

Intercreditor Agreement

Jetpak Top Holding AB (publ)

as Company

Pareto Bank ASA

as Original Super Senior RCF Creditor

Nordic Trustee & Agency AB (publ)

as Bonds Agent and Security Agent

and

Certain Entities

as ICA Group Companies, Shareholder Creditors, Intercompany Creditors and Intercompany Debtors

2 December 2016

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This intercreditor agreement (this "**Agreement**") is entered into on 2 December 2016, by and between:

- (a) **Jetpak Top Holding AB (publ)**, a public limited liability company incorporated under the laws of Sweden, with business identity code 559081-5337 (the "**Company**");
- (b) **Pareto Bank ASA** in its capacity as revolving credit facility lender (the "**Original Super Senior RCF Creditor**");
- (c) **The Companies** set out in **Schedule 1** (*The Original ICA Group Companies*) as original intercreditor group companies (the "**Original ICA Group Companies**");
- (d) **The entities** set out in **Schedule 2** (*The Original Shareholder Creditors*) as original shareholder creditors (the "**Original Shareholder Creditors**");
- (e) **Nordic Trustee & Agency AB (publ)** as Bonds Agent for the Bondholders and for itself (as applicable) (the "**Original Bonds Agent**"); and
- (f) **Nordic Trustee & Agency AB (publ)** as security agent for the other Secured Parties (the "**Original Security Agent**").

It is agreed as follows:

1. Definitions and interpretation

1.1 Definitions

In this Agreement:

"**Accession Agreement**" means an agreement substantially in the form set out in Schedule 3 (*Form of Accession Agreement*).

"**Agents**" means the Security Agent and the Original Bonds Agent.

"**Bondholders**" has the meaning ascribed to such term in the Terms and Conditions.

"**Bonds**" means the senior secured bonds issued by the Company from time to time in accordance with the Terms and Conditions.

"**Bonds Agent**" means the Original Bonds Agent or any new agent replacing the Original Bonds Agent in accordance with Clause 20 (*Appointment and Replacement of the Trustee*) of the Terms and Conditions.

"**Bonds Debt**" means all present and future moneys, debts and liabilities due, owing or incurred from time to time by any Group Company to any Bondholder under or in connection with the Terms and Conditions and the Bonds.

"**Bonds Documents**" means the "Finance Documents" as defined in the Terms and Conditions.

"**Bonds Event of Default**" shall have the meaning ascribed to the term "Event of Default" in the Terms and Conditions.

"**Conflicting Enforcement Instructions**" means instructions (or proposed instructions) as to enforcement of the Transaction Security or the taking of any Enforcement Action delivered to the Security Agent by a Secured Debt Agent that are inconsistent as to the manner of enforcement (including any inconsistency as to the timeframe for realising value from an enforcement of the Transaction Security or the Guarantees or a distressed disposal), it being understood that, for the purpose of triggering the consultation requirements under Clause 11.2 (*Enforcement and Consultation*) only and not for any other purpose (including, without limitation, determining the Instructing Party), the failure to give instructions by either of the Secured Debt Agents will be deemed to be an instruction inconsistent with any other instructions given.

"**Creditor**" means any creditor under any Secured Debt and any creditor under any Subordinated Debt.

"**Debt**" means any Secured Debt or any Subordinated Debt.

"**Default**" means a default (however described) under any of the Senior Finance Documents.

"**Documents**" means the Senior Finance Documents and the Subordinated Documents.

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

"**Enforcement Action**" means any action of any kind to:

- (a) demand payment which has fallen due, declare prematurely due and payable or otherwise seek to accelerate payment of or place on demand all or any part of any Debt or Guarantee (other than as a result of it becoming unlawful for a Secured Party to perform its obligations under, or of any voluntary or mandatory prepayment under, the Senior Finance Documents);
- (b) recover all or any part of any Debt (including by exercising any set-off, save as required by law and normal netting and set-off transactions in the ordinary course of business);
- (c) exercise or enforce any enforcement right under the Transaction Security, in each case granted in relation to (or given in support of) all or any part of any Debt;
- (d) petition for (or take or support any other step which may lead to) an Insolvency Event;
- (e) sue, claim or bring proceedings against the Company, any Guarantor or any ICA Group Company in respect of recovering any Debt; or
- (f) in relation to any Hedging Debt only, designate an Early Termination Date under any Hedging Agreement, or terminate, or close out any transaction

under, any Hedging Agreement, prior to its stated maturity, or demand payment of any amount which would become payable on or following an Early Termination Date or any such termination or close-out, unless voluntary or in accordance with a partial termination in accordance with the terms of the Senior Finance Documents and not related to any Default.

"Enforcement Instruction" means a notice sent by one or more Secured Debt Agents to the Security Agent pursuant to Clause 11.2 (*Enforcement and Consultation*) requesting the Security Agent to take Enforcement Actions (including the manner and timing of enforcement), including enforcement of any Transaction Security or Guarantee, provided that instructions not to take Enforcement Actions or the absence of instructions as to enforcement shall not constitute "Enforcement Instructions".

"Event of Default" means a Super Senior RCF Event of Default, a Bonds Event of Default, an Event of Default (as defined in any Hedging Agreement) or an event of default (however described) under any New Debt.

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

"First Issue Date" means 2 December 2016, being the date on which the Initial Bonds are issued.

"Group" means the Company and its Subsidiaries from time to time (each as "**Group Company**").

"Guarantee" means a guarantee issued by an ICA Group Company under the Guarantee Agreement.

"Guarantee Agreement" means the guarantee agreement entered into on or about the date hereof pursuant to which certain members of the Group provide guarantees to the Secured Parties and adhere to the terms set forth in the Senior Finance Documents (as applicable).

"Guarantee Limitation Provisions" means the provisions set out in Clause 8 (*Guarantee Limitations*) of the Guarantee Agreement.

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

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

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

"ICA Group Company" means:

- (a) the Original ICA Group Companies; and
- (b) any person which has become an ICA Group Company in accordance with Clause 22.1 (*Assignments and Transfers by Creditors*),

which in each case has not ceased to be an ICA Group Company in accordance with this Agreement.

"Insolvency Event" means, in relation to a member of the Group, any corporate action, legal proceedings or other procedure or step that is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, bankruptcy, administration or corporate reorganisation (Sw. *företagsrekonstruktion*) of any Group Company (other than a solvent liquidation that is permitted under the Senior Finance Documents); or
- (b) corporate actions, legal proceedings or other procedures (other than (A) proceedings which is not vexatious or frivolous or are being disputed in good faith and are discharged within ninety (90) calendar days, and (B), in relation to Subsidiaries of the Company, solvent liquidations that is permitted under the Senior Finance Documents) in relation to (A) the suspension of payments, winding-up, reorganisation (Sw. *företagsrekonstruktion*) or similar (by way of voluntary arrangement or otherwise) of any Group Company, and (B) the appointment of a liquidator, administrator, or other similar officer in respect of any Group Company or any of its assets or any analogous procedure.

"Instructing Party" means the Senior Agent or, following replacement in accordance with Clause 11.2(e), the Super Senior RCF Creditor.

"Intercompany Creditor" means (i) the Company, and (ii) each ICA Group Company (which has not ceased to be an ICA Group Company in accordance with this Agreement), in their capacities as creditor in respect of Intercompany Debt.

"Intercompany Debt" means, other than the Pledged Intercompany Loans, all present and future moneys, debts and liabilities due, owing or incurred from time to time under any loan granted by an ICA Group Company to another ICA Group Company.

"Intercompany Debtor" means each ICA Group Company (which has not ceased to be an ICA Group Company in accordance with this Agreement) in its capacity as debtor in respect of Intercompany Debt.

"Intercompany Documents" means all documents, agreements and instruments evidencing any Intercompany Debt.

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

"JP Group Overdraft Facility" means the overdraft facility utilised as an ancillary facility under the JP Holding Facility entered into between, amongst others, Jetpak Group AB and Nordea Bank AB (publ) as lender.

"JP Group Overdraft Facility Intercompany Loan" means the loan provided by the Company to its indirect subsidiary Jetpak Group AB, equal to the amount outstanding under the JP Group Overdraft Facility (including accrued interest) which shall be used to refinance the JP Group Overdraft Facility.

"JP Group Holding Bridge Facility" means the originally SEK 40,750,000 facility agreement originally dated 25 June 2015 (as amended by an amendment agreement dated 27 June 2016, as amended by an amendment agreement dated 28 September 2016 and as further amended by an amendment agreement dated on or about the date of this release letter) entered into between Jetpak Group Holding AB and Nordea Bank AB (publ) as lender.

"JP Group Holding Bridge Facility Intercompany Loan" means the SEK 42,637,009.09 loan provided by the Company to its indirect subsidiary Jetpak Group Holding AB, equal to the amount outstanding under the JP Group Holding Bridge Facility (including accrued interest) which shall be used to refinance the JP Group Holding Bridge Facility.

"JP Holding Facility" means the SEK 350,000,000 facility agreement originally dated 4 May 2012 entered into between, amongst others, Jetpak Intressenter AB, Jetpak Holding AB and Nordea Bank AB (publ) as lender.

"JP Holding Facility Intercompany Loan" means the SEK 156,443,624.18 loan provided by the Company to its indirect subsidiary Jetpak Holding AB, equal to the amount outstanding under the JP Holding Facility (including accrued interest) which shall be used to refinance the JP Holding Facility.

"Major Obligations" means an obligation with respect to any Group Company under Clause 13.10 (*Negative Pledge*), Clause 13.6 (*Financial Indebtedness*), Clause 13.7 (*Disposal of Assets*) and Clause 13.12 (*Loans out*) of the Terms and Conditions following the undertaking set out in Clause 13.1 (*Bond Covenants*) of the Super Senior RCF Agreement.

"New Creditor" means a provider of New Debt.

"New Debt" means Financial Indebtedness incurred by the Company pursuant to item (g) in the definition of "Permitted Debt" in the Terms and Conditions.

"New Debt Documents" means all documents relating to any New Debt.

"Party" means a party to this Agreement.

"Payment Block Event" means when the Super Senior RCF Creditor serves a written notice to the Borrower (as defined in the Super Senior RCF Agreement), the Security Agent, the Bonds Agent and any New Creditor that a Payment Block Event has occurred due to the occurrence of a Super Senior RCF Event of Default (for the avoidance of doubt, after the expiration of any applicable grace period in respect of the default giving rise to the Event of Default) relating to (i) a non payment, (ii) a

breach of financial covenants, (iii) non-compliance with any of the Major Obligations, (iv) a cross default, (v) insolvency, (vi) insolvency proceedings, (vii) creditors' process, (viii) impossibility or illegality or (ix) cession of business, under the Super Senior RCF Documents or due to the circumstance that the Super Senior RCF Creditor has served a written notice of acceleration to the Borrower (as defined in the Super Senior RCF Agreement), the Security Agent, the Bonds Agent and any New Creditor.

