



TERMS AND CONDITIONS FOR
EXIQON A/S
DKK 40,000,000
SENIOR SECURED NOTES
WITH REPRESENTATIVE FOR THE NOTEHOLDERS
REGISTERED UNDER CHAPTER 2a OF THE SECURITIES
TRADING ACT

ISIN: DK0030368204

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1. DEFINITIONS AND CONSTRUCTION

1.1 Definitions

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

“**Account Operator**” means a bank or other party duly authorised to operate as an account holding institute (*kontoførende institut*) pursuant to the Securities Trading Act and through which a Noteholder has opened a Securities Account in respect of its Notes.

“**Accounting Principles**” means international financial reporting standards (IFRS) within the meaning of Regulation 1606/2002/EC or as otherwise adopted or amended from time to time by the EU and additional Danish disclosure requirements for the annual reports for accounting class D as applied by the Issuer in preparing its annual consolidated financial statements.

“**Business Day**” means any day on which (i) banks are open for general business (including dealing in foreign exchange and foreign currency deposits) in Copenhagen and (ii) VP and the Danish Central Bank’s settlement system is open for the relevant currency as defined in these Terms and Conditions.

“**Business Day Convention**” means the first following day that is a Business Day.

“**Cash**” means such amount as may be recognised as cash and cash equivalents by the Group in accordance with the Accounting Principles .

“**Change of Control Event**” means that any person or group of persons acting in concert gains direct or indirect control of the Issuer.

“**Compliance Certificate**” means a certificate from the Issuer executed by a member of the executive management of the Issuer that sets out in reasonable detail calculations demonstrating compliance in a given period with the Financial Covenants applying and in a form and substance reasonably satisfactory to the Representative.

“**CSD**” means the Issuer’s central securities depository and registrar in respect of the Notes from time to time, initially VP.

“**Danish kroner**” and “**DKK**” means the lawful currency of Denmark.

“**Event of Default**” means an event or circumstance specified in Clause 13.1.

“**EBIT**” means earnings of the Group before interest, and tax (excluding the results from discontinued operations) calculated in accordance with the Accounting Principles:

- (a) *before deducting* any finance charges;
- (b) *before taking into account* any Exceptional Items;

“**EBITDA**” means earnings of the Group before interest, tax, depreciation and amortization, i.e. EBIT *after adding back* any amount attributable to the amortisation or depreciation of assets *and* non-cash costs of any share based payment.

“**Escrow Account**” means the Issuer’s bank account with Carnegie Investment Bank AB account no. 0102-202638.

"Exceptional Items" means any material items of an unusual or non-recurring nature (in a maximum aggregate amount not exceeding 50 per cent. of EBITDA) which represent gains or losses including those arising on:

- (a) the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring;
- (b) disposals, revaluations or impairment of non-current assets; and
- (c) disposals of assets associated with discontinued operations.

"Executive Order" means the Danish Financial Supervisory Authority Executive Order no. 819 of 26 June 2013 on Book-Entry etc. of Investment Securities with a CSD as amended from time to time.

"Final Maturity Date" means 3 years after the Issue Date.

"Financial Covenants" has the meaning ascribed to it in Clause 12.5.

"Finance Documents" means these Terms and Conditions, the Representative Agreement, the Security Documents, the VP Issuer Agreement and any other document designated by the Issuer and the Representative as a Finance Document.

"Financial Indebtedness" means:

- (a) moneys borrowed (including under any bank financing);
- (b) the amount of any liability under any finance leases (a lease which in accordance with the Accounting Principles is treated as an asset and a corresponding liability);
- (c) receivables sold or discounted;
- (d) any amount raised pursuant to any note purchase facility or the issue of any bond or note or similar instrument;
- (e) any other transaction (including the obligation to pay deferred purchase price) having the commercial effect of a borrowing or otherwise being classified as borrowing under the Accounting Principles;
- (f) the marked-to-market value of derivative transactions entered into in connection with protection against or benefit from fluctuation in any rate or price (if any actual amount is due as a result of a termination or a close-out, such amount shall be used instead);
- (g) counter-indemnity obligations in respect of guarantees or other instruments issued by a bank or financial institution; and
- (h) liabilities under guarantees or indemnities for any of the obligations referred to in paragraphs (b) to (g) above.

"Force Majeure Event" has the meaning set forth in Clause 24.1.

“**Group**” means the Issuer and its Subsidiaries from time to time (each a “**Group Company**”) accounted for in the annual consolidated financial statements of the Issuer.

“**Insolvent**” means, in respect of a relevant person, that it is deemed or declared to be insolvent, or admits inability to pay its debts as they fall due, in each case within the meaning of Sections 17-18 of the Danish Bankruptcy Act (*konkursloven*, consolidated act no. 11 of 6 January 2014 as amended from time to time) (or its equivalent in any other jurisdiction), suspends making payments on any of its debts or by reason of actual financial difficulties commences negotiations with its creditors (other than the Noteholders) with a view to rescheduling any of its indebtedness (including reconstruction (*rekonstruktion*) under Part I A of the Danish Bankruptcy Act (or its equivalent in any other jurisdiction)) or is subject to involuntary winding-up, dissolution or liquidation.

“**Interest**” means the interest on the Notes calculated in accordance with Clauses 8.1 to 8.3.

“**Interest Payment Date**” means 19 February, 19 May, 19 August and 19 November of each year or, to the extent such day is not a Business Day, the Business Day following from an application of the Business Day Convention. The first Interest Payment Date for the Notes shall be 19 February 2016 and the last Interest Payment Date shall be the relevant Redemption Date.

“**Interest Period**” means (i) in respect of the first Interest Period, the period from (and including) the Issue Date to (but excluding) the first Interest Payment Date, and (ii) in respect of subsequent Interest Periods, the period from (and including) an Interest Payment Date to (but excluding) the next succeeding Interest Payment Date (or a shorter period if relevant). An Interest Period shall not be adjusted due to an application of the Business Day Convention.

“**Interest Rate**” means 9.25 per cent. *per annum*.

“**Inventories**” means such amount of inventory as may be recognised as inventories by the Group in accordance with the Accounting Principles.

“**Issue Date**” means the date on which the Notes are issued. The Issuing Agent shall confirm the Issue Date to the CSD and the Representative in writing and the Issuer shall publish the Issue Date in accordance with Clause 23.2 (*Press releases*).

“**Issuer**” means Exiqon A/S, a public limited liability company incorporated under the laws of Denmark with company registration no. 18984431.

“**Issuing Agent**” means Carnegie Investment Bank AB, or another party replacing it, as Issuing Agent, in accordance with the terms and conditions of the VP Issuer Agreement.

“**Nominal Amount**” means in respect of each Note the nominal amount described in Clause 2.3 below, less the aggregate amount by which that Note has been redeemed in part pursuant to Clause 9.4 (*Voluntary/Mandatory partial redemption*).

“**Note**” means a debt instrument (*gældsinstrument*) for the Nominal Amount and of the type set forth in Section 2(1)(b) of the Securities Trading Act and which are governed by and issued under these Terms and Conditions.

“**Noteholder**” means the person who is registered on a Securities Account as direct registered owner (*ejer*) or nominee with respect to a Note.

“**Noteholders’ Meeting**“ means a meeting among the Noteholders held in accordance with Clause 16 (*Noteholders’ Meeting*).

“**Receivables**” means such outstanding amount as may be recognised as receivables by the Group in accordance with the Accounting Principles.

“**Record Date**“ means the relevant date according to the applicable regulations of the CSD with respect to (i) an Interest Payment Date, (ii) a Redemption Date, (iii) a date on which a payment to the Noteholders is to be made under Clause 14 (*Distribution of proceeds*), or (iv) another relevant date, or in each case such other Business Day falling prior to a relevant date if generally applicable on the Danish bond market.

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

“**Regulated Market**“ means any regulated market (as defined in Directive 2004/39/EC on markets in financial instruments).

“**Report**“ means a short monthly statement in a form and substance reasonably satisfactory to the Representative demonstrating compliance with the Financial Covenants in Clause 12.5.

“**Representative**“ means Nordic Trustee A/S, company registration no. 34705720, registered as representative (in Danish: *repræsentant*) with the register kept by the Danish Financial Supervisory Authority in accordance with Chapter 2a of the Securities Trading Act and the Representative Register Order, or another party replacing it, as Representative, in accordance with these Terms and Conditions.

“**Representative Agreement**“ means the agreement entered into on or before the Issue Date, between the Issuer and the Representative, or any replacement Representative Agreement entered into after the Issue Date between the Issuer and a Representative regarding, inter alia, the fees and remuneration payable to the Representative and the indemnifications given to the Representative.

“**Representative Register Order**“ means the Danish Financial Supervisory Authority Executive Order no. 771 of 26 June 2014 as amended from time to time on the register of representatives in connection with issues of notes.

“**Secured Obligations**“ means all present and future obligations and liabilities of the Issuer to the Secured Parties under the Finance Documents.

“**Secured Parties**“ means the Noteholders, the Representative.

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

“**Securities Trading Act**“ means consolidated act no. 227 of 11 March 2014 on trading in securities etc. (*værdipapirhandelsloven*), as amended from time to time.

“**Security**“ means a mortgage, guarantee, 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 Documents**“ means each of the documents set out in Schedule 1 to these Terms and Conditions.

“**Subsidiary**“ means, in relation to any person, any Danish or foreign legal entity (whether incorporated or not), which at the time is a subsidiary (*dattervirksomhed*) to such person, directly or indirectly, as defined in the Danish Companies Act (*selskabsloven*, consolidated act no. 1089 of 14 September 2015 as amended from time to time).

“**Total Interest Expenses**” means, in relation to the Group, the aggregate of all interest and fees relating to any debt (whether senior or subordinated) accruing (whether or not paid) during a relevant period.

“**Transaction Security**“ means the Security provided for the Secured Obligations pursuant to the Security Documents.

“**VP**“ means VP Securities A/S, company registration no. 21599336.

“**VP Issuer Agreement**“ means the issuer agreement entered into between the Issuer, the Issuing Agent as issue administrator under this agreement and VP concerning the Notes.

“**Written Procedure**“ means the written or electronic procedure for decision making among the Noteholders in accordance with Clause 17 (*Written Procedure*).

1.2 Construction

1.2.1 Unless a contrary indication appears, any reference in these Terms and Conditions to:

- (a) “**assets**“ includes present and future properties, revenues and rights of every description;
- (b) any agreement or instrument is a reference to that agreement or instrument as supplemented, amended, novated, extended, restated or replaced from time to time;
- (c) a “**regulation**“ includes any regulation, rule or official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (d) an Event of Default is continuing if it has not been remedied or waived;
- (e) a provision of law is a reference to that provision as amended or re-enacted; and
- (f) a time of day is a reference to Copenhagen time.

1.2.2 When ascertaining whether a limit or threshold specified in Danish kroner has been attained or broken, an amount in another currency shall be counted on the basis of the rate of exchange for such currency against Danish kroner for the previous Business Day, as published by the Danish Central Bank (*Nationalbanken*) on its website (www.nationalbanken.dk). If no such rate is available, the most recently published rate shall be used instead.

1.2.3 A notice shall be deemed to be sent by way of company announcement if it is made available to the public within Denmark promptly and in a non-discriminatory manner.

- 1.2.4 No delay or omission of the Representative or of any Noteholder to exercise any right or remedy under the Finance Documents shall impair or operate as a waiver of any such right or remedy.

2. STATUS OF THE NOTES

- 2.1 The Notes are denominated in Danish kroner and each Note is constituted by these Terms and Conditions. The Issuer undertakes to make payments in relation to the Notes and to comply with these Terms and Conditions.
- 2.2 By subscribing for Notes, each initial Noteholder agrees that the Notes shall benefit from and be subject to the Finance Documents and by acquiring Notes, each subsequent Noteholder confirms such agreement.
- 2.3 The nominal amount of each Note is DKK 0.01 (the “**Nominal Amount**”). The maximum total nominal amount of the Notes is DKK 40,000,000. The minimum investment and noteholding for one investor at any one time is Notes for a nominal amount DKK 1,000,000. All Notes are issued on a fully paid basis at an issue price of 100 per cent. of the Nominal Amount.
- 2.4 The Notes constitute direct, unconditional, and unsubordinated and secured obligations of the Issuer and shall at all times rank *pari passu* and without any preference among them.
- 2.5 The Notes are freely transferable but the Noteholders may be subject to purchase or transfer restrictions with regard to the Notes, as applicable, under local laws to which a Noteholder may be subject. Each Noteholder must ensure compliance with such restrictions at its own cost and expense.
- 2.6 No action is being taken in any jurisdiction that would or is intended to permit a public offering of the Notes or the possession, circulation or distribution of any document or other material relating to the Issuer or the Notes in any jurisdiction, where action for that purpose is required. Each Noteholder must inform itself about, and observe, any applicable restrictions to the transfer of material relating to the Issuer or the Notes.

3. USE OF PROCEEDS

The Issuer shall use the proceeds from the issue of the Notes, less the costs and expenses incurred by the Issuer in connection with the issue of the Notes, for general corporate purposes including acquisitions of new assets to support the cloud based sales platform and for refinancing of existing debt.

4. CONDITIONS FOR DISBURSEMENT

- 4.1 The Issuer shall provide to the Representative, prior to the issuance of the Notes the following, in form and substance satisfactory to the Representative:
- (a) the Finance Documents duly executed by relevant party/parties;
 - (b) the Security Documents duly perfected;
 - (c) initial Compliance Certificate provided to the Representative showing that the Issuer is in compliance with the Financial Covenants;

- (d) the articles of association of the Issuer and a copy of a resolution from the board of directors of the Issuer approving the issue of the Notes and the terms of the Finance Documents, and resolving to enter into such documents and any other documents necessary in connection therewith; and
 - (e) evidence that the person(s) who has/have signed the Finance Documents and any other documents in connection therewith on behalf of the relevant parties are duly authorised to do so;
- 4.2 The Representative may assume that the documentation delivered to it pursuant to Clause 4.1 is accurate, correct and complete unless it has actual knowledge that this is not the case, and the Representative does not have to verify the contents of any such documentation.
- 4.3 The Representative shall confirm to the Issuing Agent when the conditions in Clause 4.1 have been satisfied.

5. NOTES IN BOOK-ENTRY FORM

- 5.1 The Notes will be registered for the Noteholders on their respective Securities Accounts and no physical notes will be issued. Accordingly, the Notes will be registered in accordance with the Securities Trading Act. Registration requests relating to the Notes shall be directed to an Account Operator. Title to the Notes shall pass by registration in the register of the CSD in accordance with the rules and procedures of the CSD.
- 5.2 The Issuer, the Issuing Agent and the Representative shall to the extent permitted under applicable regulations, including Clause 36.3 of the Executive Order have access on demand to static data and ownership information of the Noteholders registered in the CSD. At the request of the Representative, the Issuer shall promptly obtain such information and provide it to the Representative.
- 5.3 The Issuer hereby irrevocably appoints each of the Representative and the Issuing Agent and such persons employed by the Representative and the Issuing Agent as its attorneys with full power and authority to independently obtain information directly from the register kept by the CSD in respect of the Notes. The Issuer may not revoke any such power of attorney while the Notes are outstanding unless directed by the Representative or unless consent thereto is given by the Noteholders. The Issuer shall without undue delay issue separate powers of attorney, if so requested by the CSD.

6. RIGHT TO ACT ON BEHALF OF A NOTEHOLDER

- 6.1 If any person other than a Noteholder wishes to exercise any rights under the Finance Documents, it must obtain a power of attorney or other proof of authorisation from the Noteholder or a successive, coherent chain of powers of attorney or proofs of authorisation starting with the Noteholder and authorising such person.
- 6.2 A Noteholder may issue one or several powers of attorney to third parties to represent it in relation to some or all of the Notes held by it. Any such representative may act independently under the Finance Documents in relation to the Notes for which such representative is entitled to represent the Noteholder and may further delegate its right to represent the Noteholder by way of a further power of attorney.
- 6.3 The Representative shall only have to examine the face of a power of attorney or other proof of authorisation that has been provided to it pursuant to Clause 6.2 and may

assume that it has been duly authorised, is valid, has not been revoked or superseded and that it is in full force and effect, unless otherwise is apparent from its face.

7. PAYMENTS IN RESPECT OF THE NOTES

- 7.1 Any payment or repayment under the Finance Documents, or any amount due in respect of a repurchase of any Notes, shall be made to such person who is registered as a Noteholder on the Record Date prior to an Interest Payment Date or other relevant due date, or to such other person who is registered with the CSD on such date as being entitled to receive the relevant payment, repayment or repurchase amount.
- 7.2 If a Noteholder has registered, through an Account Operator, that principal and interest shall be deposited in a certain bank account, such deposits will be effected by the CSD on the relevant payment date. Should the CSD, due to a delay on behalf of the Issuer or some other obstacle, not be able to effect payments as aforesaid, the Issuer shall procure that such amounts are paid as soon as possible after such obstacle has been removed.
- 7.3 If, due to any obstacle for the CSD, the Issuer cannot make a payment or repayment, such payment or repayment may be postponed until the obstacle has been removed. Interest shall accrue in accordance with Clause 8.4 during such postponement.
- 7.4 If payment or repayment is made in accordance with this Clause 7, the Issuer and the CSD shall be deemed to have fulfilled their obligation to pay, irrespective of whether such payment was made to a person not entitled to receive such amount.
- 7.5 The Issuer is not liable to gross-up any payments under the Finance Documents by virtue of any withholding tax, public levy or the similar.

8. INTEREST

- 8.1 Each Note carries Interest at the Interest Rate from (and including) the Issue Date up to (but excluding) the relevant Redemption Date.
- 8.2 Interest accrues during an Interest Period. Payment of Interest in respect of the Notes shall be made to the Noteholders on each Interest Payment Date for the preceding Interest Period.
- 8.3 Interest shall be calculated on the basis of an annual coupon of 9.25 % paid out evenly every quarter, i.e. 2.3125 % per quarter.
- 8.4 If the Issuer fails to pay any amount payable by it on its due date or is in breach of any of the Financial Covenants under Clause 12.5 (a)-(b), an additional interest of 1.25 (one point twenty five) per cent per month shall accrue on the Notes on each commencing month the non-payment or breach is outstanding and until there no longer is a breach under the Financial Covenants. The accrued interest shall be paid on each Interest Payment Date. The compliance of the Financial Covenants shall be evidenced by a Report.

9. REDEMPTION AND REPURCHASE OF THE NOTES

9.1 Redemption at maturity

The Issuer shall redeem all, but not some only, of the outstanding Notes in full on the Final Maturity Date with an amount per Note equal to the Nominal Amount together with accrued but unpaid Interest. If the Final Maturity Date is not a Business Day, then the Final Maturity Date shall be adjusted in accordance with the Business Day Convention.

9.2 Issuer's redemption or purchase of Notes

The Issuer may, subject to applicable law, at any time and at any price purchase Notes on the market or in any other way. The Notes held by the Issuer may at the Issuer's discretion be retained, sold or cancelled by the Issuer. Any redemption of the Notes is irrevocable and new Notes can not be issued again.

9.3 Voluntary total redemption (call option)

9.3.1 The Issuer may redeem all, but not some only, of the outstanding Notes in full:

- (a) subject to Clause 9.3.3 below, on 19 May 2017 at an amount per Note equal to 100 per cent. of the Nominal Amount together with accrued but unpaid Interest;
- (b) any time from and including the first Business Day falling 19 (nineteen) months after the Issue Date until the first Business Day on or before 27 (twenty-seven) months after the Issue Date at an amount per Note equal to 100 per cent. of the Nominal Amount plus 4.625 per cent. of the Nominal Amount, together with accrued but unpaid Interest; and
- (c) any time from and including the first Business Day falling 28 (twenty-eight) months after the Issue Date to the Final Maturity Date, at an amount equal to 100 per cent. of the Nominal Amount together with accrued but unpaid Interest.

9.3.2 Redemption in accordance with Clause 9.3.1 shall be made by the Issuer on an Interest Payment Date giving not less than thirty (30) days' notice to the Noteholders and the Representative. Any such notice is irrevocable. Upon expiry of such notice the Issuer is bound to redeem the Notes in full at the applicable amounts. The Issuer shall make the notice by announcement on the market where the Notes are listed.

9.3.3 The Issuer shall 12 months after the Issue Date by written notice to the Representative request the Noteholders (representating more than DKK 1 million in nominal amount of the Notes) to determine if their Notes shall be callable under Clause 9.3.1 (a) above. The Noteholders (representating more than DKK 1 million in nominal amount of the Notes) shall notify the Issuer with copy to the Representative within 1 (one) month after such request is given whether they accept that the Notes shall be callable in accordance with Clause 9.3.1(a). Any notice pursuant to this section 9.3.3 shall be considered irrevocable. If the Noteholders decide that the Notes shall be non-callable, the Financial Covenants set out in Clause 12.5 (a) – (b) below shall not be applicable to the Issuer in the remaining period the Notes are outstanding.

9.4 Mandatory partial redemption

9.4.1 If 12 months after the Issue Date EBITDA calculated on a rolling 12 months basis measured by end quarter is less than DKK 5,000,000, then the Issuer shall make a partial redemption in

the amount of DKK 5,000,000 to be allocated equally on each Note within 30 (thirty) days after each quarterly reporting date until the earlier of

- (i) EBITDA calculated on a rolling 12 months basis measured by end quarter exceeds DKK 5,000,000; or
- (ii) the Cash of the Group exceeds the outstanding amount under the Notes.

In each case as follows from a Compliance Certificate.

9.5 Early redemption due to illegality (call option)

- 9.5.1 The Issuer may redeem all, but not some only, of the outstanding Notes at an amount per Note equal to the Nominal Amount together with accrued but unpaid Interest on a date determined by the Issuer if it is or becomes unlawful for the Issuer to perform its obligations under the Finance Documents.
- 9.5.2 The Issuer shall give notice of any redemption pursuant to Clause 9.5.1 no later than twenty (20) Business Days after having received actual knowledge of any event specified therein (after which time period such right shall lapse).
- 9.5.3 A notice of redemption in accordance with Clause 9.5.1 is irrevocable and, on the date specified in such notice, the Issuer is bound to redeem the Notes in full at the applicable amounts.

9.6 Mandatory repurchase due to a Change of Control Event (put option)

- 9.6.1 Upon a Change of Control Event occurring, each Noteholder shall have the right to request that all, or some only, of its Notes be repurchased at a price per Note equal to 100 per cent. of the Nominal Amount together with accrued but unpaid Interest, during a period of twenty (20) Business Days following a notice from the Issuer of the Change of Control Event pursuant to Clause 11.1.2 (after which time period such right shall lapse). However, such period may not start earlier than upon the occurrence of the Change of Control Event.
- 9.6.2 The notice from the Issuer pursuant to Clause 11.1.2 shall specify the repurchase date and include instructions about the actions that a Noteholder needs to take if it wants Notes held by it to be repurchased. If a Noteholder has so requested, and acted in accordance with the instructions in the notice from the Issuer, the Issuer, or a person designated by the Issuer, shall repurchase the relevant Notes and the repurchase amount shall fall due on the repurchase date specified in the notice given by the Issuer pursuant to Clause 11.1.2. The repurchase date must fall no later than forty (40) Business Days after the end of the period referred to in Clause 9.6.1.
- 9.6.3 The Issuer shall comply with the requirements of any applicable securities laws or regulations in connection with the repurchase of Notes. To the extent that the provisions of such laws and regulations conflict with the provisions in this Clause 9.6, the Issuer shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Clause 9.6 by virtue of the conflict.
- 9.6.4 Any Notes repurchased by the Issuer pursuant to this Clause 9.6 shall be promptly cancelled by the Issuer.
- 9.6.5 The Issuer shall not be required to repurchase any Notes pursuant to this Clause 9.6, if a third party in connection with the occurrence of a Change of Control Event offers to purchase the

Notes in the manner and on the terms set out in this Clause 9.6 (or on terms more favourable to the Noteholders) and purchases all Notes validly tendered in accordance with such offer. If the Notes tendered are not purchased within the time limits stipulated in this Clause 9.6, the Issuer shall repurchase any such Notes within five (5) Business Days after the expiry of the time limit.

10. TRANSACTION SECURITY

- 10.1 As continuing Security for the due and punctual fulfilment of the Secured Obligations, the Issuer grants on the Issue Date the Transaction Security to the Secured Parties as represented by the Representative.
- 10.2 The Representative shall hold the Transaction Security on behalf of the Secured Parties in accordance with the Security Documents. The Issuer shall enter into the Security Documents and perfect the Transaction Security in accordance with the Security Documents on or before the Issue Date.

11. INFORMATION TO NOTEHOLDERS

11.1 Information from the Issuer

- 11.1.1 The Issuer will make such information available to the Noteholders by way of company announcement and by publication on the website of the Group as required for a listed company under the Securities Trading Act and the rules and regulations of the First North Bond Market on which the Notes are to be admitted to trading.
- 11.1.2 The Issuer shall immediately notify the Noteholders and the Representative upon becoming aware of the occurrence of a Change of Control Event. Such notice may be given in advance of the occurrence of a Change of Control Event, conditioned upon the occurrence of such Change of Control Event, if a definitive agreement is in place providing for a Change of Control Event.
- 11.1.3 The Issuer shall immediately notify the Representative (with full particulars) upon becoming aware of the occurrence of any event or circumstance which constitutes an Event of Default, or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing) constitute an Event of Default, and shall provide the Representative with such further information as it may reasonably request in writing following receipt of such notice. Should the Representative not receive such information, the Representative is entitled to assume that no such event or circumstance exists or can be expected to occur, provided that the Representative does not have actual knowledge of such event or circumstance.

11.2 Information from the Representative

- 11.2.1 Subject to the restrictions of a non-disclosure agreement entered into by the Representative in accordance with Clause 11.2.2, the Representative is entitled to disclose to the Noteholders any event or circumstance directly or indirectly relating to the Issuer or the Notes. Notwithstanding the foregoing, the Representative may if it considers it to be beneficial to the interests of the Noteholders delay disclosure or refrain from disclosing certain information other than in respect of an Event of Default that has occurred and is continuing.
- 11.2.2 Notwithstanding Clause 11.2.1, the Representative shall comply with an agreement regarding the non-disclosure of information received from the Issuer.

11.3 Publication of Finance Documents

- 11.3.1 The latest version of these Terms and Conditions (including any document amending these Terms and Conditions) shall be available on the websites of the Group and the Representative.
- 11.3.2 The latest versions of the Finance Documents shall be available to the Noteholders at the office of the Representative during normal business hours.

12. COVENANTS

12.1 General

The covenants in this Clause 12 remains in force from the Issue Date and for so long as any amount is outstanding under the Notes unless it otherwise stated in the Terms and Conditions.

12.2 Financial Indebtedness

Whenever the ratio of EBITDA (calculated on a proforma basis for the past rolling 12 months measured by end of each month) to Total Interest Expenses (calculated on a proforma basis for the following 12 rolling months) is less than 3.0, the Issuer may only (and shall procure that no other member of the Group will) incur any new Financial Indebtedness as follows

- (a) arising under the Finance Documents;
- (b) arising under a credit facility with a financial institution in a maximum aggregate principal amount at any time outstanding not exceeding DKK 10,000,000;
- (c) arising under any a guarantee issued in the ordinary course of business;
- (d) in respect of which a Group Company is the creditor;
- (e) arising under non-speculative hedging transactions entered into in the ordinary course of business in connection with protection against interest rate, currency or commodity price fluctuations;
- (f) pertaining to any acquired asset, business or entity and existing on the date of its acquisition, but not created in the contemplation of its acquisition, provided that any such Financial Indebtedness has been discharged within four months after the date of the acquisition of the asset, business or entity;
- (g) arising under finance or capital leases of vehicles, plant, equipment or computers in the ordinary course of business;
- (h) arising in the ordinary course of business with suppliers of goods; and
- (i) not permitted by the preceding paragraphs and the outstanding principal amount of which does not exceed DKK 1,000,000 in aggregate for the Group at any time.

12.3 Dividend

The Issuer shall not (and shall procure that no other Group Company will):

- (a) declare or pay any dividend in respect of its shares or declare or make any group contributions (in Danish: *koncerntilskud*) other than to the Issuer or to a Subsidiary of the Issuer;
- (b) repurchase or redeem its own shares;
- (c) redeem or reduce its share capital; or
- (d) make any distribution to the direct or indirect shareholders of the Issuer, or any affiliates of the Issuer (other than to a Subsidiary of the Issuer);

12.4 Negative Pledge

Except as exempted in this Clause 12.4, the Issuer shall not (and shall procure that no other Group Company will):

- (a) create or allow to subsist any Security over any of its assets or any guarantee in respect of any obligation of any Person;
- (b) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or reacquired by any Group Company;
- (c) sell, transfer or otherwise dispose of any of its receivables on recourse terms or by factoring; or
- (d) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or
- (e) enter into any other preferential arrangement having a similar effect,

in respect of items (a) to (e), in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

Exempted under this Clause 12.4 is:

- (i) any Security provided under the Finance Documents; any netting or set-off arrangement entered into by the Issuer or a Group Company in the ordinary course of its banking arrangement for the purpose of netting debit and credit balances;
- (ii) any payment or close out netting or set-off arrangement arising under non-speculative hedging transactions entered into in the ordinary course of business; any lien or other security interest arising by operation of law and in the ordinary course of business and not as a result of any default or omission by any Group Company; and
- (iii) any guarantee issued in the ordinary course of business.

12.5 Financial Covenants

- (a) The Issuer shall ensure that EBITDA calculated on a rolling 12 months basis when measured by the end of each month is more than DKK 2,500,000; and
- (b) The Issuer shall ensure that Receivables plus 50 per cent. of the value of Inventories exceed 75 per cent. of the outstanding amount under the Notes measured on a monthly basis by the end of each month.

To the extent that the 75 per cent. requirement is not met in (b), the Issuer may remedy this breach by placing the difference in the Escrow Account. The breach must be remedied within 15 Business Days after the end of the month the breach occurred.

When in any following month the 75 per cent. requirement in (b) is met again, then the Issuer may request Representative (and the Representative shall be obligated) to release the relevant funds from the Escrow Account. The documentation for the release request shall be a Report.

The Financial Covenants in this Clause 12.5 shall not apply 18 months after the Issue Date for the (remaining) outstanding Notes if such Noteholders has upon the Issuers request given notice to make the Notes non-callable after 18 months pursuant to Clause 9.3.3.

The Issuer shall ensure that the financial statements, the Reports and the Compliance Certificates are prepared in accordance with the Accounting Principles. If the Issuer makes material changes to the Accounting Principles applied in the latest financial statements, the Issuer shall without delay notify the Representative of such change. In such case the Financial Covenants shall be renegotiated in good faith within 30 Business Days with the objection that the parties shall have the same position as under the Accounting Principles applying on the Issue Date.

The Financial Covenants shall be tested by the Issuer on a monthly basis. If the testing shows that the Issuer is not in compliance with the Financial Covenants, the Issuer shall immediately and no later than 5 Business Days after the end of the relevant month, inform the Representative of such breach.

If all the Financial Covenants are not met or if requested either by the Representative or the Noteholders, the Issuer shall provide the Representative with a Report and/or a Compliance Certificate within 10 Business Days after the end of a month such breach occurred.

12.6 Conditions subsequent

The Issuer shall ensure that the existing floating charge in the amount of DKK 10,000,000 currently registered in favour of a bank is released as soon as possible upon the Issue Date and procure that the filing for registration of the Noteholders as pledgees as represented by the Representative in the floating charge is made with the Danish personal registry no later than 14 Business Days after the issue Date.

12.7 Listing

The Issuer shall use its best efforts to ensure that the loan constituted by these Terms and Conditions and evidenced by the Notes is admitted to trading on the First North Bond Market of Nasdaq Copenhagen A/S within thirty (30) days after Issue Date, and that it remains admitted or, if such admission to trading is not possible to obtain or maintain, admitted to trading on a market.

Following an admission to trading, the Issuer shall take all actions on its part to maintain the admission as long as any Notes are outstanding, but not longer than up to and including the last day on which the admission to trading reasonably can, pursuant to the then applicable regulations of the market.

12.8 Undertakings relating to the Representative Agreement

12.8.1 The Issuer shall:

- (a) pay fees to the Representative;
- (b) indemnify the Representative for costs, losses and liabilities;
- (c) provide the Representative with a Report within 10 Business Days after the end of a month if all the Financial Covenants in Clause 12.5 are not met;
- (d) provide the Representative with a Report and/or a Compliance Certificate within 10 Business Days upon request from the Representative after the end of a month;
- (e) provide the Representative with a Compliance Certificate within 10 Business Days after the end of each calendar quarter;
- (f) furnish to the Representative all information reasonable requested by required to be delivered to the Representative; and
- (g) not act in a way which would give the Representative a legal or contractual right to terminate the Representative Agreement.

12.8.2 The Issuer and the Representative shall not agree to amend any provisions of the Representative Agreement without the prior consent of the Noteholders if the amendment would be detrimental to the interests of the Noteholders.

13. ACCELERATION OF THE NOTES

13.1 The Noteholders representing at least fifty (50) per cent. of the Nominal Amount may at any time (i) by notice to the Issuer with copy of the notice to the Representative, declare all, but not some only, of the outstanding Notes due and payable together with any other amounts payable under the Finance Documents, immediately or at such later date as they determine, and (ii) exercise any or all of its rights, remedies, powers and discretions under the Finance Documents if any of the events listed in Clause 13.2 (a) – (d) occurs.

13.2 The Representative is entitled to, and shall following a demand in writing from a Noteholder (or Noteholders) representing at least fifty (50) per cent. of the Nominal Amount (such demand may only be validly made by a person who is a Noteholder on the Business Day immediately following the Business Day on which the demand is received by the Representative and shall, if made by several Noteholders, be made by them jointly) or following an instruction given pursuant to Clause 13.5, on behalf of the Noteholders (i) by notice to the Issuer, declare all, but not some only, of the outstanding Notes due and payable together with any other amounts payable under the Finance Documents, immediately or at such later date as the Representative determines, and (ii) exercise any or all of its rights, remedies, powers and discretions under the Finance Documents, if:

- (a) the Issuer does not pay on the due date any amount payable by it under the Finance Documents, unless the non-payment:
 - (i) is caused by technical or administrative error; and
 - (ii) is remedied within three (3) Business Days from the due date;
 - (b) the Issuer or any other person (other than the Representative) does not comply with any covenant in Clause 12, unless the non-compliance:
 - (i) is capable of remedy; and
 - (ii) is remedied within 21 Business Days of the earlier of the Representative giving notice and the Issuer becoming aware of the non-compliance;
 - (c) any Financial Indebtedness of any member of the Group is not paid when due or becomes due or capable of being declared due prior to its stated maturity by reason of default and is not subject to a legal dispute in a court of law or being disputed within ten (10) Business Days in good faith, provided however this provision does not apply if the aggregate amount of such Financial Indebtedness is less than DKK 1,000,000;
 - (d) the Issuer is, or is deemed for the purposes of any applicable law to be, Insolvent or the Issuer is submitted to a moratorium, suspension of payments or a liquidator, administrator or administrative receiver is appointed for the Issuer;
- 13.3 The Representative may not accelerate the Notes in accordance with Clause 13.1 by reference to a specific Event of Default if it is no longer continuing or if it has been decided, on a Noteholders Meeting or by way of a Written Procedure, to waive such Event of Default (temporarily or permanently).
- 13.4 The Representative shall notify the Noteholders of an Event of Default within five (5) Business Days of the date on which the Representative received actual knowledge of that an Event of Default has occurred and is continuing.
- 13.5 If the Noteholders instruct the Representative to accelerate the Notes, the Representative shall promptly declare the Notes due and payable and take such actions as may, in the opinion of the Representative, be necessary or desirable to enforce the rights of the Noteholders under the Finance Documents, unless the relevant Event of Default is no longer continuing.
- 13.6 If the right to accelerate the Notes is based upon a decision of a court of law or a government authority, it is not necessary that the decision has become enforceable under law or that the period of appeal has expired in order for cause of acceleration to be deemed to exist.

14. DISTRIBUTION OF PROCEEDS

- 14.1 All payments by the Issuer relating to the Notes and the Finance Documents following an acceleration of the Notes in accordance with Clause 13 (*Acceleration of the Notes*) and any proceeds received from an enforcement of the Transaction Security shall be distributed in the following order of priority, in accordance with the instructions of the Representative:

- (a) *first*, in or towards payment *pro rata* of (i) all unpaid fees, costs, expenses and indemnities payable by the Issuer to (a) the Representative in accordance with the Representative Agreement (other than any indemnity given for liability against the Noteholders), (b) the Issuing Agent and (c) to VP, (ii) other costs, expenses and indemnities relating to the acceleration of the Notes, the enforcement of the Transaction Security or the protection of the Noteholders' rights as may have been incurred by the Representative, (iii) any costs incurred by the Representative for external experts that have not been reimbursed by the Issuer in accordance with Clause 19.2.6, and (iv) any costs and expenses incurred by the Representative in relation to a Noteholders' Meeting or a Written Procedure that have not been reimbursed by the Issuer in accordance with Clause 15.13;
- (b) *secondly*, in or towards payment *pro rata* of accrued but unpaid Interest under the Notes (Interest due on an earlier Interest Payment Date to be paid before any Interest due on a later Interest Payment Date);
- (c) *thirdly*, in or towards payment *pro rata* of any unpaid principal under the Notes; and
- (d) *fourthly*, in or towards payment *pro rata* of any other costs or outstanding amounts unpaid under the Finance Documents.

Any excess funds after the application of proceeds in accordance with paragraphs (a) to (d) above shall be paid to the Issuer.

- 14.2 If a Noteholder or another party has paid any fees, costs, expenses or indemnities referred to in Clause 14.1(a), such Noteholder or other party shall be entitled to reimbursement by way of a corresponding distribution in accordance with Clause 14.1(a).
- 14.3 Funds that the Representative receives (directly or indirectly) in connection with the acceleration of the Notes or the enforcement of the Transaction Security constitute escrow funds and must be held on a separate interest-bearing account on behalf of the Noteholders and the other interested parties. The Representative shall arrange for payments of such funds in accordance with this Clause 14 as soon as reasonably practicable.
- 14.4 If the Issuer or the Representative shall make any payment under this Clause 14, the Issuer or the Representative, as applicable, shall notify the Noteholders of any such payment at least fifteen (15) Business Days before the payment is made. Such notice shall specify the Record Date, the payment date and the amount to be paid. Notwithstanding the foregoing, for any Interest due but unpaid the Record Date specified in Clause 7.1 shall apply and for any partial redemption in accordance with Clause 9.4 (*Mandatory partial redemption*) due but not made, the Record Date specified in Clause 9.4.1 shall apply.

15. DECISIONS BY NOTEHOLDERS

- 15.1 A request by the Representative for a decision by the Noteholders on a matter relating to the Finance Documents shall (at the option of the Representative) be dealt with at a Noteholders' Meeting or by way of a Written Procedure.
- 15.2 Any request from the Issuer or a Noteholder (or Noteholders) representing at least ten (10) per cent. of the Nominal Amount (such request may only be validly made by a

person who is a Noteholder on the Business Day immediately following the day on which the request is received by the Representative and shall, if made by several Noteholders, be made by them jointly) for a decision by the Noteholders on a matter relating to the Finance Documents shall be directed to the Representative and dealt with at a Noteholders' Meeting or by way a Written Procedure, as determined by the Representative. The person requesting the decision may suggest the form for decision making, but if it is in the Representative's opinion more appropriate that a matter is dealt with at a Noteholders' Meeting than by way of a Written Procedure, it shall be dealt with at a Noteholders' Meeting.

15.3 The Representative may refrain from convening a Noteholders' Meeting or instigating a Written Procedure if (i) the suggested decision must be approved by any person in addition to the Noteholders and such person has informed the Representative that an approval will not be given, or (ii) the suggested decision is not in accordance with applicable laws.

15.4 Only a person who is, or who has been provided with a power of attorney pursuant to Clause 6 (*Right to act on behalf of a Noteholder*) from a person who is, registered as a Noteholder:

- (a) on the Business Day prior to the date of the Noteholders' Meeting, in respect of a Noteholders' Meeting, or
- (b) on the Business Day specified in the communication pursuant to Clause 17.3, in respect of a Written Procedure,

may exercise voting rights as a Noteholder at such Noteholders' Meeting or in such Written Procedure.

15.5 The following matters shall require the consent of Noteholders representing at least seventy-five (75) per cent. of the Nominal Amount for which Noteholders are voting at a Noteholders' Meeting or for which Noteholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 17.3:

- (a) the issue of any Notes after the Issue Date, if the total nominal amount of the Notes exceeds, or if such issue would cause the total nominal amount of the Notes to at any time exceed, DKK 10,000,000 (for the avoidance of doubt, for which consent shall be required at each occasion such Notes are issued);
- (b) a change to the terms of any of Clause 2.1, and Clauses 2.4 to 2.6;
- (c) a reduction of the premium payable upon the redemption or repurchase of any Note pursuant to Clause 9 (*Redemption and repurchase of the Notes*);
- (d) a change to the Interest Rate or the Nominal Amount (other than as a result of an application of Clause 9.4 (*Mandatory partial redemption*));
- (e) a change to the terms for the distribution of proceeds set out in Clause 14 (*Distribution of proceeds*);
- (f) a change to the terms dealing with the requirements for Noteholders' consent set out in this Clause 15;

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- (g) a change of issuer, an extension of the tenor of the Notes or any delay of the due date for payment of any principal or interest on the Notes;
 - (h) a release of the Transaction Security, except in accordance with the terms of the Security Documents;
 - (i) a mandatory exchange of the Notes for other securities; and
 - (j) early redemption of the Notes, other than upon an acceleration of the Notes pursuant to Clause 13 (*Acceleration of the Notes*) or as otherwise permitted or required by these Terms and Conditions.
- 15.6 Any matter not covered by Clause 15.5 shall require the consent of Noteholders representing more than 50 per cent. of the Nominal Amount for which Noteholders are voting at a Noteholders' Meeting or for which Noteholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 17.3. This includes, but is not limited to, any amendment to, or waiver of, the terms of any Finance Document that does not require a higher majority (other than an amendment permitted pursuant to Clause 18.1(a) or (b)), an acceleration of the Notes, or the enforcement of any Transaction Security.
- 15.7 Quorum at a Noteholders' Meeting or in respect of a Written Procedure only exists if a Noteholder (or Noteholders) representing at least fifty (50) per cent. of the Nominal Amount in case of a matter pursuant to Clause 15.5, and otherwise twenty (20) per cent. of the Nominal Amount:
- (a) if at a Noteholders' Meeting, attend the meeting in person or by telephone conference (or appear through duly authorised representatives); or
 - (b) if in respect of a Written Procedure, reply to the request.
- 15.8 If a quorum does not exist at a Noteholders' Meeting or in respect of a Written Procedure, the Representative or the Issuer shall convene a second Noteholders' Meeting (in accordance with Clause 16.1) or initiate a second Written Procedure (in accordance with Clause 17.1), as the case may be, provided that the relevant proposal has not been withdrawn by the person(s) who initiated the procedure for Noteholders' consent. The quorum requirement in Clause 15.7 shall not apply to such second Noteholders' Meeting or Written Procedure.
- 15.9 Any decision which extends or increases the obligations of the Issuer or the Representative, or limits, reduces or extinguishes the rights or benefits of the Issuer or the Representative, under the Finance Documents shall be subject to the Issuer's or the Representative's consent, as appropriate.
- 15.10 A Noteholder holding more than one Note need not use all its votes or cast all the votes to which it is entitled in the same way and may in its discretion use or cast some of its votes only.
- 15.11 The Issuer may not, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Noteholder for or as inducement to any consent under these Terms and Conditions, unless such consideration is offered to all Noteholders that consent at the relevant Noteholders' Meeting or in a Written Procedure within the time period stipulated for the consideration to be payable or the time period for replies in the Written Procedure, as the case may be.

- 15.12 A matter decided at a duly convened and held Noteholders' Meeting or by way of Written Procedure is binding on all Noteholders, irrespective of them being present or represented at the Noteholders' Meeting or responding in the Written Procedure. The Noteholders that have not adopted or voted for a decision shall not be liable for any damages that this may cause other Noteholders.
- 15.13 All costs and expenses incurred by the Issuer or the Representative for the purpose of convening a Noteholders' Meeting or for the purpose of carrying out a Written Procedure, including reasonable fees to the Representative, shall be paid by the Issuer.
- 15.14 Information about decisions taken at a Noteholders' Meeting or by way of a Written Procedure shall promptly be sent by notice to the Noteholders and published on the websites of the Issuer and the Representative, provided that a failure to do so shall not invalidate any decision made or voting result achieved. The minutes from the relevant Noteholders' Meeting or Written Procedure shall at the request of a Noteholder be sent to it by the Issuer or the Representative, as applicable.

16. NOTEHOLDERS' MEETING

- 16.1 The Representative shall convene a Noteholders' Meeting by sending a notice thereof to each Noteholder no later than five (5) Business Days after receipt of a request from the Issuer or the Noteholder(s) (or such later date as may be necessary for technical or administrative reasons).
- 16.2 Should the Issuer want to replace the Representative, it may convene a Noteholders' Meeting in accordance with Clause 16.1 with a copy to the Representative. After a request from the Noteholders pursuant to Clause 19.4.3, the Issuer shall no later than five (5) Business Days after receipt of such request (or such later date as may be necessary for technical or administrative reasons) convene a Noteholders' Meeting in accordance with Clause 16.1.
- 16.3 The notice pursuant to Clause 16.1 shall include (i) time for the meeting, (ii) place for the meeting, (iii) agenda for the meeting (including each request for a decision by the Noteholders) and (iv) a form of power of attorney. Only matters that have been included in the notice may be resolved upon at the Noteholders' Meeting. Should prior notification by the Noteholders be required in order to attend the Noteholders' Meeting, such requirement shall be included in the notice.
- 16.4 The Noteholders' Meeting shall be held no earlier than fifteen (15) Business Days and no later than thirty (30) Business Days from the notice.
- 16.5 Without amending or varying these Terms and Conditions, the Representative may prescribe such further regulations regarding the convening and holding of a Noteholders' Meeting as the Representative may deem appropriate. Such regulations may include a possibility for Noteholders to vote without attending the meeting in person.

17. WRITTEN PROCEDURE

- 17.1 The Representative shall instigate a Written Procedure no later than five (5) Business Days after receipt of a request from the Issuer or the Noteholder(s) (or such later date as may be necessary for technical or administrative reasons) by sending a communication to each such person who is registered as a Noteholder on the Business Day prior to the date on which the communication is sent.

- 17.2 Should the Issuer want to replace the Representative, it may send a communication in accordance with Clause 17.1 to each Noteholder with a copy to the Representative.
- 17.3 A communication pursuant to Clause 17.1 shall include (i) each request for a decision by the Noteholders, (ii) a description of the reasons for each request, (iii) a specification of the Business Day on which a person must be registered as a Noteholder in order to be entitled to exercise voting rights, (iv) instructions and directions on where to receive a form for replying to the request (such form to include an option to vote yes or no for each request) as well as a form of power of attorney, and (v) the stipulated time period within which the Noteholder must reply to the request (such time period to last at least fifteen (15) Business Days from the communication pursuant to Clause 17.1). If the voting shall be made electronically, instructions for such voting shall be included in the communication.
- 17.4 When the requisite majority consents of the total Nominal Amount pursuant to Clauses 15.5 and 15.6 have been received in a Written Procedure, the relevant decision shall be deemed to be adopted pursuant to Clause 15.5 or 15.6, as the case may be, even if the time period for replies in the Written Procedure has not yet expired.

18. AMENDMENTS AND WAIVERS

- 18.1 The Issuer and the Noteholders may agree to amend the Finance Documents or waive any provision in a Finance Document, provided that:
- (a) such amendment or waiver is not detrimental to the interest of the Noteholders, or is made solely for the purpose of rectifying obvious errors and mistakes;
 - (b) such amendment or waiver is required by applicable law, a court ruling or a decision by a relevant authority; or
 - (c) such amendment or waiver has been duly approved by the Noteholders in accordance with Clause 15 (*Decisions by Noteholders*).

19. APPOINTMENT AND REPLACEMENT OF THE REPRESENTATIVE

19.1 Appointment of Representative

- 19.1.1 The Issuer has appointed the Representative as representative (in Danish *repræsentant*) for the Noteholders under Chapter 2a of the Securities Trading Act and the Representative Register Order and by subscribing for Notes, each initial Noteholder accepts the appointment on their behalf of the Representative to act as its representative in all matters relating to the Notes and the Finance Documents, and authorises the Representative to act on its behalf (without first having to obtain its consent, unless such consent is specifically required by these Terms and Conditions) in any legal or arbitration proceedings relating to the Notes held by such Noteholder including without limitation any insolvency proceedings and/or reconstruction and including any legal or arbitration proceeding relating to the perfection, preservation, protection or enforcement of the Transaction Security. By acquiring Notes, each subsequent Noteholder confirms such appointment and authorisation for the Representative to act on its behalf.
- 19.1.2 Each Noteholder shall immediately upon request provide the Representative with any such documents, including a written power of attorney (in form and substance satisfactory to the Representative), that the Representative deems necessary for the purpose of exercising its

rights and/or carrying out its duties under the Finance Documents. The Representative is under no obligation to represent a Noteholder which does not comply with such request.

- 19.1.3 The Issuer shall promptly upon request provide the Representative with any documents and other assistance (in form and substance satisfactory to the Representative), that the Representative deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents.
- 19.1.4 The Representative 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 and the Representative Agreement and the Representative's obligations as Representative under the Finance Documents are conditioned upon the due payment of such fees and indemnifications.
- 19.1.5 The Representative may act as representative or trustee for several issues of securities issued by or relating to the Issuer and other Group Companies notwithstanding potential conflicts of interest.

19.2 Duties of the Representative

- 19.2.1 The Representative shall represent the Noteholders in accordance with the Finance Documents, including, inter alia, by monitoring the Issuer's compliance with its obligations under the Finance Documents and including, inter alia, holding the Transaction Security pursuant to the Security Documents on behalf of the Noteholders and, where relevant, enforcing the Transaction Security on behalf of the Noteholders. Except as specified in Clause 4 (Conditions for disbursement) the Representative is not responsible for the execution or enforceability of the Finance Documents or the perfection of the Transaction Security.
- 19.2.2 When acting in accordance with the Finance Documents, the Representative is always acting with binding effect on behalf of the Noteholders. The Representative shall carry out its duties under the Finance Documents in a reasonable, proficient and professional manner, with reasonable care and skill and in accordance with Chapter 2a of the Securities Trading Act.
- 19.2.3 The Representative is entitled to delegate its duties to other professional parties, but the Representative shall remain liable for the actions of such parties under the Finance Documents.
- 19.2.4 The Representative shall act in the best interests of the Noteholders as a class towards the Issuer. The Representative shall treat all Noteholders equal, may not favour some Noteholders over other Noteholders and, when acting pursuant to the Finance Documents, act with regard only to the interests of the Noteholders as a class 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.
- 19.2.5 The Representative shall ensure that the assets of the Noteholders are kept separately from the assets of the Representative.
- 19.2.6 The Representative is entitled to engage external experts when carrying out its duties under the Finance Documents. The Issuer shall on demand by the Representative pay all costs for external experts engaged after the occurrence of an Event of Default, or for the purpose of investigating or considering (i) an event which the Representative reasonably believes is or may lead to an Event of Default or (ii) a matter relating to the Issuer or the Transaction Security which the Representative reasonably believes may be detrimental to the interests of the Noteholders under the Finance Documents. Any compensation for damages or other

recoveries received by the Representative from external experts engaged by it for the purpose of carrying out its duties under the Finance Documents shall be distributed in accordance with Clause 14 (*Distribution of proceeds*).

- 19.2.7 Notwithstanding any other provision of the Finance Documents to the contrary, the Representative 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.
- 19.2.8 If in the Representative's reasonable opinion the cost, loss or liability which it may incur (including reasonable fees to the Representative) in complying with instructions of the Noteholders, or taking any action at its own initiative, will not be covered by the Issuer, the Representative may refrain from acting in accordance with such instructions, or taking such action, until it has received such funding or indemnities (or adequate Security has been provided therefore) as it may reasonably require.
- 19.2.9 The Representative shall give a notice to the Noteholders (i) before it ceases to perform its obligations under the Finance Documents by reason of the non-payment by the Issuer of any fee or indemnity due to the Representative under the Finance Documents or the Agency Agreement or (ii) if it refrains from acting for any reason described in Clause 19.2.8.

19.3 Limited liability for the Representative

- 19.3.1 The Representative will not be liable to the Noteholders for damage or loss caused by any action taken or omitted by it under or in connection with any Finance Document, unless directly caused by its negligence or wilful misconduct. The Representative shall never be responsible for indirect loss.
- 19.3.2 The Representative shall not be considered to have acted negligently if it has acted in accordance with advice from or opinions of reputable external experts engaged by the Representative or if the Representative has acted with reasonable care in a situation when the Representative considers that it is detrimental to the interests of the Noteholders to delay the action in order to first obtain instructions from the Noteholders.
- 19.3.3 The Representative shall not be liable for any delay (or any related consequences) in crediting an account with an amount required pursuant to the Finance Documents to be paid by the Representative to the Noteholders, provided that the Representative has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Representative for that purpose.
- 19.3.4 The Representative shall have no liability to the Noteholders for damage caused by the Representative acting in accordance with instructions of the Noteholders given in accordance with Clause 15 (*Decisions by Noteholders*).
- 19.3.5 Any liability towards the Issuer which is incurred by the Representative in acting under, or in relation to, the Finance Documents shall not be subject to set-off against the obligations of the Issuer to the Noteholders under the Finance Documents.

19.4 Replacement of the Representative

- 19.4.1 Subject to Clause 19.4.6, the Representative may resign by giving notice to the Issuer and the Noteholders, in which case the Noteholders shall appoint a successor Representative at a Noteholders' Meeting convened by the retiring Representative or by way of Written Procedure initiated by the retiring Representative.

- 19.4.2 Subject to Clause 19.4.6, if the Representative is Insolvent, the Representative shall be deemed to resign as Representative and the Issuer shall within ten (10) Business Days appoint a successor Representative which shall be an independent financial institution or other reputable company which acts as representative under debt issuances.
- 19.4.3 A Noteholder (or Noteholders) representing at least ten (10) per cent. of the Nominal Amount may, by notice to the Issuer (such notice may only be validly given by a person who is a Noteholder on the Business Day immediately following the day on which the notice is received by the Issuer and shall, if given by several Noteholders, be given by them jointly), require that a Noteholders' Meeting is held for the purpose of dismissing the Representative and appointing a new Representative, including without limitation if the Representative has defaulted its obligations under the Finance Documents. The Issuer may, at a Noteholders' Meeting convened by it or by way of Written Procedure initiated by it, propose to the Noteholders that the Representative be dismissed and a new Representative appointed.
- 19.4.4 If the Noteholders have not appointed a successor Representative within ninety (90) days after (i) the earlier of the notice of resignation was given or the resignation otherwise took place or (ii) the Representative was dismissed through a decision by the Noteholders, the Issuer shall appoint a successor Representative which shall be an independent financial institution or other reputable company which regularly acts as representative under debt issuances.
- 19.4.5 The retiring Representative shall, at its own cost, make available to the successor Representative such documents and records and provide such assistance as the successor Representative may reasonably request for the purposes of performing its functions as Representative under the Finance Documents.
- 19.4.6 The Representative's resignation or dismissal shall only take effect upon the appointment and registration with the register kept by the Danish Financial Supervisory Authority of a successor Representative and acceptance by such successor Representative of such appointment and the execution of all necessary documentation to effectively substitute the retiring Representative.
- 19.4.7 Upon the appointment of a successor, the retiring Representative shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of the Finance Documents and remain liable under the Finance Documents in respect of any action which it took or failed to take whilst acting as Representative. Its successor, the Issuer and each of the Noteholders shall have the same rights and obligations amongst themselves under the Finance Documents as they would have had if such successor had been the original Representative.
- 19.4.8 In the event that there is a change of the Representative in accordance with this Clause 19.4, the Issuer shall execute such documents and take such actions as the new Representative may reasonably require for the purpose of vesting in such new Representative the rights, powers and obligation of the Representative and releasing the retiring Representative from its further obligations under the Finance Documents and the Agency Agreement. Unless the Issuer and the new Representative agrees otherwise, the new Representative shall be entitled to the same fees and the same indemnities as the retiring Representative.

20. APPOINTMENT AND REPLACEMENT OF THE ISSUING AGENT

- 20.1 The Issuer has entered into the VP Issuer Agreement under which the Issuing Agent will manage certain tasks relating to the Notes.

- 20.2 The Issuing Agent may retire from its assignment or be dismissed by the Issuer in accordance with the VP Issuer Agreement. If the Issuing Agent is Insolvent, the Issuer shall immediately appoint a new Issuing Agent, which shall replace the old Issuing Agent as issuing agent in accordance with these Terms and Conditions.

21. NO DIRECT ACTIONS BY NOTEHOLDERS

- 21.1 Unless otherwise agreed between the Noteholders and the Representative, a Noteholder may not take any steps whatsoever against the Issuer or with respect to the Transaction Security to enforce or recover any amount due or owing to it pursuant to the Finance Documents, or to initiate, support or procure the winding-up, dissolution, liquidation, company reorganisation (*rekonstruktion*) or bankruptcy (*konkurs*) (or its equivalent in any other jurisdiction) of the Issuer in relation to any of the liabilities of the Issuer under the Finance Documents. Such steps may only be taken by the Representative on behalf of the Noteholders.
- 21.2 Clause 21.1 shall not apply if the Representative has been instructed by the Noteholders in accordance with the Finance Documents to take certain actions but fails for any reason to take, or is unable to take (for any reason other than a failure by a Noteholder to provide documents in accordance with Clause 19.1.2), such actions within a reasonable period of time and such failure or inability is continuing. However, if the failure to take certain actions is caused by the non-payment by the Issuer of any fee or indemnity due to the Representative under the Finance Documents or the Agency Agreement or by any reason described in Clause 19.2.8, such failure must continue for at least fifteen (15) Business Days after notice pursuant to Clause 19.2.9 before a Noteholder may take any action referred to in Clause 21.1.
- 21.3 The provisions of Clause 21.1 shall not in any way limit an individual Noteholder's right to claim and enforce payments which are due to it under Clause 9.6 (*Mandatory repurchase due to a Change of Control Event*) or other payments which are due by the Issuer to some but not all Noteholders.

22. PRESCRIPTION

- 22.1 Claims against the Issuer for payment in respect of the Notes shall be subject to limitation under the Danish Limitation Act (*forældelsesloven*, consolidated act no. 1063 of 28 August 2013 as amended from time to time) and shall become void unless proceedings have been commenced or the limitation period has otherwise been suspended or interrupted pursuant to the rules of the Danish Limitation Act within 10 years (in the case of principal) or three years (in the case of interest) from the date when the creditor was entitled to claim payment within the meaning of section 2 of the Danish Limitation Act.

23. NOTICES AND PRESS RELEASES

23.1 Notices

- 23.1.1 Any notice or other communication to be made under or in connection with the Finance Documents:
- (a) if to the Representative, shall be given at the address registered in the register of representatives with the Danish Financial Supervisory Authority on its website www.finanstilsynet.dk on the Business Day prior to dispatch or any successor website;

- (b) if to the Issuer, shall be given at the address registered with the Danish Business Authority on the Business Day prior to dispatch or any successor website; and
 - (c) if to the Noteholders, shall be given at their addresses as registered with the CSD, on the Business Day prior to dispatch, and by either courier delivery or letter for all Noteholders provided, that any notice from the Representative to the Noteholders may be given solely by way of press release and following the listing of the Notes in accordance with the rules of the relevant exchange. A notice to the Noteholders shall also be published on the websites of the Issuer and the Representative.
- 23.1.2 Any notice or other communication made by one person to another under or in connection with the Finance Documents shall be sent by way of courier, personal delivery or letter and will only be effective, in case of courier or personal delivery, when it has been left at the address specified in Clause 23.1.1 or, in case of letter, three (3) Business Days after being deposited postage prepaid in an envelope addressed to the address specified in Clause 23.1.1.
- 23.1.3 Any notice or other communication made by one person to another under or in connection with the Finance Documents must be in English.
- 23.1.4 Failure to send a notice or other communication to a Noteholder or any defect in it shall not affect its sufficiency with respect to other Noteholders.

23.2 Press releases

- 23.2.1 Any notice that the Issuer or the Representative shall send to the Noteholders pursuant to Clauses 9.3 (*Voluntary total redemption (Call option)*), 9.4 (*Mandatory partial redemption*), 9.5 (*Early redemption due to illegality*), 11.1.2, 13.4, 15.14, 16.1, 17.1 and 17.3 may also be published by way of press release by the Issuer or the Representative, as applicable.
- 23.2.2 In addition to Clause 23.2.1, if any information relating to the Notes or the Issuer contained in a notice the Representative may send to the Noteholders under these Terms and Conditions has not already been made public by way of a press release, the Representative shall before it sends such information to the Noteholders give the Issuer the opportunity to issue a press release containing such information. If the Issuer does not promptly issue a press release and the Representative considers it necessary to issue a press release containing such information before it can lawfully send a notice containing such information to the Noteholders, the Representative shall be entitled to issue such press release.

24. FORCE MAJEURE AND LIMITATION OF LIABILITY

- 24.1 Neither the Representative nor the Issuing Agent shall be held responsible for any damage arising out of any breakdown of/lack of access to IT systems or damaged data in such systems, failure in the electricity supply or telecommunications, legal enactment, or any measure taken by a public authority, or war, strike, lockout, boycott, blockade, , natural disaster, insurrections, civil commotion, sabotage, terrorism, vandalism (including computer virus and hacking) or any other similar circumstance (a “**Force Majeure Event**“). The reservation in respect of strikes, lockouts, boycotts and blockades applies even if the Representative or the Issuing Agent itself takes such measures, or is subject to such measures.
- 24.2 The Issuing Agent will not be liable to the Noteholders for damage or loss caused by any action taken or omitted by it unless directly caused by its negligence or wilful misconduct. The Issuing Agent shall never be responsible for indirect loss.

24.3 Should a Force Majeure Event arise which prevents the Representative or the Issuing Agent from taking any action required to comply with these Terms and Conditions, such action may be postponed until the obstacle has been removed.

24.4 The provisions in this Clause 24 apply unless they are inconsistent with the provisions of the Securities Trading Act which provisions shall take precedence.

25. GOVERNING LAW AND JURISDICTION

25.1 These Terms and Conditions shall be governed by and construed in accordance with the laws of Denmark.

25.2 The Issuer submits to the non-exclusive jurisdiction of the City Court of Copenhagen (*Københavns Byret*).
