

*Applicable starting with 23 september 2022*

## **GENERAL CONDITIONS FOR SECURITIES -MOVABLE SECURITIES-**

This document represents the General Conditions for Securities of Banca Comercială Română S.A., which are attached to and forms an integral part of the Mortgage Agreement (as defined below) concluded between, inter alia, the Bank and the Guarantor (as defined below), unless the Bank and the Guarantor agree otherwise.

### **CHAPTER 1 – GENERAL PROVISIONS**

#### **1. DEFINITIONS AND INTERPRETATION**

##### **1.1 Terms defined in the General Conditions for Credit Facilities**

Whenever used in these GCS, unless the context requires otherwise or assigns another meaning to such term, the terms defined in the General Conditions for Credit Facilities shall have the same meaning in these GCS.

##### **1.2 Definitions of certain terms**

In the Mortgage Agreement, unless the Bank and the Guarantor expressly agree otherwise, the following capitalised terms shall have the meaning assigned below:

**Mortgaged Assets** shall have the meaning assigned under the relevant Mortgage Agreement.

**Shares** shall mean any and all current and future shares issued by the relevant company (and any rights in connection thereto), held or to be held in the future by the Guarantor, including, but not limited to: (a) shares together with all rights and related interests in the relevant company, held by the Guarantor on the execution date of the Mortgage Agreement, as identified in the Mortgage Agreement; and (b) any other shares and related rights in the relevant company (or any other successor entity) issued to, or to the benefit of, or otherwise acquired by the Guarantor after the execution date of the Mortgage Agreement, regardless of the grounds for such issuance or acquisition (and automatically mortgaged under the Mortgage Agreement on the issuance date thereof, in accordance with Article 2392 of the Romanian Civil Code).

**Insurance** shall mean any and all rights of the Guarantor arising from or in connection with the insurance agreements, insurance policies, insurance certificates, cover notes and/or any other documents ascertaining an insurance or coinsurance agreement, as described under the relevant Mortgage Agreement, as updated from time to time according to Clause 1.1(f)(i) of Chapter 4 of these GCS, and all replacements and renewals thereof, including any insurance indemnities, benefits and proceeds arising therefrom and any claims whatsoever and return of premiums.

**Tangible Assets** shall mean the movable tangible assets held by the Guarantor, as described under the relevant Mortgage Agreement.

**Discounted Certificates of Deposit/ Government Bonds** shall mean the discounted certificates of deposit, held by the Guarantor under the discounted certificates of deposit / Government bonds arrangement(s) registered in the Government bonds account opened in the name of Guarantor, as described under the relevant Mortgage Agreement.

**Password-Protected Bearer Certificates of Deposit** shall mean the password-protected bearer certificates of deposit, as described under the relevant Mortgage Agreement.

**GCS** shall mean these General Conditions for Securities, as further amended or supplemented.

**Romanian Civil Code** shall mean the Romanian Civil Code as republished in Official Journal of Romania No. 505 of 15 July 2011, approved by Law No. 287 of 17 July 2009 on the Civil Code and by Law No. 71 of 3 June 2011 on implementing the Civil Code, as amended from time to time.

**Romanian Civil Procedure Code** shall mean the Romanian Civil Procedure Code, as republished in Official Journal of Romania No. 545 of 3 August 2012, approved by Law No. 134 of 1 July 2010 on the Civil Procedure Code and by Law No. 76 of 24 May 2012 on implementing the Romanian Civil Procedure Code, as amended from time to time.

**Mortgage Agreement** shall mean a Security Agreement entered into by the Guarantor and the Bank and setting up or intending to set up a Movable Mortgage for securing Borrower's and, as the case may be, Guarantor's obligations under any Financing Document.

**Bank Accounts** shall mean the bank accounts as described under the relevant Mortgage Agreement, together with all amounts from time to time credited or standing to the credit of all or any of the Bank Accounts and all interest rates from time to time accruing and due in relation thereto.

**Receivables** shall mean any and all accounting debts, receivables and other claims whatsoever held by Guarantor against each debtor identified or described under the relevant Mortgage Agreement (each a "**Mortgagor**"), as described under the relevant Mortgage Agreement, as well as any receivables arising out of any renewals, replacements or amendments to the agreements giving rise to such receivables, together with the accessories to said receivables. For framework agreements, as described under the relevant Mortgage Agreement, the term "Receivables" shall mean any and all accounting debts, receivables and other claims whatsoever held by Guarantor against each Mortgagor identified or described under the relevant Mortgage Agreement, arising out of the orders, requests, agreements, subcontracts, invoices or any other documents currently concluded or to be concluded in the future based upon the framework agreements provided under the relevant Mortgage Agreement, as such framework agreements may be renewed, replaced or amended, together with the accessories to such receivables.

**Debtor** shall mean the Borrower and/or Guarantor and/or any Other Signatory.

**Collateral Deposit** shall mean the collateral deposit opened with the Bank, as described under the relevant Mortgage Agreement, together with all the amounts from time to time credited or standing to the credit of the Collateral Deposit and any interest or other amounts from time to time accruing and due with respect to such amounts.

**Intellectual Property Rights** shall mean the intellectual property rights, as described under the relevant Mortgage Agreement. For the avoidance of any doubt, Intellectual Property shall also include Trademarks.

**Goodwill** shall mean the movable assets which are or will be part of the goodwill/universality of movable assets assigned for the performance of Guarantor's business undertaking, as described in the relevant Mortgage Agreement.

**Movable Mortgage** shall mean the movable mortgage right as regulated under the Romanian Civil Code.

**Trademarks** shall mean the trademarks as described under the relevant Mortgage Agreement, with respect to which, as at the date of the Mortgage Agreement, the Guarantor is registered as owner or applied for the registration of the ownership right.

**Secured Obligations** shall mean all current and future liabilities and debts (whether current or contingent, and no matter if owed jointly or severally, as a senior debtor or as a guarantor or in any other capacity and no matter if they were initially undertaken by the Borrower or the Guarantor, as the case may be, or by another person under the Financing Documents) owed by the Borrower and, as the case may be, the Guarantor, to the Bank under any and all Financing Documents, including, without limitation, any and all amounts of money representing principal plus related interest (including delay or default interest, as the case may be) and other costs and fees, including any expenses whatsoever related to the recovery of all outstanding amounts and court costs, as well as enforcement expenses, costs, charges and expenditures incurred by the Bank upon the protection, registration, preservation and/or enforcement of any of the Bank's rights in its capacity as secured creditor under the Financing Documents or under any other documents providing for or guaranteeing any such debts. The Secured Obligations include all the aforementioned obligations and debts arising from the Financing Documents, as further amended and supplemented, including all the addenda which may be executed in the future to the Financing Documents (irrespective of the form which is used to reflect them, including, without limitation, the amendment/extension of the validity or the due date of the loan, change of interest rate and/or fees, changes of the loan purpose or manner in which the loan is used, novations, changes of obligations).

**Stocks** (in Romanian, *parti sociale*) means any and all existing and future stocks issued by the relevant company (and any rights in connection thereto), held or to be held in the future by Guarantor, including, but not limited to: (a) stocks together with all rights and related interests in the relevant company, held by the Guarantor on the execution date of the Mortgage Agreement, as identified in the Mortgage Agreement; and (b) any other shares and related rights in the relevant company (or any other successor entity) issued to, or to the benefit of, or otherwise acquired by the Guarantor after the execution date of the Mortgage Agreement, regardless of the grounds for such issuance or acquisition (and automatically mortgaged under the Mortgage Agreement on the issuance date thereof, in accordance with Article 2392 of the Romanian Civil Code).

**Security Period** means the period commencing on the Mortgage Agreement date until all the Secured Obligations have been fully and permanently satisfied.

**Products** means the proceeds (in Romanian, *fructele și productele*) of the Mortgaged Assets, including, without limitation, any asset received by the Guarantor further to an act of administration or disposal for any of the Mortgaged Assets, as well as any assets replacing it or to which its value is transferred, according to Articles 547 to 550 and 2392 of the Romanian Civil Code.

**Mortgaged Property** means the Mortgaged Assets and the Products.

**RNPM** means the National Register for Publicity related to Movable Assets, public register within the meaning of the provisions of the Romanian Civil Code and of the Romanian Code of Civil Procedure, regulated by the provisions of Law 297/2018, as further amended, or by any other applicable legislation or regulations that may be in force from time to time.

### **1.3 Interpretation**

(a) Chapter 1 (*General Provisions*) of these GCS contains general rules applicable to all the types of Security Agreements and, depending on the assets which are included in the Mortgaged Property, the other chapters hereof, containing special provisions, will be applicable in full or in part.

(a) In these GCS, any reference to:

(i) a **person** shall be construed as including such person's permitted successors and assigns;

(ii) an **agreement** or a **document** shall be construed as a reference to such agreement or document as amended, reiterated, supplemented, replaced or novated; and

- (iii) a **legislative act** or a particular **provision** or **article** of a legislative act shall be construed as a reference to such legislative act, provision or article, as such may be amended, republished or replaced at any time.

## 2. REPRESENTATIONS AND WARRANTIES

The Guarantor gives the representations provided in this Section 2 (*REPRESENTATIONS AND WARRANTIES*) to the Bank and acknowledges that these representations were essential for the Bank for the execution of the Mortgage Agreement:

- (a) **Absolute, exclusive and perpetual right of ownership:** The Guarantor is the absolute, exclusive, perpetual, legal and full owner of the Mortgaged Property and has a valid title which is in full force and effect on the Mortgaged Property, being liable for the existence of the Mortgaged Property and related securities.
- (b) **Mortgaged Property:** The Mortgaged Property is freely conveyable in private dealings, it was not assigned, mortgaged, pledged or otherwise transferred and there is no lien, privilege, easement (in the form of a severance of the ownership right), arrangement, reserve, restriction in favour of third parties; the Mortgaged Property is not subject to any undertaking that would deprive the Guarantor, in full or in part, of the right to dispose of the Mortgaged Property or of any of its elements, to exploit them and/or which would render impossible their capitalization by the Bank.
- (c) **First rank:** The Movable Mortgage established by the relevant Mortgage Agreement is a first rank mortgage, except for the cases when the Bank approved the establishment of a lower-ranking mortgage.
- (d) **Valid mortgage:** Under the Mortgage Agreement, a valid Mortgage Agreement on the Mortgaged Property is duly established and recorded.
- (e) **No dispute:** there is no pending dispute or outstanding debt in relation to the Mortgaged Property and no interim, insolvency or enforcement proceedings have been opened, initiated or pending against it; in case of eviction (in full or in part) of all or a part of the Mortgaged Property, the Guarantor undertakes to immediately notify the Bank on the occurrence of such cause of eviction and to make the necessary diligences in order to preserve the valid ownership right and to defend the Mortgaged Property and its elements against any total or partial eviction.
- (f) **No infringement of the law:** there is no continued infringement of any law or regulation by the Guarantor which could reasonably have an adverse effect on the Mortgaged Property.
- (g) **No adverse effect:** there is no arrangement, facility, agreement, reservation, restriction, condition or other matter which could have an adverse effect on the Mortgaged Property.
- (h) **No limitation in the use of the Mortgaged Property:** if applicable, the necessary utilities and facilities in order to benefit and use any or all or a part of the Mortgaged Property are not subject to any term or condition which would permit any person to have access to these facilities or utilities so as to allow such person to cease or limit the utilisation thereof.
- (i) **Firm obligations:** Guarantor's obligations under these GCS or the Mortgage Agreement are legal, valid, legally binding and enforceable obligations.
- (j) **Mandate:** the authorisation provided to the Bank in accordance with these GCS or the Mortgage Agreement whereby the Bank is authorised to perform any operations or formalities in the name of,

on behalf and/or on the account of the Guarantor is valid until the full payment of any amounts due under the Secured Obligations, the provisions of Article 2015 from the Romanian Civil Code not being applicable.

### **3. SECURITY**

#### **3.1 Movable Security**

In order to secure the fulfilment of the Secured Obligations, including, without limitation, the payment of any and all amounts owed by any of the Debtors under the Financing Documents as they become due and payable, the Guarantor, as owner of the Mortgaged Property, as it is on the Mortgage Agreement date and as it can become from time to time, establishes under the Mortgage Agreement, in favour of the Bank, a Movable Mortgage on the Mortgaged Property, in accordance with the provisions of the Mortgage Agreement and these GCS and in compliance with the Romanian Civil Code.

By these GCS, the Parties acknowledge and agree that the Mortgage established under the Mortgage Agreement on the Mortgaged Property (except for the Goodwill Mortgage) is a Movable Mortgage on current and future assets, as such may be identified at any time, and it is not and shall not be construed as a mortgage on a universality of assets for the purpose of Article 2368 of the Romanian Civil Code.

#### **3.2 Disposal of the Mortgaged Property**

Without prejudice to Clause 3.1 above, until the occurrence of an Event of Default, the Guarantor will dispose of its property within the Mortgaged Property in the ordinary course of business but, at any rate, only as permitted under the Financing Documents.

#### **3.3 Extension of the Mortgage over the Products**

The Movable Mortgage established under the Mortgage Agreement extends on all the Products of the Mortgaged Property and on any other rights in relation to such assets obtained by the Guarantor (including, without limitation, any and all assets resulting from any act of administration or act of disposal executed in relation to the Mortgaged Property, as well as any assets replacing the Mortgaged Property or to which the value of the Mortgaged Property or any part thereof is transferred), which are mortgaged in favour of the Bank under the Mortgage established under the Mortgage Agreement.

#### **3.4 Extension of the Mortgage over Insurance**

- (a) According to Article 2330 of the Romanian Civil Code, the Mortgage established under the Mortgage Agreement shall extend on any and all amounts owed to the Guarantor under any of the Insurances concerning the Mortgage Property, as well as on any amounts of money that a third party would owe to the Guarantor in relation to the loss of or damage to the Mortgaged Property or any element of the Mortgaged Property and on any and all amounts paid or which could be paid to the Guarantor by any central or local authority or any other person as compensation in an expropriation for public utility purposes or for legal limitations of the ownership right on the Mortgaged Assets (including, without limitation, nationalisation, takeover, requisition).
- (b) The Guarantor undertakes to:
  - i. conclude and maintain insurances with respect to the Mortgaged Property, in favour of the Bank with independent insurers acceptable to the Bank, for the entire period until the fulfilment of all obligations under the Financing Documents;
  - ii. the Insurances regarding the Mortgaged Property will cover the insured risks as requested by the Bank, including the following minimum insured risks:

- for Tangible Assets – (including equipment, utilities and current assets used as Securities, deposit stocks) – natural catastrophes (earthquake, natural flooding, landslip/land quakes), atmosphere phenomena (hurricane, storm, tornado and other associated atmosphere phenomena, snow avalanches) to which the following shall be added: deterioration or loss caused by fire, theft, robbery, accidental damages to machinery and equipment;
- CASCO insurance – theft, accidents, fire or flooding.

iii. confirm to the Bank and submit the proof of the extension of validity for the Insurances at least 5 (five) Business Days before the expiry date of such Insurances; and

iv. notify the Bank and the insurance company with respect to the occurrence of any insured events, within the term and under the conditions provided by the insurance policies, but in any event no later than 24 hours since their occurrence and to submit with the insurance company all necessary documents in accordance with the terms and conditions provided by the insurance conditions;

(c) The Guarantor shall conclude the Insurances for a value not lower than the market value/base value of the respective asset, provided that, if at any time and for any reason, (i) any insurance which is required to be maintained under the Financing Documents shall not be in full force and effect, or (ii) any amounts related to the insurance policies are due and payable by the Borrower or the Guarantor, in either of such cases, the Bank shall have the right (but shall be under no obligation), as the case may be, to conclude that insurance for, on behalf of and at the expense of the Guarantor, to perform any extension of validity, renewal or replacement of the insurance (as the Bank may deem necessary, the Bank being also entitled to select the insurance company with whom it will conclude such insurances), to take any measures to mitigate the risks as the Bank shall deem appropriate or to pay the respective amounts irrespective of any grace period granted by the Bank under the Financing Documents. In such case, the Bank is authorized to debit Borrower's or Guarantor's account with the equivalent value of the amounts paid by the Bank as per the above, as well as to make any payment, transfer or currency exchange operation at the exchange rate used by the Bank, for the purpose of the above.

(d) In case of occurrence of the insured risks, the amounts owed as insurance indemnity or damages (including in case of expropriation or other limitation of the ownership rights established through a law or other public authority act) shall be transferred by the insurance company to a bank account indicated by the Bank. To this end, the Bank is authorised to formulate and sign in the name and on behalf of the insured person any requests or documents which may be necessary in relation with the insurance company, to submit any documents and in general to fulfil in the name and on behalf of the insured person any formalities necessary or requested by the insurance company, for the payment by the insurance company of the amounts owed as insurance indemnity or damages into the bank account indicated by the Bank, in case the insured risks have occurred. For this purpose, the Bank may use a collateral deposit account, opened on the name of the Borrower or Guarantor as account holder, as the case may be, which the Bank is authorised to open at any time or close at any time after the reimbursement of all amounts owed under the Financing Documents, without the notification of the Borrower or of the Guarantor or other formalities being necessary. The Borrower/Guarantor cannot dispose of such amounts until the reimbursement of all amounts owed under the Financing Documents without the Bank's prior approval. The Bank is authorised to satisfy the Secured Obligations from the amounts collected on the debtor's account as insurance indemnity or damages (including in case of expropriation or other limitation of the ownership rights established through a law or other public authority act), informing the Borrower/Guarantor of the amounts debited for the Secured Obligations. The interest capitalized by the Bank for the amounts in the above mentioned collateral deposit account is the interest capitalized for on-sight deposits and is variable for the entire validity period of the deposit. The Bank has the right to unilaterally modify the applicable interest rate, the new interest rate becoming applicable by display at the Bank's premises and/or by publishing on the Bank's website.

The interest shall be capitalized on the date the deposit is closed and paid into the Borrower's or the Guarantor's current account opened with the Bank, as the case may be.

### **3.5 Registration of the Mortgage**

- (a) The Guarantor undertakes to fulfil, on its expense, the formalities for the registration of the Mortgage established under the Mortgage Agreement (including Bank's control on the Bank Accounts in accordance with Article 2410 of the Romanian Civil Code) with RNPM, shareholders' register kept by the relevant company, the Central Depository or any other register company, the register of Government bonds and any other register, in accordance with the legal provisions, and shall make available to the Bank the registration endorsement certified by the RNPM operator that made the registration and a certified copy or an excerpt of the shareholders' register or any other relevant register to certify the registration of the Mortgage.
- (b) If the description of the Mortgaged Property which was initially registered with RNPM does not cover the Products of the Mortgaged Property (except for the amounts of money the origin of which can be traced), the Bank shall register, on the Guarantor's expense, with RNPM, an registration endorsement within 15 days as of the date when the Guarantor obtained such Products, in order to maintain the rank of the Mortgage on such Products, in accordance with Article 2412 of the Romanian Civil Code.
- (c) In case of any discrepancies between the information in the registration endorsement registered with RNPM and the information in these GCS and the Mortgage Agreement, the information in these GCS and the Mortgage Agreement shall prevail.
- (d) The Guarantor hereby acknowledges and agrees that the Bank shall have the right (but not the obligation), without notifying the Guarantor, to submit, amend or renew the registration endorsement with RNPM, and/or to send any or all notices or registrations with any competent register and to take any measures permitted by the law in order to make sure that the Mortgage established under the Mortgage Agreement is and continues to be a valid and legal Movable Mortgage, fully binding on and enforceable against the Guarantor and third parties. The Guarantor authorizes the Bank to debit its current account with the value of these registration expenses.
- (e) If all Secured Obligations are fully and permanently satisfied, the Bank undertakes to deregister the Mortgage from RNPM, within no more than 10 days as of the date of the full and permanent satisfaction of all the Secured Obligations. Expenses in relation to the deregistration of the movable mortgage from RNPM are incumbent upon the Guarantor. The Guarantor authorises the Bank to debit its current account with the equivalent value of the RNPM deregistration expenses.
- (f) The Guarantor shall make available, within the reasonable term provided by the Bank, any other document, registration, submission, notice, notarization or other supporting document of which the Guarantor was informed by the Bank, in a form and content satisfactory to the Bank and in accordance with the applicable laws.

### **3.6 Future obligations**

Under these GCS, the Parties agree that any future draw-dawns/utilisations and any other future obligations under the Credit Facility Agreement are covered by the Mortgage established under the Mortgage Agreement, which shall maintain its priority throughout the entire duration of the Security Period, in accordance with Article 2370 of the Romanian Civil Code.

### **3.7 Future assets**

The Parties acknowledge and agree that this Movable Mortgage is established on the entire Mortgage Property of the Guarantor, either existing on the execution date of the Mortgage Agreement or acquired or otherwise obtained or established in the future, and that the Mortgage established under the Mortgage Agreement on such future assets shall become effective in relation to these future assets as of the date when they are acquired, obtained or established (or when the Guarantor otherwise acquires any rights on them), and the rank of the Mortgage on these future assets shall be the rank provided at the time when the initial registration endorsement is registered with RNPM, no further registration or formality being required, in accordance with Articles 1228, 2365 and 2387 of the Romanian Civil Code.

#### **4. CONTINUED SECURITY**

The Mortgage established under the Mortgage Agreement is a continued security and shall remain valid and shall be effective until the full and permanent satisfaction of all the Secured Obligation and shall not cease as a result of an interim payment related to the Secured Obligations or the fulfilment of a part of the Secured Obligations and, in addition, this security shall not be affected in any way by any other security established by the Guarantor in favour of the Bank or by other securities or rights of compensation held now or in the future by the Bank in order to guarantee the Secured Obligations.

#### **5. GUARANTOR'S OBLIGATIONS**

##### **5.1 Guarantor's positive obligations**

Notwithstanding any provisions to the contrary under the Credit Facility Agreement or the Mortgage Agreement, the Guarantor hereby undertakes and commits to the Bank as follows:

- (a) **Protection of Bank's interests:** To take all the measures which could be necessary or recommendable in order to protect Bank's interests in relation to the Mortgaged Property and to guarantee and defend Bank's rights under these GCS and the relevant Mortgage Agreement against the claims and requests of any third party.
- (b) **Maintaining of accounting records:** To maintain accurate accounting records for the assets of which the Mortgaged Property consists.
- (c) **Provision of documents:** If an Event of Default occurs, at the Bank's request, to submit to the Bank, for keeping, all the certificates, titles, policies, permits, licenses and other documents of title or evidence of the ownership right in relation to any part of the Mortgaged Property as the term requested by the Bank. The Guarantor also undertakes and commits to the Bank to provide to the insurance company with which the Insurances were executed any documents requested by such and which are necessary for the payment of the amounts owed as insurance indemnity or remedy. If The Guarantor does not provide these documents, the Bank can provide itself to the insurer, and can sign on behalf of the Guarantor any documents related to the insurer and which are necessary in order to pay all the amounts owed as insurance indemnity.
- (d) **Inspection of the Mortgaged Property:** To allow or facilitate, during Guarantor's normal working hours, the inspection of any part or the entire Mortgaged Property or related documents by the Bank or any other entity or person appointed by or representing the Bank, in accordance with Article 2394 of the Romanian Civil Code.
- (e) **Information on the obtaining of new Products:** To notify the Bank within 3 (three) days as of the date when it obtains any Products related to the Mortgaged Property, if the description of the Mortgaged Property as registered at such time with RNPM does not cover the Products related to the Mortgaged Property.



- (f) **Waiver of benefits:** The Guarantor waives in favour of the Bank all its legal and conventional benefits, all its rights and claims and any right of compensation or other similar defences that it could raise against the Bank in relation to the Secured Obligations, to the maximum extent allowed by the law, including the benefit of discussion and the benefit of division.

## 5.2 Guarantor's negative obligations

Except for the provisions to the contrary agreed upon in the Credit Facility Agreement or the Mortgage Agreement, the Guarantor undertakes and commits to the Bank as follows:

- (a) **No encumbrance:** Not to establish, grant and allow the survival of any other Security on the entire Mortgaged Property or any part thereof.
- (b) **No transfer (disposal):** Not to transfer, sell, assign, dispose of and alienate in any other way any right of ownership or any severance thereof or any other right or interest in relation to the entire Mortgaged Property or any part thereof, other than in the ordinary course of business.
- (c) **No waiver:** Not to waive, release, settle, compromise and abandon any claim based on or in relation to any asset of the Mortgaged Property and not to take or omit to take any action or deed whereby the full recovery of any products of the Mortgaged Property and pecuniary Products to the extent that and when they become due could be hindered; not to do, cause or facilitate anything which could depreciate, endanger in any way or otherwise harm in any significant respect the value of the Mortgage established by the Mortgage Agreement.

## 5.3 Remedy

If the Guarantor fails to comply with any of its obligations under this Section 5 (*GUARANTOR'S OBLIGATIONS*), the Bank may (but does not have the obligation to) remedy this situation on the Guarantor's expense, either in person or by any other person, under the conditions that the Bank will deem fit.

## 6. ENFORCEMENT

- 6.1 At any time after the occurrence of an Event of Default, the Bank may proceed to the enforcement of the Mortgage established under the Mortgage Agreement. The Bank may enforce the whole or any part of the Mortgage established under the Mortgage Agreement and in any order determined by the Bank.
- 6.2 For the enforcement of the Mortgage established under the Mortgage Agreement, the Bank can take, at its discretion, the following measures, to make sure that it recovers the amounts owed under the Secured Obligations from the Guarantor:
- (a) It can instruct any and all insurers, clients, suppliers, service providers or other co-contractors of the Guarantor under the documents on which Guarantor's rights on the Mortgaged Property rely, to comply with such obligations directly to the Bank or a third party appointed by the Bank without the prior consent of the Guarantor;
- (b) For the purpose of Article 2440 of the Romanian Civil Code, it can take over the Mortgaged Property or any part thereof by its own means;
- (c) It can take over the Products on account of the Secured Obligations, the value of the Secured Obligations decreasing pro rata to the value of the Products which were taken over; for non-pecuniary Products, their value will be determined by an independent expert assessor appointed by the Bank;

- (d) It can acquire (by its own means or through an enforcement body, at its discretion) possession of the documents (if any) which prove Guarantor's ownership title on the Mortgaged Property or any part thereof or in relation to any assets thereof and irrespective of the holder thereof;
- (e) It can take over the Mortgaged Property for administration purposes, in accordance with Articles 2468 to 2473 of the Romanian Civil Code;
- (f) It can take any measures permitted by the Romanian law in order to recover the amounts owed under the Secured Obligations, including those for the performance of any registrations, notices or other necessary or recommendable opportunities in order to allow the Bank or any third-party buyer of the Mortgaged Property or any part thereof to benefit of a full ownership title on the Mortgaged Property or any part thereof;
- (g) It can convert in the currency of the Secured Obligations, at the exchange rate of the Bank, any recovered amounts of money and can set off such amounts against any Secured Obligations; and
- (h) It can use any combination of the methods provided in this Section 6.2 from item (a) to (g) above, for the purpose of satisfying Guarantor's obligations under these GCS and the other Financing Documents.

The Bank shall use the enforcement proceeds as provided in the Credit Facility Agreement.

**6.3** If the Mortgaged Property is sold (and/or appropriated, as the case may be) in accordance with Section 6.2 above, the value of the purchase price (and/or the appropriation value, as the case may be) of the Mortgaged Property which is in excess to the Secured Obligations shall be paid to the Guarantor after the full and permanent satisfaction of all the Secured Obligations. The Parties hereby agree as follows:

- (a) if the aforementioned payment cannot be made, the amounts will be deposited in an account opened in Romania and made available to the Guarantor or to any person who could legally have this right; and
- (b) any fees, costs and expenses with the transfer of amounts from such account shall be borne by the Guarantor or the person duly entitled to receive such amounts.

**6.4** Notwithstanding Bank's right to take over the Mortgaged Property or any part thereof by its own means in accordance with Article 2440 of the Romanian Civil Code, the Bank has the right (but not the obligation), when it enforces the Mortgage established under the Mortgage Agreement, in accordance with the Romanian Civil Code, to approach the enforcement bodies in order to obtain the forced takeover of the Mortgaged Property or any part thereof, as provided at Article 2442 of the Romanian Civil Code, without first trying to repossess the Mortgaged Property or any part thereof by its own means.

**6.5** The Bank can enforce the Movable Mortgage established under the Mortgage Agreement in accordance with (1) the provisions above and the provisions of the Romanian Civil Code, or (2) according to the procedures provided in the Romanian Civil Procedure Code. None of the clauses above can be construed as a limitation to Bank's right to enforce the Movable Mortgage established under the Mortgage Agreement in accordance with the Romanian Civil Procedure Code.

**6.6** In case of enforcement in accordance with the provisions of these GCS, the Guarantor hereby undertakes to perform and fulfil all the formalities required by the Romanian law in order to allow the Bank (and/or, as the case may be, the person(s) to whom the Bank will sell or in favour of which it will dispose of the Mortgaged Property as specified above) to dispose with full title of any right on such assets, and it also undertakes not to hinder or delay the enforcement proceedings against the Mortgaged Property or any part thereof.

- 6.7** All the payments made under the Mortgage Agreement by or on behalf of the Guarantor to the Bank shall be made with no right of setoff, claim or withholding.

## **7. FURTHER ASSURANCES**

### **7.1 Assurances**

The Guarantor shall promptly do whatever is necessary, take all measures, perform all acts and facts and sign all the documents (including any addendum to the Mortgage Agreement, assignments, transfers, pledges, liens, notices and instructions) and shall take all the available actions (including submission of any documents and performance of any registrations) as specified by the Bank (and in the form to be requested by the Bank):

- (a) to establish, register, maintain, perfect, extend or preserve the Mortgage established under the Mortgage Agreement (or intended to be established, as the case may be) or in view of exercising any rights, prerogatives and remedies of which the Bank benefits under these GCS, the other Financing Documents or under the law;
- (b) to establish in favour of the Bank a mortgage on any new asset or any assets of the Guarantor located in Romania, which are equivalent or similar to the scope of the Security that the Parties intend to establish under the Mortgage Agreement; and/or
- (c) to facilitate, further to the occurrence of a Event of Default, the appropriation or enforcement of the Mortgaged Property or any part thereof by or on behalf of or to the benefit of the Bank.

### **7.2 Decrease of the Mortgaged Property value**

If all or any part of the Mortgaged Property is destroyed, damaged or its value is diminished:

- (a) the Bank shall be entitled to receive damages, even if the Secured Obligations are not determined or payable. Damages shall be applied for the payment of the Secured Obligations;
- (b) by Guarantor's default, and such individualized assets were not insured against destruction, damage or decrease of value when the default occurred, the Bank may request the Guarantor to bring an additional mortgage to cover the decrease of the Mortgaged Property value and to guarantee the obligation to pay damages; and
- (c) by Guarantor's default, and such individualized assets were insured against destruction, damage or decrease of value when the default occurred, the Bank may request the Guarantor to bring additional securities, other than a mortgage, to cover the decrease of the Mortgaged Property value and to guarantee the obligation to pay damages.

## **8. AMENDMENT AND TERMINATION**

- 8.1** No amendment to the Mortgage Agreement shall have effects unless it is made in writing and signed by the authorized representatives of each Party.
- 8.2** The Bank can unilaterally amend these GCS at any time, and such amendment shall have effects as of the date of its publication on the Bank's website ([www.bcr.ro](http://www.bcr.ro)). The GCS in force on the execution date of the Mortgage Agreement shall apply to each Mortgage Agreement.

## **9. FINAL PROVISIONS**

- 9.1 Notices:** Any notice sent pursuant to these GCS and to the Mortgage Agreement shall be made in accordance with Clause 15.7 of Section 15 (*Final Provisions*) of the General Conditions for Credit Facilities. The Bank shall make public any change of its registered headquarters by any other means (e.g. publication on the Bank's website, communication in the press, etc). The Guarantor undertakes, on its expense, to notify the Bank on any change of its registered headquarters/domicile and to register with RNPM any change of domicile or, as the case may be, the registered headquarters of a party to the Mortgage Agreement.
- 9.2 Severability:** If one or several provisions of any of the Financing Documents is or becomes illegal, invalid or unenforceable for any reason, this shall not damage or affect the legality, validity or enforceability of the other provisions of such Financing Document and, if necessary in this respect, the illegal, invalid or unenforceable provisions shall be considered to not have been included in such Financing Document.
- 9.3 Force majeure, fortuitous case and hardship:** The Guarantor expressly agrees to waive the right of claiming the occurrence of any event considered, under the Romanian law, as a force majeure case, fortuitous case or hardship, in relation to its impossibility to comply with any obligation under any Financing Document.
- 9.4 Successors:** Each of these GCS and the Mortgage Agreement is binding on the Guarantor and its successors and shall benefit to the Bank, its successors and assigns. The Guarantor shall not assign, novate or transfer in any other way, in full or in part, its rights or obligations under these GCS or any other Financing Documents, without the prior written consent of the Bank. The Guarantor confirms that the Bank is entitled to assign, novate, transfer or otherwise dispose of all or any of its rights and obligations under the Financing Documents (and the Mortgage established under the Mortgage Agreement shall survive to the benefit of any successor of the Bank further to any transfer by novation made by the Bank in relation to any of the rights and obligations under any of the Financing Documents). To the maximum extent permitted by the law, this provision is an anticipated consent to any such transfer of rights and/or obligations, for the purpose of Article 1315 and Article 1317 of the Romanian Civil Code.
- 9.5 Survival of mortgage action:** If the right of action concerning the Secured Obligations is extinguished by prescription, according to Article 2504 of the Romanian Civil Code the right to file mortgage action will not be extinguished. The Bank may, in accordance with the law, enforce the Mortgaged Property up to the value thereof.
- 9.6 Writ of enforcement:** The Mortgage Agreement is accessory to the Credit Facility Agreement and it is a writ of enforcement in accordance with Article 2431 of the Romanian Civil Code and Article 120 of Government Emergency Ordinance No. 99 of 6 December 2006 on credit institutions and capital adequacy.
- 9.7 Applicable language:** The language governing these GCS and the Mortgage Agreement is the Romanian language. Unless otherwise expressly provided in the Financing Documents, all the documents to be submitted and all the correspondence exchanged under these GCS and the Mortgage Agreement shall be written in Romanian or, if in another language, they shall be accompanied by a notarized translation in Romanian, which translation will prevail in the relationships between the Guarantor and the Bank.

## **10. GOVERNING LAW AND JURISDICTION**

- 10.1 Governing law:** These GCS, any other Financing Document and any non-contractual obligations arising from or in relation thereto shall be governed and construed, in all respects, in accordance with the Romanian law.

**10.2 Jurisdiction:** Any lawsuit and dispute, trial, action or proceedings which could arise from or in relation to these GCS and any other Financing Document and in relation to any non-contractual obligations arising from or in relation thereto shall be referred to the competent Romanian court of law.

\*

\*

\*

## CHAPTER 2 – SPECIAL PROVISIONS –MOVABLE MORTGAGE OVER RECEIVABLES

This Chapter 2 (*Special provisions –Movable Mortgage over Receivables*) hereof contains special rules which are applicable when a Movable Mortgage over Receivables is established under the Mortgage Agreement executed by the Guarantor and the Bank.

### 1. SPECIFIC REPRESENTATIONS AND WARRANTIES

In addition to the representations and warranties provided at Section 2 (*REPRESENTATIONS AND WARRANTIES*) of Chapter 1 hereof, the Guarantor represents that:

- (a) The Mortgagor did not pay the Receivable, in full or in part, to the Guarantor and no cause for setoff or decrease of the receivable between the Guarantor and the Mortgagor has occurred. The Guarantor shall not accept any payment from the Mortgagor on account of the Receivable other than as provided in these GCS and under the Mortgage Agreement.
- (b) The Mortgagor is solvent and no proceedings have been initiated against it in view of opening insolvency, bankruptcy, winding-up, judicial reorganization or any similar proceedings.

### 2. SPECIFIC PROVISIONS FOR THE MOVABLE MORTGAGE OVER RECEIVABLES

**2.1** If, under the relevant Mortgage Agreement, the Guarantor has been granted the right to collect the Receivables in accordance with Article 2406 of the Romanian Civil Code, the Bank may withdraw this right subsequently, throughout the development of the Mortgage Agreement.

**2.2** In the case provided at Clause 2.1 above, *i.e.* if, under the relevant Mortgage Agreement, the use of a current account is provided, the following provisions are applicable:

- (a) Any payment made by the Mortgagor on account of the Receivable, after notification of the Mortgage established under the relevant Mortgage Agreement, shall be considered valid and shall discharge the Mortgagor of its payment obligation only if made into the current account (as identified in the relevant Mortgage Agreement) (the **Current Account**), unless the Bank otherwise notified the Mortgagor.
- (b) At any time, by notice to the Guarantor and the Mortgagor in this respect, the Bank can cancel Guarantor's right to collect the Receivable into the Current Account, and any amounts payable on account of the Receivable are to be paid into the collateral deposit account (as identified in the relevant Mortgage Agreement) (the **Collateral Deposit Account**) or in any other account notified by the Bank in this respect to the Mortgagor. Only under these circumstances is the Mortgagor discharged of such payment obligation, unless the Bank otherwise notified the Mortgagor.
- (c) The amounts paid into the Collateral Deposit Account are frozen as a security up to the value of the Secured Obligations, and the Bank shall release the amounts in excess of the Secured Obligations into the Current Account.

**2.3** If, in the case provided at Clause 2.1 above, the relevant Mortgage Agreement provides for the use of a frozen collateral deposit account, the following provisions shall become applicable:

- (a) Any payment made by the Mortgagor on account of the Receivable, after notification of the Mortgage established under the relevant Mortgage Agreement, shall be considered valid and shall discharge the Mortgagor of its payment obligation only if made into the collateral deposit account (as identified in the relevant Mortgage Agreement) (the **Collateral Deposit Account**), unless the Bank otherwise notified the Mortgagor.

- (b) At any time, by notice to the Guarantor and the Mortgagor in this respect, the Bank can cancel Guarantor's right to collect the Receivable into the Collateral Deposit Account, and any amounts payable on account of the Receivable are to be paid into the account notified by the Bank to the Mortgagor to this effect. Unless otherwise notified by the Bank, the Mortgagor is discharged of such payment obligation only when it makes the payment under these circumstances.
- (c) The amounts paid into the Collateral Deposit Account are frozen as a security up to the value of the Secured Obligations, and the Bank shall release the amounts in excess of the Secured Obligations into the Current Account, at Guarantor's request.

**2.4** If, under the relevant Mortgage Agreement, Guarantor's right to collect the Receivables is cancelled, and the receivables are collected into an account opened on the Bank's name, the following provisions become applicable:

- (a) Any payment by the Mortgagor on account of the Receivable, after notification of the Mortgage established under the relevant Mortgage Agreement, shall be considered valid and shall discharge the Mortgagor of its payment obligation only if made into the account notified by the Bank (the **BCR Account**), opened on the Bank's name, by issuing to the Mortgagor a receipt for the amounts received and sending a copy thereof to the Guarantor. Only under these circumstances is the Mortgagor discharged of such payment obligation, unless the Bank otherwise notified the Mortgagor.
- (b) The amounts paid into the BCR Account are frozen as a security up to the value of the Secured Obligations, and the Bank shall release the remaining amounts into the Current Account into the Guarantor's current account. The Guarantor authorizes the Bank to withhold from the amounts thus paid by the Mortgagor any amount for the payment of any debts, according to the rules provided herein and in the Credit Facility Agreement.

**2.5 Notification of the Mortgage to the Mortgagor:** The execution of the Mortgage Agreement shall be notified by the Bank to the Mortgagor, according to the template attached to the relevant Mortgage Agreement or in any other form, at the Bank's discretion.

**2.6 Payment made after the occurrence of an Event of Default.** If, under the relevant Mortgage Agreement, the Guarantor is entitled to collect the Receivables according to Article 2406 of the Romanian Civil Code, in case the Borrower fails to comply with its obligations to repay the principal, the related interest and fees arising from the Credit Facility Agreement and if any other Event of Default occurs, notwithstanding any of the provisions above in this Clause 2 (*Special Provisions-Movable Mortgage over Receivables*), the Bank has the right, but not the obligation, to send to the Mortgagor a notice informing it that as of such time any payment is to be considered valid and is to discharge the Mortgagor of its payment obligations only if made into the account notified by the Bank.

**2.7 Titles to the Receivables.** The Guarantor represents that it shall deliver to the Bank, on the execution date of the Mortgage Agreement, the titles evidencing the Receivable and its accessories, as well as the securities (if any) consisting in the documents listed in the appendices to the Mortgage Agreement, in a form satisfactory to the Bank. The Guarantor also undertakes to deliver to the Bank the supporting titles to the Receivables which will result in the future from the orders, requests, agreements, sub-contracts, invoices or any other documents executed on the basis of framework agreements. To the extent delivered to the Bank, the supporting titles to the Receivable shall be returned to the Guarantor at the end of the Security Period.

### **3. GUARANTOR'S ADDITIONAL POSITIVE OBLIGATIONS**

**3.1** In addition to the positive obligations provided at Clause 5.1 of Chapter 1 (*General Provisions*), the Guarantor undertakes and commits to the Bank in relation to each of the Receivables, as follows:

- (a) to take all the measures in order to maintain in force and to preserve and enforce its rights related to all Receivables, to fulfil all the obligations incumbent upon it in relation to them in order to make sure that the amount of the Receivable will be unconditionally due and payable on the due date into the account indicated in the relevant Mortgage Agreement and to enforce all the rights and remedies owed to it on the basis of such Receivables;
- (b) to make all necessary efforts for the satisfaction of the Receivable and for the Mortgagor to pay the Receivable into the account provided in the relevant Mortgage Agreement, also having the duty that, if it sues the Mortgagor for the payment of the Receivable, to bring the Bank as party to the case – being understood that the Bank has the right, but not the obligation to recover in court the amounts which have not been paid by the Mortgagor in accordance with Article 2407 of the Romanian Civil Code; and
- (c) to submit to the Bank an updated list (according to the appendix to the relevant Mortgage Agreement) containing the details of the commercial agreements and related Receivables, along with the related securities. For the avoidance of any doubt, each such updated list shall be considered to be a part of the relevant Mortgage Agreement, the new list replacing the previous one, with no need to execute an addendum, and having effects as of the execution date of the updated list by the parties' representatives. The updated list shall be registered with RNPM, the Mortgage thus extending on any new Receivables related to the existing agreements and on any Receivables related to the new agreements executed after the date of the relevant Mortgage Agreement.

#### **4. SPECIAL PROVISIONS ON THE ENFORCEMENT OF THE MOVABLE MORTGAGE OVER RECEIVABLES**

**4.1** In addition to the measures provided at Clause 6.2 of Chapter 1 (*General Provisions*), if the Movable Mortgage established under the Mortgage Agreement is enforced, the Bank can also take, at its discretion, the following measures, in order to make sure that it recovers from the Guarantor the amounts owed on the basis of the Secured Obligations:

- (a) As regards the Receivables and any Products owed on the basis of the Receivables, if the Bank consented for the Guarantor to charge such Receivables and Products according to these GCS and the relevant Mortgage Agreement, it can take over the original receivable instrument, it can request and obtain payment from the Mortgagors and apply such proceeds for the payment of any outstanding Secured Obligations or, at its discretion, it can sell such Receivable and collect the price, which it will apply for the payment of any outstanding Secured Obligations;
- (b) As regards the Receivables and any Products owed on the basis of the Receivables, if the Bank did not consent or withdraw its consent for the Guarantor to charge such Receivables and Products according to these GCS and the relevant Mortgage Agreement, it can continue to request and obtain payment from the Mortgagors and apply such proceeds for the payment of any outstanding Secured Obligations or, at its discretion, it can sell such Receivable and collect the price, which it will apply for the payment of any outstanding Secured Obligations.



### **CHAPTER 3 – SPECIAL PROVISIONS – MOVABLE MORTGAGE OVER BANK ACCOUNTS**

This Chapter 3 (*Special Provisions –Movable Mortgage over Bank Accounts*) hereof contains special rules which are applicable when a Movable Mortgage over Bank Accounts is established under the Mortgage Agreement executed by the Guarantor and the Bank.

#### **1. REGISTRATION OF MORTGAGE OVER BANK ACCOUNTS**

- 1.1** If the Mortgaged Property includes Bank Accounts opened with the Bank, notwithstanding the obligation to comply with the registration formalities provided at Clause 3.5 of Chapter 1 (*General Provisions*), the registration of the Movable Mortgage over these Bank Accounts is also considered to be satisfied by maintaining these accounts opened with the Bank. The Guarantor undertakes not to request the closing of such Bank Accounts during the Security Period.
- 1.2** If the Mortgaged Property includes Bank Accounts opened with other credit institutions than the Bank, without prejudice to the obligation to fulfil the registration formalities provided at Clause 3.5 of Chapter 1 (*General Provisions*), which remains applicable, the registration of the Movable Mortgage over these Bank Accounts is also considered satisfied on the basis of the notice provided at Clause 2.1(a) below, between the Guarantor, the Bank and the credit institution with which such Bank Accounts are opened, whereby the latter agreed that it would follow the instructions whereby the Bank would dispose of the amounts in such Bank Accounts without asking for Guarantor's consent.
- 1.3** If the Mortgaged Property includes Bank Accounts opened with other credit institutions than the Bank, without prejudice to the obligation to fulfil the registration formalities provided at Clause 3.5 of Chapter 1 (*General Provisions*), which remains applicable, for the Bank Accounts on which the Bank becomes a holder or co-holder, as the case may be, on the basis of the notice provided at Clause 2.1(a) below, between the Guarantor, the Bank and the credit institution with which such Bank Accounts are opened, the registration of the Movable Mortgage is also deemed to have been satisfied by the Bank acquiring the capacity of holder or co-holder, as the case may be.

#### **2. GUARANTOR'S ADDITIONAL OBLIGATIONS**

- 2.1 Guarantor's additional positive obligations:** In addition to the positive obligations provided at Clause 5.1 of Chapter 1 (*GUARANTOR'S OBLIGATIONS*), the Guarantor undertakes and commits to the Bank as regards each Bank Account as follows:
- (a) if there are any Bank Accounts opened with other banks than the Bank, to provide each bank stipulated in the appendix to the relevant Mortgage Agreement with a notice (having the form and content provided in the template notice attached to the relevant Mortgage Agreement) and to provide the Bank with an original copy of the notice confirmation for each of the Bank Accounts, signed by the Guarantor and the relevant bank for such Bank Accounts;
  - (b) to dispose of its Bank Accounts as necessary in its ordinary course of business, and, at any rate, only as permitted under the Credit Facility Agreement;
  - (c) authorize the transfer by the Bank (without being necessary a specific consent of the Guarantor at the transfer moment) of the proceeds from the current accounts opened with the Bank and with any credit institution, as per the relevant Mortgage Agreement or from the Collateral Deposit opened with the Bank (as the case may be);
  - (d) unless otherwise specified in these GCS or in the other Financing Documents, to deposit or cause the deposit in the Bank Accounts of all the monetary Products of the Mortgaged Property;

- (e) all the proceeds resulting from the transfer of the assets included in the Mortgaged Property such as described at Article 2393 of the Romanian Civil Code shall be deposited in a Bank Account which will be at all times encumbered by a Movable Mortgage in favour of the Bank; and
- (f) all the proceeds resulting (i) from the partial or total indemnity received for the loss of the asset on the basis of any Insurance (in which the Bank is not appointed as exclusive loss payee) resulting from the total or partial destruction of the Mortgaged Property, if the Mortgaged Property also includes Insurances, or (ii) received as compensation in an expropriation for public utility purposes or for limitations of the ownership right under the law, shall be paid only into the Bank Account provided in the relevant Mortgage Agreement, which is available to the Bank and will be at all times encumbered by a Movable Mortgage in favour of the Bank in accordance with the Credit Facility Agreement and the other Financing Documents. Unless otherwise permitted under the Financing Documents, throughout the Security Period the Guarantor cannot dispose of the amounts in this Bank Account without the Bank's consent, in accordance with Article 2331 of the Romanian Civil Code.
- (g) to immediately submit to the Bank, at its request, an updated list (according to the appendix to the relevant Mortgage Agreement) containing the details of the Bank Accounts. For the avoidance of any doubt, each such updated list shall be considered to be a part of the relevant Mortgage Agreement, the new list replacing the previous one, with no need to execute an addendum, and having effects as of the execution date of the updated list by the parties' representatives. The updated list shall be registered with RNPM, the Mortgage thus extending on any new Bank Accounts opened after the date of the relevant Mortgage Agreement.
- (h) the account statement of the Collateral Deposit will be issued at the bank's branches and/or through electronic banking, as the case may be. In case, during the next 5 (five) Business Days after the transaction in the Collateral Deposit account has been performed, the Guarantor does not communicate to the Bank's unit where the Collateral Deposit is opened, in writing, the errors or omissions regarding the performed transactions, account balance and operations from the account statement of the Collateral Deposit, the above shall be considered as implicitly accepted. The above approval does not exclude the Guarantor's right to dispute any operations from his accounts that he may deem unauthorised or incorrect, including errors/omissions from the account statement within the term provided by the General Terms of Business (as published on the Bank's website [www.bcr.ro](http://www.bcr.ro)), under the sanction of losing the benefit of the term. The dispute will be made in writing, by registered letter with receipt confirmation.

**2.2 Guarantor's Additional Negative Obligations:** In addition to the negative obligations provided at Clause 5.2 of Section 5 (*GUARANTOR'S OBLIGATIONS*) of Chapter 1, the Guarantor undertakes and commits to the Bank not to open and hold any bank account in any bank or financial institution without prior notice to the Bank.

### **3. SPECIAL PROVISIONS ON THE ENFORCEMENT OF THE MOVABLE MORTGAGE OVER BANK ACCOUNTS**

In addition to the measures provided at Clause 6.2 of Chapter 1 (*General Provisions*), if the Movable Mortgage established under the Mortgage Agreement is enforced, the Bank can also take, at its discretion, the following measures, in order to make sure that it recovers from the Guarantor the amounts owed on the basis of the Secured Obligations:

- (a) As regards the Bank Accounts which are not controlled by the Bank according to Article 2410(2) of the Romanian Civil Code, it can notify the banks with which such Bank Accounts are opened on its intention to recover the amounts owed under the Secured Obligations from the amounts of money deposited in such Bank Accounts and instruct the banks to freeze all Bank Accounts (including any payment from such Bank Accounts) and to maintain such Bank Accounts frozen and to release the

amount standing to the credit of the Bank Accounts in its favour, for the purpose of recovering the amounts of money owed under the Secured Obligations;

- (b) As regards the Movable Mortgage on the Bank Accounts opened with the Bank, it can set off the amounts owed under the Secured Obligations against any amounts from the Bank Accounts opened with the Bank;
- (c) As regards the Movable Mortgage over Bank Accounts opened with other credit institutions than the Bank where the Bank is holder or co-holder of such Bank Accounts or where there is a tripartite covenant between the Guarantor, the Bank and the credit institution with which the Bank Account is opened, according to which the credit institution undertakes to comply with any instructions of the Bank in relation to the amounts in such Bank Account, it can order such credit institutions to release the amount standing to the credit of the account to its benefit; and
- (d) The Bank may debit any of the Bank Accounts with the equivalent value of the Secured Obligations. For this purpose, the Bank may perform any foreign exchange operation and/or sign the order of participation to the tender on the foreign exchange market, for the conversion of the proceeds resulting from the enforcement of the Movable Mortgage into the currency of the Credit Facility Agreement, at the exchange rate offered by the Bank to non-banking clients, if the Credit Facility Agreement is in another currency than the currency of the Bank Accounts.

#### **4. ADDITIONAL SPECIAL PROVISIONS ON THE ENFORCEMENT OF THE MOVABLE MORTGAGE OVER COLLATERAL DEPOSIT**

- 4.1 Collateral Deposit Reduction.** In case the Secured Obligations are not completely and definitively fulfilled, the Guarantor authorizes the Bank to reduce the Collateral Deposit at the maturity date of any amount due under the Secured Obligations, at the end of the business day, with the equivalent of the amount due and unpaid. The Guarantor authorizes the Bank (i) to transfer the amount with which the Collateral Deposit has been reduced in the Borrower's credit and/or interest account, without being necessary any other notice or power of attorney and without accelerating the Credit Facility and (ii) to utilize the amount such transferred for the reimbursement of the amount due and unpaid under the Secured Obligations. The Guarantor authorises the Bank that, in case the currency of the Collateral Deposit differs from the currency of the Credit Facility Agreement, the Bank will perform in the name and on the account of the Guarantor the currency exchange operations at the exchange rate set by the Bank on the date the exchange is performed, for the purpose described above.
- 4.2 Unavailability.** The amount from the Collateral Deposit are frozen, limited to the value of the Secured Obligations, starting with the transfer day in the Collateral Deposit and until all Secured Obligations are completely and irrevocably fulfilled.
- 4.3 Liquidation.** The liquidation of the Collateral Deposit and its closing are made by the Bank only after the fulfilment of all the obligations under the Credit Facility Agreement. The Collateral Deposit cannot be close if it represents a security for the Bank. If the Collateral Deposit is due and the obligation for which it was opened has been fulfilled, the Collateral Deposit will be closed through the transfer of the amounts existing in this deposit, into the current account of the Guarantor.

## CHAPTER 4 – SPECIAL PROVISIONS – MOVABLE MORTGAGE OVER INSURANCES

This Chapter 4 (*Special Provisions –Movable Mortgage over Insurances*) hereof contains special rules which are applicable when a Movable Mortgage over Insurances is established under the Mortgage Agreement executed by the Guarantor and the Bank.

### 1. GUARANTOR'S ADDITIONAL OBLIGATIONS

**1.1 Guarantor's additional positive obligations:** In addition to the positive obligations provided at Clause 5.1 of Chapter 1 (*General Provisions*), the Guarantor undertakes and commits to the Bank in relation to each of the Insurances, as follows:

- (a) to sent to each insurer stipulated in the relevant Mortgage Agreement a notice having the form and content provided in the template notice attached to the relevant Mortgage Agreement and to make that an original copy of the notice confirmation for each of the Insurances, in the form provided in the relevant Mortgage Agreement, signed by such insurance company, is sent to the Bank;
- (b) if the Bank is appointed as Insurance payee, to determine the introduction of a clause in each of the Insurances whereby the Bank is appointed as sole payee of any and all indemnities and products in case of occurrence of the insured risk, including all the rights whatsoever and the restitutions of premiums, in a form satisfactory for the Bank; the Bank shall apply the amounts thus paid by the insurers for the payment of the Secured Obligations, even if they have not fallen due, according to Article 2405 of the Romanian Civil Code;
- (c) if the Bank is not appointed as Insurance payee, to ensure the compliance by the insurer of Clause 2.1(f) of the above Chapter 3 (*Special Provisions- Movable Mortgage over Bank Accounts*) ;
- (d) to determine the insurer or the member of the relevant insurance company to inform the Bank and the Guarantor (1) on any rescission, termination or amendment of any Insurance, at least 45 (fortyfive) days before such rescission, termination, amendment or expiry has effects, (2) any non-compliance with the obligation to pay the insurance premium, immediately, (3) any expiry by non-renewal of any Insurance and (4) any action or inaction or occurrence of any event of which the insurer is aware and which could invalidate or determine the (total or partial) impossibility to enforce such Insurance, immediately;
- (e) to submit the original copy of each Insurance and/or, as the case may be, the original copy of the addendum to the Insurance with the Bank, no later than the date of first utilisation from the facility credit, in case of new Insurances or at least 5 (five) days before the expiry date of the Insurance, in case of their renewal;
- (f) from time to time after the execution of the Mortgage Agreement and the Security Period, as regards any new insurance policies or, as the case may be, in relation to the renewal, expiry, rescission or replacement of any Insurance:
  - (i) within 5 (five) days as of the date of such new insurance or, as the case may be, as of the date of renewal or replacement of such Insurance, to execute an addendum to the Mortgage Agreement in order to include the new insurances in the relevant appendix to the Mortgage Agreement (by sending to the Bank a notice having the form provided in the appropriate appendix to the Mortgage Agreement and an updated list of Insurances having the form provided in the appropriate appendix of the Mortgage Agreement so as to include the new Insurances in the appropriate appendix of the Mortgage Agreement; and
  - (ii) to comply with the requirements provided at Clauses 1.1 (a) - (e) of this Chapter and Clause 3.5 of Chapter 1 (*General Provisions*).

**1.2 Guarantor's additional negative obligations:** In addition to the negative obligations provided at Clause 5.2 of Chapter 1(*General Provisions*) , the Guarantor undertakes and commits to the Bank not to appoint additional Insurance payees other than the Bank.

**2. SPECIAL PROVISIONS ON THE ENFORCEMENT OF THE MOVABLE MORTGAGE OVER INSURANCES**

**2.1** In addition to the measures provided at Clause 6.2 of Chapter 1 (*ENFORCEMENT*), if the Movable Mortgage established under the Mortgage Agreement is enforced, the Bank can also take, at its discretion, the following measures, in order to make sure that it recovers from the Guarantor the amounts owed on the basis of the Secured Obligations:

- (a) As regards the Insurances and any Products owed on the basis of the Insurances, if the Bank consented that the Guarantor would collect such Insurances and Products according to these GCS and the relevant Mortgage Agreement, it can take over the insurance agreement in original form, it can request and obtain payment from such insurers and apply any such proceeds for the payment of any outstanding Secured Obligations, can provide to the insurer and can sign any documents necessary for payment of all the amounts owed as insurance indemnity or damages; or
- (b) As regards the Insurances and any Products owed on the basis of the Insurances, if the Bank did not consent or withdraw its consent for the Guarantor to collect such Insurances and Products according to these GCS and the relevant Mortgage Agreement, it can continue to request and obtain payment from such insurers and apply any such proceeds for the payment of any outstanding Secured Obligations.

## **CHAPTER 5 – SPECIAL PROVISIONS –MOVABLE MORTGAGE OVER GOODWILL**

This Chapter 5 (*Special provisions –Movable Mortgage over Goodwill*) hereof contains special rules which are applicable when a Movable Mortgage over Goodwill is established under the Mortgage Agreement executed by the Guarantor and the Bank. For the avoidance of any doubt, the provisions of the other Chapters hereof containing special provisions shall be applicable to the Mortgage over Goodwill by reference to the components thereof (e.g., Chapter 6 (*Special provisions – Intellectual Property Rights Mortgage*) will be applicable if the Goodwill includes Intellectual Property Rights).

### **1. REGISTRATION OF THE MOVABLE MORTGAGE OVER GOODWILL**

Without prejudice to the obligation to comply with the registration formalities provided at Clause 3.5 of Chapter 1(*General Provisions*), the Guarantor undertakes to register with the Trade Registry the establishment of the Movable Mortgage over Goodwill in accordance with Article 21(a) of Law 26/1990 on the trade registry, as further amended and supplemented, and with any other books (including shareholders' register) where the Goodwill elements are recorded, and to submit to the Bank the proof on the performance of such registrations.

### **2. GUARANTOR'S ADDITIONAL POSITIVE OBLIGATIONS**

**2.1** In addition to the positive obligations provided at Clause 5.1 of Chapter 1 (*General Provisions*), the Guarantor undertakes and commits to the Bank in relation to the Goodwill, as follows:

- (a) to maintain and preserve, in good condition and repair (except for normal wear and tear) and to use with the care of a diligent owner all the goods of which the Goodwill consists or will consist;
- (b) to deposit the proceeds resulting from the transfer of any element of the Goodwill in accordance with Article 2393 of the Romanian Civil Code into the account opened with the Bank and to inform the Bank thereon. The Guarantor cannot dispose of the amounts collected in this account without the Bank's prior written consent;
- (c) to insure the assets of which the Goodwill consists, as listed in the Mortgage Agreement, against all risks for the entire Security Period and to appoint the Bank and sole beneficiary of the rights to be indemnified under the insurance policy and of any other amounts collected as price, value or remedies in relation to the improvements to the immovable assets of which the Goodwill consists;
- (d) for the purpose of evidence, the Guarantor undertakes to send monthly updated lists with the situation of all the rights and assets which are added to the Goodwill during the previous month. For the avoidance of any doubt, each such updated list shall be considered to be a part of the relevant Mortgage Agreement, the new list replacing the previous one, with no need to execute an addendum between the contractual parties in this respect, and having effects as of the execution date of such updated appendix by the parties' representatives. For the purpose of evidence, the new situation of the assets which are included in the Guarantor's Goodwill in the updated appendix (if the case) shall be registered with the publicity registers (RNPM, shareholders' register, etc.), the Movable Mortgage established under the relevant Mortgage Agreement thus extending on any new assets which will be part of the Guarantor's Goodwill after the date of the relevant Mortgage Agreement, even in the absence of such further registrations; and
- (e) not to execute any total or partial lease agreement for the Goodwill or any element thereof throughout the entire Security Period without the Bank's prior written consent.

## **CHAPTER 6 – SPECIAL PROVISIONS –MOVABLE MORTGAGE OVER INTELLECTUAL PROPERTY RIGHTS**

This Chapter 6 (*Special provisions – Movable Mortgage over Intellectual Property Rights*) hereof contains special rules which are applicable when a Movable Mortgage over Intellectual Property Rights is established under the Mortgage Agreement executed by the Guarantor and the Bank.

### **1. REGISTRATION OF THE MOVABLE MORTGAGE OVER INTELLECTUAL PROPERTY RIGHTS**

Without prejudice to the obligation to comply with the registration formalities provided at Clause 3.5 of Chapter 1(*General Provisions*), the Guarantor undertakes (i) to promptly file, in accordance with the legal provisions, a request for the registration of the relevant Mortgage Agreement and the Movable Mortgage established under the relevant Mortgage Agreement on the Intellectual Property Rights with the State Office for Inventions and Trademarks and/or any other relevant authority, as provided in the relevant Mortgage Agreement, on its expense and to provide to the Bank (ii) immediately after filing, the proof of filing in accordance with para. (i) above and, within 60 (sixty) days (or a longer term, if the Bank wishes, at its free and absolute discretion, to grant an extension) as of the date of the relevant Mortgage Agreement, a certified excerpt issued by the State Office for Inventions and Trademarks and by any other relevant authority, as provided in the relevant Mortgage Agreement, to certify the aforementioned registration of the relevant Mortgage Agreement and of the Movable Mortgage established under the Mortgage Agreement on the Intellectual Property Right.

### **2. GUARANTOR'S ADDITIONAL POSITIVE OBLIGATIONS**

**2.1** In addition to the positive obligations provided at Clause 5.1 of Chapter 1 (*General Provisions*), the Guarantor undertakes and commits to the Bank in relation to each of the Intellectual Property Rights, as follows:

- (a) to take all the measures and draft all the documents which could be necessary in order to maintain the existence and validity of the Intellectual Property Rights and, if applicable, to make its best efforts in order to protect and preserve the Intellectual Property Rights against theft, destruction, unauthorized access, copying or use by third parties;
- (b) to pay all the registration, renewal and other fees which could be owed in relation to any Intellectual Property Right before or immediately after they become due and to make available to the Bank, at its request, a receipt for such fees or any other supporting document to prove the payment of such fees; and
- (c) not to abandon, cause the termination or allow that any Intellectual Property Right would become null or be extinguished or be subject to a successful appeal by claiming non-use or other reason, without the Bank's prior written consent.

## **CHAPTER 7 – SPECIAL PROVISIONS – MOVABLE MORTGAGE OVER PASSWORD-PROTECTED BEARER CERTIFICATES OF DEPOSIT / DISCOUNTED CERTIFICATES OF DEPOSIT / GOVERNMENT BONDS**

This Chapter 7 (*Special provisions – Movable Mortgage over Password-Protected Bearer Certificates of Deposit / Discounted Certificates of Deposit / Government Bonds*) hereof contains special rules which are applicable when a Movable Mortgage over Password-Protected Bearer Certificates of Deposit / Discounted Certificates of Deposit / Government Bonds is established under the Mortgage Agreement executed by the Guarantor and the Bank.

### **1. EXTENSION OF THE MOVABLE MORTGAGE OVER THE COLLATERAL DEPOSIT**

- 1.1** Without prejudice to Clause 3.1 of Chapter 1 (*General Provisions*), but in the enforcement of this clause, the Guarantor establishes in favour of the Bank a Movable Mortgage over the Collateral Deposit identified by the relevant Mortgage Agreement where the amounts of money related to Password-Protected Bearer Certificates of Deposit, Discounted Certificates of Deposit or Government Bonds are transferred, as well as over the amount standing to the credit of such Collateral Deposit, for the purpose provided at Clause 3.1 of Chapter 1 (*General Provisions*).

### **2. GUARANTOR'S ADDITIONAL NEGATIVE OBLIGATIONS**

In addition to the negative obligations provided at Clause 5.2 of Chapter 1 (*General Provisions*), the Guarantor undertakes and commits to the Bank that, after having appointed the Bank as trustee of the Password-Protected Bearer Certificates of Deposit, not to request the return of the Password-Protected Bearer Certificates of Deposit held in trusteeship by the Bank throughout the entire Security Period. Password-Protected Bearer Certificates of Deposit which are subject to the Movable Mortgage established under the relevant Mortgage Agreement are frozen throughout the entire Security Period.

### **3. SPECIFIC PROVISIONS FOR THE MOVABLE MORTGAGE OVER PASSWORD-PROTECTED BEARER CERTIFICATES OF DEPOSIT, DISCOUNTED CERTIFICATES OF DEPOSIT AND GOVERNMENT BONDS**

- (a) **Redemption or unfreezing.** If, until the due date of the Password-Protected Bearer Certificates of Deposit, the Discounted Certificates of Deposit or the reference date of the Government Bonds or until the redemption date of the Government Bonds as provided in the issuance prospectus (as the case may be):
- (i) The Secured Obligations are not fully and permanently satisfied and the Bank did not capitalize the Password-Protected Bearer Certificates of Deposit, the Discounted Certificates of Deposit or the Government Bonds on the secondary market (as the case may be), on their due date, the Bank shall redeem the certificates on the basis of the authorization given by the Guarantor by execution of the Mortgage Agreement and shall transfer the equivalent value of the Password-Protected Bearer Certificates of Deposit, the Discounted Certificates of Deposit (face value) or the Government Bonds (as the case may be) and the related interest owed to the Guarantor into its Collateral Deposit account provided at Clause 1.1 above; or
  - (ii) The Secured Obligations are fully and permanently satisfied, and the Bank did not enforce the Movable Mortgage established under the relevant Mortgage Agreement, on the due date of the Password-Protected Bearer Certificates of Deposit, the Discounted Certificates of Deposit or the reference date of the Government Bonds or the redemption date of the Government Bonds as provided in the issuance prospectus, the Password-Protected Bearer Certificates of Deposit, the Discounted Certificates of Deposit or the Government Bonds (as the case may be) shall be automatically unfrozen, in view of collecting their equivalent value.



- (b) **Unavailability for Trading.** The Password-Protected Bearer Certificates of Deposit, the Discounted Certificates of Deposit or the Government Bonds (as the case may be) which are subject to the Movable Mortgage established under the relevant Mortgage Agreement are unavailable for trading as of the execution date of the relevant Mortgage Agreement until the due date of the Password-Protected Bearer Certificates of Deposit, the Discounted Certificates of Deposit or the reference date of the Government Bonds or until the redemption date of the Government Bonds as provided in the issuance prospectus (as the case may be).
- (c) **Enforcement of Movable Mortgage.** In case of a peaceful enforcement of the Movable Mortgage by the Bank, by appropriation/direct sale to a third party, on an arm's length basis, the Guarantor hereby undertakes to agree in writing on the enforcement of the Movable Mortgage on the basis of which the Bank will send to the Government bond deposit and settlement system a message to confirm that the Guarantor agrees to the enforcement of the Movable Mortgage.
- (d) **Registration of the account symbol with RNPM.** The Guarantor agrees to the registration with RNPM of the account symbol showing the Discounted Deposit Certificates, assuming all the risks deriving therefrom.
- (e) **Return of necessary and useful expenses.** For Password-Protected Bearer Certificates of Deposit, the Bank undertakes to preserve under the best conditions the Password-Protected Bearer Certificates of Deposit which it held in trusteeship, as a mere administrator in accordance with Articles 795 to 799 of the Romanian Civil Code, and it is entitled to receive from the Guarantor, on the date of the return thereof, the necessary and useful expenses it made for the preservation thereof. The Guarantor undertakes to pay to the Bank, before the release of the certificates, the amounts representing the equivalent value of the necessary and useful expenses for the preservation of the movable assets, made by the Bank. For the avoidance of any doubt, both the Bank and the Guarantor represent that the submission of such Password-Protected Bearer Certificates of Deposit is not an essential obligation of the Mortgage Agreement and that they agreed to execute a Movable Mortgage under Article 2387 *et seq.* of the Romanian Civil Code, and not a pledge agreement (under Articles 2480 to 2494 of the Romanian Civil Code).
- (f) **Capitalization.** The Guarantor expressly authorizes the Bank that, if an Event of Default occurs, the Bank shall satisfy itself with the proceeds resulting from the capitalization of Discounted Certificates of Deposit / Password-Protected Bearer Certificates of Deposit on the market, at the value of the redemption rate on such date.

## **CHAPTER 8 – SPECIAL PROVISIONS – MOVABLE MORTGAGE OVER TANGIBLE ASSETS**

This Chapter 8 (*Special provisions – Movable Mortgage over Tangible Assets*) hereof contains special rules which are applicable when a Movable Mortgage over Tangible Assets is established under the Mortgage Agreement executed by the Guarantor and the Bank.

### **1. GUARANTOR'S ADDITIONAL POSITIVE OBLIGATIONS**

**1.1** In addition to the positive obligations provided at Clause 5.1 of Chapter 1 (*General Provisions*), the Guarantor undertakes and commits to the Bank in relation to each of the Tangible Assets, as follows:

- (a) to maintain and preserve, in good condition and repair (except for normal wear and tear) and to use all Tangible Assets with the care of a diligent owner; and
- (b) to insure the Tangible Assets against all risks throughout the entire Security Period and to assign in favour of the Bank the rights of indemnity arising from the insurance policy and any other proceeds collected as price, value or remedies concerning the Tangible Assets;

### **2. SPECIAL PROVISIONS ON THE ENFORCEMENT OF THE MOVABLE MORTGAGE OVER TANGIBLE ASSETS**

**2.1** In addition to the measures provided at Clause 6.2 of Chapter 1 (*General Provisions*), if the Movable Mortgage established under the Mortgage Agreement is enforced, the Bank can also take, at its discretion, the following measures, in order to make sure that it recovers from the Guarantor the amounts owed on the basis of the Secured Obligations:

- (a) It can take over (by its own means or with the assistance of an enforcement body, at its discretion), from anyone who holds it, any mortgaged Tangible Assets, with all its accessories, and can, without move it, take the necessary measures for such Tangible Asset not to be used anymore, irrespective of the person who holds it;
- (b) It can sell any Tangible Assets by public tender or direct negotiation, under one or several agreements, as a going concern or severally, at any time and in any place (and no matter if such Tangible Assets are held or not by the Bank) and may apply the price thus obtained for the payment of the Secured Obligations; and/or
- (c) It may appropriate any Tangible Assets on account of the Secured Obligations in accordance with Articles 2460 to 2463 of the Romanian Civil Code.

## CHAPTER 9 – SPECIAL PROVISIONS – MOVABLE MORTGAGE OVER SHARES

This Chapter 9 (*Special provisions – Movable Mortgage over Shares*) hereof contains special rules which are applicable when a Movable Mortgage over Shares is established under the Mortgage Agreement executed by the Guarantor and the Bank.

### 1. GUARANTOR'S ADDITIONAL OBLIGATIONS

**1.1** In addition to the positive obligations provided at Clause 5.1 of Chapter 1 (*General Provisions*), the Guarantor undertakes and commits to the Bank in relation to each of the Shares, as follows:

- (a) it shall notify the Bank on its intention to perform any operation of purchase, donation, share capital increase, merger, de-merger or any other operation which causes a change in the number of Guarantor's Shares which are mortgaged under the Mortgage Agreement;
- (b) for the purpose of evidence, the Guarantor undertakes that, within 5 (five) days as of the registration of the operation provided at para. (a) above with the relevant Trade Registry, it shall provide to the Bank the proof of registration with the Trade Registry and an updated list with the situation of the (new) mortgaged Shares. For the avoidance of any doubt, the thus updated list shall be considered to be a part of the Mortgage Agreement, the new list replacing the previous one, with no need to execute an addendum between the contractual parties in this respect, and having effects as of the execution date of such updated appendix by the parties' representatives. The new situation of the mortgaged Shares, as detailed in the updated appendices (if the case) shall be registered with the publicity registers (RNPM, shareholders' register, etc.), the Movable Mortgage thus extending on any new Shares issued by the relevant company which will be held by the Guarantor after the date of the Mortgage Agreement;
- (c) not to transfer the Shares without the Bank's prior consent and to stipulate the acquirer's identification details; and
- (d) to allow or facilitate at any time to the Bank or any other entity or person appointed by the Bank the verification of the shareholders' register or any other similar register throughout the entire Security Period;
- (e) to promptly inform the Bank on any claim or request of any person in relation to the Shares;
- (f) to promptly make any in-cash or in-kind contribution which must be made in relation to the Shares;
- (g) to promptly notify the Bank on any change concerning the holders of Shares and to promptly send to the Bank a copy of the updated articles of association of the company whose Shares are mortgaged, as submitted for registration with the relevant Trade Registry;
- (h) to promptly notify the Bank in writing on any lien in real property, any right of opposition registered with the relevant Trade Registry or any enforcement measure initiated in relation to the Shares and to make available to the Bank any necessary or useful documents to defend the Bank's rights in relation to the Shares; and
- (i) bearer securities are to be submitted to the Bank in trusteeship for keeping and record purposes, according to Articles 795 to 799 of the Romanian Civil Code. For the avoidance of any doubt, the Bank and the Guarantor represent that the submission of such assets is not an essential obligation of the Mortgage Agreement and agree to the execution of a Movable Mortgage on the basis of Article 2387 *et seq.* of the Romanian Civil Code, and not a pledge agreement (according to Articles 2480 to 2494 of the Romanian Civil Code).