

*Denna kallelse till obligationsinnehavarna är endast utformad på engelska.*

Stockholm, 9 June 2020

**To the holders in:**

**ISIN: SE0013801172 – AS Pro Kapital Grupp EUR 28,500,000 Senior Secured Bonds 2020/2024**

**NOTICE OF WRITTEN PROCEDURE – REQUEST TO AMEND THE TERMS AND CONDITIONS**

**This voting request for procedure in writing has been sent on 9 June 2020 to Holders directly registered as of 8 June 2020 in the debt register (Sw. *skuldbok*) kept by the CSD. If you are an authorised nominee under the Swedish Central Securities Depositories and Financial Instruments Accounts Act (Sw. *lag (1998:1479) om värdepapperscentraler och kontoföring av finansiella instrument*) or if you otherwise are holding Bonds on behalf of someone else on a Securities Account, please forward this notice to the holder you represent as soon as possible. For further information, please see below under Section 5.3 (*Voting rights and authorisation*).**

**Key information**

|   |  |
|---|--|
| Record Date for being eligible to vote: | 15 June 2020   |
| Deadline for voting:                    | 17.00 CET on 29 June 2020  |
| Quorum requirement:                     | At least twenty (20) per cent. of the Adjusted Outstanding Amount  |
| Majority requirement:                   | At least two thirds (2/3) of the Adjusted Outstanding Amount for which Holders reply in this Written Procedure |

Nordic Trustee & Agency AB (publ) acts as agent (the “**Agent**”) for the holders of the bonds (the “**Holders**”) in the above mentioned bond issue ISIN SE0013801172 with an aggregated amount outstanding of EUR 28,500,000 (the “**Bonds**”) issued by AS Pro Kapital Grupp (the “**Issuer**”). In its capacity as Agent, and as requested by the Issuer, the Agent hereby initiates a procedure in writing (the “**Written Procedure**”) as required by the Terms and Conditions (as defined below), whereby Holders can vote for or against the Issuer’s requests.

All capitalised terms used herein and not otherwise defined in this notice (the “**Notice**”) shall have the meanings assigned to them in the terms and conditions of the Bonds (the “**Terms and Conditions**”).

The Request (as defined below) is presented to the Holders, without any evaluation, advice or recommendations from the Agent whatsoever. The Agent has not reviewed or assessed this Notice or the Request (and their effects, should they be adopted) from a legal or commercial perspective of the Holders and the Agent expressly disclaims any liability whatsoever related to the content of this Notice and the Request (and their effects, should they be adopted). The Holders are recommended to

seek legal advice in order to independently evaluate whether the Request (and its effects) is acceptable or not.

Holders participate by completing and sending the voting form, attached hereto as Schedule 1 (the “**Voting Form**”), and, if applicable, the power of attorney/authorisation, attached hereto as Schedule 2 (the “**Power of Attorney**”) or other sufficient evidence, if the Bonds are held in custody other than by the CSD, to the Agent. Please contact the securities firm you hold your Bonds through if you do not know how your Bonds are registered or if you need authorisation or other assistance to participate.

The Agent must receive the Voting Form no later than 17.00 CET on 29 June 2020 either by mail, courier or email to the Agent using the contact details set out in Section 5.7 (*Address for sending replies*) below. Votes received thereafter may be disregarded.

To be eligible to participate in the Written Procedure, a person must meet the criteria for being a Holder on 15 June 2020 (the “**Record Date**”). This means that the person must be registered on a Securities Account with the CSD, as a direct registered owner (Sw. *direktregistrerad ägare*) or authorised nominee (Sw. *förvaltare*) with respect to one or several Bonds.

## 1. Background

The Group operates one hotel located in Bad Kreuznach, Germany. As a result of the Covid-19 outbreak and local restrictions set by the German Government, the hotel has been closed since 21 March 2020 and is at the date of this Notice planned to reopen in the beginning of July 2020.

During the lock-down period, the hotel has retained all employees and has been minimizing other costs to be ready to reopen in full when restrictions are lifted. As a support remedy for German hotel operators, the German Government is now offering a loan (the “**German Government Loan**”) on favourable terms: an unsecured loan in an amount of up to EUR 500,000 with an annual interest of 3.00 per cent. The Group deems it would be beneficial for the recovery of its hotel operations to be able to use such loan for restarting operations once the restrictions are lifted.

However, although the German Government Loan does qualify as Permitted Debt under the Terms and Conditions for the Bonds, due to a technicality in the Terms and Conditions, the Group would likely be unable to meet the Maintenance test at Subsidiary level after incurring the German Government Loan. According to the Terms and Conditions, the Maintenance test is met at Subsidiary level if, in relation to each Subsidiary, the ratio of Interest Bearing Debt to Property Value of the relevant Subsidiary does not exceed 75.00 per cent.

The Group’s hotel operations are conducted through the Issuer’s indirect Subsidiary PK Hotel Management Services GmbH, whereas the hotel property is held by the Issuer’s direct Subsidiary Pro Kapital Germany GmbH, as illustrated below.



To meet the Maintenance test at Subsidiary level with respect to the German Government Loan, the loan would thus need to be incurred by the hotel property owner, Pro Kapital Germany GmbH. If Pro Kapital Germany GmbH would be the borrower under the German Government Loan, the ratio of Interest Bearing Debt to Property Value of Pro Kapital Germany GmbH based on the figures set out in the Group’s latest Financial Report *pro forma*, would have been 8.00 per cent. (*i.e.* the Maintenance test would have been met).

The problem the Group is facing is that only *hotel operators* are eligible borrowers under the German Government Loan, and not *hotel property owners*, which is why the loan must be incurred by PK Hotel Management Services GmbH, but since PK Hotel Management Services GmbH holds no assets, PK Hotel Management Services GmbH would in such case not meet the Maintenance test.

Against this background, the Issuer is of the opinion that the current Maintenance test definition is not conducive to the recovery of the Group’s hotel operations. The Issuer therefore asks the Holders to approve the Issuer’s proposal to amend the Maintenance test definition so that the German Government Loan (although incurred by PK Hotel Management Services GmbH) shall be deemed part of the Interest Bearing Debt of Pro Kapital Germany GmbH and not of any other Group Company, as set out in Section 2 (*Proposed amendments to the Terms and Conditions*).

## 2. Proposed amendments to the Terms and Conditions

The proposed amendments to the Terms and Conditions are described in summary in the following and are also set out in full in Schedule 3 (Proposed Amended and Restated Terms and Conditions), where blue and underlined text indicates additions whereas red and crossed-out text indicates removals.

### *Amendment of the Maintenance test definition*

The Issuer proposes to amend the Maintenance test definition after which the definition shall have the following wording (where blue and underlined text indicates additions).

“**Maintenance test**” is met if:

- (a) in relation to the Issuer, the ratio of Equity to Total Assets exceeds thirty-five (35.00) per cent.; and
- (b) in relation to each Subsidiary (excluding Tallinna Moekombinaat), the ratio of Interest Bearing Debt to Property Value does not exceed seventy-five (75.00) per cent.; provided, however, that for the purpose of this calculation, the German Government Loan shall be deemed part of the Interest Bearing Debt of Pro Kapital Germany GmbH (and shall for the avoidance of doubt not be deemed part of the Interest Bearing Debt of any other Group Company).

Furthermore, the Issuer proposes to include a new defined term, “German Government Loan”, which is to be used only in respect of the new Maintenance test definition. Such term shall have the following meaning:

“German Government Loan” means the unsecured loan in an amount of up to EUR 500,000 granted by the German Government and incurred by PK Hotel Management Services GmbH.

### *Consequential amendments*

As a consequence of the amendments to the Terms and Conditions proposed by the Issuer, certain consequential amendments and updates to the Terms and Conditions will be required.

## 3. Consent

The Holders are asked to confirm that the Holders agree to the proposed amendments set out in Section 2 (the “**Request**”).

## 4. Effective date

The Request shall be deemed approved immediately upon expiry of the voting period and receipt of the required majority as set forth in Section 5.6 or if earlier, when a requisite majority of consents of the Adjusted Outstanding Amount have been received by the Agent.

The Issuer and the Agent shall, in order to implement and effectuate the Request, enter into amended and restated Terms and Conditions. In addition, the Issuer and the Agent may agree to take any other action deemed required in order to implement the Request.

## 5. Written Procedure

The following instructions need to be adhered to under the Written Procedure.

## **5.1 Final date to participate in the Written Procedure**

The Agent must have received the votes by mail, courier or email to the address indicated below no later than 17.00 CET, on 29 June 2020. Votes received thereafter may be disregarded.

## **5.2 Decision procedure**

The Agent will determine if received replies are eligible to participate under the Written Procedure as valid votes.

When a requisite majority of consents of the total Adjusted Outstanding Amount have been received by the Agent, the Request shall be deemed to be adopted, even if the time period for replies in the Written Procedure has not yet expired.

Information about the decision taken under the Written Procedure will: i) be sent by notice to the Holders and ii) be published on the websites of a) the Issuer and b) the Agent.

A matter decided under the Written Procedure will be binding for all Holders, irrespective of them responding in the Written Procedure.

## **5.3 Voting rights and authorisation**

Anyone who wishes to participate in the Written Procedure must on the Record Date (15 June 2020) in the debt register:

- (a) be registered as a direct registered owner of a Securities Account; or
- (b) be registered as authorised nominee in a Securities Account, with respect to one or several Bonds.

## **5.4 Bonds registered with a nominee**

If you are not registered as a direct registered owner, but your Bonds are held through a registered authorised nominee or another intermediary, you may have two different options to influence the voting for the Bonds.

1. You can ask the authorised nominee or other intermediary that holds the Bonds on your behalf to vote in its own name as instructed by you.
2. You can obtain a Power of Attorney (Schedule 2) from the authorised nominee or other intermediary and send in your own Voting Form based on the authorisation. If you hold your Bonds through several intermediaries, you need to obtain authorisation directly from the intermediary that is registered in the debt register as holder of the Securities Account, or from each intermediary in the chain of holders, starting with the intermediary that is registered in the debt register as a Holder of the Securities Account as authorised nominee or direct registered owner.

Whether one or both of these options are available to you depends on the agreement between you and the authorised nominee or other intermediary that holds the Bonds on your behalf (and the agreement between the intermediaries, if there are more than one).

The Agent recommends that you contact the securities firm that holds the Bonds on your behalf for assistance, if you wish to participate in the Written Procedure and do not know how your Bonds are registered or need authorisation or other assistance to participate. Bonds owned by the Issuer, another Group Company or an Affiliate do not entitle to any voting rights.

## **5.5 Quorum**

To approve the Request, Holders representing at least twenty (20.00) per cent of the Adjusted Outstanding Amount must reply to the Request under the Written Procedure in order to form a quorum.

If a quorum does not exist, the Agent shall initiate a second Written Procedure, provided that the Request has not been withdrawn by the Issuer. No quorum requirement will apply to such second Written Procedure.

## **5.6 Majority**

Two thirds (2/3) of the Adjusted Outstanding Amount for which Holders reply under the Written Procedure must consent to the Request in order for it to pass.

## **5.7 Address for sending replies**

Return the Voting Form, Schedule 1, and, if applicable, the Power of Attorney/Authorisation in Schedule 2 or other sufficient evidence, if the Bonds are held in custody other than Euroclear Sweden, by regular mail, scanned copy by e-mail, or by courier to:

### **By regular mail:**

Nordic Trustee & Agency AB (publ)  
Attn: Written Procedure AS Pro Kapital Grupp  
P.O. Box 7329  
S-103 90 Stockholm

### **By courier:**

Nordic Trustee & Agency AB (publ)  
Attn: Written Procedure AS Pro Kapital Grupp  
Norrlandsgatan 23  
111 43 Stockholm

### **By email:**

E-mail: [voting.sweden@nordictrustee.com](mailto:voting.sweden@nordictrustee.com)

## **6. FURTHER INFORMATION**

For further questions to the Issuer regarding the Request, please contact the Issuer at [paolo.michelozzi@prokapital.com](mailto:paolo.michelozzi@prokapital.com) or [angelika.annus@prokapital.com](mailto:angelika.annus@prokapital.com) or +372 6144 920.

For further questions to the Agent regarding the administration of the Written Procedure, please contact the Agent at [voting.sweden@nordictrustee.com](mailto:voting.sweden@nordictrustee.com) or +46 8 783 79 00.

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**Stockholm, 9 June 2020**

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

**As Agent**

**Enclosed:**

|                   |  |
|-------------------|--|
| <b>Schedule 1</b> | Voting Form  |
| <b>Schedule 2</b> | Power of Attorney/Authorisation                    |
| <b>Schedule 3</b> | Proposed Amended and Restated Terms and Conditions |

# VOTING FORM

## Schedule 1

For the Written Procedure in AS Pro Kapital Grupp EUR 28,500,000 Senior Secured Bonds 2020/2024 with ISIN SE0013801172.

The undersigned Holder or authorised person/entity (the “**Voting Person**”), votes either **For** or **Against** the Request by marking the applicable box below.

**NOTE:** If the Voting Person is not registered as Holder (as defined in the Terms and Conditions), the Voting Person must enclose a Power of Attorney/Authorisation, see Schedule 2.

Capitalised terms used and not otherwise defined herein shall have the meanings assigned to them in the Notice of Written Procedure dated 9 June 2020.

**For** the Request

**Against** the Request

Name of the Voting Person: \_\_\_\_\_

Capacity of the Voting Person:

Holder:  <sup>1</sup> authorised person:  <sup>2</sup>

Voting Person’s reg.no/id.no  
and country of incorporation/domicile: \_\_\_\_\_

Securities Account number at Euroclear Sweden:  
(if applicable) \_\_\_\_\_

Name and Securities Account number of custodian(s):  
(if applicable) \_\_\_\_\_

Nominal Amount voted for (in SEK): \_\_\_\_\_

Contact person, daytime telephone number and e-mail  
address: \_\_\_\_\_

\_\_\_\_\_  
Authorised signature and Name <sup>3</sup>

\_\_\_\_\_  
Place, date:

<sup>1</sup> When voting in this capacity, no further evidence is required.