"Permitted Intercompany Payments" means the payments, receipts and set-offs permitted by Clause 6.2 (*Permitted Intercompany Payments*) as long as they are so permitted.

"Permitted Payment" means a Permitted Shareholder Payment or a Permitted Intercompany Payment.

"Permitted Shareholder Payments" means the payments, receipts and set-offs permitted by Clause 5.2 (*Permitted Shareholder Payments*) as long as they are so permitted.

"Pledged Group Companies" means each Group Company whose shares are subject to Transaction Security.

"Pledged Intercompany Loans" means the JP Group Overdraft Facility Intercompany Loan, the JP Group Holding Bridge Facility Intercompany Loan and the JP Holding Facility Intercompany Loan, subject to the Transaction Security.

"Recovering Creditor" has the meaning ascribed to it in Clause 13.1.

"Recovery" means the aggregate of all moneys and other assets received or recovered (whether by way of payment, repayment, prepayment, distribution, redemption or purchase, in cash or in kind, or the exercise of any set-off or otherwise, including as a result of any Enforcement Action) from time to time by any Party under or in connection with any Secured Debt, Intercompany Debt or Shareholder Debt, but excluding any amount received from a person other than a Party or a Group Company under a credit derivative or sub-participation arrangement.

"Secured Creditors" means the Senior Creditors and the Super Senior Creditors.

"Secured Debt" means the Super Senior Debt and the Senior Debt.

"Secured Debt Acceleration Date" means the date (if any) on which (i) the Super Senior RCF Creditor exercises a right under the Super Senior RCF Documents to demand payment of any sum payable or cash cover in respect of any contingent sum, or (ii) the Bonds Agent exercises a right under the Terms and Conditions to demand payment of any sum payable or cash cover in respect of any contingent sum.

"Secured Debt Agents" means the Super Senior RCF Creditor and the Senior Agent.

"Secured Debt Declared Default" means an Event of Default which has resulted in the Super Senior RCF Creditor accelerating the loans in accordance with the terms of the RCF Documents or the Bonds Agent exercising any of its rights under Clause 14.10 (*Acceleration of the Bonds*) of the Terms and Conditions.

"Secured Debt Enforcement Event" means:

- (a) an Event of Default as a result of non-payment;
- (b) the acceleration of any Debt or the making of any declaration that any Debt is prematurely due and payable;
- (c) the making of any declaration that any Debt is payable on demand;
- (d) the suing for, commencing or joining of any legal or arbitration proceedings against any Group Company to recover any Debt; and
- (e) the premature termination or close-out of any hedging transaction under the Hedging Debt (unless such premature termination or close-out is made in accordance with Clause 4.5 (*Limitations on hedging transactions*)).

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

"Secured Parties" means the Security Agent, the Super Senior RCF Creditor, the Bonds Agent, the Bondholders, any New Creditor and the Hedge Counterparties.

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

"Security Agent" means the Original Security Agent or any new agent replacing the Original Security Agent in accordance with Clause 22.4 (*Resignation of Agents*).

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

"Senior Agent" means, at any time, the representative of those Senior Creditors who's Senior Debt at that time aggregate more than 50 per cent. of the total Senior Debt at that time, where the Bonds Agent shall represent all Bondholders and act on the instructions of and on behalf of the Bondholders.

"Senior Creditors" means the Bondholders and any New Creditor.

"Senior Debt" means all present and future moneys, debts and liabilities due, owing or incurred from time to time by any Group Company to any Senior Creditor under the Bonds Documents and the New Debt Documents, and all available commitments of any Senior Creditor, under or in connection with any Bonds Documents and the New Debt Documents (as applicable).

"Senior Finance Documents" means the Bonds Documents, the Super Senior RCF Documents, the Hedging Agreements and the New Debt Documents.

"Shareholder Creditor" means the Original Shareholder Creditors or any person which has become a Shareholder Creditor in accordance with Clause 22.1 (*Assignments and Transfers by Creditors*) or Clause 22.3 (*Accession of Shareholder Creditors*).

"Shareholder Debt" means all present and future moneys, debts and liabilities due, owing or incurred from time to time by the Company to any Shareholder Creditor, including any dividends and any advisory, monitoring or management fee.

"Shareholder Debt Documents" means any document relating to any Shareholder Debt, together with any other document, agreement or instrument under or pursuant to which any sum is or becomes or is capable of becoming due, owing or incurred from time to time from or by the Company to any Shareholder Creditor.

"Subordinated Debt" means any Shareholder Debt or Intercompany Debt.

"Subordinated Documents" means the Shareholder Debt Documents and the Intercompany Documents.

"Subordinated Party" means any Shareholder Creditor or any Intercompany Creditor.

"Super Senior Creditors" means the Super Senior RCF Creditor and the Hedge Counterparties.

"Super Senior Debt" means the Super Senior RCF Debt and the Hedging Debt.

"Super Senior RCF Agreement" means (i) the SEK 35,000,000 revolving credit facility agreement entered into between Jetpak Intressenter AB and the Original Super Senior RCF Creditor dated on or about the date of this Agreement, and (ii) any other revolving credit facility agreement or similar agreement providing financing for mainly general corporate purposes between Jetpak Intressenter AB and a Super Senior RCF Creditor replacing a Super Senior RCF Agreement in accordance with this Agreement.

"Super Senior RCF Creditor" means the Original Super Senior RCF Creditor, any creditor replacing the Original Super Senior RCF Creditor in connection with a replacement of the original Super Senior RCF Agreement in accordance with Clause 10.4 (*RCF Refinancing*), or any other creditor or representative under any new Super Senior RCF Documents.

"Super Senior RCF Debt" means all present and future moneys, debts and liabilities due, owing or incurred from time to time by any Group Company to the Super Senior RCF Creditor under the Super Senior RCF Documents.

"Super Senior RCF Documents" means the "Finance Documents" (as defined in a Super Senior RCF Agreement).

"Super Senior RCF Event of Default" shall have the meaning ascribed to the term "Event of Default" in the Super Senior RCF Documents.

"Terms and Conditions" means the terms and conditions of the Bonds entered into between the Company and the Bonds Agent on 30 November 2016.

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

"Transaction Security Documents" means the documents set out in Schedule 4 (*Transaction Security Documents*) and any other document entered into creating or expressed to create any Security in respect of the obligations under the Senior Finance Documents.

"Triggering Event" means:

- (a) the occurrence of an Event of Default; or
- (b) a breach of a financial covenant under the Super Senior RCF Agreement.

1.2 Incorporation of defined terms

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

1.3 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
 - (i) any **"Agent"**, the **"Company"**, any **"Creditor"**, any **"Finance Party"**, any **"Hedge Counterparty"**, any **"ICA Group Company"**, any **"Intercompany Debtor"**, any **"Intercompany Creditor"**, any **"New Creditor"**, any **"Bondholder"**, the **"Bonds Agent"**, any **"Party"**, any **"Recovering Creditor"**, any **"Secured Creditor"**, any **"Secured Party"**, the **"Security Agent"**, any **"Senior Creditor"**, any **"Shareholder Creditor"**, any **"Subordinated Party"** or any **"Super Senior RCF Creditor"** shall be construed so as to include its successors in title, assigns and transferees permitted under this Agreement;
 - (ii) **"assets"** includes present and future properties, revenues and rights of every description;
 - (iii) **"consent"** means any consent, approval, release or waiver or agreement to any amendment;
 - (iv) any **"Document"**, the **"Guarantee Agreement"**, any **"Hedging Agreement"**, any **"Intercompany Document"**, a **"New Debt Document"**, a **"Bonds Document"**, any **"Senior Finance Document"**, any **"Subordinated Document"**, any **"Super Senior RCF Document"**, the **"Super Senior RCF Agreement"**, the **"Terms and Conditions"**, a **"Transaction Security Document"** or any other document, agreement or instrument, other than a reference to a document or other agreement or instrument in its original form, is a reference to that

document, agreement or instrument as amended, supplemented or restated (however fundamentally) as permitted by this Agreement;

- (v) the "**original form**" of a document, agreement or instrument means that document, agreement or instrument as originally entered into;
 - (vi) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (vii) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, or partnership (whether or not having separate legal personality) or two or more of the foregoing;
 - (viii) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (ix) "**set-off**" includes combining accounts and payment netting except that, in relation to any Hedging Debt, "set-off" does not include payment netting or close-out netting;
 - (x) a provision of law is a reference to that provision as amended or re-enacted; and
 - (xi) a time of day is a reference to Stockholm time.
- (b) Section, Clause and Schedule headings are for ease of reference only.
 - (c) A default or potential default, however described, is "continuing" if deemed to be continuing pursuant to the relevant agreement. A Payment Block Event shall be deemed to be continuing if not remedied or waived and a Triggering Event shall be deemed to be continuing until waived by the Security Agent acting reasonably and on instructions of the Secured Parties.

2. Superiority of Intercreditor Agreement

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

3. Ranking

3.1 Ranking of Debt

Unless expressly provided to the contrary in this Agreement, the Debt shall rank in right and priority of payment in the following order:

- (a) **first**, the Super Senior Debt (*pari passu* between the Super Senior RCF Debt and the Hedging Debt);
- (b) **secondly**, the Senior Debt (*pari passu* between the Bonds Debt and any New Debt);
- (c) **thirdly**, the Intercompany Debt; and
- (d) **fourthly**, the Shareholder Debt.

3.2 Ranking of interest in the Transaction Security Documents

- (a) Except if otherwise provided in this Agreement, all Guarantees and all Security created pursuant to any Senior Finance Document will be provided with first priority in respect of Secured Debt (*pari passu* between the Super Senior RCF Debt, the Bonds Debt, any New Debt and the Hedging Debt), subject to Clause 3.1 (*Ranking of Debt*) and the other terms of this Agreement.
- (b) The Subordinated Debt is and shall remain unguaranteed and unsecured.

3.3 Registration and notice

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

3.4 Preservation of Subordinated Debt

Notwithstanding any term of this Agreement postponing, subordinating or preventing the payment of all or any part of the Subordinated Debt, the relevant Subordinated Debt shall, as between the Intercompany Debtors and the Subordinated Parties, be deemed to remain owing or due and payable (and interest, default interest or indemnity payments shall continue to accrue) in accordance with the relevant Documents.

4. Hedge Counterparties

4.1 Hedge Counterparties

A person is a Hedge Counterparty and is entitled to share in any Transaction Security and the Guarantees in respect of any Hedging Debt only if the person is a financial institution selected by the Company, provided that that financial institution delivers to the Security Agent a duly completed and signed Accession Agreement and the Security Agent executes such Accession Agreement.

