

**Dated 11 July 2024**

# **Note Purchase Agreement**

between

**Global Ports Holding B.V.**  
as Company

**PEIF III LUXCO TWO S.À R.L**  
as Subscriber

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**This Agreement** is made on 11 July 2024

**Between:**

- (1) **GLOBAL PORTS HOLDING B.V.** a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands, having its corporate seat (*statutaire zetel*) in Amsterdam, the Netherlands and registered with the trade register (*handelsregister*) of the Dutch Chamber of Commerce (*Kamer van Koophandel*) under number 68520492 (the “**Company**”); and
- (2) **PEIF III LUXCO TWO S.À R.L.**, a private limited liability company (*société à responsabilité limitée*) governed by the laws of the Grand Duchy of Luxembourg, having its registered office at 8, rue Lou Hemmer, L-1748 Senningerberg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register (*Registre de Commerce et des Sociétés*, Luxembourg) under number B 240.645 as subscriber (the “**Subscriber**”).

**It is agreed:**

## **SECTION 1 INTERPRETATION**

### **1. Definitions and Interpretation**

#### **1.1 Definitions**

In this Agreement:

“**Acquisition**” means the direct or indirect acquisition by the Company of the Target Shares by way of Scheme or Offer in accordance with and on the terms of the Acquisition Documents and, if and to the extent applicable, a Squeeze-Out and any proposals made by the Company pursuant to Rule 15 of the Takeover Code.

“**Acquisition Documents**” means (a) if the Acquisition is to be effected by means of the Scheme, the Scheme Documents; (b) if the Acquisition is to be effected by means of the Offer, the Offer Documents; and (c) any other document designated as an “**Acquisition Document**” by the Subscriber and the Company.

“**Additional PIK Interest**” has the meaning given to that term in Clause 8.2 (*Interest accrual*).

“**Affiliate**” means:

- (a) in relation to the Parent, or any Permitted Transferee of the Parent, any person that, directly or indirectly, through one or more intermediaries, Controls or is Controlled by or is under Common Control with the Parent;
- (b) in relation to the Subscriber or any Permitted Transferee of the Subscriber, any person that, directly or indirectly, through one or more intermediaries, Controls or is Controlled by or is under Common Control with the Subscriber (and including, in respect of such person which is a Managed Entity, its general partner or management company or any other entity which directs the management of the Managed Entity);
- (c) in relation to an individual, any Connected Person of that individual; and
- (d) in relation to a person (a “**relevant person**”) not falling within paragraphs (a), (b) and (c) above, any other person that directly or indirectly, through one or more intermediaries, Controls or is Controlled by or is under Common Control with the relevant person from time to time,

excluding: (i) in the case of a person that is a Managed Entity or a subsidiary undertaking of a Managed Entity, any portfolio company of such Managed Entity or subsidiary undertaking of such Managed

Entity (and any other Managed Entity under Common Control); and (ii) where any of paragraphs (a) to (d) relate to a Party to this Agreement, the members of the Group.

“**Amendment**” means an amendment, modification, supplement, restatement, consent or waiver (including treating a condition as having been satisfied).

“**Amendments to the Company’s Constitutional Documents**” means, effective from the Final Closing Date, the amendments to the Company’s constitutional documents as contemplated under the terms of the Shareholders’ Agreement.

“**Anti-Corruption Laws**” means all Applicable Laws in connection with bribery and corruption, including: (i) the principles described in the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on 17 December 1997, which entered into force on 15 February 1999, and the Convention’s Commentaries; (ii) the United States Foreign Corrupt Practices Act (“**FCPA**”); and (iii) the United Kingdom Bribery Act 2010 (the “**UK Anti-Corruption Law**”); and for these purposes the offences created by the FCPA, and the UK Anti-Corruption Law are deemed to apply to the Company, any Group Company, and any director, Employee or agent of the Company or any Group Company irrespective of the jurisdictional scope of FCPA and the UK Anti-Corruption Law.

“**Anti-Money Laundering Laws**” means all Applicable Laws in connection with money laundering, drug trafficking, terrorist-related activities, terrorist financing or proliferation financing, or other money laundering predicate crimes.

“**Applicable Laws**” means all laws, regulations, directives, statutes, subordinate legislation, executive orders, determinations, common law and civil codes of any jurisdiction, all judgments, orders, notices, instructions, decisions and awards of any court or competent authority or tribunal exercising statutory or delegated powers and all codes of practice having force of law, statutory guidance, and policy notes, in each case to the extent applicable or as the context requires.

“**Approved Press Release**” means the press release issued by the Company and the Target on 11 July 2024.

“**Authorisation**” means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

“**Authorised Denominations**” means denominations of EUR 100,000 (or such other denominations as may be agreed by the Majority Holders) and integral multiples of EUR 20,000 in excess of such amount, for the avoidance of doubt, after giving effect to the redenomination from US Dollars to euros in accordance with Clause 4.3 (*Redenomination of the Notes*).

“**Availability Period**” means, subject to Clause 4.7 (*Offer Closing Date Extension*), the period from and including the date of this Agreement to:

- (a) if (x) an Offer Closing Date or Scheme Effective Date (as applicable) has not occurred prior to the Outside Date or (y) the Certain Funds Period has otherwise come to an end (and if not otherwise extended in accordance with the terms of this Agreement), the date falling on the last day of the Certain Funds Period; or
- (b) if an Offer Closing Date or Scheme Effective Date (as applicable) has occurred prior to the Outside Date (which, for the avoidance of doubt, has resulted in an extension of the Certain Funds Period pursuant to paragraph (d) of the definition thereof) the date falling 9 months from the Offer Closing Date or Scheme Effective Date (as applicable),

provided that the Availability Period shall end once 100% of the Target Shares have been acquired (or, in each case, such later date as the Majority Holders may notify in writing to the Company (including, following any extension request from the Company)).

“**Bluefin NPA**” means the note purchase and guaranty agreement dated 28 September 2023 relating to the \$330,000,000 7.87 per cent. Senior Secured Notes due 31 March 2040 and entered into between Global Ports Group Finance Ltd as issuer, the Target as parent guarantor and the purchasers named therein, as amended from time to time.

“**Bluefin NPA Termination Date**” means the date on which the notes provided under the Bluefin NPA are repaid, redeemed or prepaid in full and/or the Bluefin NPA has been terminated or otherwise ceases to exist.

“**Blocked Person**” means:

- (a) a person whose name appears on the list of Specially Designated Nationals and Blocked Persons published by OFAC;
- (b) a person, entity, organization, country or regime that is blocked or a target of sanctions that have been imposed under Economic Sanctions Laws; or
- (c) a person that is an agent, department or instrumentality of, or is otherwise beneficially owned by, controlled by or acting on behalf of, directly or indirectly, any person, entity, organization, country or regime described in limbs (a) or (b).

“**Business**” means the business of operating cruise port terminals globally and such other business carried on by the Group from time to time.

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Istanbul, Luxembourg and Amsterdam.

“**Capital Lease**” means, at any time, a lease with respect to which the lessee is required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP.

“**Cash Interest**” means cash interest payable in accordance with Clause 8.2 (*Interest accrual*).

“**Cash Interest Rate**” means 6.00% per annum.

“**Certain Funds Issuance**” means an issuance of Notes solely to be applied towards any of the purposes set out in paragraph (a) and (c) of Clause 3.4 (*Use of Proceeds*) during the Certain Funds Period.

“**Certain Funds Entity**” means the Company, with respect to itself only (and, for the avoidance of doubt, not with respect to the Target Group or any other Group member) and excluding any procurement obligation with respect to any member of the Target Group or any other Group member.

“**Certain Funds Period**” means, subject to Clause 4.7 (*Offer Closing Date Extension*), the period commencing on (and including) the date of this Agreement and ending on (but including) the earlier of:

- (a) if the first Rule 2.7 Announcement has not been released by such time, thirty (30) Business Days following the date of this Agreement;
- (b) the date on which a Mandatory Cancellation Event occurs;
- (c) if the Offer Closing Date or Scheme Effective Date has not occurred at such time, the Outside Date;
- (d) if the Offer Closing Date or Scheme Effective Date occurs prior to the Outside Date, the "Certain Funds Period" shall be extended by a period of 55 days from the Offer Closing Date (or, as applicable, the Scheme Effective Date) or such longer period necessary to fully effect the Squeeze-Out in accordance with the Takeover Code (if applicable); and
- (e) the date on which the Final Closing Date has occurred,

or, in each case, such later date as is agreed from time to time by the Company and the Subscriber (acting reasonably) provided that a switch from a Scheme to an Offer or from an Offer to a Scheme (or, for the avoidance of doubt, any amendments to the terms or conditions of a Scheme or an Offer) shall not constitute a lapse, termination or withdrawal for the purposes of paragraph (b) above.

“**Company Accounts**” has the meaning given to that term in Clause 15.16(a) (*Company Accounts*).

“**Company Law**” means the Companies Act 2006.

“**Code**” means the US Internal Revenue Code of 1986.

“**Common Control**” has the meaning given to that term in the Shareholders’ Agreement.

“**Confidential Information**” means any information which a Party may have or acquire before, on or after the date of this Agreement, relating to:

- (a) the existence and contents of this Agreement or any other agreement or arrangement contemplated by this Agreement;
- (b) the Business, or any other business, affairs, finances, assets, liabilities, customers, suppliers, personnel, plans or intentions, market opportunities, operations, processes, product information, know-how, designs, trade secrets or software of the Company or any other member of the Group; and
- (c) the business, affairs, finances, assets, liabilities, customers, suppliers, personnel, plans or intentions, market opportunities, operations, processes, product information, know-how, designs, trade secrets or software of any other Party (excluding the Company) or any of its Affiliates from time to time, where the relevant Party has or acquires the same as a result of negotiating or exercising its rights or performing its obligations under this Agreement, or being involved in the Business.

“**Connected Person**” has the meaning given to that term in the Shareholders’ Agreement.

“**Control**” has the meaning given to that term in the Shareholders’ Agreement.

“**Court**” means the High Court of Justice in England and Wales.

“**CTA**” means the Corporation Tax Act 2009.

“**Data Room**” has the same meaning given to that term in the Shareholders’ Agreement.

“**DCC**” means Dutch Civil Code.

“**Default**” means a breach of any term of this Agreement by the Company.

“**Disclose**” or “**Disclosed**” means disclosed in the Data Room, in such a manner and with sufficient detail as to enable the Subscriber, from the face of the relevant documents, to make an informed assessment of the nature, scope, materiality and relevance of the matter disclosed and the consequences thereof in respect of the Group.

“**Disposition**” has the meaning given to that term in Clause 17.6 (*Restriction on Disposal*).

“**Disruption Event**” means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Notes (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or

- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
- (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

**"Drawn Facility Amount"** means the aggregate principal amount of the Notes issued during the Availability Period.

**"Economic Sanctions Laws"** means EU Economic Sanctions Laws and UK Economic Sanctions Laws.

**"EU Economic Sanctions Laws"** means those laws, executive orders, enabling legislation or regulations administered and enforced by the Commission of the European Union pursuant to which economic sanctions have been imposed on any person, entity, organisation, country or regime.

**"Employee"** means any individual who has entered into or works under a contract of employment or any other contract for services whereby the individual undertakes to do or personally perform any work or services for any Group Company.

**"Encumbrance"** means any claim, option, charge (fixed or floating), mortgage, lien, pledge, equity, encumbrance, right to acquire, right of pre-emption, right of first refusal, title retention or any other third party right, or other security interest or any other agreement or arrangement having a similar effect or any agreement to create any of the foregoing.

**"Environment"** means air (including air within buildings and air within other natural or human-made structures above or below ground), water (including groundwater and water within any natural or human-made structure and territorial, coastal, and inland waters), land (including land under water, surface land and sub-surface land) and any organisms or ecosystems supported by the air, water, or land.

**"Environmental Law"** means each Applicable Law which relates to pollution or protection of the Environment, or the release of any materials into the environment, including those related to Hazardous Material.

**"Existing Offer Closing Date"** has the meaning given to that term in Clause 4.7 (*Offer Closing Date Extension*).

**"Facility Repayment IPO"** has the meaning given to that term in the Shareholders' Agreement.

**"FATCA"** means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or Tax Authority in any other jurisdiction.

**"FATCA Deduction"** means a deduction or withholding from a payment under a Finance Document required by FATCA.



**“FATCA Exempt Party”** means a Party that is entitled to receive payments free from any FATCA Deduction.

**“Finance Document”** means this Agreement, the Notes and any other document designated as such by the Company and the Majority Holders.

**“Final Closing Date”** means the date on which all of the consideration payable under the Acquisition in respect of the Target Shares or proposals made or to be made under Rule 15 of the Takeover Code in connection with the Acquisition has, in each case, been paid in full including in respect of any Target Shares to be acquired after the Initial Closing Date (including pursuant to a Squeeze-Out).

**“Financial Half-Year”** means the annual accounting period of the Target ending on or about 30 September in each year.

**“Financial Year”** means the annual accounting period of the Target ending on 31 March in each year.

**“Force Majeure Event”** means an unforeseen or catastrophic event or circumstances outside a Party's control which occurs prior to the Maturity Date and which caused or is causing a material adverse effect on the financial position of the Group as a whole, defined as a reduction of 50% (or more) of revenues over the preceding 12-month period measured against the revenue for the same 12-month period in the preceding year, including the following provided that they meet the criteria set forth in this definition:

- (a) military actions, invasion, actions of an external enemy, terrorist acts, blockade, embargo, imposition of quotas, sanctions involving any G-7 countries, China or Russia;
- (b) nuclear explosion, radioactive contamination or fallout; chemical or biological contamination or radioactive radiation; and
- (c) epidemic, country-wide or world-wide pandemic and endemic diseases or plague that results in the closure of cruise ports, restrictions to visit destinations or imposes restrictions on free travel.

**“Funds Flow Statement”** means the statement delivered to the Subscriber by the Company showing the flow of funds on or about the Initial Closing Date.

**“Further Event”** means an event or circumstance specified as such in Clause 18 (*Further Event*).

**“GAAP”** means (a) in respect of the Target Group Accounts, the generally accepted accounting principles (including IFRS, as applicable) as in effect from time to time in the United Kingdom, and (b) in respect of the Company Accounts, generally accepted accounting principles (including IFRS, as applicable) as in effect in Netherlands.

**“Governmental Approvals”** means any authorisation, consent, approval, license, lease, ruling, permit, tariff, rate, certification, exemption, filing, variance, claim, order, judgment, decree, publication, notice to, declaration of or with or registration by or with any Government Authority.

**“Governmental Authority”** means:

- (a) the government of:
  - (i) the United States of America, Netherlands or the United Kingdom or any state or other political subdivision of either thereof; or
  - (ii) any other jurisdiction in which the Company or any member of the Group conducts all or any part of its business, or which assets jurisdiction over any properties of the Company or any member of the Group; or
- (b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

“**GPG Finance**” means Global Ports Group Finance Ltd, a private limited company organized and existing under the laws of England and Wales with company number 15065798.

“**Group**” means the Company and the Target Group, and “**Group Company**” shall mean any one of them.

“**Guaranty**” means, with respect to any person, any obligation (except the endorsement in the ordinary course of business of negotiable instruments for deposit or collection) of such person guaranteeing or in effect guaranteeing any indebtedness, dividend or other obligation of any other person in any manner, whether directly or indirectly, including obligations incurred through an agreement, contingent or otherwise, by such person:

- (a) to purchase such indebtedness or obligation or any property constituting security therefor;
- (b) to advance or supply funds (i) for the purchase or payment of such indebtedness or obligation, or (ii) to maintain any working capital or other balance sheet condition or any income statement condition of any other person or otherwise to advance or make available funds for the purchase or payment of such indebtedness or obligation;
- (c) to lease properties or to purchase properties or services primarily for the purpose of assuring the owner of such indebtedness or obligation of the ability of any other person to make payment of the indebtedness or obligation; or
- (d) otherwise to assure the owner of such indebtedness or obligation against loss in respect thereof.

In any computation of the indebtedness or other liabilities of the obligor under any Guaranty, the indebtedness or other obligations that are the subject of such Guaranty shall be assumed to be direct obligations of such obligor.

“**Hazardous Material**” means any and all pollutants, toxic or hazardous wastes or other substances that might pose a hazard to health and safety, the removal of which may be required or the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use, disposal, release, discharge, spillage, seepage or filtration of which is or shall be restricted, prohibited or penalized by any applicable law, including asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum products, lead based paint, radon gas or similar restricted, prohibited or penalized substances.

“**Holder**” means in respect of a Note, the person whose name is entered in the Register as the holder of the Note from time to time.

“**Holding Company**” means, in relation to a person, any other person in respect of which it is a Subsidiary.

“**IPO**” has the meaning given to that term in the Shareholders’ Agreement.

“**IFRS**” means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

“**Indebtedness**” with respect to the Company, any Group Company or GPG Finance (as applicable) means, at any time, without duplication:

- (a) its liabilities for borrowed money and its redemption obligations in respect of mandatorily redeemable Preferred Stock;
- (b) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (c) its liabilities for the deferred purchase price of property acquired by such person (excluding accounts payable arising in the ordinary course of business but including all liabilities created

or arising under any conditional sale or other title retention agreement with respect to any such property);

- (d) receivables sold or discounted (other than to the extent the same is discounted or factored on a non-recourse basis and meet any requirement for accounting de-recognition under GAAP);
- (e) all liabilities appearing on its balance sheet in accordance with GAAP in respect of Capital Leases and all liabilities which would appear on its balance sheet in accordance with GAAP in respect of Synthetic Leases assuming such Synthetic Leases were accounted for as Capital Leases;
- (f) all its liabilities in respect of guarantee, indemnity, bond, standby or documentary letters of credit or instruments serving a similar function issued or accepted for its account by banks and other financial institutions (whether or not representing obligations for borrowed money);
- (g) all liabilities for borrowed money secured by any security with respect to any property owned by such person (whether or not it has assumed or otherwise become liable for such liabilities);
- (h) the aggregate Swap Termination Value of all Swap Contracts of such person; and
- (i) any Guaranty of such person with respect to liabilities of a type in any of clause (a) through (h) hereof.

**“Initial Closing Date”** shall mean the date on which the first payment is made to the shareholders of the Target as required by the Offer in accordance with the Takeover Code; *provided that* the Initial Closing Date, shall for the purposes of the Finance Documents, be deemed not to have occurred unless the first issuance of the Notes has occurred on or prior to that date.

**“Initial Extended Maturity Date”** has the meaning given to that term in Clause 6.2 (*Black Swan Extension*).

**“Initial Maturity Date”** means the date falling seven years after the Initial Closing Date.

**“Initial Offer Closing Date”** means the first date on which the Offer is closed for further acceptances in accordance with the Offer Documents (for the avoidance of doubt, prior to any extension in accordance with Clause 4.7 (*Offer Closing Date Extension*)).

**“Interest Payment Date”** means:

- (a) with respect to the first Interest Period, 30 September 2025 or such later date agreed by the Holders; and
- (b) with respect to any subsequent Interest Period, 30 September in each year or, if the Target changes the end of its Financial Year from March to December, 6 months after the end of the Target's Financial Year in each year.

**“Interest Period”** means, in relation to the Notes, each period determined in accordance with Clause 9 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*).

**“Investor Group”** means in relation to an Investor, that Investor and each of its Affiliates, excluding in each case any member of the Group, and **“member of the Investor Group”** and **“Investor Group member”** shall be construed accordingly.

**“Investor Instrument”** has the meaning given to that term in the Shareholders’ Agreement.

**“Investors”** has the meaning given to such term in the Shareholders’ Agreement.

**“Issue Date”** means the date of issue of Notes as specified in the relevant Subscription Request.

“**Issue Price**” means 100 per cent. of the principal amount of Notes as shown in the relevant Note Certificate.

“**ITA**” means the Income Tax Act 2007.

“**Key Management**” has the meaning given to that term in the Shareholders' Agreement.

“**Legal Opinion**” means any legal opinion delivered to the Subscriber under Clause 4.4 (*Conditions Precedent to Closing*) or otherwise in connection with the Finance Documents.

“**Liquidation Event**” has the meaning given to that term in the Shareholders' Agreement.

“**Liquidation Event Date**” shall mean the date of the occurrence of a Liquidation Event.

“**LMA**” means the Loan Market Association.

“**Majority Holders**” means, at any time, the holders of at least 66.7 per cent. in principal amount of the Notes at the time outstanding.

“**Managed Entity**” means any unit trust, investment trust, investment company, limited partnership, fund, limited liability partnership, general partnership or other collective investment scheme (as defined in the FSMA), investment professional (as defined in Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion Order) 2005 (the “**FPO**”)), high net worth company, unincorporated association or partnership (as defined in Article 49(2)(a) and (b) of the FPO), high value trust (as defined in Article 49(6) of the FPO), pension fund, insurance company or authorised person under the FSMA or any body corporate or other entity, in each case the assets of which are managed professionally for investment purposes by a person whose principal business is to make, manage or advise upon investments in securities and other financial instruments or interests.

“**Mandatory Cancellation Event**” means either:

- (a) a Scheme Cancellation Event; or
- (b) an Offer Cancellation Event.

“**Mandatory Redemption Event**” means any event or circumstance specified as such in Clause 6.4 (*Redemption at the option of the Holders*).

“**Material Adverse Effect**” means a material adverse effect on:

- (a) the business, operations, affairs, reputation, goodwill, financial condition, assets, or properties of the Group taken as a whole;
- (b) the ability of the Company or the Parent to perform its obligations under any Transaction Document to which it is a party; or
- (c) the validity or enforceability of any Transaction Document.

“**Materially Adverse Amendment**” means an Amendment of an Acquisition Document which is materially adverse to the interests of the Holders (taken as a whole) under the Finance Documents, provided that:

- (a) an increase to the purchase price for the Target Shares will be deemed to be materially adverse unless paid in the form of common stock of the Company or funded in full by the Parent or as otherwise agreed in writing by the Holders; and
- (b)
  - (i) a Required Amendment;

- (ii) the waiver of a condition that the Company reasonably considers, in light of the requirements of Rule 13.5(a) of the Takeover Code, that the Takeover Panel would not give the Company its consent to invoke;
- (iii) in the case of an Offer, that is an extension of the period in which holders of the Target Shares may accept the Offer; or
- (iv) that is administrative or technical in nature and necessary to effect a Switch Election will, in each case, be deemed not to be materially adverse.

**“Material Breach”** means:

- (a) a material or persistent and deliberate breach by the Company or the Parent of the due performance of their respective obligations under the Shareholders’ Agreement as set out below:
  - (i) clause 11.5 (*Target share purchases*);
  - (ii) clause 15 (*Dealings in Investor Instruments*);
  - (iii) clause 18 (*Joint Exit Rights and Post-Maturity Longstop Rights*);
  - (iv) clause 19 (*Drag Along*);
  - (v) clause 20 (*Tag Along*);
  - (vi) paragraphs 2, 3, 4 and 5 of schedule 6 (*Enhanced Governance Rights*);
  - (vii) paragraph 1 of schedule 2 (*Undertakings*); and
  - (viii) schedule 8 (*Preference Minority Protections*),
- (b) which has a material adverse effect on the interests of a Holder (in the case of any dispute, in each case as has been determined by a court of competent jurisdiction); and
- (c) which has not been remedied (where capable of remedy) within 20 Business Days of a Holder having served notice on the Company or Parent (as applicable) to remedy the same.

**“Maturity Date”** means the Initial Maturity Date subject to any extension:

- (a) agreed to by the Majority Holders solely at the Majority Holders' discretion; or
- (b) pursuant to Clause 6.2 (*Black Swan Extensions*).

**“MIP”** means, in respect of the Company or the Target, any equity or quasi-equity management incentive plan.

**“New Offer Closing Date”** has the meaning given to that term in Clause 4.7 (*Offer Closing Date Extension*).

**“Non-Certain Funds Issuance”** means an issuance of Notes which is not a Certain Funds Issuance.

**“Note Certificates”** means a note certificate in Authorised Denomination in or in substantially the form set out in Schedule 2 (*Form of Note Certificate*) including any replacement Note Certificate issued pursuant to Clause 5.4 (*Replacement of Notes*).

**“Notes”** means a note in Authorised Denominations in registered form issued or to be issued by the Company and subscribed for by the Subscriber.

**“Offer”** means a contractual takeover offer within the meaning of section 974 of the Companies Act 2006 made by the Company to effect the Acquisition pursuant to the terms of the Offer Documents.

“**Offer Cancellation Event**” means the date on which the Offer is withdrawn with the consent of the Takeover Panel, provided that if a Switch Election is made on or prior to the relevant date, an Offer Cancellation Event will not occur.

“**Offer Closing Date Extension Notice**” has the meaning given to that term in Clause 4.7 (*Offer Closing Date Extension*).

“**Offer Documents**” means the Offer Press Release, the offer documents to be sent by the Company to the holders of Target shares or any other material document sent by the Company to the holders of Target shares in relation to the Offer.

“**Offer Press Release**” means a press release announcing a conversion from a Scheme to an Offer in accordance with the Takeover Code.

“**Offer Closing Date**” means the Initial Offer Closing Date, as may be extended in accordance with Clause 4.7 (*Offer Closing Date Extension*).

“**Original Jurisdiction**” means, in relation to the Company, the jurisdiction under whose laws the Company is incorporated as at the date of this Agreement.

“**Outside Date**” means the Business Day falling 12 months after the date of this Agreement.

“**Outstanding Amounts**” means, with respect to any Note, the aggregate of:

- (a) the outstanding principal amount of the Note from time to time;
- (b) any capitalised PIK Interest;
- (c) any capitalised Additional PIK Interest; and
- (d) any unpaid Cash Interest,

minus any amount applied in payment of the Senior Debt (as defined in Schedule 5 (*Ranking and subordination of Investor Instruments*) of the Shareholders’ Agreement) in accordance with paragraphs 4.1 and 4.2 of Schedule 5 (*Ranking and subordination of Investor Instruments*) of the Shareholders’ Agreement.

“**Parent**” means Global Yatırım Holding A.Ş., a company incorporated and existing under the laws of the Republic of Türkiye, registered with Istanbul Trade Registry under registration number 265814 having its registered office at Büyükdere Cad. No:193/2 Şişli/İstanbul.

“**Participating Member State**” means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

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

“**Permitted Business**” means:

- (a) any business that is ancillary, complimentary, incidental or a natural expansion of the usual frame of activities of the Group; or
- (b) any merger or business combination or other internal corporate reorganisation for bona fide reorganisation purposes where the interests of the Subscriber are not adversely prejudiced.

“**Permitted Emergency Funding**” has the meaning given to that term in the Shareholders’ Agreement.

“**Permitted Growth Funding**” has the meaning given to that term in the Shareholders’ Agreement.

“**Permitted Indebtedness**” means:

- (a) Indebtedness incurred pursuant to the Finance Documents;
- (b) Indebtedness incurred in the form of subordinated shareholder loans from the Parent (in accordance with the Permitted Emergency Funding and Permitted Growth Funding mechanism);
- (c) accounts payable (together with interest thereon and accrued expenses incurred) arising in the ordinary course of business which are payable in accordance with customary practices and which are not overdue by more than 180 days (unless disputed in good faith by the Company and an appropriate reserve has been established in respect thereof in accordance with GAAP); and
- (d) Indebtedness of the Company consented under the Shareholders' Agreement;
- (e) Indebtedness arising out of any liability of the Company arising under a declaration of joint and several liability (*hoofdelijke aansprakelijkheid*) as referred to in Article 2:403 of the DCC (and any residual liability (*overblijvende aansprakelijkheid*) under such declaration arising pursuant to Article 2:404 (2) DCC); and
- (f) Indebtedness arising out of any joint and several liability (*hoofdelijke aansprakelijkheid*) under any fiscal unity for VAT, Dutch corporate income tax or other purposes.

**“Permitted IPO”** means:

- (a) a Qualifying IPO; or
- (b) a Facility Repayment IPO.

**“Permitted Loan”** means each Shareholder Loan.

**“Permitted MIP”** means a MIP that:

- (a) is structurally subordinated to:
  - (i) repayments of the Notes; and
  - (ii) the Preference Shares; or
- (b) with a potential value to the participants below USD 5 million.

**“Permitted Security”** means:

- (a) Security for taxes, assessments or other governmental charges which are not yet due and payable or that are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable person in accordance with GAAP;
- (b) any attachment or judgement lien, unless the judgement it secures shall not, within 60 days after the entry thereof, have been discharged or stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay or would otherwise not constitute a Mandatory Redemption Event;
- (c) any Security or normal and customary rights of set-off upon deposits of cash or other assets in favour of banks, securities intermediaries or other depository institutions, including but not limited to security arising under the applicable general terms and conditions (*algemene bankvoorwaarden*) of the relevant account bank or under other terms and conditions of such banks;
- (d) any Security or right of set-off arising by operation of law or regulation or a contract having similar effect and in the ordinary course of trade; and

(e) any security permitted under the terms of the Shareholders' Agreement.

**"Permitted Share Issue"** means an issue of shares:

- (a) by any member of the Group to another member of the Group;
- (b) by any member of the Group other than the Target or Company, to:
  - (i) any minority shareholders of any Group Company pursuant to any pre-existing pre-emption rights held by those minority shareholders to subscribe for equity or quasi-equity under applicable constitutional documents of the relevant Group Company and as long as the Company retains control over the relevant Group Company (and the Subscriber's rights are not materially affected); or
  - (ii) minority third parties in connection with the Group's tendering and award of cruise port or other port operations in furtherance of its business, in each case other than any Permitted Emergency Funding or Permitted Growth Funding; or
- (c) otherwise in accordance with the terms of the Shareholders' Agreement.

**"Permitted Transferee"** has the meaning given to that term in the Shareholders' Agreement.

**"PIK Interest"** has the meaning given to that term in Clause 8.2 (*Interest accrual*).

**"PIK Interest Rate"** means, for each Interest Period:

- (a) falling in the period on and after the Initial Closing Date until and including the fourth Interest Payment Date, 11.5% per annum; and
- (b) falling in the period after the fourth Interest Payment Date and until and including the seventh Interest Payment Date or, if later, the Maturity Date, 9.0% per annum.

**"Preference Shares"** has the meaning given to that term in the Shareholders' Agreement.

**"Preferred Stock"** means any class of capital stock of a person that is preferred over any other class of capital stock (or similar equity interests) of such person as to the payment of dividends or the payment of any amount upon liquidation or dissolution of such person.

**"Port of Adria"** means Akcionarsko Društvo Port Of Adria-Bar.

**"Press Release"** means:

- (a) an Offer Press Release; or
- (b) a Scheme Press Release.

**"Qualifying IPO"** has the meaning given to that term in the Shareholders' Agreement.

**"Redenomination Rate"** has the meaning given to that term in Clause 4.3 (*Redenomination of the Notes*).

**"Register"** means the register of Notes maintained by the Company.

**"Relevant Jurisdiction"** means, in relation to the Company, its Original Jurisdiction.

**"Report"** means the legal due diligence report prepared by White & Case LLP dated 11 July 2024 relating to the Acquisition and capable of being relied upon by the Subscriber.

**"Representative"** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.



**“Required Amendment”** means an Amendment which is required by any applicable law or regulation, the Takeover Code, the Court, any regulatory body or the Takeover Panel (including any refusal by the Panel to allow the invocation of a condition).

**“Restricted Subsidiary”** means any Subsidiary of the Target that has been designated as a Restricted Subsidiary under the Bluefin NPA from time to time, notified to the Holders and deemed to be a Restricted Subsidiary for the purposes of this Agreement in accordance with Clause 16.3 (*Designation of Restricted Subsidiaries*).

**“Rule 2.7 Announcement”** means any press announcement released by or on behalf of the Company announcing a firm intention on the part of the Company to make an offer to acquire shares in the Target pursuant to a Scheme (or an Offer) in accordance with Rule 2.7 of the Takeover Code.

**“Sanctioned Person”** means: (i) a person or entity that is listed on, or owned fifty percent or more (whether directly or indirectly), or controlled (whether directly or indirectly) by a person or entity listed on, any Sanctions List; (ii) acting on behalf of a person or entity referred to in (i); (iii) otherwise identified by a Sanctions Authority as being subject to Sanctions, or (iv) persons with whom any Group Company is otherwise prohibited from dealing pursuant to Sanctions.

**“Sanctions”** means any laws, regulations, directives, executive orders, or determinations relating to economic or financial sanctions or trade embargoes or related restrictive measures imposed, administered or enforced from time to time by: (i) the United Nations Security Council; (ii) the United States government; (iii) the Council of the European Union; (iv) the United Kingdom government; (v) the respective governmental institutions and agencies of any of the foregoing, including without limitation, the Office of Foreign Assets Control of the US Department of Treasury (“OFAC”), the US Department of Commerce’s Bureau of Industry and Security (“BIS”), the United States Department of State and Department of Commerce, the Office of Financial Sanctions Implementation (“OFSI”), and HM Treasury; or (vi) any Sanctions Authority.

**“Sanctions Authority”** means any governmental institution or agency with responsibility for imposing, administering or enforcing Sanctions with jurisdiction over any Group Company.

**“Sanctions List”** means the Specially Designated Nationals and Blocked Persons list maintained by OFAC, the Denied Persons List maintained by the BIS, the UK Sanctions List, and the OFSI Consolidated List maintained by HM Treasury, the EU Consolidated List, or any other list issued or maintained by any Sanctions Authority of persons or entities subject to Sanctions (including investment or related restrictions), each as amended, supplemented or substituted from time to time.

**“Securities Act”** means the United States Securities Act of 1933, as amended.

**“Scheme”** means a scheme of arrangement under Part 26 of the Companies Act 2006 to be proposed by the Target to its shareholders in connection with the Acquisition substantially on the terms set out in the Rule 2.7 Announcement, as such scheme may from time to time be amended, added to, revised, renewed or waived as permitted in accordance with this Agreement.

**“Scheme Cancellation Event”** means the earliest of :

- (a) the date on which a Scheme Court Meeting is held (and not adjourned or otherwise postponed) to approve the Scheme at which a vote is held to approve the Scheme, but the Scheme is not approved by the requisite majority of the Scheme Shareholders at such Scheme Court Meeting;
- (b) the date on which a Scheme General Meeting is held (and not adjourned or otherwise postponed) to pass the Scheme Resolutions at which a vote is held on the Scheme Resolutions, but the Scheme Resolutions are not passed by the requisite majority of the shareholders of the Target at such Scheme General Meeting;

- (c) the date on which an application for the issuance of the Scheme Court Order is made to the Court (and not adjourned or otherwise postponed) but the Court (in its final judgment) refuses to grant the Scheme Court Order;
- (d) the date on which the Scheme lapses or is withdrawn with the consent of the Takeover Panel or by order of the Court;
- (e) the date on which a Scheme Court Order is issued but not filed with the Registrar within ten Business Days of its issuance; and
- (f) the date which is 15 days after the Scheme Effective Date (or, if later, the date immediately following any extension of the period for settlement of consideration provided by the Takeover Panel pursuant to the Takeover Code),

provided that, in each case, if a Switch Election is made on or prior to the relevant date, a Scheme Cancellation Event will not occur.

**“Scheme Circular”** means the circular (including any supplemental circular) to the shareholders of the Target to be issued by the Target setting out the proposals for the Scheme and containing the notices of the Scheme Court Meeting and the Scheme General Meeting.

**“Scheme Court Meeting”** means the meeting or meetings of Scheme Shareholders (or any adjournment thereof) to be convened at the direction of the Court for the purposes of considering and, if thought fit, approving the Scheme.

**“Scheme Court Order”** means an order of the Court sanctioning the Scheme pursuant to section 899 of the Companies Act 2006.

**“Scheme Documents”** means the Scheme Press Release, the Scheme Circular or any other material document sent to the holders of Target Shares in relation to the terms and conditions of the Scheme.

**“Scheme Effective Date”** means the date on which a copy of the Scheme Court Order sanctioning the Scheme is duly filed on behalf of the Target with the Registrar and the Scheme becomes effective in accordance with the Companies Act 2006.

**“Scheme General Meeting”** means a general meeting of the holders of Target Shares (or any adjournment thereof) to be convened in connection with the implementation of a Scheme.

**“Scheme Press Release”** means a press release made by or on behalf of the Company announcing a conversion from an Offer to a Scheme in accordance with Section 8 of Appendix 7 to the Takeover Code.

**“Scheme Resolutions”** means a resolution to be set out in the Scheme Circular to be considered and, if thought fit, approved at the Scheme General Meeting.

**“Scheme Shareholder”** means a registered holder of a Scheme Share at a relevant time.

**“Second Extended Maturity Date”** has the meaning given to that term in Clause 6.2 (*Black Swan Extension*).

**“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.

**“Shareholders’ Agreement”** shall mean the shareholders’ agreement dated on or about the date of this Agreement between, among others, the Company and the Subscriber.

**“Shareholder Loans”** means:

- (a) the English law governed amended and restated shareholder loan agreement, as amended and restated on 28 September 2023, between the Parent as lender and the Target as borrower, for an original amount up to USD 30,000,000;
- (b) the English law governed amended and restated shareholder loan agreement, as amended and restated on 28 September 2023, between the Parent as lender and the Target as borrower, for an original amount up to USD 3,000,000; and
- (c) short term payables in an original amount of USD 746,000 owing from the Target to the Parent,

each such obligation as may be further amended and restated to assign and transfer the rights, benefits and obligations of the Parent as lender thereunder for the benefit of the Company.

**“Squeeze-Out”** means, if the Company becomes entitled to give notice under section 979 of the Companies Act 2006, the procedure to be implemented following the date on which the Offer is declared or becomes unconditional in all respects under section 979 of the Companies Act 2006 to squeeze out all of the outstanding shares in the Target which the Company has not acquired, contracted to acquire or in respect of which it has not received valid acceptances.

**“Squeeze-Out Notice”** means a notice issued to a holder of Target Shares by the Company in respect of a Squeeze-Out in accordance with the Companies Act 2006.

**“Squeeze-Out Rights”** means the rights of the Company pursuant to the Companies Act 2006 to acquire any remaining Target Shares which are the subject of the Offer.

**“Subscription Request”** means a subscription request substantially in the relevant form set out in Schedule 6 (*Form of Subscription Request*).

**“Subsidiary”** has the meaning given to the term **“subsidiary undertaking”** in the Companies Act 2006.

**“Swap Contract”** means (a) any and all interest rate swap transactions, basis swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward foreign exchange transactions, cap transactions, floor transactions, currency options, spot contracts or any other similar transactions or any of the foregoing (including any options to enter into any of the foregoing), and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc. or any International Foreign Exchange Master Agreement.

**“Swap Termination Value”** means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amounts(s) determined as the mark-to-market values(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts.

**“Switch Election”** means, in relation to an event which would be a Scheme Cancellation Event or an Offer Cancellation Event (as applicable), the Company notifying the Subscriber within five Business Days of that event (or five Business Days prior to the occurrence of that event, if the Company reasonably believes such event would be a Scheme Cancellation Event or an Offer Cancellation Event (as applicable)) that it intends to switch from an Offer to a Scheme or a Scheme to an Offer (as applicable), and then within ten Business Days (or such later period as the Subscriber may agree in its sole discretion) of delivery of that notice issues a Scheme Press Release or Offer Press Release (as applicable depending on the switch being made).

**"Synthetic Lease"** means, at any time, any lease (including leases that may be terminated by the lessee at any time) of any property (a) that is accounted for as an operating lease under GAAP and (b) in respect of which the lessee retains or obtains ownership of the property so leased for income tax purposes, other than any such lease under which such person is the lessor.

**"Takeover Code"** means the UK City Code on Takeovers and Mergers, as administered by the Takeover Panel, as may be amended from time to time.

**"Takeover Panel"** means the UK Panel on Takeovers and Mergers.

**"Target"** means Global Ports Holding PLC, a company incorporated in England and Wales and registered at Companies House under number 10629250.

**"Target Group"** has the meaning given to that term in the Shareholders' Agreement.

**"Target Group Accounts"** means GPH Annual Report 2023, including the audited, consolidated financial statements of GPH for the Financial Year ended on 31 March 2023.

**"Target Shares"** means all the issued shares in the capital of the Target.

**"Tax Authority"** means any government, state, or municipality or any local, state, federal or other fiscal, revenue, customs or excise authority, body or official competent to impose, administer, levy, assess or collect any Tax in any jurisdiction.

**"Taxation"** or **"Tax"** means all taxes, duties (including stamp duties), charges, levies, imposts, contributions, withholdings or amounts in each case in the nature of taxation whether levied by reference to gross or net income, profits, gains, asset values, sales, turnover, transfers, added value or otherwise, including (without limitation) corporation tax, national insurance and social security contributions, whenever and by whatever authority imposed and whether of the United Kingdom or elsewhere, irrespective of the person to which any such taxes, duties, charges, levies, imposts, contributions, withholdings or amounts are directly or primarily chargeable, together with all interest, fines, penalties, surcharges and charges incidental or relating to any of the foregoing.

**"Transfer Tax"** means all stamp duty, notarial fees and registration, documentary or transfer taxes or duties and their equivalents,

**"Transaction Documents"** means the Finance Documents, the Acquisition Documents, the Shareholders' Agreement, any other agreements entered into pursuant to any of the foregoing and any other document designated as such by the Company and the Majority Holders.

**"UK Sanctions Laws"** means those laws, executive orders, enabling legislation or regulations administered and enforced by the United Kingdom pursuant to which economic sanctions have been imposed on any person, entity, organization, country or regime.

**"Unpaid Sum"** means any sum due and payable but unpaid by the Company under the Finance Documents.

**"Unrestricted Subsidiary"** has the meaning given to that term in the Bluefin NPA.

**"US"** means the United States of America.

**"VAT"** means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
  - (i) any “**Subscriber**”, any “**Holder**”, or any “**Party**” shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
  - (ii) “**assets**” includes present and future properties, revenues and rights of every description;
  - (iii) a “**Default**” is “continuing” if it has not been remedied or waived;
  - (iv) a “**Finance Document**”, a “**Transaction Document**” or any other agreement or instrument is a reference to that Finance Document, Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
  - (v) “**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;
  - (vi) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
  - (vii) 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 of any regulatory, self-regulatory or other authority or organisation;
  - (viii) a provision of law is a reference to that provision as amended or re-enacted from time to time; and
  - (ix) a time of day is a reference to London time.
- (b) The determination of the extent to which a rate is “**for a period equal in length**” to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- (c) Section, Clause and Schedule headings are for ease of reference only.
- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

## 1.3 Currency symbols and definitions

- (a) “\$”, “**US Dollar**” and “**USD**” mean the lawful currency of the US; and
- (b) “€”, “**EUR**” and “**euro**” denote the single currency of the Participating Member States.

## 1.4 Dutch Terms

In relation to any entity that is incorporated, or where applicable, has its centre of main interest in the Netherlands, a reference to:

- (a) a **suspension of payments** or a **moratorium of any indebtedness** includes (*voorlopige surseance van betaling*) and a moratorium is declared in respect of any indebtedness that includes *surseance verleend*;
- (b) **winding-up, liquidation, administration, dissolution and re-organisation** (and any of those terms) includes an entity being declared bankrupt (*failliet verklaard*), dissolved (*ontbonden*) or

subject to emergency regulations (*noodregeling*) on the basis of the Dutch Act on Financial Supervision (*Wet op het Financieel Toezicht*) or statutory proceedings for the restructuring of debt (*akkoordprocedure*) under the Dutch Bankruptcy Act (*Faillissementswet*);

- (c) a **Security interest** includes any mortgage (*hypotheek*), pledge (*pandrecht*), privilege (*voorrecht*), and any other rights in rem (*zakelijke rechten*) or other rights created for the purpose of granting security;
- (d) **gross negligence** means *grove schuld*;
- (e) **wilful misconduct** means *opzet*;
- (f) a **liquidator** or a **trustee in bankruptcy** includes a *curator* and a *beoogd curator*;
- (g) an **administrator** includes a *bewindvoerder* and a *stille bewindvoerder*;
- (h) an **attachment** includes *conservatoir* and *executoriaal beslag*;
- (i) a **distribution** or **dividend** includes any distribution of profits (*winstuitkering*) or the distribution of reserves (*uitkering uit reserves*); and
- (j) **constitutional documents** means a copy of:
  - (i) the articles of association (*statuten*);
  - (ii) the deed of incorporation (*akte van oprichting*); and
  - (iii) an up-to-date extract (*uittreksel*) from the trade register (*Handelsregister*) of the Dutch Chamber of Commerce (*Kamer van Koophandel*).

## 1.5 Third party rights

A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or to enjoy the benefit of any term of this Agreement. No person shall have any right to enforce any term or condition of the Notes under the Third Parties Act.

## 1.6 Meaning of Outstanding

For the purposes of this Agreement and the Notes (but without prejudice to its status for any other purpose), a Note shall be considered to be “outstanding” unless one or more of the following events has occurred:

- (a) it has been redeemed in full, or purchased in accordance with Clause 6 (*Redemption*), and in either case has been cancelled in accordance with Clause 7 (*Cancellation*);
- (b) proceedings to enforce a claim for principal and interest in respect of such Note have become barred; or
- (c) for the purposes of the definition of Majority Holders and Clause 27.2 (*All Holder matters*) only, it is held by, or by any person for the benefit of, the Company or any of its Affiliates.

## SECTION 2 THE NOTES

### 2. Authorisation of Notes

#### 2.1 Authorisation of the Notes

- (a) The Company has authorised the creation and issue of Notes (for issuance in euro and subscription in US Dollars in accordance with the provisions of this Agreement) up to (i) EUR 150,000,000 or (ii) solely in respect of Certain Funds Issuances during the Certain Funds Period, if the aggregate amount requested for such Certain Funds Issuances (calculated at the applicable Redenomination Rates and after all subscriptions during the Certain Funds Period have been made) shall exceed, upon redenomination into euros in accordance with Clause 4.3 (*Redenomination of the Notes*), an amount equal to EUR 150,000,000, such greater amount that results in the aggregate principal amount of the Notes issued under this agreement to be the euro equivalent of up to USD 163,000,000 (in each case, upon redenomination into euros in accordance with Clause 4.3 (*Redenomination of the Notes*)).
- (b) The Notes will be in registered form and represented by Note Certificates. No other certificate or other evidence of title will be issued by, or on behalf of, the Company to evidence title to a Note unless the Company is required to do so pursuant to any applicable law or regulation.

## **2.2 Covenants by the Company**

The Company covenants in favour of each Holder that it will duly perform and comply with the obligations expressed to be undertaken by it in this Agreement and the Shareholders' Agreement and in each Note Certificate (and for this purpose any reference in any Note Certificate and/or in this Agreement to any obligation or payment under or in respect of the Notes shall be construed to include a reference to any obligation or payment under or pursuant to this provision).

## **3. Issue and Subscription of the Notes**

### **3.1 Undertaking to issue**

The Company undertakes to the Subscriber that, subject to and in accordance with the terms and conditions of this Agreement, the Notes will be issued to the Subscriber on the Issue Date, in accordance with the provisions of this Agreement. The Company shall not issue any Note following the expiry of the Availability Period.

### **3.2 Undertaking to subscribe**

The Subscriber undertakes to the Company that, subject to and in accordance with the terms and conditions of this Agreement, it will subscribe for Notes on the Issue Date for an amount as specified in the Subscription Request.

### **3.3 Holders' rights and obligations**

- (a) The obligations of each Holder under the Finance Documents are several. Failure by a Holder to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Holder is responsible for the obligations of any other Holder under the Finance Documents.
- (b) The rights of each Holder under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Holder from the Company is a separate and independent debt in respect of which a Holder shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Holder include any debt owing to that Holder under the Finance Documents and, for the avoidance of doubt, the outstanding principal amount of any Note held by a Holder or any other amount owed by the Company which relates to that Note or that Holder's role under a Finance Document is a debt owing to that Holder by the Company.
- (c) A Holder may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

### **3.4 Use of Proceeds**

The Company shall apply the proceeds of the issuance of the Notes hereunder in or towards financing or funding (as appropriate):

- (a) the consideration payable in connection with the Acquisition incurred;
- (b) the settlement of the Shareholder Loans (provided that no proceeds of the issuance of any Note pursuant to this Agreement shall be applied by the Company for this purpose if the Parent is in breach of clause 27.2.8 (*Sanctions and Compliance*) of the Shareholders' Agreement (assuming for this purpose only that such warranty is given by the Parent on the relevant Issue Date);
- (c) the payment of fees, costs and expenses incurred in connection with the Acquisition by the Company, the Parent and the Target Group; and/or
- (d) cash on balance sheet (reserved to fund further share acquisitions and/or equity capital injections in the Target).

#### **4. Note Issuance**

##### **4.1 Subscription Request**

- (a) The Company may issue and request the subscription of Notes by the Subscriber by delivering a Subscription Request to the Subscriber no later than 7 Business Days prior to the proposed Issue Date.
- (b) Each Subscription Request is irrevocable and will not be regarded as having been duly completed unless:
  - (i) the proposed Issue Date is a Business Day within the Availability Period;
  - (ii) the currency of the Notes is US Dollars (as specified in the Subscription Request), which, subject to Clause 4.3 (*Redenomination of the Notes*), shall be redenominated into euros;
  - (iii) the amount to be funded to the Company under the relevant Subscription Request must be in Authorised Denominations (which shall not be less than EUR 65,000,000 on the first Issue Date upon redenomination into euros in accordance with Clause 4.3 (*Redenomination of the Notes*)), and
  - (iv) the proposed Interest Period complies with Clause 9 (*Interest Periods*).
- (c) On each Issue Date, the Company shall deliver a duly executed Note Certificate to the Subscriber dated the Issue Date and registered in the Register in the Subscriber's name, against payment by the Subscriber to the Company or its order of the principal amount of the Notes.

##### **4.2 Maximum number of Note Issuance**

The Company may not deliver more than 10 Subscription Requests under this Agreement, and the principal amount of all the Notes issued under this Agreement shall not exceed (i) EUR 150,000,000 or (ii) solely in respect of Certain Funds Issuances during the Certain Funds Period, if the aggregate amount requested for such Certain Funds Issuances (calculated at the applicable Redenomination Rates and after all subscriptions during the Certain Funds Period have been made) shall exceed, upon redenomination into euros in accordance with Clause 4.3 (*Redenomination of the Notes*), an amount equal to EUR 150,000,000, such greater amount that results in the aggregate principal amount of the Notes issued under this agreement to be the euro equivalent of up to USD 163,000,000 (in each case, upon redenomination into euros in accordance with Clause 4.3 (*Redenomination of the Notes*)).

##### **4.3 Redenomination of the Notes**

- (a) On each Issue Date, immediately after the issue of the relevant Notes (such Issue Date, the "**Relevant Issue Date**"; such Notes, the "**Relevant Notes**"; and such time, the



"Redenomination Time"), the Issue Price payable in respect of the Relevant Notes (the "Relevant Issue Price") shall be funded in US Dollars, and redenominated in full from US Dollars into euros at the Redenomination Rate (as defined below) for all purposes under the Finance Documents.

- (b) By no later than 6.30 p.m. (London time):
- (i) on the date of the first Subscription Request made by the Company in accordance with the terms of this Agreement (the "Initial Relevant Subscription Request"); or
  - (ii) on the Business Day following the date of each other Subscription Request for the Relevant Notes (a "Relevant Subscription Request"),
- the Holders will notify the Company in writing of the applicable Redenomination Rate and the principal amount in euros of the redenominated Relevant Notes; and
- (c) For the avoidance of doubt:
- (i) the Relevant Notes shall be issued in, and the Relevant Issue Price shall be due and payable in US Dollars, and only be redenominated in accordance with paragraph (a) above once the Redenomination Time has occurred;
  - (ii) on and from the Redenomination Time, any amount payable (including, without limitation, any accrued interest) in respect of the Relevant Notes (including in respect of the principal amount of the Relevant Notes) shall be in euros;
  - (iii) promptly following the Redenomination Time, the Company shall update any reference to the Relevant Notes in the relevant Register to reflect the reallocation and redenomination as contemplated by this Clause; and
  - (iv) the redenomination of the Relevant Notes as contemplated by this Clause 4.3 shall be effective for all purposes under the Finance Documents without the need for any consent from any Party.
- (d) For the purposes of this Clause 4.3:

"Redenomination Rate" means the applicable conversion rate for the purchase of euro with US Dollars in respect of Relevant Notes as notified by the Subscriber to the Company on the Business Day following the date of the relevant Subscription Request.

#### 4.4 Conditions precedent to Closing

- (a) The Subscriber will only be obliged to subscribe for Notes if, on or prior to the delivery of the first Subscription Request by the Company in accordance with the terms of this Agreement, the Subscriber has received all of the documents and other evidence listed in Schedule 1 (*Conditions Precedent*) in form and substance satisfactory to it.
- (b) The Subscriber shall notify the Company promptly upon receipt of all of the documents and other evidence listed in Schedule 1 (*Conditions Precedent*) in form and substance satisfactory to it.

#### 4.5 Further Conditions Precedent in respect of Non-Certain Funds Issuances

Subject to Clause 4.4 (*Conditions Precedent to Closing*) and Clause 3.4 (*Use of Proceeds*), the Subscriber will only be obliged to subscribe for the Notes pursuant to a Non-Certain Funds Issuance if, on the relevant Issue Date:

- (a) no Default is continuing or would result from the issue of the Notes; and

- (b) the representations to be made by the Company and on behalf of any Group Company pursuant to Clause 15 (*Representations*) are true in all material respects.

#### 4.6 Further Conditions Precedent in respect of Certain Funds Issuances & Certain Funds Closing

- (a) Subject to Clause 4.4 (*Conditions precedent to Closing*), the Subscriber will only be obliged to subscribe for the Notes pursuant to a Certain Funds Issuance if, on the date of this Agreement and on the proposed Issue Date:
  - (i) no Major Event of Default or Further Event has occurred and is continuing or would result from the proposed subscription of Notes by the Subscriber;
  - (ii) there is no loss of Control over the Company and/or the Target Group by the Parent (including through an IPO, share transfer, exercise of drag right or otherwise);
  - (iii) none of the events set out in Clauses 6.4(e) or 6.4(f) (*Redemption at the option of the Holders*) of this Agreement occurs with respect to the Company, in each case, only as it relates to a Certain Funds Entity (and for these purposes ignoring any reference, application or procurement obligation to or in respect of any other member of the Group or any member of the Target Group and/or any of their assets, liabilities or obligations), provided that:
    - (A) in Clause 6.4(e)(i)(C), reference to “one or more of its creditors” should be construed as reference to “its creditors generally (or any class of them)”; and
    - (B) in Clause 6.4(f)(i)(B), reference to “any creditor” should be construed as being a reference to “the relevant entity's creditors generally”; and
  - (iv) each Major Representation is correct in all material respects or will be correct in all material respects immediately after the issuance of any Note.
- (b) Notwithstanding any other provision of the Finance Documents, during the Certain Funds Period (save in circumstances where, pursuant to paragraph (a) above, the Subscriber is not obliged to subscribe for the Notes), the Subscriber shall not be entitled to:
  - (i) refuse to subscribe for the Notes;
  - (ii) rescind, terminate or cancel this Agreement, or exercise any similar right or remedy, or make or enforce any claim under the Finance Documents it may have, in each case, to the extent to do so would prevent or limit the subscription of the Notes during the Certain Funds Period;
  - (iii) exercise any right of set-off or counterclaim in respect of the Notes to the extent to do so would prevent or limit the subscription of the Notes during the Certain Funds Period;
  - (iv) cancel, accelerate or cause repayment or prepayment of any amounts owing under this Agreement or under any other Finance Document to the extent to do so would prevent or limit the subscription of the Notes or require the repayment or prepayment of the Notes during the Certain Funds Period; or
  - (v) take any other action or make or enforce any other claim (in its capacity as Subscriber) to the extent that such action, claim or enforcement would directly or indirectly prevent or limit the subscription of the Notes during the Certain Funds Period, *provided that*, immediately upon the expiry of the Certain Funds Period, all such rights, remedies and entitlements shall be available to the Subscriber, notwithstanding that they may not have been used or been available for use during the Certain Funds Period.
- (c) In this Agreement:

**“Major Event of Default”** means a Default arising under only as it relates to a Certain Funds Entity, a breach of any Major Undertaking.

**“Major Representation”** means a representation or warranty with respect only to any Certain Funds Entity under any of:

- (i) Clause 15.3(a)(i) (*Incorporation and constitutional documents*);
- (ii) Clause 15.4 (*Corporate power and authority* provided that, for the purposes of this definition, references to a "Transaction Document" in Clause 15.4 are to be construed as a reference to a "Finance Document" and the Shareholders' Agreement);
- (iii) Clause 15.5 (*No breach*) provided that:
  - (a) references to "any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease", "shareholders agreement" or "any other agreement or instruments to which the Parent or Company is bound or by which the Company or any of its respective properties may be bound or affected" in Clause 15.5(a) shall be construed as to the extent that any such events have a Material Adverse Effect;
  - (b) the reference to "conflict with or" in Clause 15.5(b) shall not apply and the words "in any material respect" shall be included at the end of Clause 15.5(b); and
  - (c) the words "in any material respect" shall be included at the end of Clause 15.5(c); and
- (iv) Clause 15.19 (*Validity and admissibility in evidence*),

in each case, only as it relates to a Certain Funds Entity (and for these purposes ignoring any reference, application or procurement obligation to or in respect of any other member of the Group or any member of the Target Group and/or any of their assets, liabilities or obligations).

**“Major Undertaking”** means an undertaking with respect only to any Certain Funds Entity under any of:

- (i) Clause 17.5 (*Negative Pledge*);
- (ii) Clause 17.6 (*Equity*) but only insofar as such undertaking relates to (i) any decision affecting the equity and quasi equity of the Company (including any issuance of shares or equity or the creation of any options or other rights to subscribe for or to convert into securities issued by the Company only); or (ii) the approval by the Company of the issuance of any new equity or quasi-equity in the Target, but not any other Group Company;
- (iii) Clause 17.10 (*Restriction on Disposal*);
- (iv) Clause 17.16 (*Restrictions on incurrence of Indebtedness*);
- (v) Clause 17.18 (*Anti-Corruption Laws; Anti-Money Laundering and Sanctions*) to the extent that a breach of this undertaking would result in it becoming unlawful for the Subscriber to perform any of its obligations as contemplated by any Finance Document or to subscribe for any Note;
- (vi) Clauses 17.20 (*Acquisitions*) to Clause 17.23 (*No Guarantees*); and
- (vii) Clause 17.15 (*Dividends and Share Redemption*),

in each case, only as it relates to a Certain Funds Entity (and for these purposes ignoring any reference, application or procurement obligation to or in respect of any other member of the Group or any member of the Target Group and/or any of their assets, liabilities or obligations).

#### **4.7 Offer Closing Date Extension**

Prior to the expiry of the relevant Offer Closing Date (the “**Existing Offer Closing Date**”), the Company may serve notices on the Holders that the Existing Offer Closing Date has been extended in accordance with the Takeover Code from the Existing Offer Closing Date (the “**New Offer Closing Date**”) and such notice, an “**Offer Closing Date Extension Notice**”) in accordance with the terms of the Offer Documents and, for the avoidance of doubt, the New Offer Closing Date shall be deemed to be the Offer Closing Date for the purposes of:

- (a) the definitions of “Availability Period” and “Certain Funds Period”; and
- (b) otherwise for the purposes of the Finance Documents,

provided that the Company may not serve Offer Closing Date Extension Notices pursuant to this Clause 4.7 if it would result in the Offer Closing Date extending to a date which is later than 60 days from the Rule 2.7 Announcement, without the prior written consent of the Subscriber.

### **SECTION 3 REGISTRATION AND TITLE**

#### **5. Register and Title**

##### **5.1 Registration of Notes**

- (a) The Company shall ensure that the Target shall maintain at its registered office a Register in respect of the Notes in accordance with the regulations in Schedule 3 (*Regulations Concerning Transfers and Registration of the Notes*).
- (b) A Note Certificate will be issued to each Holder in respect of its registered holding on the date of the issue of the relevant Notes.
- (c) Each Note Certificate will be numbered serially with an identifying number which will be recorded in the Register by the Company.

##### **5.2 Title**

- (a) The Holder of each Note shall (except as otherwise required by law) be treated as the absolute owner of such Note for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any other interest in such Note, any writing on the Note Certificate relating to such Notes or any notice of any previous loss or theft of such Note Certificate) and no person shall be liable for so treating such Holder.
- (b) The Company shall promptly on demand by any Holder (and in any event by no later than two Business Days after demand) send to such Holder a complete and correct copy of the Register.

##### **5.3 Regulations concerning transfers and registration**

All transfers of Notes and entries on the Register are subject to the detailed regulations concerning the transfer and registration of Notes set out in Schedule 3 (*Regulations Concerning Transfers and Registration of the Notes*) and the restrictions on the transfer of Investor Instruments (as defined in the Shareholders' Agreement) under the Shareholders' Agreement.

##### **5.4 Replacement of Notes**

Promptly following receipt by the Target at its registered office of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any Note Certificate, and:

- (a) in the case of loss, theft or destruction, of an indemnity reasonably satisfactory to it (provided that if the Subscriber or an Affiliate of the Subscriber provides an unsecured agreement of indemnity that shall be deemed to be satisfactory); or
- (b) in the case of mutilation, upon surrender and cancellation of such Note Certificate, the Company shall, at its own expense, execute and deliver, a replacement Note Certificate.

## **SECTION 4 REDEMPTION, PURCHASE AND CANCELLATION**

### **6. Redemption**

#### **6.1 Scheduled redemption**

Subject to Clause 6.2 (*Black Swan Extension*) and Clause 9.2(c) below, unless previously redeemed, or purchased and cancelled, the Notes will be redeemed at the relevant Outstanding Amounts up to and including the relevant date of redemption) on the earlier of:

- (a) the Maturity Date; and
- (b) any Liquidation Event Date.

#### **6.2 Black Swan Extension**

- (a) Upon the occurrence of a Force Majeure Event prior to the Maturity Date, and to the extent a Liquidation Event has not occurred, the Company may serve notice on the Holders (the date of such extension notice being the "**Initial Extension Period**") to extend the Maturity Date to the date which is 12 months following the Initial Maturity Date (the "**Initial Extended Maturity Date**") and the Initial Extended Maturity Date shall be deemed to be the Maturity Date with effect on and from the date of such notice.
- (b)
  - (i) From and including the date which is 9 months following the Initial Extension Period to and including the date which is 12 months following the Initial Extension Period (to the extent a Liquidation Event has not otherwise occurred), the Investors will discuss and evaluate the continuing impact of the Force Majeure Event on the Group; and
  - (ii) if as a result of such discussions, it is the reasonable opinion of the Company that it is in the best interests of the Company to further extend the Initial Extended Maturity Date, then the Company may serve notice on the Holders no later than the date which is 12 months following the Initial Extension Period to extend the Maturity Date to the date which is 12 months following the Initial Extended Maturity Date (the "**Second Extended Maturity Date**") and the Second Extended Maturity Date shall be deemed to be the Maturity Date with effect on and from the date of such notice.
- (c) For the avoidance of doubt, following the extension of the Maturity Date in accordance with paragraphs (a) and/or (b) above, the interest payable by the Company in respect of each subsequent 12-month period following the Initial Maturity Date or the Initial Extended Maturity Date (as applicable) will be as calculated in accordance with Clause 8.1(b) (*Calculation of Interest*).

#### **6.3 Redemption at the option of the Holders due to Illegality**

If, in any applicable jurisdiction, it becomes unlawful for any Holder to hold the Notes:

- (a) that Holder shall promptly notify the Company upon becoming aware of that event; and
- (b) the Company shall redeem the Notes held by that Holder on the date specified by the Holder in the notice delivered to the Company (being no earlier than the last day of any applicable grace period permitted by law) at a price equal to 100 per cent. of the Outstanding Amounts applicable to the relevant Notes accrued to such date.

#### **6.4 Redemption at the option of the Holders**

- (a) Each of the events or circumstances set out in this Clause 6.4 (save for paragraph (i)) is a Mandatory Redemption Event.
- (b) A Material Breach by the Company or the Parent (or any of its Permitted Transferees thereunder) of the terms of the Shareholders' Agreement occurs.
- (c) If the Company does not pay on the due date any amount payable pursuant to a Finance Document (other than, for the avoidance of doubt, Cash Interest that has been capitalised as PIK Interest or Additional PIK Interest) at the place at and in the currency in which it is expressed to be payable unless its failure to pay is caused by:
  - (i) administrative or technical error; or
  - (ii) a Disruption Event.

and payment is made within five Business Days of its due date.

- (d)
  - (i) Any representation or statement made or deemed to be made by the Company in the Transaction Documents or any document delivered by or on behalf of the Company under or in connection with any Transaction Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.
  - (ii) No Mandatory Redemption Event under paragraph (i) above will occur if the circumstances giving rise to the misrepresentation are capable of remedy and are remedied within 20 Business Days of the earlier to occur of the date on which (i) the Majority Holders give written notice to the Company and (ii) the Company becoming aware of such misrepresentation.
- (e)
  - (i) The Company and, following the Bluefin NPA Termination Date, any member of the Target Group:
    - (A) is unable or admits in writing inability to pay its debts as they fall due;
    - (B) suspends or threatens in writing to suspend making payments on any of its debts; or
    - (C) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding the Holders in their capacity as such) with a view to rescheduling any of its indebtedness,
  - (ii) A moratorium is declared in respect of any indebtedness of the Company or, following the Bluefin NPA Termination Date, any member of the Target Group. If a moratorium occurs, the ending of the moratorium will not remedy any Mandatory Redemption Event caused by that moratorium.
  - (iii) No Mandatory Redemption Event will occur under paragraph (i) above if the circumstances set out therein are remedied within 20 Business Days of the earlier of the

date on which (A) the Majority Holders give written notice to the Company of the relevant matter, or (B) the Company or following the Bluefin NPA Termination Date the relevant member of the Target Group becomes aware of the relevant matter.

(f)

(i) Any corporate action or legal proceeding or other formal procedure or formal step is taken in relation to:

(A) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Company or, following the Bluefin NPA Termination Date, any member of the Target Group;

(B) a composition, compromise, assignment or arrangement with any creditor of the Company or, following the Bluefin NPA Termination Date, any member of the Target Group; or

(C) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Company or, following the Bluefin NPA Termination Date, any member of the Target Group or any of its assets,

(D) enforcement of any Security over any assets of the Company or, following the Bluefin NPA Termination Date, any member of the Target Group, where the amount owed in respect of the Security enforced exceeds EUR 15,000,000 in aggregate (or its equivalent in another currency or currencies) at any time,

or any analogous procedure or step is taken in any jurisdiction, and any such event or events described in limbs (A) through (C) above, either individually or together with any other such event or events could reasonably be expected to have a Material Adverse Effect.

(ii) This paragraph (f) shall not apply to any winding-up petition which is contested in good faith and with due process and diligence, or is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement.

(g)

(i) Indebtedness of GPG Finance under the Bluefin NPA is not paid when due nor within any applicable grace period; or

(ii) Indebtedness of GPG Finance under the Bluefin NPA is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an Event of Default (as defined in the Bluefin NPA).

(h)

(i)

(A) The Parent is unable or admits in writing inability to pay its debts as they fall due;

(B) the Parent suspends or threatens in writing to suspend making payments on any of its debts;

(C) appointment of a liquidator, receiver, administrator, compulsory manager or other similar official in respect of the Parent, if any, within the meanings

assigned to such terms under laws applicable to the Parent has been finally and judicially declared by a competent court in the Republic of Türkiye;

- (D) enforcement of any Security over any shares in the Company or any member of the Target Group held directly by the Parent; or
- (E) the Parent is finally and judicially declared bankrupt by a competent court in the Republic of Türkiye,

in the case of (A) or (B), where the indebtedness exceeds EUR 15,000,000 in aggregate (or its equivalent in another currency or currencies) at any time and in the case of (A), (B), (C) or (D), provided that the Parent or other senior management of the Parent or the majority shareholder of the Parent is incapable of exercising its management of the Parent and/or control over the management of the Company and/or the Target.

- (ii) No Mandatory Redemption Event will occur under paragraph (i)(A), (i)(B), (i)(C) or (i)(D)) above if the circumstances set out therein are remedied within 20 Business Days of the earlier of the date on which (x) the Majority Holders give written notice to the Company of the relevant matter, or (y) the Company becomes aware of the relevant matter.
- (i) Subject to Clause 4.6 (*Further Conditions Precedent in respect of Certain Funds Issuances & Certain Funds Closing*), at any time after the occurrence of a Mandatory Redemption Event which is continuing:
    - (i) promptly upon becoming aware that any Mandatory Redemption Event has occurred (and in any event not later than 10 Business Days thereafter), the Company shall give written notice of such facts to all Holders;
    - (ii) the Majority Holders may notify the Company requesting redemption of the Notes it holds not later than 2 months after the date on which the Majority Holders receive the notice in subparagraph (i) above or the Majority Holders may promptly notify the Company requesting redemption of the Notes it holds upon becoming aware of the occurrence of a Mandatory Redemption Event; and
    - (iii) the Company shall redeem the Notes on the date specified by the Majority Holders in the notice delivered to the Company in paragraph (ii) above (being no earlier than the last day of any applicable grace period permitted by law) at a price equal to 100 per cent. of the Outstanding Amounts applicable to the Notes accrued to such date together with the Mandatory Make Whole Amount as determined in accordance with Clause 6.8 (*Make Whole Amount*).

## **6.5 Redemption at the option of the Company**

Following the expiry of the Availability Period and provided that no Liquidation Event has occurred and is continuing, the Company may redeem the Notes in whole, but not in part by giving at least thirty (30) days' written notice to the Holders prior to the date of redemption, at a price equal to 100 per cent. of the Outstanding Amounts accrued to such date of redemption, together with the Make Whole Amount as determined in accordance with Clause 6.8 (*Make Whole Amount*).

## **6.6 No other redemption**

The Company shall not be entitled to redeem the Notes otherwise than in accordance with this Clause 6 (*Redemption*).

## **6.7 Redemption amount**



Any redemption under this Agreement shall be made, subject to Clause 6.8 (*Make Whole Amount*), without premium or penalty.

## 6.8 Make Whole Amount

- (a) Notwithstanding any other provision of this Clause 6, if the Company redeems the Notes in accordance with Clause 6.5 (*Redemption at the option of the Company*):
  - (i) at any time prior to the date falling 6 years after the Initial Closing Date, the Company shall, within three Business Days of demand by a Holder, pay to the relevant Holder the Make Whole Amount attributable to all or any part of a Note being paid by the Company; and
  - (ii) at any time on or after the date falling 6 years after the Initial Closing Date, such redemption will be made without any make-whole, premium or penalty.
- (b) Notwithstanding any other provision of this Clause 6, if the Notes are redeemed (in part or in full) in accordance with Clause 6.4 (*Redemption at the option of the Holders*):
  - (i) at any time prior to the date falling 4 years after the Initial Closing Date, the Company shall, within three Business Days of demand by a Holder, pay to the relevant Holder the Mandatory Make Whole Amount attributable to all or any part of a Note being paid by the Company except that the occurrence of a Mandatory Redemption Event pursuant to Clause 6.4(h) (*Redemption at the option of the Holders*) would not require the payment of the Mandatory Make Whole Amount; and
  - (ii) at any time on or after the date falling 4 years after the Initial Closing Date, such redemption will be made without any make-whole, premium or penalty.
- (c) For the purposes of this Agreement:

“**Make Whole Amount**” means, in respect of a voluntary redemption of the Notes by the Company in accordance with Clause 6.5 (*Redemption at the option of the Company*), the difference between (a) the aggregate amount of PIK Interest, Additional PIK Interest and Cash Interest which a Holder would have received had the Notes been redeemed on the 6<sup>th</sup> anniversary of the Initial Closing Date and (b) the aggregate amount of PIK Interest, Additional PIK Interest and Cash Interest which a Holder would receive on the date of such voluntary redemption in accordance with the terms of this Agreement:

"**Mandatory Make Whole Amount**" means, in respect of a mandatory redemption of the Notes in accordance with Clause 6.4 (*Redemption at the option of the Holders*) (save for pursuant to Clause 6.4(h) (*Redemption at the option of the Holders*)), the difference between (a) the aggregate amount of PIK Interest, Additional PIK Interest and Cash Interest which a Holder would have received had the Notes been redeemed on the 4<sup>th</sup> anniversary of the Initial Closing Date and (b) the aggregate amount of PIK Interest, Additional PIK Interest and Cash Interest which a Holder would receive on the date of such mandatory redemption in accordance with the terms of this Agreement.

## 7. Cancellation

Any Note which is redeemed or any Note which is purchased and surrendered for cancellation by the Company or any of its Affiliates shall be cancelled and may not be reissued or resold.

## SECTION 5 INTEREST

### 8. Interest

#### 8.1 Calculation of interest

- (a) Subject to paragraph (b) below, the rate of interest applicable to the Drawn Facility Amount as at the end of each Interest Period is the percentage rate per annum which is the aggregate of:
  - (i) the Cash Interest Rate; and
  - (ii) the PIK Interest Rate.
- (b) Notwithstanding paragraph (a) above, in the event that the Company elects to extend the Maturity Date in accordance with Clause 6.2 (*Black Swan Extension*) or the Majority Holders consent to an extension of the Maturity Date, the rate of interest applicable to the Drawn Facility Amount for each 12-month period so extended following the Initial Maturity Date is the percentage rate per annum which is the aggregate of:
  - (i) the Cash Interest Rate; and
  - (ii) the PIK Interest Rate described in paragraph (b) of the definition of “PIK Interest Rate”.

## 8.2 Interest accrual

- (a) Subject to Clause 22.4 (*Business Days*) and Clause 8.5 (*PIK Toggle*), the Company shall pay accrued interest on the Drawn Facility Amount on each Interest Payment Date.
- (b) Any interest in respect of the applicable PIK Interest Rate in respect of the Drawn Facility Amount shall be paid in kind and capitalised on the last day of the relevant Interest Period, provided that the Company may, in its sole discretion, elect to pay all or any part of any applicable PIK Interest Rate in cash rather than capitalise such amount at the end of the relevant Interest Period by delivering a notice to the Holders to that effect by no later than the date falling five Business Days prior to the last day of an Interest Period in respect of the relevant Notes.
- (c) Any accrued interest which is capitalised pursuant to paragraph (b) above, Clause 8.5 (*PIK Toggle*) or Clause 8.6 (*PIK Interest Increase*) below shall, after being capitalised (such amount(s) being “**PIK Interest**” or “**Additional PIK Interest**” as applicable), be payable in accordance with the applicable repayment and/or prepayment provisions of this Agreement, unless paid pursuant to Clause 8.2(b).

## 8.3 Default interest

- (a) If the Company fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which is two per cent. per annum higher than the rate of interest applicable to the Notes. Any interest accruing under this Clause 8.3 to a Holder shall be immediately payable by the Company on demand by that Holder.
- (b) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

## 8.4 Notification of rates of interest

The Company shall promptly notify the Holders of the determination of a rate of interest under this Agreement.

## 8.5 PIK Toggle

- (a) The Company shall have the right to elect, no later than 5 Business Days prior to the end of an Interest Period (a “**Toggle Option**”) that the Cash Interest (at the election of the Company) that would otherwise have accrued on the Drawn Facility Amount during that Interest Period and become payable at the end of that Interest Period may be capitalised and paid in kind, it being

specified that in case of exercise of the Toggle Option, the Cash Interest due on the Drawn Facility Amount in respect of the relevant Interest Period will adjust automatically by being reduced by the amount of interest converted into PIK Interest (the "**PIK Toggle Component**"), provided that the accrued interest on Drawn Facility Amount shall be calculated in accordance with paragraph (b) below.

- (b) Subject to Clause 8.6 below, if the PIK Toggle Option is exercised, then the accrued interest for each relevant Interest Period shall be calculated as the aggregate of:
  - (i) the PIK Interest;
  - (ii) the PIK Toggle Component which shall be treated as Additional PIK Interest in accordance with Clause 8.2 (*Interest accrual*);
  - (iii) the First Cash PIK Interest shall be treated as Additional PIK Interest; and
  - (iv) the Subsequent Cash PIK Interest shall be treated as Additional PIK Interest.
- (c) The applicable Cash Interest Rate reduced by the amount of the PIK Toggle Component for that Interest Period, shall be paid in cash on the last day of the relevant Interest Period.

## **8.6 PIK Interest Increase**

- (a) If Cash Interest is not paid in full in accordance with Clause 8.5 (*PIK Toggle*) above in any given Interest Period:
  - (i) an additional 1.50% per annum (the "**First Cash PIK Interest**") shall be treated as Additional PIK Interest and shall be applicable to the Drawn Facility Amount in addition to the existing PIK Interest Rate applicable to the Drawn Facility Amount during that Interest Period; and
  - (ii) the Company shall pay, and the Holders shall be entitled to demand, payment of the Cash Interest due on the Drawn Facility Amount in respect of the relevant Interest Period reduced by the PIK Toggle Component,  
  
such circumstances being the "**First Cash PIK Event**".
- (b) If, in any subsequent year after a First Cash PIK Event, the Cash Interest is not paid for the subsequent Interest Period:
  - (i) an additional 3.00% per annum (the "**Subsequent Cash PIK Interest**") shall be treated as Additional PIK Interest and shall be applicable to the Drawn Facility Amount in addition to the existing PIK Interest Rate applicable to Drawn Facility Amount during that Interest Period (for the avoidance of doubt, instead of the First Cash PIK Interest for that year and not in addition to such First Cash PIK Interest); and
  - (ii) the Company shall pay, and the Holders shall be entitled to demand payment of the Cash Interest due on the Drawn Facility Amount in respect of the relevant Interest Period reduced by the PIK Toggle Component.
- (c) The Company shall have the right to elect, no later than 5 Business Days prior to the end of an Interest Period, to repay all or a proportion of the Additional PIK Interest accrued in accordance with this Clause 8.6 in cash.

## **9. Interest Periods**

- (a) In relation to the Notes, an Interest Period shall be:
  - (i) the period commencing on (and including) the first Issue Date of the Notes and ending on (but excluding) the next Interest Payment Date; and

- (ii) any subsequent period commencing on (and including) an Interest Period Payment and ending on (but excluding) the next Interest Payment Date.
- (b) An Interest Period shall not extend beyond the Maturity Date.

## **SECTION 6**

### **STAMP TAXES, FATCA AND COST AND EXPENSES**

#### **10. Stamp taxes**

The Company shall pay and, within three Business Days of demand, indemnify each Holder against any cost, loss or liability that Holder incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

#### **11. VAT**

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Holder which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply and, accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Holder to any Party under a Finance Document and such Holder is required to account to the relevant Tax Authority for the VAT, that Party must pay to such Holder (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Holder must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Holder (the “**Supplier**”) to any other Holder (the “**Recipient**”) under a Finance Document, and any Party other than the Recipient (the “**Relevant Party**”) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
  - (i) (where the Supplier is the person required to account to the relevant Tax Authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant Tax Authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
  - (ii) (where the Recipient is the person required to account to the relevant Tax Authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant Tax Authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Holder for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Holder for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Holder reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant Tax Authority.
- (d) Any reference in this Clause 11 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term “representative member” to have the same meaning as in the Value Added Tax Act 1994).

- (e) In relation to any supply made by a Holder to any Party under a Finance Document, if reasonably requested by such Holder, that Party must promptly provide such Holder with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Holder's VAT reporting requirements in relation to such supply.

## 12. FATCA Information

- (a) Subject to paragraph (c) below, each Party shall, within ten (10) Business Days of a reasonable request by another Party:
  - (i) confirm to that other Party whether it is:
    - (A) a FATCA Exempt Party; or
    - (B) not a FATCA Exempt Party;
  - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
  - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Holder to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
  - (i) any law or regulation;
  - (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

## 13. FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Company and the other Holders.

## **14. Costs and Expenses**

### **14.1 Transaction expenses**

- (a) Each Party shall bear its own costs and expenses incurred by them in connection with the negotiation, preparation, printing and execution of:
    - (a) this Agreement, other Transaction Documents and any other documents referred to in this Agreement; and
    - (b) any other Transaction Documents executed after the date of this Agreement,
- unless otherwise agreed between the Parties.

### **14.2 Amendment costs**

If:

- (a) the Company requests an amendment, waiver or consent in relation to a Finance Document; or
- (b) an amendment is required pursuant to Clause 22.6 (*Change of currency*),

the Company shall, within three Business Days of demand, reimburse each Holder for the amount of all costs and expenses (including legal fees) reasonably incurred by it in responding to, evaluating, negotiating or complying with that request or requirement.

### **14.3 Enforcement costs**

The Company shall, within three Business Days of demand, pay to each Holder the amount of all costs and expenses (including legal fees) incurred by that Holder in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

## **SECTION 7 REPRESENTATIONS AND UNDERTAKINGS**

## **15. Representations**

- (a) The Company makes the representations and warranties set out in this Clause 15 to the Holders in respect of itself only, save for:
  - (i) Clause 15.7 (*Proceedings*), which is made by the Company in respect of itself and each Group Company; and
  - (ii) Clauses 15.9 (*Sanctions – Group Companies*), 15.10 (*Assets*), 15.11 (*Financial Obligations*), 15.13 (*Environment and Health and Safety*), 15.14 (*Compliance*), 15.17 (*Tax*), which are made by the Company in respect of itself and each Group Company.
- (b) Each of the representations and warranties set out in this Clause 15 are made on the date of this Agreement (by reference to the facts and circumstances then existing) save for:
  - (i) Clause 15.2 (*Ownership and Group Companies*);
  - (ii) Clause 15.3 (*Incorporation and constitutional documents*);
  - (iii) Clause 15.4 (*Corporate power and authority*);
  - (iv) Clause 15.5 (*No breach*); and
  - (v) Clause 15.9 (*Sanctions – Group Companies*),

which are made on the date of this Agreement, the Initial Closing Date, each Issue Date and the Final Closing Date (by reference to the facts and circumstances then existing, as applicable).

- (c) The Parties acknowledge that the Subscriber is entering into the Transaction Documents in reliance on the representations and warranties made by the Company (for itself and on behalf of each Group Company where applicable) in this Agreement.

## **15.2 Ownership and Group Companies**

- (a) The structure chart set out in Data Room document 12.1 is a true, accurate and complete reflection of the corporate structure of the Group and reflects all interests (legal, beneficial, or otherwise) held by a Group Company in the share capital or other securities of any body corporate or entity.
- (b) Since the Company's incorporation:
  - (i) the only business that has been carried on, and is carried on, by the Company is the holder of shares in the share capital of the Target (as specified in Schedule 4 (*Shares Owned by Company*)) as an investment and matters ancillary or incidental thereof to or arising out of or in connection with the same;
  - (ii) the Company has not had, and does not have, any assets or liabilities, save for: (A) the shares held by the Company in the Target (as specified in Schedule 4 (*Shares Owned by Company*)); or (B) as specifically set out in the Company Accounts; and
  - (iii) the Company has not been a party to, and is not party to, any contractual arrangements or agreements imposing any undischarged obligation or commitment (save for any Transaction Documents to which it is a party).

## **15.3 Incorporation and constitutional documents**

- (a) The Company is:
  - (i) duly incorporated, duly organised and is validly existing under the laws of the jurisdiction of its incorporation; and
  - (ii) where applicable, is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

## **15.4 Corporate power and authority**

Each Transaction Document to which the Company is a party has been duly authorized by all necessary corporate or equivalent action on the part of the Company, and each such Transaction Document constitutes, legal, valid and binding obligations of the Company enforceable against it in accordance with its terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally; and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

## **15.5 No breach**

The execution, delivery and performance by the Company of each of the Transaction Documents to which it is a party will not:

- (a) contravene, result in any breach of, or constitute a default under, or result in the creation of any Encumbrance in respect of any property of the Company under, any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease, corporate charter, memorandum of

association, articles of association, regulations or by-laws, shareholders agreement or any other agreement or instrument to which the Parent or Company is bound or by which the Company or any of its respective properties may be bound or affected;

- (b) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority applicable to the Company; or
- (c) violate any provision of any statute, law or other rule or regulation of any Governmental Authority applicable to the Company.

## **15.6 Consents**

Save for any legal or regulatory approvals or consents expressly referred to in the Transaction Documents to be obtained prior to Completion, the Company has obtained or will obtain all Governmental Approvals and other filings required by the Company (as necessary) in order to enter into and perform the Transaction Documents to which it is a party in accordance with its terms.

## **15.7 Proceedings**

In respect of each of the Company and the Group, there are no actions, suits, investigations or proceedings pending or, to the best knowledge of its knowledge, threatened in writing against or affecting the Company or any member of the Group or any property of the Company or any member of the Group in any court or before any arbitrator of any kind or before or by any Governmental Authority that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

## **15.8 Solvency**

No order has been made, petition presented or meeting convened for the winding up of the the Company, nor has any moratorium been agreed or declared in respect of, or affecting, all or a material part of its indebtedness, nor any other action taken in relation to the appointment of an administrator, liquidator, receiver, administrative receiver, compulsory manager or any provisional liquidator or equivalent in any other jurisdiction (or other process whereby the business is terminated and the assets of the company concerned are distributed amongst the creditors or shareholders or any other contributors), and there are no proceedings under any applicable insolvency, reorganisation or similar laws in any relevant jurisdiction, and no events have occurred which, under Applicable Laws, would justify any such proceedings.

## **15.9 Sanctions – Group Companies**

- (a) No Group Company:
  - (i) is a Sanctioned Person;
  - (ii) is incorporated, located, resident or carrying on a trade or business in a country or region which is subject to Sanctions; or
  - (iii) is a target of Sanctions.
- (b) Each Group Company is in compliance with Sanctions, Anti-Money Laundering Laws, and Anti-Corruption Laws, and so far as the Company is aware, no circumstances exist that would reasonably be expected to result in any Group Company being designated as a Sanctioned Person or being in breach of Sanctions, Anti-Money Laundering Laws, and Anti-Corruption Laws.
- (c) The Group has implemented, maintains, and enforces policies and procedures reasonably designed to ensure compliance with applicable Sanctions, Anti-Money Laundering Laws, and Anti-Corruption Laws by the Group.



- (d) No part of the proceeds from the Subscriber provided pursuant to the Transaction Documents:
- (i) will be used by any Group Company, directly or indirectly: (A) in connection with any investment in, or transactions or dealing with, a Sanctioned Person; (B) in connection with any investment in, or transactions or dealing with, a country or region which is subject to Sanctions (including a person incorporated, resident or located in such country or region), (C) for any purpose that would cause or be reasonably expected to cause the Subscriber to be in violation of any Sanctions; (D) in any other manner that will result in a violation by any person (including any person participating in the transaction whether as underwriter, advisor, investor or otherwise) of applicable Sanctions or (V) in a manner that would risk, or could reasonably be expected to risk, any Group Company being designated as a Sanctioned Person;
  - (ii) will be used, directly or indirectly, in violation of, or cause the Subscriber to be in violation, or be reasonably expected to cause the Subscriber to be in violation, of any Anti-Money Laundering Laws; or
  - (iii) will be used, directly or indirectly, for the purpose of making any improper payments, including bribes to any governmental officials, commercial counterparties or vendors, to obtain, retain or direct business or obtain any improper advantage, in each case which would be in violation of (or be reasonably expected to be in violation of), or cause the Subscriber to be in violation of (or be reasonably expected to be in violation of), any Anti-Corruption Laws.

#### **15.10 Assets**

Each Group Company has good and sufficient title to their respective properties that individually or in the aggregate are material, including all such properties reflected in the most recent audited balance sheet referred to in the Target Group Accounts or purported to have been acquired by any member of the Group after such date (except as sold or otherwise disposed of in the ordinary course of business), in each case free and clear of Encumbrances prohibited by the Transaction Documents. All leases that individually or in the aggregate are material are valid and subsisting and are in full force and effect in all material respects.

#### **15.11 Financial Obligations**

- (a) The Company is not, and no member of the Group is, in default and no waiver of default is currently in effect, in the payment of any principal or interest on any Indebtedness of the Company or such member of the Group and no event or condition exists with respect to any Indebtedness of the Company or any member of Group that would permit (or that with notice or the lapse of time, or both, would permit) one or more persons to cause such Indebtedness to become due and payable before its stated maturity or before its regularly scheduled dates of payment.
- (b) There is no other event or circumstance is outstanding which constitutes a default by the Company or any Group Company under any other agreement or instrument which is binding on each member of the Group or to which their assets are subject which might have a Material Adverse Effect.

#### **15.12 Loans to directors and connected persons, related party arrangements**

- (a) There is not any outstanding loan made by any Group Company to, or debt owing to any Group Company by the Parent or, so far as the Company is aware:
  - (i) any direct or indirect shareholder of the Parent;
  - (ii) any director of the Parent;

- (iii) any Key Management; or
  - (iv) any person connected to the persons specified in (i) to (iii) above.
- (b) Save as Disclosed in Data Room documents 2.9.1, 2.9.2 and 6.1.2, or as otherwise permitted under the terms of the Shareholders' Agreement, there is no agreement or arrangement to which any Group Company is a party (including any management, consultancy or advisory agreement or like agreements) in which any payment is required to be made currently or in the future, whether upon occurrence of any event (including provision of any services) or otherwise, to the Parent or, so far as the Company is aware:
- (i) any direct or indirect shareholder of the Parent;
  - (ii) any director of the Parent;
  - (iii) any Key Management; or
  - (iv) any person connected with the persons specified in (i) to (iii) above.

### **15.13 Environment and Health and Safety**

- (a) No member of the Group has knowledge of any claim or has received any notice of any claim and no proceeding has been instituted asserting any claim against any member of the Group or any of their respective real properties or other assets now or formerly owned, leased or operated by any of them, alleging any damage to the environment or violation of any Environmental Laws, except, in each case, such as could not reasonably be expected to result in a Material Adverse Effect.
- (b) No member of the Group has knowledge of any facts which would give rise to any claim, public or private, of violation of Environmental Laws or damage to the environment emanating from, occurring on or in any way related to real properties now or formerly owned, leased or operated by any of them or to other assets or their use, except, in each case, such as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.
- (c) No member of the Group has stored any Hazardous Materials on real properties now or formerly owned, leased or operated by any of them in a manner which is contrary to any Environmental Law that could, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.
- (d) No member of the Group has disposed of any Hazardous Materials in a manner which is contrary to any Environmental Law that could, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.
- (e) All buildings on all real properties now owned, leased or operated by each member of the Group are in compliance with applicable Environmental Laws, except where failure to comply could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

### **15.14 Compliance**

Each Group Company owns or possesses all licenses, permits, franchises, authorizations, patents, copyrights, proprietary software, service marks, trademarks and trade names, or rights thereto, that individually or in the aggregate are:

- (a) necessary for the continued carrying on of the businesses of the Group as currently conducted; and
- (b) the failure to so own or possess would have a Material Adverse Effect.

### **15.15 Target Group Accounts**

The Company has delivered to the Subscriber in the Data Room:

- (a) copies of the audited consolidated financial statements of the Target for the Financial Years of the Target ended on 31 March 2021, 31 March 2022, and 31 March 2023; and
- (b) all of such financial statements (including in each case the related schedules and notes) fairly present in all material respects the consolidated financial position of the Target as of the respective dates thereof and the consolidated results of their operations and cash flows for the respective periods so specified and have been prepared in accordance with GAAP consistently applied throughout the periods involved (subject, in the case of any interim financial statements, to normal year-end adjustments).

#### **15.16 Company Accounts**

The Company has delivered to the Subscriber in the Data Room:

- (a) copies of the financial statements of the Company for the last three (3) financial years of the Company (the “**Company Accounts**”); and
- (b) all of such financial statements (including in each case the related schedules and notes) fairly present in all material respects the consolidated financial position of the Company as of the respective dates thereof and the consolidated results of their operations and cash flows for the respective periods so specified and have been prepared in accordance with GAAP consistently applied throughout the periods involved (subject, in the case of any interim financial statements, to normal year-end adjustments).

#### **15.17 Tax**

- (a) Each member of the Group has filed all tax returns that are required to have been filed in any jurisdiction, and have paid all Taxes shown to be due and payable on such returns and all other Taxes and assessments levied upon them or their properties, assets, income or franchises, to the extent such Taxes and assessments have become due and payable and before they have become delinquent, except for any Taxes and assessments (i) the amount of which, individually or in the aggregate, is not material or (ii) the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which the relevant member of the Group, as the case may be, has established adequate reserves in accordance with applicable GAAP. No member of the Group knows of any basis for any other Tax or assessment that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The charges, accruals and reserves on the books of each member of the Group in respect of the Taxes for all fiscal periods are adequate.
- (b) No liability for any Transfer Tax, directly or indirectly, imposed, assessed, levied or collected by or for the account of any Governmental Authority (each, an “**Applicable Taxing Authority**”) will be incurred by the Company or the Subscriber as a result of the execution or delivery of the Transaction Documents to which it is a party.

#### **15.18 No Misleading Information**

Save as Disclosed prior to the date of this Agreement, insofar as the Company is aware: (i) any factual information provided by or on behalf of the Company in writing to the Subscriber prior to the date of this Agreement was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated; and (ii) any financial projection or forecast provided in writing by or on behalf of the Company to the Subscriber are based upon recent historical information and on the basis of the assumptions believed by the Company, as applicable, to be reasonable at the time of being made (provided that the Subscriber acknowledges that any such financial projections and forecasts provided are subject to significant uncertainties and contingencies and that no assurance can be given that such projections or forecasts will be realised).

### 15.19 Validity and admissibility in evidence

All Authorisations required or desirable:

- (a) to enable the Company to lawfully enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and
- (b) to make the Transaction Documents to which the Company is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect.

### 15.20 Governing law and enforcement

- (a) The choice of governing law of the Transaction Documents will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in relation to a Transaction Document in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions, subject to the content of the Legal Opinions.

### 15.21 Ranking

At all times any unsecured and unsubordinated claims of a Holder against the Company under the Finance Documents rank senior to that of a shareholder of the Company's ordinary shares and all other equity or other shareholder interests held by the Company's shareholders in respect of liquidation or other distributions to shareholders, save as set out in the Shareholders' Agreement.

## 16. Information Undertakings

The undertakings in this Clause 16 are for the benefit of the Holders and shall remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents.

In this Clause 16:

**"Annual Financial Statements"** means the audited consolidated financial statements of the Target Group for that Financial Year, together with those of the Target Group and the standalone financials of the Company.

**"Semi-Annual Financial Statements"** means the consolidated financial statements of the Target Group for that Financial Half-Year, together with those of the Target Group and the standalone financials of the Company.

### 16.1 Financial statements

- (a) The Company shall supply to each Holder, as soon as reasonably practicable after they become available, but in any event within 180 days after the end of each Financial Year (starting with the first Financial Year ending after the Initial Closing Date), the Annual Financial Statements.
- (b) The Company shall supply to each Holder promptly after the same are available and in any event within 90 days after the end of each Financial Half-Year (other than the last semiannual fiscal period of each Financial Year), the Semi-Annual Financial Statements.

### 16.2 Requirements as to financial statements

- (a) Each set of financial statements delivered by the Company pursuant to Clause 16.1 (*Financial statements*) shall be certified by a director or Key Management of the relevant company as fairly presenting its financial condition as at the date as at which those financial statements were drawn up.

- (b) The Company shall procure that each set of financial statements delivered pursuant to Clause 16.1 (*Financial statements*) is prepared using GAAP.
- (c) Notwithstanding anything to the contrary herein, at no time and under no circumstances shall (i) any lease, which is or would be deemed by GAAP as in effect immediately prior to the adoption of IFRS 16 (Lease) to be an operating lease, or (ii) any balance sheet liability created pursuant to the application of IFRIC-12 in connection with any lease be treated as a finance lease, Capital Lease or Indebtedness for purposes of this Agreement, regardless of whether GAAP or any other form of accounting standards are being applied at any such time or under any such circumstances.

### **16.3 Designation of Restricted Subsidiaries**

- (a) The Company shall notify the Holders, at the same time as it provides notice under and pursuant to the terms of the Bluefin NPA, of the designation of any Subsidiary of the Target as a Restricted Subsidiary (a "**Bluefin NPA Designation Notice**").
- (b) Upon the provision of such Bluefin NPA Designation Notice, any such entity described in the Bluefin NPA Designation Notice will be deemed to be a Restricted Subsidiary for the purposes of this Agreement.

### **16.4 Information: miscellaneous**

The Company shall supply to each Holder:

- (a) all documents dispatched by the Company to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group, and which might, if adversely determined, have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any member of the Group, and which might have a Material Adverse Effect; and
- (d) promptly, such further information regarding the financial condition, business and operations of any member of the Group as any Holder may reasonably request.

### **16.5 Notification of default**

- (a) The Company shall notify the Holders of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless the Company is aware that a notification has already been provided by any other member of the Group).
- (b) Promptly upon a request by a Holder, the Company shall supply to the Holder a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

### **16.6 "Know your customer" checks**

If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
- (b) any change in the status of the Company (or of a Holding Company of the Company) after the date of this Agreement; or

- (c) a proposed assignment or transfer by a Holder of the Notes and its rights and obligations under this Agreement to a party that is not a Holder prior to such assignment or transfer,

obliges any Holder (or, in the case of paragraph (c) above, any prospective new Holder) to comply with “know your customer” or similar identification procedures in circumstances where the necessary information is not already available to it, the Company shall promptly upon the request of a Holder supply, or procure the supply of, such documentation and other evidence as is reasonably requested by such Holder (for itself or, in the case of the event described in paragraph (c) above, on behalf of any prospective new Holder) in order for such Holder or, in the case of the event described in paragraph (c) above, any prospective new Holder to carry out and be satisfied it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

## **17. General Undertakings**

- (a) The undertakings in this Clause 17 are for the benefit of the Holders and shall remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents.
- (b) For the avoidance of doubt, transactions which are permitted under the Shareholders' Agreement will not contravene any provision of this Clause 17 (*General Undertakings*).

### **17.2 Authorisations**

The Company shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Subscriber of:

any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

- (i) enable it to perform its obligations under the Transaction Documents;
- (ii) ensure the legality, validity, enforceability or admissibility in evidence of any Transaction Documents; and
- (iii) carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

### **17.3 Compliance with Laws**

The Company will (and shall procure that each member of the Group shall) comply with all laws, ordinances or governmental rules or regulations to which each of them is subject (including Environmental Laws and the other laws and regulations that are referred to in this Agreement (if applicable)), and will obtain and maintain in effect all licenses, certificates, permits, franchises and other governmental authorizations necessary to the ownership of its properties or to the conduct of its businesses, in each case to the extent necessary to ensure that non-compliance with such laws, ordinances or governmental rules or regulations or failures to obtain or maintain in effect such licenses, certificates, permits, franchises and other governmental authorizations could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect

### **17.4 Taxation**

The Company shall (and shall procure that each member of the Group shall) file all Tax returns required to be filed in any jurisdiction and to pay and discharge all taxes shown to be due and payable on such returns and all other Taxes and Tax assessments imposed on them or any of their properties, assets, income or franchises, to the extent the same have become due and payable and before they have become delinquent and all claims for which sums have become due and payable that have or might

become a Security on properties or assets of the Company or the relevant Group Company, provided that the Company or the relevant Group Company need not pay any such Tax or Tax assessment if (a) the amount, applicability or validity thereof is contested by the Company or the relevant Group Company on a timely basis in good faith and in appropriate proceedings, and the Company or the relevant Group Company has established adequate reserves therefor in accordance with GAAP on the books of the Company or the relevant Group Company or (b) the non-payment of all such Taxes and Tax assessments could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

### **17.5 Negative Pledge**

The Company will not, directly or indirectly create, incur, assume or permit to exist (upon the happening of a contingency or otherwise) any Security on or with respect to any property or asset (including any document or instrument in respect of goods or accounts receivable) of the Company, whether now owned or held or hereafter acquired, or any income or profits therefrom, or assign or otherwise convey any right to receive income or profits, other than Permitted Security.

### **17.6 Equity**

Except as otherwise provided for in the Transaction Documents, the Company will not make any decision affecting the equity and quasi equity of the Group (including any issuance of shares or equity or the creation of any options or other rights to subscribe for or to convert into securities issued by any Group Company) other than a Permitted Share Issue.

### **17.7 Insolvency**

The Company may not initiate, and will procure that no other member of the Group initiates (as applicable), liquidation, administration, dissolution, arrangement with the creditors generally, winding-up or other insolvency or winding up procedures of:

- (a) the Target;
- (b) the Company; or
- (c) a Group Company that:
  - (i) holds a concession or similar right to operate a cruise port in any jurisdiction; and/or
  - (ii) undertakes material operations in the context of the Group as a whole.

### **17.8 Management Incentive Plan**

The Company will not implement or amend any MIP, other than a Permitted MIP.

### **17.9 Restriction on IPO**

The Company will not enter into any IPO which is not a Permitted IPO.

### **17.10 Restriction on Disposal**

The Company will not sell, lease, license, assign, transfer or otherwise dispose of any of its properties or assets, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith (each, or any combination thereof, a “Disposition”) other than any Disposition which is permitted under the Transaction Documents.

### **17.11 No Change of Business**

The Company will procure that the Target Group will not engage in any business that falls outside the usual frame of activities of the Group or to significantly reduce or make any fundamental changes to the material activities of the Group other than a Permitted Business.

#### **17.12 Amendment to Articles**

Neither the Company nor the Parent will procure any amendment to the Company's articles of association or other governance documents in any manner that disproportionately or adversely affects the rights of the holders of the Preference Shares and/or the Subscriber as compared to the holders of ordinary shares or any other securities, for the avoidance of doubt, other than the Amendments to the Company's Constitutional Documents.

#### **17.13 Pari Passu Ranking**

The Company shall ensure that at all times any unsecured and unsubordinated claims of a Holder against it under the Finance Documents rank senior to that of a shareholder of the Company's ordinary shares and all other equity or other shareholder interests held by the Company's shareholders in respect of liquidation or other distributions to shareholders, save as set out in the Shareholders' Agreement.

#### **17.14 Arms' Length Transactions**

The Company will not enter into directly or indirectly any transaction or group of related transactions (including the purchase, lease, sale or exchange of properties of any kind or the rendering of any service) with any Affiliate, except in the ordinary course and pursuant to the reasonable requirements of the Company's business and upon fair and reasonable terms no less favourable to the Company than would be obtainable in a comparable arm's-length transaction with a person which is not an Affiliate.

#### **17.15 Dividends and Share Redemption**

Except as permitted under the Shareholders' Agreement, the Company shall not:

- (a) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
- (b) repay or distribute any dividend or share premium reserve;
- (c) pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of any of the shareholders of the Parent; or
- (d) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.

#### **17.16 Restrictions on incurrence of Indebtedness**

The Company will not create, assume, incur, guarantee, permit to exist or have outstanding or otherwise be or become liable in respect of any Indebtedness other than Permitted Indebtedness.

#### **17.17 Litigation**

The Company will not, and will procure that no other Group Company will, commence or settle any material litigation or matter related to environmental, anti-corruption, money-laundering, sanctions, anti-slavery, child labour or anti-discrimination laws, statutes, ordinances, rules or regulations or admission of liability on the part of any Group Company which could or may reasonably be expected to have an adverse effect on the business, financial position, reputation and/or goodwill of the Group and/or the Subscriber in its capacity as a shareholder of the Group.

#### **17.18 Anti-Corruption Laws; Anti-Money Laundering and Sanctions**

The Company will not:



- (a) become (including by virtue of being owned or controlled by a Sanctioned Person), own or control a Sanctioned Person; or
- (b) directly or indirectly have any investment in or engage in any dealing or transaction (including any investment, dealing or transaction involving the proceeds of the Notes) with any person if such investment, dealing or transaction would be in violation of, or could result in the imposition of sanctions under, any Economic Sanctions Laws applicable to the Company, except, in the case of this paragraph (b), to the extent that such violation or sanctions, if imposed, could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

#### **17.19 Scheme/Offer Undertakings**

The Company will comply with the undertakings set out in Schedule 5 (*Scheme/Offer Undertakings*).

#### **17.20 Acquisitions**

The Company shall not acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them), if any such acquisition would reasonably likely have a Material Adverse Effect, other than the Acquisition.

#### **17.21 Joint Ventures**

The Company shall not:

- (a) enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any joint venture; or
- (b) transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a joint venture or maintain the solvency of or provide working capital to any joint venture (or agree to do any of the foregoing),

if to do would reasonably likely have a Material Adverse Effect, other than the Acquisition.

#### **17.22 Loans**

The Company shall not be a creditor in respect of any Indebtedness, other than a Permitted Loan.

#### **17.23 No Guarantees**

The Company shall not incur or allow to remain outstanding any guarantee in respect of any Indebtedness.

#### **17.24 Condition Subsequent**

The Company shall, no later than the date falling 3 months after the date of this Agreement, procure acceptance by the Target of its appointment as agent for service of process in accordance with Clause 31.2 (*Service of Process*) of this Agreement.

#### **17.25 Further Assurance**

The Company will, promptly upon the reasonable request by the Holders:

- (a) correct any material error that may be discovered in any Finance Document or in the execution, acknowledgment, filing or recordation thereof; and
- (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Holders may reasonably require from time to time in order to (i) give effect to and carry out more effectively the purposes of the Finance Documents, and (ii) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Holders the rights granted or

now or hereafter intended to be granted to the Holders under any Finance Document or under any other instrument executed in connection with any Finance Document to which the Company or the relevant member of the Group is or is to be a party.

## **18. Further Event**

Each of the events or circumstances set out in this Clause 18 is a Further Event.

### **18.1 Unlawfulness and invalidity**

- (a) It is or becomes unlawful for the Company to perform any of its obligations under the Finance Documents.
- (b) Any obligation or obligations of the Company under any Finance Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Holders under the Finance Documents.

### **18.2 Repudiation and rescission of agreement**

The Company rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or the Shareholders' Agreement.

## **SECTION 8 CHANGES TO PARTIES**

## **19. Changes to the Holders**

### **19.1 Conditions of transfer of Notes**

- (a) During the Certain Funds Period, the prior written consent of the Company (in its sole and absolute discretion and never deemed granted) is required for a transfer of the Notes in accordance with the provisions of the Shareholders' Agreement, unless the transfer is made at a time when a Major Event of Default or a Further Event is continuing.
- (b) Notwithstanding Clause 19.1(a) above, following the expiry of the Certain Funds Period, any transfer of Notes shall be made in accordance with the Shareholders' Agreement.

## **SECTION 9 THE HOLDERS**

## **20. Conduct of Business by the Holders**

No provision of this Agreement will:

- (a) interfere with the right of any Holder to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Holder to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Holder to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

## **21. Sharing Among the Holders**

### **21.1 Payments to Holders**

If a Holder (a “**Recovering Holder**”) receives or recovers any amount from the Company other than in accordance with Clause 22 (*Payment mechanics*) (a “**Recovered Amount**”) and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Holder shall, within three Business Days, notify details of the receipt or recovery to the other Holders;
- (b) if any of the other Holders requires and so notifies the Company, the Company shall promptly ask the Holders to determine whether the receipt or recovery is in excess of the amount the Recovering Holder would have been paid had the receipt or recovery been received or made and distributed in accordance with Clause 22 (*Payment mechanics*);
- (c) the Recovering Holder shall, within three Business Days of demand by a Holder, pay to the other Holders an aggregate amount (the “**Sharing Payment**”) equal to such receipt or recovery less any amount which the Majority Holders determine may be retained by the Recovering Holder as its share of any payment to be made, in accordance with Clause 22.2 (*Partial payments*); and
- (d) the Recovering Holder shall promptly notify the Company of any Sharing Payment made under paragraph (c) above.

## 21.2 Redistribution of payments

Each Holder shall treat the Sharing Payment as if it had been paid by the Company and distributed in accordance with Clause 22.2 (*Partial payments*) towards the obligations of the Company to that Holder.

## 21.3 Recovering Holder’s rights

On a distribution by a Recovering Holder under Clause 21.1 (*Payments to Holders*) of a payment received from the Company, as between the Company and the Recovering Holder, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by the Company.

## 21.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Holder becomes repayable and is repaid by that Recovering Holder, then:

- (a) each other Holder shall, upon request of that Recovering Holder, pay to that Recovering Holder an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Holder for its proportion of any interest on the Sharing Payment which that Recovering Holder is required to pay) (the “**Redistributed Amount**”); and
- (b) as between the Company and each relevant Holder, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by the Company.

## 21.5 Exceptions

- (a) This Clause 21 shall not apply to the extent that the Recovering Holder would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the Company.
- (b) A Recovering Holder is not obliged to share with any other Holder any amount which the Recovering Holder has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified that other Holder of the legal or arbitration proceedings; and

- (ii) that other Holder 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.

## **SECTION 10 ADMINISTRATION**

### **22. Payment Mechanics**

#### **22.1 Payments**

- (a) On each date on which the Company or a Subscriber is required to make a payment under a Finance Document, the Company or Subscriber shall make the same available to its recipient (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by its recipient as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the recipient of the payment) with such bank as the recipient of the payment specifies.
- (c) In the case of amounts payable in respect of the Notes on redemption, payments shall only be made upon surrender (or in the case of part payment only, endorsement) of the relevant Note Certificates at the registered office of the Company.

#### **22.2 Partial payments**

- (a) If a Holder receives a payment that is insufficient to discharge all the amounts then due and payable to that Holder by the Company under the Finance Documents, that Holder shall apply that payment towards the obligations of the Company under the Finance Documents in the following order:
  - (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of any of the Holders under the Finance Documents;
  - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under this Agreement;
  - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement; and
  - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Majority Holders may vary the order set out in paragraphs (a)(i) to (a)(iv) above.
- (c) Paragraphs (a) and (b) will override any appropriation made by the Company.

#### **22.3 No set-off by the Company**

All payments to be made by the Company under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

#### **22.4 Business Days**

- (a) Any payment under a Finance Document which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

- (b) A Holder of a Note shall not be entitled to any interest or other payment in respect of any delay in payment resulting from the due date for payment not being a Business Day.

## **22.5 Currency of account**

- (a) Subject to paragraphs (b) to (e) below, euro is the currency of account and payment for any sum due from the Company under any Finance Document.
- (b) Any redemption or purchase of the Notes shall be made in the currency in which the Notes are denominated, pursuant to this Agreement, on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated, pursuant to this Agreement, when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than euro shall be paid in that other currency.

## **22.6 Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Majority Holders (after consultation with the Company); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Majority Holders (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement and the Notes will, to the extent the Majority Holders (acting reasonably and after consultation with the Company) specify to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

## **22.7 Disruption to payment systems etc.**

If either the Majority Holders determine (in their discretion) that a Disruption Event has occurred or the Holders are notified by the Company that a Disruption Event has occurred:

- (a) the Majority Holders may, and shall if requested to do so by the Company, consult with the Company with a view to agreeing with the Company such changes to the operation or administration of the Notes as the Majority Holders may deem necessary in the circumstances; and
- (b) the Majority Holders shall not be obliged to consult with the Company in relation to any changes mentioned in paragraph (a) above if, in their opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes.

## **23. Notices**

### **23.1 Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by electronic mail (in accordance with Clause 23.4 (*Electronic Communication*)) or letter.

## 23.2 Addresses

The address and electronic mail address (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 the Finance Documents is:

- (a) in the case of the Company, that identified with its name below;
- (b) in the case of the Subscriber, that notified in writing to the other Parties on or prior to the date on which it becomes a Party; and
- (c) in the case of any Holder, that specified in the Register,

or any substitute address or electronic mail address or department or officer as the Party may notify to the other Parties by not less than five Business Days' notice.

The relevant notice details of the Company and the Subscriber are as follows:

Global Ports Holding B.V.	<p><b>Address:</b> Eerste Weteringplantsoen 8, 1017 SK Amsterdam, the Netherlands</p> <p><b>Email address(es):</b> <a href="mailto:mehmetk@global.com.tr">mehmetk@global.com.tr</a> and <a href="mailto:legal@global.com.tr">legal@global.com.tr</a></p> <p><b>For the attention of:</b> Chief Executive Officer and Chief Legal Officer</p>
PEIF III LUXCO TWO S.À R.L.	<p><b>Address:</b> DWS Alternatives Global Limited, 45 Cannon Street, London EC4M 5SB</p> <p><b>Email address(es):</b> <a href="mailto:scott.auty@dws.com">scott.auty@dws.com</a>, <a href="mailto:florian.hubel@dws.com">florian.hubel@dws.com</a>, <a href="mailto:sam.bateman@dws.com">sam.bateman@dws.com</a></p> <p><b>For the attention of:</b> Scott Auty, Florian Hubel &amp; Sam Bateman</p>

## 23.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
  - (i) if by way of electronic mail, in accordance with Clause 23.4 (*Electronic Communication*), when received in legible form 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 which becomes effective, in accordance with paragraph (a) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

## 23.4 Electronic communication

- (a) Any communication or document to be made or delivered by one Party to another under or in connection with the Finance Documents may be made or delivered by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication or delivery as specified in paragraph (a) above to be made between the Company and a Holder may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication or delivery.
- (c) Any such electronic communication or document as specified in paragraph (a) above made or delivered by one Party to another will be effective only when actually received (or made available) in readable form and in the case of any electronic communication or document made or delivered by a Party to a Holder only if it is addressed in such a manner as that Holder shall specify for this purpose.
- (d) Any electronic communication or document which becomes effective, in accordance with paragraph (c) above, after 5.00 p.m. in the place in which the Party to whom the relevant communication or document is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in a Finance Document to a communication being sent or received or a document being delivered shall be construed to include that communication or document being made available in accordance with this Clause 23.4.

### **23.5 Use of Websites**

- (a) The Company may satisfy its obligation under this Agreement to deliver any information in relation to those Holders (the “**Website Lenders**”) by posting this information into: [www.globalportsholding.com](http://www.globalportsholding.com) (“**Designated Website**”) if agreed to in writing by the relevant Holders.
- (b) Any Website Lender may request one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Company shall at its own cost comply with any such request within ten Business Days.

### **23.6 English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by a Holder, 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.

### **23.7 Holder notices**

Any Holder may by notice to the Company appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Holder under the Finance Documents. Such notice shall contain the address, and electronic mail address and/or any

other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, electronic mail address (or such other information), department and officer by that Holder for the purposes of Clause 23.2 (*Addresses*) and paragraph (a)(ii) of Clause 23.4 (*Electronic communication*) and the Company shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Holder.

## **24. Calculations and Certificates**

### **24.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Holder are *prima facie* evidence of the matters to which they relate.

### **24.2 Certificates and determinations**

Any certification or determination by a Holder of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### **24.3 Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

## **25. Partial Invalidity**

If, at any time, any provision of a Finance Document 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.

## **26. Remedies and Waivers**

No failure to exercise, nor any delay in exercising, on the part of any Holder, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any Finance Document on the part of any Holder shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

## **27. Amendments and Waivers**

### **27.1 Required consents**

Subject to Clause 27.2 (*All Holder matters*) and Clause 27.3 (*Other exceptions*), any term of the Finance Documents may be amended or waived only with the consent of the Majority Holders and the Company and any such amendment or waiver will be binding on all Parties.

### **27.2 All Holder matters**

An amendment or waiver of any term of any Finance Document that has the effect of changing or which relates to:

- (a) the definition of “Majority Holders” in Clause 1.1 (*Definitions*);



- (b) an increase in the principal amount of the Notes such that the outstanding principal amount of the Notes exceeds EUR 150,000,000 at any point, upon redenomination into euros in accordance with Clause 4.3 (*Redenomination of the Notes*);
  - (c) the definition of "Availability Period" or "Certain Funds Period";
  - (d) Schedule 5 (Scheme/Offer Undertakings);
  - (e) an extension to the date of payment of any amount under the Finance Documents;
  - (f) a reduction in the amount of any payment of principal, interest, fees or commission payable;
  - (g) a change in currency of payment of any amount under the Finance Documents;
  - (h) a change to the Company;
  - (i) any provision which expressly requires the consent of all the Holders;
  - (j) Clause 3.3 (*Holder's rights and obligations*), Clause 6.1 (*Scheduled redemption*), Clause 6.3 (*Redemption at the option of Holders due to Illegality*), 6.4 (*Redemption at the option of the Holders*), Clause 19 (*Changes to the Holders*), Clause 21 (*Sharing among the Holders*), this Clause 27, Clause 30 (*Governing Law*) or Clause 31.1 (*Jurisdiction*); or
  - (k) Clause 6.8 (*Make Whole Amount/Prepayment Fee*) including any definitions contained therein.
- shall not be made without the prior consent of all Holders of the Notes then outstanding.

### **27.3 Other exceptions**

An amendment or waiver of any of the provisions of Clause 3 (*Issue and Subscription of the Notes*), or Clause 4 (*Note Issuance*) or any defined term used in such Clauses may not be effected without the consent of the Subscriber.

## **28. Confidential Information**

### **28.1 Restrictions on Confidential Information**

Each Party undertakes to the other Parties that before and after the expiry or termination of this Agreement, it:

- (a) shall (and shall procure that its Affiliates, officers, employees and agents) preserve the confidentiality of Confidential Information; and
- (b) shall not, by failure to exercise due care, or otherwise by any act or omission, disclose to any person any Confidential Information (and it shall not permit or assist its Affiliates, officers, employees, agents or contractors to do any such thing),

subject to the following provisions of this Clause 28.