<sup>2</sup> When voting in this capacity, the person/entity voting must also enclose Power of Attorney/Authorisation (Schedule 2) from the Holder or other proof of authorisation showing the number of votes held on the Record Date (as defined in the Notice of Written Procedure from AS Pro Kapital Grupp.

<sup>3</sup> If the undersigned is not a Holder as defined in the Terms and Condition and has marked the box ”authorised person”, the undersigned – by signing this document – confirms that the Holder has been instructed to refrain from voting for the number of votes cast with this Voting Form.



# POWER OF ATTORNEY/AUTHORISATION

## Schedule 2

For the Written Procedure in AS Pro Kapital Grupp EUR 28,500,000 Senior Secured Bonds 2020/2024 with ISIN SE0013801172.

**NOTE:** This Power of Attorney/Authorisation document shall be filled out if the Voting Person is not registered as Holder on the Securities Account, held with Euroclear Sweden. It must always be established a coherent chain of power of attorneys derived from the Holder. I.e. if the person/entity filling out this Power of Attorney/Authorisation in its capacity as "other intermediary", the person/entity must enclose its Power of Attorney/Authorisation from the Holder.

Capitalised terms used and not otherwise defined herein shall have the meanings assigned to them in the Notice of Written Procedure dated 9 June 2020.

Name of person/entity that is given authorisation (Sw. *befullmäktigad*) to vote as per the Record Date:

\_\_\_\_\_

Nominal Amount (in SEK) the person/entity is authorised to vote for as per the Record Date:

\_\_\_\_\_

Name of Holder or other intermediary giving the authorisation (Sw. *fullmaktsgivaren*):

\_\_\_\_\_

We hereby confirm that the person/entity specified above (Sw. *befullmäktigad*) has the right to vote for the Nominal Amount set out above.

We represent an aggregate Nominal Amount of: SEK \_\_\_\_\_

We are:

Registered as Holder on the Securities Account

Other intermediary and holds the Bonds through (specify below):

\_\_\_\_\_

Place, date: \_\_\_\_\_

\_\_\_\_\_

Name:

Authorised signature of Holder/other intermediary (Sw. *fullmaktsgivaren*)

**PROPOSED AMENDED AND RESTATED  
TERMS AND CONDITIONS**

*Schedule 3*

*[See following pages]*

**AMENDED AND RESTATED**

**TERMS AND CONDITIONS FOR**

**AS PRO KAPITAL GRUPP**

**EUR 28,500,000**

**SENIOR SECURED CALLABLE FIXED RATE  
BONDS 2020/2024**

**ISIN: SE0013801172**

Issue Date: 20 February 2020

*The distribution of this document and the private placement of the Bonds in certain jurisdictions may be restricted by law. Persons into whose possession this document comes are required to inform themselves about, and to observe, such restrictions.*

*The Bonds have not been and will not be registered under the U.S. Securities Act of 1933, as amended, and are subject to U.S. tax law requirements. The Bonds may not be offered, sold or delivered within the United States of America or to, or for the account or benefit of, U.S. persons*

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## 1. DEFINITIONS AND CONSTRUCTION

### 1.1 Definitions

In these [amended and restated](#) terms and conditions (these “**Terms and Conditions**”):

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

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

“**Adjusted Outstanding Amount**” means the total aggregate Outstanding Amount of the Bonds outstanding at the relevant time less the total aggregate Outstanding Amount of all Bonds owned by a Group Company or an Affiliate of a Group Company, irrespective of whether such Person is directly registered as owner of such Bonds.

“**Advance Purchase Agreements**” means (a) any advance or deferred purchase agreement if the agreement is in respect of the supply of assets or services and payment is due not more than ninety (90) calendar days after the date of supply, (b) any pre-sale agreement if the agreement is in respect of the sale of apartments, properties or buildings or (c) any other trade credit incurred in the ordinary course of business.

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

“**Agent**” means the Holders’ agent and security trustee under these Terms and Conditions and, if relevant, the other Finance Documents, from time to time; initially Nordic Trustee & Agency AB (publ) (reg. no. 556882-1879, P.O. Box 7329, SE-103 90 Stockholm, Sweden).

“**Agent Agreement**” means the fee agreement entered into before the Issue Date between the Issuer and the Agent, or any replacement agent agreement entered into after the Issue Date between the Issuer and an Agent.

“**Bond**” means a debt instrument (Sw. *skuldförbindelse*) for the Outstanding Amount and of the type set forth in Chapter 1 Section 3 of the Central Securities Depositories and Financial Instruments Accounts Act and which are governed by and issued under these Terms and Conditions.

“**Bond Issue**” means the issuance of the Bonds on the Issue Date.

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

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

“**Call Option Amount**” means:

- (a) if the call option is exercised before the First Call Date; (A) one hundred and three (103.00) per cent. of the Outstanding Amount as if such payment originally should have taken place on the First Call Date plus (B) the remaining interest payments (excluding accrued but unpaid interest up to the relevant Redemption Date) up to and including the First Call Date;
- (b) one hundred and three (103.00) per cent. of the Outstanding Amount if the call option is exercised on or after the First Call Date up to (but not including) the date falling thirty (30) months after the Issue Date;
- (c) one hundred and two (102.00) per cent. of the Outstanding Amount if the call option is exercised on or after the date falling thirty (30) months after the Issue Date up to (but not including) the date falling thirty-six (36) months after the Issue Date;
- (d) one hundred and one (101.00) per cent. of the Outstanding Amount if the call option is exercised on or after the date falling thirty-six (36) months after the Issue Date up to (but not including) the date falling forty-two (42) months after the Issue Date; and
- (e) one hundred (100.00) per cent. of the Outstanding Amount if the call option is exercised on or after the date falling forty-two (42) months after the Issue Date up to (but not including) the Final Redemption Date.

“**Central Securities Depositories and Financial Instruments Accounts Act**” means the Swedish Central Securities Depositories and Financial Instruments Accounts Act (Sw. *lag (1998:1479) om värdepapperscentraler och kontoföring av finansiella instrument*).

“**Change of Control Event**” means the occurrence of an event or series of events resulting in that one or more Persons (other than the Main Shareholder) acting together, acquire control over the Issuer and where “**control**” means (a) acquiring or controlling, directly or indirectly, more than fifty (50.00) per cent. of the voting rights in the Issuer, or (b) the right to, directly or indirectly, appoint or remove the whole or a majority of the directors of the board of directors of the Issuer.

“**Compliance Certificate**” means a certificate, in form and substance reasonably satisfactory to the Agent, duly signed by the Issuer certifying (i) that so far as it is aware no Event of Default is continuing or, if it is aware that such event is continuing, specifying the event and steps, if any, being taken to remedy it, (ii) if provided in connection with a Financial Report being made available, that the Maintenance Test is met and including calculations and figures in respect of the Maintenance Test and, (iii) if provided in connection with an application of

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the Incurrence Test, that the Incurrence Test is met and including calculations and figures in respect of the Incurrence Test.

“**Conditions Precedent**” means all events and documents set forth in Clause 13.1.

“**Conditions Subsequent**” means all events and documents set forth in Clause 14.1.

“**CSD**” means the Issuer’s central securities depository and registrar in respect of the Bonds from time to time; initially Euroclear Sweden AB (reg. no. 556112-8074, P.O. Box 191, SE-101 23 Stockholm, Sweden).

“**De-listing Event**” means the situation where (i) the shares in the Issuer are not listed and admitted to trading on a Regulated Market or (ii) trading in the shares in the Issuer on the relevant Regulated Market is suspended for a period of fifteen (15) consecutive Business Days.

“**Deposit Account**” means the Issuer’s bank account which shall be pledged under the Deposit Account Pledge Agreement.

“**Deposit Account Pledge Agreement**” means the pledge agreement entered into between the Issuer and the Agent in respect of a first priority pledge over the Deposit Account and all funds standing to the credit of the Deposit Account from time to time, granted in favour of the Agent and the Holders (represented by the Agent).

“**Derivative Transaction**” has the meaning set forth in item (g) of the definition “Permitted Debt” below.

“**Development Properties**” means all real property owned by any Group Company (other than Tallinna Moekombinaat) from time to time for property development purposes (Sw. *utvecklingsfastigheter*), including inventories (*i.e.*, property (other than Investment Property) held for resale or property being under development) and property, plant and equipment (*i.e.*, land and buildings held for providing services or for administrative purposes).

“**Escrow Account**” means the Issuer’s account which shall be pledged under an Escrow Account Pledge Agreement.

“**Escrow Account Pledge Agreement**” means any pledge agreement entered into between the Issuer and the Agent in respect of a first priority pledge over the Escrow Account and all funds standing to the credit of the Escrow Account from time to time, granted in favour of the Agent.

“**Equity**” means the aggregate book value of the Group’s total equity (excluding any equity attributable to Tallinna Moekombinaat) according to the latest Financial Report.

“**EUR**” means the currency used by the institutions of the European Union and being the official currency of the Eurozone.

“**Event of Default**” means an event, circumstance or situation specified in Clause 15.1.

“**Existing Bonds**” means the maximum EUR 50,000,000 senior secured callable bonds 2015/2020 issued by the Issuer with ISIN SE0006504379.

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“**Existing Convertibles**” means the seven (7.00) per cent. unsecured and convertible bonds, which have been issued under the Issuers outstanding convertible bond loan, with an aggregate principal amount as of the Issue Date amounting to EUR 10,252,258.80.

“**Final Redemption Date**” means 20 February 2024 (forty-eight (48) months after the Issue Date).

“**Finance Documents**” means these Terms and Conditions, the Agent Agreement, the Security Documents, any Escrow Account Pledge Agreement and any other document designated by the Issuer and the Agent as a Finance Document.

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

- (a) monies borrowed or raised, including Market Loans;
- (b) the amount of any liability in respect of any lease or hire purchase contract, a liability under which would, in accordance with the Accounting Principles, be treated as a balance sheet liability;
- (c) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (d) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing or otherwise being classified as borrowing under the Accounting Principles;
- (e) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the mark to market value shall be taken into account);
- (f) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (g) (without double counting) any guarantee or other assurance against financial loss in respect of a type referred to in the above items (a)–(f).

“**Financial Report**” means the annual audited consolidated financial statements of the Group, the annual audited unconsolidated financial statements of the Issuer or the quarterly interim unaudited consolidated reports of the Group, which shall be prepared and made available according to Clause 12.13.1 (a) and 12.13.1 (b).

“**Financial Support**” has the meaning set forth in Clause 12.5 (*Financial support*).

“**First Call Date**” means the date falling twenty-four (24) months after the Issue Date or, to the extent such day is not a Business Day, the Business Day following from an application of the Business Day Convention.

“**Force Majeure Event**” has the meaning set forth in Clause 27.1.

“**Funds Flow Statement**” has the meaning set forth in Clause 13.1 (b).



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“German Government Loan” means the unsecured loan in an amount of up to EUR 500,000 granted by the German Government and incurred by PK Hotel Management Services GmbH.

“**Group**” means the Issuer and all the Subsidiaries from time to time.

“**Group Company**” means the Issuer or any of the Subsidiaries.

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

“**Holders’ Meeting**” means a meeting among the Holders held in accordance with Clause 18 (*Holders’ Meeting*).

“**Hotel Operations**” means the hotel operations carried out by the Group as of the Issue Date, including (i) the Group Companies which manage the hotels, (ii) the Group Companies which own the hereditary building rights (building title) entitling to use respective property and (iii) such hereditary building rights.

“**Incurrence Test**” is met if the ratio of Equity to Total Assets exceeds forty (40.00) per cent.

“**Interest**” means the interest on the Bonds calculated in accordance with Clauses 10.1 to 10.3.

“**Interest Bearing Debt**” means the aggregate amount of interest bearing debt of the relevant Subsidiary (excluding any Subordinated Loans and any debt owed to another Group Company) as of the last day of the period covered by the latest Financial Report, calculated according to the Accounting Principles and to be reported to the Agent in each Compliance Certificate.

“**Interest Payment Date**” means 20 February and 20 August 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 (with the first Interest Payment Date on 20 August 2020 and the last Interest Payment Date being the Final Redemption Date (or any final Redemption Date prior thereto)).

“**Interest Period**” means each period beginning on (but excluding) the Issue Date or any Interest Payment Date and ending on (and including) the next succeeding Interest Payment Date (or a shorter period if relevant).

“**Interest Rate**” means a fixed rate of eight (8.00) per cent. p.a., provided however that if any Financial Support is granted to or for the benefit of Tallinna Moekombinaat or any of its subsidiaries pursuant paragraph (f)(b) of Clause 12.5 (*Financial support*), the applicable Interest Rate shall be increased to a fixed rate of nine (9.00) per cent. p.a. (such increased Interest Rate to be applied to the Outstanding Amount from, but excluding, the Interest Payment Date falling immediately prior to the granting of such Financial Support up to and including the relevant Redemption Date).

“**Investment Properties**” means all real property owned by a Group Company (other than Tallinna Moekombinaat) from time to time, held to earn rentals and/or for capital appreciation (including property under construction for such purposes) and any other property reported as investment property in accordance with the Accounting Principles, including land and

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buildings, which are planned to be held for a longer period of time and which have different possibilities to be used (*i.e.*, land bank).

“**Issue Date**” means 20 February 2020.

“**Issuer**” means AS Pro Kapital Grupp (reg. no. 10278802, Sõjakooli 11, 11316 Tallinn, Estonia).

“**Issuing Agent**” means Pareto Securities AB (reg. no 556206-8956, P.O. Box 7415, SE-103 91 Stockholm, Sweden) or another party replacing it, as Issuing Agent, in accordance with these Terms and Conditions.

“**Main Shareholder**” means Ernesto Achille Preatoni (national identification number (AVS no.) 756.7127.4401.93, residence address Riva Caccia 2, 6900 Lugano, Switzerland) or his spouse or any of their direct heirs, by way of direct or indirect ownership of shares, and their respective Affiliates.