4.2 Hedging Agreements

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

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

4.3 Restrictions on payment and security

- (a) No Hedge Counterparty shall demand or receive, and no ICA Group Company shall (and the Company shall ensure that no other Group Company will) make, any payment in respect of any Hedging Debt or apply any money or property in or towards discharge of any Hedging Debt (including by way of set-off) except:
- (i) for a payment or discharge made in accordance with scheduled payments under that Hedging Agreement and this Agreement;
 - (ii) for a payment or discharge made in accordance with Clause 4.4 (*Closing out of hedging transactions*) and Clause 4.5 (*Limitations on hedging transactions*);
 - (iii) payments or deductions arising as a result of:
 - (A) any of sections 2(d) (*Deduction or Withholding for Tax*), 2(e) (*Default Interest; Other Amounts*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*) and 11 (*Expenses*) of the 1992 ISDA Master Agreement (if the Hedging Agreement is based on a 1992 ISDA Master Agreement);
 - (B) any of sections 2(d) (*Deduction or Withholding for Tax*), 8(a) (*Payment in the Contractual Currency*), 8(b) (*Judgments*), 9(h)(i) (*Prior to Early Termination*) and 11 (*Expenses*) of the 2002 ISDA Master Agreement of that Hedging Document (if the Hedging Document is based on a 2002 ISDA Master Agreement); or
 - (C) any provision of a Hedging Document which is similar in meaning and effect to any provision listed in paragraphs (A) or

(B) above (if the Hedging Document is not based on an ISDA Master Agreement),

for the avoidance of doubt, application by a Hedge Counterparty in the order permitted by Clause 14 (*Application of Recoveries*) of proceeds received by a Hedge Counterparty in connection with the enforcement of any Transaction Security or the Guarantees.

- (b) No Hedge Counterparty shall permit to subsist or receive, and no ICA Group Company shall (and the Company shall ensure that no other Group Company will) create or permit to subsist, any Security or any guarantee for or in respect of any Hedging Debt, other than under the original form of any Transaction Security Document and the Guarantee Agreement or if permitted by the Security Agent, provided that the granting of Security or guarantees shall always be subject to approval by the Super Senior RCF Creditor.

4.4 Closing out of hedging transactions

- (a) No Hedge Counterparty or ICA Group Company may terminate or close out any hedging transaction under a Hedging Agreement prior to its originally stated maturity or rely on automatic early termination or on any other provision in the relevant Hedging Agreement so as not to make a payment under the Hedging Agreement unless:
- (i) any Hedging Debt has not been paid on the due date and the non-payment has not been remedied within 30 days after the Hedge Counterparty has given notice to the Security Agent of the non-payment and of its intention to terminate or close out that hedging transaction;
 - (ii) the Secured Debt Acceleration Date has occurred;
 - (iii) an Illegality, Tax Event, Tax Event Upon Merger or a Credit Event Upon Merger (each as defined in the relevant ISDA Master Agreement), or similar event in the case of any other form of Hedging Agreement, has occurred;
 - (iv) any Event of Default has occurred under Clauses 14(a)(vi) (*Insolvency*), 14(a)(vii) (*Insolvency proceedings*) or 14(a)(ix) (*Creditors' process*) of the Super Senior RCF Agreement (or corresponding Clauses of any new Super Senior RCF Documents) or Clauses 14.4, 14.5 or 14.7 under the Terms and Conditions;
 - (v) the termination or closing out is carried out only to the extent required to reflect any repayment or prepayment of Secured Debt which was hedged by the hedging transaction, and the Security Agent is notified accordingly;
 - (vi) in accordance with Clause 4.5 (*Limitations on hedging transactions*); or

- (vii) in case of a refinancing (or repayment) and cancellation in full of the Super Senior RCF Debt.
- (b) Promptly following a Secured Debt Acceleration Date each Hedge Counterparty shall:
 - (i) exercise any rights it may have to terminate or close out any hedging transactions under a Hedging Agreement;
 - (ii) pay to the Security Agent any amount owed by it and any close out amount received under a Hedging Agreement for application in accordance with Clause 14.1 (*Order of Application*); and
 - (iii) exercise any right of set off or take or receive any payment in respect of any Hedging Debt of that Group Company.

4.5 Limitations on hedging transactions

- (a) If, at any time, the aggregate notional amount of the transactions in respect of the Hedging Agreements exceeds or, as a result of a prepayment, will exceed 100 per cent. of the aggregate amount of the outstanding Secured Debt at that time, the Company must promptly notify the Security Agent and must, at the request of the Security Agent, reduce the aggregate notional amount of those transactions by an amount and in a manner satisfactory to the Security Agent so that it no longer exceeds or will not exceed 100 per cent of the aggregate amount of the Secured Debt then outstanding.
- (b) Paragraph (a) above shall not apply to any transactions in respect of any Hedging Agreement under which the borrowers under the Senior Finance Documents have no actual or contingent indebtedness.
- (c) The Security Agent must make a request under paragraph (a) above if so required by a Hedge Counterparty.

5. Shareholder Debt

5.1 Shareholder Debt

- (a) Until the Final Discharge Date:
 - (i) no Shareholder Creditor shall demand or receive, and the Company shall not make, any payment, repayment or prepayment of any principal, interest or other amount on or in respect of, or any distribution in respect of, or any redemption or purchase of, any Shareholder Debt in cash or in kind (or otherwise discharge any part of the Shareholder Debt by way of set-off or otherwise), except as permitted by Clause 5.2 (*Permitted Shareholder Payments*) or Clause 9.2 (*Acceleration and Claim*);

- (ii) no Shareholder Creditor shall permit to subsist or receive, and the Company shall not create or permit to subsist, any Security, or any guarantee, for, or in respect of, any Shareholder Debt, or take or omit to take any action whereby the ranking and/or subordination contemplated by this Agreement may be impaired;
 - (iii) no Shareholder Creditor shall claim or rank as a creditor in the insolvency, winding-up, bankruptcy or liquidation of the Company other than in accordance with Clause 9.2 (*Acceleration and Claim*);
 - (iv) no Shareholder Creditor or the Company shall take or omit to take any action whereby the ranking and/or subordination of the Shareholder Debt contemplated by this Agreement may be impaired; and
 - (v) neither any Shareholder Creditor nor the Company shall amend or terminate any provision of any Shareholder Debt Document, unless the amendment is of a minor, technical and administrative nature and is not prejudicial to the Secured Parties (and for the avoidance of any doubt, a split of any Shareholder Debt Document in connection with an assignment and transfer from one Shareholder Creditor to two or more new Shareholder Creditors in accordance with Clause 22.1 (*Assignments and Transfers by Creditors*) shall not be prohibited under this sub-paragraph (v)).
- (b) Paragraph (a) above does not apply to any action arising as a result of any prior consent of the Secured Debt Agents.

5.2 Permitted Shareholder Payments

Until the Final Discharge Date and subject to Clause 7 (*Turnover of Non-Permitted Payments*) and Clause 9 (*Effect of Insolvency Event*), the Company may pay, and the Shareholder Creditors may receive and retain, including by way of set-off, payments in respect of any Shareholder Debt to the extent such payment is:

- (a) not prohibited under the other Senior Finance Documents (or, if prohibited thereunder, after the relevant consent or waiver has been granted in accordance with the terms of the Senior Finance Documents);
- (b) a capitalisation of interest or a conversion of Shareholder Debt into equity;
- (c) financed with proceeds received under new Subordinated Debt, provided that such new Subordinated Debt shall rank *pari passu* with the Shareholder Debt being refinanced with new Subordinated Debt; or
- (d) made with the prior written consent from the Secured Debt Agents,

unless, in respect of paragraph (a) above, a Triggering Event has occurred or occurs as a result of making the relevant payment, in which event no such payment may be made or received.

5.3 Restrictions on enforcement by the Shareholder Creditors

- (a) Until the Final Discharge Date, the Shareholder Creditors shall not, except with the prior written consent of the Security Agent, take any Enforcement Action in relation to any Shareholder Debt.
- (b) If required by the Security Agent to take Enforcement Action, the Shareholder Creditors will promptly take the relevant Enforcement Action and apply any proceeds from that Enforcement Action in accordance with Clause 7 (*Turnover of Non-Permitted Payments*).

5.4 Restrictions on Shareholder subrogation

The Shareholder Creditors shall not, except with the prior written consent of the Secured Creditors, be subrogated to or entitled to exercise any right of any Secured Party or any Security or guarantee under any Senior Finance Document.

5.5 Conversion into equity

In the event that the equity of the Company at any time prior to the Final Discharge Date is less than half of its registered share capital, each Shareholder Creditor shall, as soon as reasonably practical, take any action required in order to convert the Shareholder Debt (or part thereof) into equity through conditional capital contributions (Sw. *villkorade aktieägartillskott*) or unconditional capital contributions (Sw. *ovillkorade aktieägartillskott*) or similar arrangements applicable in the jurisdiction of incorporation of the Company in an amount sufficient to ensure that the equity of the Company is at least equal to its registered share capital. For the avoidance of doubt, the obligations of each Shareholder Creditor under this Agreement are several. No Shareholder Creditor is responsible for the obligations of any other Shareholder Creditor.

5.6 Release of obligations

At any time following a Secured Debt Declared Event of Default, each Shareholder Creditor and the Company must, if requested by the Security Agent, release and discharge any Shareholder Debt specified by the Security Agent, by way of shareholders' contribution (Sw: *aktieägartillskott*), forgiveness of liabilities, or in any other way deemed appropriate by the Security Agent.

6. Intercompany Debt

6.1 Intercompany Creditors

- (a) Until the Final Discharge Date:
 - (i) no Intercompany Creditor shall demand or receive, and no Intercompany Debtor or ICA Group Company shall (and the Company shall ensure that no other Group Company will) make, any payment, repayment or prepayment of any principal, interest or other amount on or in respect of, or any distribution in respect of, or any redemption

or purchase of, any Intercompany Debt in cash or in kind (or otherwise discharge any part of the Intercompany Debt by way of set-off or otherwise), except as permitted by Clause 6.2 (*Permitted Intercompany Payments*) or Clause 9.2 (*Acceleration and Claim*);

- (ii) no Intercompany Creditor shall claim or rank as a creditor in the insolvency, winding-up, bankruptcy or liquidation of any Group Company other than in accordance with Clause 9.2 (*Acceleration and Claim*);
 - (iii) no ICA Group Company shall take or omit to take any action whereby the ranking and/or subordination contemplated by this Agreement may be impaired; and
 - (iv) no ICA Group Company shall amend or terminate any provision of any Intercompany Document (unless the amendment is not prejudicial to the interests of the Secured Parties).
- (b) Paragraph (a) above does not apply to any action arising as a result of any prior consent of the Secured Debt Agents.
 - (c) No Intercompany Creditor shall permit to subsist or receive, and no ICA Group Company shall (and the Company shall ensure that no other Group Company will) create or permit to subsist, any Security or any guarantee in respect of any Intercompany Debt, other than under the original form of any Transaction Security Document and the Guarantee Agreement or if permitted by the Security Agent.

6.2 Permitted Intercompany Payments

- (a) Until a Triggering Event has occurred and subject to paragraph (b) below, Clause 7 (*Turnover of Non-Permitted Payments*) and Clause 9 (*Effect of Insolvency Event*) an Intercompany Debtor may pay, and the relevant Intercompany Creditor may receive and retain, including by way of set-off:
 - (i) payments of interest, principal or otherwise in respect of any Intercompany Debt *not* being subject to Transaction Security;
 - (ii) interest payments in respect of any Intercompany Debt being subject to Transaction Security.
- (b) Notwithstanding paragraph (a) above, payment of principal and interest on Intercompany Debt shall always be permitted if made for the purpose of serving Secured Debt and such payment is made directly to the Secured Parties (represented by the Security Agent) for repayment of principal or payment of interest on such Secured Debt.

6.3 Restrictions on enforcement by the Intercompany Creditors

- (a) Until the Final Discharge Date, no Intercompany Creditor shall, except with the prior consent of or as required by the Security Agent, take any Enforcement Action in relation to any Intercompany Debt.
- (b) If required by the Security Agent to take Enforcement Action, the Intercompany Creditors will promptly take the relevant Enforcement Action and apply any proceeds from that Enforcement Action in accordance with Clause 7 (*Turnover of Non-Permitted Payments*).

6.4 Restrictions on ICA Group Companies and intercompany subrogation

Until the Final Discharge Date, no ICA Group Company shall, except with the prior consent of the Secured Debt Agents, be subrogated to or entitled to exercise any right of any Secured Party or any Security or guarantee under any Senior Finance Document.

6.5 Release of obligations

At any time following a Secured Debt Declared Default, each Intercompany Creditor and Intercompany Debtor must, if requested by the Security Agent, release and discharge any Intercompany Debt specified by the Security Agent, by way of shareholders' contribution (Sw: *aktieägartillskott*), forgiveness of liabilities, or in any other way deemed appropriate by the Security Agent.

7. Turnover of Non-Permitted Payments

7.1 Turnover by the Secured Creditors and the Subordinated Parties

- (a) A Secured Creditor that receives any Recovery (including by way of set-off) in excess of what it is permitted to receive pursuant to this Agreement shall not be entitled to retain such amount and shall notify the Security Agent and forthwith pay such amount to the Security Agent for application in accordance with Clause 14.1 (*Order of Application*). Should such amount not be paid by the relevant Secured Creditor to the Security Agent for application in accordance with Clause 14.1 (*Order of Application*), such amount shall be considered in any application of proceeds in accordance with Clause 14.1 (*Order of Application*) and such Secured Creditor's share in any such application may be reduced accordingly.
- (b) A Subordinated Party that receives any Recovery (including by way of set-off) in excess of what is permitted pursuant to this Agreement shall notify the Security Agent and forthwith pay such amount to the Security Agent for application in accordance with Clause 14.1 (*Order of Application*).

7.2 Turnover by ICA Group Companies

If any of the ICA Group Companies receives or recovers any amount which, under the terms of the Documents, should have been paid to a Secured Party or a Subordinated

Party, that ICA Group Company will promptly pay that amount to the Security Agent for application in accordance with Clause 14.1 (*Order of Application*).

7.3 Protection of Debt upon Turnover

If a Party is obliged to pay an amount to the Security Agent in accordance with this Clause 7, the relevant Debt in respect of which the Party made such payment to the Security Agent will be deemed not to have been reduced or discharged in any way or to any extent by the relevant payment.

8. Payment Block

- (a) Following a Payment Block Event which has not been remedied or waived, no payments may be made by the Company to the Senior Creditors under or in relation to the Senior Debt (notwithstanding any other provisions to the contrary herein). For the avoidance of doubt, the failure by the Company to timely make any payments due under the Senior Debt shall constitute an Event of Default and the unpaid amount shall carry default interest in accordance with the relevant Senior Finance Document.
- (b) Until a Payment Block Event has been remedied or waived, any amounts paid under the Senior Debt (despite the Payment Block Event) shall be applied by the Security Agent in accordance with Clause 14.1 (*Order of Application*).

9. Effect of Insolvency Event

9.1 Subordination

- (a) If an Insolvency Event occurs,
 - (i) the Intercompany Debt will be subordinated in right of payment to the Secured Debt; and
 - (ii) the Shareholder Debt will be subordinated in right of payment to the Secured Debt and the Intercompany Debt.
- (b) The subordination provisions, to the extent permitted under the applicable law, in this Agreement shall remain in full force and effect by way of continuing subordination and shall not be affected in any way by any intermediate payment or discharge in whole or in part of any Debt.

9.2 Acceleration and Claim

- (a) After the occurrence of an Insolvency Event and until the Final Discharge Date, the Security Agent may:
 - (i) accelerate, claim, enforce and prove for any Subordinated Debt owed by such ICA Group Company or make a demand under any guarantee or indemnity against loss in respect of such Subordinated Debt;

- (ii) file claims and proofs, give receipts and take any proceedings or other action as the Security Agent considers necessary to recover that Subordinated Debt; and
 - (iii) receive all distributions on that Subordinated Debt for application in accordance with Clause 14.1 (*Order of Application*).
- (b) If and to the extent that the Security Agent is not entitled, or elects not, to take any of the action mentioned in paragraph (a) above, each Subordinated Party will do so promptly on request by the Security Agent.
- (c) Each Subordinated Party irrevocably authorises the Security Agent (on behalf of each Secured Party and Subordinated Party) to take any action referred to in paragraph (a) above in respect of any Subordinated Debt owed by an ICA Group Company referred to in such paragraph and each Subordinated Party will provide all forms of proxy or other documents that the Security Agent may reasonably require for such purpose.

9.3 Distributions

- (a) After the occurrence of an Insolvency Event and until the Final Discharge Date, each Subordinated Party shall:
 - (i) hold any Recovery received or receivable by it during such period in respect of any Subordinated Debt referred to in Clause 9.2 (*Acceleration and Claim*) as escrow funds (*Sw: redovisningsmedel*) (or under another appropriate arrangement in the jurisdiction of a Subordinated Party not incorporated in Sweden) for the Secured Finance Parties;
 - (ii) promptly pay such Recovery (or, where the Recovery is by way of discharge by set-off, an equivalent amount) to the Security Agent for application in accordance with Clause 14.1 (*Order of Application*); and
 - (iii) promptly direct the trustee in bankruptcy, receiver, administrator or other person distributing the assets of the relevant ICA Group Company or their proceeds to pay distributions in respect of the Subordinated Debt directly to the Security Agent.
- (b) The amount which may be paid by any ICA Group Company under paragraph (a) above is subject to the Guarantee Limitation Provisions.

9.4 Further Assurance

Each Subordinated Party shall, at its own expense, take whatever action the Security Agent may require to give effect to this Clause 9.

10. Transaction Security

10.1 Additional Security and Guarantees

- (a) If the Company or a Group Company provides any additional Security for any Secured Debt, the Company shall ensure, and shall ensure that such Group Company ensures, that such additional Security is provided on the same terms as the Transaction Security Documents and in accordance with the terms (including ranking) set out in the Senior Finance Documents.
- (b) If the Company or a Group Company provides any additional guarantee for any Secured Debt, the Company shall ensure, and shall ensure that such Group Company ensures, that such additional guarantee is provided on the same terms as the Guarantee Agreement and in accordance with the terms (including ranking) set out in the Senior Finance Documents.

10.2 Sharing of Transaction Security and Guarantees with New Debt

- (a) A Group Company may grant Security and guarantees for New Debt to a New Creditor provided that:
 - (i) the existing Transaction Security and the Guarantees shall secure the New Debt on the same terms, including ranking, (without limiting the application of Clause 16 (*Release of Security*)), *mutatis mutandis*, as it secures the existing Senior Debt;
 - (ii) any Security and guarantees which are not Transaction Security or Guarantees are granted also to the Secured Parties (including the New Creditor), in each case on a *pro rata* basis and on the same terms, including ranking, (without limiting the application of Clause 16 (*Release of Security*)), *mutatis mutandis*, as set out in the other Transaction Security Documents and the Guarantee Agreement (as applicable) and any such new Security and/or guarantees shall constitute Transaction Security and Guarantees;
 - (iii) the New Creditor(s) shall directly or through an agent or a trustee be a party to the Transaction Security Documents and the Guarantee Agreement;
 - (iv) the Security Agent shall hold the Transaction Security and the Guarantees on behalf of the New Creditor on the same terms, *mutatis mutandis*, as the Transaction Security and the Guarantees are held by the Security Agent on behalf of the Secured Parties;
 - (v) the New Creditor shall accede to this Agreement as a Senior Creditor;
 - (vi) the New Creditor shall have the same right to the Transaction Security and the Guarantees and the proceeds pertaining thereto as the existing Senior Creditor.

- (b) Subject to the fulfillment of the conditions set out in paragraph (a) above, the Security Agent may from time to time, at the request of the Company, amend vary and/or restate the Transaction Security or the Guarantees on behalf of itself and the Secured Parties in order to create Security and guarantees in favour of a New Creditor.

10.3 Cancellation of Super Senior RCF

To the extent the Company repurchases, amortises or otherwise repays the Bonds whereby the aggregate Outstanding Nominal Amount of Bonds outstanding falls below seventy-five (75) per cent. of the aggregate Nominal Amount, the debt outstanding under the Super Senior RCF shall be repaid and cancelled *pro rata* with such repurchase, amortisation or other repayment.

10.4 RCF Refinancing

- (a) The Company shall from time to time be entitled to let a bank that refinances the existing Super Senior RCF Debt in full or in part (provided that if in part, only after prior approval from the Super Senior RCF Creditor) have the benefit of the Transaction Security and the Guarantees, provided that:
- (i) the Transaction Security and the Guarantees shall secure the new Super Senior RCF Debt on the same terms, including ranking, (without limiting the application of Clause 16 (*Release of Security*)), *mutatis mutandis*, as it secures the existing Super Senior RCF Debt;
 - (ii) the new Super Senior RCF Creditor(s) shall directly or through an agent or a trustee be a party to the Transaction Security Documents and the Guarantee Agreement;
 - (iii) the Security Agent shall hold the Transaction Security and the Guarantees on behalf of the new Super Senior RCF Creditor on the same terms, *mutatis mutandis*, as the Transaction Security and the Guarantees are held by the Security Agent on behalf of the Secured Parties;
 - (iv) the new Super Senior RCF Creditor shall accede to this Agreement as a Super Senior RCF Creditor;
 - (v) the new Super Senior RCF Creditor shall have the same right to the Transaction Security and the Guarantees and the proceeds pertaining thereto as the existing Super Senior RCF Creditor.
- (b) Subject to the fulfillment of the conditions set out in paragraph (a) above, the Security Agent may from time to time, at the request of the Company, amend vary and/or restate the Transaction Security or the Guarantees on behalf of itself and the Secured Parties in order to release Security or Guarantees provided to the existing Super Senior RCF Creditor (with the prior consent of the existing Super Senior RCF Creditor) and/or to create Security and guarantees in favour of a new Super Senior RCF Creditor.

11. Enforcement and Consultation

11.1 Enforcement Instructions

- (a) Until the Final Discharge Date, the Security Agent shall:
 - (i) exercise any right, power, authority or discretion vested in it as Security Agent in accordance with Clause 11.2 (*Enforcement and Consultation*) (or, if so instructed pursuant to that Clause, refrain from exercising any right, power, authority or discretion vested in it as Security Agent); and
 - (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction from the Secured Debt Agents.
- (b) Other than as expressly permitted under this Agreement, no Secured Party may independently (unless such Secured Party is the single creditor in respect of a certain debt layer as set forth in paragraphs (a)-(d) of Clause 3.1 (*Ranking of Debt*)) accelerate, seek payment and exercise other rights or powers to take Enforcement Actions under the Senior Finance Documents.
- (c) The Security Agent may refrain from enforcing the Transaction Security or from taking other Enforcement Actions unless instructed otherwise by the Instructing Party in accordance with Clause 11.2 (*Enforcement and Consultation*) but always subject to Clause 11.1(e).
- (d) Subject to the Transaction Security or the Guarantees having become enforceable in accordance with their respective terms and subject to Clause 11.2 (*Enforcement and Consultation*), the Instructing Party may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit, provided that the instructions are consistent with the Security Enforcement Objective.
- (e) Notwithstanding anything to the contrary in this Clause 11, the Senior Agent may only give Enforcement Instructions if the reasonably expected proceeds to be received from the proposed Enforcement Action amount to or exceed the aggregate amount of the Super Senior RCF Debt and the Hedging Debt.
- (f) The Security Agent is entitled to rely on and comply with instructions given in accordance with this Clause 11.
- (g) The Security Agent is not authorised to act on behalf of a Secured Party (without first obtaining that Party's, or, with respect to Bondholders, the Bonds Agent's, consent) in any legal or arbitration proceedings relating to any Senior Finance Document or this Agreement.

11.2 Enforcement and Consultation

- (a) If a Secured Debt Agent wishes to issue Enforcement Instructions, such Secured Debt Agent shall deliver a copy of those proposed Enforcement Instructions to the Security Agent and the Security Agent shall promptly forward such Enforcement Instructions to the other Secured Debt Agent.
- (b) Subject to Clause 11.2(c), if the Security Agent has received Conflicting Enforcement Instructions, the Security Agent shall promptly notify the Secured Debt Agents and the Secured Debt Agents will consult with each other and the Security Agent (as the case may be) in good faith for a period of not less than 30 days (or such shorter period as the Secured Debt Agents may agree) (the "**Consultation Period**") from the earlier of (i) the date of the latest such Conflicting Enforcement Instruction and (ii) the date falling ten (10) Business Days after the date on which the original Enforcement Instruction is delivered in accordance with Clause 11.2(a), with a view to agreeing instructions as to enforcement.
- (c) The Secured Debt Agents shall not be obliged to consult (or, in the case of (ii) below, shall be obliged to consult for such shorter period as the Instructing Party may determine) in accordance with Clause 11.2(b) above if:
 - (i) the Transaction Security or the Guarantees has become enforceable as a result of an Insolvency Event; or
 - (ii) each of the Bondholders (represented by the Bonds Agent) representing 50 per cent. of the Adjusted Nominal Amount, the Super Senior RCF Creditor, each Hedge Counterparty and the New Creditor(s) (if any) agree that no Consultation Period is required.
- (d) If consultation has taken place during the Consultation Period or if no such Consultation Period has been initiated in accordance with paragraph (b) above, there shall be no further obligation to consult and the Security Agent may act in accordance with the instructions as to enforcement then or previously received from the Instructing Party and the Instructing Party may issue instructions as to enforcement to the Security Agent at any time thereafter.
- (e) If:
 - (i) no Enforcement Instructions have been issued to the Security Agent from the Instructing Party within three (3) months from; (A) the end of the Consultation Period (if initiated), or (B) the date when Enforcement Instructions are delivered pursuant to Clause 11.2 (a) above, or
 - (ii) no proceeds from an enforcement of the Transaction Security or the Guarantees have been received by the Security Agent within six (6) months from (A) the end of the Consultation Period (if initiated), or (B) the date when Enforcement Instructions are delivered pursuant to Clause 11.2 (a) above,

then the Super Senior RCF Creditor shall become the Instructing Party and be entitled to give Enforcement Instructions for a period of three (3) months.

- (f) If a Secured Party (acting reasonably) considers that the Security Agent is enforcing the Security in a manner which is not consistent with the Security Enforcement Objective, such Secured Party shall give notice to the other Secured Parties after which the Secured Debt Agents and the Security Agent shall consult for a period of twenty (20) days (or such lesser period that the Secured Parties may agree) with a view to agreeing on the manner of enforcement.

11.3 Miscellaneous

- (a) Upon an enforcement of the Transaction Security, the proceeds shall be distributed in accordance with Clause 14.1 (*Order of Application*).
- (b) All Security and/or guarantees or arrangement having similar effects may be released by the Security Agent, without the need for any further referral to or authority from anyone, upon any enforcement provided that the proceeds are distributed in accordance with the provisions set out in this Agreement.
- (c) Funds that the Security Agent receives (directly or indirectly) in connection with the enforcement of the Transaction Security shall constitute escrow funds (*Sw. redovisningsmedel*) and must be held on a separate account on behalf of the Secured Parties or the Company as the case may be. The Security Agent shall promptly arrange for payments to be made in accordance with the application of proceeds set forth in this Agreement.
- (d) Nothing herein shall preclude the rights of the Super Senior RCF Creditor, the Bonds Agent or the New Creditors to join or intervene in or otherwise support any proceedings arising from insolvency proceedings or do such other things as may be necessary to maintain a claim or security, always as long as such action does not adversely affect the rights of the other Secured Parties or the Security Agent and is not inconsistent with its obligations under this Agreement and each of the Super Senior RCF Creditor and the Bonds Agent shall give prompt notice to the other of any action taken by it to join, intervene or otherwise support any such proceedings.

11.4 Disposal and Releases

- (a) If in connection with any Enforcement Action the Security Agent sells or otherwise disposes of (or proposes to sell or otherwise dispose of) any asset under any Transaction Security Document, or a Group Company sells or otherwise disposes of (or proposes to sell or otherwise dispose of) any asset at the request of the Security Agent, the Security Agent may, and is hereby irrevocably authorised on behalf of each Party to:
 - (i) release the Security created pursuant to the Transaction Security Documents over the relevant asset and apply the net proceeds of sale

or disposal in or towards payment of Debt in accordance with Clause 14.1 (*Order of Application*); and

- (ii) if the relevant asset comprises all of the shares in the capital of an ICA Group Company or any holding company of an ICA Group Company,
 - (A) release that ICA Group Company from all its past, present and future liabilities and/or obligations (both actual and contingent) under any Document or in relation to any Debt and release any Security granted by that ICA Group Company or holding company over any of its assets under any of the Transaction Security Documents; and/or
 - (B) dispose of any Debt owed by such ICA Group Company, provided that the net proceeds thereof are applied in accordance with Clause 14.1 (*Order of Application*),

provided that such action is consistent with the Security Enforcement Objective.

- (b) Each Party shall execute any assignments, transfers, releases or other documents and grant any consents and take any actions that the Security Agent may reasonably consider necessary to give effect to any release or disposal pursuant to this Clause 11.4 or for the purpose of any Enforcement Action taken (or to be taken) by the Security Agent in accordance with this Agreement or a transaction otherwise permitted by the Senior Finance Documents.
- (c) No release under paragraph (a) above will affect the obligations or liabilities of any Subordinated Party to the Secured Parties.

11.5 Exercise of voting rights

- (a) Each Secured Party agrees with the Security Agent that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any Group Company as instructed by the Security Agent.
- (b) The Security Agent shall give instructions for the purposes of paragraph (a) above as directed by the Instructing Party.

12. Appointment of the Super Senior RCF Creditor

Each Hedge Counterparty will appoint upon accession to this Agreement as Hedge Counterparty:

- (a) the Super Senior RCF Creditor; or
- (b) (subject to the written consent of the Company) itself or a third party,

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

13. Sharing among the Secured Parties

13.1 Payments to Secured Parties

If a Secured Party (a "**Recovering Creditor**") makes a Recovery in respect of any amounts owed by any ICA Group Company other than in accordance with Clause 14.1 (*Order of Application*) such Recovering Creditor shall not be entitled to retain such amount and shall notify the Security Agent and forthwith pay such amount to the Security Agent for application in accordance with Clause 14.1 (*Order of Application*). Should such amount not be paid by the relevant Recovering Creditor to the Security Agent for application in accordance with Clause 14.1 (*Order of Application*) and the relevant Recovering Creditor applies that amount towards payment of indebtedness owing under the Senior Finance Documents to which it is a party then:

- (a) the relevant Secured Party shall notify each Agent thereof and the Security Agent shall, using reasonable efforts, determine whether the Recovery is in excess of the amount that the Recovering Creditor would have been paid had the Recovery been made by the Security Agent and distributed in accordance with Clause 14.1 (*Order of Application*), without taking account of any Tax which would be imposed on any Agent in relation to the Recovery; and
- (b) if the Recovery is higher than the amount which the Security Agent determines may be retained by the Recovering Creditor as its share of any payment to be made in accordance with Clause 14.1 (*Order of Application*), such excess amount shall be considered in any application of proceeds in accordance with Clause 14.1 (*Order of Application*) and the Recovering Creditor's share in the application may be reduced accordingly.

13.2 Exceptions

- (a) This Clause 13 shall not apply to the extent that the Recovering Creditor would not, after making any payment pursuant to this Clause, have a valid and enforceable subrogation claim against the relevant ICA Group Company.
- (b) This Clause 13 shall not apply to any amount which the Recovering Creditor has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified the other Secured Parties of the legal or arbitration proceedings; and
 - (ii) all other Secured Parties had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as

reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

14. Application of Recoveries

14.1 Order of Application

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

- (a) **firstly**, in or towards payment *pro rata* of unpaid fees, costs, expenses and indemnities payable by the Company or any other party to this Agreement to the Security Agent;
- (b) **secondly**, in or towards payment *pro rata* of unpaid fees, costs, expenses and indemnities payable by the Company or any other party to this Agreement to the Issuing Agent (as defined in the Terms and Conditions), the Super Senior RCF Creditor, the Bonds Agent and any agent representing creditors of any New Debt;
- (c) **thirdly**, towards payment *pro rata* of accrued interest unpaid under the Super Senior RCF Documents;
- (d) **fourthly**, towards payment *pro rata* of principal under the Super Senior RCF Documents and any other costs or outstanding amounts under the Super Senior RCF Documents, and any close out amount and any other outstanding amounts under the Hedging Debt;
- (e) **fifthly**, towards payment *pro rata* of accrued interest unpaid under the Senior Debt (interest due on an earlier Interest Payment Date (as defined in the Terms and Conditions) to be paid before any interest due on a later Interest Payment Date (as defined in the Terms and Conditions));
- (f) **sixthly**, towards payment *pro rata* of principal under the Senior Debt;
- (g) **seventhly**, in or towards payment *pro rata* of any other costs or outstanding amounts unpaid under the Terms and Conditions and the New Debt Documents;
- (h) **eighthly**, after the Final Discharge Date, towards payment *pro rata* of accrued interest unpaid and principal under the Intercompany Debt;
- (i) **ninthly**, after the Final Discharge Date, towards payment *pro rata* of accrued interest unpaid and principal under the Shareholder Debt; and
- (j) **tenthly**, after the Final Discharge Date, in payment of the surplus (if any) to the relevant ICA Group Company or other person entitled to it.

14.2 Non-Cash Distributions

If the Security Agent or any Secured Party receives any distribution otherwise than in cash in respect of any Debt, such distribution will not be applied pursuant to Clause 14.1 (*Order of Application*) and reduce the relevant Debt until cash proceeds from realisation of such distribution have been received and applied by the Security Agent.

15. Consents

15.1 No Objection by Subordinated Parties

No Subordinated Party shall have any claim or remedy against any Group Company or any Secured Party by reason of:

- (a) the entry by any of them into any Senior Finance Document or any other agreement between any Secured Party and any Group Company;
- (b) any waiver or consent; or
- (c) any requirement or condition imposed by or on behalf of any Secured Party under any Senior Finance Document or any such other agreement,

which breaches or causes an event of default or potential event of default (however described) under any Subordinated Document. No Subordinated Party may object to any such matter by reason of any provision of any Subordinated Document.

15.2 Consents

If the Secured Parties or any class of them give any waiver or consent under, or in relation to, any Senior Finance Document in circumstances where the relevant ICA Group Company is required to obtain a corresponding waiver or consent under, or in relation to, any Subordinated Document to avoid a breach of or default under that Subordinated Document, that waiver or consent under that Senior Finance Document shall automatically operate as a waiver or consent, as the case may be, under that Subordinated Document.

15.3 Prepayments

- (a) Until the Final Discharge Date, each Subordinated Party and any Secured Creditor waives any right it may have to any proceeds or other amounts which are required by any Senior Finance Document to be applied in mandatory prepayment of any Debt owing to a Secured Creditor or which is applied in voluntary prepayment of any such Debt, in each case to the extent that any such proceeds or amounts are applied in accordance with the relevant Senior Finance Document or this Agreement, provided that following a Secured Debt Enforcement Event all amounts shall be applied in accordance with Clause 14.1 (*Order of Application*).

- (b) Paragraph (a) above shall, unless a Secured Debt Enforcement Event has occurred and is continuing, apply notwithstanding that any such proceeds or amounts result from the disposal of any asset which is subject to Security created under the Transaction Security Documents.

16. Release of Security

16.1 General

- (a) The Security Agent is authorised and may execute on behalf of any Secured Party, in each case without any need for further deferral to or authority from such Secured Party, any release of the Guarantees or the Security created by any Transaction Security Document, to the extent that such release is made in accordance with the terms and conditions of the Senior Finance Documents.
- (b) Each Party acknowledges and agrees that it will execute such releases as the Security Agent may request in order to give effect to this Clause 16. No such release will affect the obligations and liabilities of any other ICA Group Company under any Senior Finance Document or Intercompany Document.
- (c) Any Transaction Security or Guarantee to be released in accordance with this Clause 16 will always be released *pro rata* between the Secured Parties and the remaining Transaction Security will continue to rank in accordance with Clause 3 (*Ranking*).

17. Role of the Security Agent

17.1 Appointment of the Security Agent

Each Secured Party hereby irrevocably:

- (a) appoints the Security Agent to act as security agent under and in connection with the relevant Senior Finance Documents and this Agreement;
- (b) authorises the Security Agent on its behalf to sign, execute and enforce the Transaction Security Documents and the Guarantee Agreement;
- (c) authorises the Security Agent to enter into agreements with the Company or a third party or take such other actions, as is, in the Security Agent's opinion, necessary for the purpose of maintaining, releasing or enforcing the Transaction Security or the Guarantees or for the purpose of settling the Secured Parties' or the Company's rights to the Transaction Security or the Guarantees, in each case in accordance with the terms of the Senior Finance Documents and provided that such agreements or actions are not in the sole opinion of the Security Agent detrimental to the interests of the Secured Parties; and
- (d) authorises the Security Agent on its behalf to perform the duties and to exercise the rights, powers, authorities and discretions specifically given to it under or in connection with the relevant Senior Finance Documents and this

Agreement, together with any other incidental rights, powers, authorities and discretions.

17.2 Duties of the Security Agent

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

17.3 Exclusion of Liability

- (a) Without limiting paragraph (b) below, the Security Agent will not be liable for any damages occurred as a result of any action taken by it under or in connection with any Senior Finance Document or this Agreement, unless directly caused by its gross negligence or wilful misconduct.
- (b) No Party (other than the Security Agent) may take any proceedings against any officer, employee or agent of the Security Agent in respect of any claim it might have against the Security Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Senior Finance Document or this Agreement and any officer, employee or agent of the Security Agent may rely on this Clause 17.3.
- (c) The Security Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Senior Finance Documents or this Agreement to be paid by it if it has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by it for that purpose.

17.4 Confidentiality

- (a) The Security Agent (in acting as security agent for the Secured Parties) shall be regarded as acting through its respective security agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

18. The Bonds Agent

18.1 Liability

- (a) It is expressly understood and agreed by the Parties that this Agreement is executed and delivered by the Bonds Agent not individually or personally but solely in its capacity as agent in the exercise of the powers and authority conferred and vested in it under the relevant Bonds Documents for and on behalf of the Bondholders only for which the Bonds Agent acts as agent and it shall have no liability for acting for itself or in any capacity other than as agent and nothing in this Agreement shall impose on it any obligation to pay any amount out of its personal assets. Notwithstanding any other provision of this Agreement, its obligations hereunder (if any) to make any payment of any amount or to hold any amount on behalf of any other party shall be only to make payment of such amount to or hold any such amount to the extent that (i) it has actual knowledge that such obligation has arisen and (ii) it has received and, on the date on which it acquires such actual knowledge, has not distributed to the Bondholders for which it acts as agent in accordance with the Terms and Conditions any such amount.
- (b) It is further understood and agreed by the Parties that in no case shall any Bonds Agent be (i) personally responsible or accountable in damages or otherwise to any other party for any loss, damage or claim incurred by reason of any act or omission performed or omitted by that Bonds Agent in good faith in accordance with this Agreement or any of the Bonds Documents in a manner that such Bonds Agent believed to be within the scope of the authority conferred on it by this Agreement or any of the Bonds Documents or by law, or (ii) personally liable for or on account of any of the statements, representations, warranties, covenants or obligations stated to be those of any other Party, all such liability, if any, being expressly waived by the Parties and any person claiming by, through or under such Party; provided however, that each Bonds Agent shall be personally liable under this Agreement for its own gross negligence or wilful misconduct. It is also acknowledged and agreed that no Bonds Agent shall have any responsibility for the actions of any individual Bondholder (save in respect of its own actions).
- (c) The Bonds Agent is not responsible for the appointment, or for monitoring the performance, of the Security Agent.

- (d) The Security Agent agrees and acknowledges that it shall have no claim against the Bonds Agent in respect of any fees, costs, expenses and liabilities due and payable to, or incurred by, the Security Agent.
- (e) The Bonds Agent shall be under no obligation to instruct or direct the Security Agent to take any Security Enforcement Action unless it shall have been instructed to do so by the Bondholders and if it has been indemnified and/or secured to its satisfaction.
- (f) The provisions of this Clause 18.1 shall survive the termination of this Agreement.

18.2 Instructions

In acting under this Agreement, the Bonds Agent is entitled to seek instructions from the Bondholders at any time and, where it acts on the instructions of the Bondholders, the Bonds Agent shall not incur any liability to any person for so acting. The Bonds Agent is not liable to any person for any loss suffered as a result of any delay caused as a result of it seeking instructions from the Bondholders.

18.3 Bonds Agent's assumptions

- (a) The Bonds Agent is entitled to assume that:
 - (i) any payment or other distribution (other than payments or distributions made by the Bonds Agent) made pursuant to this Agreement in respect of the Bonds has been made in accordance with the ranking in Clause 3 (*Ranking*) and is not prohibited by any provisions of this Agreement and is made in accordance with these provisions;
 - (ii) the proceeds of claims under the Guarantees or enforcement of any Security conferred by the Transaction Security Documents have been applied in the order set out in Clause 14.1 (*Order of Application*);
 - (iii) any Bonds issued comply with the provisions of this Agreement.
- (b) The Bonds Agent shall not have any obligation under Clause 9 (*Effect of Insolvency Event*) in respect of amounts received or recovered by it unless (i) it has actual knowledge that the receipt or recovery falls within Clauses (a) above, and (ii) it has not distributed to the relevant Bondholders in accordance with the Terms and Conditions any amount so received or recovered.
- (c) The Bonds Agent shall not be obliged to monitor performance by the ICA Group Companies, the Security Agent or any other Party to this Agreement or the Bondholders of their respective obligations under, or compliance by them with, the terms of this Agreement.

19. Responsibility of the Agents

19.1 No action

- (a) Notwithstanding any other provision of this Agreement, no Agent shall have any obligation to take any action under this Agreement unless it is indemnified and/or secured to its satisfaction in respect of all costs, expenses and liabilities which it would in its opinion thereby incur (together with any associated VAT). No Agent shall have an obligation to indemnify (out of its personal assets) any other person, whether or not a Party, in respect of any of the transactions contemplated by this Agreement. In no event shall the permissive rights of an Agent to take action under this Agreement be construed as an obligation to do so.
- (b) Prior to taking any action under this Agreement any Agent may request and rely upon an opinion of counsel or opinion of another qualified expert, at the expense of the Company.
- (c) Notwithstanding any other provisions of this Agreement or any other Senior Finance Document to which an Agent is a party, in no event shall an Agent be liable for special, indirect, punitive or consequential loss or damages of any kind whatsoever (including but not limited to loss of business, goodwill, opportunity or profits) whether or not foreseeable, even if such Agent has been advised of the likelihood of such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

19.2 Reliance on certificates

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

19.3 No fiduciary duty

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

19.4 Debt assumptions

- (a) Each Agent may rely on:
 - (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and

- (ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.
- (b) Each Agent may assume, unless it has received notice to the contrary in its capacity as agent, that:
 - (i) no event of default or potential event of default, however described, has occurred (unless it has actual knowledge of a failure by an ICA Group Company to pay on the due date an amount pursuant to a Senior Finance Document);
 - (ii) no Secured Debt has been accelerated;
 - (iii) any instructions or Enforcement Instructions received by it from a Secured Debt Agent are duly given in accordance with the terms of the Senior Finance Documents, and, unless it has received actual notice of revocation, that those instructions or directions have not been revoked;
 - (iv) any right, power, authority or discretion vested in any Party or any group of Secured Creditors or Secured Parties has not been exercised; and
 - (v) any notice or request made by the Company is made on behalf of and with the consent and knowledge of all the ICA Group Companies.
- (c) Each Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) Each Agent may disclose to any other Party any information it reasonably believes it has received as Agent.
- (e) No Agent is obliged to monitor or enquire whether any Event of Default has occurred.

19.5 Provisions survive termination

The provisions of this Clause 19 shall survive any termination of this Agreement.

19.6 Other Parties not affected

This Clause is intended to afford protection to the Agents only. No provision of this Clause 19 shall alter or change the rights and obligations as between the other Parties in respect of each other.

19.7 Confirmation

Without affecting the responsibility of any ICA Group Company for information supplied by it or on its behalf in connection with any Senior Finance Document, each

Secured Party (other than the Bonds Agent (in its personal capacity) and the Security Agent) confirms that it:

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

19.8 Provision of information

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

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

19.9 Disclosure of information

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

19.10 Illegality

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

20. Information

20.1 Defaults

- (a) The Super Senior RCF Creditor will promptly notify the other Agents of the occurrence of an event of default or potential event of default (however

described) under or breach of the Super Senior RCF Documents of which it has actual knowledge.

- (b) The Bonds Agent will promptly notify the other Agents of the occurrence of an event of default or potential event of default (however described) under or breach of the Finance Documents (as defined in the Terms and Conditions) of which it has actual knowledge.
- (c) Any New Creditor will promptly notify each Agent of the occurrence of an event of default or potential event of default (however described) under or breach of the relevant New Debt Documents of which it has actual knowledge.
- (d) Each Subordinated Party will promptly notify the Secured Debt Agents and the Security Agent of the occurrence of an event of default (however described, including any termination event) under or breach of any Subordinated Document of which it has actual knowledge.

20.2 Amounts of Debt

Each Agent, the Hedge Counterparties and the Subordinated Parties will on written request by any of the others or the Security Agent from time to time notify the others and the Security Agent in writing of details of the amount of its outstanding Debt.

20.3 Final Discharge Date

- (a) The Super Senior RCF Creditor shall promptly notify the other Agents of the occurrence of the Final Discharge Date under the Super Senior RCF Documents.
- (b) The Bonds Agent shall promptly notify the other Agents of the occurrence of the Final Discharge Date under the Terms and Conditions.
- (c) Any New Creditor shall promptly notify each Agent of the occurrence of the Final Discharge Date under the relevant New Debt Documents.

20.4 Hedge Counterparty

- (a) Each Hedge Counterparty shall on request by any Secured Debt Agent or the Security Agent from time to time notify the Secured Debt Agents and the Security Agent of the Notional Amount (as defined in the relevant Hedging Agreement) of each Hedging Agreement to which it is a party and the residual maturity of each such Hedging Agreement.
- (b) If any Hedge Counterparty does not promptly on request notify the Secured Debt Agents and the Security Agent of any matter pursuant to paragraph (a) above, the Secured Debt Agents and the Security Agent may assume that the Notional Amount (as defined in the relevant Hedging Agreement) of each relevant Hedging Agreement is that set out in that Hedging Agreement and may calculate the residual maturity of each relevant Hedging Agreement by reference to that Hedging Agreement.

21. Limitation on Subordination Undertaking

21.1 Limitations on Subordination by the Swedish ICA Group Companies

The obligations of each ICA Group Company incorporated in Sweden (other than the Company) (a "**Swedish ICA Group Company**") shall be limited, if (and only if) required by the mandatory provisions of the Swedish Companies Act (Sw. *Aktiebolagslagen (2005:551)*) regulating distribution of assets and other value transfers (Chapter 17, Section 1-4) (or their equivalents from time to time) and unlawful financial assistance and other prohibited loans and guarantees (Chapter 21, Section 5) (or their equivalents from time to time) and it is understood that the liability of a Swedish ICA Group Company only applies to the extent permitted by the aforementioned provisions of the Swedish Companies Act.

21.2 Limitations on Subordination by the Norwegian ICA Group Companies

- (a) The obligations of any ICA Group Company incorporated in Norway will be limited, subject to sub-paragraph (b) below, by the mandatory provisions of law applicable to the Norwegian ICA Group Companies, including provisions limiting the legal capacity or ability of the Norwegian ICA Group Companies to provide financial assistance (including, but limited to, the provisions of Sections 8-7 and 8-10, cf. 1-3 and 1-4 of the Norwegian Companies Act (Nw. *Aksjeloven*)); and
- (b) If any limitation is no longer applicable as a mandatory provision under Norwegian law, that limitation will no longer apply to this Intercreditor Agreement.

21.3 Limitations on Subordination by the Finnish ICA Group Companies

The obligations of each ICA Group Company incorporated in Finland (a "**Finnish ICA Group Company**") under this Agreement shall be limited if, and only to the extent, required by the application of the mandatory provisions of the Finnish Companies Act (Fi: *osakeyhtiölaki, 624/2006*) regulating (i) unlawful financial assistance, as provided in Chapter 13, Section 10 of the Companies Act or (ii) distribution of assets, as provided in Chapter 13, Section 1 of the Finnish Companies Act, or other applicable mandatory provisions of Finnish corporate law and it is understood that the liability of a Finnish ICA Group Company only applies to the extent permitted by the aforementioned provisions of the Finnish Companies Act.

21.4 Limitations on Subordination by other ICA Group Companies

In addition to the above, the obligations of an additional ICA Group Company are subject to any limitation set out in the Accession Agreement under which such ICA Group Company accedes to this Agreement.

22. Changes to the Parties

22.1 Assignments and Transfers by Creditors

No Secured Party, Shareholder Creditor, Intercompany Creditor or Intercompany Debtor may assign or transfer any of its rights or obligations under this Agreement or any Document to, or in favour of, any person unless such assignment or transfer is made in accordance with the terms of the relevant Senior Finance Document, Shareholder Debt Document, and/or Intercompany Document (and, in relation to Intercompany Debt, that person is permitted or required to become an Intercompany Creditor or Intercompany Debtor by the Senior Finance Documents) and provided that such person executes and delivers a duly completed and signed Accession Agreement to the Security Agent. Such assignment or transfer will not be effective unless and until the Security Agent executes an Accession Agreement duly completed and signed on behalf of that person.

22.2 Assignment and Transfer by ICA Group Companies

No ICA Group Company may assign or transfer any of its rights or obligations under this Agreement or any Document other than pursuant to Clause 16 (*Release of security*).

22.3 Accession of Shareholder Creditors

A person or entity who is required by any Senior Finance Document to accede to this Agreement shall deliver to the Security Agent a duly completed and signed Accession Agreement. Such person or entity shall become a Shareholder Creditor when the Security Agent executes an Accession Agreement duly completed and signed on behalf of that person.

22.4 Resignation of Agents

- (a) An Agent may resign and appoint one of its Affiliates acting through an office in Sweden as successor by giving notice to the other Agents, the Hedge Counterparties and the Company.
- (b) Alternatively an Agent may resign by giving notice to the other Agents, the Hedge Counterparties and the Company, in which case the other Agents (after consultation with the Company) may appoint a successor Agent.
- (c) If the Agents have not agreed upon and appointed a successor Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Agent (after consultation with the Company) may appoint a successor Agent.
- (d) The retiring Agent shall, at its own cost, make available to its successor such documents and records and provide such assistance as its successor may reasonably request for the purposes of performing its functions as Agent under the Senior Finance Documents and this Agreement.

- (e) The resignation notice of an Agent shall only take effect upon the appointment of a successor.
- (f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of this Agreement provided however that a retiring Security Agent shall remain entitled to the benefit of Clause 17 (*Role of the Security Agent*) and 24.5 (*Indemnity to the Security Agent*).
- (g) A successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (h) Notwithstanding paragraphs (a)–(g) above:
 - (i) resignation and appointment of the Security Agent is subject to the approval by the Senior Agent (in its sole discretion without any approval or consent from the Bondholders and the New Creditors (if any)) and the Super Senior RCF Creditor, notwithstanding the above, the Original Security Agent may resign as Security Agent once the Bonds have been redeemed without any prior approval or consent (for the avoidance of doubt even if any other Secured Obligations are outstanding);
 - (ii) resignation and appointment of an Agent shall always be made in accordance with the Senior Finance Documents; and
 - (iii) a Secured Debt Agent may only resign if the new Secured Debt Agent accedes to this Agreement.

22.5 Change of Super Senior RCF Creditor

- (a) Upon a refinancing of the Super Senior RCF Debt which is permitted by the Senior Finance Documents, the Super Senior RCF Creditor will be replaced by the agent appointed in respect of such replacement Super Senior RCF Debt.
- (b) The majority senior lenders under the Super Senior RCF Documents (after consultation with the Company, the Senior Agent and the Security Agent) may appoint a successor to the Super Senior RCF Creditor.

22.6 Execution and Notification by Security Agent

- (a) Each Party (other than the relevant acceding person) irrevocably authorises the Security Agent to execute on its behalf any Accession Agreement which has been duly completed and signed on behalf of the relevant acceding person in accordance with this Agreement.
- (b) The Security Agent shall notify the other Parties promptly of the receipt and execution by it on their behalf of any Accession Agreement.

23. Notices

23.1 Communications in Writing

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

23.2 Addresses

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

- (a) in the case of the Company, any other Original ICA Group Company, the Original Super Senior RCF Creditor, the Security Agent, the Super Senior Creditors or any Senior Creditor, that identified with its name below;
- (b) in the case of any Original ICA Group Company, that identified with the Company's name below;
- (c) in the case of the Bonds Agent, that identified in accordance with the Terms and Conditions; and
- (d) in the case of each Hedge Counterparty or Subordinated Party, that notified in writing to the Security Agent on or prior to the date on which it becomes a Party,

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

23.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
 - (i) if by way of email, when received in legible form; or
 - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 23.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or

officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).

- (c) A notice given by email which is dispatched after close of business at the place of receipt, or on a day which is not a Business Day, will be deemed to have been given on the next Business Day.

23.4 Notification of Address and Email Address

Promptly upon receipt of notification of an email address and postal address or change thereof pursuant to Clause 23.2 (*Addresses*) or changing its own email address and postal address, the Security Agent shall notify the other Parties.

23.5 English Language

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

24. Expenses and Indemnities

24.1 Secured Party Expenses

To the extent not already paid under another Document, each ICA Group Company and each Subordinated Party will, within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including external legal fees) incurred by that Secured Party in connection with the enforcement or preservation of that Secured Party's rights against that ICA Group Company or Subordinated Party under this Agreement.

24.2 Security Agent Expenses

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

24.3 Secured Parties' Indemnity to the Security Agent

Each other Secured Party shall (in proportion to its share of the Secured Debt then outstanding to all the Secured Debt then outstanding and/or available for drawing

under the relevant Senior Finance Documents) indemnify the Security Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Security Agent (otherwise than by reason of its gross negligence or wilful misconduct) in acting as Security Agent under the Senior Finance Documents (unless it has been reimbursed by an ICA Group Company pursuant to a Senior Finance Document).

24.4 Deduction from Amounts Payable by the Security Agent

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

24.5 Indemnity to the Security Agent

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

- (a) investigating any event which it reasonably believes is an event of default or potential event of default, however described;
- (b) acting or relying on any notice, request or instruction which it believes to be genuine, correct and appropriately authorised;
- (c) the protection or enforcement of the Transaction Security,
- (d) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent by the Senior Finance Documents or by law; or
- (e) any default by any Group Company in the performance of any of the obligations expressed to be assumed by it in the Senior Finance Documents.

24.6 Currency Indemnity

- (a) If any Recoveries or any other payment required to be paid by any Subordinated Party or ICA Group Company under this Agreement (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:
 - (i) making or filing a claim or proof against that Subordinated Party or ICA Group Company; or
 - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

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

- (b) Each Subordinated Party and ICA Group Company waives any right they may have in any jurisdiction to pay any amount under this Agreement in a currency or currency unit other than that in which it is expressed to be payable.

25. Amendments and waivers

25.1 Required Consents

- (a) Each Secured Party may amend or waive the terms of the Senior Finance Documents (other than the Intercreditor Agreement, any Transaction Security Documents or the Guarantee Agreement) in accordance with their terms at any time, provided that the obligations under such Senior Finance Document are owed only to such Secured Party.
- (b) No amendment or waiver may be made or given that has the effect of changing or which relates to an amendment to any material term of the Intercreditor Agreement (including to the order of priority or subordination under the Intercreditor Agreement) without the prior written consent of the Agents (until the Final Discharge Date).
- (c) The prior consent of the Secured Parties is required to authorise any amendment or waiver of, or consent under, any Transaction Security which would affect the nature or scope of the security assets or the manner in which the proceeds of enforcement of the Transaction Security are distributed.
- (d) The consent of a Hedge Counterparty is not required for any amendment or waiver of a term of this Agreement which does not directly affect the rights or obligations of that Hedge Counterparty.
- (e) The consent of an ICA Group Company or a Subordinated Party is not required for any amendment or waiver of a term of this Agreement except if the amendment or waiver may impose new or additional obligations on or withdraw or reduce the rights of such ICA Group Company or Subordinated Party.
- (f) Any amendment or waiver made in accordance with this Clause 25.1 will be binding on all Parties and the Security Agent may effect, on behalf of any other Agent, Secured Creditor or Hedge Counterparty, any amendment or waiver permitted by this Clause 25.1.

26. Partial Invalidity

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

27. Remedies and Waivers

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

28. Force Majeure and Limitation of Liability

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

29. Counterparts

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

30. Governing law and Jurisdiction

- (a) This Agreement is governed by Swedish law.
- (b) Subject to paragraph (c) below, the courts of Sweden have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement). The City Court of Stockholm (*Stockholms tingsrätt*) shall be court of first instance.

- (c) Paragraph (b) above is for the benefit of the Security Agent, the Secured Creditors and the Secured Parties only. As a result, the Security Agent, the Secured Creditors and the Secured Parties shall not be prevented from taking proceedings in any other courts with jurisdiction over the Company or the other ICA Group Companies (as applicable) or any of their assets. To the extent allowed by law, the Security Agent, the Secured Creditors and the Secured Parties may take concurrent proceedings in any number of jurisdictions.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1**The Original ICA Group Companies**

Name of ICA Group Company	Registration number
Jetpak Top Holding AB (the Company)	559081-5337
Jetpak Group Holding AB	556887-9281
Jetpak Intressenter AB	556890-1838
Jetpak Holding AB	556703-2734
Jetpak Group AB	556415-6650
Förvaltnings AB Terminalen	556162-6366
Jetpak Franchise AB	556211-3166
Jetpak Stockholm AB	556198-6265
Jetpak Sverige AB	556467-2508
Jetpak Göteborg AB	556787-2618
Jetpak Malmö AB	556825-6746
P-JP 2005 AB	556690-0485
P-Jetpak 2012 AB	556887-9232
Jetpak Finland Oy	2046492-9
Jetpak Helsinki Oy	0225616-5
Jetpak Norge AS	982 404 479
Jetpak Oslo AS	911 764 741
Jetpak Bergen AS	911 791 951

SCHEDULE 2

The Original Shareholder Creditors

Name of the Shareholder Creditor	Registration number
Polaris Private Equity III K/S	33 02 92 33
Kommanditselskabet af 1. marts 2009 (CIV)	33 94 50 27
Polaris Private Equity II K/S	28 50 28 93
Kommanditselskabet (CIV) af 8. Februar 2005	32 82 98 05

Form of Accession Agreement

To: [] as Security Agent

From: [Super Senior RCF Creditor/Super Senior RCF Creditor/Bonds Agent/Hedge Counterparty/Shareholder Creditor/ ICA Group Company/New Creditor]

Dated: []

Dear Sirs

Jetpak Top Holding AB (publ) - Intercreditor Agreement dated [•] 2016 (the "Agreement")

1. We refer to the Agreement. This is an Accession Agreement. Terms defined in the Agreement have the same meaning in this Accession Agreement unless given a different meaning in this Accession Agreement.
2. [Super Senior RCF Creditor/Super Senior RCF Creditor/Bonds Agent/Hedge Counterparty/Shareholder Creditor/ ICA Group Company/New Creditor] agrees to be bound by the terms of the Agreement [and, in the case of a Hedge Counterparty, the Super Senior RCF Documents] as a [Secured Party/Hedge Counterparty/Shareholder Creditor/Intercompany Creditor/Intercompany Debtor].
3. [Proposed ICA Group Company] is a company duly incorporated under the laws of [name of relevant jurisdiction].

[The amount which may be paid by [Proposed ICA Group Company] is subject to the following limitations:

- (a) if [Proposed ICA Group Company] is incorporated in Sweden, those limitations set out in Clause [] (*Guarantee Limitations*) of the Guarantee Agreement, in relation to [Proposed ICA Group Company];]

[Guarantor limitation language to be inserted subject to local counsel advice.]

4. [Super Senior RCF Creditor/Super Senior RCF Creditor/Bonds Agent/Hedge Counterparty/Shareholder Creditor/ICA Group Company/New Creditor]'s administrative details are as follows:

Address:

Attention:

5. [Details of the Hedging Agreement are as follows:

Date:

Parties: [Proposed Hedge Counterparty] and [the Company].

Terms: [Insert brief summary of type of contract].

A copy of the Hedging Agreement is attached to this Accession Agreement.]

6. This Accession Agreement is governed by Swedish law.

[Super Senior RCF Creditor/Super Senior RCF Creditor/Bonds Agent/Hedge Counterparty/Shareholder Creditor/ ICA Group Company]

By:

This Accession Agreement is accepted by the Security Agent.

[Security Agent]

By:

Date:

Transaction Security Documents

The relevant members of the Group will enter into security documents pursuant to which the following security will be granted to the Secured Parties:

- (a) share pledge in respect of all the shares in;
 - (i) JetPak Top Holding AB;
 - (ii) P-JP 2005 AB;
 - (iii) P-Jetpak 2012 AB;
 - (iv) Jetpak Group Holding AB;
 - (v) Jetpak Intressenter AB;
 - (vi) Jetpak Holding AB;
 - (vii) Jetpak Group AB;
 - (viii) Jetpak Sverige AB;
 - (ix) Jetpak Stockholm AB;
 - (x) Jetpak Franchise AB;
 - (xi) Jetpak Norge AS; and
 - (xii) Jetpak Finland OY.
- (b) charge over trade receivables (Nw. *factoringpart*) from Jetpak Norge AS in the amount of SEK 35,000,000.
- (c) loan pledge in respect of an intercompany loan granted by the Company to Jetpak Holding AB in the amount of SEK 156,443,624.18.
- (d) loan pledge in respect of an intercompany loan granted by the Company to Jetpak Group Holding AB in the amount of SEK 42,637,009.09.
- (e) loan pledge in respect of an intercompany loan granted by the Company to Jetpak Group AB.

Signatures

This Agreement has been executed in three (3) copies.

The Company

Jetpak Top Holding AB (publ)



Name: *Lars Bärnheim*
Address: *By Power of Attorney*

Name:

Tel:

Email:

Attention:

The Original Bonds Agent

Nordic Trustee & Agency AB (publ)



Name: **Christoffer Andersson**
Address: **VD / CEO**

Name:

Tel:

Email:

Attention:

The Security Agent

Nordic Trustee & Agency AB (publ)



Name: **Christoffer Andersson**
Address: **VD / CEO**

Name:

Tel:

Email:

Attention:

The Original Super Senior RCF Creditor

Pareto Bank ASA



Name: **Lars Erik Næss**

Address:

Tel:

Attention:



Name: **Erik Skarbøvig**

The Original ICA Group Companies

Jetpak Top Holding AB
Jetpak Group Holding AB
Jetpak Intressenter AB
Jetpak Holding AB
Jetpak Group AB
Förvaltnings AB Terminalen
Jetpak Franchise AB
Jetpak Stockholm AB
Jetpak Sverige AB
Jetpak Göteborg AB
Jetpak Malmö AB
P-JP 2005 AB
P-Jetpak 2012 AB
Jetpak Finland Oy
Jetpak Helsinki Oy
Jetpak Norge AS
Jetpak Oslo AS
Jetpak Bergen AS

Name:

Name:

The Original Super Senior RCF Creditor

Pareto Bank ASA

Name:

Address:

Tel:

Attention:

Name:

The Original ICA Group Companies

Jetpak Top Holding AB

Jetpak Group Holding AB

Jetpak Intressenter AB

Jetpak Holding AB

Jetpak Group AB

Förvaltnings AB Terminalen

Jetpak Franchise AB

Jetpak Stockholm AB

Jetpak Sverige AB

Jetpak Göteborg AB

Jetpak Malmö AB

P-JP 2005 AB

P-Jetpak 2012 AB

Jetpak Finland Oy

Jetpak Helsinki Oy

Jetpak Norge AS

Jetpak Oslo AS

Jetpak Bergen AS



Name: *Lars Bärnheim*
By Power of Attorney

Name: