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# INTERCREDITOR AGREEMENT

dated 23 June 2015

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DDM TREASURY SWEDEN AB (publ)

as Company

and

CORPNORDIC SWEDEN AB

as Notes Agent and Security Agent

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relating, *inter alia*, to Senior Notes

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This **INTERCREDITOR AGREEMENT** (this “**Agreement**”) is dated 23 June 2015 and made between:

- (1) **DDM TREASURY SWEDEN AB (publ)**, a public limited liability company incorporated under the laws of Sweden with Reg. No. 556910-3053 (the “**Company**”); and
- (2) **CORPNORDIC SWEDEN AB (publ)**, as original notes agent (the “**Original Notes Agent**”); and
- (3) **CORPNORDIC SWEDEN (publ)** as security agent (the “**Security Agent**”)

It is agreed as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement:

“**Accession Agreement**” means an agreement substantially in the form set out in Schedule 1 (*Form of Accession Agreement*).

“**Agents**” means the Security Agent and the Creditor Agents.

“**Creditor**” means any creditor under any Secured Debt.

“**Creditor Agent**” means the Notes Agent, any New Creditor Agent, the Secured Debt Agent and any Hedge Counterparty Agent.

“**Default**” means a default (however described) under any of the Secured Finance Documents.

“**Early Termination Date**” means an Early Termination Date (as defined in the relevant Hedging Agreement).

“**Enforcement Action**” means any action of any kind to:

- (a) demand payment which has fallen due, declare prematurely due and payable or otherwise seek to accelerate payment of or place on demand all or any part of any Secured Debt (other than as a result of it becoming unlawful for a Secured Party to perform its obligations under, or of any voluntary or mandatory prepayment under, the Secured Finance Documents);
- (b) recover all or any part of any Secured Debt (including by exercising any set-off, save as required by law and normal netting and set-off transactions in the ordinary course of business);
- (c) exercise or enforce any enforcement right under the Transaction Security, in each case granted in relation to (or given in support of) all or any part of any Secured Debt;
- (d) petition for (or take or support any other step which may lead to) the Insolvency of the Company;

- (e) sue, claim or bring proceedings against the Company in respect of recovering any Secured Debt; or
- (f) in relation to any Hedging Debt only, designate an Early Termination Date under any Hedging Agreement, or terminate, or close out any transaction under, any Hedging Agreement, prior to its stated maturity, or demand payment of any amount which would become payable on or following an Early Termination Date or any such termination or close-out, unless voluntary or in accordance with a partial termination in accordance with the terms of the Secured Finance Documents and not related to any Default.

“**Enforcement Instruction**” means a notice sent by a Creditor Agent other than the Hedge Counterparty Agent to the Security Agent pursuant to Clause 8.2 (*Enforcement and Consultation*) requesting the Security Agent to take Enforcement Actions (including the manner and timing of enforcement), including enforcement of any Transaction Security, provided that instructions not to take Enforcement Actions or the absence of instructions as to enforcement shall not constitute “Enforcement Instructions”.

“**Event of Default**” means a Notes Event of Default, an event of default (as defined in any Hedging Agreement) or an event of default (however described) under any New Debt.

“**Final Discharge Date**” means the time when the Security Agent (acting reasonably) is satisfied that all Secured Obligations have been fully and irrevocably paid and discharged and all commitments of the Secured Parties in respect of the Secured Debt have expired or been cancelled.

“**Hedge Counterparty**” means any person who is or becomes a Hedge Counterparty pursuant to Clause 4.1 (*Hedge Counterparties*).

“**Hedge Counterparty Agent**” means a Hedge Counterparty agent appointed by a Hedge Counterparty in accordance with Clause 9 and which has delivered to the Security Agent a duly completed and signed Accession Agreement.

“**Hedging Agreement**” means any and all currency or interest swaps and/or interest cap and/or other hedging agreements entered into or to be entered into between the Company and a Hedge Counterparty and approved by the Security Agent under Clause 4.2 (*Hedging Agreements*).

“**Hedging Debt**” means, subject to Clause 4.2 (*Hedging Agreements*), all present and future moneys, debts and liabilities due, owing or incurred from time to time by the Company to any Hedge Counterparty under or in connection with any Hedging Agreement.

“**Insolvency Event**” means, in relation to an Issuer Group Company, any corporate action, legal proceedings or other procedure or step that is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, bankruptcy, administration or corporate reorganisation (Sw. *företagsrekonstruktion*) of any Issuer Group Company (other than a solvent liquidation that is permitted under the Secured Finance Documents); or
- (b) corporate actions, legal proceedings or other procedures (other than (A) proceedings which is not vexatious or frivolous or are being disputed in good faith and are discharged within ninety (90) calendar days, and (B), in relation to any Issuer Group Company, solvent liquidations that is permitted under the Secured

Finance Documents) in relation to (A) the suspension of payments, winding-up, reorganisation (Sw. *företagsrekonstruktion*) or similar (by way of voluntary arrangement or otherwise) of any Issuer Group Company, and (B) the appointment of a liquidator, administrator, or other similar officer in respect of any Issuer Group Company or any of its assets or any analogous procedure.

“**ISDA Master Agreement**” means the 1992 Multicurrency Cross-Border Master Agreement or the 2002 Master Agreement as published by the International Swaps and Derivatives Association Inc.

“**Issuer Group**” means the Company and its Subsidiaries for the time being (each an “**Issuer Group Company**”).

“**New Creditor**” means a provider of New Debt which has delivered to the Security Agent a duly completed and signed Accession Agreement.

“**New Creditor Agent**” means a New Creditor agent appointed by a New Creditor in accordance with Clause 9 which has delivered to the Security Agent a duly completed and signed Accession Agreement.

“**New Debt**” has the meaning ascribed to it in the Terms and Conditions.

“**New Debt Documents**” has the meaning ascribed to it in the Terms and Conditions.

“**Noteholders**” has the meaning ascribed to it in the Terms and Conditions.

“**Notes**” means the senior secured Notes issued by the Company from time to time in accordance with the Terms and Conditions.

“**Notes Agent**” means the Original Notes Agent or any new agent replacing the Original Notes Agent in accordance with Clause 21 (*Appointment and Replacement of the Agent*) of the Terms and Conditions.

“**Notes Debt**” means all present and future moneys, debts and liabilities due, owing or incurred from time to time by any Issuer Group Company to any Noteholder under or in connection with the Terms and Conditions and the Notes.

“**Notes Documents**” means the “Finance Documents” as defined in the Terms and Conditions.

“**Notes Event of Default**” shall have the meaning ascribed to the term “Event of Default” in the Terms and Conditions.

“**Party**” means a party to this Agreement.

“**Pledged Group Companies**” means each Issuer Group Company whose shares are subject to Transaction Security.

“**Recovering Creditor**” has the meaning ascribed to it in Clause 10.1.

“**Recovery**” means the aggregate of all moneys and other assets received or recovered (whether by way of payment, repayment, prepayment, distribution, redemption or purchase, in cash or in kind, or the exercise of any set-off or otherwise, including as a result of any Enforcement Action) from time to time by any Party under or in connection

with any Secured Debt, but excluding any amount received from a person other than a Party or an Issuer Group Company under a credit derivative or sub-participation arrangement.

“**Secured Debt**” means all present and future moneys, debts and liabilities due, owing or incurred from time to time by any Issuer Group Company to any Secured Party under the Notes Documents, any Hedging Agreement and any New Debt Documents, and all available commitments of any Secured Party, under or in connection with any Notes Documents and the New Debt Documents (as applicable).

“**Secured Debt Acceleration Date**” means the date (if any) on which a Creditor Agent exercises a right under Secured Financing Documents (other than any Hedging Agreement) to demand payment of any sum payable or cash cover in respect of any contingent sum.

“**Secured Debt Agent**” means, at any time the Creditor Agent of those Secured Parties who's Secured Debt at that time aggregate more than 50 per cent. of the total Secured Debt at that time, where the Notes Agent shall represent all Noteholders and act on the instructions of and on behalf of the Noteholders in accordance to the Terms and Conditions.

“**Secured Finance Documents**” means the Notes Documents, the Agency Agreement, the Hedging Agreements and the New Debt Documents.

“**Secured Obligations**” means all present and future payment obligations and liabilities (whether actual and contingent, whether owed jointly, severally or in any other capacity whatsoever and whether originally incurred by an Issuer Group Company or by some other person) of each Issuer Group Company under each of the Secured Finance Documents.

“**Secured Party**” means each of the Security Agent, the Notes Agent, the Noteholders (represented by the Notes Agent), any New Creditor and the Hedge Counterparties.

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

“**Security Documents**” has the meaning ascribed to it in the Terms and Conditions.

“**Security Enforcement Objective**” means using reasonable endeavours to maximise, so far as is consistent with prompt and expeditious realisation of value from enforcement of the Transaction Security, the Recovery by the Secured Parties, always provided that such enforcement is made in compliance with the fiduciary duties (Sw. *vårdplikt*) of the Security Agent.

“**Terms and Conditions**” means the terms and conditions of the Notes with ISIN SE0005280831, as amended or amended and restated.

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

## 1.2 Incorporation of defined terms

Unless a contrary indication appears, terms defined in the Terms and Conditions have the same meaning in this Agreement.

### 1.3 Construction

1.3.1 Unless a contrary indication appears, any reference in this Agreement to:

- (a) any “**Agent**”, the “**Company**”, any “**Creditor**”, any “**Finance Party**”, any “**Hedge Counterparty**”, any “**New Creditor**”, any “**Noteholder**”, the “**Notes Agent**”, any “**Party**”, any “**Recovering Creditor**”, any “**Secured Party**” or any “**Security Agent**” shall be construed so as to include its successors in title, assigns and transferees permitted under this Agreement;
- (b) “**assets**” includes present and future properties, revenues and rights of every description;
- (c) “**consent**” means any consent, approval, release or waiver or agreement to any amendment;
- (d) any “**Document**”, any “**Hedging Agreement**”, a “**New Debt Document**”, a “**Notes Document**”, any “**Secured Finance Document**”, the “**Terms and Conditions**”, a “**Security Document**” or any other document, agreement or instrument, other than a reference to a document or other agreement or instrument as originally entered into, is a reference to that document, agreement or instrument as amended, supplemented or restated (however fundamentally) as permitted by this Agreement;
- (e) “**indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (f) a “**person**” includes any person, firm, company, corporation, government, state or agency of a state or any association, or partnership (whether or not having separate legal personality) or two or more of the foregoing;
- (g) a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (h) “**set-off**” includes combining accounts and payment netting except that, in relation to any Hedging Debt, "set-off" does not include payment netting or close-out netting;
- (i) a provision of law is a reference to that provision as amended or re-enacted; and
- (j) a time of day is a reference to Stockholm time.

## 2. SUPERIORITY OF INTERCREDITOR AGREEMENT

The Secured Finance Documents are subject to this Agreement. In the event of any inconsistency between any Secured Finance Document and this Agreement, this Agreement shall prevail.

### **3. RANKING**

#### **3.1 Ranking of Secured Debt**

Unless expressly provided to the contrary in this Agreement, the Secured Debt shall rank *pari passu* in priority between the Notes Debt, any Hedging Debt and any New Debt.

#### **3.2 Ranking of interest in the Security Documents**

Except if otherwise provided in this Agreement, all Security created pursuant to any Secured Finance Document will be provided with first priority in respect of Secured Debt (*pari passu* between the Notes Debt, any New Debt and the Hedging Debt), subject to Clause 3.1 (*Ranking of Secured Debt*) and the other terms of this Agreement.

#### **3.3 Registration and notice**

The Parties will co-operate with each other with a view to reflecting the priority of the Security created pursuant to any Security Document in any register or with any filing or registration authority and in giving notice to any person of any of the Security created pursuant to any Security Document.

### **4. HEDGE COUNTERPARTIES**

#### **4.1 Hedge Counterparties**

A person is a Hedge Counterparty and is entitled to share in any Transaction Security in respect of any Hedging Debt only if that party delivers to the Security Agent a duly completed and signed Accession Agreement and the Security Agent executes such Accession Agreement.

#### **4.2 Hedging Agreements**

4.2.1 Liabilities under a Hedging Agreement will only be treated as Hedging Debt if the Hedging Agreement complies with this Clause 4.2.

4.2.2 Each Hedging Agreement shall:

- (a) be based on the 1992 or 2002 ISDA Master Agreement;
- (b) in the event of termination of a transaction whether upon a Termination Event or an event of default (each as defined in the relevant Hedging Agreement) provide for payments under the “Second Method” (in the case of the 1992 ISDA Master Agreement) or two way payments (in the case of any other form of Hedging Agreement);
- (c) specify “Automatic Early Termination” as applicable where an Issuer Group Company is the “Defaulting Party”, each as defined in the relevant ISDA Master Agreement, or similar in the case of any other form of Hedging Agreement, only if appropriate in view of the relevant ISDA netting opinion; and
- (d) Each Hedge Counterparty shall promptly upon request supply the Security Agent with a copy of any Hedging Agreement to which it is a party.



### 4.3 Restrictions on payment and security

4.3.1 No Hedge Counterparty shall demand or receive, and the Company shall not (and the Company shall ensure that no other Issuer Group Company will) make, any payment in respect of any Hedging Debt or apply any money or property in or towards discharge of any Hedging Debt (including by way of set-off) except:

- (a) for a payment or discharge made in accordance with scheduled payments under that Hedging Agreement and this Agreement;
- (b) for a payment or discharge made in accordance with Clause 4.4 (*Closing out of hedging transactions*);
- (c) payments or deductions arising as a result of:
  - (i) any of sections 2(d) (Deduction or Withholding for Tax), 2(e) (Default Interest; Other Amounts), 8(a) (Payment in the Contractual Currency), 8(b) (Judgments) and 11 (Expenses) of the 1992 ISDA Master Agreement (if the Hedging Agreement is based on a 1992 ISDA Master Agreement);
  - (ii) any of sections 2(d) (Deduction or Withholding for Tax), 8(a) (Payment in the Contractual Currency), 8(b) (Judgments), 9(h)(i) (Prior to Early Termination) and 11 (Expenses) of the 2002 ISDA Master Agreement of that Hedging Document (if the Hedging Document is based on a 2002 ISDA Master Agreement); or
  - (iii) any provision of a Hedging Document which is similar in meaning and effect to any provision listed in paragraphs (i) or (ii) above (if the Hedging Document is not based on an ISDA Master Agreement),

for the avoidance of doubt, application by a Hedge Counterparty in the order permitted by Clause 11 (*Application of Recoveries*) of proceeds received by a Hedge Counterparty in connection with the enforcement of any Transaction Security.

4.3.2 No Hedge Counterparty shall permit to subsist or receive, and the Company shall not (and the Company shall ensure that no other Issuer Group Company will) create or permit to subsist, any Security for or in respect of any Hedging Debt, other than under any Security Document in the form originally entered into or if permitted by the Security Agent.

### 4.4 Closing out of hedging transactions

4.4.1 A Hedge Counterparty and the Company may not terminate or close out any hedging transaction under a Hedging Agreement prior to its originally stated maturity or rely on automatic early termination or on any other provision in the relevant Hedging Agreement so as not to make a payment under the Hedging Agreement unless:

- (a) any Hedging Debt has not been paid on the due date and the non-payment has not been remedied within 30 days after the Hedge Counterparty has given notice to the Security Agent of the non-payment and of its intention to terminate or close out that hedging transaction;
- (b) the Secured Debt Acceleration Date has occurred;

- (c) an Illegality, Tax Event, Tax Event Upon Merger or a Credit Event Upon Merger (each as defined in the relevant ISDA Master Agreement), or similar event in the case of any other form of Hedging Agreement, has occurred;
  - (d) any Event of Default has occurred under Clause 14.1(e) under the Terms and Conditions; or
  - (e) the termination or closing out is carried out only to the extent required to reflect any repayment or prepayment of Secured Debt which was hedged by the hedging transaction, and the Security Agent is notified accordingly.
- 4.4.2 Promptly following a Secured Debt Acceleration Date each Hedge Counterparty shall:
- (a) exercise any rights it may have to terminate or close out any hedging transactions under a Hedging Agreement;
  - (b) pay to the Security Agent any amount owed by it and any close out amount received under a Hedging Agreement for application in accordance with Clause 11.1 (*Order of Application*); and
  - (c) exercise any right of set off or take or receive any payment in respect of any Hedging Debt of that Issuer Group Company.

## **5. TURNOVER OF NON-PERMITTED PAYMENTS**

A Secured Party that receives any Recovery (including by way of set-off) in excess of what it is permitted to receive pursuant to this Agreement shall not be entitled to retain such amount and shall notify the Security Agent and forthwith pay such amount to the Security Agent for application in accordance with Clause 11.1 (*Order of Application*). Should such amount not be paid by the relevant Secured Party to the Security Agent for application in accordance with Clause 11.1 (*Order of Application*), such amount shall be considered in any application of proceeds in accordance with Clause 11.1 (*Order of Application*) and such Secured Party's share in any such application may be reduced accordingly.

### **5.1 Turnover by the Company**

If the Company receives or recovers any amount which, under the terms of the Secured Finance Documents, should have been paid to a Secured Party or a Subordinated Party, the Company will promptly pay that amount to the Security Agent for application in accordance with Clause 11.1 (*Order of Application*).

### **5.2 Protection of Secured Debt upon Turnover**

If a Party is obliged to pay an amount to the Security Agent in accordance with this Clause 5, the relevant Secured Debt in respect of which the Party made such payment to the Security Agent will be deemed not to have been reduced or discharged in any way or to any extent by the relevant payment.

## **6. EFFECT OF INSOLVENCY**

- 6.1 The Secured Debt will rank *pari passu* and without any preference between them in case of the Insolvency of the Company.

- 6.2 The intercreditor provisions, to the extent permitted under the applicable law, in this Agreement shall remain in full force and effect and shall not be affected in any way by any intermediate payment or discharge in whole or in part of any Secured Debt.

## **7. TRANSACTION SECURITY**

### **7.1 Additional Security**

If the Company or an Issuer Group Company provides any additional Security for any Secured Debt, the Company shall ensure, and shall ensure that such Issuer Group Company ensures, that such additional Security is provided on the same terms as the Security Documents and in accordance with the terms (including ranking) set out in the Secured Finance Documents.

### **7.2 Sharing of Transaction Security with New Debt**

- 7.2.1 An Issuer Group Company may grant Security for New Debt to a New Creditor provided that:

- (a) the existing Transaction Security shall secure the New Debt on the same terms, including ranking, (without limiting the application of Clause 12 (*Release of Security*)), mutatis mutandis, as it secures the existing Secured Debt;
- (b) any Security which are not Transaction Security are granted also to the Secured Parties (including the New Creditor), in each case on a *pro rata* basis and on the same terms, including ranking, (without limiting the application of Clause 12 (*Release of Security*)), and any such new Security shall constitute Transaction Security;
- (c) the Security Agent (as representative for the Secured Parties) shall be a party to the Security Documents;
- (d) the Security Agent shall hold the Transaction Security on behalf of the New Creditor on the same terms, mutatis mutandis, as the Transaction Security is held by the Security Agent on behalf of the Secured Parties;
- (e) the New Creditor shall accede to this Agreement as a Secured Party;
- (f) the New Creditor shall have the same right to the Transaction Security and the proceeds pertaining thereto as the existing Secured Parties.

- 7.2.2 Subject to the fulfilment of the conditions set out in Clause 7.2.1 above and the Terms and Conditions, the Security Agent may from time to time, at the request of the Company, amend vary and/or restate the Transaction Security on behalf of itself and the Secured Parties in order to create Security in favour of a New Creditor or a Hedge Counterparty.

## **8. ENFORCEMENT AND CONSULTATION**

### **8.1 Enforcement Instructions**

- 8.1.1 Until the Final Discharge Date, the Security Agent shall:

- (a) exercise any right, power, authority or discretion vested in it as Security Agent in accordance with Clause 8.2 (*Enforcement and Consultation*) (or, if so instructed

pursuant to that Clause, refrain from exercising any right, power, authority or discretion vested in it as Security Agent); and

- (b) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction given to it under this Agreement.
- 8.1.2 Other than as expressly permitted under this Agreement, no Secured Party may independently accelerate, seek payment and exercise other rights or powers to take Enforcement Actions under the Secured Finance Documents.
- 8.1.3 The Security Agent may refrain from enforcing the Transaction Security or from taking other Enforcement Actions unless instructed otherwise in accordance with Clause 8.2 (*Enforcement and Consultation*).
- 8.1.4 Subject to the Transaction Security having become enforceable in accordance with their respective terms and subject to Clause 8.2 (*Enforcement and Consultation*), any Creditor Agent other than the Hedge Counterparty Agent may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit, provided that the instructions are consistent with the Security Enforcement Objective.
- 8.1.5 The Security Agent is entitled to rely on and comply with instructions given in accordance with this Clause 8.
- 8.2 Enforcement and Consultation**
- 8.2.1 Any Creditor Agent, other than the Hedge Counterparty Agent, may issue Enforcement Instructions. If such person wishes to issue Enforcement Instructions, it shall deliver a copy of those proposed Enforcement Instructions to the Security Agent.
- 8.2.2 If a Creditor Agent (acting reasonably) considers that the Security Agent is enforcing the Security in a manner which is not consistent with the Security Enforcement Objective, such Secured Party shall give notice to the other Secured Parties after which the Secured Debt Agent and the Security Agent shall consult for a period of twenty (20) days (or such lesser period that the Secured Parties may agree) with a view to agreeing on the manner of enforcement.
- 8.3 Miscellaneous**
- 8.3.1 Upon an enforcement of the Transaction Security, the proceeds shall be distributed in accordance with Clause 11.1 (*Order of Application*).
- 8.3.2 All Security or arrangement having similar effects may be released by the Security Agent, without the need for any further referral to or authority from anyone, upon any enforcement provided that the proceeds are distributed in accordance with the provisions set out in this Agreement.
- 8.3.3 Funds that the Security Agent receives (directly or indirectly) in connection with the enforcement of the Transaction Security constitute escrow funds (Sw. *redovisningsmedel*) and must be held on a separate account on behalf of the Secured Parties or the Company as the case may be. The Security Agent may hold those funds on the separate account until it has determined (in its own discretion) that the funds can be applied and how it shall be applied in accordance with the application of proceeds set forth in this Agreement.

8.3.4 Nothing herein shall preclude the rights of the Notes Agent or the New Creditors to join or intervene in or otherwise support any proceedings arising from insolvency proceedings or do such other things as may be necessary to maintain a claim or security, always as long as such action does not adversely affect the rights of the other Secured Parties or the Security Agent and is not inconsistent with its obligations under this Agreement and the Notes Agent shall give prompt notice to the other of any action taken by it to join, intervene or otherwise support any such proceedings.

#### **8.4 Disposal and Releases**

8.4.1 If in connection with any Enforcement Action the Security Agent sells or otherwise disposes of (or proposes to sell or otherwise dispose of) any asset under any Security Document, or an Issuer Group Company sells or otherwise disposes of (or proposes to sell or otherwise dispose of) any asset at the request of the Security Agent, the Security Agent may, and is hereby irrevocably authorised on behalf of each Party to release the Security created pursuant to the Security Documents over the relevant asset and apply the net proceeds of sale or disposal in or towards payment of Secured Debt in accordance with Clause 11.1 (*Order of Application*).

8.4.2 Each Party shall execute any assignments, transfers, releases or other documents and grant any consents and take any actions that the Security Agent may reasonably consider necessary to give effect to any release or disposal pursuant to this Clause 8.4 or for the purpose of any Enforcement Action taken (or to be taken) by the Security Agent in accordance with this Agreement or a transaction otherwise permitted by the Secured Finance Documents.

#### **8.5 Exercise of voting rights**

8.5.1 Each Creditor Agent agrees with the Security Agent that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any Issuer Group Company as instructed by the Security Agent.

8.5.2 The Security Agent shall give instructions for the purposes of Clause 8.5.1 above as directed by the Secured Debt Agent.

### **9. APPOINTMENT OF AGENTS**

9.1.1 For as long as the Redemption of the Notes not has occurred, the Notes Agent shall remain to be the Security Agent.

9.1.2 Each New Creditor and Hedge Counterparty will appoint upon accession to this Agreement:

(a) (subject to the written consent of the Notes Agent) the Notes Agent, or

(b) (subject to the written consent of the Company) itself or a third party,

to act as its representative and give instructions to the Security Agent in accordance with this Agreement, provided that, with respect to paragraph (b) above, the Parties prior to such appointment shall negotiate and agree in good faith the necessary amendments to this Agreement for the inclusion of a new agent for such New Creditor or Hedge Counterparty.

## **10. SHARING AMONG THE SECURED PARTIES**

### **10.1 Payments to Secured Parties**

If a Secured Party (a “**Recovering Creditor**”) makes a Recovery in respect of any amounts owed by the Company other than in accordance with Clause 11.1 (*Order of Application*) such Recovering Creditor shall not be entitled to retain such amount and shall notify the Security Agent and forthwith pay such amount to the Security Agent for application in accordance with Clause 11.1 (*Order of Application*). Should such amount not be paid by the relevant Recovering Creditor to the Security Agent for application in accordance with Clause 11.1 (*Order of Application*) and the relevant Recovering Creditor applies that amount towards payment of indebtedness owing under the Secured Finance Documents to which it is a party then:

- (a) the relevant Secured Party shall notify each Agent thereof and the Security Agent shall, using reasonable efforts, determine whether the Recovery is in excess of the amount that the Recovering Creditor would have been paid had the Recovery been made by the Security Agent and distributed in accordance with Clause 11.1 (*Order of Application*), without taking account of any Tax which would be imposed on any Agent in relation to the Recovery; and
- (b) if the Recovery is higher than the amount which the Security Agent determines may be retained by the Recovering Creditor as its share of any payment to be made in accordance with Clause 11.1 (*Order of Application*), such excess amount shall be considered in any application of proceeds in accordance with Clause 11.1 (*Order of Application*) and the Recovery Creditor's share in the application may be reduced accordingly.

### **10.2 Exceptions**

10.2.1 This Clause 10 shall not apply to the extent that the Recovering Creditor would not, after making any payment pursuant to this Clause, have a valid and enforceable subrogation claim against the Company.

10.2.2 This Clause 10 shall not apply to any amount which the Recovering Creditor has received or recovered as a result of taking legal or arbitration proceedings, if:

- (a) it notified the other Secured Parties of the legal or arbitration proceedings; and
- (b) all other Secured Parties had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

## **11. APPLICATION OF RECOVERIES**

### **11.1 Order of Application**

Subject to the rights of creditors mandatorily preferred by law applying to companies generally, the proceeds of enforcement of the Security conferred by the Security Documents and all other amounts paid to the Security Agent pursuant to this Agreement (including proceeds received in connection with bankruptcy or other insolvency proceedings or other Enforcement Actions) shall be applied in the following order:

- (a) *first*, in or towards payment *pro rata* of unpaid fees, costs, expenses and indemnities payable by the Company to the Security Agent;
- (b) *secondly*, in or towards payment *pro rata* of (i) all unpaid fees, costs, expenses and indemnities payable by the Company to the Notes Agent in accordance with the Agency Agreement (other than any indemnity given for liability against the Noteholders), (ii) other costs, expenses and indemnities relating to the acceleration of the Notes, the enforcement of the Transaction Security or the protection of the Noteholders' rights as may have been incurred by the Notes Agent, (iii) any costs incurred by the Notes Agent for external experts that have not been reimbursed by the Company in accordance with the Terms and Conditions, and (iv) any costs and expenses incurred by the Notes Agent in relation to a Noteholders' Meeting or a Written Procedure that have not been reimbursed by the Company in accordance with the Terms and Conditions;
- (c) *thirdly*, in or towards payment *pro rata* of any cost and expenses incurred by a Noteholders' Committee in accordance with an agreement with the Issuer pursuant to the Terms and Conditions that have not been reimbursed by the Company;
- (d) *fourthly*, towards payment *pro rata* of accrued interest unpaid under the Secured Debt (interest due on an earlier date to be paid before any interest due on a later date);
- (e) *fifthly*, towards payment *pro rata* of principal under the Secured Debt;
- (f) *sixthly*, in or towards payment *pro rata* of any other costs or outstanding amounts unpaid under the Terms and Conditions and the New Debt Documents;
- (g) *seventhly*, after the Final Discharge Date, in payment of the surplus (if any) to the Issuer.

## **11.2 Non-Cash Distributions**

If the Security Agent or any Secured Party receives any distribution otherwise than in cash in respect of any Secured Debt, such distribution will not be applied pursuant to Clause 11.1 (*Order of Application*) and reduce the relevant Secured Debt until cash proceeds from realisation of such distribution have been received and applied by the Security Agent.

## **12. RELEASE OF SECURITY**

### **12.1 General**

12.1.1 The Security Agent is authorised and may execute on behalf of any Secured Party, in each case without any need for further deferral to or authority from such Secured Party, any release of the Security created by any Security Document, to the extent that such release is made in accordance with the terms and conditions of the Secured Finance Documents.

12.1.2 Each Party acknowledges and agrees that it will execute such releases as the Security Agent may request in order to give effect to this Clause 12. No such release will affect the obligations and liabilities of the Company under any Secured Finance Document.

12.1.3 Any Transaction Security to be released in accordance with this Clause 12 will always be released with effect for all the Secured Parties and the remaining Transaction Security will continue to rank between the Secured Parties in accordance with Clause 3 (*Ranking*).

12.1.4 The Security Agent shall facilitate a restructuring as set out in Clauses 12.2 (*Intra-group restructurings*) without any authorisation from any Secured Party being required.

## **12.2 Intra-group restructurings**

12.2.1 Subject to the terms of the Secured Finance Documents, a Group Company shall be entitled to make disposals of shares in Issuer Group Companies which are subject to the Transaction Security (a “**Share Disposal**”) to another Issuer Group Company, or merge with another Issuer Group Company (a “**Merger**”), provided that:

- (a) in case of a Share Disposal, the transfer shall be made subject to the Security over such shares and the acquiring Issuer Group Company shall enter into any agreements, execute any documents and take all actions requested by the Security Agent for the purpose maintaining Security over such shares; and
- (b) in case of a Merger, if the shares in the transferor company but not the shares in the transferee company are subject to the Transaction Security, the shares in the transferee company are pledged to the Secured Parties on terms satisfactory to the Security Agent.

12.2.2 Notwithstanding anything to the contrary in Clause 12.2.1, the Company may not enter into a Merger as a transferor company.

12.2.3 The Security Agent may in connection with a Share Disposal or Merger made pursuant to Clause 12.2.1, release the Transaction Security for the purpose of enabling such disposal.

## **13. ROLE OF THE SECURITY AGENT**

### **13.1 Appointment of the Security Agent**

Each Secured Party hereby irrevocably:

- (a) appoints the Security Agent to act as security agent under and in connection with the relevant Secured Finance Documents and this Agreement;
- (b) authorises the Security Agent on its behalf to sign, execute and enforce the Security Documents;
- (c) authorises the Security Agent to enter into agreements with the Company or a third party or take such other actions, as is, in the Security Agent’s opinion, necessary for the purpose of maintaining, releasing or enforcing the Transaction Security or for the purpose of settling the Secured Parties’ or the Company’s rights to the Transaction Security, in each case in accordance with the terms of the Secured Finance Documents and provided that such agreements or actions are not in the sole opinion of the Security Agent detrimental to the interests of the Secured Parties (for the avoidance of doubt, a release in accordance with Clause 12.2 (*Intra-group restructurings*) shall for the purpose of this Clause 13.1 not be deemed detrimental to the Secured Parties); and



- (d) authorises the Security Agent on its behalf to perform the duties and to exercise the rights, powers, authorities and discretions specifically given to it under or in connection with the relevant Secured Finance Documents and this Agreement, together with any other incidental rights, powers, authorities and discretions.

### **13.2 Duties of the Security Agent**

- 13.2.1 The duties of the Security Agent under the Secured Finance Documents and this Agreement are solely mechanical and administrative in nature. Except as specifically provided in the Secured Finance Documents to which the Security Agent is a party, the Security Agent has no obligations of any kind to any other Party under or in connection with the Secured Finance Documents.
- 13.2.2 The Security Agent is not responsible for (i) the adequacy, accuracy or completeness of any information supplied by any Party in connection with the Secured Finance Documents or (ii) the legality, validity or enforceability of any Document or any agreement or document relating thereto or whether a Secured Party has recourse against any Party or any of its respective assets. Each Secured Party confirms to the Security Agent that it has made and will continue to make its own independent appraisal and investigation of all risks arising under or in connection with the Secured Finance Documents including with respect to the financial condition and status of the Company or any other Issuer Group Company.
- 13.2.3 The Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Issuer Group Company or any other person.
- 13.2.4 Notwithstanding any other provision of any Secured Finance Document or this Agreement to the contrary, the Security Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

### **13.3 Exclusion of Liability**

- 13.3.1 Without limiting Clause 13.2.2 below, the Security Agent will not be liable for any damages occurred as a result of any action taken by it under or in connection with any Secured Finance Document or this Agreement, unless directly caused by its gross negligence or wilful misconduct.
- 13.3.2 No Party (other than the Security Agent) may take any proceedings against any officer, employee or agent of the Security Agent in respect of any claim it might have against the Security Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Secured Finance Document or this Agreement and any officer, employee or agent of the Security Agent may rely on this Clause 13.3.
- 13.3.3 The Security Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Secured Finance Documents or this Agreement to be paid by it if it has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by it for that purpose.

### **13.4 Confidentiality**

- 13.4.1 The Security Agent (in acting as security agent for the Secured Parties) shall be regarded as acting through its respective security agency division which shall be treated as a separate entity from any other of its divisions or departments.

- 13.4.2 If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

## **14. THE NOTES AGENT**

### **14.1 Liability**

- 14.1.1 It is expressly understood and agreed by the Parties that this Agreement is executed and delivered by the Notes Agent not individually or personally but solely in its capacity as agent in the exercise of the powers and authority conferred and vested in it under the relevant Notes Documents for and on behalf of the Noteholders only for which the Notes Agent acts as agent and it shall have no liability for acting for itself or in any capacity other than as agent and nothing in this Agreement shall impose on it any obligation to pay any amount out of its personal assets. Notwithstanding any other provision of this Agreement, its obligations hereunder (if any) to make any payment of any amount or to hold any amount on behalf of any other party shall be only to make payment of such amount to or hold any such amount to the extent that (i) it has actual knowledge that such obligation has arisen and (ii) it has received and, on the date on which it acquires such actual knowledge, has not distributed to the Noteholders for which it acts as agent in accordance with the Terms and Conditions any such amount.
- 14.1.2 It is further understood and agreed by the Parties that in no case shall any Notes Agent be (i) personally responsible or accountable in damages or otherwise to any other party for any loss, damage or claim incurred by reason of any act or omission performed or omitted by that Notes Agent in good faith in accordance with this Agreement or any of the Notes Documents in a manner that such Notes Agent believed to be within the scope of the authority conferred on it by this Agreement or any of the Notes Documents or by law, or (ii) personally liable for or on account of any of the statements, representations, warranties, covenants or obligations stated to be those of any other Party, all such liability, if any, being expressly waived by the Parties and any person claiming by, through or under such Party; provided however, that each Notes Agent shall be personally liable under this Agreement for its own gross negligence or wilful misconduct. It is also acknowledged and agreed that no Notes Agent shall have any responsibility for the actions of any individual Noteholder (save in respect of its own actions).
- 14.1.3 The Notes Agent is not responsible for the appointment, or for monitoring the performance, of the Security Agent.
- 14.1.4 The Security Agent agrees and acknowledges that it shall have no claim against the Notes Agent in respect of any fees, costs, expenses and liabilities due and payable to, or incurred by, the Security Agent.
- 14.1.5 The Notes Agent shall be under no obligation to instruct or direct the Security Agent to take any Security Enforcement Action unless it shall have been instructed to do so by the Noteholders and if it shall have been indemnified and/or secured to its satisfaction.
- 14.1.6 The provisions of this Clause 14.1 shall survive the termination of this Agreement.

### **14.2 Instructions**

In acting under this Agreement, the Notes Agent is entitled to seek instructions from the Noteholders at any time and, where it acts on the instructions of the Noteholders, the Notes Agent shall not incur any liability to any person for so acting. The Notes Agent is not liable

to any person for any loss suffered as a result of any delay caused as a result of it seeking instructions from the Noteholders.

### **14.3 Notes Agent's assumptions**

14.3.1 The Notes Agent is entitled to assume that:

- (a) any payment or other distribution (other than payments or distributions made by the Notes Agent) made pursuant to this Agreement in respect of the Notes has been made in accordance with the ranking in Clause 3 (*Ranking*) and is not prohibited by any provisions of this Agreement and is made in accordance with these provisions;
- (b) the proceeds of enforcement of any Security conferred by the Security Documents have been applied in the order set out in Clause 11.1 (*Order of Application*);
- (c) any Notes issued comply with the provisions of this Agreement.

14.3.2 The Notes Agent shall not have any obligation under Clause 6 (*Effect of Insolvency*) in respect of amounts received or recovered by it unless (i) it has actual knowledge that the receipt or recovery falls within Clauses (a) above, and (ii) it has not distributed to the relevant Noteholders in accordance with the Terms and Conditions any amount so received or recovered.

14.3.3 The Notes Agent shall not be obliged to monitor performance by the Company, the Security Agent or any other Party to this Agreement or the Noteholders of their respective obligations under, or compliance by them with, the terms of this Agreement.

## **15. RESPONSIBILITY OF THE AGENTS**

### **15.1 No action**

15.1.1 Notwithstanding any other provision of this Agreement, no Agent shall have any obligation to take any action under this Agreement unless it is indemnified and/or secured to its satisfaction in respect of all costs, expenses and liabilities which it would in its opinion thereby incur (together with any associated VAT). No Agent shall have an obligation to indemnify (out of its personal assets) any other person, whether or not a Party, in respect of any of the transactions contemplated by this Agreement. In no event shall the permissive rights of an Agent to take action under this Agreement be construed as an obligation to do so.

15.1.2 Prior to taking any action under this Agreement any Agent may request and rely upon an opinion of counsel or opinion of another qualified expert, at the expense of the Company.

15.1.3 Notwithstanding any other provisions of this Agreement or any other Secured Finance Document to which an Agent is a party, in no event shall an Agent be liable for special, indirect, punitive or consequential loss or damages of any kind whatsoever (including but not limited to loss of business, goodwill, opportunity or profits) whether or not foreseeable, even if such Agent has been advised of the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

**15.2 Reliance on certificates**

The Agents shall at all times be entitled to and may rely on any notice, consent or certificate given or granted by any Party without being under any obligation to enquire or otherwise determine whether any such notice, consent or certificate has been given or granted by such Party properly acting in accordance with the provisions of this Agreement.

**15.3 No fiduciary duty**

No Agent shall be deemed to owe any fiduciary duty to any Creditor (other than if expressly stated) and shall not be personally liable to any Creditor if it shall in good faith mistakenly pay over or distribute to any Creditor or to any other person cash, property or securities to which any other Creditor shall be entitled by virtue of this Agreement or otherwise.

**15.4 Debt assumptions**

15.4.1 Each Agent may rely on:

- (a) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and
- (b) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

15.4.2 Each Agent may assume, unless it has received notice to the contrary in its capacity as agent, that:

- (a) no event of default or potential event of default, however described, has occurred (unless it has actual knowledge of a failure by the Company to pay on the due date an amount pursuant to a Secured Finance Document);
- (b) no Secured Debt has been accelerated;
- (c) any instructions or Enforcement Instructions received by it from a Creditor Agent are duly given in accordance with the terms of the Secured Finance Documents, and, unless it has received actual notice of revocation, that those instructions or directions have not been revoked; and
- (d) any right, power, authority or discretion vested in any Party or any group of Secured Parties has not been exercised.

15.4.3 Each Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

15.4.4 Each Agent may disclose to any other Party any information it reasonably believes it has received as Agent.

15.4.5 No Agent is obliged to monitor or enquire whether any Event of Default has occurred.

**15.5 Provisions survive termination**

The provisions of this Clause 15 shall survive any termination of this Agreement.

**15.6 Other Parties not affected**

This Clause is intended to afford protection to the Agents only. No provision of this Clause 15 shall alter or change the rights and obligations as between the other Parties in respect of each other.

**15.7 Confirmation**

Without affecting the responsibility of the Company for information supplied by it or on its behalf in connection with any Secured Finance Document, each Secured Party (other than the Notes Agent (in its personal capacity) and the Security Agent) confirms that it:

- (a) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Secured Finance Documents or any Hedging Agreement (including the financial condition and affairs of the Issuer Group and the nature and extent of any recourse against any Party or its assets); and
- (b) has not relied on any information provided to it by the Agents in connection with any Secured Finance Document.

**15.8 Provision of information**

No Agent is obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party. No Agent is responsible for:

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

**15.9 Disclosure of information**

The Company irrevocably authorises any Agent to disclose to any Secured Party any information that is received by the Agent in its capacity as Agent.

**15.10 Illegality**

- 15.10.1 Each Agent may refrain from doing anything (including disclosing any information) which might, in its opinion, constitute a breach of any law or regulation and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.
- 15.10.2 Furthermore, each Agent may also refrain from taking such action if it would otherwise render it liable to any person in that jurisdiction or if, in its opinion based upon such legal advice, it would not have the power to do the relevant thing in that jurisdiction by virtue of any applicable law in that jurisdiction or if it is determined by any court or other competent authority in that jurisdiction that it does not have such power.

## **16. INFORMATION**

### **16.1 Defaults**

16.1.1 The Notes Agent will promptly notify the other Agents of the occurrence of an Event of Default under or breach of the Finance Documents (as defined in the Terms and Conditions) of which it has actual knowledge.

16.1.2 Any New Creditor Agent will promptly notify each Agent of the occurrence of an event of default (however described) under or breach of the relevant New Debt Documents of which it has actual knowledge.

### **16.2 Amounts of Secured Debt**

Each Creditor Agent will on written request by any of the others or the Security Agent from time to time notify the others Creditor Agents and the Security Agent in writing of details of the amount of its outstanding Secured Debt.

### **16.3 Final Discharge Date**

16.3.1 The Notes Agent shall promptly notify the other Agents of the occurrence of a Redemption under the Terms and Conditions.

16.3.2 Any New Creditor Agent and Hedging Counterparty Agent (as the case may be) shall promptly notify the other Agent of the occurrence of the Final Discharge Date under the relevant New Debt Documents or Hedging Agreement (as the case may be).

### **16.4 Hedge Counterparty**

16.4.1 Each Hedge Counterparty shall on request by any Secured Debt Agent or the Security Agent from time to time notify the Secured Debt Agent and the Security Agent of the Notional Amount (as defined in the relevant Hedging Agreement) of each Hedging Agreement to which it is a party and the residual maturity of each such Hedging Agreement.

16.4.2 If any Hedge Counterparty does not promptly on request notify the Secured Debt Agent and the Security Agent of any matter pursuant to Clause 16.4.1 above, the Secured Debt Agent and the Security Agent may assume that the Notional Amount (as defined in the relevant Hedging Agreement) of each relevant Hedging Agreement is that set out in that Hedging Agreement and may calculate the residual maturity of each relevant Hedging Agreement by reference to that Hedging Agreement.

## **17. CHANGES TO THE PARTIES**

### **17.1 Assignments and Transfers by Creditors**

17.1.1 No Secured Party, or Creditor Agent if the Secured Party is represented by such, may assign or transfer any of its rights or obligations under this Agreement or any Document to, or in favour of, any person unless such assignment or transfer is made in accordance with the terms of the relevant Secured Finance Document and, as applicable, provided that such person executes and delivers a duly completed and signed Accession Agreement to the Security Agent. Such assignment or transfer will not be effective unless and until the Security Agent executes an Accession Agreement duly completed and signed on behalf of that person.

17.1.2 When an assignment is made by a Secured Party in accordance with Clause 17.1.1, all rights of such Secured Party under this Agreement and the Security Documents shall automatically be transferred to the new Secured Party.

## **17.2 Assignment and Transfer by the Company**

The Company may not assign or transfer any of its rights or obligations under this Agreement or any Secured Finance Document other than pursuant to Clause 12 (*Release of security*).

## **17.3 Resignation of Agents**

17.3.1 An Agent may resign and appoint one of its Affiliates acting through an office in Sweden as successor by giving notice to the other Agents and the Company..

17.3.2 Alternatively an Agent may resign by giving notice to the other Agents and the Company, in which case the other Agents (after consultation with the Company) may appoint a successor Agent.

17.3.3 If the Agents have not agreed upon and appointed a successor Agent in accordance with Clause 17.3.2 above within 30 days after notice of resignation was given, the retiring Agent (after consultation with the Company) may appoint a successor Agent.

17.3.4 The retiring Agent shall, at its own cost, make available to its successor such documents and records and provide such assistance as its successor may reasonably request for the purposes of performing its functions as Agent under the Secured Finance Documents and this Agreement.

17.3.5 The resignation notice of an Agent shall only take effect upon the appointment of a successor.

17.3.6 Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of this Agreement provided however that a retiring Security Agent shall remain entitled to the benefit of Clause 13 (*Role of the Security Agent*) and 19.5 (*Indemnity to the Security Agent*).

17.3.7 A successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

17.3.8 Notwithstanding Clause 17.3.1 to 17.3.8 above:

- (a) for as long as any Notes are outstanding, resignation and appointment of the Security Agent is subject to the approval by the Secured Debt Agent (in its sole discretion without any approval or consent from the other Creditor Agents (if any));
- (b) resignation and appointment of an Agent shall always be made in accordance with the Secured Finance Documents; and
- (c) a Secured Debt Agent may only resign if the new Secured Debt Agent accedes to this Agreement.

**17.4 Execution and Notification by Security Agent**

17.4.1 Each Party (other than the relevant acceding person) irrevocably authorises the Security Agent to execute on its behalf any Accession Agreement which has been duly completed and signed on behalf of the relevant acceding person in accordance with this Agreement.

17.4.2 The Security Agent shall notify the other Parties promptly of the receipt and execution by it on their behalf of any Accession Agreement.

**18. NOTICES****18.1 Communications in Writing**

Any communication or document to be made or delivered under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made or delivered by email or letter.

**18.2 Addresses**

The address and email (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is:

- (a) in the case of the Company, that identified in accordance with the Terms and Conditions;
- (b) the Security Agent, that identified with its name below;
- (c) in the case of the Notes Agent, that identified in accordance with the Terms and Conditions; and
- (d) in the case of any other Secured Party or a Creditor Agent, that notified in writing to the Security Agent on or prior to the date on which it becomes a Party,

or any substitute address or email or department or officer as the Party may notify to the Security Agent (or the Security Agent may notify to the other Parties, if a change is made by the Security Agent) by not less than five Business Days' notice.

**18.3 Delivery**

Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:

- (a) if by way of email, when received in legible form; or
- (b) if by way of letter, when it has been left at the relevant address or three Business Days after being deposited post postage prepaid in an envelope addressed to the address specified,

and, if a particular department or officer is specified as part of its address details provided under Clause 18.2 (*Addresses*), if addressed to that department or officer.



**18.4 Notification of Address and Email Address**

Promptly upon receipt of notification of an email address and postal address or change thereof pursuant to Clause 18.2 (*Addresses*) or changing its own email address and postal address, the Security Agent shall notify the other Parties.

**18.5 English Language**

18.5.1 Any notice given under or in connection with this Agreement must be in English.

18.5.2 All other documents provided under or in connection with this Agreement must be in English.

**19. EXPENSES AND INDEMNITIES****19.1 Security Agent Expenses**

The Company shall promptly on demand pay the Security Agent the amount of all reasonable costs and expenses (including external legal fees) incurred by it in connection with the preservation, enforcement or release of any Security created pursuant to any Security Document.

**19.2 Secured Parties' Indemnity to the Security Agent**

Each Creditor Agent shall (in proportion to the Secured Parties share of the Secured Debt then outstanding to all the Secured Debt then outstanding and/or available for drawing under the relevant Secured Finance Documents) indemnify the Security Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Security Agent (otherwise than by reason of its gross negligence or wilful misconduct) in acting as Security Agent under the Secured Finance Documents (unless it has been reimbursed by the Company pursuant to a Secured Finance Document).

**19.3 Deduction from Amounts Payable by the Security Agent**

If any Party owes an amount to the Security Agent under the Secured Finance Documents or this Agreement, the Security Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Security Agent would otherwise be obliged to make under the Secured Finance Documents or this Agreement and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Secured Finance Documents or this Agreement that Party shall be regarded as having received any amount so deducted.

**19.4 Indemnity to the Security Agent**

The Company shall on demand indemnify the Security Agent against any cost, loss or liability incurred by the Security Agent (acting reasonably) as a result of:

- (a) investigating any event which it reasonably believes is an event of default or potential event of default, however described;
- (b) acting or relying on any notice, request or instruction which it believes to be genuine, correct and appropriately authorised;
- (c) the protection or enforcement of the Transaction Security,

- (d) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent by the Secured Finance Documents or by law; or
- (e) any default by any Issuer Group Company in the performance of any of the obligations expressed to be assumed by it in the Secured Finance Documents.

## **19.5 Currency Indemnity**

19.5.1 If any Recoveries or any other payment required to be paid by the Company under this Agreement (a “**Sum**”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “**First Currency**”) in which that Sum is payable into another currency (the “**Second Currency**”) for the purpose of:

- (a) making or filing a claim or proof against the Company; or
- (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Company shall as an independent obligation, within three Business Days of demand, indemnify the Security Agent and, until the Final Discharge Date, the Secured Debt Agent and each Hedge Counterparty against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

19.5.2 The Company waives any right it may have in any jurisdiction to pay any amount under this Agreement in a currency or currency unit other than that in which it is expressed to be payable.

## **20. AMENDMENTS AND WAIVERS**

### **20.1 Required Consents**

20.1.1 Each Creditor Agent may amend or waive the terms of the Secured Finance Documents (other than the Intercreditor Agreement or any Security Documents) in accordance with their terms at any time, provided that the obligations under such Secured Finance Document are owed only to such Secured Party.

20.1.2 No amendment or waiver may be made or given that has the effect of changing or which relates to an amendment to any material term of the Intercreditor Agreement (including to the order of priority or subordination under the Intercreditor Agreement) without the prior written consent of the Agents (until the Final Discharge Date), such consent to be provided in accordance with and subject to any relevant provisions of the Secured Finance Documents in relation to majority requirements or otherwise.

20.1.3 The prior consent of the Creditor Agents, such consent to be provided in accordance with and subject to any relevant provisions of the Secured Finance Documents in relation to majority requirements or otherwise, is required to authorise any amendment or waiver of, or consent under, any Transaction Security which would affect the nature or scope of the security assets or the manner in which the proceeds of enforcement of the Transaction Security are distributed.

- 20.1.4 The consent of a Hedge Counterparty is not required for any amendment or waiver of a term of this Agreement which does not directly affect the rights or obligations of that Hedge Counterparty.
- 20.1.5 The consent of the Company is not required for any amendment or waiver of a term of this Agreement except if the amendment or waiver may impose new or additional obligations on or withdraw or reduce the rights of the Company.
- 20.1.6 Any amendment or waiver made in accordance with this Clause 20.1 will be binding on all Parties and the Security Agent may effect, on behalf of any other Agent, Secured Party or Hedge Counterparty, any amendment or waiver permitted by this Clause 20.1.

## **21. PARTIAL INVALIDITY**

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

## **22. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Secured Party any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

## **23. FORCE MAJEURE AND LIMITATION OF LIABILITY**

- 23.1.1 A Secured Party shall not be held responsible for any damage arising out of any Swedish or foreign legal enactment, or any measure undertaken by a Swedish or foreign public authority, or war, strike, lockout, boycott, blockade or any other similar circumstance. The reservation in respect of strikes, lockouts, boycotts and blockades applies even if the Lender takes such measures, or is subject to such measures.
- 23.1.2 Any damage that may arise in other cases shall not be indemnified by the Secured Parties if it has observed normal care. The Secured Parties shall not in any case be held responsible for any indirect damage. Should there be an obstacle as described above for the Secured Parties to take any action in compliance with this Agreement, such action may be postponed until the obstacle has been removed.

## **24. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

## **25. GOVERNING LAW AND JURISDICTION**

- 25.1.1 This Agreement is governed by Swedish law.
- 25.1.2 Subject to Clause 25.1.3 below, the courts of Sweden have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute

regarding the existence, validity or termination of this Agreement). The City Court of Stockholm (*Stockholms tingsrätt*) shall be court of first instance.

- 25.1.3 Clause 25.1.2 above is for the benefit of the Security Agent and the Secured Parties only. As a result the Secured Parties shall not be prevented from taking proceedings in any other courts with jurisdiction over the Company or any of its assets. To the extent allowed by law, the Security Agent and the Secured Parties may take concurrent proceedings in any number of jurisdictions.
-

## Schedule 1

**FORM OF ACCESSION AGREEMENT**

To: [●] as Security Agent  
 From: [Notes Agent/Hedge Counterparty/New Creditor/[Other]]  
 Dated: [●]

Dear Sirs,

**DDM Treasury Sweden AB (publ) - Intercreditor Agreement dated 23 June 2015 (the  
 “Agreement”)**

We refer to the Agreement. This is an Accession Agreement. Terms defined in the Agreement have the same meaning in this Accession Agreement unless given a different meaning in this Accession Agreement.

- (1) [Notes Agent/Hedge Counterparty /New Creditor/[other]] agrees to be bound by the terms of the Agreement [and, in the case of a Hedge Counterparty] as a [Secured Party/Hedge Counterparty].
- (2) [Notes Agent/Hedge Counterparty/New Creditor/[other]]'s administrative details are as follows:
- Address: [●]
- Attention: [●]
- (3) [Details of the Hedging Agreement are as follows:
- Date: [●]
- Parties: [Proposed Hedge Counterparty] and [the Company].
- Terms: [Insert brief summary of type of contract].
- [A copy of the Hedging Agreement is attached to this Accession Agreement.]
- (4) This Accession Agreement is governed by Swedish law.

**[NAME]**  
 As the [Notes Agent/Hedge Counterparty/[other]]

\_\_\_\_\_  
 Name:

\_\_\_\_\_  
 Name:

This Accession Agreement is accepted by the Security Agent.

**[NAME]**  
As the Security Agent

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_

This Agreement has been signed in three (3) originals, of which the parties have received one each.

**DDM TREASURY SWEDEN AB (publ)**  
as the Company

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

**CORPNORDIC SWEDEN AB**  
as the Original Notes Agent

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

**CORPNORDIC SWEDEN AB**  
as the Security Agent

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name: