

## GENERAL CONDITIONS FOR CREDIT FACILITIES

APPLICABLE STARTING WITH OCTOBER 3, 2018

This document constitutes the General Conditions for Credit Facilities of Banca Comerciala Romana S.A., which are attached to, and form an integral part of, the Credit Facility Agreement (as such term is defined below) entered into between, among others, the Bank and the Borrower (as such terms are defined below), unless the Bank and the Borrower expressly agree otherwise.

### CHAPTER 1 – GENERAL PROVISIONS

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

In the Credit Facility Agreement, unless the Bank and the Borrower expressly agree otherwise, the following capitalised terms shall have the meaning given below:

**Other Signatories** means any party to any of the Financing Documents, other than the Bank and the Borrower.

**Authorisation** means any authorisation, consent, approval, resolution, licence, filing, notarisation or registration.

**Bank** means Banca Comerciala Romana S.A., a credit institution, legally established and operating under the laws of Romania, as a joint-stock company managed in a 2-tier board management system, having its registered headquarters at 5 Regina Elisabeta Blvd, Sector 3, 030016, Bucharest, Romania, registered with the Trade Registry under No. J40/90/1991 and with the Banking Registry under No. RB-PJR-40-008, Unique Registration Code 361757, bank account IBAN RO39RNCB0002B00026473000, opened with Banca Comerciala Romana S.A. - Headquarters, having a subscribed and paid in capital of RON 1,625,341,614.50.

**Reference Banks** means:

- (a) for euro or US dollars:
  - (i) Erste Group Bank AG, Vienna, Austria;
  - (ii) UniCredit Bank Austria AG, Vienna, Austria and
  - (iii) Raiffeisen Bank International AG, Vienna, Austria.
  
- (b) for RON, any of the following banks:
  - (i) BRD - Groupe Societe Generale S.A.;
  - (ii) Raiffeisen Bank S.A.;
  - (iii) UniCredit Tiriac Bank S.A. and
  - (iv) Banca Transilvania S.A.

**Beneficiary** means the natural or legal person in favour of which the Bank issues a Guarantee Instrument or a Letter of Comfort or in favour of which the Bank endorses Negotiable Instruments.

**Event of Default** means any event specified in Clause 7.1 from Chapter 1 (*General provisions*) or in the special provisions of these GCC, as well as any event specified as such by the Bank in the Financing Documents.

**Utilisation Request** means a notice in the form provided to the Borrower by the Bank, where applicable. By reference to the type of Credit Facility Agreement, the Utilisation Request can be called (without limitation) drawing request, endorsement request, issuance request, amendment request, issuance/amendment contract for Guarantee Instruments discounting request, according to the specific provisions of the Credit Facility Agreement.

**GCC** means these General Conditions for Credit Facilities, as amended or supplemented from time to time.

**Credit Facility Agreement** means any agreement, facility or arrangement (as supplemented by these GCC) whereby the Bank makes available one or more Credit Facilities to the Borrower (for the avoidance of doubt, including the contracts for the issuance/amendment of Guarantee Instruments).

**Security Agreement** means any agreement entered into between the Guarantor and/or Borrower and the Bank creating or expressed to create a Security for securing the obligations of the Borrower and, as the case may be, of the Guarantor, under any of the Financing Documents.

**Credit Facility** means the amount used by the Borrower under the Credit Facility Agreement, under the form of one or more lending products or products assimilated to lending products, as described in the Credit Facility Agreement, of the following type (without limitation): (i) overdraft; (ii) credit line; (iii) object loan for financing current activity facility; (iv) investment credit facility; (v) credit facility for VAT financing related to investments; (vi) Guarantee Facility; (vii) Multiproduct Facility; (viii) credit facility for delivery documents; (ix) Endorsement Facility; (x) Discounting Facility for Negotiable Instruments; (xi) Discounting Facility for Letters of Credit; (xii) forfeiting.

**Quotation Date** means, in relation to any period for which an interest rate is to be determined, for RON amounts, 1 (one) Business Day before the first day of the relevant period, or, for other currency amounts, 2 (two) Business Days before the first day of the relevant period.

**Conditions Precedent Fulfillment Date** means the date when the conditions precedent, as such conditions are provided in this GCC and in the relevant Credit Facility Agreement, have been fulfilled in form and substance satisfactory to the Bank, as evidenced by the registration of the Credit Facility with the Bank's evidences and by the Available Facility Limit being made available. The Borrower has the right to request the Bank to communicate the Conditions Precedent Fulfillment Date.

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

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any purchase of a credit instrument, or the issue of bonds, loan stock, debentures or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the generally accepted accounting principles in Romania, be treated as financing or finance lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (i) any amount of any liability under an advance or deferred purchase agreement if the advance or deferred payment are structured primarily as the crediting or financing method for the acquisition of that asset; and
- (j) (without double counting) the amount of any liability in respect of any guarantee or other indemnity for any of the items referred to in paragraphs (a) to (i) above.

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

- (a) arising from any of the Financing Documents, provided that the Borrower and any Other Signatory (if the case) complied with their obligations;
- (b) arising under contracts concluded with BCR LEASING IFN SA;
- (c) the value of which is covered by a Guarantee Instrument issued by the Bank or a Negotiable Instrument endorsed under a Credit Facility Agreement;
- (d) arising from subordinated shareholder loans; or
- (e) if not permitted under the paragraphs above, Financial Indebtedness contracted after the execution of the Credit Facility Agreement and which does not exceed a value expressly provided in the Credit Facility Agreement, if the case.

**Debtor** means the Borrower and/or the Guarantor and/or any Other Signatory (if the case).

**Financing Documents** means these GCC, the Credit Facility Agreement, any of the Security Agreements, any Utilisation Request as well as any other document entered into between any Debtor and the Bank, as well as notices, certificates and requests issued by the Borrower or any third party to the Bank in connection with the Credit Facility Agreement or the transactions contemplated thereunder, as well as the notifications or communications issued by the Bank to the Debtors in connection with the Credit Facility Agreement or with the transactions provided by the Credit Facility Agreement.

**Negotiable Instruments** means the bills of exchange and / or promissory notes which may represent the object of the endorsement under an Endorsement facility or the object of discounting under a Discounting Facility for Negotiable Instruments or the object of forfaiting operations.

**Material Adverse Effect** means a material adverse effect on: (i) the ability of any Debtor to perform or comply with its payment obligations under the Financing Documents to which it is a party; or (ii) the legality, validity, enforceability and binding nature of any Financing Documents or the rights and remedies of the Bank under the Financing Documents.

**EURIBOR** means, in relation to any Credit Facility in euro: (a) the applicable Screen Rate; or (b) (if no Screen Rate is available for that interest period) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Bank at its request and quoted by the Reference Banks to leading banks in the European interbank market, in both cases on the Quotation Date for the offering of deposits in euro for a period comparable to that interest period. If any of the rates applicable as per the above is less than zero, the value of EURIBOR shall be deemed to be zero.

**Guarantee Facility** means a facility for issuance of Guarantee Instruments made available to the Borrower by the Bank in accordance with Chapter 7 (*Special provisions – Guarantee Facility*) hereof.

**Non-Revolving Guarantee Facility** means a Guarantee Facility under which one or more Guarantee Instruments are issued within the limits of an approved upper threshold which cannot be re-utilized in the event of termination/expiry of the Guarantee Instruments caused by term expiry or the Beneficiary's renunciation to the Guarantee Instrument.

**Revolving Guarantee Facility** means a Guarantee Facility under which one or more Guarantee Instruments are issued within the limits of an approved upper threshold and which can be re-utilized with the appropriate value in the event of termination of the Guarantee Instruments issued under the Credit Facility Agreement caused by term expiry or the Beneficiary's renunciation to the Guarantee Instrument before the term expiry of such Guarantee Instrument, in accordance with Chapter 7 (*Special provisions – Guarantee Facility*) hereof .

**Endorsement Facility** means a facility based on which one or more Negotiable Instruments are endorsed made available to the Borrower by the Bank in accordance with Chapter 10 (*Special provisions – Endorsement Facility*) hereof.

**Non-Revolving Endorsement Facility** means an Endorsement Facility based on which one or more Negotiable Instruments are endorsed up to an approved limit which is not replenished with the value of such endorsed Negotiable Instrument if the endorsed Negotiable Instruments were not put up for payment and returned to the Bank in original form or if the Negotiable Instrument was paid from Borrower's internal resources on the due date thereof.

**Revolving Endorsement Facility** means an Endorsement Facility based on which one or more Negotiable Instruments are endorsed up to an approved limit which is replenished with the value of such endorsed Negotiable Instrument if the endorsed Negotiable Instruments were not put up for payment and returned to the Bank in original form or if the Negotiable Instrument was paid from Borrower's internal resources on the due date thereof.

**Discounting Facility for Negotiable Instruments** means a facility for the discounting of Negotiable Instruments made available to the Borrower by the Bank in accordance with Chapter 11 (*Special provisions – Discounting Facility*) hereof.

**Discounting Facility for Letters of Credit** means a facility for the discounting of letters of credit made available to the Borrower by the Bank in accordance with Chapter 11 (*Special provisions – Discounting Facility*) hereof.

**Multiproduct Facility** means a credit facility whereby the Bank makes available to the Borrower a Facility Limit for making utilisations under the form of one or more lending products or products assimilated to lending products, as such are described in the Credit Facility Agreement of the following type: (i) overdraft; (ii) credit line; (iii) object loan for financing current activity facility; (iv) Guarantee Facility; (v) Endorsement Facility or (v) Discounting Facility for Negotiable Instruments, Facility Limit which may also be used under the form of Letters of Comfort, according to Chapter 8 (*Special provisions – Multiproduct Facility*) hereof.

**Guarantor** means any person who creates Security in favour of the Bank for the purpose of securing the obligations of the Borrower and, as the case may be, the Guarantor, arising under the Financing Documents.

**Security** means a movable mortgage (*ipoteca mobiliara*), immovable mortgage (*ipoteca imobiliara*), charge (*sarcina*), pledge (*gaj*), privilege, retention right, promise to create (movable or immovable) mortgage, conditional assignment, assignment for the purpose of security, personal guarantee (*fideiussione*), promissory note (*bilet la ordin*), endorsement (*aval*), letter of comfort or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**Permitted Security** means:

- (a) any mortgage or privilege by operation of law (legal mortgage) and in the ordinary course of business;
- (b) any Security established under the Financing Documents; or
- (c) any Security covering an obligation the value of which does not exceed the limit provided in the Credit Facility Agreement, if the case.

**Market Disruption** means:

- (a) at or about 12 pm noon on the Quotation Date, the Screen Rate (EURIBOR, LIBOR or ROBOR, depending on the currency the Credit Facility) is not available and none or only one of the Reference Banks displays the relevant reference rate for the interest period related to the period for which the Bank is obtaining financing; or
- (b) before the end of the normal business hours in Bucharest, on the Quotation Date for the interest period related to the period for which the Bank is obtaining financing, the Bank assesses that the relevant cost to it of obtaining matching deposits in the Relevant Interbank Market would be in excess of the reference rate (EURIBOR, LIBOR or ROBOR, depending on the currency of the Credit Facility).

**Guarantee Instrument** means (i) the letter of guarantee (in Romanian, *scrisoare de garanție bancara*) issued under the terms and conditions of the Credit Facility Agreement, upon the Borrower's request, under which the Bank undertakes an irrevocable and unconditional commitment to pay a certain amount in favour of the Beneficiary of the Guarantee Instrument; or (ii) the letter of bank counter-guarantee (in Romanian, *scrisoare de contragarantie bancara*) issued under the terms and conditions of the Credit Facility Agreement under which the Bank undertakes an irrevocable and unconditional commitment to pay a certain amount to a credit institution or another financial institution authorized to issue letters of guarantee, as Beneficiary of the Guarantee Instrument; or (iii) the stand-by letters of credit (in Romanian, *acreditiv stand-by*), representing an irrevocable commitment, independent from the commercial contract, under which the Bank undertakes towards the Beneficiary to fulfil the payment obligations of the Borrower, in the case of non-compliance with the obligations under the commercial contract between the Borrower and the Beneficiary.

**Borrower** has the meaning assigned to it in the Credit Facility Agreement.

**Main Borrower** has the meaning assigned to this term in the Credit Facility Agreement.

**LIBOR** means, in relation to any Credit Facility in US dollars: (a) the applicable Screen Rate; or (b) (if no Screen Rate is available for US dollars for that interest period) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Bank at its request and quoted by the Reference Banks to leading banks in the London interbank market, in both cases, on the Quotation Date for the offering of deposits in the US dollars and for a period comparable to that interest period. If any of the rates applicable as per the above is less than zero, the value of LIBOR shall be deemed to be zero.

**List of BCR Fees for Legal Entities** means the list of standard fees of the Bank for products, services and banking operations offered to its corporate clients, as displayed at the Bank's premises or by publishing on the Bank's website ([www.bcr.ro](http://www.bcr.ro)) or by any other communication means agreed between the Bank and the Borrower.

**Margin** represents a calculation item of interest having the value set out in the Credit Facility Agreement, subject to any adjustments pursuant to the Credit Facility Agreement.

**Reference Currency** means the currency of the Facility Limit and the Credit Facility in the Credit Facility Agreement and on the basis of which the Bank makes the daily revaluation of the Credit Facility balance denominated in other Currencies, at the exchange rate of the National Bank of Romania on the revaluation day.

**Multiproduct Facility Currency** means the currency, including the Reference Currency, in which the Facility Limit can be used under the form of Credit Facilities, as provided in a Multiproduct Facility or in the case of the relevant Credit Facility Agreement.

**Utilisation Period** means the period in which the Borrower may make disbursements of the Facility Limit, as such is set out in the Credit Facility Agreement, or as such is extended (before the expiry date) by the Bank by entering into an amendment agreement or, in case of Multiproduct Facility, by approving by the Bank of the Borrower's request.

**Facility Limit** means the amount of money made available by the Bank to the Borrower under the Credit Facility Agreement for utilisations under the form of Credit Facilities;

**Available Facility Limit** means the Facility Limit less any amounts used by the Borrower from the Facility Limit, calculated by reference to the Reference Currency of such Facility Limit.

**Revolving Facility Limit** means a Facility Limit up to which multiple utilisations can be made and which is replenished with the appropriate value of the repaid amounts.

**Relevant Interbank Market** means: (a) in relation to euro, the European interbank market, (b) in relation to RON, the Bucharest interbank market, (c) in relation to USD, the London interbank market and (d) in relation to any other currency, the London interbank market.

**Screen Rate** means:

- (a) in relation to EURIBOR, the percentage rate per annum determined by the European Money Markets Institute (EMMI) for the relevant period;
- (b) in relation to ROBOR, the percentage rate per annum determined by the National Bank of Romania for the relevant period;
- (c) in relation to LIBOR, the ICE Benchmark Administration (IBA) Interest Settlement Rate for the relevant currency and period;

displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, the Bank may specify another page or service displaying the appropriate rate after consultation with the Borrower.

**Interest Rate** has the value set out in the Credit Facility Agreement, subject to any adjustments from time to time pursuant to the Credit Facility Agreement.

**ROBOR** means, in relation to any Credit Facility in RON: (a) the applicable Screen Rate; or (b) (if no Screen Rate is available for that interest period) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Bank at its request and quoted by the Reference Banks to leading banks in the Romanian interbank market, in both cases, on the Quotation Date for the offering of deposits in the RON and for a period comparable to that interest period. If any of the rates applicable as per the above is less than zero, the value of ROBOR shall be deemed to be zero.

**Letter of Comfort** means the letter of comfort issued at the Borrower's request based on Facility Limit type overdraft, credit line, Multiproduct Facility or other product, based on which the Bank makes an irrevocable and autonomous commitment to do or not to do something, in order to support the Borrower, for the performance of Borrower's obligations towards the Beneficiary of the letter of comfort.

**Sublimit** means, for a Multiproduct Facility made available to several Borrowers, the amount allocated to one Borrower from the Multiproduct Facility Limit which provides for more than one Borrower, from which such Borrower can make utilizations under the form of Credit Facilities, if sublimits have been established under the Credit Facility Agreement.

**Subceiling** means, for a Multiproduct Facility, the value of the Credit Facility type overdraft or credit line or object loan for financing the current activity facility or of another product included in the Multiproduct Facility Limit.

**Business Day** means a day (other than a Saturday or a Sunday and the legal holidays) on which banks are opened for general business in Bucharest.

## 1.2 Financial definitions

For the purposes of the financial obligations set out under the Credit Facility Agreement, the capitalized terms shall have the following interpretation:

**“Solvency Ratio”** means the value calculated as “Total capitals divided by the sum of (Fixed Assets plus Current Assets plus Prepaid Expenses)”;

**“Leverage Ratio”** means the value calculated as the sum of (Loans from bond issuance, in gross amounts, plus Interests of loans from bond issuance, in gross amounts, plus Short-Term Internal Bank Credit Facilities plus Interests of Short-Term Internal Bank Credit Facilities, plus Short-Term External Bank Credit Facilities plus Interests of Short-Term External Bank Credit Facilities, plus Long-Term Bank Credit Facilities plus Interests of Long-Term Bank Credit Facilities, plus Long-Term External Bank Credit Facilities plus Interests of Long-Term External Bank Credit Facilities plus Credit Facilities from the State Treasury and related interest, plus Other loans and related interest, plus Other loans and assimilated debts, less Cash at bank and in hand) divided by the sum of (Operating profit or loss plus Value adjustments for tangible and intangible fixed assets, less the Result from the sale of fixed assets account 7583 and account 6583, less Revenues from subsidies for investment purposes account 7584);

**“Debt Service Coverage Ratio”** means the value calculated as the sum of (Operating profit or loss plus Value adjustments for tangible and intangible fixed assets less the Result from the sale of fixed assets account 7583 and account 6583, less Revenues from subsidies for investment purposes account 7584) divided by the Debt Service,

where the Debt Service for interest-bearing debts consists of the principal instalments for banking loans and lease financings, together with the interest related to the interest bearing debts.

## 1.3 Interpretation

- (a) The Borrower, for itself and for each Guarantor (if applicable), and each Other Signatory hereby represents that:
  - (i) it enters into the Financing Documents in its own name and on its own behalf, and not as a proxy, agent, asset manager or fiduciary of another person; and

- (ii) it has independently decided to enter into the Financing Documents, on the basis of its own assessment or, where it has considered necessary, based on the legal, financial or technical expertise of external independent consultants selected by it. When making the decision to enter into the Financing Documents it relies on no written or oral communication from the Bank.
- (b) Chapter 1 (*General provisions*) hereof comprises general rules, applicable to all types of Credit Facility Agreements, and depending on the types of Credit Facility Agreements concluded by the Borrower, only part or all of the chapters comprising special provisions of these GCC shall be applicable to it.
- (c) In these GCC, any reference to:
  - (i) a **person** shall be construed as including its successors and permitted assignees;
  - (ii) an **agreement** or **document** shall be construed as a reference to that particular agreement or document, as amended, restated, supplemented, replaced or novated;
  - (iii) a **normative act** or identified **provision** or **article** of a normative act shall be construed as a reference to that particular normative act, provision or article, as amended, republished or replaced at any time.

## 2. UTILISATION OF THE FACILITY LIMIT. CONDITIONS PRECEDENT

- 2.1 As specified in the Credit Facility Agreement, where applicable, the Borrower shall utilize the Credit Facility by submitting with the Bank a Utilisation Request. If no particular method of submission is specified in the Credit Facility Agreements, the persons authorized to represent the Borrower under the Financing Documents can send the Utilisation Requests to the Bank in hard copy, as well as by e-mail or fax.
- 2.2 If the Bank receives the Utilisation Request on a day which is not a Business Day, the Utilisation Request shall be deemed received on the following Business Day. If the Bank receives the Utilisation Request after 13:00 o'clock on a Business Day, it shall be deemed received in the immediately following Business Day.
- 2.3 The Facility Limit shall be utilized in the Reference Currency or, in the case of Multicurrency Facilities, in any other Currency if provided under the Credit Facility Agreement.
- 2.4 Any Facility Limit amounts undisbursed during the Utilisation Period are cancelled, and the amount of the Facility Limit is accordingly reduced.
- 2.5 The Borrower shall be entitled to make the first utilisation of the Facility Limit only after the Borrower and the Guarantor signed the Financing Documents to which they are parties and only after fulfilling the conditions precedent below, as well as of the other conditions precedent provided in this GCC and in the relevant Credit Facility Agreement, respectively:
  - (a) **Constitutive Documents.** The Bank shall have received the Borrower's and the Guarantor's (if it is a legal person) constitutive documents together with the most recent amendments thereto and the valid ascertaining certificate of the Borrower and the Guarantor issued by the Commercial Registry, but no more than 30 (thirty) calendar days since its issue date;
  - (b) **Corporate approvals.** If the case, the Bank shall have received the corporate approvals of the competent management bodies of the Borrower and the Guarantor with respect to the due execution and performance of the Financing Documents to which it is party and any other documents in implementation thereof, and, at the request of the Bank, of any other parties thereto, respectively the satisfactory evidence to the Bank on the authorisations of the persons signing the Financing Documents on behalf of the Borrower and of the Guarantor, respectively, to sign such documents and to bind the respective parties thereby;

- (c) **Security and Publicity Formalities.** (i) If the case, the Bank shall have received satisfactory evidence to the Bank that the Security specified under the Financing Documents have been duly created, and all publicity formalities necessary for perfecting the Security having been duly fulfilled (ii) In particular, for immovable mortgages, the fulfilment of publicity formalities will be certified by the receipt by the Bank of satisfactory evidence thereon on the submission to the competent Cadastre and Immovable Publicity Office of the request for the registration of the immovable mortgage agreement with the land book, within a term of no more than 10 (ten) days as of the issuance of the land book excerpt for the authentication of such immovable mortgage agreement.
- (d) **Insurance policies.** If the case under the Credit Facility Agreement, the Bank shall have received, under a form satisfactory to the Bank, photocopies of all insurance policies related to the Security specified under the Financing Documents, in full force and effect at such moment, together with satisfactory evidence to the Bank that the insurance premium for each such insurance policy has been paid on its due date.
- (e) **Fiscal certificate.** The Borrower shall have submitted to the Bank a fiscal certificate no older than 30 (thirty) days showing no outstanding taxes and fiscal dues.
- (f) **Payment of fees.** The Borrower shall have paid to the Bank all due fees, related to all products and services contracted by it from the Bank.

2.6 The Bank shall not be obliged to make available to the Borrower any amounts, unless on the date of the Utilisation Request (where applicable, according to the Credit Facility Agreement) and on the date of actual utilisation the following conditions are cumulatively met:

- (a) the amount requested to be used by the Borrower is an amount which is not more than the Available Facility Limit and is denominated in the Reference Currency or, for the Multiproduct Facility, in one of the Multiproduct Facility Currencies; and
- (b) there is no Event of Default or any event or circumstance which would, with the expiry of a grace period set out for remedy (if the case), the giving of notice, the expiry of another term or the making of any determination under the Financing Documents or any combination of the foregoing, be an Event of Default.

2.7 If the Borrower requests the extension of a Revolving Facility Limit product, it must submit the documentation requested by the Bank at least two calendar months before the ultimate due date of such product.

2.8 **Conditions Subsequent.**(i) In case of joint stock companies, if the approvals mentioned under Clause 2.5 letter (b) above have been issued by the general meeting of the shareholders, the Borrower and/or the Guarantor undertake that within no more than 45 (forty-five) days from the fulfilment of the above mentioned condition precedent, the company will submit to the Bank the evidence of publishing the respective decision of the general meeting of shareholders in the Official Monitor; (ii) if the Securities include immovable mortgages, the Borrower and the Guarantor undertake that, within no more than 30 (thirty) days as of the date when the condition precedent at Clause 2.5 letter (c) point (ii) above is met, they will submit satisfactory evidence to the Bank on the registration of such immovable mortgage with the land book, including the resolution and the land book excerpt attesting to the registration of the mortgage.

### 3. INTEREST, FEES AND OTHER COSTS

#### 3.1 INTEREST CALCULATION. DEFAULT INTEREST

- (a) Interest shall accrue starting from the date of the first utilisation of the Facility Limit, including during the grace period, until the full repayment of the Credit Facility, under the terms and conditions provided by the Credit Facility Agreement. In the case of a Guarantee Facility, interest shall accrue starting from the date the Guarantee Facility is transformed into a Credit Facility as per Section 5 (*Transformation into Credit Facility. Repayment of Credit Facility*) of Chapter 7 (*Special provisions – Guarantee Facility*) hereof and in case of an



Endorsement Facility interest shall accrue starting from the date the Endorsement Facility is transformed into a Credit Facility as per Section 4 (*Transformation into Credit Facility. Repayment of Credit Facility*) of Chapter 10 (*Special provisions – Endorsement Facility*) hereof.

- (b) Interest is calculated daily using the unpaid balance of the Credit Facility and considering that a year has 360 days, unless the Credit Facility is denominated in GBP for which the calculation is made by reference to a year of 365 (366) days.

The owed interest shall be calculated daily as follows:

$$\text{Interest} = \frac{\text{[Balance of Credit Facility account x Annual Interest Rate according to Credit Facility Agreement]}}{360}$$

In case of Discounting Facilities, interest shall be calculated according to Clause 2.2 from Chapter 11 (*Special provisions – Discounting Facility*) hereof.

- (c) Interest shall be paid (i) monthly, on the first Business Day of the on-going month for the previous month (including for the non – Business Days of the current month preceding the interest payment date, in case the first day of the month is a non – Business Day; in such case, the next interest instalment shall not include the interest for the non-Business Days already calculated and paid in accordance with the present clause); (ii) on the day the last instalment of the Credit Facility is repaid, if this day is not the first Business Day of the respective month for the period commencing on the last payment date and ending on the ultimate due date of the Credit Facility.
- (d) The Interest Rate is fluctuant, and it is calculated as set out in the Credit Facility Agreement.
- (e) If the Interest Rate is calculated using ROBOR, LIBOR or EURIBOR and the Bank notifies the Borrower that a Market Disruption has occurred, starting with the notification date and until the date the Bank notifies that the respective Market Disruption has ceased to exist, the Interest Rate shall be calculated as the percentage rate per annum which is the sum of:
  - (i) the Margin; and
  - (ii) the rate notified to the Borrower by the Bank to be that which expresses the Bank's cost of funding from whatever source the Bank may reasonably select to ensure the amount necessary for funding the Credit Facility.

### 3.2 FEES AND OTHER COSTS

- (a) The Borrower shall pay the Bank commissions and fees in accordance with these GCC and the provisions of the Credit Facility Agreement. The clauses below referring to fees shall apply in conjunction with BCR Fee Rates for Corporate Clients. The application shall be made selectively by reference to the categories of fees charged under the Credit Facility Agreement. The BCR Fee Rates for Corporate Clients can provide for fees in addition to those provided herein.
- (b) The Borrower shall pay to the Bank, promptly on demand, any costs and expenses (including legal fees) reasonable and based on supporting documents incurred by the Bank in connection with:
  - (i) the negotiation, preparation, printing, execution and perfection of the Financing Documents (and any other documents provided thereby), including the documents concluded after the execution date of the Credit Facility Agreement;

- (ii) the evaluation, preparation, analysis, review, negotiation, execution and, as the case may be, registration and authentication of any amendments or waivers to any Financing Documents or any other documents related thereto;
  - (iii) the re-evaluation of the assets subject to the Security specified under the Financing Documents, in accordance with the legislation in force and the internal regulations of the Bank;
  - (iv) the enforcement, or the preservation, of any rights under any Financing Document and of any procedures instituted by or against the Bank as a result of taking or holding the Security specified under the Financing Documents or enforcement of these rights;
  - (v) the occurrence of an Event of Default, including the investigation of any event which the Bank may reasonably consider to be an Event of Default, in such circumstances the Borrower bearing any losses or damages incurred by the Bank;
  - (vi) any additional or increased cost (including without being limited to any reduction of any amount due and payable under the Financing Documents), as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the execution date of the Credit Facility Agreement; and
  - (vii) the Borrower shall pay and, within 3 (three) Business Days of demand, indemnify the Bank against any cost, loss or liability that may incur in relation to any stamp duty, land tax, registration and other similar taxes payable in respect of any Financing Document.
- (c) **Specific provisions for payment of the fees in case of credit facilities guaranteed by a credit guarantee fund.** In case the Facility Limit is secured with a guarantee provided by a credit guarantee fund, the Borrower undertakes:
- (i) to pay the guarantee fees in the percentages established by the Rural Credit Guarantee Fund (*in Romanian*, Fondul de Garantare a Creditului Rural SA – IFN (FGCR)) and/or by the Small and Medium Enterprise Credit Guarantee Fund (*in Romanian*, Fondul de Garantare a Creditelor pentru Intreprinderile Mici si Mijlocii SA – IFN (FNGCIMM)) and to acknowledge that, in case the guarantee is provided from administration sources, the fees can be modified annually; in case of such amendments, the new level of the guarantee fees shall be communicated to the Borrower by the Bank and shall be borne by the Borrower;
  - (ii) in case of short term Facility Limits, the payment of the guarantee fee shall be made in full until the date the conditions precedent provided by the respective Credit Facility Agreement and GCC are fulfilled;
  - (iii) in case of medium and long term Facility Limits, the payment of the guarantee fee shall be made in full until the date the conditions precedent provided by the respective Credit Facility Agreement and GCC are fulfilled, or in tranches, in annual instalments, as follows: for the first year of guarantee, until the date the conditions precedent provided by the respective Credit Facility Agreement and GCC are fulfilled, and for the following years of guarantee, until the 1st of March of the payment year or at the repayment date of the Facility Limit (including in case of early repayment), if the repayment date (or the early repayment date) is before the date of 1st of March; in case of payments in tranches, the Bank shall communicate annually to the Borrower, the amount to be paid representing guarantee fees;
  - (iv) in case of renouncing to the guarantee issued by a credit guarantee fund, before the Facility Limit is made available to the Borrower, the Borrower has the obligation to pay the

guarantee fee corresponding with the period between the issuance date of the guarantee by the guarantee fund and the date the guarantee is renounced to.

#### 4. REPRESENTATIONS AND WARRANTIES

4.1 Except as otherwise disclosed prior in writing to the Bank, each of the Borrower, for itself and for each of the Guarantors and each Other Signatory for itself (if the case) makes the representations and warranties set out in this Section 4 (*Representations and warranties*) to the Bank and acknowledges that these representations and warranties were essential for the Bank when entering into the Financing Documents:

- (a) **Status.** It is a company or an authorised natural person, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- (b) **Power and authority.** It has the power to duly enter into, deliver, exercise the rights and perform the obligations under the Financing Documents and has taken all necessary action to authorise its duly entry into and performance of each of the Financing Documents and the transactions contemplated thereunder.
- (c) **Binding obligations.** The obligations expressed to be assumed by it in each Financing Document are legal, valid, binding and enforceable obligations or effective against them.
- (d) **Non-conflict with other obligations.** The entry into and performance by any of them of the Financing Documents and the obligations contemplated thereunder, and the creation of the Security specified under the Financing Documents by them, do not and shall not conflict with: (i) any law or regulation applicable to them; (ii) their constitutive documents; or (iii) any agreement or instrument binding upon them or any of their assets.
- (e) **No Default.**
  - (i) No Event of Default is continuing or might reasonably be expected to result from the making of any utilisation of the Facility Limit.
  - (ii) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on any of them or any of their assets and which might have a Material Adverse Effect.
- (f) **No deduction of tax.** Neither of them is required to make any deduction for or on account of any tax, duty, levy or withholding of similar type from any payment be made under any Financing Document.
- (g) **Harmful acts.** For the purpose of Article 1.221 of the Romanian Civil Code, it confirms that it has the necessary experience and knowledge to enter into and evaluate any Financing Document to which it is party and it is not in a state of need.
- (h) **Security.** There is no Security created over all or any of the present or future assets of the Borrower and/or Guarantor, except for Permitted Securities.
- (i) **Centre of main interests and establishments.** It has its “centre of main interests” (as that term is used in Article 3(1) of the Regulation of the Council of the European Union No. 1346/2000 on Insolvency Proceedings (the “**Regulation**”)) in the jurisdiction of incorporation and organization. None of them has any “establishment” (as defined in Article 2(h) of the Regulation) in any jurisdiction other than the jurisdiction of incorporation or organization.
- (j) **Insolvency.** It is neither insolvent nor unable to pay its debts (including subordinated and contingent debts), nor could it be deemed by a court to be unable to pay its debts nor, in any such case, will it become so in consequence of entering into any Financing Document and/or performing any transaction contemplated under

any Financing Document. It has not taken, started or is not threatened in relation to, any dissolution or liquidation, insolvency proceedings, judicial reorganization or bankruptcy.

- (k) **Financial Indebtedness.** It has no Financial Indebtedness, except for Permitted Financial Indebtedness.
- (l) **Financial Statements.** The financial statements of each of them provided to the Bank have been prepared according to the generally accepted accounting principles, standards and practices in Romania and are consistently applied and accurately present the financial condition of any of them at the reference date, and starting with such date there occurred no material adverse change and no material adverse change continues to exist in its commercial or financial standing or in its business.
- (m) **No misleading information.** Any information provided to the Bank by any of them or on their behalf in connection with the Financing Documents and the business of any of them or otherwise delivered during the Bank's analysis process was true and accurate under all material aspects, at the date they were provided. Each of them confirms that it has not provided to the Bank and has not omitted to, partially or fully, provide information which by their nature are misleading or present an erroneous situation in connection with any aspect of the contractual relation with the Bank or with third parties. Also, each copy document provided to the Bank is correct, complete and in full force and effect and has not been amended or superseded afterwards.
- (n) **Ranking.** Each Security specified under the Financing Documents is or will be, until the date of the first utilisation of the Facility Limit, senior to any other encumbrances which may exist over the assets subject to the respective Security, except for the cases when the Bank approved the establishment of lower-ranking securities.
- (o) **Legal and beneficial owner.** Subject to the provisions of the Credit Facility Agreement or the relevant Security Agreements, each of them is the legal and beneficial owner (in Romanian, *proprietar legal si unic*) of, and has good and valid title (in Romanian, *titlu valabil și neafectat de condiții*) to, each of its assets which is expressed to be the subject of the Security Agreements.
- (p) **No Sanctions.** To the best of the Borrowers' knowledge and after reasonable inquiry, neither the Borrower, nor any of its shareholders, directors or legal or conventional representatives authorised to sign any of the Finance Documents: (i) is subject to any proceeding or investigation with respect to any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by the Security Council of the United Nations, the United States of America, the European Union, Romania or any governments and official institutions or agencies of these; or (ii) is engaging in any transaction that evades or breaches any sanctions imposed by the authorities under paragraph (ii) above, on any person.

4.2 The representations provided by Clause 4.1 above are deemed to be made by the Borrower, for itself and for each of the Guarantors and by each Other Signatory (if the case) at the date hereof and subsequently deemed repeated (by reference to the facts and circumstances then existing) on the date of each Utilisation Request, on each interest payment date and the execution date of each Financing Document.

## 5. GENERAL UNDERTAKINGS OF THE DEBTORS

5.1 Until the date of full satisfaction of all obligations due to the Bank under any Financing Document, the Borrower undertakes to duly and timely perform the following obligations:

- (a) **Compliance with laws:** to comply in all material respects with all laws to which it may be subject.
- (b) **Access:** to allow the Bank and/or the accountants or other contractors or professional advisors of the Bank the unrestricted access at any reasonable time and with a reasonable prior notice, at the Borrower's cost and risk, to the Borrower's premises, assets, registries and records (including, without limitation to, any financial statements or other accounting registration, the entire documentations based on which the above were prepared (in whatever form, either written, electronic or other form) of the Borrower, held by the Borrower or under its

control (including, without limitation, its employees, representatives, assignees, successors or subcontractors), as well as any documents referring to environmental risk) and to meet and discuss with the Borrower's management; the financial statements, registrations and documents on which the above are based on or other above mentioned documents shall be made available to the Bank or its authorized representatives during normal working schedule, at the Borrower's headquarters. In case the Borrower's headquarters are not available at the date reasonably requested by the Bank, the above mentioned documents will be made available for examination by the Borrower on a date and at a location chosen by the Bank, on the Borrower's expense.

- (c) **Authorizations:** to obtain, to comply with and take all measures required for maintaining the validity and effectiveness of any Authorization required or appropriate for (i) allowing the Borrower to validly conclude, exercise the rights and perform the obligations provided by each Financing Documents; (ii) ensuring the lawfulness, validity, enforceability or admissibility in evidence in Romania and in any other relevant jurisdiction, if the case, of any Financing Document; and (iii) conducting its business, if failing to comply with this obligation has or is reasonably expected to have a Material Adverse Effect;
- (d) **Credit Facility utilisation:** to ensure that all amounts made available by the Bank under the Credit Facility Agreement are used for the purposes provided by the Credit Facility Agreement, and upon request, to provide the Bank with satisfactory evidence in respect thereto;
- (e) **Paripassu:** to ensure that its payment obligations under the Financing Documents rank at least paripassu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law;
- (f) **Environment protection:** to comply with all environment protection laws, to obtain, maintain and ensure compliance with all environmental authorizations or other similar permits, to implement the procedures for monitoring the compliance with, and to prevent liability based on, any environment protection law, to the extent any such non-compliance has or is reasonably expected to have a Material Adverse Effect;
- (g) **Any environmental notice:** to promptly notify in writing the Bank, in connection with (i) any application, referral, notice or investigation conducted by any person with respect to any environment protection law against it which is current, pending or imminent; and (ii) any facts or circumstances which might reasonably determine that any application, referral, notice or investigation conducted by any person with respect to any environment protection law be initiated or imminent against it, if such application, if adversely determined, it has or is reasonably expected to have a Material Adverse Effect;
- (h) **Insurances:**
  - (i) The Borrower undertakes to:
    - i. conclude and maintain insurances with respect to the assets subject to the Security specified under the Financing Documents and the assets representing the object of the investment made through the Credit Facility, 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 assets under point i. above that cover the insured risks as requested by the Bank, including the following minimum insured risks:
      - for residential immovable Securities – earthquake, flooding, land quakes, landslip, fire, explosion, natural catastrophes (earthquake, natural flooding, landslip/land quakes), atmosphere phenomena (hurricane, storm, tornado and other associated atmosphere phenomena, snow avalanches);
      - for non-residential immovable Securities – the minimum risks mentioned above for residential immovable Securities, to which the following shall be added: falling of flying equipment, natural

catastrophes (alluvium), atmospheric phenomena (lightning, hail, weight of the snow or of the ice), strikes, rebellions, social movements, vandalism, crashing with auto vehicles;

- for movable assets Securities (including equipment, equipment and current assets used as Securities, deposit stocks) – the minimum risks mentioned above for residential immovable Securities, 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 concluded for the above assets, 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;

(ii) The Borrower shall conclude the insurance policies provided above 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 Borrower, 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 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.

(iii) 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 the purpose of cashing such amounts, 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 under the Financing Documents 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 from the above mentioned account. 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.

- (i) **No amendment to the constitutive act, scope of business, form of organization and operation:** it shall not make, or permit to be made, any changes to its constitutive act, to the Borrower's main scope of business, form of organization and operation (including, without limitation, the change of shareholders or stockholders (as the case may be) holding at least 25% of the share capital), without the prior written consent of the Bank, except for those minor changes which would not or might not be reasonably likely to have an adverse effect on the Borrower, at the Bank's discretion;
- (j) **No Security:** it shall not create, nor will it permit to be created, any Security over its present and future assets, except for the Permitted Securities or the case when the Bank gave its prior written consent in this respect;
- (k) **No disposal:** it shall not enter into any transaction, without the prior written consent of the Bank, which may consist of, or could result in, the sale, lease, transfer or performing any other act of disposal over any of its assets, except for those disposals (i) made in the ordinary course of business and under usual business conditions; or (ii) in exchange of other assets comparable as regards the type, value and quality or of a superior type, value and quality; or (iii) with respect to obsolete or redundant equipment and vehicles for the Borrower's business, for cash or (iv) to the extent they are not included in the above, the acts of disposal the value of which does not exceed the limit provided in the Credit Facility Agreement, if the case;
- (l) **No Financial Indebtedness:** except for the Permitted Financial Indebtedness or with the prior written consent of the Bank, the Borrower shall not incur or permit to exist any Financial Indebtedness;
- (m) **No loan to third parties:** it shall not make any loans, grant any credit to or for the benefit of any person, or otherwise assume any liability, whether present or future, in respect of any obligation of any person (except as provided under the Financing Documents), without the prior written consent of the Bank;
- (n) **No Security for third parties:** it shall not create any Security in respect of any obligation of any third party, without the prior written consent of the Bank;
- (o) **Dividends:** it shall not declare, distribute and shall not pay dividends, commissions or other type of distributions (or interest to any dividend, encumbrance, commission or another type of unpaid distribution) (in cash or in kind) from or with respect to its share capital (or any part of the share capital), other than with the prior written consent of the Bank;
- (p) **Subordination:** until all amounts which may be or become payable under or in connection with the Financing Documents have been irrevocably paid in full, it shall not fulfil any payment obligations towards its shareholders/stockholders, irrespective whether it refers to the principal, interest, fees, costs or other payment obligations, and for the purpose of this Clause it hereby represents that it has obtained the express consent of these creditors for undertaking this obligation;
- (q) **No merger or demerger:** it shall not enter into, nor shall it permit to be entered into, any merger of the Borrower with any other entity or demerger into several entities or corporate restructuring or transformation, without the prior written consent of the Bank;
- (r) **Security Publicity Formalities:** The Bank shall have the right (but not the obligation) to make for, on behalf and at the expense of the Borrower and/or the Guarantor, as the case may be, any publicity formalities for the Securities established in its favour under the Credit Facility Agreement, no power of attorney, authorization or instruction to authorize from them being required. The Bank is also authorized to debit Borrower's account with the equivalent value of the amounts paid by the Bank as per the above.

- (s) **Securing the Facility Limit with promissory notes.** In case the Facility Limit is secured with promissory notes issued and/or endorsed by either of the Obligors, the Borrower undertakes to fulfil and/or to ensure that the issuer of the promissory notes and their endorsers, as the case may be, shall fulfil the following obligations:
- (i) it shall present to the Bank before the Conditions Precedent Fulfillment Date, respectively with at least 180 (onehundredandeighty) days before the expiry of the 3 (three) years presentation term as of the issuance date of the blank promissory note initially accepted as collateral, a new blank promissory note with the issuance date filled in, containing the “Blank. No protest” clause. Each such promissory note shall be issued by the Borrower and, as the case may be, endorsed by the shareholders/associates holding more than 10% of the Borrower’s share capital, by its director/directors, as well as by their spouses (if case) of all the persons above or by other persons (endorsers) requested by the Bank;
  - (ii) in case a promissory note has to be endorsed by two or more persons, the Borrower shall issue as many promissory notes as the number of the endorsing persons, each promissory note being endorsed by a sole endorsing person;
  - (iii) in case any credit guarantee fund requests the issuance of a promissory note, the Borrower and the Guarantor(s) (as the case may be) undertakes to provide the Bank with such promissory note, in strict compliance with the issuance and endorsing conditions required by the respective credit guarantee fund, as well as to renew it in compliance with the provisions of this letter (s) point (i) above or in accordance with the requirements of the respective credit guarantee fund;
  - (iv) in compliance with the legal regulations in force regarding promissory notes (art. 12 and art. 37, together with art 106 from Law no. 58/1934, as subsequently amended), the Borrower and each of the Guarantors agree with the extension of the payment presentation period of each promissory note provided to the Bank to 3 (three) years from the issuance date;
  - (v) in case an Event of Default occurs, the Borrower and each of the Guarantors: (i) acknowledges and agrees that the Bank, as well as any subsequent assignee (including, without limitation, any credit guarantee fund) has the right to fill in the blank promissory note by inserting the corresponding mentions in the blank spaces (including, without limitation, the amount, currency, “to/at the order of”, “value represents”, maturity date); (ii) authorised the Bank to present the promissory note for payment, as well as to use any and all the rights and remedies that the Bank benefits from based on the law and the Financing Documents;
  - (vi) in case of: (i) a modification of the legislation applicable to promissory notes, (ii) a change due to which the details presented in the promissory note become incomplete or inaccurate, of any changes (including, without limitation, a change in the shareholding structure) or (iii) any other change or event, that in the reasonable opinion of the Bank, may require the replacement of the promissory note, then the Bank shall notify the Borrower and/or Guarantors regarding the circumstances and the instructions regarding the replacement of renewal of the promissory note. Within 5 (five) Business Days upon receipt of such notification, the Borrower and/or Guarantors shall provide the new promissory note to the Bank.



- 5.2 Until the date of full satisfaction of all obligations due to the Bank under any Financing Document, each of the Borrower, for each of the Guarantors, and also each Other Signatory for itself (if the case) undertakes to duly and timely perform the obligations provided by Clause 5.1 above (except for paragraph (d)), which obligations shall apply accordingly by reference to the Financing Documents to which each it is a party.
- 5.3 For the avoidance of doubt, the Borrower, for itself and for each of the Guarantors, and each Other Signatory (if the case) confirms that any power of attorney, authorization or instruction in the form of a mandate granted by any of them under the Financing Documents is irrevocable and shall be effective until the discharge date of any and all obligations under the Financing Documents.
- 5.4 For the purpose of Article 1.271 of the Romanian Civil Code on hardship, the Borrower, for itself and for each of the Guarantors, and each Other Signatory for itself (if the case) expressly and irrevocably acknowledges and undertakes all changes in circumstances including exceptional and unforeseeable changes in circumstances which may render the performance of their respective obligations and liabilities under the Financing Documents more onerous, burdensome or excessive.

## 6. INFORMATION UNDERTAKINGS

- 6.1 **Financial Statements.** Until the date of full satisfaction of all obligations due to the Bank under any Financing Document, the Borrower, undertakes to provide the Bank with the following:
- (a) the Borrower's annual and biannual (biannual accounting reports) financial statements filed with the competent tax bodies and bearing their stamp attesting the filing (consolidated, if the Borrower is a member of a group of companies and audited if there is any such legal obligation), without delay after the date of submission, but in any case within 15 (fifteen) calendar days starting on the date of submission with the competent tax bodies;
  - (b) quarterly trial balances, no later than the 25<sup>th</sup> of the month following the end of each quarter.
- 6.2 **Other notifications.** Until the date of full satisfaction of all obligations due to the Bank under any Financing Document, the Borrower, undertakes to notify the Bank regarding the following:
- (a) **Any amendment in the preparation method of the financial statements:** any amendment in the preparation method of the annual, biannual or quarterly financial statements of the Borrower and any other information which would allow the Bank to compare the Borrower's financial status before and after the respective amendment;
  - (b) **Any intention of amending the share capital structure, constitutive act, scope of business or in relation to insolvency proceedings:** any intention of (1) reducing the Borrower's share capital, (2) changing the scope of business, amending the name, registered headquarters, statutory bodies or members of the statutory bodies of the Borrower or the Borrower's shareholding, (3) submitting any application for opening the insolvency proceedings, restructuring, judicial reorganization, bankruptcy, ad-hoc mandate, preventive concordat or similar proceedings against the Borrower, instituted by the Borrower or by any other person, (4) changing the form of organization or operation, (5) merging, demerging or other type of transformation, entering into liquidation or deciding on the Borrower's dissolution, without delay since it becomes aware of such intention, or (6) any amendment to the constitutive acts which has or is reasonably expected to have a Material Adverse Effect;
  - (c) **Any decision of amending the share capital structure, the constitutive act, the business object or in relation to insolvency proceedings:** any decision of the competent body with respect to the items provided under paragraph (b) above, without delay since the date of passing the respective decision;
  - (d) **Litigation:** the details of any litigations or proceedings current or pending (including litigation, arbitration or administrative proceedings), which, if adversely determined, might have a Material Adverse Effect on the Borrower, without delay since it becomes aware of such details;

- (e) **Enforcement:** the fact that the Borrower received a notice on the commencement of the enforcement proceedings, together with a copy of this notice, without delay since receiving the respective notice;
- (f) **Shareholding structure:** an updated list of the Borrower's shareholders / stockholders, and if the Borrower is member of a group of companies, the respective group structure chart, without delay since the date of any amendment in any list and/or upon the Bank's request in this respect;
- (g) **Environmental protection:** any inspection conducted and any fines imposed by the competent environmental authorities and to report periodically on the compliance with, and the outcomes of, monitoring the environmental risks;
- (h) **Event of Default:** the occurrence of an Event of Default, without delay since the Borrower becomes aware of it; and
- (i) **Other information:** any other information regarding the performance of the obligations under or in connection with the Financing Documents or the Borrower's financial status, without delay upon the Bank's request in this respect.

## 7. EVENTS OF DEFAULT. ACCELERATION

7.1 Each of the following cases and events constitutes an Event of Default:

- (a) **Non-payment.** Any Debtor does not pay on the due date any amount payable under the Financing Documents, in accordance with the respective Financing Document.
- (b) **Other obligations.** Any Debtor or any other party (other than the Bank) does not comply in due time with any other obligations arising under the Financing Documents (other than those referred to in paragraph (a) above), including, without limitation, the compliance with the limits of the financial indicators as provided in the Credit Facility Agreement.
- (c) **Misrepresentation.** Any of the representation or warranties made or deemed to be made by any Debtor under any Financing Documents or any other document delivered by or on behalf of any Debtor under or in connection with any Financing Documents is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.
- (d) **Cross default.** With respect to any Debtor:
  - (i) any Financial Indebtedness is not paid when due nor within any originally applicable grace period (if the case);
  - (ii) any Financial Indebtedness is declared to be, or otherwise becomes, due and payable prior to its specified maturity as a result of an event of default (however described);
  - (iii) any commitment for any Financial Indebtedness is cancelled or suspended by a creditor, as a result of an event of default (however described);
  - (iv) any creditor of any Debtor becomes entitled to declare any Financial Indebtedness due and payable prior to its specified maturity, as a result of an event of default (however described);
  - (v) any creditor of the Borrower commences the enforcement procedure of any Security created by any Debtor in favour of the respective creditor.
- (e) **Insolvency proceedings.** Any Debtor:

- (i) becomes insolvent or is unable to pay its debts or admits inability to pay its debts as they fall due, suspends making payments or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to reduce, reschedule or restructure in any other way any of its indebtedness (including, without limitation the ad-hoc mandate or preventive concordat);
  - (ii) the value of the assets of any Debtor is less than its liabilities (taking into account contingent or prospective liabilities);
  - (iii) institutes or has instituted against it a proceeding seeking a judgment of insolvency, judicial reorganisation or dissolution and/or liquidation or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its insolvency, judicial reorganisation, dissolution and/or liquidation;
  - (iv) has a resolution passed for its insolvency, dissolution, judicial reorganisation, bankruptcy or liquidation (other than pursuant to a merger or other kind of consolidation);
  - (v) seeks, or becomes subject to, the appointment of an administrator, liquidator, conservator, receiver, trustee, custodian or other similar official for any Debtor or for all or substantially all their goods and other assets;
  - (vi) has a secured party take possession of all or substantially all its assets or has an execution, attachment, garnishment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets;
  - (vii) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or
  - (viii) causes, becomes subject to or is put under liquidation (in Romanian, *lichidare*), dissolution (in Romanian, *dizolvare*) (other than pursuant to a merger or other kind of consolidation) or causes, becomes subject to or is put under any event which, under the applicable laws, would have an analogous effect to any of the events specified above.
- (f) **Material Adverse Change.** Any event or circumstance occurs (including any change in law or its interpretation) which the Bank reasonably believes might have a Material Adverse Effect.
  - (g) **Litigation.** Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened in relation to the Financing Documents or the transactions contemplated thereunder or against any Debtor or any Other Signatory (or against its directors (in Romanian, *administratori*) or any other members of the management bodies), or any of their goods or other assets which has or is reasonably likely to have a Material Adverse Effect.
  - (h) **Termination of business.** The Borrower ceases to carry on its main scope of business or there are circumstances which are likely to have this effect.
  - (i) **Unlawfulness and invalidity.** It is or becomes unlawful for a Debtor to perform any of its obligations under the Financing Documents or any such obligation ceases to be to be legal, valid, binding, enforceable or effective.
  - (j) **Financing Documents.** Any Debtor disputes any Financing Document or alleges that any of its obligations under the Financing Documents is not valid, binding, enforceable or effective, in whole or in part or diminishes any Security created in favour of the Bank.

- (k) **Rescission and repudiation (in Romanian, *denuntare unilaterală*).** Any Debtor rescinds or purports to rescind or repudiates or purports to repudiate a Financing Document or evidences an intention to rescind or repudiate a Financing Document.
- (l) **Securities.** If the case, any Debtor fails to create or perfect any part of the Securities specified under the Financing Documents or to perform with any of the obligations assumed by it under, or to comply with any of the provisions under, the Security Agreements or the value of the mortgaged property under the Security Agreements falls below the market value representing 100% of the outstanding amount of the Credit Facility (or any other percentage set out in the Credit Facility Agreement).
- (m) **Garnishments.** Borrower's bank accounts opened with the Bank are subject to garnishment, except for the case when the Borrower remedies such situation and submits satisfactory evidence to the Bank on the de-registration of the garnishment within 5 (five) Business Days as of the establishment of the garnishment.

7.2 The Borrower acknowledges and understands that, both when setting the Facility Limit and when granting the Credit Facility, the Bank has taken into account certain conditions (considered by the Bank to be essential), such as the financial status of the Debtors and the compliance by the Debtors with their contractual obligations (both under the contracts entered into with the Bank and under those entered into with third parties). As such, the Bank **sets** the Facility Limit and grants the Credit Facility on condition that the Borrower shall not determine, facilitate or permit, by its action or inaction, the occurrence of any of the Events of Default mentioned at Clause 7.1 above (which would be deemed to be a breach of the essential conditions taken into account by the Bank when setting the Facility Limit and granting the Credit Facility). Should any Event of Default occur, the Borrower shall be deemed to lapse the benefit of term (in Romanian, *decazut din beneficiul termenului*) in accordance with Article 1.417 of the Romanian Civil Code and the Bank may accelerate the repayment of the Credit Facility pursuant to Clause 7.3 below.

7.3 On and at any time after the occurrence of an Event of Default the Bank may, by notice to the Borrower, at its discretion:

- (a) cancel the Available Facility Limit (if the case), at which time this shall be cancelled immediately;
- (b) declare that all or part of the Credit Facility principal and accrued interest of the Credit Facility (together with all other amounts accrued or outstanding under the Financing Documents) be immediately due and payable, at which time they shall become either (i) due and payable on demand; or (ii) immediately due and payable, without further notice or any statement, application or objection of any kind, and the Borrower expressly waives such formalities; and
- (c) exercise any or all of its rights, remedies and powers under any Financing Document, including the right to enforce any Security specified under any Financing Document.

7.4 The Borrower shall be deemed to be in default by operation of law (in Romanian, *de drept in intarziere*) when any Debtor fails to pay on the due date any amount payable under the Financing Documents, at the place and in the currency expressly established, respectively on the expiry date of any applicable grace period (if the case).

## **8. SECURITIES. INDEMNITY**

8.1 The Borrower and the Guarantor undertake to secure the principal amount of the Facility Limit, as well as the interest, commissions, costs and expenses arising out of or in relation to the Financing Documents, together with all and any enforcement costs related to the creation and perfection of the Securities specified under the Financing Documents, as provided in the Credit Facility Agreement.

8.2 The Securities specified under the Financing Documents is indivisible until the full and duly satisfaction of all secured obligations under the Financing Documents. Each Debtor shall be jointly liable with the other Debtors

for any and all obligations under the Financing Documents, in accordance with Article 1443 *et seq.* of the Civil Code of Romania.

- 8.3 The Borrower, for itself and for each Guarantor, as well as each Other Signatory (if the case) agree to the re-evaluation by the Bank of the assets subject to the Securities specified under the Financing Documents created in favour of the Bank, at the Borrower's expense, at any time during the Credit Facility Agreement. If any costs related to the evaluation or, as the case may, the re-evaluation of the assets which are subject to the Securities are due and payable by the Borrower or the Guarantor, the Bank shall have the right (but not the obligation) to pay such 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 account with the equivalent value of the amounts paid by the Bank as per the above.
- 8.4 The Borrower undertakes that (a) in the event of identification or occurrence of the currency risk, of modifications on the financial market or in the legal or economic status of the assets subject to the Security specified under the Financing Documents, which determine the modification of the conditions considered for the setting of the Facility Limit and the granting of the Credit Facility; or (b) if any assets subject to the Securities specified under the Financing Documents is destroyed, deteriorated or if its value is reduced due to the fault of any Debtor, and the respective individualised asset was not insured, to create and perfect additional security, in the value, of the nature and within the deadline specified by the Bank. Until such obligations are complied with, the right of the Borrower to utilize the Facility Limit is suspended.
- 8.5 The Borrower assumes full liability for, and agrees to indemnify the Bank against and from, any and all liabilities, losses, damages (compensatory, punitive or otherwise), penalties, claims, actions, taxes, suits, costs and expenses of whatsoever kind and nature, including, without prejudice to the generality of the foregoing, those arising in contract or tort (including, without limitation, negligence) or by strict liability or otherwise, which are imposed on, incurred by or asserted against the Bank (whether or not also indemnified by any other person under any other document) and which in any way relate to, or arise out of or in connection with, whether directly or indirectly: (1) any of the transactions contemplated under any Financing Document or the execution and performance thereof or as a result of the passing, or amendment, of any law, measure, regulation or decision of any supervisory authority or any amendment in interpretation or application after the date hereof; (2) the exercise by the Bank of any of its rights and remedies under any Financing Document. The Bank shall not have any right to be indemnified under this Clause 8.5 for its own gross negligence or intent.

## **9. REPAYMENT OF THE CREDIT FACILITY**

- 9.1 The Credit Facility shall be repaid on the dates and under the terms and conditions mentioned under the Credit Facility Agreement. In case of the Multiproduct Facility, the Credit Facilities granted based on it shall be repaid on the dates mentioned in the Utilization Requests issued by the Borrower and approved by the Bank, under the terms and conditions mentioned under the Credit Facility Agreement.
- 9.2 The repayment of the Credit Facility, including payment of any interest, taxes or fees shall be made in the Reference Currency, or, with the Bank's prior approval, in any freely convertible currency. In all cases, any costs related to conversion as well as the currency risk shall be incurred by the Borrower.
- 9.3 The Borrower confirms that the repayment schedule provided in the Credit Facility Agreement (if the case) is indicative, and that, as utilisations of the Facility Limit are made, the Borrower is responsible for informing itself on the updated amount of the repayment instalments.
- 9.4 In case the Credit Facility Agreements provides a grace period, throughout its duration the Borrower shall repay only the interest and fees provided by the Credit Facility Agreement.

## **10. PREPAYMENT OF THE CREDIT FACILITY. RENUNCIATION TO THE FACILITY LIMIT**

- 10.1 The Borrower shall have the right at any time, on prior approval of the Bank, to prepay all or any part of the

Credit Facility and/or to renounce to the Facility Limit, provided that, if the case:

- (a) the Borrower shall pay to the Bank at the same time, together with the prepaid principal of the Credit Facility, all accrued interest and other amounts payable on the principal amount of the Credit Facility to be prepaid or on the amount of the Facility Limit to be renounced to, and all other amounts due and payable under the Credit Facility Agreement; in case of partial prepayment, the accrued interest related to the principal amount of the Credit Facility to be prepaid shall be paid on the next interest payment date, calculated in accordance with Clause 3.1 letter (c) above.
  - (b) prepayments and/or renunciation to the Facility Limit are permitted and considered as such only after the full reimbursement of all outstanding amounts under the Credit Facility Agreement; and
  - (c) the Borrower shall pay to the Bank a prepayment fee as provided under the Credit Facility Agreement.
- 10.2 Any such notice of prepayment and/or renunciation to the Facility Limit by the Borrower shall be irrevocable and binding on the Borrower. Upon delivery of such notice and approval of the prepayment respectively of the renunciation to the Facility Limit by the Bank, the Borrower shall be obliged to prepay the Credit Facility or, as the case may be, the renunciation to the Facility Limit shall produce effects. The amounts from the Credit Facility prepaid by the Borrower under this Section 10 (*Prepayment of the Credit Facility. Renunciation to the Facility Limit*) may not be re-borrowed and the Facility Limit to which the Borrower renounced may not be restated.
- 10.3 Repayment of amounts from Multiproduct Credit Facilities or Revolving Facility Limits before their due date is not deemed to be a prepayment.

## **11. GENERAL PROVISIONS ON PAYMENTS**

- 11.1 All payments of principal, interest, charges, commissions, fees, expenses and any other amounts due to the Bank under the Financing Documents shall be made, without set-off or counterclaim and without any deduction or withholding, in the Reference Currency (or, in the case of costs and expenses of the Bank, in the currency in which such costs and expenses were incurred), for value on the due date, to such account or such other place as the Bank may from time to time designate by notice to the Borrower.
- 11.2 The Bank shall be entitled, to the extent permitted by law, to set-off any amount due by the Bank to the Borrower, whether or not matured, against any amount then due and payable by the Borrower under any Financing Document, whether or not the Bank has demanded payment by the Borrower of such amount and regardless of the currency or place of payment of either such amount. The Bank shall be entitled, to the extent permitted by law, to deduct from the available proceeds any charges, commissions, fees, expenses and other amounts then due and payable by the Borrower to the Bank under any Financing Document.

For the avoidance of any doubt, the performance of any of the operations provided above is a right, not an obligation of the Bank, and it can be exercised with no further formality.

- 11.3 The Borrower authorizes the Bank:
- (a) to automatically debit its current accounts or deposit accounts (even before their maturity), in RON or foreign currency, with the Credit Facility/Facility Limit amounts (instalments, interest, fees, other costs, including, without limitation, the payment of insurance premiums), as these become due and payable; and
  - (b) for the purposes mentioned under paragraph (a) above, to perform, in the name and on behalf of the Borrower, but within the limits of the due amounts, any bank transfers, wire transfers or exchange operation, at the exchange rate used by the Bank.

For the avoidance of doubt, the performance of any of the operations mentioned under paragraph (a) and (b)

above represents a right and not an obligation of the Bank, and it can be exercised without any further formalities.

- 11.4 If the Bank at any time receives less than the full amount then due and payable to it under the Financing Documents, the amount received shall be allocated and applied by the Bank against the amounts due to the Bank, in their order of maturity, irrespective of the type of receivables. If all amounts have the same maturity date, the order of recovery shall be the following: (a) other costs (e.g., notification costs, enforcement costs, etc.); (b) fees due and unpaid under the Facility Limit and/or the Credit Facility (and/or under other credit facilities or products granted by the Bank), (c) interest under the Credit Facility (and/or to other credit facilities or products granted by the Bank); (d) the Credit Facility (or other principal amounts).
- 11.5 The Bank reserves its right to unilaterally modify the order of debt payment, by notifying the new order to the Borrower in writing, and the Borrower hereby undertakes the new order of debt payment.
- 11.6 Any payment under the Financing Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day, except for the last due date of the Credit Facility which, if it falls on a non-Business Day, the due date shall be deemed to be the previous Business Day.
- 11.7 A determination of the Bank as to any amount payable under the Financing Documents shall be final, conclusive and binding on the Borrower unless shown by the Borrower, to the satisfaction of the Bank, to contain manifest error.

## **12. CHANGE OF CURRENCY**

- 12.1 If the Romanian public authorities adopt EUR as legal currency in Romania before the Credit Facility due date, all the payments which had to be made by the Bank or the Debtors (as the case may be) in RON according to the Financing Documents shall be made in EUR at the value resulting by the application of the denomination ratio set by the Romanian public authorities or by any applicable legal provisions.
- 12.2 If more than one official currency are at the same time recognised by the National Bank of Romania and to the extent permitted by law, then:
- (a) any reference in the Financing Documents to RON and any obligations arising under the Financing Documents in RON, shall be translated into, or paid in, the official currency designated by the Bank; and
  - (b) any translation from one currency to another shall be at the official rate of exchange recognised by the National Bank of Romania for that conversion, rounded up or down by the Bank (acting reasonably).
- 12.3 If a currency change occurs, the Credit Facility Agreement shall be amended, to the extent that the Bank (acting reasonably) considers it necessary, so as to comply with any rules and practices generally accepted on the Relevant Interbank Market, and, in general, in order to take the currency change into account.

## **13. AMENDMENT AND TERMINATION**

- 13.1 No amendment of the Financing Documents (except for these GCC for which Clause **Error! Reference source not found.** below shall apply) shall be effective unless in writing and signed by the Bank and each of the Debtors which is a party to the respective Financing Documents.
- 13.2 The Bank may at any time unilaterally amend these GCC, and such amendment shall be effective starting from the date they are published on the Bank's website ([www.bcr.ro](http://www.bcr.ro)). The GCC in force on the execution date of the Credit Facility Agreement shall be applicable to each Credit Facility Agreement.

## **14. FINAL PROVISIONS**

- 14.1 No failure to exercise, nor any delay in exercising, on the part of the Bank, any right or remedy under the Financing Documents shall operate as a waiver. Also, no single or partial exercise of any right or remedy shall prevent any further or other exercise of that right or remedy, or the exercise of any other right or remedy. The rights and remedies provided under any of the Financing Documents are cumulative and not exclusive of any rights or remedies provided by law.
- 14.2 Neither the Bank, nor any of its agents, directors, officers, employees, delegates or consultants shall be held liable for any claims, actions, liabilities, losses, damages, costs or expenses related to, or arising in connection with, the exercise or the intent to exercise any rights, powers and remedies provided in any of the Financing Documents, except for gross negligence or intent.
- 14.3 If at any time one or more of the provisions of any of the Financing Documents is or becomes invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions of that Financing Document shall not be in any way prejudiced or affected and, if necessary for this purpose, the invalid, illegal or unenforceable provisions shall be deemed to be omitted from the respective Financing Document.
- 14.4 These GCC shall be binding upon any of the Debtors and its successors and shall benefit the Bank and its successors and assignees.
- 14.5 The Borrower shall not assign, novate or otherwise transfer all or any part of its rights or obligations hereunder or under any other Financing Document without the prior written consent of the Bank. The Borrower expressly agrees that the Bank is entitled to assign, novate, transfer or otherwise dispose of all or any part of its rights and obligations under the Financing Documents. To the maximum extent permitted by law, this provision is deemed to constitute prior consent (in Romanian, *consimtament anticipat*) on such transfer of rights and/or obligations, within the meaning of Article 1.315 and Article 1.317 of the Romanian Civil Code.
- 14.6 Each of the Debtors expressly agrees not to seek to rely on any event qualified under Romanian law as force majeure (in Romanian, *forta majora*), fortuitous case (in Romanian, *caz fortuit*) or hardship (in Romanian, *impreviziune*) in connection with the impossibility of performance of any obligation undertaken under any Financing Document.
- 14.7 Any notice, application or communication under or in connection with any Financing Document shall be in writing, and, except as otherwise provided, may be delivered by mail, facsimile, e-mail or directly to the party to which it is addressed using the contact details specified under its signature block in the Credit Facility Agreement; the modification of the contact details shall be made through notification, using one of the communications methods mentioned above. By signing the Credit Facility Agreement, the Parties expressly agree that the documents made or concluded under the Financing Documents (including, but not limited to the Utilisations Requests) and delivered to the other Party by way of fax or email in accordance with this Clause 14.7 have the same probative force as an original. For the avoidance of any doubt, this clause represents a convention on evidence in accordance with Article 256 of the Civil Procedure Code.
- 14.8 Except as otherwise provided in the Financing Documents, all documents to be provided and communications to be given or made under the Financing Documents shall be in Romanian language or, if in another language, shall be accompanied by a translation into Romanian certified by the Borrower, which translation shall be the governing version between the Borrower and the Bank. These GCC are made in Romanian language and English language; in case of discrepancies between the two versions, the version in Romanian language shall prevail.
- 14.9 Each of the Debtors agree that the Bank may disclose and deliver (and shall be deemed to have a legitimate interest to so deliver or disclose) any information and any documents concerning any Credit Facility Agreement and the Debtors, to any of its affiliates and: (i) to any other third party to (or through) whom the Bank assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under the Credit Facility Agreement and/or the other Financing Documents; and/or (ii) to any other third party with



(or through) whom the Bank enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Credit Facility Agreement and/or the Debtors; and/or (iii) to any other third party to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation; and/or (iv) to any third party services providers for purposes of developing, testing and using IT and other systems that would enable optimisation of the banking services; and/or (v) to any third party, if an Event of Default has occurred (regardless of whether acceleration or enforcement has been started).

- 14.10 These GCC and any other Financing Document shall be governed by and construed in all respects in accordance with Romanian law. The Credit Facility Agreement is writ of execution (in Romanian, *titlu executoriu*), in accordance with the provisions of the Government Emergency Ordinance No. 99/2006 regarding credit institutions and capital adequacy, as further amended.
- 14.11 Any dispute and any suit, action or proceeding, which may arise out of or in connection with these GCC and any other Financing Document, will be tried by the competent Romanian court having territorial jurisdiction on the Bank's registered office.
- 14.12 The present GCC are supplemented with the provisions of the General Terms of Business for legal entities and authorised persons (under the form published on the Bank's website [www.bcr.ro](http://www.bcr.ro)), as such may be amended by the Bank from time to time).

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## CHAPTER 2 – SPECIAL PROVISIONS – OVERDRAFT CREDIT FACILITY

The provisions of this Chapter 2 (*Special provisions – Overdraft Credit Facility*) hereof include special rules applicable if the Credit Facility Agreement entered into between the Borrower and the Bank makes available an overdraft Facility Limit.

### 1. FACILITY LIMIT UTILISATION

Without prejudice to the provisions of Clause 2.1 from Chapter 1 (*General provisions*) hereof, the Facility Limit can also be utilized by the Borrower by payment order/transfer, cheque, promissory note or by opening a letter of credit (in Romanian, *deschidere de acreditiv*) or by issuing Letters of Comfort.

### 2. SPECIAL CASE OF REVOCABLE FACILITY LIMIT REVOCABILITY AND ACCELERATION OF CREDIT FACILITIES GRANTED THEREUNDER

The Bank is entitled, at any time throughout the duration of the revocable Facility Limit, mentioned as such in the Credit Facility Agreement or of the Credit Facility used based on the Facility Limit, irrespective of the occurrence of any Event of Default and without any prior formalities, to diminish or cancel the Facility Limit or to accelerate the Credit Facility.

The Bank shall notify the Borrower subsequently, however on the same calendar day when the measure is taken, and the Borrower shall have a 15 (fifteen) day period, except for the case where the Bank grants a longer period according to the notice, to repay any amounts due to the Bank under the Financing Documents.

### 3. SPECIFIC PROVISIONS FOR THE MULTIPRODUCT FACILITY WHEREBY OVERDRAFT SUBCEILINGS ARE GRANTED

If, within the Multiproduct Facility, Credit Facilities have been granted in other currencies than the Reference Currency, and by a full utilisation of the overdraft Subceilings the Available Credit Limit would be exceeded, the Bank will automatically block a part of the value of the overdraft Subceilings in order not to allow the exceeding of the Available Facility Limit.

The amount which is blocked shall be calculated as the aggregate sum of the overdraft Subceilings which would determine, if used, the exceeding of the Available Facility Limit. The amount blocked at the level of each overdraft Subceilings is pro rata to the value of the undrawn amounts from each relevant Subceiling by reference to the value of the undrawn amounts at the time of blocking.

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### **CHAPTER 3 – SPECIAL PROVISIONS – CREDIT LINE FACILITY**

The provisions of this Chapter 3 (*Special provisions – Credit Line Facility*) hereof include special rules applicable if the Credit Facility Agreement entered into between the Borrower and the Bank makes available a credit line Facility Limit.

#### **1. FACILITY LIMIT UTILISATION**

Without prejudice to the provisions of Clause 2.1 from Chapter 1 (*General provisions*) hereof, the Facility Limit can also be utilized by the Borrower by payment order/transfer, cheque, promissory note or by opening a letter of credit (in Romanian, *deschidere de acreditiv*) or by issuing Letters of Comfort.

#### **2. SPECIFIC CONDITIONS PRECEDENT**

In case of credit line Facility Limits with specific destination, the Borrower shall be entitled to make the first utilisation of the Facility Limit only after fulfilling the following conditions precedent, in addition to the documents requested in accordance with Section 2 (*Utilization of the Facility Limit. Conditions precedent*) from Chapter 1 (*General provisions*) hereof, and the other conditions precedent provided in the relevant Credit Facility Agreement, if the case, respectively the receipt by the Bank of the documents attesting the utilization in compliance with the specific destination, having the form and content satisfactory to the Bank.

#### **3. SPECIAL CASE OF REVOCABLE FACILITY LIMIT REVOCABILITY AND ACCELERATION OF CREDIT FACILITIES GRANTED THEREUNDER**

The Bank is entitled, at any time throughout the duration of the revocable Facility Limit, mentioned as such in the Credit Facility Agreement or of the Credit Facility used based on the Facility Limit, irrespective of the occurrence of any Event of Default and without any prior formalities, to diminish or cancel the Facility Limit or to accelerate the Credit Facility.

The Bank shall notify the Borrower subsequently, however on the same calendar day when the measure is taken, and the Borrower shall have a 15 (fifteen) day period, except for the case where the Bank grants a longer period according to the notice, to repay any amounts due to the Bank under the Financing Documents.

#### **4. SPECIFIC PROVISIONS FOR THE MULTIPRODUCT FACILITY WHEREBY CREDIT LINE SUBCEILINGS ARE GRANTED**

If, within the Multiproduct Facility, Credit Facilities have been granted in other currencies than the Reference Currency, and by a full utilisation of the credit line Subceilings the Available Credit Limit would be exceeded, the Bank will automatically block a part of the value of the credit line Subceilings in order not to allow the exceeding of the Available Facility Limit.

The amount which is blocked shall be calculated as the aggregate sum of the credit line Subceilings which would determine, if used, the exceeding of the Available Facility Limit. The amount blocked at the level of each credit line Subceilings is pro rata to the value of the undrawn amounts from each relevant Subceiling by reference to the value of the undrawn amounts at the time of blocking.

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## **CHAPTER 4 – SPECIAL PROVISIONS – OBJECT LOAN FOR FINANCING CURRENT ACTIVITY CREDIT FACILITY**

The provisions of this Chapter 4 (*Special provisions – Object loan for financing current activity*) hereof include special rules applicable if the Credit Facility Agreement entered into between the Borrower and the Bank makes available a Facility Limit for object loan for financing current activity.

### **1. FACILITY LIMIT UTILISATION**

Without prejudice to the provisions of Clause 2.1 from Chapter 1 (*General provisions*) hereof, the Facility Limit can also be utilized by the Borrower by payment order/transfer, as well as by opening a letter of credit (in Romanian, *deschidere de acreditiv*).

### **2. SPECIFIC UTILIZATION CONDITION**

In addition to the utilization conditions provided by Clause 2.6 from Chapter 1 (*General provisions*) hereof, the Borrower is entitled to use the Facility Limit under the condition to provide the Bank with the duly filled-in payment instruments, in a form satisfactory to the Bank, whereby the Bank is instructed to make the Credit Facility payments.

### **3. SPECIFIC UNDERTAKINGS**

In addition to the obligations provided under Section 5 (*General undertakings of the Debtors*) from Chapter 1 (*General provisions*) hereof, the Borrower undertakes: to provide the Bank with the final invoice or any equivalent document attesting the utilisation of the Credit Facility according to the destination mentioned in the Credit Facility Agreement, including any document attesting the transfer of the ownership right to the Borrower, in form and substance satisfactory to the Bank, without delay from the date of receipt of such documents;

### **4. SPECIAL CASE OF REVOCABLE FACILITY LIMIT REVOCABILITY AND ACCELERATION OF CREDIT FACILITIES GRANTED THEREUNDER**

The Bank is entitled, at any time throughout the duration of the revocable Facility Limit, mentioned as such in the Credit Facility Agreement or of the Credit Facility used based on the Facility Limit, irrespective of the occurrence of any Event of Default and without any prior formalities, to diminish or cancel the Facility Limit or to accelerate the Credit Facility.

The Bank shall notify the Borrower subsequently, however on the same calendar day when the measure is taken, and the Borrower shall have a 15 (fifteen) day period, except for the case where the Bank grants a longer period according to the notice, to repay any amounts due to the Bank under the Financing Documents.

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## CHAPTER 5 - SPECIAL PROVISIONS – INVESTMENT CREDIT FACILITY

The provisions of this Chapter 5 (*Special provisions – Investment Credit Facility*) hereof include special rules applicable if the Credit Facility Agreement entered into between the Borrower and the Bank makes available an investment credit Facility Limit or a Facility Limit for a mortgage loan granted based on the provisions of Law no. 190/1999 regarding the mortgage loan for real estate investments, as subsequently amended.

### 1. SPECIFIC UTILIZATION CONDITION

In addition to the utilization conditions provided by Clause 2.6 from Chapter 1 (*General provisions*) hereof, the Borrower is entitled to use the Facility Limit under the condition to:

- (i) specify on the payment documents, the location in the documents where the relevant expenses are mentioned, as well as the source from which payments are made (e.g. own funds, loan);
- (ii) provide the Bank with the duly filled-in payment instruments, in a form satisfactory to the Bank, whereby the Bank is instructed to make the Credit Facility payments.

### 2. SPECIFIC UNDERTAKINGS

Until the full satisfaction of all obligations due to the Bank under any Financing Document, the Borrower, in addition to the obligations provided under Section 5 (*General undertakings of the Debtors*) from Chapter 1 (*General provisions*) hereof, undertakes to duly and timely perform the following obligations:

- (a) to provide the Bank with the final invoice or any equivalent document attesting the purchase of the asset to which the Credit Facility Agreement relates, respectively the transfer of the ownership right to the Borrower, in form and substance satisfactory to the Bank, without delay from the date of receipt of such documents, but without exceeding 30 (thirty) days from the date of the utilization of the Credit Facility or of the tranche from the Credit Facility corresponding with the moment of the ownership right transfer;
- (b) to allow the Bank to perform technical analysis, on stages of completion of works, on the Borrower's expense, at any time during the validity of the Credit Facility Agreement, whenever the Bank may deem necessary;
- (c) in case of complex investment, mentioned as such in the Credit Facility Agreement:
  - (i) within 30 (thirty) calendar days of signing the takeover minutes upon completion of works related to the investment financed with Credit Facility amounts, to provide the Bank with certified copies of the land book registration decision and of the respective minutes; if the relevant building was erected on a land over which a Security has been created in favour of the Bank, the Borrower undertakes to validly create a mortgage over the building, within 30 (thirty) calendar days as of the date of registration of the takeover minutes upon completion of works in the land book;
  - (ii) to take any necessary measures to allow the Bank, through its authorized representatives or through a company agreed by the Bank (project monitor), to monitor on site the reality of the payments made and of the data mentioned by the Borrower on the payment documents, the observance of the provisions of the technical-economic documentation and the observance of the budget on which the amount of the Facility Limit is based; and
  - (iii) for Facility Limits granted for construction, rehabilitation, consolidation or extension of an immovable asset, to take any necessary measures to allow the Bank to verify the observance of the works performance schedule by the contractor.



## CHAPTER 6 - SPECIAL PROVISIONS – CREDIT FACILITY FOR VAT FINANCING RELATED TO INVESTMENTS

The provisions of this Chapter 6 (*Special provisions –Credit Facility for VAT financing related to investments*) hereof include special rules applicable if the Credit Facility Agreement entered into between the Borrower and the Bank makes available a Facility Limit for VAT financing related to investments.

### 1. SPECIFIC UNDERTAKINGS

Until the full satisfaction of all obligations due to the Bank under any Financing Document, the Borrower, in addition to the obligations provided under Section 5 (*General undertakings of the Debtors*) from Chapter 1 (*General provisions*) hereof, undertakes to duly and timely perform the following obligations:

- (a) **Deductions:** to disclose all deductions made for the recovery of VAT in relation to the investment project financed by the Bank under the relevant Credit Facility Agreement, in a form and content satisfactory to the Bank; and
- (b) **Transfers:** if it collects amounts representing VAT recovered from the State budget, to transfer the appropriate amounts into the current account opened with the Bank and indicated by the latter, for the repayment of the Credit Facility.

### 2. SPECIAL CASE OF REVOCABLE FACILITY LIMIT REVOCABILITY AND ACCELERATION OF CREDIT FACILITIES GRANTED THEREUNDER

The Bank is entitled, at any time throughout the duration of the revocable Facility Limit, mentioned as such in the Credit Facility Agreement or of the Credit Facility used based on the Facility Limit, irrespective of the occurrence of any Event of Default and without any prior formalities, to diminish or cancel the Facility Limit or to accelerate the Credit Facility.

The Bank shall notify the Borrower subsequently, however on the same calendar day when the measure is taken, and the Borrower shall have a 15 (fifteen) day period, except for the case where the Bank grants a longer period according to the notice, to repay any amounts due to the Bank under the Financing Documents.

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## CHAPTER 7 – SPECIAL PROVISIONS – GUARANTEE FACILITY

The provisions of this Chapter 7 (*Special provisions – Guarantee Facility*) include special rules applicable if a Guarantee Facility is made available under the Credit Facility Agreement entered into between the Borrower and the Bank.

### 1. INTERPRETATION OF THE PROVISIONS OF CHAPTER 1. OTHER CLARIFICATIONS

The provisions of Chapter 1 (*General provisions*) hereof shall apply accordingly to the Credit Facility Agreement entered into between the Borrower and the Bank pursuant to which a Guarantee Facility is made available to the Borrower. The provisions referring to the Facility Limit/Credit Facility shall apply accordingly to the Guarantee Facility.

### 2. ISSUANCE OF GUARANTEE INSTRUMENTS. AMENDMENT OF GUARANTEE INSTRUMENTS

2.1 The Guarantee Instrument shall be issued on the template proposed by the Bank similar to those used by the Bank at that moment or on another template agreed between the Borrower and the Bank. If the Borrower wishes the Guarantee Instrument to be issued with different content than that proposed by the Bank, the Guarantee Instrument issuance request must enclose the Borrower's proposal on the form of the Guarantee Instrument to be issued by the Bank and the Bank must accept such provisions. The Bank has discretionary power to accept or reject the proposed Guarantee Instrument form.

2.2 The Guarantee Instruments already issued by the Bank under the relevant Credit Facility Agreement can be amended under the conditions provided by the Credit Facility Agreement and only if the Bank approves such Guarantee Instrument amendment request. The request for Guarantee Instrument issuance or amendment under a Revolving Guarantee Facility can be provided to the Bank in writing, by e-mail or by facsimile, by the persons designated to represent the Borrower under the Financing Documents.

2.3 The obligation to issue the Guarantee Instrument shall be considered fulfilled by the Bank:  
(a) on the date of dispatch by express courier, or SWIFT;  
(b) on the date of delivery of the original to the Borrower.  
according to the delivery method indicated in the Guarantee Instrument issue / amendment application.

2.4 Starting with the date of dispatch by express courier, or SWIFT or, as appropriate, of the delivery to the Borrower, the Bank shall no longer be held liable for any delay and/or loss of the Guarantee Instrument, for its deterioration or for any errors which may occur during the transmission or transport to the Borrower or the Beneficiary.

2.5 The Bank reserves the right not to issue the Guarantee Instrument, not to perform the payment of the Guarantee Instrument / not to implement any Instructions related to the Guarantee Instrument, if the issue of the Guarantee Instrument /payment and/or the implementation of that instruction could result in the Bank's violating any commercial, economic, or financial sanctions arising from any laws, regulations, embargoes or restrictive measures imposed, enacted or enforced by the Security Council of the United Nations, the European Union, Romania or any government or institutions or their official agencies.

2.6 Except if otherwise provided in the Credit Facility Agreement, the Guarantee Instruments issued by the Bank are subject to the international practices and customs specific for the relevant instruments. The value of the Guarantee Instrument shall be reduced with the payments made by the Bank and/or by the Borrower, as the case may be.

2.7 Any action taken by the Bank or its counter parties in relation to the Guarantee Instrument and related documents, if done in good faith and in compliance with the applicable "Uniform Rules for Demand



Guarantees" (hereinafter referred to as "URDG"), the Romanian Law and any other applicable foreign law shall be binding to the Borrower. The terms and conditions of the Guarantee Instrument issue/amendment request have been drafted and are governed by the Romanian law, unless it conflicts with the applicable URDG; in that case the latter shall prevail. The Borrower shall be subject to the exclusive jurisdiction of the courts of the Bank's headquarters or of the one chosen by the Bank, having jurisdiction over any action or procedure related to the terms and conditions applicable to the Guarantee Instrument use/issue/amendment application.

- 2.8 For Guarantee Instruments governed by laws other than Romanian law, the Borrower expressly and irrevocably agrees and undertakes all risks and costs arising from the Guarantee Instrument being governed by that respective foreign law. The Borrower shall indemnify the Bank for any loss or damage suffered by the Bank as a result of the issue of the Guarantee Instrument, including the costs and expenses (including but not limited to the lawyers' fees and legal expenses) related to the claims or legal proceedings arising from the issue of the Guarantee Instrument.
- 2.9 The terms and conditions of the Guarantee Instrument issue/amendment application shall be binding to the Borrower, its successors and its assignees, and shall enter into force or become effective to the benefit of the Bank, its successors and its assignees. None of the terms of the Guarantee Instrument issue/amendment application can be modified and none of the terms and conditions of the Guarantee Instrument issue/amendment application can be waived, unless it is agreed in writing by the Bank.
- 2.10 In the event of requests for issuing Guarantee Instruments consisting in letters of guarantee/counter-guarantee for advance refund or performance guarantees, by order of construction or utilities companies, the Bank performs an opportunity analysis of issuing each such Guarantee Instrument, based on the relevant project, having the right to refuse the issuance of such Guarantee Instrument, without any obligation to justify its decisions. In order to perform the analysis, the Borrower undertakes to provide the Bank with at least the following documents, as well as other documents as may be required by the Bank: (i) project description; (ii) work performance schedule; (iii) project cash flow (including estimate date for collection of first invoice); (iv) project expenditures (personnel costs, raw materials, materials, etc.). After issuing the Guarantee Instrument according with this Clause, the Borrower undertakes to provide the Bank, quarterly, with the project cash flow (cash collections and payments schedule).
- 2.11 In case of Revolving Guarantee Facilities, the Facility Limit shall be replenished with the corresponding value at the expiry date of maximum 5 (five) Business Days from the termination date of a Guarantee Instrument issued under the Credit Facility Agreement caused by term expiry or the Beneficiary's renunciation to the Guarantee Instrument before the term expiry of such Guarantee Instrument.
- 2.12 The Bank reserves the right to keep the Guarantee Instruments in its records for a maximum of five (5) business days after the expiration date, reserving the right to release the guarantees set up in their favor upon the expiration of that term.

### **3. SPECIFIC PROVISIONS ON MULTICURRENCY GUARANTEE FACILITIES**

- 3.1 As regards multicurrency Guarantee Facilities, if during the term of the Guarantee Facility, the value of the Guarantee Instruments (determined by reference to the Reference Currency according to the provisions of Clause 3.2 below) exceeds the Facility Limit of the Guarantee Facility, the Facility Limit of the Guarantee Facility is automatically supplemented with such difference, and the Bank shall notify the new value of the Facility Limit of the Guarantee Facility to the Borrower. The Borrower undertakes to create additional security covering the value exceeding the Facility Limit of the Guarantee Facility, of the nature and within the deadline set out by the Bank and to perform the appropriate publicity formalities in a 10 (ten) Business Day period starting from the notification date. If during the 10 (ten) Business Day period the total value of the Guarantee Instruments expressed in the Reference Currency is below or equal to the level of the Facility Limit of the Guarantee Facility, the Borrower is no longer required to create the respective security.

3.2 The Bank performs daily the re-evaluation of the value of the issued Guarantee Instruments by reference to the Reference Currency, according to the exchange rate of the National Bank of Romania, in order to comply with the Facility Limit of the Guarantee Facility.

#### **4. SPECIAL CASE OF GUARANTEE FACILITY REVOCABILITY**

4.1 The Bank is entitled at any time throughout the Guarantee Facility and irrespective of the occurrence of an Event of Default and without any prior formalities, to diminish or cancel the Available Facility Limit. The Bank shall subsequently notify the Borrower, on the same calendar day on which the measure is taken and the repayment of any amounts due to the Bank under the Financing Documents shall be made by the Borrower within 15 (fifteen) calendar day period, except for the case where the Bank grants a longer period according to the notice.

4.2 Also, in addition to the provisions of Clause 4.1 above and on terms and conditions mentioned therein, the Bank shall be entitled to transform the Guarantee Instruments issued under the relevant Credit Facility Agreement into Credit Facility.

4.3 As regards Revolving Guarantee Facilities, on the date of full repayment of the Credit Facility arising under the transformation of a Guarantee Instrument according to Clause 4.2 above, the Facility Limit of the Guarantee Facility shall not be supplemented with the amount of the Credit Facility.

4.4 The provisions of the Credit Facility Agreement shall apply until the full repayment of all amounts due or which may be due by transforming the issued Guarantee Instruments into a Credit Facility, being agreed that the supplementing of the Facility Limit of the Guarantee Facility of Revolving Guarantee Facilities shall not be permitted in the cases mentioned under Clause 4.1 above.

#### **5. TRANSFORMATION INTO CREDIT FACILITY. REPAYMENT OF THE CREDIT FACILITY**

5.1 Without prejudice to the provisions of Clause 2.1 of Chapter 1 (*General provisions*) hereof, the Facility Limit of the Guarantee Facility shall be reduced as a result of the transformation of the Guarantee Facility into Credit Facility, as follows:

- (a) automatically, upon a payment being made by the Bank under a Guarantee Instruments issued under the relevant Credit Facility Agreement, such amount paid by the Bank becoming a Credit Facility;
- (b) according to the provisions of Clause 6.1 of this Chapter, upon the occurrence of an Event of Default;
- (c) according to the provisions of Clause 4.2 of this Chapter, if the case.

5.2 The Credit Facility provided at Clause 5.1 above shall be granted in accordance with the Credit Facility Agreement, for a duration to be established by the Bank and which is not to exceed 1 (one) year.

5.3 Further to the transformation of the Guarantee Facility into a Credit Facility, the Bank shall send the repayment schedule in the Reference Currency to the Borrower; if the Borrower notifies the Bank, within 10 (ten) days as of receipt of the repayment schedule, that it does not accept this schedule, the Borrower shall repay the Facility Credit within 15 (fifteen) days as of receipt of the repayment schedule notified by the Bank. If the Borrower does not notify the Bank, within the 10 (ten) day-term as of receipt of the repayment schedule, that it does not accept this schedule, the repayment schedule submitted by the Bank shall be considered fully accepted by the Borrower on the date of the Bank's notice, and the Borrower must repay the Credit Facility in accordance with such repayment schedule.

5.4 In the cases provided at Clause 5.1 letters (a) or (b) above, the Bank is also entitled, at its discretion, by notice to the Borrower, to immediately accelerate the repayment of the Facility Credit, in full or in part, together with the accrued interest and any other amounts accrued or outstanding under the Financing Documents whose

repayment was accelerated. At that time, these amounts will become either (i) due and payable on demand; or (ii) immediately due and payable, without further notice or any statement, application or objection of any kind, and the Borrower expressly waives such formalities.

5.5 If the Borrower made repayments of the Credit Facility made available under Clause 5.1 of this Chapter and:

- (a) the Bank did not make payments under the issued Guarantee Instrument and the validity of the Guarantee Instruments issued under the Credit Facility Agreement has ceased by term expiry or by renunciation of the Beneficiary to the Guarantee Instrument; or
- (b) the Bank made payments to the Beneficiary under the issued Guarantee Instruments, but the amount of such payments is lower than the amounts collected from the Borrower,

the Bank shall reimburse the Borrower, within 30 (thirty) Business Days starting from the expiry date of the Guarantee Facility, the respective difference after deducting any costs of any nature due by the Borrower to the Bank under the Financing Documents. This amount bears interest only after the expiry of the 30 (thirty) Business Days period starting from the expiry date of the Guarantee Facility.

5.6 Without prejudice to Clauses 5.1 to 5.4 of this Chapter, if the Facility secured with a mortgage on a collateral deposit becomes a Credit Facility, the Bank is entitled to deem that the Credit Facility, up to the amount in the collateral deposit account, as fully due on the date when the Bank makes any payment under the Guarantee Instrument. In such case, the Bank is entitled and authorized expressly and irrevocably, throughout the entire term of the Credit Facility Agreement and then up to the full recovery of any and all amounts owed by the Borrower (the provisions of Article 2015 of the Civil Code of Romania not being applicable) to satisfy itself from the security established on the collateral deposit account, by clearing the collateral deposit and compensating the amounts standing to the credit thereof with the amounts owed by the Borrower as a result of the Guarantee Facility becoming a Credit Facility, no notice to the Borrower/Guarantor or power-of-attorney from the Borrower/Guarantor in this respect being required. To the extent that the amounts in the collateral deposit account are not enough to cover all the amounts owed by the Borrower further to the Guarantee Facility becoming a Credit Facility, the balance shall be repaid in accordance with Clause 5.2 of this Chapter.

5.7 Without prejudice to Section 7 (*Events of default. Acceleration*) from Chapter 1 (*General provisions*) hereof, as well as any other rights or remedies that the Bank has in accordance with the Credit Facility Agreement, if the Guarantee Facility secured with a mortgage on a collateral deposit becomes a Credit Facility, if the amount paid by the Bank to the Beneficiary of the Guarantee Instrument in the enforcement of the Guarantee Instrument is higher than the amount in the collateral deposit account converted into the Guarantee Instruments Currency at the exchange rate of the National Bank of Romania on the payment date, the uncovered balance shall be repaid on the basis of the schedule communicated by the Bank to the Borrower in accordance with Clauses 5.3 and 5.4 above.

## **6. ACCELERATION**

6.1 In addition to the provisions of Clause 7.3 from Chapter 1 (*General provisions*) hereof, on the date and at any time after occurrence of an Event of Default, the Bank may, at its discretion, by notice to the Borrower transform the entire utilised Facility Limit of the Guarantee Facility into Credit Facility and declare that all or part of the Credit Facility, together with accrued interest, and all other amounts accrued or outstanding under the Financing Documents be immediately due and payable. At that time the amounts shall become either (i) due and payable on demand; or (ii) immediately due and payable, without any further notice or statement, request or objection of any kind, and the Borrower expressly waives such formalities.

## **7. SPECIFIC UNDERTAKINGS**

7.1 The Borrower undertakes to duly and timely perform the following obligations:

- (a) **Signing the statement:** before the issuance of the Guarantee Instrument by the Bank, to sign on each page of the agreed Guarantee Instrument template the following statement: *“We represent that we fully agree and acknowledge the content of this Guarantee Instrument template (letter of guarantee/ letter of counter-guarantee, as the case may be) and we undertake any risk arising from its enforcement.”*, except if it is requested in the submitted application that the texts of the guarantees be prepared and issued on the Bank’s template, in which case the Bank’s template is deemed accepted by the Borrower from the moment of submission of application;
- (b) **Waiver of court actions:** the Borrower understands that, by effect of signing the Credit Facility Agreement, it remains entirely liable to the Bank for all direct and indirect consequences arising from the Financing Documents and the Guarantee Instruments issued by the Bank and accepted by the Borrower and renounces to any opposition, dispute, protest or action before a court of law in connection with the execution of the Guarantee Instruments upon request from the Beneficiary and also undertakes not to introduce court actions to request the Bank to comply, not comply or suspend payment obligations against the Beneficiary of the issued Guarantee Instruments;
- (c) **Risk undertaking in the event of Partnership:** if the Borrower requests the issuance of Guarantee Instruments for securing obligations of a partnership without legal personality (the **“Partnership”**), where the Borrower is acting as leader or member of the Partnership, the Borrower undertakes, until complete fulfilment of all obligations to the Bank based on any Financing Document, the Guarantee Instrument enforcement risk for all obligations of the Partnership secured by the Bank, irrespective of the fault of the associate who determined the enforcement of the Guarantee Instrument. The Borrower irrevocably waives its right to rely on any defence, waivers or objections of any kind arising from a joint offer of the Partnership, the agreement entered into the Partnership and the Beneficiary or from the partnership agreement (arrangement), with regards to the performance of the secured obligations to the Beneficiary of the Guarantee Instrument. The Borrower authorizes the Bank to make the payment under the Guarantee Instrument under the terms and conditions therein, without any further formalities.
- (d) **Risk undertaking in the event of Secured Third Party:** if the Borrower requests the issuance of Guarantee Instruments for securing obligations of a third party (the **“Secured Third Party”**), the Borrower expressly and irrevocably undertakes, until complete fulfilment of all obligations to the Bank based on any Financing Document, the Guarantee Instrument enforcement risk on first and simple demand of the Beneficiary. To the extent applicable, the Borrower expressly and irrevocably waives its right to rely on any defence, waivers or objections of any kind arising from the agreement for which the Guarantee Instrument was issued or from the mutual agreement (arrangement) between the Borrower and the Secured Third Party, with regards to the performance of the secured obligations to the Beneficiary. The Borrower authorizes the Bank to make the payment under the Guarantee Instrument under the terms and conditions therein, without any further formalities.
- (e) **Guarantee Instruments for global transit.** If a Guarantee Instrument for global transit is issued, the Borrower expressly and irrevocably undertakes to the Bank, until complete fulfilment of all obligations to the Bank based on any Financing Document, to make any payment requested by the Bank if payment is made during the enforcement of the guarantee act (isolated or global) in a currency other than the currency in which the Guarantee Instrument was issued. The Borrower undertakes to cover any exchange rate difference and, in this respect, fully recognizes the additional credit facility granted by the Bank for covering the exchange rate difference.

## 8. SPECIFIC PROVISIONS FOR THE GUARANTEE FACILITIES WHICH ARE FULLY SECURED BY A COLLATERAL DEPOSIT

8.1 If the Non-Revolver Guarantee Facility or Revolver Guarantee Facility is fully secured with a collateral deposit, the latter shall be opened on the execution date of the Credit Facility Agreement, under the conditions

provided in such agreement. In addition to other conditions precedent provided in the Credit Facility Agreement or these GCC, the Guarantee Instruments shall be issued under the Credit Facility Agreement only after the appropriate opening of the collateral deposit and the crediting thereof with the amounts related to the requested Guarantee Instrument(s).

- 8.2 When established, the value of the collateral deposit must be at least equal to the value of the Guarantee Instrument that it secures. For the value of the Guarantee Instrument to remain within the limit of the security represented by the collateral deposit, the Bank re-evaluates daily the value of the issued Guarantee Instrument by reference to the value of the collateral deposit, according to the exchange rate of the National Bank of Romania. In the event of a Guarantee Facility entirely secured by cash collateral in the same currency with the Currency of the Facility Limit of the Guarantee Facility and of the Guarantee Instrument to be issued, the amounts constituted for securing each Guarantee Instrument requested under the Facility Limit of the Guarantee Facility may be gradually blocked by the Bank upon each request for Guarantee Instrument issuance. The amount blocked for the purpose of security for each Guarantee Instrument shall be at least equal to the amount of the requested Guarantee Instrument.
- 8.3 The amounts in the collateral deposit attached to the issued Guarantee Instrument(s) shall be made unavailable during the period provided in the Credit Facility Agreement or the related Security Agreement, until the expiration of a 5 (five) Business Days period after the expiration or termination of the validity period of the Guarantee Instrument. The validity of the collateral deposit shall be automatically extended until any amounts owed under the Financing Documents are recovered or until a discharge of obligations (in Romanian, *descărcare din obliga*) for the respective Guarantee Instrument(s) is received.
- 8.4 If the collateral deposit becomes due and the obligations for which it was established have been paid in full, the Bank shall be entitled to close the collateral deposit and transfer any amounts in this deposit into the Borrower's/Guarantor's current account. The Borrower/Guarantor expressly agrees and accepts that it cannot close or use in any other way the collateral deposit as long as this is a guarantee established in favour of the Bank unless it has the prior written consent of the Bank. The establishment or increase (by cash deposit or transfer) and the decrease or closing of the collateral deposit (only by transfer) shall be made at the Borrower's/Guarantor's request to the Bank.
- 8.5 The interest rate for the collateral deposit is provided in the Credit Facility Agreement. This is calculated and registered on the last day of the month in the attached debt account. Interest is capitalized on the term(s) provided in the Credit Facility Agreement into the current account/sub-account of the Borrower/Guarantor from which the deposit was established. The Bank does not capitalize interest for the collateral deposits established from amounts resulting from credit facilities contracted with the Bank, unless the Credit Facility Agreement expressly provides otherwise.
- 8.6 If the collateral deposit interest is variable throughout the entire validity term of the Credit Facility Agreement, the Bank is entitled to unilaterally change the applicable interest percentage and the new interest percentage will become enforceable by display at the Bank's premises and/or by publication on the Bank's website(www.bcr.ro). The Borrower/Guarantor expressly accepts the unilateral change by the Bank established under the Credit Facility Agreement. If the collateral deposit interest is fixed, it does not change throughout the validity period.
- 8.7 For collateral deposit operations, fees shall be charged in accordance with the BCR Fee Rates for Legal Entities. Such fees shall be deducted from the amounts available in the current accounts of the Borrower/Guarantor opened with the Bank, which is irrevocably authorized to do so under these GCC.
- 8.8 The Bank shall display from time to time the interest and fee rates at its premises, in a visible place. The Borrower and the Guarantor expressly accept the unilateral change by the Bank of the rate and method of charging for the interest and the fees for the collateral deposit account. The statement of account of the collateral deposit shall be issued at the front desk and/or by electronic banking, as the case may be, at each request of the Borrower/Guarantor. If, within 5 (five) Business Days as of making the operations in the

collateral deposit, the Borrower/Guarantor does not inform the Bank in writing on the possible errors or omissions found in relation to the operations, the balance and operations in the statement of account of the collateral deposit are deemed to be tacitly accepted. Such acceptance does not exclude Borrower's/Guarantor's right to challenge any operation in its accounts that it considers unauthorized or incorrect, including errors/omissions in the statement of account, within the term provided in the General Terms of Business for legal entities and authorised persons (as displayed on the Bank's website [www.bcr.ro](http://www.bcr.ro), and which may be amended by the Bank from time to time), otherwise such right will be lost. The challenge shall be made in writing, by registered mail with return receipt.

- 8.9 If the collateral deposit amounts are enforced in accordance with Clause 5.6 above, the balance in the collateral deposit shall maintain its interest as initially established and can be used for the purpose for which it was established.
- 8.10 The Borrower/Guarantor provides a security any and all obligations under the Credit Facility Agreement, the issuance of the Guarantee Instruments, the Credit Facility deemed to be granted if any Guarantee Instrument is enforced in full or in part, as well as the fees and the other costs related to the issuance of the Guarantee Instruments, including other court and enforcement costs and expenses, by establishing a **1<sup>st</sup> rank movable mortgage on the collateral deposit bank account** identified in the Credit Facility Agreement, valid until the full discharge of the obligations under the Credit Facility Agreement in accordance with the conditions provided below. This security also covers the asset replacing the secured asset, all the proceeds of the mortgaged asset and all the assets received by the Borrower/Guarantor further to an act of administration or disposal in relation to the asset which is established as security. For the avoidance of any doubt, if the Credit Facility Agreement provides for the gradual replenishment of the collateral deposit to the extent that Guarantee Instruments are issued, the movable mortgage shall cover all the amounts thus credited into the collateral deposit account.
- (a) The Borrower/Guarantor represents on its own liability that the asset which is mortgaged by a movable mortgage is its property, that it is not encumbered by other present and future obligations and that it will not be subject to any transaction or lien, including other mortgages, until all obligations towards the Bank under the Credit Facility Agreement have been paid;
- (b) The movable mortgage is valid until the full payment by the Borrower of all its obligations towards the Bank under the Credit Facility Agreement or under the issued Guarantee Instruments (including fees, other court and enforcement costs and expenses), as such are provided in the Credit Facility Agreement and in these GCC.

The Bank has the right and is expressly and irrevocably authorised, throughout the entire duration of the Credit Facility Agreement and then up to the full recovery of any and all amounts owed by the Borrower (the provisions of Article 2015 of the Civil Code of Romania not being applicable) to satisfy itself from the security established on the collateral deposit account, by clearing the collateral deposit and compensating the amounts standing to the credit thereof with the amounts owed by the Borrower as a result of the Guarantee Facility or Guarantee Instruments becoming a Credit Facility, no notice to the Borrower/Guarantor or power-of-attorney from the Borrower/Guarantor in this respect being required. To the extent that the amounts in the collateral deposit account are not enough to cover all the amounts owed by the Borrower further to the Guarantee Facility or Guarantee Instruments becoming a Credit Facility, the balance shall be repaid in accordance with Clause 5.3-5.4 of this Chapter

- (c) The Borrower/Guarantor understands and agrees not to withdraw, until the fulfilment of all its obligations towards the Bank under the Credit Facility Agreement, the collateral deposit established as movable mortgage in favour of the Bank. In case of enforcement, the Bank is entitled to automatically debit the deposit encumbered by this movable mortgage in order to recover all the amounts secured by it.
- (d) Borrower's failure to comply with its obligations under the Credit Facility Agreement or the issued Guarantee Instruments entitles the Bank to satisfy itself from the collateral deposit established as security in accordance

with Article 2466 of the Civil Code of Romania.

- (e) The Borrower/Guarantor undertakes to perform, on its expense, the movable mortgage publicity formalities in the Electronic Archive of Movable Security Interests for the collateral deposit which is encumbered by the movable mortgage, in accordance with the Credit Facility Agreement. If all Borrower's obligations under the Credit Facility Agreement are discharged, the Bank undertakes to record the de-registration of the movable mortgage in the Electronic Archive of Movable Security Interests within no more than 10 (ten) calendar days as of the date when Borrower's obligations have been discharged. Expenses with the performance, change or de-registration of the movable mortgage from the Electronic Archive of Movable Security Interests shall be incumbent on the Borrower, which authorizes the Bank to debit its current account with the equivalent value of expenses concerning the registration, change or de-registration of the movable mortgage in/from the Electronic Archive of Movable Security Interests.
- (f) If the right of action for the senior receivable is extinguished due to prescription, the right to the mortgage action will not be extinguished. The Bank may enforce the mortgaged assets in accordance with the law, up to their value.

## **9. ENFORCEMENT OF GUARANTEE INSTRUMENTS**

9.1 In the event the Bank receives an enforcement request (totally or partially) of a Guarantee Instrument, it shall proceed as follows:

- (a) if the Facility Limit of the Guarantee Facility is fully secured via a collateral deposit, the Bank shall make the payment to the Beneficiary from its own sources and, subsequently, during the same day, it shall retain from the collateral deposit the amount payable for the enforcement of the Guarantee Instrument;;
- (b) if the Facility Limit of the Guarantee Facility is secured via guarantees other than the collateral deposit, the Bank shall make the payment to the Beneficiary from its own sources, and subsequently, the Borrower shall have open a Credit Facility equal to the amount paid by the Bank under the provisions of clauses 5.2 to 5.4 above..

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## CHAPTER 8 – SPECIAL PROVISIONS –MULTIPRODUCT FACILITY

The provisions of this Chapter 8 (*Special provisions –Multiproduct Facility*) hereof include special rules applicable if the Credit Facility Agreement entered into between the Borrower and the Bank makes available a Multiproduct Facility.

### 1. INTERPRETATION

- 1.1 **Specific provisions for each Product:** Considering that the Multiproduct Facility Limit may be utilized under the form of one or more lending products or products assimilated to the lending products or for the issuance of Letters of Comfort (hereinafter generically referred to as Products for the purpose of this Chapter), as such will be described in the Credit Facility Agreement, the specific provisions of the Credit Facility Agreement and these GCC for such type of Credit Facility shall also be applicable to each type of Product made available to the Borrower under the Multiproduct Facility
- 1.2 **Sublimits:** If, under the Credit Facility Agreement, the Parties have provided for Sublimits within the limits of which Credit Facilities may be issued for each Borrower, the provisions of these GCC and the Credit Facility Agreement on the Borrower shall appropriately apply to each Borrower, if the case, and the provisions on the Facility Limit shall appropriately apply to the Sublimits established for each Borrower.
- 1.3 **Monocurrency Multiproduct Facility:** The provisions of these GCC and this Chapter on the Multiproduct Facility shall also apply to Multiproduct Facilities for which utilisations can be made only in the Reference Currency (i.e., monocurrency Multiproduct Facilities), except for those clauses referring to the multicurrency nature of the facility.

### 2. UTILISATION OF THE FACILITY LIMIT

- 2.1 **Compliance with the Sublimits / Subceilings / limits for each type of Product:** The Borrower is entitled to utilise the Facility Limit under the form of Credit Facilities in compliance with the Sublimits and/or Subceilings for overdraft, credit line or object loan for financing the current activity and/or the limits established as percentages from the Facility Limit provided for the utilization by the Borrower of certain types of Products, if the case.
- 2.2 **Verifying the compliance with the established limits:** If, under the Credit Facility Agreement, the Parties provided for Subceilings for overdraft, credit line or object loan for financing the current activity and/or the limits established as percentages from the Facility Limit provided for the utilization by the Borrower of certain types of Products, the Bank shall verify the compliance of the Credit Facilities granted under the Multiproduct Facility with the level thus agreed, under the following conditions:
  - (a) for overdraft, credit line or object loan for financing the current activity Credit Facilities, upon the performance of any operation of granting, change of due date or supplementation thereof;
  - (b) for a Discounting Facility for Negotiable Instruments, upon the performance of any operation of discounting, change of due date or supplementation thereof; or
  - (c) for a Guarantee Facility, upon the performance of any operation of issuance, change of due date or supplementation of any Guarantee Instrument;
  - (d) for the Endorsement Facility, upon the performance of any operation of issuance, change of due date or supplementation of any endorsement.
- 2.3 **Re-evaluation of Credit Facilities:** For the purpose of complying with the Facility Limit, the Bank re-evaluates daily the Credit Facilities expressed in the Multiproduct Facility Currencies by reference to the Reference Currency, if the case.



### **3. MODIFICATION OF THE CREDIT FACILITIES GRANTED UNDER THE MULTIPRODUCT FACILITY**

3.1 **Request to change:** During the term of the Multiproduct Facility, the Borrower is entitled to request the Bank to make changes in relation to the Products drawn under the Multiproduct Facility, based on a request to change (according to the models used by the Bank at the time of request) submitted at least one Business Day before the requested date of change.

3.2 **Conditions for change:** The changes in relation to supplementing the value of the drawn Product and/or the extension of the ultimate due date thereof can only be made during the Multiproduct Facility Utilisation Period and only the Conditions Precedent Fulfillment Date, as well as after the date the following conditions have been fulfilled:

- (a) on the date when the request to change the Drawn Credit Facilities from the Multiproduct Facility is made and on the date when the Product drawn from the Multiproduct Facility is changed, the Facility Limit is not exceeded as a result of the Bank's daily re-evaluations of the balance of Products denominated in the Multiproduct Facility Currencies by reference to the Reference Currency;
- (b) the supplementation amount is at most equal to the Available Facility Limit on the supplementation date and is expressed in the same Multiproduct Facility Currency as the supplemented Product;
- (c) on the date when the request to change the Product drawn from the Multiproduct Facility is made and on the date when the Product drawn from the Multiproduct Facility is changed, there is no Event of Default or any other event or circumstance which could, with the expiry of a grace period set out for remedy (if the case), the giving of notice, the expiry of another term or the making of any determination under the Financing Documents or any combination of the foregoing, cause the occurrence of an Event of Default;
- (d) the requested duration of the Product will not exceed the date when the duration of the Multiproduct Facility expires;
- (e) for the issuance of Guarantee Instruments, including after:
  - (i) the delivery, along with the request, of the commercial agreement between the Borrower requesting the change of the Guarantee Instrument and the Beneficiary, as well as any other document that the Bank considers necessary in view of changing the Guarantee Instrument;
  - (ii) if the Borrower wants that the Guarantee Instrument be issued with a different content than the model proposed by the Bank, the request to change the Guarantee Instrument must be accompanied by Borrower's proposal as to the form of the Guarantee Instrument intended to be issued by the Bank, and the Bank must accept such provisions. The Bank is free to accept or not the proposed form of the Guarantee Instrument, at its absolute discretion. The provisions of Clause 7.1 letter (a) from Chapter 7 (*Special provisions – Guarantee Facility*) hereof shall apply accordingly.
- (f) for the endorsement of Negotiable Instruments, including after:
  - (i) acceptance by the Bank of the endorsement of the Negotiable Instruments presented for such purpose;
  - (ii) acceptance by the Borrower who requests the endorsement of the instruction letter issued by the Bank.

### **4. SPECIFIC UNDERTAKINGS**

4.1 **Current accounts:** Until the full satisfaction of all the obligations owed to the Bank under any Financing Document, in addition to the obligations provided at Section 5 (*General undertakings of the Debtors*) from

Chapter 1 (*General provisions*) hereof, the Borrower undertakes to maintain current accounts open with the Bank in each of the Multiproduct Facility Currencies.

## 5. DECREASE OR CESSATION OF FACILITY LIMIT

5.1 **Cases of decrease or cessation:** In addition to the provisions of Clause 7.3 from Chapter 1 (*General provisions*) hereof on the date and at any time after the occurrence of an Event of Default, the Bank may:

- (a) diminish the Facility Limit/Sublimit by:
  - (i) automatic cancellation of the Available Facility Limit/Sublimit, unless on such date the entire amount of the Facility Limit/Sublimit has been utilised; and/or
  - (ii) decrease of the Subceilings of overdraft/credit line credit facilities if not utilised in full, rescheduling the repayment of the amounts by which the Subceilings are decreased and extending the Utilisation Period for the new Subceilings resulting from the decrease in overdraft/credit line credit facilities (the Subceiling of an overdraft/credit line credit facility is revolving and shall diminish on the due dates provided in the repayment schedule agreed by the Bank and the Borrower for the rescheduled repayable amounts); and/or
  - (iii) cancellation of the Facility Limit/Sublimit resulting from the partial/total repayments of the Working Capital Credit Facilities and/or the expiry of the validity period/waiver of the Guarantee Instrument by the Beneficiary, unless the Guarantee Instrument was enforced, and/or the maturity of the endorsed Negotiable Instrument, if payment was made from Borrower's sources on the due date of the Negotiable Instrument and/or the maturity of the discounted Negotiable Instrument, if the appropriate amount was collected on the due date of the Negotiable Instrument, as the case may be.

If the Credit Facility/Sublimit is diminished, according to the cases provided above, the Borrower can make utilisations only within the limit of the new available Facility Limit/new available Sublimit.

- (b) to cease the Facility Limit/Sublimit by:
  - i. automatic cancellation of the available Facility Limit/available Sublimit/Subceilings, unless on such date the entire amount of the Facility Limit/Sublimit/Subceilings has been utilised; and
  - ii. cessation of overdraft/credit line credit facilities, rescheduling the repayment of the outstanding Credit Facility by execution of an addendum/approval of the request to change; and
  - iii. cancellation of the Facility Limit/Sublimit resulting from the partial/total repayments of the Working Capital Credit Facilities and/or the expiry of the validity period/ waiver of the Guarantee Instrument by the Beneficiary, unless the Guarantee Instrument was enforced, and/or the maturity of the endorsed Negotiable Instrument, if payment was made from Borrower's sources on the due date of the Negotiable Instrument and/or the maturity of the discounted Negotiable Instrument, if the appropriate amount was collected on the due date of the Negotiable Instrument, as the case may be.

As of the cessation date, overdraft/credit line Credit Facilities will operate as an object loan for financing current activity Credit Facility and the Bank will notify the Borrower to conclude an addendum in this respect. In case the Parties do not conclude the addendum to the Credit Facility Agreement within 10 (ten) Business Days from receipt of the Bank's notification, the above modification will be applicable starting with the cessation date, under the terms and conditions communicated by the Bank in the above mentioned notification.

## 6. REPLENISHMENT OF THE FACILITY LIMIT OR THE SUBLIMIT

6.1 **Replenishment with undrawn amounts:** During the Multiproduct Facility Utilisation Period, the undrawn amounts replenish, within the terms and conditions provided below, the Facility Limit or the Sublimit, as the case may be, upon expiry of the Utilisation Periods related to the relevant Products or at any time before expiry of the Utilisation Periods related to the relevant Products, at the Borrower's request.

6.2 **Replenishment conditions:** The Facility Limit or Sublimit shall be replenished during the Multiproduct Facility Utilisation Period under the following conditions:

(a) for an overdraft/credit line or object loan for financing the current activity Credit Facilities, with the value of the repayable/diminished/undrawn balance– when the full or partial repayment or the decrease occurs at the request of the Borrower;

(b) for a Guarantee Facility, further to the expiry of the validity term of a Guarantee Instrument or by waiver of the Beneficiary, when the Guarantee Instrument was not enforced;

(c) for a Discounting Facility, when collecting the equivalent value of the discounted Negotiable Instruments;

(d) for an Endorsement Facility, when the Borrower paid the endorsed Negotiable Instrument from its own sources, at the due date.

6.3 **Cases of replenishment:** The Facility Limit, respectively the Sublimit set for each Borrower, shall be replenished under the following conditions:

(a) In case the sum of the Credit Facilities related to the Products expressed in Reference Currency equivalent is lower than the Facility Limit, respectively the Sublimit, then:

(i) the automatic repayments from overdraft/credit line Credit Facilities replenish only the Subceilings related to these Credit Facilities, in all cases during the Utilisation Period and until the ultimate due date of the Multiproduct Facility;

(ii) repayments of Credit Facilities other than overdraft/credit line Credit Facilities which are made on the due dates provided under the relevant Credit Facility Agreement replenish the Facility Limit, respectively the Sublimit, only during the Utilisation Period.

(b) In case, due to exchange rate fluctuations, the sum of the Credit Facilities related to the Products expressed in Reference Currency equivalent is higher than the Facility Limit, respectively the Sublimit, then:

(i) the automatic repayments from overdraft/credit line Credit Facilities replenish only the Subceilings related to these Credit Facilities ;

(ii) repayments of Credit Facilities other than overdraft/credit line Credit Facilities which are made on the due dates provided under the relevant Credit Facility Agreement replenish the Facility Limit, respectively the Sublimit, up to the 100% level;

(iii) repayments of the amounts exceeding the 100% level of the Facility Limit/Sublimit do not replenish it.

(iv) the Borrower shall not be entitled to make new utilisations until the sum of Credit Facilities denominated in the equivalent of the Reference Currency, is below the value of the Facility Limit, respectively the Sublimit.

- 6.4 **Failure to replenish the Facility Limit:** The Facility Limit or the Sublimit is not replenished if a Guarantee Instrument is enforced or in case the Bank honours its commitment under an endorsement, when the Bank recovered the thus enforced amount from the Multiproduct Facility collateral deposit.

## 7. CONSEQUENCES OF EXCEEDING THE FACILITY LIMIT

- 7.1 **Reimbursement:** If the sum of the Credit Facilities on the basis of related Products, denominated in the equivalent of the Reference Currency, exceeds the Facility Limit, respectively the Sublimit, due to exchange rate fluctuations between the Multiproduct Facility Currencies, the Borrower shall repay, within 10 (ten) Business Days as of the date when the Facility Limit, respectively the Sublimit was exceeded, the amounts by which such value is exceeded. If, within the aforementioned term of 10 (ten) Business Days, the total value of the drawn Credit Facilities denominated in the equivalent of the Reference Currency is smaller or equal to the Facility Limit, respectively the Sublimit, the Borrower no longer has the obligation to repay the amounts provided in accordance with this Clause.

- 7.2 **New Securities:** If the Borrower drew only Credit Facilities under the form of Guarantee Instruments, endorsement of Negotiable Instruments or by opening letters of credit and the sum of the Credit Facilities, denominated in the equivalent of the Reference Currency, is higher than the Facility Limit, respectively the Sublimit, due to exchange rate fluctuations between the Multiproduct Facility Currencies, the Borrower shall establish and perfect new additional securities within 10 (ten) Business Days as of the date when the Facility Limit, respectively the Sublimit is exceeded, to cover the amounts by which such value was exceeded.

If, within the aforementioned term of 10 (ten) Business Days, the total value of the drawn Credit Facilities denominated in the equivalent of the Reference Currency is smaller or equal to the value of the Facility Limit, respectively the Sublimit, Borrower's obligation to establish and perfect new securities according to the present Clause is no longer applicable.

## 8. SPECIAL CASE OF REVOCABLE FACILITY LIMIT REVOCABILITY

- 8.1 The Bank is entitled, at any time throughout the duration of the revocable Facility Limit mentioned as such in the Credit Facility Agreement or of the Credit Facility utilised based on the Facility Limit, irrespective of the occurrence of any Event of Default and without any prior formalities, to diminish or cancel the Facility Limit or to accelerate the Credit Facility.

The Bank shall notify the Borrower subsequently, however on the same calendar day when the measure is taken, and the Borrower shall have a 15 (fifteen) day period, except for the case where the Bank grants a longer period according to the notice, to repay any amounts due to the Bank under the Financing Documents.

- 8.2 In case based on the Multiproduct Facility, a Guarantee Facility and/or an Endorsement Facility was granted, in addition to the provisions of Clause 9.1 above, under the terms provided therein, the Bank has the right to transform the Guarantee Instruments issued based on the Guarantee Facility into a Credit Facility as per Chapter 7 (*Special provisions – Guarantee Facility*) hereof and to transform the Negotiable Instruments endorsed based on the Endorsement Facility into Credit Facility as per Chapter 10 (*Special provisions – Endorsement Facility*) hereof.

## 9. SPECIAL PROVISIONS ON MULTI-BORROWER MULTIPRODUCT FACILITIES

- 9.1 **Compliance with multiple Utilisation Requests:** The Bank shall comply with the Utilisation Requests in the order in which they are registered / received and up to the Available Facility Limit, being agreed by each of the Borrowers that the Utilisation Requests in excess of the Facility Limit will be rejected by the Bank.

- 9.2 **Change of Sublimits:** If, under the Credit Facility Agreement, the Multiproduct Facility is made available for two or more Borrowers for which Sublimits were established and the sum of Credit Facilities drawn related to the Products, denominated in the equivalent of the Reference Currency, exceeds one or more of the established

Sublimits, the Bank shall notify the Borrowers in view of executing an addendum to agree on new Sublimits, so that the value of drawn Credit Facilities would be at most equal to the value of the new Sublimits. If the Parties do not execute the addendum to the Credit Facility Agreement within 10 (ten) Business Days as of receipt of Bank's notice, the Bank is entitled to reallocate (at its absolute discretion) the initial Sublimits so that the aggregate value of the drawn Credit Facilities, denominated in the equivalent of the Reference Currency, would be at most equal to the established Sublimits.

- 9.3 **Registration of Sublimits:** For the purpose of meeting Bank's obligations to report exposures, the amounts which have not been allocated as Sublimits under the relevant Credit Facility Agreement shall be registered with the Main Borrower.
- 9.4 **Readjustment of Sublimits:** The Sublimits established under the Credit Facility Agreement can be readjusted by the Bank at the Main Borrower's request, in compliance with the Credit Facility Agreement and only if the value of the available Sublimit corresponding to the Sublimit to be decreased is equal to or higher than the value by which another Sublimit is intended to be supplemented.
- 9.5 **Repayment of the Multiproduct Facility. Joint liability of the Borrowers:**
- (a) **Repayment of the Multiproduct Facility.** If any of the Borrowers which generated a payment obligation under the Multiproduct Facility does not repay such obligation in full when due, the Bank is entitled to collect such amounts in accordance with Clause 9.5 letter (b) below.
- (b) **Joint Liability of the Borrowers.** Whereas the Bank grants the Multiproduct Facility to the Borrowers in accordance with the terms of the Credit Facility Agreement, which facility, if granted individually to each Borrower, would have been granted under different conditions, each Borrower shall be a debtor jointly liable with the other Borrowers in relation to any and all obligations under the Financing Documents, according to Article 1443 *et seq.* of the Civil Code of Romania.
- (c) Each Borrower acknowledges and understands that, by virtue of Borrowers' joint liability:
- (i) The Bank can claim payment only from a Borrower for all the amounts owed at any time by any and all Borrowers under the Financing Documents, without first seeking to exercise its rights against other Borrowers; and
- (ii) Bank's right to claim payment from a Borrower for any amounts owed at any time under the Financing Documents shall not be limited by the initiation of any proceedings by the Bank in this respect against the other Borrowers.

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## **CHAPTER 9 – SPECIAL PROVISIONS –CREDIT FACILITY FOR DELIVERY DOCUMENTS**

The provisions of this Chapter 9 (*Special provisions – Credit Facility for delivery documents*) hereof include special rules applicable if the Credit Facility Agreement entered into between the Borrower and the Bank makes available a Facility Limit based on which Credit Facilities on delivery documents are issued.

### **1. SPECIAL CASE OF REVOCABLE FACILITY LIMIT REVOCABILITY AND ACCELERATION OF CREDIT FACILITIES GRANTED THEREUNDER**

The Bank is entitled, at any time throughout the duration of the revocable Facility Limit mentioned as such in the Credit Facility Agreement or of the Credit Facility utilised based on the Facility Limit, irrespective of the occurrence of any Event of Default and without any prior formalities, to diminish or cancel the Facility Limit or to accelerate the Credit Facility.

The Bank shall notify the Borrower subsequently, however on the same calendar day when the measure is taken, and the Borrower shall have a 15 (fifteen) day period, except for the case where the Bank grants a longer period according to the notice, to repay any amounts due to the Bank under the Financing Documents.

### **2. RECOURSE**

- (1) The Bank has a right of recourse against the Borrower and is entitled to request immediate payment by the Borrower, upon request of the Bank, of the difference between the amount of the financed invoices and the amount received or recuperated by the Bank related to the respective invoices, in case any amounts received by the Bank at the due date of the Credit Facility for delivery documents are lower than the value of the financed invoices, irrespective of the reason (including, without limitation, fraud), in the following situation:
  - (a) In case of the Credit Facility for delivery documents without recourse, in any of the following situations: (i) between the Borrower and the debtor of the payment obligation there were pre-existing financial agreements, other than reflected by the financed invoice, or such agreements were established after the acceptance of the invoice by the Bank, such as shareholding agreements, compensation and or reciprocal set-off and any other such agreements, that may entitle the debtor to oppose to the payment; (ii) the receivables are not certain and liquid or are not due at the date declared by the Borrower; (iii) existence of litigation regarding the due receivables or the delivery documents if these are not solved favourable to the Borrower until the maturity date of the Credit Facility for delivery documents; (iv) the Borrower provided to the Bank incorrect or incomplete information regarding the receivables or the debtor of the payment obligation, which impeded or made the collection of the receivable impossible or determined an increase of the collection expenses or generated losses to the Bank, which, provided the information were complete and correct, should not have occurred; (v) the Borrower does not provide the necessary documents to the Bank, in the form and at the date requested, for the purpose of the enforcement by the Bank of its rights against the debtor of the payment obligation; (vi) the payment of the financed invoices was made directly to the Borrower and it did not inform the Bank or reimbursed the respective amounts to the Bank; (vii) the non-payment of the financed invoices may have been caused by a force majeure or unexpected event; (viii) the Borrower or the debtor of the payment obligation breached the Romanian or foreign legislation or regulations applicable to them, in connection with the financed invoices; (ix) if the criminal investigation authorities perform an investigation in connection with the financed invoices or delivery documents; (x) if the financed invoices or delivery documents are the object of a seizure applied by the competent authorities, such as confiscation or sequester; (xi) if the collection of the receivables by the Bank is or becomes inoperable as of fact and / or as of right; (xii) the Borrower modified the payment terms or the delivery terms of the delivery documents without notifying the Bank; (xiii) the debtor of the payment obligation invokes set-off against the Borrower for the payment of the financed invoices; (xiv) at the moment of the utilization of the Credit Facility, the Borrower knew or should have known that the debtor

of the payment obligation is insolvent; (xv) in case, upon occurrence of an insolvency event regarding the debtor of the payment obligation, the receivable is not accepted to be registered in the receivables list; (xvi) any fraud or forgery regarding the financed invoices; (xvii) in case of invoices financed above the limit of the Facility Limit provided by the Credit Facility Agreement;

- (b) In case of the Credit Facility for delivery documents with recourse, in any of the following situations: (i) non-payment of the invoice at the due date of the Credit Facility for delivery documents; (ii) any of the situations under letter (a) above; (iii) in any Event of Default.
- (2) In connection with the invoices when the Bank exercised its recourse right against the Borrower, the Borrower shall repay to the Bank all the amounts that the Bank paid to the Borrower related to the respective invoice, together with any accrued fees or any other amounts payable by the Borrower to the Bank, without the Borrower being entitled to invoke any withholding, compensation or any other exception.

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## CHAPTER 10 – SPECIAL PROVISIONS – ENDORSEMENT FACILITY

The provisions of this Chapter 10 (*Special provisions – Endorsement Facility*) hereof include special rules applicable if the Credit Facility Agreement entered into between the Borrower and the Bank makes available a Facility Limit based on which Negotiable Instruments are endorsed.

### 1. INTERPRETATION OF PROVISIONS IN CHAPTER 1 OF THESE GCC.

- 1.1 The provisions of Chapter 1 (*General Provisions*) of these GCC shall appropriately apply to the Credit Facility Agreement entered into by the Borrower and the Bank, whereby an Endorsement Facility is made available. The provisions of Facility Limit/Credit Facility shall appropriately apply to the Endorsement Facility, if the case.
- 1.2 For the purpose of this Chapter 10 (*Special provisions – Endorsement Facility*), the term **Negotiable Instruments** shall refer to the endorsed bills of exchange and / or promissory notes, as such are identified in the Credit Facility Agreement based on which the Endorsement Facility is made available.
- 1.3 Except as provided otherwise in the Credit Facility Agreement, the endorsed Negotiable Instruments are subject to the international practices and standards specific to such instruments.

### 2. SPECIFIC UNDERTAKINGS

- 2.1 The Borrower undertakes to duly and timely perform the following obligations:
  - (a) **Signing the statement:** before the issuance of the endorsement by the Bank, to sign on each page of the agreed template of the irrevocable instruction letter the following statement: *“We represent that we fully agree and acknowledge the content of this instruction letter template and we undertake any risk arising from its submission.”*;
  - (b) **Waiver of court actions:** the Borrower understands that, by effect of signing the Credit Facility Agreement, it remains entirely liable to the Bank for all direct and indirect consequences arising from the Financing Documents and the Negotiable Instruments endorsed by the Bank and renounces to any opposition, dispute, protest or action before a court of law in connection with the payment of the endorsed Negotiable Instruments and also undertakes not to introduce court actions to request the Bank to comply, not comply or suspend payment obligations against the Beneficiary of the endorsed Negotiable Instruments.

### 3. SPECIAL CASE OF REVOCABILITY OF THE ENDORSEMENT FACILITY

- 3.1 The Bank is entitled, at any time throughout the period of the revocable Facility Limit, mentioned as such in the Credit Facility Agreement, irrespective of the occurrence of any Event of Default and without any prior formalities, to diminish or cancel the Available Facility Limit. The Bank shall notify the Borrower subsequently, however on the same calendar day when the measure is taken, and the repayment of any amounts due to the Bank under the Financing Documents by the Borrower shall be made within a 15 (fifteen) calendar day period, except for the case where the Bank grants a longer period according to the notice.
- 3.2 Also, in addition to the provisions of Clause 3.1 above and under the conditions therein provided, the Bank shall be entitled to change into a Credit Facility the Negotiable Instruments which were endorsed under the relevant Credit Facility Agreement.



3.3 For Revolving Endorsement Facilities, upon the full repayment of a Credit Facility resulting from the transformation of a Negotiable Instrument into a Credit Facility in accordance with Clause 3.2 above, the Endorsement Facility Limit shall not be replenished with the value of the Credit Facility.

3.4 The provisions of the Credit Facility Agreement whereby the Endorsement Facility is made available shall be fully applicable until the full repayment of all the amounts owed or which may be owed further to the transformation of the endorsed Negotiable Instruments into a Credit Facility, being agreed that the replenishment of the Endorsement Facility Limit for Revolving Endorsement Credit Facilities will no longer be allowed in the situations mentioned under Clause 4.1 below.

#### **4. TRANSFORMATION INTO A CREDIT FACILITY. CREDIT FACILITY REPAYMENT**

4.1 Without prejudice to Clause 2.1 of Chapter 1 (*General provisions*) hereof, utilisations from the Endorsement Facility Limit may be made, further to the change of the Endorsement Facility into a Credit Facility, as follows:

- (a) automatically, if the Bank made a payment on the basis of a Negotiable Instrument endorsed under the relevant Credit Facility Agreement, the amount thus paid by the Bank becoming a Credit Facility;
- (b) according to Clause 6.1 of this Chapter, if an Event of Default occurred;
- (c) according to Clause 4.2 of this Chapter, if the case.

4.2 The Credit Facility provided at Clause 3.1 above shall be granted in accordance with the conditions of the Credit Facility Agreement, for a duration to be set by the Bank and which will not exceed 1 (one) year.

4.3 Further to the transformation of the Endorsement Facility into a Credit Facility, the Bank shall send to the Borrower the repayment schedule in the Reference Currency; if the Borrower notifies the Bank, within 10 (ten) days as of receipt of the repayment schedule, that it does not accept such schedule, the Borrower shall repay the Credit Facility within 15 (fifteen) days as of receipt of the repayment schedule notified by the Bank. If the Borrower does not notify the Bank within the 10 (ten) day-term as of receipt of the repayment schedule, that it does not accept this schedule, the repayment schedule communicated by the Bank is considered fully accepted by the Borrower on the date of the notice received from the Bank, and the Borrower must repay the Credit Facility in accordance with such repayment schedule.

4.4 In the cases provided at Clause 4.3 above, the Bank is also entitled, at its discretion, by notice to the Borrower, to immediately accelerate the repayment of all or a part of the Credit Facility, together with the accruing interest and any other accrued or due amounts under the Financing Documents. At such time, these amounts will be either (i) due and payable at demand; or (ii) due and payable immediately, with no further notice and statement, claim or objection whatsoever, which the Borrower expressly waives.

4.5 If the Borrower made repayments from the Credit Facility made available under Clause 4.1 of this Chapter and:

- (a) The Bank did not made payments under the endorsed Negotiable Instruments, and the validity of the endorsement granted under the relevant Credit Facility Agreement has ceased by expiry of the period within which the Beneficiary could ask the Bank to pay the Negotiable Instrument; or
- (b) The Bank made payments to the Beneficiary under the endorsed Negotiable Instruments, but the sum of such payments is smaller than the amounts collected from the Borrower,

the Bank shall return such balance to the Borrower, within 30 (thirty) Business Days as of the date when the duration of the Endorsement Facility expires, after deducting any costs whatsoever that the Borrower owes to

the Bank under the Financing Documents. This amount only bears interests upon expiry of the period of 30 (thirty) Business Days as of the date when the duration of the Endorsement Facility expires.

4.6 Without prejudice to Clauses 4.1 to 4.4 of this Chapter, if the Facility secured with a mortgage on a collateral deposit becomes a Credit Facility, the Bank is entitled to deem that the Credit Facility, up to the amount in the collateral deposit account, as fully due on the date when the Bank makes any payment under the endorsed Negotiable Instruments. In such case, the Bank is entitled and authorized expressly and irrevocably, throughout the entire term of the Credit Facility Agreement and then up to the full recovery of any and all amounts owed by the Borrower (the provisions of Article 2015 of the Civil Code of Romania not being applicable) to satisfy itself from the security established on the collateral deposit account, by clearing the collateral deposit and compensating the amounts standing to the credit thereof with the amounts owed by the Borrower as a result of the Endorsement Facility becoming a Credit Facility, no notice to the Borrower/Guarantor or power-of-attorney from the Borrower/Guarantor in this respect being required. To the extent that the amounts in the collateral deposit account are not enough to cover all the amounts owed by the Borrower further to the Endorsement Facility becoming a Credit Facility, the balance shall be repaid in accordance with Clauses 4.2 to 4.4 of this Chapter.

4.7 Without prejudice to Section 7 (*Events of default. Acceleration*) from Chapter 1 (*General provisions*) hereof, as well as any other rights or remedies that the Bank has in accordance with the Credit Facility Agreement, if the Endorsement Facility secured with a mortgage on a collateral deposit becomes a Credit Facility, when the amount paid by the Bank to the Beneficiary of the Negotiable Instruments in the enforcement thereof is higher than the amount in the collateral deposit account converted into the endorsement Currency at the exchange rate of the National Bank of Romania on the payment date, the uncovered balance shall be repaid on the basis of the schedule communicated by the Bank to the Borrower in accordance with Clauses 4.3 and 4.4 above.

## 5. ACCELERATION

5.1 In addition to the provisions of Clause 7.3 from Chapter 1 (*General provisions*) hereof, on and at any time after the occurrence of an Event of Default, the Bank may, at its discretion, by notice to the Borrower, fully change the utilised Facility Limit into a Credit Facility and immediately accelerate the repayment of the Facility Credit, in full or in part, together with the accrued interest and any other amounts accrued or outstanding under the Financing Documents whose payment was accelerated. At which time these amounts will become either (i) due and payable on demand; or (ii) immediately due and payable, without further notice or any statement, application or objection of any kind, and the Borrower expressly waives such formalities.

## 6. PAYMENT OF THE ENDORSEMENT

6.1 If the Bank receives a request to pay (in full or in part) an endorsed Negotiable Instrument, it will proceed as follows:

- (a) if the Endorsement Facility Limit is fully secured by a collateral deposit established in the same currency as the Endorsement Facility Limit currency and the endorsement, the Bank shall pay the Beneficiary from its own sources and then, on the same day, it will deduct the amount paid for the enforcement of the endorsement from the collateral deposit;
- (b) if the Endorsement Facility Limit is secured by other securities than a collateral deposit established in the same currency as the Endorsement Facility Limit currency and the endorsement, the Bank shall pay the Beneficiary from its own sources and then the Borrower shall be opened a Credit Facility equal to the value of the amount paid by the Bank, in accordance with Clauses 4.2 to 4.4 above.

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## CHAPTER 11–SPECIAL PROVISIONS – DISCOUNTING FACILITY

The provisions of this Chapter 11 (*Special provisions –Discounting Facility*) hereof include special rules applicable if a Framework Discounting Agreement or a Multiproduct Credit Facility Agreement is entered into between the Borrower and the Bank, based on which is made available to the Borrower:

- (i) a Discounting Facility for Negotiable Instruments or
- (ii) a Discounting Facility for Letters of Credit.

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 For the purpose of this Chapter 11 (*Special provisions –Discounting Facility*), the following capitalized terms shall have the following meaning:

**Letters of Credit** means the time letters of credit for export, as identified in the Discounting Agreement executed for the enforcement of a Framework Discounting Agreement.

**Discounting Request** means a discounting request according to the model used by the Bank at the time of request.

**Discounting Agreement** means a discounting agreement executed by the Bank and the Borrower under a Framework Discounting Agreement or a Multiproduct Credit Facility Agreement, whereby the Bank acquires from the Borrower, as the case may be, Negotiable Instruments and/or Letters of Credit.

**Negotiable Instruments** means the bills of exchange and/or the promissory notes, as they are identified in the Discounting Agreement executed for the enforcement of a Framework Discounting Agreement or a Multiproduct Credit Facility Agreement.

**Available Facility Limit** means the value of the Facility Limit less (i) the value of any discounted and uncollected Negotiable Instruments or Letters of Credit plus (ii) the value of any Negotiable Instruments or Letters of Credit for which a Discounting Request was submitted.

**Revolving Facility Limit** means a Facility Limit within the limit of which multiple discounting can be made and which is replenished with the appropriate value of the amounts collected on the due date of the discounted Negotiable Instruments and Letters of Credit.

**Purchase Price** means the purchase price of the Negotiable Instruments and Letters of Credit purchased by the Bank under a Discounting Agreement, as such price is set in the relevant Discounting Agreement.

**Face Value of the Negotiable Instruments** has the meaning assigned to it in the relevant Discounting Agreement.

**Face Value of the Letters of Credit** has the meaning assigned to it in the relevant Discounting Agreement.

### 2. PROVISIONS APPLICABLE TO THE DISCOUNTING FACILITY FOR NEGOTIABLE INSTRUMENTS

- 2.1 **Utilizations from the Facility Limit of the Discounting Facility for Negotiable Instruments.** The Bank shall acquire (discount) the Negotiable Instruments only if they cumulatively meet the eligibility conditions on the execution date of the relevant Discounting Agreement, as follows:

- (a) The Borrower is the beneficiary of all the Negotiable Instruments submitted for discounting purposes;

- (b) The Purchase Price of the Negotiable Instruments does not exceed the Available Facility Limit;
- (c) The due date of the Negotiable Instruments (i) is a fixed date occurring within no more than one year as of the execution date of the relevant Discounting Agreement and (ii) does not exceed the duration of the Discounting Facility.
- (d) Each of the Borrower and the issuer / drawee is not registered with the Payment Incidents Register (in Romanian, *Centrala Incidentelor de Plăți*) by more than two major payment incidents involving checks, bills of exchange and promissory notes, during the previous period of 24 months;
- (e) The Negotiable Instruments meet all the form and substance requirements provided by the applicable law in Romania and have not been declared at Payments Incidents Register as lost, stolen, damaged, destroyed or annulled;
- (f) The bill of exchange is duly accepted for payment by the drawee;
- (g) The Negotiable Instruments have the “no protest” or “no expenses” clause written down by the drawer / issuer (if it is not stipulated who recorded the clause, it will be deemed that the drawer / issuer wrote it down);
- (h) Negotiable Instruments are issued in one copy (if the number of copies is not stipulated, such Negotiable Instrument is deemed to have been issued in one copy);
- (i) The subject-matter of the payment must be stipulated in the column “the value is” (No./date of agreement, invoice, etc.).

2.2 **Specific representations and warranties regarding the Negotiable Instruments.** In addition to the statements given in accordance with Section 4 (*Representations and warranties*) from Chapter 1 (*General provisions*) hereof, the Borrower for itself and for each of the Guarantors makes the statements and gives the warranties provided in this Clause 2.2 to the Bank in relation to the Negotiable Instruments and acknowledges that such representations and warranties were of the essence for the execution of the Financing Documents by the Bank:

- (a) **Validity.** The Negotiable Instruments and the agreements on the basis of which the Negotiable Instruments were issued are legal, valid, binding and enforceable in accordance with their terms.
- (b) **Sole beneficiary.** The Borrower is the sole beneficiary of each Negotiable Instruments and such Negotiable Instruments can be freely discounted/assigned by the Borrower, no consent or formalities from the issuer or drawee being required in this respect.
- (c) **Original copy.** Each Negotiable Instruments has been issued in one original copy.
- (d) **Payment Incidents Register.** No Negotiable Instrument has been registered with the Payment Incidents Register as stolen, lost, damaged, destroyed or annulled.
- (e) **No encumbrance.** No Security has been established on any Negotiable Instrument and there is no setoff, counterclaim, deduction or extension of the applicable due date and no reason to hinder the collection thereof in full on the due date provided in writing by the Bank.
- (f) **No enforcement.** No enforcement, garnishment, attachment or other similar measure has been applied, enforced or initiated in relation to the Negotiable Instruments.
- (g) **No litigation.** No litigation, arbitration, administrative, governmental, regulatory proceedings or other investigation, proceedings or dispute has been initiated or threatened in relation to the Negotiable Instruments or the agreements under which the Negotiable Instruments were issued or which could result in such dispute,

arbitration, administrative, governmental, regulatory proceedings or other investigation, proceedings or dispute.

- (h) **No default.** There is no event or circumstance representing a default of the obligations under the agreements on the basis of which the Negotiable Instruments were issued.

2.3 The representations made at Clause 2.2 above and in the GCC are considered to have been made by the Borrower and by each of the Guarantors (as the case may be) on the date of each Framework Discounting Agreement or Credit Facility Agreement, as the case may be and subsequently considered to be repeated (in reliance on the facts and circumstances existing at such time) on the of each Discounting Agreement, each Discounting Request and each interest payment date.

2.4 **Specific undertakings regarding Negotiable Instruments.** Until the full satisfaction of all the obligations owed to the Bank under any Financing Document, the Borrower, for itself, undertakes to perform the following obligations appropriately and in due time:

- (a) **Nullity or invalidity:** if any Negotiable Instrument discounted by the Bank is declared null or becomes in any way invalid or can no longer be enforced, the Borrower shall:
  - (i) immediately notify the Bank on the existence of such situation;
  - (ii) replace the relevant Negotiable Instrument by a new, valid and enforceable Negotiable Instrument, at the Bank's request; and
  - (iii) send the Bank the original of the new Negotiable Instrument within 3 (three) Business Days as of the issuance date thereof, at the Bank's request.
- (b) **Full title:** it shall take all the measures and execute any further documents as requested by the Bank at any time in view of an effective vesting of the Bank with full title on the Negotiable Instruments;
- (c) **Material adverse effect:** it shall immediately notify the Bank on all the facts and circumstances that it suspects or of which it became aware in any way and which could have a material adverse effect on the Bank's rights and interests under any discounted Negotiable Instruments, and in particular in relation to any request made by an issuer or drawee to extend any payment term or any dispute or claim which could arise between the Borrower and/or an issuer and/or a drawee in relation to a discounted Negotiable Instrument or an agreement under which such Negotiable Instrument was issued;
- (d) **Bookkeeping and other documents:** it shall keep, according to the legal provisions (i) all the necessary and/or usual registers in relation to the discounted Negotiable Instruments, the agreements on the basis of which they were issued and the operations provided on the basis thereof; and (ii) copies of all the invoices, orders and sub-agreements concerning the discounted Negotiable Instruments and the agreements on the basis of which they were issued and shall issue and make the relevant books and copies available to the Bank or the authorized representatives or agents thereof for check-up purposes;
- (e) **Fulfilment of obligations:** it shall fulfil all its obligations under the agreements on the basis of which the Negotiable Instruments were duly issued on the date when such obligations become due and, at the Bank's request, it shall make available to the Bank any document (e.g., invoices, waybills) proving that the Borrower complied with its obligations under the agreements on which the issuance of Negotiable Instruments relied;
- (f) **No payment:** it shall not request the drawee to make any payment in relation to the discounted Negotiable Instruments other than the payment owed to the Bank or as the Bank decides from time to time and shall not receive or collect or attempt to receive or collect any amounts of money or other equivalent considerations from the drawee; if the drawee accidentally delivers the amounts related to a discounted Negotiable Instrument, the Borrower shall deliver the relevant amounts to the Bank within 3 (three) Business Days;

(g) **Assistance to the Bank:** it shall assist the Bank in order to protect, defend or satisfy any of its rights or interests under a discounted Negotiable Instrument at the Bank's request in any way considered necessary by the Bank, but at any rate no later than 3 (three) Business Days as of the date of request; in this respect, the Bank can initiate and develop any legal proceedings on behalf of the Borrower and it shall have full control in relation to these proceedings.

2.5 **Special provisions.** If the Negotiable Instruments are not paid on their respective due dates, the Bank reserves the rights to recover the amounts, as such rights are provided by bill of exchange laws.

### 3. PROVISIONS APPLICABLE TO THE DISCOUNTING FACILITY FOR LETTERS OF CREDIT

3.1 **Utilizations from the Facility Limit of the Discounting Facility for Letters of Credit.** The Bank will acquire (discount) the Letters of Credit only if they cumulatively meet the eligibility conditions on the execution date of the relevant Discounting Agreement, as follows:

- (a) the Purchase Price of the Letters of Credit does not exceed the Available Facility Limit; and
- (b) the Borrower represents that (i) it strictly and fully performed its obligations under the agreement for which each of the Letters of Credit was issued and (ii) the value of the relevant receivables can be collected, as it was not assigned to secure other obligations;
- (c) the Letter of Credit is confirmed by Banca Comerciala Romana S.A. or another confirming bank agreed by it.

3.2 **Specific provisions.** If, further to the collection of the Letters of Credit, the Bank finds that (i) the Bank withheld amounts in excess which must be returned to the Borrower or (ii) the Borrower must return certain amounts to the Bank, these amounts shall be returned to the Party concerned within 10 (ten) days as of the date when each Letter of Credit was collected by the Bank.

### 4. COMMON PROVISIONS FOR THE DISCOUNTING FACILITY FOR NEGOTIABLE INSTRUMENTS AND THE DISCOUNTING FACILITY FOR LETTERS OF CREDIT

4.1 **Calculation of interest.** The interest (agio, for the case of discounting Letters of Credit) shall be calculated as follows:

$$D = \frac{V_n \times D_c \times N_z}{360 \times 100}, \text{ where:}$$

D= Interest owed to the Bank;  
V<sub>n</sub> = Face Value of the Negotiable Instrument registered in the special column on the front page or of the Letter of Credit, as the case may be;  
D<sub>c</sub> = Applicable interest rate;  
N<sub>z</sub> = in case of discounting Negotiable Instruments, it represents the number of calendar days from the discounting date until the due date of the Negotiable Instrument, plus one Business Day which is necessary for the banking circuit and in case of discounting Letters of Credit, it represents the number of calendar days from the discounting date until the due date of the Letter of Credit.

4.2 **Event Of Default.** The Parties acknowledge and agree that the failure to collect the value of Negotiable Instruments when such Negotiable Instruments are due is an Event of Default.

4.3 **Cancellation of the Discounting Facility Limit.** On and at any time after the occurrence of any Event of Default, the Bank may, at its discretion, by notice to the Borrower: (a) cancel the Available Facility Limit (if the case), at which time such shall be immediately cancelled and no time Negotiable Instrument or Letter of Credit shall be subsequently acquired by the Bank; and/or; (b) return to the Borrower any discounted and

unpaid Negotiable Instrument or Letter of Credit, in consideration for a price to be paid by the Borrower to the Bank, representing the face value of the relevant Negotiable Instrument or Letter of Credit (except for the case when the Event of Default consists in the Bank's failure to collect the equivalent value of the Negotiable Instrument or Letter of Credit on the due date, in non-recourse discounting operations).

4.4 **Special case of revocable Facility Limit revocability.** The Bank is entitled, at any time throughout the period of the revocable Facility Limit, mentioned as such in the Framework Discounting Agreement or Credit Facility Agreement, irrespective of the occurrence of any Event of Default and without any prior formalities, to diminish or cancel the Available Facility Limit. The Bank shall notify the Borrower subsequently, however on the same calendar day when the measure is taken, and the Borrower shall have 15 (fifteen) days (except for the case where the Bank grants a longer period according to the notice) to repay any amounts due to the Bank under the Financing Documents.

4.5 **Recourse.** (1) The Bank has a right of recourse against the Borrower and is entitled to request immediate payment by the Borrower, upon request of the Bank, of the difference between the amount received or recuperated by the Bank and the face value of the respective Negotiable Instrument/Letter of Credit, in case any amounts received by the Bank at the due date are lower than the face value of the respective Negotiable Instrument/Letter of Credit, irrespective of the reason (including, without limitation, fraud), in the following situation:

(a) In case of the Discounting Facility without recourse, in any of the following situations: (i) between the Borrower and the debtor of the payment obligation there were pre-existing financial agreements, other than reflected by the Negotiable Instrument/Letter of Credit, or such agreements were established after the acceptance of the discounting by the Bank, such as shareholding agreements, compensation and or reciprocal set-off and any other such agreements, that may entitle the debtor to oppose to the payment; (ii) the receivables are not certain and liquid or are not due at the date declared by the Borrower; (iii) existence of litigation regarding the due receivables or the discounted Negotiable Instrument/Letter of Credit if these are not solved favourable to the Borrower until the maturity date of the relevant Discounting Agreement; (iv) the Borrower provided to the Bank incorrect or incomplete information regarding the receivables or the debtor of the payment obligation, which impeded or made the collection of the receivable impossible or determined an increase of the collection expenses or generated losses to the Bank, which, provided the information were complete and correct, should not have occurred; (v) the Borrower does not provide the necessary documents to the Bank, in the form and at the date requested, for the purpose of the enforcement by the Bank of its rights against the debtor of the payment obligation; (vi) the payment of the discounted Negotiable Instrument/Letter of Credit was made directly to the Borrower and it did not inform the Bank or reimbursed the respective amounts to the Bank; (vii) the non-payment of the discounted Negotiable Instrument/Letter of Credit may have been caused by a force majeure or unexpected event; (viii) the Borrower or the debtor of the payment obligation breached the Romanian or foreign legislation or regulations applicable to them, in connection with the discounted Negotiable Instrument/Letter of Credit; (ix) if the criminal investigation authorities perform an investigation in connection with the discounted Negotiable Instrument/Letter of Credit; (x) if the discounted Negotiable Instrument/Letter of Credit s are the object of a seizure applied by the competent authorities, such as confiscation or sequestration; (xi) if the collection of the receivables by the Bank is or becomes inoperable as of fact and / or as of right; (xii) the Borrower modified the payment terms or the delivery terms of the discounted Negotiable Instrument/Letter of Credit without notifying the Bank; (xiii) the debtor of the payment obligation invokes set-off against the Borrower for the payment of the discounted Negotiable Instrument/Letter of Credit; (xiv) at the moment of the utilization of the Credit Facility, the Borrower knew or should have known that the debtor of the payment obligation is insolvent; (xv) in case, upon occurrence of an insolvency event regarding the debtor of the payment obligation, the receivable is not accepted to be registered in the receivables list; (xvi) any fraud or forgery regarding the discounted Negotiable Instrument/Letter of Credit; (xvii) in case of Negotiable Instrument/Letter of Credit discounted above the limit of the Facility Limit provided by the Credit Facility Agreement;

(b) In case of the Discounting Facility with recourse, in any of the following situations: (i) non-payment of the discounted Negotiable Instrument/Letter of Credit at their due date; (ii) any of the situations under letter (a) above; (iii) in any Event of Default.

(2) In connection with the discounted Negotiable Instrument/Letter of Credit when the Bank exercised its recourse right against the Borrower, the Borrower shall repay to the Bank all the amounts that the Bank paid to the Borrower related to the respective discounted Negotiable Instrument/Letter of Credit, together with any accrued fees or any other amounts payable by the Borrower to the Bank, without the Borrower being entitled to invoke any withholding, compensation or any other exception. Without affecting or limiting the above, in case any of the Negotiable Instruments is refused to be paid by the issuer / drawee, the Bank shall notify the Borrower in this respect in writing within at most 4 (four) Business Days following the date of payment presentation, as well as shall notify the assignee, the drawer and the provider of the endorsement, if the respective Negotiable Instrument has been endorsed.

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## CHAPTER 12 – SPECIAL PROVISIONS – LETTERS OF COMFORT

The provisions of this Chapter 12 (*Special provisions – Letters of Comfort*) hereof include special rules for the issuance of Letters of Comfort.

### 1. UTILIZATION OF THE FACILITY LIMIT FOR LETTERS OF COMFORT

The Borrower has the right to use the Available Facility Limit for the issuance of Letters of Comfort, under the following conditions:

- (a) The Letter of Comfort shall be based on the issuance request from the Borrower, within the limits of the available Facility Limit, in accordance with the template proposed by the Bank similar to those used by the Bank at that moment or on another template agreed between the Borrower and the Bank. If the Borrower wishes the Letter of Comfort to be issued with different content than that proposed by the Bank, the Letter of Comfort issuance request must enclose the Borrower's proposal on the form of the Letter of Comfort to be issued by the Bank and the Bank must accept such provisions. The Bank has discretionary power to accept or reject the proposed Letter of Comfort form.
- (b) In case of the issuance of a Letter of Comfort having a different content than the template proposed by the Bank, by submitting the issuance request for the Letter of Comfort having enclosed the template proposed by the Borrower, it shall be deemed that the Borrower accepts the template of the Letter of Comfort propose to the Bank in its entirety and undertakes any risks related to its content.
- (c) The Letters of Comfort already issued by the Bank under the relevant Credit Facility Agreement can be amended under the conditions provided by the Credit Facility Agreement and only if the Bank approves such Letter of Comfort amendment request. The request for Letter of Comfort issuance or amendment can be provided to the Bank in writing, by e-mail or by facsimile, by the persons designated to represent the Borrower under the Financing Documents.
- (d) The obligation to issue the Letter of Comfort shall be considered fulfilled by the Bank on the date of dispatch by express courier to the Borrower or on the date of delivery of the original to the Borrower. Starting with any of such dates the Bank shall no longer be held liable for any delay and/or loss of the Letter of Comfort, for its deterioration or for any errors which may occur during the transmission or transport to the Borrower or the Beneficiary.
- (e) In case of the requests for the issuance of Letters of Comfort, the Bank shall analyse the opportunity of issuing each of such Letters of Comfort, based on the underlying project, having the right to refuse the issuance of the Letter of Comfort without having to justify its refusal. For the purpose of such analysis, the Borrower undertakes to submit to the Bank the justifying documents that may be requested.
- (f) On the issuance date of the Letter of Comfort, the Bank shall block an amount from the Available Facility Limit equal to the value of the Letter of Comfort. The validity term of the Letter of Comfort shall not exceed the duration of the Facility Limit, established in accordance with the Credit Facility Agreement. The blocked amount shall be released and shall replenish the Facility Limit, during its validity:
  - (i) At the date established through the Letter of Comfort, such date being usually the signing date of the commercial agreement between the Borrower and the Beneficiary of the Letter of Comfort, with regard to the project for which the Letter of Comfort was issued, provided that the Borrower presents satisfactory documents to the Bank attesting the fulfilment of such requirement and the Borrower thus undertakes to use the respective amounts for the completion of the project for which the Letter of Comfort was issued;
  - (ii) At the cessation of the validity of the Letter of Comfort due to validity term expiry; or

- (iii) At the cessation of the validity of the Letter of Comfort due to the Beneficiary's renunciation to the Letter of Comfort or by attributing the commercial contract to another tender participant, situation in which the replenishment of the Facility Limit shall be made provided that the Borrower presents satisfactory documents to the Bank attesting the cessation of the validity of the Letter of Comfort before the validity term expiry.

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## CHAPTER 13 – SPECIAL PROVISIONS – FORFAITING

The provisions of this Chapter 13 (*Special provisions – Forfaiting*) hereof include special rules applicable if a Forfaiting Agreement is entered into between the Borrower and the Bank, based on forfaiting operations regarding Negotiable Instruments will be performed.

### 1. DEFINITIONS AND INTERPRETATION

1.1 For the purpose of this Chapter 13 (*Special provisions – Forfaiting*), the following capitalized terms shall have the following meaning:

**Negotiable Instruments** means the bills of exchange and/or the promissory notes, as they are identified in the Forfaiting Agreement.

**Purchase Price** means the purchase price of the receivables from the Negotiable Instruments purchased by the Bank under a Forfaiting Agreement, as such price is set in the relevant Forfaiting Agreement.

**Face Value of the Negotiable Instruments** has the meaning assigned to it in the relevant Forfaiting Agreement.

### 2. PROVISIONS APPLICABLE TO THE FORFAITING OPERATIONS

2.1 **Utilizations from the Facility Limit of the Forfaiting Agreement.** The Bank shall acquire the Negotiable Instruments only if they cumulatively meet the eligibility conditions on the execution date of the relevant Forfaiting Agreement, as follows:

- (a) The Borrower is the beneficiary of all the Negotiable Instruments submitted for forfaiting;
- (b) The Purchase Price of the Negotiable Instruments does not exceed the Facility Limit of the Forfaiting Agreement;
- (c) The due date of the Negotiable Instruments (i) is a fixed date occurring within no more than one year as of the execution date of the relevant Forfaiting Agreement and (ii) does not exceed the duration of the Forfaiting Facility.
- (d) Each of the Borrower and the issuer / drawee is not registered with the Payment Incidents Register (in Romanian, *Centrala Incidentelor de Plăți*) by more than two major payment incidents involving checks, bills of exchange and promissory notes, during the previous period of 24 months;
- (e) The Negotiable Instruments meet all the form and substance requirements provided by the applicable law in Romania and have not been declared at Payments Incidents Register as lost, stolen, damaged, destroyed or annulled;
- (f) The bill of exchange is duly accepted for payment by the drawee;
- (g) The Negotiable Instruments have the “no protest” or “no expenses” clause written down by the drawer / issuer (if it is not stipulated who recorded the clause, it will be deemed that the drawer / issuer wrote it down);
- (h) Negotiable Instruments are issued in one copy (if the number of copies is not stipulated, such Negotiable **Instrument** is deemed to have been issued in one copy);
- (i) The subject-matter of the payment must be stipulated in the column “the value is” (No./date of agreement, invoice, etc.).

2.2 **Specific representations and warranties regarding the Negotiable Instruments.** In addition to the statements given in accordance with Section 4 (*Representations and warranties*) from Chapter 1 (*General provisions*) hereof, the Borrower for itself and for each of the Guarantors makes the statements and gives the warranties provided in this Clause 2.2 to the Bank in relation to the Negotiable Instruments and acknowledges that such representations and warranties were of the essence for the execution of the Financing Documents by the Bank:

- (a) **Validity.** The Negotiable Instruments and the agreements on the basis of which the Negotiable Instruments were issued are legal, valid, binding and enforceable in accordance with their terms.
- (b) **Sole beneficiary.** The Borrower is the sole beneficiary of each Negotiable Instruments and such Negotiable Instruments can be freely forfeited /assigned by the Borrower, no consent or formalities from the issuer or drawee being required in this respect.
- (c) **Original copy.** Each Negotiable Instruments has been issued in one original copy.
- (d) **Payment Incidents Register.** No Negotiable Instrument has been registered with the Payment Incidents Register as stolen, lost, damaged, destroyed or annulled.
- (e) **No encumbrance.** No Security has been established on any Negotiable Instrument and there is no setoff, counterclaim, deduction or extension of the applicable due date and no reason to hinder the collection thereof in full on the due date provided in writing by the Bank.
- (f) **No enforcement.** No enforcement, garnishment, attachment or other similar measure has been applied, enforced or initiated in relation to the Negotiable Instruments.
- (g) **No litigation.** No litigation, arbitration, administrative, governmental, regulatory proceedings or other investigation, proceedings or dispute has been initiated or threatened in relation to the Negotiable Instruments or the agreements under which the Negotiable Instruments were issued or which could result in such dispute, arbitration, administrative, governmental, regulatory proceedings or other investigation, proceedings or dispute.
- (h) **No default.** There is no event or circumstance representing a default of the obligations under the agreements on the basis of which the Negotiable Instruments were issued.

2.3 **Specific undertakings regarding Negotiable Instruments.** Until the full satisfaction of all the obligations owed to the Bank under any Financing Document, the Borrower, for itself, undertakes to perform the following obligations appropriately and in due time:

- (a) **Nullity or invalidity:** if any Negotiable Instrument discounted by the Bank is declared null or becomes in any way invalid or can no longer be enforced, the Borrower shall:
  - (i) immediately notify the Bank on the existence of such situation;
  - (ii) replace the relevant Negotiable Instrument by a new, valid and enforceable Negotiable Instrument, at the Bank's request; and
  - (iii) send the Bank the original of the new Negotiable Instrument within 3 (three) Business Days as of the issuance date thereof, at the Bank's request.
- (b) **Full title:** it shall take all the measures and execute any further documents as requested by the Bank at any time in view of an effective vesting of the Bank with full title on the Negotiable Instruments;

- (c) **Material adverse effect:** it shall immediately notify the Bank on all the facts and circumstances that it suspects or of which it became aware in any way and which could have a material adverse effect on the Bank's rights and interests under any forfeited Negotiable Instruments, and in particular in relation to any request made by an issuer or drawee to extend any payment term or any dispute or claim which could arise between the Borrower and/or an issuer and/or a drawee in relation to a forfeited Negotiable Instrument or an agreement under which such Negotiable Instrument was issued;
- (d) **Bookkeeping and other documents:** it shall keep, according to the legal provisions (i) all the necessary and/or usual registers in relation to the forfeited Negotiable Instruments, the agreements on the basis of which they were issued and the operations provided on the basis thereof; and (ii) copies of all the invoices, orders and sub-agreements concerning the forfeited Negotiable Instruments and the agreements on the basis of which they were issued and shall issue and make the relevant books and copies available to the Bank or the authorized representatives or agents thereof for check-up purposes;
- (e) **Fulfilment of obligations:** it shall fulfil all its obligations under the agreements on the basis of which the Negotiable Instruments were duly issued on the date when such obligations become due and, at the Bank's request, it shall make available to the Bank any document (e.g., invoices, waybills) proving that the Borrower complied with its obligations under the agreements on which the issuance of Negotiable Instruments relied;
- (f) **No payment:** it shall not request the drawee to make any payment in relation to the forfeited Negotiable Instruments other than the payment owed to the Bank or as the Bank decides from time to time and shall not receive or collect or attempt to receive or collect any amounts of money or other equivalent considerations from the drawee; if the drawee accidentally delivers the amounts related to a forfeited Negotiable Instrument, the Borrower shall deliver the relevant amounts to the Bank within 3 (three) Business Days;
- (g) **Assistance to the Bank:** it shall assist the Bank in order to protect, defend or satisfy any of its rights or interests under a forfeited Negotiable Instrument at the Bank's request in any way considered necessary by the Bank, but at any rate no later than 3 (three) Business Days as of the date of request; in this respect, the Bank can initiate and develop any legal proceedings on behalf of the Borrower and it shall have full control in relation to these proceedings.

2.4 **Special provisions.** If the Negotiable Instruments are not paid on their respective due dates, the Bank reserves the rights to recover the amounts, as such rights are provided by bill of exchange laws.

2.5 **Cancellation of the Facility Limit.** On and at any time after the occurrence of any Event of Default, the Bank may, at its discretion, by notice to the Borrower: (a) cancel the Available Facility Limit (if the case), at which time such shall be immediately cancelled and no time Negotiable Instrument or Letter of Credit shall be subsequently acquired by the Bank; and/or; (b) return to the Borrower any Forfeited and unpaid Negotiable Instrument or Letter of Credit, in consideration for a price to be paid by the Borrower to the Bank, representing the face value of the relevant Negotiable Instrument or Letter of Credit (except for the case when the Event of Default consists in the Bank's failure to collect the equivalent value of the Negotiable Instrument or Letter of Credit on the due date, in non-recourse forfaiting operations).

2.6 **Recourse.** (1) The Bank has a right of recourse against the Borrower in case of fraud or in case, subsequent to the conclusion of the Forfaiting Agreement, the Bank acknowledges that the representations and warranties mentioned in the Forfaiting Agreement or the present Chapter 13 (*Special provisions - Forfaiting*) are false or if a subsequent bearer exercised its recourse right against the Bank on one of the above mentioned grounds. In case the Bank exercises its recourse right, the Borrower shall repay to the Bank the Purchase Price, mentioned in the Forfaiting Agreement, to which the interest charged by the Bank for short or medium term loans shall be added, as the case may be, depending on the period of time elapsed from the forfaiting date and the complete repayment of the forfaiting price, together with the related taxes and bank charges. In case the Bank already recuperated part of the Purchase Price initially received by the Borrower, the Borrower's obligation to repay the same applies for the difference that remains to be recuperated. (2) In case the Bank exercises its recourse right against the Borrower following a recourse exercised against the Bank by a subsequent bearer, in addition

to the repayment of the received Purchase Price, the Borrower shall reimburse all interest, fees and expenses that the Bank is due to pay following the recourse rights exercised by the subsequent bearer.

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## CHAPTER 14 - SPECIAL PROVISIONS - DOCUMENTARY LETTERS OF CREDIT

The provisions of this Chapter 14 (Special Provisions - Documentary Letters of Credit) of these GCC include special rules applicable if the Facility Limit granted by the Bank to the Borrower pursuant to the Loan Agreement is used by the Borrower, with the approval of the Bank, for the issue of documentary letters of credit (hereinafter referred to as "letters of credit"), and/or if the letters of credit issued are secured via collateral deposits.

### 1. THE ISSUE/AMENDMENT OF LETTERS OF CREDIT

1.1 The Letters of Credit shall be issued/amended by the Bank at the request of the Borrower (which, in the legal relationship with the Bank, via the issue of the Letter of Credit, is considered an Applicant, hereinafter referred to as such for the purpose of this Chapter), based on an issue/amendment application accepted by the Bank, which shall be filled-in by the Applicant, in compliance with the template provided by the Bank, aligned with those used at that time by the Bank.

1.2 The issue of the letter of credit or the increase of its amount shall be made within the Facility Limit available to the Applicant under the Loan Agreement or, if such Facility Limit is not sufficient to cover the amount of the Letter of Credit plus the amount of the admitted margin (if applicable, according to the Letter of credit issue/amendment application), and plus the amount of the related fees/charges, it shall be made provided that the Applicant sets up, in addition to the total amount mentioned above, a collateral deposit in favor of the Bank under the conditions of Section 2 below. These amounts from the Facility Limit and/or collateral deposit set up by the Applicant to guarantee the payment of the letter of credit, shall be used by the Bank to cover any payments made by the Bank under the letter of credit. If the Letter of Credit is denominated in a currency other than that of the Facility Limit or Collateral Deposit set up by the Applicant, the amount available to the Bank from the available Facility Limit or Collateral Deposit, respectively, shall be the total amount of the Letter of Credit, the acceptable margin and fees/charges, plus 10% of this amount (for the Letter of Credit issued from the available Facility Limit or for the Letter of Credit under 1 year issued under the condition of setting up a collateral deposit ) or 20% of this amount (for letters of credit exceeding 1 year issued under the condition of setting up a collateral deposit), to cover the currency risk. The Bank shall be authorized to perform any foreign exchange operations on the account and at the expense of the Applicant in order to fully cover the amounts paid by the Bank under the letter of credit.

1.3 The issue or amendment of a letter of credit may be requested by the Applicant under the Facility Limit granted pursuant to the Loan Agreement concluded with the Bank only during the Utilization Period of the Facility Limit and only after the Conditions Precedent Fulfillment Date, as well as after the conditions below have been fulfilled:

(a) At the date of the letter of credit issuance/amendment application, and at the date of its actual issue/amendment, the Facility Limit has not been exceeded, as a result of the Bank's assessment of the Products' balance granted under the Facility Limit, based on the Reference Currency; to include the Letter of Credit amount in the Available Facility Limit, the calculation method described in Clause 1.2 above shall apply;

(b) The validity of the letter of credit shall not exceed the expiration date of the Facility Limit as per the Loan Agreement;

(c) At the date of the letter of credit issuance/amendment application, and at the date of its actual issue/amendment, there is no Event of Default, or any other event or circumstance that may, upon the expiration of the grace period set for remediation (if applicable), or as a result of the delivery of a notice, or due to the expiration of any other term, or due to any calculation based on the Financing Documents, or any combination of the above, lead to the occurrence of an Event of Default.

1.4 The Letters of credit issued by the Bank shall be subject to the international customs and practices specific to these instruments, mentioned in the letter of credit issue/amendment application. Any action taken by the Bank or its counter parties in relation to the Letter of credit and related documents, if done in good faith and in compliance with the applicable "Uniform Customs and Practice for Documentary Credits" (hereinafter referred to as "UCP"), the Romanian

Law and any other applicable foreign law shall be binding to the Applicant. The terms and conditions of the Letter of credit issue/amendment application have been drafted and are governed by the Romanian law, unless it conflicts with the applicable UCP; in that case the latter shall prevail. The Applicant shall be subject to the exclusive jurisdiction of the courts of the Bank's headquarters or of the one chosen by the Bank, having jurisdiction over any action or procedure related to the terms and conditions applicable to the Letter of credit issue/amendment application.

1.5 The delivery of mail (including of any instructions for amending a request for a documentary letter of credit) as well as of the instructions related to a Letter of Credit issued by the Bank may be done between the Applicant and the Bank by email using the email addresses indicated by each Party in the Letter of Credit issue / amendment application. The parties agree that any correspondence and documents submitted by e-mail under this Clause (including, but not limited to, the application to amend an already issued letter of credit) have the same force of evidence as the original, the provisions of Clause 14.7 in Chapter 1 (General Provisions) of these GCCs being fully applicable. The Bank reserves the right to request the Applicant to submit the original form of the documents sent by e-mail or to submit a written and original document containing the correspondence or the instructions sent by e-mail.

1.6 If during the Facility Limit Term, the amount of the issued Letter of Credit (calculated by reference to the Reference Currency of the Facility Limit at the Bank's exchange rate valid on the verification day, and taking into account the margin to cover the foreign exchange risk applied as per Clause 1.2 above) exceeds the Facility Limit granted via the Loan Agreement, the Facility Limit shall be automatically supplemented with such difference; subsequently, the Bank shall inform the Applicant of the new Facility Limit. The Borrower undertakes to set up within 10 (ten) Business Days as of the notification date the additional collaterals covering the amount by which the Facility Limit has been exceeded, of the type and within the term indicated by the Bank, as well as to properly register them. If within the 10 (ten) Business Day term, the amount of the letter of credit issued pursuant to the Facility Limit, in the Reference Currency, drops below or is at the Facility Limit level, the Borrower shall no longer be required to set up the respective collaterals. In order not to exceed the Facility Limit, periodically, at intervals set by the Bank throughout the Term of the Loan Agreement, the Bank shall reassess the amount of the letters of credit issued under the Facility Limit, by reference to the Reference Currency, at the Bank's exchange rate valid on the verification day.

1.7 The Applicant shall indemnify the Bank for any loss or damage suffered by the Bank as a result of the issue of the Letter of Credit, including the costs and expenses (including but not limited to the lawyers' fees and legal expenses) related to the claims or legal proceedings arising from the issue of the Letter of Credit.

1.8 The terms and conditions of the Letter of Credit issue/amendment application, including any instructions sent by email under the terms of Clause 1.5 above and having as object the modification of the terms and conditions of the Letter of Credit issue/amendment application, shall be binding to the Applicant, its successors and its assignees, and shall enter into force or become effective to the benefit of the Bank, its successors and its assignees. None of the terms and conditions of the Letter of credit issue/amendment application can be modified and none of the terms and conditions of the Letter of credit issue/amendment application can be waived, unless it is agreed by the Bank.

1.9 At any time, upon the request of the Bank, in order to set up a collateral and/or to supplement an already existing collateral for the payment of all obligations undertaken via the letter of credit issuance/amendment application, the Applicant shall set up appropriate guarantees in favor of the Bank within the term requested by the Bank, in the form and type satisfactory to the Bank, as well as, at the expense of the Applicant, it shall register the guarantees in accordance with the law, in order to give priority to the guarantees established in favor of the Bank; to implement the provisions above, but without any limitation thereof, at the request of the Bank, the Applicant shall validly assign to the Bank the rights under any policy and insurance certificates related to the issued Letter of Credit, or under any agreement concluded pursuant to the letter of credit, and it shall set up mortgages on the deposits held with the Bank, and it shall hand over to the Bank the documents attesting the ownership of the assets pledged as collateral.

1.10 The Bank reserves the right not to pay the Letter of credit / not to implement any Instructions related to the Letter of credit, if the payment and/or the implementation of that instruction could result in the Bank's violating any commercial, economic, or financial sanctions arising from any laws, regulations, embargoes or restrictive measures imposed, enacted or enforced by the Security Council of the United Nations, the European Union, Romania or any government or institutions or their official agencies.



1.11 The Bank shall assume no liability for the losses or damages suffered by the Applicant due to fluctuations of the foreign exchange rate; the Applicant expressly agrees to waive the right to invoke the occurrence of any event classified under the Romanian law as a force majeure event, act of god, or unpredictable event, in regard to the impossibility of fulfilling any obligation undertaken to the Bank in connection with the letter of credit Issuance/amendment application.

## 2 SPECIFIC PROVISIONS FOR LETTERS OF CREDIT SECURED VIA COLLATERAL DEPOSITS

2.1 If the issue of the letter of credit is fully or partially secured via a collateral deposit, the Bank's issuance of the letter of credit or its subsequent amendment may be performed only if the letter of credit amount plus the accepted margin (if applicable, under the letter of credit issuance / amendment application) and the amount of the related fees / charges are fully covered by the set up collateral deposit or in compliance with Clause 1.2 above.

2.2 If the currency of the letter of credit is different from that of the collateral deposit, in order to check whether the amount of the letter of credit exceeds or not the amount of the collateral deposit, the Bank shall periodically reassess the amount of the letter of credit issued, by reference to the collateral deposit amount, taking into account the exchange rate of the Bank, in compliance with Clause 1.2 above.

2.3 If the same collateral deposit account is used to guarantee the issuance of several letters of credit, the amounts set up for the collaterals of each letter of credit shall be gradually set up upon each application for the issuance of a letter of credit, and they shall also be release as the letters of credit are paid, so that in any moment, the amount blocked as collateral for the letters of credit secured via that collateral deposit account may cover the amount of the letters of credit issued under Clauses 2.1 and 2.2 above.

2.4 The amount representing the collateral deposit shall become unavailable as of the date of the collateral deposit set up, until the date all obligations arising from the letter of credit secured via a collateral deposit are paid in full, including any extension or other amendments of the letter of credit. The collateral deposit shall be automatically extended at maturity, whenever necessary, to cover the entire period mentioned above.

2.5 The interest on the collateral deposit shall be mentioned in the letter of credit issuance /amendment application. The interest rate shall be calculated and registered on the last day of the month in the assigned debt account. The interest shall be paid on the due date(s) in compliance with the letter of credit issuance / amendment application, in the current account/sub-account of the Applicant, out of which the deposit has been set up. The Bank shall not apply any interest on the collateral deposits set up from amounts out of loans granted by the Bank, unless the Loan agreement expressly provides otherwise.

2.6 If the interest on the collateral deposit is variable over the entire validity period of the letter of credit, the Bank shall have the right to unilaterally change the applicable interest rate, the new interest rate being binding upon its display at the Bank's headquarters and/or publishing on the Bank's website Bank. The Applicant expressly accepts this unilateral change by the Bank. If the interest on the collateral deposit is fixed, it shall not change during the validity period.

2.7 For the collateral deposit operations, the fees charged shall comply with the List of fees and charges applicable to legal entities. These shall be deducted from the available funds in the current accounts of the Applicant opened with the Bank, the Bank being irrevocably mandated to do so by signing the letter of credit issuance /amendment application.

2.8 The amount of the interest and fees charged shall be displayed periodically by the Bank at its headquarters, in a visible location. The Applicant expressly accepts the unilateral modification by the Bank of the amount and interest and fees charging method applicable to the collateral deposit. The account statement of the collateral deposit shall be issued at the counter and/or via the electronic banking services, as applicable, upon every request of the Applicant. If, within 5 (five) Business Days as of the date of the operation on the Collateral Deposit account, the Applicant shall notify the Bank in writing, of any errors or omissions found in the operations performed; the balance and the operations on the collateral deposit account statement shall be considered accepted by default. Such an acceptance shall not exclude the right of the Applicant to dispute any operation on its accounts that it considers unauthorized or incorrectly performed, including any errors / omissions on the account statement within the term set forth in the General Business Terms and Conditions for Legal Entities and Authorized Individuals (as published on the Bank's website [www.ber.ro](http://www.ber.ro), and as may

be periodically amended by the Bank) under the penalty of preclusion. The complaint shall be submitted in writing via registered letter with acknowledgment of receipt.

2.9 By signing the letter of credit issuance / amendment application and setting up the collateral deposit, the Applicant sets up a first-ranking mortgage in favor of the Bank on the collateral deposit account and on all the amounts of the collateral deposit, in order to guarantee the payment of the letter of credit and the fulfillment of all of the Applicant's present or future obligations, in compliance with or in connection with the letter of credit issuance / amendment application (including fees, other charges and legal and enforcement costs). The Applicant Officer shall not have the right to dispose of these amounts for the entire aforementioned period, the amounts in the collateral deposit being at the exclusive disposal of the Bank. The applicant agrees with the following conditions under which the mortgage is set up:

(a) The mortgage shall extend to the asset that replaces the asset pledged as guarantee, to all the benefits and products of the mortgaged asset, as well as to all the assets received by the Applicant as a result of an act of administration or disposal performed in regard to the mortgaged asset. To avoid any doubts, if the collateral deposit is set up gradually, as the letters of credit are issued, the mortgage shall be extended over all the amounts thus pledged in the collateral deposit account.

(b) The Applicant declares on its own risk that it owns the mortgaged asset, that such asset is not pledged to guarantee other present and future obligations, that it shall not be subject to any transactions or liens, including other mortgages, until all obligations to Bank arising from the letters of credit secured via the collateral deposit are paid.

(c) The Collateral Deposit cannot be liquidated or otherwise used by the Applicant as long as it is pledged as a guarantee in favor of the Bank. The Applicant (the account holder of the collateral deposit account) irrevocably authorizes and mandates the Bank, for the entire validity term of the letters of credit guaranteed via the collateral deposit (the provisions of Article 2015 of the Civil Code are not applicable), so that it may reduce the deposit for the payment of its letters of credit or for the payment of any amounts owed in connection with it, as well as any currency exchange necessary, at the exchange rate set by the Bank without the need to notify the Applicant or receive its authorization.

(d) The Applicant undertakes to fulfill at its own expense all formalities related to the mortgage publicity in the Electronic Archive For Security Interests In Movable Property (including the formalities for registration, amendment, as well as the costs related to the mortgage settlement). The Applicant authorizes the Bank to debit its current account with the equivalent of the costs required for the fulfillment of such formalities. Notwithstanding the fulfillment of the formalities related to the publicity in the Electronic Archive for Security Interests in Movable Property provided above, the mortgage publicity requirement shall also be considered fulfilled if the collateral deposit account opened with the Bank is kept. The Applicant undertakes not to require the closing of this account until the obligations secured by this mortgage are not completely fulfilled. If the right to action on the main claim is extinguished by prescription, the right to the mortgage shall not consequently be extinguished as well. The Bank shall be able to recover, under the law, the mortgaged assets within the limit of their value. In case of non-fulfillment, the Bank may use its own means to take over the assets pledged as collateral, after a prior notification has been sent according to the law, in compliance with art. 2440 of the Civil Code.

2.10 By signing the letter of credit issuance / amendment application, the Applicant, as holder of the collateral deposit account, confirms that it has been informed and it has fully understood:

(a) The information necessary to identify the Deposit Guarantee Scheme BCR is part of, as presented in the Information Form provided to depositors, appended to this Chapter 14 (Special Provisions - Documentary Letters of Credits) of these GCCs;

(b) The categories of deposits excluded from the protection conferred by the Deposit Guarantee Scheme, as presented in the List of Deposits not accepted as collateral, appended to this Chapter 14 (Special Provisions - Documentary Letters of Credit) of these GCCs.

If the account holder is entitled to receive compensation from the Bank Deposit Guarantee Fund, in compliance with the legal provisions in force, the account holder confirms that it acknowledges that, according to the legislation in force, the level of compensations due to it shall be determined by deducting from that amount of all eligible deposits opened with BCR the outstanding debts of the account holder to BCR, as described below. Thus, the deduction shall take place on the date when the eligible deposits became unavailable, and it covers the total amount of such outstanding debts on the date when the deposits became unavailable. The sum of all eligible deposits includes accrued and unpaid interest. The compensation due cannot exceed the set coverage limit set and periodically communicated by the Bank Deposit Guarantee Fund.

#### DEPOSITOR INFORMATION FORM

Basic information on deposit protection	
Deposits set up with Banca Comerciala Romana S.A. are guaranteed by:	the Bank Deposit Guarantee Fund <sup>1</sup>
Coverage limit:	The RON equivalent of EUR 100,000 per depositor per credit institution <sup>2</sup>  The minimum compensation amount for deposits for which no transaction has occurred in the past 24 months shall be determined by the Bank Deposit Guarantee Fund.
If you have multiple deposits set up with the same credit institution:	All deposits set up with the same credit institution are "combined" and the total amount is subject to the coverage amount set at the equivalent in RON of EUR 100,000.
If you have a joint account with another/other person(s):	The coverage limit set at the RON equivalent of EUR 100,000 shall be applied for each depositor <sup>3</sup>
The period for paying the compensations due in case deposits set up with credit institutions become unavailable:	7 business days <sup>4</sup>
Compensation payment currency:	RON
Contact details of the Bank Deposit Guarantee Fund:	Address: Negru Vodă nr. 3, Wing A3, 2nd floor district 3, Bucharest, postal code: 030774 Phone: 021/326.60.20 E-mail: comunicare@fgdb.ro comunicare@fgdb.ro
Additional information:	The Bank Deposit Guarantee Fund website: <a href="http://www.fgdb.ro/">http://www.fgdb.ro/</a>

Additional information:

<sup>1</sup> The statutory Deposit Guarantee Scheme governed by Title II of Law 311/2015 on Deposit Guarantee Schemes and the Bank Deposit Guarantee Fund.

<sup>2</sup> General Coverage Limit: If a deposit is unavailable due to a credit institution being unable to fulfill its payment obligations in compliance with the applicable contractual and legal conditions, the payment of the compensation to the depositors shall be made by the Deposit Guarantee Scheme. Each compensation has a maximum limit set at the RON equivalent of EUR 100,000 per credit institution. This means that all deposits setup at the same credit institution are combined to determine the coverage by the set limit. For example, if a depositor has a savings account of EUR 90,000 and a current account of EUR 20,000, they will only receive the EUR 100,000 equivalent.

<sup>3</sup> Coverage limit applicable to joint accounts: In the case of joint accounts, the coverage limit set at the equivalent in RON of EUR 100,000 applies to each depositor. However, deposits in an account whose beneficiaries are two or more persons in their capacity as members of a for-profit association, partnership or group of the same type, without legal personality, are combined and treated as if they had been set up by a single depositor for the calculation of the EUR 100,000 limit. In some cases, as set out below, deposits are covered over the RON equivalent of EUR 100,000 for a period of 12 months from the date on which the amount was credited to the respective credit institution, or from the date the deposits can be legally transferred to another credit institution:

- a) deposits resulting from real estate transactions related to residential property;
- b) deposits resulting from the retirement, dismissal, invalidity or death of the depositor;
- c) deposits resulting from the receipt of insurance indemnities or compensation for damages due to criminal offenses or unjust convictions.

For additional information, please visit [<http://www.fgdb.ro/>].

<sup>4</sup> Compensation payment

The responsible Deposit Guarantee Scheme is the Bank Deposit Guarantee Fund, with office in Str. Negru Vodă nr. 3, Wing A3, 2nd floor district 3, Bucharest, postal code: 030774, phone 021 / 326.60.20, and e-mail [comunicare@fgdb.ro](mailto:comunicare@fgdb.ro); website <http://www.fgdb.ro/>. The Fund shall provide you with the appropriate compensation (up to the RON equivalent of EUR 100,000) within 7 business days as of the date when deposits became unavailable.

If your compensation has not been paid by this deadline, we recommend that you contact the Deposit Guarantee Scheme, as the deadline for claiming compensation may be limited.

For additional information please visit <http://www.fgdb.ro/>.

**LIST OF DEPOSITS NOT ACCEPTED AS COLLATERAL**

1. Deposits of a credit institution made in name and on its behalf, in compliance with the provisions of art. 64 para. (2).
2. Instruments that fall within the definition of own funds, as defined in art. 4 para. (1), section 118 of Regulation (EU) No. 575/2013.
3. Deposits resulting from transactions in relation to which final money laundering convictions have been delivered under the prevention and anti- money laundering law.  
The classification of deposits in this category is made by the Deposit Guarantee Scheme based on the information received from the competent authorities, from the credit institution whose deposits have become unavailable or from the liquidator appointed by the court, as appropriate.
4. Deposits of financial institutions, as defined in art. 4 para. (1), section 26 of Regulation (EU) No. 575/2013.
5. Deposits of investment firms, as defined in Art. 4 para. (1), section 2 of Regulation (EU) No 575/2013.

6. Deposits for which the identity of the holder has not been verified until they became unavailable under the prevention and anti-money laundering law.
7. Deposits of insurers and re-insurers, as defined in Art. 2, letter a, sections 5 and 39 of Law no. 32/2000 on insurance and insurance supervision, as further amended and supplemented.
8. Deposits of Undertakings for Collective Investment as defined by the capital market legislation.
9. Deposits of pension funds.
10. Deposits of central, local and regional public authorities.
11. Securities, such as debts, issued by the credit institution, as well as the obligations resulting from its own acceptances and promissory notes.