“**Maintenance test**” is met if:

- (a) in relation to the Issuer, the ratio of Equity to Total Assets exceeds thirty-five (35.00) per cent.; and
- (b) in relation to each Subsidiary (excluding Tallinna Moekombinaat), the ratio of Interest Bearing Debt to Property Value does not exceed seventy-five (75.00) per cent.; provided, however, that for the purpose of this calculation, the German Government Loan shall be deemed part of the Interest Bearing Debt of Pro Kapital Germany GmbH (and shall for the avoidance of doubt not be deemed part of the Interest Bearing Debt of any other Group Company).

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

“**Material Adverse Effect**” means a material adverse effect on (a) the business, financial condition or operations of the Group taken as a whole, (b) the relevant Group Companies’ ability or willingness to perform and comply with its payment and other undertakings under the Finance Documents or (c) the validity or enforceability of the Finance Documents.

“**Material Group Company**” means all Group Companies, except for (i) Tallinna Moekombinaat and (ii) any Group Company which is dormant.

“**Nasdaq Stockholm**” means the Regulated Market of Nasdaq Stockholm AB (reg. no. 556420-8394, SE-105 78 Stockholm, Sweden).

“**Net Proceeds**” means the proceeds from the issuance of Bonds on the Issue Date which, after deduction (to the extent such deduction has been requested by the Issuing Agent and/or its Affiliates) has been made for the transaction costs payable by the Issuer to the Issuing Agent

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and its Affiliates for the services provided in relation to the placement and issuance of the Bonds, shall be transferred to the Escrow Account.

“**Nominal Amount**” has the meaning set forth in Clause 2.1.

“**Outstanding Amount**” has the meaning set forth in Clause 2.1.

“**Parallel Debt**” has the meaning set forth in Clause 28 (*Parallel Debt*).

“**Permitted Basket**” has the meaning set forth in paragraph (m) of the definition “Permitted Debt” below.

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

- (a) incurred under the Finance Documents;
- (b) incurred under the Existing Bonds, provided that the Existing Bonds are redeemed in full in accordance with the Conditions Precedent;
- (c) related to any agreements under which a Group Company leases office space (Sw. *kontorshyresavtal*) or other premises provided that such Financial Indebtedness is incurred in the ordinary course of such Group Company’s business;
- (d) taken up from a Group Company;
- (e) constituted by Existing Convertibles or Subordinated Loans;
- (f) arising under any Permitted Guarantees;
- (g) arising under a derivative transaction entered into by a Group Company in connection with protection against or benefit from fluctuation in any rate or price where such exposure arises in the ordinary course of business or in respect of payments to be made under these Terms and Conditions (excluding for the avoidance of doubt any derivative transaction which in itself is entered into for investment or speculative purposes) (“**Derivative Transaction**”);
- (h) incurred in the ordinary course of business under Advance Purchase Agreements;
- (i) arising as a result of the refinancing of the Bonds in full;
- (j) to which a Subsidiary is the debtor if such Financial Indebtedness (i) meets the Maintenance Test on a *pro forma* basis and (ii) is constituted by construction credits (Sw. *byggnadskreditiv*) or other debt incurred in the ordinary course of business (including, for the avoidance of doubt, acquisition credits and other debt raised from credit institutions and minority shareholders in the Subsidiaries) in relation to (A) the financing of a real estate development project, (B) real estate holding or (C) the Hotel Operations;
- (k) incurred by the Issuer if such Financial Indebtedness (i) ranks *pari passu* or is subordinated to the obligations of the Issuer under the Finance Documents, (ii) meets the Incurrence Test on a *pro forma* basis and (iii) has a final maturity date and, when

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applicable, early redemption dates or instalment dates which occur after the Final Redemption Date;

- (l) of the Group under any pension and tax liabilities incurred in the ordinary course of business;
- (m) not permitted by paragraphs (a) to (l) above, in an aggregate amount not at any time exceeding EUR 1,000,000 and incurred in the ordinary course of the Group's business, including any financial leases (all such Financial Indebtedness is together referred to as the “**Permitted Basket**”).

“**Permitted Guarantees**” means each guarantee provided by a Group Company in relation to obligations incurred by another Group Company (other than Tallinna Moekombinaat), provided that such obligations constitutes Permitted Debt or are otherwise not prohibited by these Terms and Conditions and that the aggregate amount of all obligations secured by such guarantees does not at any time exceed EUR 20,000,000.

“**Permitted Security**” means any guarantee or security:

- (a) provided in accordance with the Finance Documents;
- (b) provided under the Existing Bonds, provided that such security or guarantee is released in full in accordance with the Conditions Subsequent;
- (c) provided in relation to any agreement under which a Group Company leases office space (Sw. *kontorshyresavtal*) or other premises provided such lease constitutes Permitted Debt;
- (d) arising by operation of law or in the ordinary course of business (including collateral or retention of title arrangements in connection with Advance Purchase Agreements but, for the avoidance of doubt, not including guarantees or security in respect of any monies borrowed or raised);
- (e) provided in relation to a Derivative Transaction and not consisting of security interests in shares in any Group Company;
- (f) provided in the form of a pledge over an escrow account to which the proceeds from a refinancing of the Bonds in full are intended to be received or (ii) agreed to be provided for the benefit of the financing providers in relation to a refinancing of the Bonds in full, provided that any perfection requirements in relation thereto are satisfied only after repayment of the Bonds in full;
- (g) constituted by the Permitted Guarantees;
- (h) provided by a Subsidiary in relation to its Financial Indebtedness referred to in item (j) of the definition “Permitted Debt” above;
- (i) consisting of security interests in shares in Tallinna Moekombinaat; and
- (j) provided in relation to the Permitted Basket.

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

“**Pledged Companies**” means (i) all Material Group Companies which as of the Issue Date are Subsidiaries, (ii) any property owning company acquired by use of funds released from the Deposit Account and (iii) any other company which from time to time is designated by the Issuer and the Agent as a Pledged Company (which, for the avoidance of doubt, shall include a designation of Tallinna Moekombinaat pursuant to Clause 12.8.2).

“**Property Value**” means the aggregate of:

- (a) the market value of all Investment Properties held by the relevant Subsidiary, according to the latest annual consolidated Financial Report (as determined by Colliers, NewSec, Cushman & Wakefield, Savills, CBRE, Colliers or any other recognised property evaluator) without material deviations therefrom not attributable to subsequent events from the date of such Financial Report, *plus* (i) the total consideration paid or to be paid for Investment Properties acquired since the date of such Financial Report *minus* (ii) the value attributable to Investment Properties disposed of since the date of such Financial Report; and
- (b) the acquisition value of all Development Properties held by the relevant Subsidiary, according to the latest annual consolidated Financial Report, adjusted for investments in and depreciations of such Development Properties, respectively, made since the date of such Financial Report.

“**QIB**” has the meaning set forth in Clause 6.6.

“**Record Date**” means the fifth (5<sup>th</sup>) Business Day prior to (a) an Interest Payment Date, (b) a Redemption Date, (c) a date on which a payment to the Holders is to be made under Clause 16 (*Distribution of proceeds*), (d) the date of a Holders’ Meeting, or (e) another relevant date, or in each case such other Business Day falling prior to a relevant date if generally applicable on the Swedish bond market.

“**Redemption Amount**” has the meaning set forth in Clause 4.1.

“**Redemption Date**” means the date on which the relevant Bonds are to be redeemed or repurchased in accordance with Clause 11 (*Redemption, repurchase and repayment of the Bonds*).

“**Regulated Market**” means any regulated market (as defined in Directive 2014/65/EU on markets in financial instruments).

“**Restricted Payment**” has the meaning set forth in Clause 12.1 (*Distributions*).

“**Securities Account**” means the account for dematerialised securities maintained by the CSD pursuant to the Central Securities Depositories and Financial Instruments Accounts Act in

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which (a) an owner of such security is directly registered, or (b) an owner's holding of securities is registered in the name of a nominee.

“**Securities Act**” has the meaning set forth in Clause 6.5.

“**Security Documents**” means the Deposit Account Pledge Agreement, the Share Pledge Agreements and such further agreements, assignments, certificates, instruments, consents, acknowledgements, confirmations and other documents which relate thereto or which are required in order to establish, maintain, preserve, protect and perfect the pledge created or purported to be created under such documents.

“**Share Pledge Agreement**” means each of the pledge agreements entered into by a Group Company and the Agent (on behalf of itself and the Holders) in respect of first priority pledges, granted in favour of the Agent and the Holders (represented by the Agent), of all shares held by a Group Company in a Pledged Company (however taking into account that any pledge of shares in Pledged Companies incorporated in Estonia only shall be granted to the Agent under the Parallel Debt).

“**Subordinated Loan**” means any loan incurred by a Group Company if such loan (a) according to its terms or pursuant to a subordination agreement is subordinated to the obligations of the Issuer under these Terms and Conditions, (b) according to its terms have a final redemption date or, when applicable, early redemption dates or instalment dates which occur after the Final Redemption Date, and (c) according to its terms yield only payment-in-kind interest (PIK).

“**Subsidiary**” means, in relation to the Issuer, any legal entity (whether incorporated or not), in respect of which the Issuer, directly or indirectly, (a) owns shares or ownership rights representing more than fifty (50.00) per cent. of the total number of votes held by the owners, (b) otherwise controls more than fifty (50.00) per cent. of the total number of votes held by the owners, (c) has the power to appoint and remove all, or the majority of, the members of the board of directors or other governing body or (d) exercises control as determined in accordance with the Accounting Principles.

“**Tallinna Moekombinaat**” means AS Tallinna Moekombinaat (reg. no. 11474184, Sõjakooli 11, 11316 Tallinn, Estonia), or any other company (i) established, incorporated or acquired by a Group Company after the Issue Date and (ii) which owns real estate property which as of the Issue Date is owned by AS Tallinna Moekombinaat.

“**Total Assets**” means the aggregate book value of the Group's total assets (excluding any assets of Tallinna Moekombinaat) according to the latest Financial Report.

“**Transaction Costs**” means all fees, costs and expenses incurred by a Group Company in connection with (a) the issuance of the Bonds and (b) the redemption of the Existing Bonds.

“**Transaction Security**” means the security created or purported to be created under the Security Documents.

“**Written Procedure**” means the written or electronic procedure for decision making among the Holders in accordance with Clause 19 (*Written Procedure*).

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## 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 (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency or department;
- (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 Stockholm time.

1.2.2 When ascertaining whether a limit or threshold specified in EUR has been attained or broken, an amount in another currency shall be counted on the basis of the rate of exchange for such currency against EUR for the previous Business Day, as published by the European Central Bank on its website ([www.ecb.europa.eu](http://www.ecb.europa.eu)). If no such rate is available, the most recently published rate shall be used instead.

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

1.2.4 No delay or omission of the Agent or of any Holder to exercise any right or remedy under these Terms and Conditions shall impair or operate as a waiver of any such right or remedy.

## 2. THE AMOUNT OF THE BONDS AND UNDERTAKING TO MAKE PAYMENTS

2.1 The aggregate amount of the bond loan will as of the Issue Date be an amount of up to EUR 28,500,000 which will be represented by Bonds, each of a nominal amount of EUR 100,000 or full multiples thereof (the “**Nominal Amount**”). The nominal amount of each Bond will be the Nominal Amount, less the aggregate amount by which each Bond has been partly repaid in accordance with Clause 11.6 (*Mandatory partial repayment*) (the “**Outstanding Amount**”). All Bonds issued in the Bond Issue are issued on a fully paid basis at an issue price of one hundred (100.00) per cent. of the Nominal Amount. The ISIN for the Bonds is SE0013801172. The minimum permissible investment in connection with the Bond Issue is EUR 100,000.

2.2 The Issuer undertakes to repay the Bonds, to pay Interest and to otherwise act in accordance and comply with these Terms and Conditions.

2.3 The Bonds are denominated in EUR and each Bond is constituted by these Terms and Conditions.

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- 2.4 By subscribing for Bonds, each initial Holder agrees that the Bonds shall benefit from and be subject to the Finance Documents and by acquiring Bonds each subsequent Holder confirms such agreements.

### **3. STATUS OF THE BONDS**

The Bonds constitute direct, general, unconditional, unsubordinated and secured obligations of the Issuer and shall at all times rank *pari passu* and without any preference among them. The Bonds are secured by the Transaction Security.

### **4. USE OF PROCEEDS**

- 4.1 As soon as possible after the Issue Date, the Issuing Agent shall transfer the Net Proceeds to the Escrow Account and the Issuer shall transfer any additional amount to the Escrow Account as required to procure that the funds standing to the credit of the Escrow Account, after such transfers, are equal to or higher than the final redemption amount (including interest and any prepayment premium) of the Existing Bonds times one point zero one (1.01) (the “**Redemption Amount**”).

- 4.2 Upon fulfilment of the Conditions Precedent, the Redemption Amount standing to the credit of the Escrow Account shall without delay be transferred to the Issuer and *firstly* be applied towards the redemption of the Existing Bonds in full (including accrued interest and any prepayment premium) and *secondly* be applied towards acquisitions and investments in real estate development projects and other general corporate purposes.

### **5. TRANSACTION SECURITY**

- 5.1 As continuing security for the due and punctual fulfilment of the Issuer’s obligations under the Finance Documents, the Issuer shall:

(a) and shall procure that each relevant Group Company, pledge to the Agent and the Holders (represented by the Agent) as first ranking security, all their shares in the Group Companies which are Pledged Companies from time to time, in accordance with the relevant Share Pledge Agreements; and

(b) pledge to the Agent and the Holders (represented by the Agent as first ranking security, the Deposit Account (including all funds standing to the credit of such accounts from time to time), in accordance with the Deposit Account Pledge Agreement.

- 5.2 The Issuer shall ensure that the Security Documents and all documents related thereto are duly executed by the relevant Group Company in favour of the Agent and the Holders (represented by the Agent) and that such documents are legally valid, perfected, enforceable and in full force and effect according to their terms. The Issuer shall execute and/or procure the execution of such further documentation as the Agent may reasonably require in order for the Holders and the Agent to at all times maintain the security position envisaged under the Finance Documents.



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- 5.3 The Agent shall hold the Transaction Security on behalf of itself and the Holders in accordance with the Finance Documents (taking into account that Transaction Security governed by Estonian law only shall be granted to the Agent under the Parallel Debt as set out in Clause 28 (*Parallel Debt*)).
- 5.4 Except if otherwise decided by the Holders according to the procedures set out in Clauses 17 (*Decisions by Holders*), 18 (*Holders' Meeting*) and 19 (*Written Procedure*), the Agent is, without first having to obtain the Holders' consent, entitled to enter into binding agreements with the Group Companies or third parties if it is, in the Agent's sole discretion, necessary for the purpose of establishing, maintaining, altering, releasing or enforcing the Transaction Security or for the purpose of settling the various Holders' relative rights to the Transaction Security. The Agent is entitled to take all measures available to it according to the Finance Documents.
- 5.5 If the Bonds are declared due and payable according to Clause 15 (*Termination of the Bonds*) or following the Final Redemption Date, the Agent is, without first having to obtain the Holders' consent, entitled to enforce the Transaction Security, in such manner and under such conditions that the Agent finds acceptable (if in accordance with the Finance Documents).
- 5.6 If a Holders' Meeting has been convened or a Written Procedure has been instigated to decide on the termination of the Bonds and/or the enforcement of all or any part of the Transaction Security, the Agent is obligated to take actions in accordance with the Holders' decision regarding the Transaction Security. However, if the Bonds are not terminated due to that the cause for termination has ceased or due to any other circumstance mentioned in these Terms and Conditions, the Agent shall not enforce any of the Transaction Security. If the Holders, without any prior initiative from the Agent or the Issuer, have made a decision regarding termination of the Bonds and enforcement of any of the Transaction Security in accordance with the procedures set out in Clauses 17 (*Decisions by Holders*), 18 (*Holders' Meeting*) and 19 (*Written Procedure*), the Agent shall promptly declare the Bonds terminated and enforce the Transaction Security. The Agent is however not liable to take action if the Agent considers cause for termination and/or acceleration not to be at hand, unless the instructing Holders in writing commit to holding the Agent indemnified and, at the Agent's own discretion, grant sufficient security for the obligation.
- 5.7 Funds that the Agent receives on account of the Holders in connection with the termination of the Bonds or the enforcement of any or all of the Transaction Security constitute escrow funds (Sw. *redovisningsmedel*) according to the Escrow Funds Act (Sw. *lag (1944:181) om redovisningsmedel*) and must be held on a separate interest-bearing account on behalf of the Holders and any other interested party. The Agent shall promptly arrange for payments to be made to the Holders in such case. The Agent shall arrange for payments of such funds in accordance with Clause 16 (*Distribution of proceeds*) as soon as reasonably practicable. If the Agent deems it appropriate, it may, in accordance with Clause 5.8, instruct the CSD to arrange for payment to the Holders.
- 5.8 For the purpose of exercising the rights of the Holders and the Agent under these Terms and Conditions and for the purpose of distributing any funds originating from the enforcement of

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any Transaction Security, the Issuer irrevocably authorises and empowers the Agent to act in the name of the Issuer, and on behalf of the Issuer, to instruct the CSD to arrange for payment to the Holders in accordance with Clause 5.7. To the extent permissible by law, the powers set out in this Clause 5.8 are irrevocable and shall be valid for as long as any Bonds remain outstanding. The Issuer shall immediately upon request by the Agent provide the Agent with any such documents, including a written power of attorney (in form and substance to the Agent's satisfaction), which the Agent deems necessary for the purpose of carrying out its duties under Clause 5.7 (including as required by the CSD in order for the CSD to accept such payment instructions). Especially, the Issuer shall, upon the Agent's request, provide the Agent with a written power of attorney empowering the Agent to change the bank account registered with the CSD to a bank account in the name of the Agent and to instruct the CSD to pay out funds originating from an enforcement in accordance with Clause 5.7 to the Holders through the CSD.

## **6. THE BONDS AND TRANSFERABILITY**

- 6.1 Each Holder is bound by these Terms and Conditions without there being any further actions required to be taken or formalities to be complied with.
- 6.2 The Bonds are freely transferable. All Bond transfers are subject to these Terms and Conditions and these Terms and Conditions are automatically applicable in relation to all Bond transferees upon completed transfer.
- 6.3 Upon a transfer of Bonds, any rights and obligations under the Finance Documents relating to such Bonds are automatically transferred to the transferee.
- 6.4 No action is being taken in any jurisdiction that would or is intended to permit a public offering of the Bonds or the possession, circulation or distribution of any document or other material relating to the Issuer or the Bonds in any jurisdiction other than Sweden, where action for that purpose is required. Each Holder must inform itself about, and observe, any applicable restrictions to the transfer of material relating to the Issuer or the Bonds, (due to, *e.g.*, its nationality, its residency, its registered address or its place(s) of business). Each Holder must ensure compliance with such restrictions at its own cost and expense.
- 6.5 The Bonds have not been registered under the U.S. Securities Act of 1933, as amended (the "**Securities Act**") and the Issuer is under no obligation to arrange for registration of the Bonds under the Securities Act or under any other law or regulation.
- 6.6 The Bonds are not offered to and may not be subscribed by investors located in the United States except for "Qualified Institutional Buyers" ("**QIB**") within the meaning of rule 144A under the Securities Act. In the application form relating to the Bonds, each Person applying for the Bonds must confirm whether it is a U.S. person as defined in rule 902 of regulation S under the Securities Act, and if it is a U.S. person it must confirm, *inter alia*, that it is a QIB.
- 6.7 Holders located in the United States are not permitted to transfer Bonds except (a) subject to an effective registration statement under the Securities Act, (b) to a person that the Holder reasonably believes is a QIB within the meaning of rule 144A that is purchasing for its own

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account, or the account of another QIB, to whom notice is given that the resale, pledge or other transfer may be made in reliance on rule 144A, (c) outside the United States in accordance with regulation S under the Securities Act, (d) pursuant to an exemption from registration under the Securities Act provided by rule 144 thereunder (if available) and (e) pursuant to any other available exemption from registration under the Securities Act, subject to the receipt by the Issuer of an opinion of counsel or such other evidence that the Issuer may reasonably require confirming that such sale or transfer is in compliance with the Securities Act.

- 6.8 For the avoidance of doubt and notwithstanding the above, a Holder which allegedly has purchased Bonds in contradiction to mandatory restrictions applicable may nevertheless utilise its voting rights under these Terms and Conditions and shall be entitled to exercise its full rights as a Holder hereunder in each case until such allegations have been resolved.

## **7. BONDS IN ELECTRONIC BOOK-ENTRY FORM**

- 7.1 The Bonds will be registered for the Holders on their respective Securities Accounts and no physical Bonds will be issued. Accordingly, the Bonds will be registered in accordance with the Central Securities Depositories and Financial Instruments Accounts Act. Registration requests relating to the Bonds shall be directed to an Account Operator.

- 7.2 Those who according to assignment, security, the provisions of the Swedish Children and Parents Code (*Sw. föräldrabalken (1949:381)*), conditions of will or deed of gift or otherwise have acquired a right to receive payments in respect of a Bond shall register their entitlements to receive payment in accordance with the Central Securities Depositories and Financial Instruments Accounts Act.

- 7.3 The Issuer (and the Agent when permitted under the CSD's applicable regulations) shall be entitled to obtain information from the debt register (*Sw. skuldbok*) kept by the CSD in respect of the Bonds. At the request of the Agent, the Issuer shall promptly obtain such information and provide it to the Agent.

- 7.4 For the purpose of or in connection with any Holders' Meeting or any Written Procedure, the Issuing Agent shall be entitled to obtain information from the debt register kept by the CSD in respect of the Bonds. If the Agent does not otherwise obtain information from such debt register as contemplated under the Finance Documents, the Issuing Agent shall at the request of the Agent obtain information from the debt register and provide it to the Agent.

- 7.5 The Issuer shall issue any necessary power of attorney to such persons employed by the Agent, as notified by the Agent, in order for such individuals to independently obtain information directly from the debt register kept by the CSD in respect of the Bonds. The Issuer may not revoke any such power of attorney unless directed by the Agent or unless consent thereto is given by the Holders.

- 7.6 At the request of the Agent, the Issuer shall promptly instruct the Issuing Agent to obtain information from the debt register kept by the CSD in respect of the Bonds and provide it to the Agent.

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7.7 The Issuer (and the Agent when permitted under the CSD's applicable regulations) may use the information referred to in Clause 7.3 only 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 Holder or third party unless necessary for such purposes.

## **8. RIGHT TO ACT ON BEHALF OF A HOLDER**

8.1 If any Person other than a Holder wishes to exercise any rights under the Finance Documents, it must obtain a power of attorney (or, if applicable, a coherent chain of powers of attorney), a certificate from the authorised nominee or other sufficient proof of authorisation for such Person.

8.2 A Holder may issue one or several powers of attorney to third parties to represent it in relation to some or all of the Bonds held by it. Any such representative may act independently under the Finance Documents in relation to the Bonds for which such representative is entitled to represent the Holder.

8.3 The Agent shall only have to examine the face of a power of attorney or other proof of authorisation that has been provided to it pursuant to Clauses 8.1 and 8.2 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.

## **9. PAYMENTS IN RESPECT OF THE BONDS**

9.1 Any payment or repayment under the Finance Documents, or any amount due in respect of a repurchase of any Bonds, shall be made to such Person who is registered as a Holder on the Record Date prior to the relevant payment 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.

9.2 If a Holder has registered, through an Account Operator, that principal, Interest and any other payment that shall be made under the Finance Documents shall be deposited in a certain bank account; such deposits will be effectuated by the CSD on the relevant payment date. In other cases, payments will be transferred by the CSD to the Holder at the address registered with the CSD on the Record Date. Should the CSD, due to a delay on behalf of the Issuer or some other obstacle, not be able to effectuate payments as aforesaid, the Issuer shall procure that such amounts are paid to the Persons who are registered as Holders on the relevant Record Date as soon as possible after such obstacle has been removed.

9.3 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 10.4 during such postponement.

9.4 If payment or repayment is made in accordance with this Clause 9, 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, unless the Issuer or the CSD (as applicable) was aware of that the payment was being made to a Person not entitled to receive such amount.

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9.5 The Issuer shall pay any stamp duty and other public fees accruing in connection with the Bond Issue, but not in respect of trading in the secondary market (except to the extent required by applicable law), and shall deduct at source any applicable withholding tax payable pursuant to law.

9.6 The Issuer shall not be liable to reimburse any stamp duty or public fee or to gross-up any payments under these Terms and Conditions by virtue of any withholding tax or similar, except for that the Issuer shall be liable to gross-up any withholding tax which the Issuer is obligated to withhold according to Estonian tax law (however, subject to that any Person benefitting from such gross-up shall reimburse the Issuer with a corresponding amount).

## **10. INTEREST**

10.1 The Bonds will bear Interest at the applicable Interest Rate applied to the Outstanding Amount from, but excluding, the Issue Date up to and including the relevant Redemption Date.

10.2 Interest accrues during an Interest Period. An Interest Period shall, for the avoidance of doubt, not be adjusted due to an application of the Business Day Convention. Payment of Interest in respect of the Bonds shall be made semi-annually in arrears to the Holders on each Interest Payment Date for the preceding Interest Period.

10.3 Interest shall be calculated on the basis of a 360-day year comprised of twelve (12) months of thirty (30) days each and, in case of an incomplete month, the actual number of days elapsed (30/360-days basis).

10.4 If the Issuer fails to pay any amount payable by it under the Finance Documents on its due date, default interest shall accrue on the overdue amount from, but excluding, the due date up to and including the date of actual payment at a rate which is 200 basis points higher than the Interest Rate. Accrued default interest shall not be capitalised. No default interest shall accrue where the failure to pay was solely attributable to the Agent or the CSD, in which case the Interest Rate shall apply instead.

## **11. REDEMPTION, REPURCHASE AND REPAYMENT OF THE BONDS**

### **11.1 Redemption at maturity**

The Issuer shall redeem all, but not only some, of the Bonds in full on the Final Redemption Date (or, to the extent such day is not a Business Day, on the Business Day following from an application of the Business Day Convention) with an amount per Bond equal to the Outstanding Amount together with accrued but unpaid Interest.

### **11.2 The Group Companies' purchase of Bonds**

11.2.1 Any Group Company may, subject to applicable law, at any time and at any price purchase Bonds. Bonds held by a Group Company may at such Group Company's discretion be retained, sold or, if held by the Issuer, cancelled.

11.2.2 The Issuer shall ensure that the proceeds from a Group Company's sale of a Bond, which has been purchased for funds released from the Deposit Account in accordance with Clause 12.7.4, are transferred to the Deposit Account. A Bond shall be considered to be purchased for funds

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released from the Deposit Account until the aggregate proceeds from sales of Bonds deposited by the Group on the Deposit Account at least equals the funds released from the Deposit Account for the purpose of purchasing Bonds.

11.3 **Early voluntary redemption by the Issuer (call option)**

11.3.1 The Issuer may redeem all, but not only some, of the Bonds in full on any Business Day before the Final Redemption Date at the applicable Call Option Amount together with accrued but unpaid Interest.

11.3.2 Redemption in accordance with Clause 11.3.1 shall be made by the Issuer giving not less than fifteen (15) Business Days' notice to the Holders and the Agent. Any such notice shall state the Redemption Date and the relevant Record Date and is irrevocable but may, at the Issuer's discretion, contain one or more conditions precedent. Upon expiry of such notice and the fulfilment of the conditions precedent (if any), the Issuer is bound to redeem the Bonds in full at the applicable amounts.

11.4 **Mandatory redemption at the long stop date**

If the Conditions Precedent for the disbursement of the Redemption Amount from the Escrow Account have not been fulfilled within forty-five (45) calendar days from the Issue Date, the Issuer shall redeem the Bonds at a price equal to one hundred (100.00) per cent. of the Outstanding Amount together with accrued but unpaid Interest. The funds on the Escrow Account shall in such case be applied to redeem the Bonds on behalf of the Issuer. Any shortfall shall be covered by the Issuer.

11.5 **Mandatory repurchase due to a Change of Control Event or De-listing Event (put option)**

11.5.1 Upon a Change of Control Event or De-listing Event occurring, each Holder shall have the right to request that all, but not only some, of its Bonds are repurchased (whereby the Issuer shall have the obligation to repurchase such Bonds) at a price per Bond equal to one hundred and one (101.00) per cent. of the Outstanding Amount together with accrued but unpaid Interest; during a period of thirty (30) calendar days following a notice from the Issuer of the relevant event pursuant to Clause 12.13.1 (e). The thirty (30) calendar days' period may not start earlier than upon the occurrence of the relevant event.

11.5.2 The notice from the Issuer pursuant to Clause 12.13.1 (e) shall specify the repurchase date and include instructions about the actions that a Holder needs to take if it wants Bonds held by it to be repurchased. If a Holder 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 Bonds and the repurchase amount shall fall due on the repurchase date specified in the notice given by the Issuer pursuant to Clause 12.13.1 (e). The repurchase date must fall no later than twenty (20) Business Days after the end of the period referred to in Clause 11.5.1.

11.5.3 The Issuer shall comply with the requirements of any applicable securities laws or regulations in connection with the repurchase of Bonds. To the extent that the provisions of such laws and regulations conflict with the provisions in this Clause 11.4, the Issuer shall comply with the

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applicable securities laws and regulations and will not be deemed to have breached its obligations under this Clause 11.4 by virtue of the conflict.

11.5.4 Any Bonds repurchased by the Issuer pursuant to this Clause 11.4 may at the Issuer's discretion be retained, sold or cancelled in accordance with Clause 11.2.

## 11.6 **Mandatory partial repayment**

11.6.1 If an amount which exceeds EUR 500,000 has been standing to the credit of the Deposit Account for 12 months without the Issuer having requested the Agent to release such amount, the Agent shall release such amount to the Issuer whereby the Issuer shall apply it towards partial prepayment of all, but not only some, of the Bonds by way of reducing the Outstanding Amount of each Bond *pro rata* (rounded down to a multiple of EUR 100). The prepayment shall be made by the Issuer without delay (subject to fifteen (15) Business Days' notice of the prepayment to the Agent and the Holders) at the Call Option Amount applicable at the time of prepayment, together with accrued but unpaid Interest on the prepaid amount.

11.6.2 When determining if an amount has been standing to the credit of the Deposit Account for 12 months, the first date on which the aggregate credited amount exceeds EUR 500,000 shall be used as reference date (and, if the credited amount falls below EUR 500,000, the date it again exceeds EUR 500,000 shall be used as reference date). If the credited amount exceeds EUR 500,000 and an additional amount is credited, the reference date for such additional amount shall be the date on which it is deposited. The Agent may, in accordance with these Terms and Conditions, agree not to release amounts which otherwise should have been applied towards partial prepayments, provided it is not detrimental to the interest of the Holders.

## 12. **SPECIAL UNDERTAKINGS**

So long as any Bond remains outstanding, the Issuer undertakes to comply with the special undertakings set forth in this Clause 12.

### 12.1 **Distributions**

The Issuer shall not, and shall procure that none of the Subsidiaries will, (i) pay any dividend on shares, (ii) repurchase any of its own shares, (iii) redeem its share capital or other restricted equity with repayment to shareholders, (iv) repay principal or pay interest under any shareholder loans (for the avoidance of doubt, not including redemptions or other payments under any Existing Convertibles) or (v) make any other similar distribution or transfers of value (Sw. *värdeöverföringar*) to the Issuer's, or the Subsidiaries', direct and indirect shareholders or the Affiliates of such direct and indirect shareholders (items (i)-(v) above are together and individually referred to as a "**Restricted Payment**"), provided however that any such Restricted Payment can be made, if such Restricted Payment is permitted by law and no Event of Default is continuing or would result from such Restricted Payment, by:

- (a) any Group Company if such Restricted Payment is made to another Group Company and, if made by any of the Subsidiaries which is not directly or indirectly wholly-owned by the Issuer, is made on a *pro rata* basis; and

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- (b) by the Issuer, provided that (i) the Incurrence Test (calculated on a *pro forma* basis including the relevant Restricted Payment) is met and (ii) the aggregate amount of all Restricted Payments of the Group in a financial year (including the Restricted Payment in question but excluding any Restricted Payment made in accordance with item (a) above) does not exceed EUR 3,000,000.

## 12.2 **Admission to trading**

The Issuer shall ensure (i) that the Bonds are admitted to trading on the corporate bond list of Nasdaq Stockholm or, if such admission to trading is not possible to obtain or maintain, admitted to trading on another Regulated Market, within twelve (12) months after the Issue Date and (ii) that the Bonds, once admitted to trading on the relevant Regulated Market, continue being listed thereon (however, taking into account the rules and regulations of the relevant Regulated Market) and the CSD (as amended from time to time) preventing trading in the Bonds in close connection to the redemption of the Bonds).

## 12.3 **Financial Indebtedness**

The Issuer shall not, and shall procure that none of the Subsidiaries (other than Tallinna Moekombinaat and any of its subsidiaries) will, incur any new, or maintain or prolong any existing, Financial Indebtedness, other than Financial Indebtedness that constitutes Permitted Debt.

## 12.4 **Negative pledge**

The Issuer shall not, and shall procure that none of the Subsidiaries (other than Tallinna Moekombinaat and any of its subsidiaries) will, create or allow to subsist, retain, provide, prolong or renew any guarantee or security over any of its/their assets (present or future) to secure any Financial Indebtedness, other than any guarantee or security that constitutes Permitted Security.

## 12.5 **Financial support**

The Issuer shall not, and shall procure that none of the Subsidiaries (other than Tallinna Moekombinaat and any of its subsidiaries) will, grant any loans, guarantees, security or other financial assistance (“**Financial Support**”) to or for the benefit of any Person not being a Group Company, other than Financial Support that constitutes Permitted Debt and/or Permitted Security, provided however that any Financial Support granted to or for the benefit of Tallinna Moekombinaat or any of its subsidiaries shall only be permitted if no Event of Default is continuing or would result from such Financial Support, and:

- (a) it is financed in full through one or several capital injection(s) to the Group from a person not being a Group Company by way of either unrestricted equity in cash or a Subordinated Loan; or
- (b) (i) it is made on a *pro rata* basis in proportion to the Group’s direct and indirect shareholding in Tallinna Moekombinaat, (ii) no event of default howsoever described under any document relating to Financial Indebtedness of Tallinna Moekombinaat is continuing or would result from such Financial Support, (iii) the aggregate amount



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of all such Financial Support (including the Financial Support in question but excluding any Financial Support granted in accordance with paragraph (a) above) does not exceed EUR 2,000,000 and (iv) the provisions of Clause 12.8.2 are satisfied by all relevant Group Companies.

The Issuer shall notify the Agent of any transaction made in accordance with paragraph (a) or (b) above and, upon request by the Agent, provide the Agent with any information relating to the transaction which the Agent deems necessary (acting reasonably).

**12.6 Maintenance Test**

The Issuer shall ensure that the Maintenance Test is met at all times.

**12.7 Disposals of assets**

12.7.1 The Issuer shall not, and shall procure that no Material Group Company will, sell or otherwise dispose of shares in any Material Group Company or of all or substantially all of its or any Material Group Company's assets or operations to any Person not being the Issuer or any of the wholly-owned Subsidiaries, unless the transaction is carried out at fair market value and on terms and conditions customary for such transaction and provided that it does not have a Material Adverse Effect.

12.7.2 Subject to what is set out in Clause 12.7.4, the net proceeds from a disposal which is permitted according to Clause 12.7.1 shall be used in accordance with Clause 4.2, for repurchases of Bonds or for distributions in accordance with Clause 12.1 (*Distributions*), meaning, for the avoidance of doubt, that such net proceeds may not be used for activities outside the ordinary course of the Group's business.

12.7.3 Subject to what is set out in Clause 12.7.4, the Issuer shall not, and shall procure that none of the Subsidiaries will, sell, transfer or otherwise dispose of shares, assets or operations in any Pledged Company, or in any subsidiary of a Pledged Company, to any Group Company other than a Pledged Company (or, in relation to such transfers of shares, the Issuer). Any such transfer of shares to a Pledged Company or the Issuer shall be subject always to the Issuer procuring that any such shares so transferred which at any time are, are intended to be or have been included in the Transaction Security continues to be pledged following the transfer on the same or substantially similar terms and with such priority of security as is satisfactory to the Agent (acting reasonably).

12.7.4 The Issuer shall procure that the net proceeds from a disposal of shares in a Pledged Company to any Person not being the Issuer or any of the Pledged Companies immediately upon receipt by the relevant Group Company is transferred to the Deposit Account. The Agent shall be obliged to release the security interest under the relevant Share Pledge Agreement simultaneously with the receipt of such net proceeds on the Deposit Account. Upon request by the Issuer, the Agent shall be obliged to release an amount specified by the Issuer from the Deposit Account, provided that such amount without delay shall be used by the Group for (a) repurchases of Bonds or (b) investments in a real estate development project within the ordinary course of the Group's business, either by way of:

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- (i) acquisition of a property owning company, in which case (i) the acquiring Group Company shall provide a first priority pledge over such property owning company in favour of the Agent and the Holders (represented by the Agent) in accordance with a Share Pledge Agreement, (ii) such Share Pledge Agreement shall be entered into prior to the release of the relevant amount from the Deposit Account and (iii) the Issuer shall provide any other document reasonably requested by the Agent; or
  - (ii) investments in a property, provided that such investments increase the Property Value of such property and that such property already is owned by a Pledged Company.

12.7.5 If the Issuer, twelve (12) months after an amount has been deposited on the Deposit Account, has not requested that the Agent shall release such amount, such amount shall be used to partially prepay the Bonds in accordance with Clause 11.6 (*Mandatory partial repayment*).

12.7.6 The Issuer shall notify the Agent of any transaction made in accordance with this Clause 12.7 and, upon request by the Agent, provide the Agent with any information relating to the transaction which the Agent deems necessary (acting reasonably).

## 12.8 **Security**

12.8.1 The Issuer shall ensure that all shares in Pledged Companies, which from time to time are owned by a Group Company, are pledged in favour of the Agent and the Holders (represented by the Agent) as first ranking security in accordance with pledge agreements satisfactory to the Agent (acting reasonably).

12.8.2 If any Financial Support is granted to or for the benefit of Tallinna Moekombinaat or any of its subsidiaries pursuant paragraph (b) of Clause 12.5 (*Financial support*), the Issuer shall immediately designate Tallinna Moekombinaat as a Pledged Company and as soon as practically possible thereafter ensure that the relevant Group Companies pledge to the Agent and the Holders (represented by the Agent) as first ranking security all their shares in Tallinna Moekombinaat in accordance with pledge agreements satisfactory to the Agent (acting reasonably). The Issuer shall provide evidence satisfactory to the Agent (acting reasonably) in accordance with the provisions of Clause 14.1 (d) as applied *mutatis mutandis*, such evidence to be provided as soon as possible and no later than fifteen (15) Business Days after such Financial Support has been granted.

## 12.9 **Nature of business**

The Issuer shall procure that no substantial change is made to the general nature of the business as carried out by the Group on the Issue Date. A disposal or discontinuation of the Hotel Operations, in whole or in part, shall not be deemed to be a substantial change to the general nature of the business as carried out by the Group on the Issue Date.

## 12.10 **Insurances**

The Issuer shall, and shall procure that the Subsidiaries, maintain with financially sound and reputable insurance companies, funds or underwriters adequate insurance or captive

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arrangements with respect to its assets, equipment and business against such liabilities, casualties and contingencies and of such types and in such amounts as would normally be maintained by owners and/or operators owning similar assets to those owned by the relevant Group Company, acting in accordance with good industry practice in their relevant jurisdiction.

**12.11 Dealings with related parties**

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

**12.12 Compliance with law etcetera**

The Issuer shall, and shall procure that the Subsidiaries will, (i) comply in all material respects with all laws and regulations applicable from time to time, and (ii) obtain, maintain, and in all material respects comply with, the terms and conditions of any authorisation, approval, licence or other permit required for the business carried out by a Group Company.

**12.13 Financial reporting and information**

**12.13.1** The Issuer shall:

- (a) prepare and make available the annual audited consolidated financial statements of the Group and the annual audited unconsolidated financial statements of the Issuer, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors, to the Agent and on its website not later than four (4) months after the expiry of each financial year;
- (b) prepare and make available the quarterly interim unaudited consolidated reports of the Group, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors, to the Agent and on its website not later than two (2) months after the expiry of each relevant interim period;
- (c) issue a Compliance Certificate to the Agent (i) when a Financial Report is made available, (ii) in connection with the incurrence of Financial Indebtedness or payment of a Restricted Payment which requires that the Incurrence Test is met and (iii) at the Agent's request, within twenty (20) calendar days from such request;
- (d) keep the latest version of these Terms and Conditions (including documents amending these Terms and Conditions) available on its website;
- (e) promptly notify the Agent (and, as regards a Change of Control Event or De-listing Event, the Holders) upon becoming aware of the occurrence of a Change of Control Event, a De-listing Event or an Event of Default, and shall provide the Agent with such further information as the Agent may request (acting reasonably) following receipt of such notice (including, for the avoidance of doubt, calculations, figures and supporting documents in respect of the Maintenance Test); and

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- (f) prepare the financial reports referred to under item (i) and (ii) above in accordance with the Accounting Principles and, once the Bonds have been admitted to trading, make them available in accordance with the rules and regulations of Nasdaq Stockholm (or any other Regulated Market, as applicable) (as amended from time to time) and, if applicable, the Swedish Securities Market Act (*Sw. lag (2007:528) om värdepappersmarknaden*) (as amended from time to time).

12.13.2 The Issuer shall notify the Agent of any transaction referred to in Clause 12.7 (*Disposals of assets*) and shall, upon request by the Agent, provide the Agent with (a) any information relating to the transaction which the Agent deems necessary (acting reasonably), and, if applicable, (b) a determination from the Issuer which states whether the transaction is carried out on an arm's length basis and on terms and conditions customary for such transaction or not and whether it has a Material Adverse Effect or not. The Agent may assume that any information provided by the Issuer is correct, and the Agent shall not be responsible or liable for the adequacy, accuracy or completeness of such information. The Agent is not responsible for assessing if the transaction is carried out on an arm's length basis and on terms and conditions customary for such transaction and whether it has a Material Adverse Effect, but is not bound by the Issuer's determination under item (b) above.

#### 12.14 **Agent Agreement**

12.14.1 The Issuer shall in accordance with the Agent Agreement:

- (a) pay fees to the Agent;
- (b) indemnify the Agent for costs, losses and liabilities;
- (c) furnish to the Agent all information reasonably requested by or otherwise required to be delivered to the Agent; and
- (d) not act in a way which would give the Agent a legal or contractual right to terminate the Agent Agreement.

12.14.2 The Issuer and the Agent shall not agree to amend any provisions of the Agent Agreement without the prior consent of the Holders if the amendment would be detrimental to the interests of the Holders.

#### 12.15 **CSD related undertakings**

The Issuer shall keep the Bonds affiliated with a CSD and comply with all CSD regulations applicable to the Issuer from time to time.

### 13. **CONDITIONS PRECEDENT**

13.1 The Agent's approval of disbursements from the Escrow Account of the Redemption Amount standing to the credit of the Escrow Account is subject to the following events having taken place and the following documents having been received by the Agent:

- (a) copy of a duly issued unconditional and irrevocable call notice for the redemption of the Existing Bonds in full, such redemption to take place in connection with the

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disbursement from the Escrow Account (however, with due regard to the payment mechanisms of the CSD);

- (b) copy of duly executed funds flow statement evidencing, *inter alia*, that the amounts to be released from the Escrow Account shall be used towards redemption of the Existing Bonds in full (such amount to be transferred to the Issuer's bank account in EUR registered with the CSD in connection with the redemption of the Existing Bonds (however, with due regard to the payment mechanisms of the CSD)) ("**Funds Flow Statement**");
- (c) duly executed release notice(s) from the agent and security agent under the Existing Bonds confirming that any guarantee or security provided under the Existing Bonds will be released promptly upon such agent receiving a transcript from the CSD evidencing the redemption of the Existing Bonds in full;
- (d) duly executed copies of the Finance Documents (other than the Share Pledge Agreements and the Deposit Account Pledge Agreement);
- (e) copy of a form Compliance Certificate;
- (f) copies of the constitutional documents of the Issuer; and
- (g) copies of duly executed corporate resolutions and/or authorisations by the relevant Group Companies approving the Bond Issue, the terms of the Finance Documents and resolving to enter into such documents and any other documents necessary in connection therewith (as applicable).

13.2 When the Conditions Precedent set out above have been fulfilled to the satisfaction of the Agent (acting reasonably), the Agent shall instruct the account bank to make the transfers set out in the Funds Flow Statement from the Escrow Account, whereby the Group shall use the Net Proceeds so released in accordance with Clause 4.2.

#### 14. **CONDITIONS SUBSEQUENT**

14.1 The Issuer shall provide evidence satisfactory to the Agent (acting reasonably), showing that the following events have occurred as soon as possible after the transfers set out in the Funds Flow Statement has been made, but no later than at the times set out below (as applicable):

- (a) that the Existing Bonds have been redeemed in full, such evidence to be provided as soon as possible and no later than three (3) Business Days after the transfers set out in the Funds Flow Statement have been made;
- (b) that any guarantee or security provided under the Existing Bonds has been released in full with no remaining obligations of any Group Company, such evidence to be provided as soon as possible and no later than ten (10) Business Days after the transfers set out in the Funds Flow Statement have been made;
- (c) that the security purported to be created under the Deposit Account have been duly perfected, such evidence to be provided as soon as possible and no later than fifteen

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- (15) Business Days after the transfers set out in the Funds Flow Statement have been made, including:
- (i) copies of duly executed Deposit Account Pledge Agreement;
  - (ii) copy of duly executed notice to be provided by the Issuer to the account bank in respect of each agreement; and
  - (iii) copy of a duly signed acknowledgement of receipt of each notice set out in item (ii) above;
- (d) that the security purported to be created under the Share Pledge Agreements in respect of Pledged Companies incorporated in Estonia have been duly perfected, such evidence to be provided as soon as possible and no later than fifteen (15) Business Days after the transfers set out in the Funds Flow Statement have been made, including;
- (i) copies of duly executed Share Pledge Agreements;
  - (ii) evidence showing that the pledges in favour of the Agent, of all shares which are subject to the relevant Share Pledge Agreements, have been recorded in the register kept by NASDAQ CSD SE Eesti filiaal; and
  - (iii) any other event or document reasonably required by the Agent;
- (e) that the security purported to be created under the Share Pledge Agreement in respect of the Pledged Company incorporated in Latvia has been duly perfected, such evidence to be provided as soon as possible and no later than fifteen (15) Business Days after the transfers set out in the Funds Flow Statement have been made, including;
- (i) copies of duly executed Share Pledge Agreement and Terms and Conditions;
  - (ii) a copy of a power of attorney with notarial certification with apostille (if required) and with translation to Latvian language to sign the application (if the application is signed by an authorised person);
  - (iii) copies of duly signed special forms of applications for registration of the pledge;
  - (iv) a copy of a receipt or a printout of the payment order from online bank or the information on the payment of the state fee;
  - (v) evidence that pledge has been registered with the Commercial Pledge Register of the Enterprise Register of the Republic of Latvia; and
  - (vi) any other event or document reasonably required by the Agent;
- (f) that the security purported to be created under the Share Pledge Agreement in respect of the Pledged Company incorporated in Lithuania has been duly perfected, such

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evidence to be provided as soon as possible and no later than fifteen (15) Business Days after the transfers set out in the Funds Flow Statement have been made, including;

- (i) copies of duly executed and notarized Share Pledge Agreement;
  - (ii) evidence that the pledge has been registered with the Mortgage Register of the Republic of Lithuania; and
  - (iii) any other event or document reasonably required by the Agent.
- (g) that the security purported to be created under the Share Pledge Agreement in respect of the Pledged Company incorporated in Germany has been duly perfected, such evidence to be provided as soon as possible and no later than fifteen (15) Business Days after the transfers set out in the Funds Flow Statement have been made, including;
- (i) copies of duly executed Share Pledge Agreements authenticated by a notary public;
  - (ii) shareholders resolution(s) to approve the relevant pledge(s);
  - (iii) communication of the notary public to the company(ies) regarding the pledge(s); and
  - (iv) any other event or document reasonably required by the Agent.

## 15. TERMINATION OF THE BONDS

15.1 The Agent is entitled, on behalf of the Holders, to terminate the Bonds and to declare all, but not only some, of the Bonds due for payment immediately or at such later date as the Agent determines (such later date not falling later than twenty (20) Business Days from the date on which the Agent made such declaration), if:

- (a) **Non-payment:** The Issuer fails to pay an amount on the date it is due in accordance with the Finance Documents unless its failure to pay is due to technical or administrative error and is remedied within five (5) Business Days of the due date.
- (b) **Conditions subsequent:** The Issuer has not provided the Agent with evidence, in form and substance satisfactory to the Agent (acting reasonably), showing that each of the actions described under the Conditions Subsequent has been taken or that the events described therein have occurred not later than at the times set out therein.
- (c) **Other obligations:** The Issuer or any other Group Company does not comply with the Finance Documents (as applicable) in any other way than as set out under item (a) and (b) above, unless the non-compliance (i) is capable of being remedied and (ii) is remedied within fifteen (15) Business Days of the earlier of the Agent giving notice and the relevant Group Company becoming aware of the non-compliance (if the failure or violation is not capable of being remedied, the Agent may declare the Bonds payable without such prior written request).

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**(d) Cross-default/-acceleration:**

- (i) Any Financial Indebtedness of any Material Group Company is not paid when due nor within any originally applicable grace period or is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default howsoever described under any document relating to Financial Indebtedness of any Material Group Company; or
- (ii) any security interest securing Financial Indebtedness over any asset of any Material Group Company is enforced;

provided however that the amount of Financial Indebtedness referred to under item (i) and/or (ii) above, individually or in the aggregate exceeds an amount corresponding to EUR 2,000,000 and provided that it does not apply to any Financial Indebtedness owed to a Group Company.

**(e) Insolvency:**

- (i) Any Material Group Company is unable or admits inability to pay its debts as they fall due or is declared to be unable to pay its debts under applicable law, suspends making payments on its debts generally or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors (other than under these Terms and Conditions) with a view to rescheduling its Financial Indebtedness; or
- (ii) a moratorium is declared in respect of the Financial Indebtedness of any Material Group Company.

**(f) Insolvency proceedings:** Any corporate action, legal proceedings or other procedures are taken (other than (i) proceedings or petitions which are being disputed in good faith and are discharged, stayed or dismissed within 45 calendar days of commencement or, if earlier, the date on which it is advertised and (ii), in relation to the Subsidiaries, solvent liquidations) in relation to:

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

**(g) Mergers and demergers:**

- (i) A decision is made that any Material Group Company shall be merged or demerged into a company which is not a Group Company, unless the Agent has given its consent (not to be unreasonably withheld or delayed) in writing



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prior to the merger and/or demerger (where consent is not to be understood as a waiver of the rights that applicable law at the time assigns the concerned creditors); or

(ii) the Issuer merges with any other Person, or is subject to a demerger, with the effect that the Issuer is not the surviving entity.

(h) **Creditors' process:** Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Material Group Company having an aggregate value equal to or exceeding EUR 2,000,000 and where such process (i) is not discharged within forty-five (45) calendar days (ii) or is being made in bad faith by the claimant, as evidenced to the Agent.

(i) **Impossibility or illegality:** It is or becomes impossible or unlawful for the Issuer to fulfil or perform any of the provisions of the Finance Documents or if the obligations under the Finance Documents are not, or cease to be, legal, valid, binding and enforceable, provided it has a Material Adverse Effect.

(j) **Continuation of the business:** The Issuer or any other Material Group Company ceases to carry on its business (except if due to (i) a permitted merger or demerger as stipulated in (g) above, (ii) a disposal which is permitted under Clause 12.7 (*Disposals of assets*) or (iii) a disposal or discontinuation of the Hotel Operations, in whole or in part), provided it has a Material Adverse Effect.

15.2 The Agent may not terminate the Bonds in accordance with Clause 15.1 by reference to a specific Event of Default if it is no longer continuing or if it has been decided, in accordance with these Terms and Conditions, to waive such Event of Default (temporarily or permanently). However, if a moratorium occurs, the ending of that moratorium will not prevent termination for payment prematurely on the ground mentioned under Clause 15.1(e).

15.3 If the right to terminate the Bonds is based upon a decision of a court of law or a government authority, it is not necessary that the decision has become enforceable under law or that the period of appeal has expired in order for cause of termination to be deemed to exist.

15.4 The Issuer is obligated to inform the Agent immediately if any circumstance of the type specified in Clause 15.1 should occur. Should the Agent not receive such information, the Agent is entitled to assume that no such circumstance exists or can be expected to occur, provided that the Agent does not have knowledge of such circumstance. The Agent is under no obligations to make any investigations relating to the circumstances specified in Clause 15.1. The Issuer shall further, at the request of the Agent, provide the Agent with details of any circumstances referred to in Clause 15.1 and provide the Agent with all documents that may be of significance for the application of this Clause 15.

15.5 The Issuer is only obligated to inform the Agent according to Clause 15.4 if informing the Agent would not conflict with any statute or the Issuer's registration contract with Nasdaq Stockholm (and/or any other Regulated Market, as applicable). If such a conflict would exist pursuant to the listing contract with any Regulated Market or otherwise, the Issuer shall

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- however be obligated to either seek the approval from the relevant Regulated Market or undertake other reasonable measures, including entering into a non-disclosure agreement with the Agent, in order to be able to timely inform the Agent according to Clause 15.4.
- 15.6 If the Agent has been notified by the Issuer or has otherwise determined that there is a default under these Terms and Conditions according to Clause 15.1, the Agent shall decide, within twenty (20) Business Days of the day of notification or determination, if the Bonds shall be declared terminated. If the Agent has decided not to terminate the Bonds, the Agent shall, at the earliest possible date, notify the Holders that there exists a right of termination and obtain instructions from the Holders according to the provisions in Clause 17 (*Decisions by Holders*). If the Holders vote in favour of termination and instruct the Agent to terminate the Bonds, the Agent shall promptly declare the Bonds terminated. However, if the cause for termination according to the Agent's appraisal has ceased before the termination, the Agent shall not terminate the Bonds. The Agent shall in such case, at the earliest possible date, notify the Holders that the cause for termination has ceased. The Agent shall always be entitled to take the time necessary to consider whether an occurred event constitutes an Event of Default and whether such event has a Material Adverse Effect.
- 15.7 If the Holders, without any prior initiative to decision from the Agent or the Issuer, have made a decision regarding termination in accordance with Clause 17 (*Decisions by Holders*), the Agent shall promptly declare the Bonds terminated. The Agent is however not liable to take action if the Agent considers cause for termination not to be at hand, unless the instructing Holders agree in writing to indemnify and hold the Agent harmless from any loss or liability and, if requested by the Agent in its discretion, grant sufficient security for such indemnity.
- 15.8 If the Bonds are declared due and payable in accordance with the provisions in this Clause 15, the Agent shall take every reasonable measure necessary to recover the amounts outstanding under the Bonds.
- 15.9 For the avoidance of doubt, the Bonds cannot be terminated and become due for payment prematurely according to this Clause 15 without relevant decision by the Agent or following instructions from the Holders' pursuant to Clause 17 (*Decisions by Holders*).
- 15.10 If the Bonds are declared due and payable in accordance with this Clause 15, the Issuer shall redeem all Bonds with an amount per Bond equal to the applicable Call Option Amount for the relevant period plus accrued but unpaid interest.

## **16. DISTRIBUTION OF PROCEEDS**

- 16.1 If the Bonds have been declared due and payable in accordance with Clause 15 (*Termination of the Bonds*), all payments by the Issuer relating to the Bonds shall be distributed in the following order of priority, in accordance with the instructions of the Agent:
- (a) *first*, in or towards payment *pro rata* of (i) all unpaid fees, costs, expenses and indemnities payable by the Issuer to the Agent, (ii) other costs, expenses and indemnities relating to the termination of the Bonds, the enforcement of the Transaction Security or the protection of the Holders' rights, (iii) any non-reimbursed costs incurred by the Agent for external experts, and (iv) any non-reimbursed costs

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and expenses incurred by the Agent in relation to a Holders' Meeting or a Written Procedure;

- (b) *secondly*, in or towards payment *pro rata* of accrued but unpaid Interest (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 Bonds; 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. The application of proceeds in accordance with paragraphs (a) to (d) above shall, however, not restrict a Holders' Meeting or a Written Procedure from resolving that accrued Interest (whether overdue or not) shall be reduced without a corresponding reduction of principal.

- 16.2 If a Holder or another party has paid any fees, costs, expenses or indemnities referred to in Clause 16.1, such Holder or other party shall be entitled to reimbursement by way of a corresponding distribution in accordance with Clause 16.1.
- 16.3 If the Issuer or the Agent shall make any payment under this Clause 16, the Issuer or the Agent, as applicable, shall notify the Holders 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 9.1 shall apply.

## **17. DECISIONS BY HOLDERS**

- 17.1 A request by the Agent for a decision by the Holders on a matter relating to the Finance Documents shall (at the option of the Agent) be dealt with at a Holders' Meeting or by way of a Written Procedure.
- 17.2 Any request from the Issuer or a Holder (or Holders) representing at least ten (10.00) per cent. of the Adjusted Outstanding Amount (such request may only be validly made by a Person who is a Holder on the Business Day immediately following the day on which the request is received by the Agent and shall, if made by several Holders, be made by them jointly) for a decision by the Holders on a matter relating to the Finance Documents shall be directed to the Agent and dealt with at a Holders' Meeting or by way of a Written Procedure, as determined by the Agent. The Person requesting the decision may suggest the form for decision making, but if it is in the Agent's opinion more appropriate that a matter is dealt with at a Holders' Meeting than by way of a Written Procedure, it shall be dealt with at a Holders' Meeting.
- 17.3 The Agent may refrain from convening a Holders' Meeting or instigating a Written Procedure if (i) the suggested decision must be approved by any Person in addition to the Holders and such Person has informed the Agent that an approval will not be given, or (ii) the suggested decision is not in accordance with applicable laws.

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- 17.4 Only a Person who is, or who has been provided with a power of attorney or other proof of authorisation pursuant to Clause 8 (*Right to act on behalf of a Holder*) from a Person who is, registered as a Holder:
- (a) on the Record Date prior to the date of the Holders' Meeting, in respect of a Holders' Meeting; or
  - (b) on the Business Day specified in the communication pursuant to Clause 19.3, in respect of a Written Procedure;
- may exercise voting rights as a Holder at such Holders' Meeting or in such Written Procedure, provided that the relevant Bonds are included in the definition of Adjusted Outstanding Amount.
- 17.5 The following matters shall require consent of Holders representing at least two thirds (2/3) of the Adjusted Outstanding Amount for which Holders are voting at a Holders' Meeting or for which Holders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 19.3:
- (a) a mandatory exchange of Bonds for other securities;
  - (b) waive a breach of or amend an undertaking set out in Clause 12 (*Special undertakings*);
  - (c) release the Transaction Security in whole or in part (other than such security which shall be released in accordance with the Finance Documents without the requirement for the Agent to receive approval from the Holders);
  - (d) reduce the principal amount, Interest Rate or Interest which shall be paid by the Issuer;
  - (e) amend any payment day for principal or Interest or waive any breach of a payment undertaking; or
  - (f) amend the provisions in this Clause 17.5 or Clause 17.6.
- 17.6 Any matter not covered by Clause 17.5 shall require the consent of Holders representing more than fifty (50.00) per cent. of the Adjusted Outstanding Amount for which Holders are voting at a Holders' Meeting or for which Holders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 19.3. 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 20.1 (a)–(c)(b)), a termination of the Bonds or the enforcement of the Transaction Security in whole or in part.
- 17.7 If the number of votes or replies are equal, the opinion which is most beneficial for the Issuer, according to the chairman at a Holders' Meeting or the Agent in a Written Procedure, will prevail. The chairman at a Holders' Meeting shall be appointed by the Holders in accordance with Clause 17.6.
- 17.8 Quorum at a Holders' Meeting or in respect of a Written Procedure only exists if a Holder (or Holders) representing at least twenty (20) per cent. of the Adjusted Outstanding Amount:

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- (a) if at a Holders' 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.
- 17.9 If a quorum does not exist at a Holders' Meeting or in respect of a Written Procedure, the Agent or the Issuer shall convene a second Holders' Meeting (in accordance with Clause 18.1) or initiate a second Written Procedure (in accordance with Clause 19.1), as the case may be, provided that the relevant proposal has not been withdrawn by the Person(s) who initiated the procedure for Holders' consent. The quorum requirement in Clause 17.8 shall not apply to such second Holders' Meeting or Written Procedure.
- 17.10 Any decision which extends or increases the obligations of the Issuer or the Agent, or limits, reduces or extinguishes the rights or benefits of the Issuer or the Agent, under the Finance Documents shall be subject to the Issuer's or the Agent's consent, as appropriate.
- 17.11 A Holder holding more than one Bond need not use all its votes or cast all the votes to which it is entitled in the same way and may in its discretion use or cast some of its votes only.
- 17.12 The Issuer may not, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder for or as inducement to any consent under these Terms and Conditions, unless such consideration is offered to all Holders that consent at the relevant Holders' 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.
- 17.13 A matter decided at a duly convened and held Holders' Meeting or by way of Written Procedure is binding on all Holders, irrespective of them being present or represented at the Holders' Meeting or responding in the Written Procedure. The Holders that have not adopted or voted for a decision shall not be liable for any damages that this may cause other Holders.
- 17.14 All costs and expenses incurred by the Issuer or the Agent for the purpose of convening a Holders' Meeting or for the purpose of carrying out a Written Procedure, including reasonable fees to the Agent, shall be paid by the Issuer.
- 17.15 If a decision shall be taken by the Holders on a matter relating to the Finance Documents, the Issuer shall promptly at the request of the Agent provide the Agent with a certificate specifying the number of Bonds owned by Group Companies or (to the knowledge of the Issuer) their Affiliates, irrespective of whether such Person is directly registered as owner of such Bonds. The Agent shall not be responsible for the accuracy of such certificate or otherwise be responsible to determine whether a Bond is owned by a Group Company or an Affiliate of a Group Company.
- 17.16 Information about decisions taken at a Holders' Meeting or by way of a Written Procedure shall promptly be sent by notice to the Holders and published on the websites of the Issuer and the Agent, provided that a failure to do so shall not invalidate any decision made or voting result achieved. The minutes from the relevant Holders' Meeting or Written Procedure shall at the request of a Holder be sent to it by the Issuer or the Agent, as applicable.

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## **18. HOLDERS' MEETING**

- 18.1 The Agent shall convene a Holders' Meeting by sending a notice thereof to each Holder no later than five (5) Business Days after receipt of a request from the Issuer or the Holder(s) (or such later date as may be necessary for technical or administrative reasons). If the Holders' Meeting has been requested by the Holder(s), the Agent shall send a copy of the notice to the Issuer.
- 18.2 Should the Issuer want to replace the Agent, it may convene a Holders' Meeting in accordance with Clause 18.1 with a copy to the Agent. After a request from the Holders pursuant to Clause 21.4.3, 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 Holders' Meeting in accordance with Clause 18.1.
- 18.3 The notice pursuant to Clause 18.1 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 Holders), and (iv) a form of power of attorney. Only matters that have been included in the notice may be resolved upon at the Holders' Meeting. Should prior notification by the Holders be required in order to attend the Holders' Meeting, such requirement shall be included in the notice.
- 18.4 The Holders' Meeting shall be held no earlier than ten (10) Business Days and no later than twenty (20) Business Days from the notice.
- 18.5 If the Agent, in breach of these Terms and Conditions, has not convened a Holders' Meeting within five (5) Business Days after having received such notice, the requesting Person may convene the Holders' Meeting itself. If the requesting Person is a Holder, the Issuer shall upon request from such Holder provide the Holder with necessary information from the register kept by the CSD and, if no Person to open the Holders' Meeting has been appointed by the Agent, the meeting shall be opened by a Person appointed by the requesting Person.
- 18.6 At a Holders' Meeting, the Issuer, the Holders (or the Holders' representatives/proxies) and the Agent may attend along with each of their representatives, counsels and assistants. Further, the directors of the board, the managing director and other officials of the Issuer and the Issuer's auditors may attend the Holders' Meeting. The Holders' Meeting may decide that further individuals may attend. If a representative/proxy shall attend the Holders' Meeting instead of the Holder, the representative/proxy shall present a duly executed proxy or other document establishing its authority to represent the Holder.
- 18.7 Without amending or varying these Terms and Conditions, the Agent may prescribe such further regulations regarding the convening and holding of a Holders' Meeting as the Agent may deem appropriate. Such regulations may include a possibility for Holders to vote without attending the meeting in Person.

## **19. WRITTEN PROCEDURE**

- 19.1 The Agent shall instigate a Written Procedure no later than five (5) Business Days after receipt of a request from the Issuer or the Holder(s) (or such later date as may be necessary for technical or administrative reasons) by sending a communication to each such Person who is

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registered as a Holder on the Business Day prior to the date on which the communication is sent. If the Written Procedure has been requested by the Holder(s), the Agent shall send a copy of the communication to the Issuer.

- 19.2 Should the Issuer want to replace the Agent, it may send a communication in accordance with Clause 19.1 to each Holder with a copy to the Agent.
- 19.3 A communication pursuant to Clause 19.1 shall include (i) each request for a decision by the Holders, (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 Holder in order to be entitled to exercise voting rights (such Business Day not to fall earlier than the effective date of the communication pursuant to Clause 19.1), (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 Holder must reply to the request (such time period to last at least ten (10) Business Days but not more than thirty (30) Business Days from the communication pursuant to Clause 19.1). If the voting shall be made electronically, instructions for such voting shall be included in the communication.
- 19.4 If the Agent, in breach of these Terms and Conditions, has not instigated a Written Procedure within five (5) Business Days after having received such notice, the requesting Person may instigate a Written Procedure itself. If the requesting Person is a Holder, the Issuer shall upon request from such Holder provide the Holder with necessary information from the register kept by the CSD.
- 19.5 When the requisite majority consents of the total Adjusted Outstanding Amount pursuant to Clauses 17.5 and 17.6 have been received in a Written Procedure, the relevant decision shall be deemed to be adopted pursuant to Clause 17.5 or 17.6, as the case may be, even if the time period for replies in the Written Procedure has not yet expired.

## **20. AMENDMENTS AND WAIVERS**

- 20.1 The Issuer and the Agent (acting on behalf of the Holders) 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 Holders, 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 is necessary for the purpose of listing the Bonds or admitting the Bonds to trading on the corporate bond list of Nasdaq Stockholm (or any other Regulated Market, as applicable) provided such amendment or waiver does not materially adversely affect the rights of the Holders; or
  - (d) such amendment or waiver has been duly approved by the Holders in accordance with Clause 17 (*Decisions by Holders*).

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- 20.2 The consent of the Holders is not necessary to approve the particular form of any amendment or waiver to the Finance Documents. It is sufficient if such consent approves the substance of the amendment or waiver.
- 20.3 The Agent shall promptly notify the Holders of any amendments or waivers made in accordance with Clause 20.1, setting out the date from which the amendment or waiver will be effective, and ensure that any amendments to the Finance Documents are available on the websites of the Issuer and the Agent. The Issuer shall ensure that any amendments to these Terms and Conditions are duly registered with the CSD and each other relevant organisation or authority.
- 20.4 An amendment or waiver to the Finance Documents shall take effect on the date determined by the Holders' Meeting, in the Written Procedure or by the Agent, as the case may be.

## **21. APPOINTMENT AND REPLACEMENT OF THE AGENT**

### **21.1 Appointment of Agent**

- 21.1.1 By subscribing for Bonds, each initial Holder appoints the Agent to act as its agent and security agent in all matters relating to the Bonds and the Finance Documents, and authorises the Agent to act on its behalf (without first having to obtain its consent, unless such consent is specifically required by these Terms and Conditions) in any legal or arbitration proceedings relating to the Bonds held by such Holder, including the winding-up, dissolution, liquidation, company reorganisation (Sw. *företagsrekonstruktion*), or bankruptcy (Sw. *konkurs*) (or its equivalent in any other jurisdiction) of the Issuer. By acquiring Bonds, each subsequent Holder confirms such appointment and authorisation for the Agent to act on its behalf.
- 21.1.2 Each Holder shall immediately upon request by the Agent provide the Agent with any such documents, including a written power of attorney (in form and substance satisfactory to the Agent), as the Agent deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents. The Agent is under no obligation to represent a Holder which does not comply with such request.
- 21.1.3 The Issuer shall promptly upon request provide the Agent with any documents and other assistance (in form and substance satisfactory to the Agent), that the Agent deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents.
- 21.1.4 The Agent 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 Agent's obligations as agent and security agent under the Finance Documents are conditioned upon the due payment of such fees and indemnifications.
- 21.1.5 The Agent may act as agent and/or security trustee for several issues of securities issued by or relating to the Issuer and other Group Companies notwithstanding potential conflicts of interest.



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## 21.2 **Duties of the Agent**

- 21.2.1 The Agent shall represent the Holders in accordance with the Finance Documents. However, the Agent is not responsible for the execution or enforceability of the Finance Documents. The Agent shall keep the latest version of these Terms and Conditions (including any document amending these Terms and Conditions) available on the website of the Agent.
- 21.2.2 The Agent may assume that the documentation, information and evidence delivered to it is accurate, legally valid, enforceable, correct, true and complete unless it has actual knowledge to the contrary, and the Agent does not have to verify or assess the contents of any such documentation. The Agent does not have any obligation to review the documentation and evidence referred to above from a legal or commercial perspective of the Holders.
- 21.2.3 Upon request by a Holder, the Agent may distribute to the Holders any information from such Holder which relates to the Bonds (at the discretion of the Agent). The Agent may require that the requesting Holder reimburses any costs or expenses incurred, or to be incurred, by the Agent in doing so (including a reasonable fee for the work of the Agent) before any such information is distributed. The Agent shall upon request by a Holder disclose the identity of any other Holder who has consented to the Agent in doing so.
- 21.2.4 When acting in accordance with the Finance Documents, the Agent is always acting with binding effect on behalf of the Holders. The Agent shall carry out its duties under the Finance Documents in a reasonable, proficient and professional manner, with reasonable care and skill.
- 21.2.5 The Agent is entitled to delegate its duties to other professional parties, but the Agent shall remain liable for the actions of such parties under the Finance Documents.
- 21.2.6 The Agent shall treat all Holders equally and, when acting pursuant to the Finance Documents, act with regard only to the interests of the Holders 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.
- 21.2.7 The Agent shall, subject to Clause 26.2.2, be entitled to disclose to the Holders any event or circumstance directly or indirectly relating to the Issuer or the Bonds. Notwithstanding the foregoing, the Agent may if it considers it to be beneficial to the interests of the Holders delay disclosure or refrain from disclosing certain information other than in respect of an Event of Default that has occurred and is continuing.
- 21.2.8 The Agent is entitled to engage external experts when carrying out its duties under the Finance Documents. The Issuer shall on demand by the Agent pay all costs for external experts engaged (i) after the occurrence of an Event of Default, (ii) for the purpose of investigating or considering an event which the Agent reasonably believes is or may lead to an Event of Default or a matter relating to the Issuer which the Agent reasonably believes may be detrimental to the interests of the Holders under the Finance Documents or (iii) when the Agent is to make a determination under the Finance Documents. Any compensation for damages or other recoveries received by the Agent from external experts engaged by it for the purpose of carrying out its duties under the Finance Documents shall be distributed in accordance with Clause 16 (*Distribution of proceeds*).

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- 21.2.9 The Agent shall enter into agreements with the CSD, and comply with such agreement and the CSD regulations applicable to the Agent, as may be necessary in order for the Agent to carry out its duties under these Terms and Conditions.
- 21.2.10 Notwithstanding any other provision of the Finance Documents to the contrary, the Agent is not obligated to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation.
- 21.2.11 If in the Agent's reasonable opinion the cost, loss or liability which it may incur (including reasonable fees to the Agent) in complying with instructions of the Holders, or taking any action at its own initiative, will not be covered by the Issuer, the Agent 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.
- 21.2.12 The Agent shall give a notice to the Holders (i) before it ceases to perform its obligations under the Finance Documents by reason of the non-payment by the Issuer of any fee or indemnity due to the Agent under the Finance Documents, or (ii) if it refrains from acting for any reason described in Clause 21.2.11.
- 21.3 **Limited liability for the Agent**
- 21.3.1 The Agent will not be liable to the Holders 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 Agent shall never be responsible for indirect loss.
- 21.3.2 The Agent 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 Agent or if the Agent has acted with reasonable care in a situation when the Agent considers that it is detrimental to the interests of the Holders to delay the action in order to first obtain instructions from the Holders.
- 21.3.3 The Agent 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 Agent to the Holders, provided that the Agent 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 Agent for that purpose.
- 21.3.4 The Agent shall have no liability to the Holders for damage caused by the Agent acting in accordance with instructions of the Holders given in accordance with Clause 17 (*Decisions by Holders*).
- 21.3.5 Any liability towards the Issuer which is incurred by the Agent in acting under, or in relation to, the Finance Documents shall not be subject to set-off against the obligations of the Issuer to the Holders under the Finance Documents.

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## 21.4 **Replacement of the Agent**

- 21.4.1 Subject to Clause 21.4.6, the Agent may resign by giving notice to the Issuer and the Holders, in which case the Holders shall appoint a successor Agent at a Holders' Meeting convened by the retiring Agent or by way of Written Procedure initiated by the retiring Agent.
- 21.4.2 Subject to Clause 21.4.6, if the Agent is insolvent or becomes subject to bankruptcy proceedings, the Agent shall be deemed to resign as Agent and the Issuer shall within ten (10) Business Days appoint a successor Agent which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- 21.4.3 A Holder (or Holders) representing at least ten (10.00) per cent. of the Adjusted Outstanding Amount may, by notice to the Issuer (such notice may only be validly given by a Person who is a Holder on the Business Day immediately following the day on which the notice is received by the Issuer and shall, if given by several Holders, be given by them jointly), require that a Holders' Meeting is held for the purpose of dismissing the Agent and appointing a new Agent. The Issuer may, at a Holders' Meeting convened by it or by way of Written Procedure initiated by it, propose to the Holders that the Agent be dismissed and a new Agent appointed.
- 21.4.4 If the Holders have not appointed a successor Agent within ninety (90) calendar days after (i) the earlier of the notice of resignation was given or the resignation otherwise took place, or (ii) the Agent was dismissed through a decision by the Holders, the Issuer shall appoint a successor Agent which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- 21.4.5 The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- 21.4.6 The Agent's resignation or dismissal shall only take effect upon the appointment of a successor Agent and acceptance by such successor Agent of such appointment and the execution of all necessary documentation to effectively substitute the retiring Agent.
- 21.4.7 Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of the Finance Documents and remain liable under the Finance Documents in respect of any action which it took or failed to take whilst acting as Agent. Its successor, the Issuer and each of the Holders shall have the same rights and obligations amongst themselves under the Finance Documents as they would have had if such successor had been the original Agent.
- 21.4.8 In the event that there is a change of the Agent in accordance with this Clause 21.4, the Issuer shall execute such documents and take such actions as the new Agent may reasonably require for the purpose of vesting in such new Agent the rights, powers and obligation of the Agent and releasing the retiring Agent from its further obligations under the Finance Documents. Unless the Issuer and the new Agent agrees otherwise, the new Agent shall be entitled to the same fees and the same indemnities as the retiring Agent.

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## **22. APPOINTMENT AND REPLACEMENT OF THE ISSUING AGENT**

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

## **23. APPOINTMENT AND REPLACEMENT OF THE CSD**

- 23.1 The Issuer has appointed the CSD to manage certain tasks under these Terms and Conditions and in accordance with the legislation, rules and regulations applicable to the CSD.
- 23.2 The CSD may retire from its assignment or be dismissed by the Issuer, provided that the Issuer has effectively appointed a replacement CSD that accedes as CSD at the same time as the old CSD retires or is dismissed and provided also that the replacement does not have a negative effect on any Holder or the admission to trading of the Bonds on the corporate bond list of Nasdaq Stockholm (or any other Regulated Market, as applicable).

## **24. NO DIRECT ACTIONS BY HOLDERS**

- 24.1 A Holder may not take any action or take any legal steps whatsoever against any Group Company to enforce or recover any amount due or owing to it pursuant to the Finance Documents, or to initiate, support or procure the winding-up, dissolution, liquidation, company reorganisation (Sw. *företagsrekonstruktion*) or bankruptcy (Sw. *konkurs*) (or its equivalent in any other jurisdiction) of any Group Company in relation to any of the liabilities of any Group Company under the Finance Documents. Such action and steps may only be taken by the Agent.
- 24.2 Clause 24.1 shall not apply if the Agent has been instructed by the Holders 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 Holder to provide documents in accordance with Clause 21.1.2), 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 Agent under the Finance Documents or by any reason described in Clause 21.2.11, such failure must continue for at least forty (40) Business Days after notice pursuant to Clause 21.2.12 before a Holder may take any action referred to in Clause 24.1.
- 24.3 The provisions of Clause 24.1 shall not in any way limit an individual Holder's right to claim and enforce payments which are due to it under Clause 11.4 (*Mandatory repurchase due to a Change of Control Event or De-listing Event (put option)*) or other payments which are due by the Issuer to some but not all Holders.

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## **25. TIME-BAR**

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

## **26. NOTICES AND PRESS RELEASES**

### **26.1 Notices**

- 26.1.1 Any notice or other communication to be made under or in connection with these Terms and Conditions:
- (a) if to the Agent, shall be given at the address registered with the Swedish Companies Registration Office (Sw. *Bolagsverket*) on the Business Day prior to dispatch or to such address as notified by the Agent to the Issuer from time to time and, if sent by email by the Issuer, to such email address as notified by the Agent to the Issuer from time to time;
  - (b) if to the Issuer, shall be given at the address registered with the Estonian commercial register (Es. *äriregister*) on the Business Day prior to dispatch or to such address as notified by the Issuer to the Agent from time to time and, if sent by email by the Agent, to such email address as notified by the Issuer to the Agent from time to time; and
  - (c) if to the Holders, shall be given at their addresses as registered with the CSD (or in relation to courier or personal delivery, if such address is a box address, the addressee reasonably assumed to be associated with such box address), on the Business Day prior to dispatch, and by either courier delivery or letter for all Holders. A notice to the Holders shall also be published on the websites of the Issuer and the Trustee.
- 26.1.2 Any notice or other communication made by one Person to another under or in connection with these Terms and Conditions shall be sent by way of courier, personal delivery or letter (and, if between the Agent, the Issuer, by email) and will only be effective, in case of courier or personal delivery, when it has been left at the address specified in Clause 26.1.1 or, in case of letter, three (3) Business Days after being deposited postage prepaid in an envelope addressed to the address specified in Clause 26.1.1 or, in case of email to the Agent, or the Issuer, when received in legible form by the email address specified in Clause 26.1.1.

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26.1.3 Failure to send a notice or other communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

26.2 **Press releases**

26.2.1 Any notice that the Issuer or the Agent shall send to the Holders pursuant to Clauses 11.3.2, 12.13.1 (e), 15.6, 16.3, 17.16, 18.1, 19.1, 20.3, 21.2.12 and 21.4.1 shall also be published by way of press release by the Issuer or the Agent, as applicable.

26.2.2 In addition to Clause 26.2.1, if any information relating to the Bonds, the Issuer or the Group contained in a notice which the Agent may send to the Holders under these Terms and Conditions has not already been made public by way of a press release, the Agent shall before it sends such information to the Holders give the Issuer the opportunity to issue a press release containing such information. If the Issuer does not promptly issue a press release and the Agent considers it necessary to issue a press release containing such information before it can lawfully send a notice containing such information to the Holders, the Agent shall be entitled to issue such press release.

**27. FORCE MAJEURE AND LIMITATION OF LIABILITY**

27.1 Neither the Agent nor the Issuing Agent shall be held responsible for any damage arising out of any legal enactment, or any measure taken by a public authority, or war, strike, lockout, boycott, blockade or any other similar circumstance (a “**Force Majeure Event**”). The reservation in respect of strikes, lockouts, boycotts and blockades applies even if the Agent or the Issuing Agent itself takes such measures, or is subject to such measures.

27.2 The Issuing Agent shall have no liability to the Holders if it has observed reasonable care. The Issuing Agent shall never be responsible for indirect damage with exception of gross negligence and wilful misconduct.

27.3 Should a Force Majeure Event arise which prevents the Agent or the Issuing Agent from taking any action required to comply with the Finance Documents, such action may be postponed until the obstacle has been removed.

27.4 The provisions in this Clause 27 apply unless they are inconsistent with the provisions of the Central Securities Depositories and Financial Instruments Accounts Act which provisions shall take precedence.

**28. PARALLEL DEBT**

The Issuer will, for the purpose of establishing the pledges of shares in any company incorporated in Estonia and due to certain Estonian law requirements, irrevocably and unconditionally undertake to pay to the Agent, as creditor in its own right (and not as representative of the Holders), sums equal to and in the currency of each amount payable by the Issuer to the Holders under these Terms and Conditions as and when that amount falls due for payment under the Bonds, *i.e.* the Issuer will have the same payment undertakings under these Terms and Conditions to the Agent as to the Holders (the “**Parallel Debt**”). The Agent shall have its own independent right to demand payment of the amounts payable by the Issuer under the Parallel Debt. Any amount payable by the Issuer to the Agent under the Parallel

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Debt shall be decreased on a EUR by EUR basis by any sum the Holders have received from the Issuer under these Terms and Conditions and any amount payable by the Issuer to the Holders under these Terms and Conditions shall be decreased on a EUR by EUR basis by any sum the Agent has received from the Issuer under the Parallel Debt.

**29. GOVERNING LAW AND JURISDICTION**

29.1 These Terms and Conditions, and any non-contractual obligations arising out of or in connection therewith, shall be governed by and construed in accordance with the laws of Sweden.

29.2 Any dispute or claim arising in relation to these Terms and Conditions shall, subject to Clause 29.3, be determined by Swedish courts and the District Court of Stockholm shall be the court of first instance.

29.3 The submission to the jurisdiction of the Swedish courts shall not limit the right of the Agent (or the Holders, as applicable) to take proceedings against the Issuer in any court which may otherwise exercise jurisdiction over the Issuer or any of its assets.

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We hereby certify that the above Terms and Conditions are binding upon ourselves.

Place: Tallinn

[As amended and restated on: \[date\]](#)

AS PRO KAPITAL GRUPP

as Issuer

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Paolo Vittorio Michelozzi

We hereby undertake to act in accordance with the above Terms and Conditions to the extent they refer to us.

Place: Stockholm

[As amended and restated on: \[date\]](#)

NORDIC TRUSTEE & AGENCY AB (publ)

as Agent

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Name: