenders and the Subordinated Creditors.</p> <p><b>"Debt Document"</b> means the Intercreditor Agreement, any documents evidencing the terms of any Credit Facility Liabilities, any Hedging Liabilities, any Pari Passu Debt Liabilities, any Intra-Group Liabilities, any Subordinated Liabilities, any Guarantee or any Transaction Security and any other document designated as such by the Security Agent and the Issuer.</p> <p><b>"Distress Event"</b> means (a) any exercise of any rights under any acceleration provisions, or any acceleration provisions being automatically invoked, in each case under any Debt Document evidencing the terms of any Credit Facility Liabilities or any Pari Passu Debt Liabilities, (b) the enforcement of any Transaction Security or (c) (unless the context otherwise requires) the making of any demand under any Guarantee.</p> <p><b>"Guarantee"</b> means any guarantee, indemnity or other assurance against loss granted by any Debtor in respect of the obligations of any of the Debtors under any of the Debt Documents.</p> <p><b>"Hedging Liabilities"</b> means the liabilities owed by any Debtor to the Hedge Counterparties under or in connection with any hedging agreement entered into by the Issuer or any other Debtor in respect of the interest rate liabilities and/or the exchange rate risks of the Issuer or any other Debtor in relation to the Credit Facility Liabilities or the Pari Passu Debt Liabilities (in each case, not entered into for speculative purposes).</p>
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	<p><b>"Instructing Group"</b> means:</p> <p>subject to paragraph (b) below, the Majority Super Senior Creditors and the Majority Pari Passu Creditors; and</p> <p>in relation to instructions as to the enforcement of any Transaction Security, the group of Primary Creditors entitled to give instructions as to such enforcement under section "Enforcement of Transaction Security" above.</p> <p><b>"Intra-Group Liabilities"</b> means the liabilities owed by any member of the Group to any of the Intra-Group Lenders.</p> <p><b>"Majority Pari Passu Creditors"</b> means, at any time, those Pari Passu Creditors whose pari passu credit participations at that time aggregate more than 50.00 per cent. of the total pari passu credit participations at that time (and where each bond trustee shall act (and be considered to act) on behalf of all the pari passu bondholders represented by it regardless of whether all or only the required majority of those pari passu bondholders voted in favour or against the decision to be made by the Majority Pari Passu Creditors under the Intercreditor Agreement at any relevant preceding meeting(s) of those pari passu bondholders).</p> <p><b>"Majority Super Senior Creditors"</b> means, at any time, those 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.</p> <p><b>"Pari Passu Creditors"</b> means the Bondholders, the Bond Trustee and each other creditor which pursuant to section "Ranking and priority" above shall rank (a) in right and priority of payment and (b) in respect of any Guarantee and Transaction Security <i>pari passu</i> with the Bondholders and the Bond Trustee and without any preference between them.</p> <p><b>"Pari Passu Debt Liabilities"</b> means the liabilities (other than any Pari Passu Hedging Liabilities) owed by the Debtors to the Pari Passu Creditors under or in connection with the relevant Debt Documents.</p> <p><b>"Pari Passu Hedge Counterparties"</b> means each Hedge Counterparty to the extent it is owed Pari Passu Hedging Liabilities.</p> <p><b>"Pari Passu Hedging Liabilities"</b> means the Hedging Liabilities to the extent they are not Super Senior Hedging Liabilities.</p> <p><b>"Pari Passu Liabilities"</b> means the Pari Passu Hedging Liabilities or the Pari Passu Debt Liabilities.</p>
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	<p><b>"Primary Creditors"</b> means the Super Senior Creditors and the Pari Passu Creditors.</p> <p><b>"Required Pari Passu Creditors"</b> means:</p> <p>each creditor representative acting on behalf of any lenders or bondholders which are owed any Pari Passu Debt Liabilities; and</p> <p>at any time, those Pari Passu Hedge Counterparties whose pari passu hedge credit participations at that time aggregate more than 50.00 per cent. of the total pari passu hedge credit participations at that time.</p> <p><b>"Secured Parties"</b> means the Security Agent, any receiver or delegate and each of the Primary Creditors from time to time but, in the case of each Primary Creditor, only if it (or, in the case of a Pari Passu Creditor being a bondholder, its bond trustee) is a party or has acceded to the Intercreditor Agreement in the proper capacity pursuant to the terms thereof.</p> <p><b>"Subordinated Liabilities"</b> means the liabilities owed to the Subordinated Creditors by the Issuer.</p> <p><b>"Super Senior Creditors"</b> means the Credit Facility Creditors and the Super Senior Hedge Counterparties.</p> <p><b>"Super Senior Hedge Counterparties"</b> means each Hedge Counterparty to the extent it is owed Super Senior Hedging Liabilities.</p> <p><b>"Super Senior Hedging Liabilities"</b> means the Hedging Liabilities, but only to the extent they relate to the Credit Facility Liabilities.</p> <p><b>"Transaction Security"</b> means the security granted by any Debtor or any Shareholder in respect of the obligations of any of the Debtors under any of the Debt Documents (other than any Escrow Account Pledge).</p>
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## **ATTACHMENT 4**

### **Agreed Security Principles**

Any Transaction Security, Transaction Security Document and Guarantee shall be subject to the principles set out below. Capitalised terms used below shall, unless the context otherwise requires, have the same meaning as given to them in the Intercreditor Principles or, if not defined therein, in the term sheet for the Bonds.

- (a) Transaction Security shall be created over:
  - (i) the following assets held or acquired by the Initial Shareholder and any Subsequent Shareholder at any time:
    - (A) all the shares owned by it in the Issuer; and
    - (B) any Shareholder Loans made or acquired by it; and
  - (ii) the following assets held or acquired by the Issuer and/or each Obligor at any time:
    - (A) all the shares in each Material Group Company owned by it;
    - (B) any claims arising under any loan or credit made by it to any other Group Company;
    - (C) any claims arising under any loan or credit made by the Issuer under any Issuer Loan;
    - (D) any Intellectual Property Rights held by it; and
    - (E) all machinery and plant, vehicles, inventory, and (to the extent they are not the subject of any non-recourse factoring facility or arrangement permitted by the term sheet for the Bonds) trade receivables of such Obligor.
- (b) where legally permissible, Transaction Security Documents shall automatically create Transaction Security over future assets of the same type as those already being subject to such Transaction Security, and if such Transaction Security may not be automatically created, Transaction Security over such future assets shall be created promptly upon the acquisition thereof;
- (c) any Transaction Security and any Guarantee shall secure or guarantee (as applicable) all present and future liabilities and obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Secured Party under the Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity;
- (d) where legally permissible, any Transaction Security and any Guarantee shall be created in favour of the Security Agent and not the other Secured Parties individually. Parallel debt provisions shall be used where legally necessary;
- (e) to the extent legally permissible, any Transaction Security or any Guarantee will be an upstream, downstream and cross stream Security or Guarantee;
- (f) to the extent legally permissible, Transaction Security will be first ranking unless any prior ranking Security is specifically permitted by all the relevant Debt Documents;
- (g) general statutory limitations (including, but not limited to, such relating to financial assistance, corporate benefit, fraudulent preference, "thin capitalisation" rules, capital maintenance, retention

of title claims and similar principles) may limit the ability of a Debtor or a Shareholder to provide any Transaction Security or Guarantee or require that such Transaction Security or Guarantee is limited by an amount or otherwise;

- (h) the Transaction Security and the extent of its scope and perfection shall take into account the costs and expenses (including, without limitation, any stamp duty, Taxes, registration fees or similar) of providing such Transaction Security which must be proportionate to the benefit accruing to the Secured Parties with respect to such Transaction Security;
- (i) neither the Debtors nor the Shareholders will be required to provide Transaction Security or any Guarantee if it would conflict with the fiduciary duties of their directors or officers or contravene any legal prohibition or result in a material risk of personal or criminal liability on the part of any director or officer, provided that the relevant Debtor or Shareholder (as applicable) shall use reasonable endeavours to overcome any such obstacle;
- (j) any asset subject to pre-existing third party arrangements which are permitted by all the relevant Debt Documents or any other third party contractual restrictions on assignments and which prevent such asset from becoming subject to Transaction Security, will be excluded from any relevant Transaction Security Document, but the relevant Debtor or Shareholder (as applicable) shall use reasonable endeavours to obtain any required consent to the creation of Transaction Security over such asset if the asset may be considered material in the context of its business or operations;
- (k) Transaction Security Documents shall operate to create Transaction Security rather than to impose any new commercial obligations and shall, accordingly, not contain additional or duplicate representations or undertakings to those contained in the relevant Debt Documents unless required for the creation, perfection, preservation or enforcement of the Transaction Security and shall not be unduly burdensome on the relevant Debtor or the Shareholder (as applicable) or interfere unreasonably with the operation of its business or operations;
- (l) no Guarantee or Transaction Security will be required from or over the assets of any joint venture or similar arrangement or any company in which a Debtor holds a minority interest;
- (m) any action required to perfect any Transaction Security will only be required in the jurisdiction of incorporation or principal places of business of any Debtor or in a jurisdiction where any Debtor has a physical presence;
- (n) perfection of Transaction Security will not be required if it would materially adversely affect the ability of the relevant Debtor or the Shareholder (as applicable) to conduct its operations or business in the ordinary course;
- (o) Transaction Security will not be enforceable until the occurrence of an acceleration event (i.e. when any relevant creditor or creditor representative exercises any of its rights under any acceleration provisions, or any acceleration provisions being automatically invoked, in each case under any relevant Debt Document);
- (p) if any Transaction Security may be enforced in various manners under the laws by which such Transaction Security is governed, then the Transaction Security Document in question shall, to the extent legally permissible, include and permit the various manners of such enforcement, including the manner which may reasonably be considered to be the most efficient in terms of time, process, method and costs from the perspective of the Secured Parties, and (subject to the terms

of the Intercreditor Agreement) leave it to the Security Agent to decide the manner of enforcement at any given time;

- (q) Transaction Security over any Intercompany Loan shall permit the relevant Group Company to make any repayment or prepayment of the principal amount of such Intercompany Loan and any payment of interest accrued on such Intercompany Loan to the relevant Debtor to the extent and in the manner set out in the Intercreditor Agreement;
- (r) no notice of Transaction Security over trade receivables may be given to third party debtors until an Event of Default has occurred and is continuing, regardless if such notice is required for perfection of such Transaction Security;
- (s) Transaction Security shall only be provided and registered with respect to material intellectual property rights, and the relevant Debtor shall be free to deal with such intellectual property rights in the normal course of its business (including, for the avoidance of doubt, allowing intellectual property rights to lapse if no longer material either in terms of value or to its business); and
- (t) the Security Agent shall only be able to exercise any powers of attorney (including, but not limited to, in respect of voting rights appertaining to any shares) granted under any Transaction Security Document or have the right to receive any dividends or other sums payable in respect of any shares if an Event of Default has occurred and is continuing.