### **28.2 Permitted disclosure**

The restrictions imposed by Clause 28.1 (*Restrictions on Confidential Information*) shall not apply to the disclosure of Confidential Information by a Party (the "**Disclosing Party**"):

- (a) under the terms of this Agreement;
- (b) by an Investor to any member of its Investor Group where the recipient, in the reasonable opinion of the Disclosing Party, requires the information for a purpose reasonably incidental to the Disclosing Party's investment in the Group, and provided that the recipient member of the Investor Group is, or agrees to be, bound by terms as to the confidentiality of the information so disclosed no less strict than this Clause 28.2;

- (c) to its directors, officers, employees, agents and professional or other advisers (or in the case of an Investor to those of any other member of its Investor Group) (“**Disclosure Representatives**”) where the recipient, in the reasonable opinion of the Disclosing Party, requires the information for a purpose reasonably incidental to the Disclosing Party's investment in the Group;
- (d) to the extent that the relevant Confidential Information is in the public domain otherwise than by breach of this Agreement by any Party or any of its Disclosure Representatives;
- (e) which was disclosed to the Disclosing Party by a third party without there being any breach of any confidentiality (so far as the Disclosing Party is aware having made reasonable enquiry) restrictions by that third party;
- (f) which is Confidential Information described in paragraphs (a) and (b) of the definition of Confidential Information, for the purpose of conducting the Business, to the extent necessary to do so, provided that before any information is disclosed, the intended recipient provides a legally enforceable undertaking (in a form acceptable to the Company) to keep it confidential;
- (g) to the extent required by Applicable Laws (including to any Governmental Authority or anti-trust body), or for the purposes of judicial, arbitral or administrative proceedings arising out of or in connection with this Agreement or any other agreement or arrangement contemplated by this Agreement;
- (h) to the extent required to be disclosed by the regulations of any stock exchange or regulatory or supervisory authority to which the Disclosing Party or any member of its Investor Group is from time to time subject (whether or not having the force of law, but, if not having the force of law, being of a type with which persons to which it applies are accustomed to comply), provided that if a Party becomes required, in any of the foregoing circumstances to disclose any Confidential Information, it shall (to the extent reasonably practicable and not prohibited by Applicable Laws):
  - (i) take into account the other Parties' reasonable requirements to resist or limit such disclosure;
  - (ii) disclose only the minimum amount of Confidential Information that is required to be disclosed; and
  - (iii) request that the recipient of the Confidential Information keeps it confidential;
- (i) to any tax authority competent to impose any tax liability or assess or collect tax, to the extent reasonably required for the purposes of the tax affairs of the Disclosing Party or a member of its group;
- (j) any announcement made in accordance with the terms of the Shareholders' Agreement;
- (k) in the case of an Investor that is a Managed Entity (or a Subsidiary of a Managed Entity):
  - (i) to any current or successor manager, trustee, custodian, adviser or nominee of that Managed Entity, and of any other Managed Entity within its Investor Group, where in any such case the recipient, in the reasonable opinion of the Disclosing Party, requires the information for a purpose reasonably incidental to the Disclosing Party's investment in the Group, provided that the information so disclosed does not relate to any matter described in paragraph (c) of the definition of Confidential Information;
  - (ii) where the disclosure is made to comply with its reasonable ordinary course reporting requirements to its own investors, and is limited only to such information as is necessary to effect such compliance, and provided that the information so disclosed does not relate

to any matter described in paragraph (c) of the definition of Confidential Information; and

- (iii) to actual and prospective investors in or providers of finance to that Managed Entity or an Affiliate of that Managed Entity for the purposes of facilitating such investment in or the provision of finance to that Managed Entity or an Affiliate of that Managed Entity, together with customary fundraising, asset management, reporting, investor relations and/or marketing activities (whether by way of information memorandum, prospectus, presentation, promotional material or otherwise); and
- (l) which is information which a prudent prospective purchaser of Investor Instruments (or any prospective provider of debt finance thereto) might reasonably require to know and which is disclosed to such person(s) and/or their professional or other advisers pursuant to bona fide negotiations, discussions or marketing or syndication activities concerning the sale and purchase (in whole or in part) of the Disclosing Party's Investor Instruments (provided that any such activities are in contemplation of an arm's length sale to such a purchaser who in the reasonable opinion of the Disclosing Party is able to complete the purchase of the Disclosing Party's Investor Instruments in accordance with this Agreement and the Shareholders' Agreement and the Company's constitutional documents), and for this purpose "bona fide negotiations" shall mean negotiations for an arm's length sale to such a purchaser who in the reasonable opinion of the Disclosing Party is able to complete the purchase of such Investor Instruments), in any case provided that before any information is disclosed, the intended recipient provides a legally enforceable undertaking on customary terms to keep it confidential.

### **28.3 Continuing obligations**

The obligations in this Clause 28 are continuing and, in particular, shall survive and remain binding on each Holder for a period of twelve months from the earlier of:

- (a) the date on which all amounts payable by the Company under or in connection with this Agreement and the Notes have been paid in full; and
- (b) the date on which such Holder otherwise ceases to be a Holder.

### **29. Counterparts**

Each Finance Document 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 the Finance Document.

## **SECTION 11 GOVERNING LAW AND ENFORCEMENT**

### **30. Governing law**

This Agreement, the Notes and any non-contractual obligations arising out of or in connection with them are governed by English law.

### **31. Enforcement**

#### **31.1 Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "**Dispute**").
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

### **31.2 Service of process**

- (a) Without prejudice to any other mode of service allowed under any relevant law, the Company:
  - (i) irrevocably appoints the Target as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
  - (ii) agrees that failure by a process agent to notify the Company of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Company must immediately (and in any event within 10 days of such event taking place) appoint another agent on terms acceptable to the Majority Holders.

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

## **Schedule 1**

### **Conditions precedent**

#### **1. Corporate Authorisations**

- (a) A copy of the constitutional documents of each of the Parent and the Company as then in effect.
- (b) A copy of the resolution of the board of directors or managers or equivalent body (as applicable) of the Parent and the Company approving the Transaction Documents to which it is a party.
- (c) A specimen signature for the person(s) authorised in the resolutions referred to in paragraph (b) above to execute the Transaction Documents.
- (d) A customary formalities certificate from the Parent and the Company certifying that:
  - (i) each copy document relating to it specified in paragraphs (a) to (c) above is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of this Agreement; and
  - (ii) in respect of the Company only, issuing the Notes under this Agreement would not cause any borrowing, guarantee, security or similar limit (as applicable) binding on it to be exceeded.

#### **2. Legal opinions**

- (a) A legal opinion of Herbert Smith Freehills LLP, legal advisers to the Subscriber in England, substantially in the form distributed to the Subscriber prior to signing this Agreement.
- (b) A legal opinion from Houthoff London LLP, counsel to the Company as to Dutch law in relation to capacity matters relating to the Company.

#### **3. Diligence**

- (a) A copy of the Report.

#### **4. Rule 2.7 Announcement**

- (a) A copy of the Rule 2.7 Announcement.
- (b) In the case of a Scheme, a certificate from the Company (signed by an authorised signatory) confirming that the Scheme Effective Date has occurred and attaching a copy of the Scheme Court Order.

#### **5. Initial Closing Date Deliverables**

##### **(a) Group Structure Chart**

A copy of the Group structure chart (the “**Group Structure Chart**”) (on the basis that the Final Closing Date has occurred), *provided that* such document shall not require the approval of, or be required to be in form and substance satisfactory to, any person.

**(b) Fees**

Evidence that the costs and expenses then due from the Company pursuant to Clause 14 (*Costs and Expenses*) have been paid or will be paid by the Final Closing Date.

**(c) Funds Flow Statement**

A copy, for information purposes only, of the Funds Flow Statement showing the proposed movement of funds on or about the Final Closing Date, *provided that* such document shall not require the approval of, or be required to be in form and substance satisfactory to, any person.

**(d) KYC**

Completion of the Subscriber's reasonable "**know your customer**" checks in respect of the Company which are required by applicable law or regulation and as notified to the Company not less than 10 Business Days prior to the date of this Agreement.

**(e) Copies of the Acquisition Documents.**

**Schedule 2**  
**Form of Note Certificate**

Note Certificate No. [ ]

Amount[*currency*] [*amount*]

[ ] (the “Company”)

(Incorporated in [ ])

[*currency*][*amount*] [[*interest rate*] per cent. due Notes 20[ ]

This is to certify that [ ] is the registered holder of [*currency*][*amount*] in principal amount of the [*currency*] [*amount*] [[*interest rate*] per cent. notes due 20[ ] (the “Notes”) issued with the benefit of and subject to the provisions contained in the subscription agreement relating to the Notes dated [*date*] and made between the Company and the subscribers named in such agreement (the “**Subscription Agreement**”). Words and expressions defined in the Subscription Agreement shall, unless the context otherwise requires, have the same meanings in this Note Certificate.

Interest is payable on the Notes in accordance with Clauses 9 (*Interest*) and 10 (*Interest Periods*) of the Subscription Agreement, subject to and in accordance with the Subscription Agreement. The Notes are redeemable in accordance with Clause 6 (*Redemption*), subject to and in accordance with the Subscription Agreement.

The Notes are transferable in [*currency*][*amount*] or integral multiples of [*currency*][*amount*] in excess of such amount. This Note Certificate must be surrendered together with a transfer certificate or assignment agreement duly completed and duly executed before any transfer is registered or any new Note Certificate is issued in exchange.

**THE NOTES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OR ANY SECURITIES LAW OF ANY STATE OF THE UNITED STATES AND MAY NOT BE OFFERED, SOLD, RESOLD, DELIVERED OR DISTRIBUTED (DIRECTLY OR INDIRECTLY) IN OR INTO THE UNITED STATES (EXCEPT IN TRANSACTIONS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT OR SUCH OTHER SECURITIES LAW) OR ANY OTHER RESTRICTED JURISDICTION NOR TO NOR FOR THE ACCOUNT OR BENEFIT OF ANY RESTRICTED OVERSEAS PERSON UNLESS, IN RELATION TO ANY US PERSON, THE NOTES ARE REGISTERED UNDER THE SECURITIES ACT OR THE TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.**

[This Note Certificate is evidence of entitlement only and is not a document of title. Entitlements are determined by the Register and only the Holder is entitled to payment in respect of this Note Certificate.]

The Notes [and any non-contractual obligations arising out of or in connection with the Notes] are governed by English law.

**[INSERT APPROPRIATE EXECUTION BLOCK]**

Issued on [ ] 20[ ]

### **Schedule 3**

#### **Regulations Concerning Transfers and Registration of the Notes**

1. The Company shall keep the Register at its registered office and enter in it:
  - (a) the name and address of each Holder;
  - (b) the date on which each person was registered as a Holder;
  - (c) the principal amount of each Note held by a Holder from time to time;
  - (d) the serial number of each Note Certificate issued and the date of its issue; and
  - (e) the date on which a person ceased to be a Holder.
2. The Company shall enter in the Register each change to the information specified in paragraph 2.
3. Without prejudice to Clause 5.2 (Title), a Holder may inspect the Register from 9.00 a.m. to 5.00 p.m. on any Business Day.
4. The Notes may be transferred by execution of the relevant transfer agreement or assignment agreement under the hand of the transferor and the transferee or, where the transferor or transferee is a corporation, under its common seal or under the hand of two of its officers duly authorised in writing.
5. The Note Certificate issued in respect of the Notes to be transferred must be surrendered for registration, together with the relevant transfer agreement or assignment agreement (including any certification as to compliance with any restrictions on transfer), duly completed and executed, at the [registered office] of the Company, and together with such evidence as the Company may reasonably require to prove the title of the transferor and the authority of the persons who have executed the relevant transfer agreement or assignment agreement. The transfer will then be registered and a note of such registration will be entered in the Register. On such registration a new certificate for the Notes transferred will be issued to the transferee.
6. No fee shall be charged for the registration of any transfer or for the registration of any other document relating to or affecting the title to any Notes.
7. The executors or administrators of a deceased Holder of a Note shall be the only persons recognised by the Obligors as having any title to such Note.
8. Any person becoming entitled to any Notes in consequence of the death or bankruptcy of the Holder of such Notes may, upon producing such evidence that he holds the position in respect of which he proposes to act under this paragraph or of his title as the Company reasonably may require (including legal opinions), become registered himself as the Holder of such Notes or, subject to the provisions of these Regulations, the Notes and the Subscription Agreement as to transfer, may transfer such Notes. The Obligors shall be at liberty to retain any amount payable upon the Notes to which any person is so entitled until such person is so registered or duly transfers such Notes.
9. Where there is more than one transferee (to hold other than as joint Holders), separate transfer agreements or assignment agreements must be completed in respect of each new holding.



10. Joint holdings of Notes shall not be permitted and the entries in the Register shall identify a single person as the Holder of each Note.
11. Upon receipt by the Company of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any Note and:
  - (a) in the case of loss, theft or destruction, an indemnity reasonably satisfactory to it; and
  - (b) in the case of mutilation, upon surrender and cancellation thereof, and within 10 Business Days thereafter, the Company at its own expense shall execute and deliver, in lieu thereof, a new Note in respect of such lost, stolen, destroyed or mutilated Note, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note or dated the date of such lost, stolen, destroyed or mutilated Note if no interest shall have been paid thereon.

**Schedule 4**  
**Shares Owned by Company**

<b>Shareholder</b>	<b>Shares owned in Global Ports Holding PLC</b>
Global Ports Holding B.V.	45,068,066

## **Schedule 5**

### **Scheme/Offer Undertakings**

1. The Company will not issue any Press Release unless that Press Release is consistent in all material respects with the Approved Press Release or with Amendments which are not Materially Adverse Amendments.
2. The Company will deliver to the Subscriber copies of each Press Release, Offer Document, Scheme Document and any other material legally binding agreement entered into by the Company in connection with an Offer or Scheme and promptly provide the Subscriber with such information as it may reasonably request in writing as to the status and progress of the Scheme or Offer (including, in the case of an Offer, the current level of acceptances, the implementation and exercise of the Squeeze-Out Rights and the dispatch of any Squeeze-Out Notices (if relevant) but excluding, in the case of a Scheme, the current level of proxies received and notified to the Target in respect of the Scheme and any other information not freely supplied by the Target), any regulatory and anti-trust clearances required in connection with the Acquisition and such other information as it may reasonably request regarding the status of the Acquisition subject, in each case, to any legal, confidentiality, regulatory or other restrictions relating to the supply of such documents or information.
3. The Company will ensure that the terms of the Offer or Scheme as set out in the Offer Documents or the Scheme Documents (as the case may be and, in each case, other than a Press Release) are consistent in all material respects with the Approved Press Release (including, for the avoidance of doubt, following any Switch Election but taking into account the switch made), except for any Required Amendment or an Amendment which is not a Materially Adverse Amendment.
4. The Company will comply in all material respects with the Takeover Code and all other applicable laws and regulations material in relation to any Offer or Scheme, subject to any consents, waivers or dispensations granted by the Takeover Panel or any other applicable regulator or the requirements of any Court.
5. The Company will, in the case of an Offer, following the Initial Closing Date and while any Notes remain outstanding, promptly ensure that Squeeze-Out Notices are delivered to the relevant holders of shares in Target once it is entitled to do so and otherwise comply with all of the applicable provisions of the Company Law to enable it to exercise its Squeeze-Out Rights.
6. The Company will not take any action, and procure that none of its Affiliates nor any person acting in concert with it (within the meaning of the Code) takes any action, which would require a change to be made to the terms of the Scheme or the Offer (as the case may be) pursuant to Rule 6 or Rule 11 of the Takeover Code which change, if made voluntarily, would be a Materially Adverse Amendment.
7. The Company will not at any time (including following the Offer Closing Date or Scheme Effective Date) make any public announcement or public statement (other than in the relevant Press Release or Acquisition Document) concerning this Agreement or the parties to this Agreement (other than the Company) in connection with the financing of the Acquisition without the prior written consent of the Subscriber or unless required to do so by the Takeover Code or the Takeover Panel, the Court, any regulation, any applicable stock exchange, any applicable governmental or other regulatory authority.

8. The Company will, subject always to the Company Law and any applicable listing rules, in the case of a Scheme, within 30 days after the Scheme Effective Date and, in the case of an Offer, within 60 days after the Initial Offer Closing Date, procure, so far as it is legally able to, that such action as is necessary is taken to apply for the cancellation of trading in the Target Shares on the Main Market of the London Stock Exchange and the listing of the Target Shares on the official list maintained by the Financial Conduct Authority pursuant to Part 6 of the Financial Services and Markets Act 2000.
9. If the Acquisition is implemented as a Scheme, the Company shall not without the consent of the Subscriber and save as required by the Takeover Panel, the High Court or any other applicable law, regulation, treat as satisfied or waive any condition of the Scheme where the Company considers it is not actually satisfied or has not been complied with and such condition can be invoked in accordance with Rule 13.5 (a) of the Takeover Code to the extent that doing so would be materially prejudicial to the interests of the Subscriber under the Finance Document.
10. If the Acquisition is implemented as a Scheme, the Company shall notify the Subscriber within 3 Business Days if the Scheme lapses or is withdrawn.
11. The Company shall provide the Subscriber with drafts of the Rule 2.7 Announcement, the Offer Documents and the Scheme Documents and shall take into account any comments reasonably made by the Subscriber. The final version of the Rule 2.7 Announcement, any Offer Document to be sent by the Company to the holders of Target Shares in relation to the terms and conditions of an Offer and any Scheme Document shall not be published without the prior written approval of the Subscriber in respect of any reference to:
  - (a) pricing of any debt financing provided by the Subscriber in accordance with the Finance Documents; and
  - (b) the Subscriber or its Affiliates,included in the Rule 2.7 Announcement, any Offer Document and any Scheme Document. For the avoidance of doubt, the Subscriber shall have no other approval right in respect of the Rule 2.7 Document, any Offer Document and any Scheme Document other than as provided in this paragraph 11.

## Schedule 6 Form of Subscription Request

From: The Company

To: [*Subscriber*]

Dated: [●]

Dear Sirs

[●] – subscription agreement dated [●] 2024 (the "Subscription Agreement")

1. We refer to the Subscription Agreement. This is a Subscription Request. Terms defined in the Subscription Agreement have the same meaning in this Subscription Request unless given a different meaning in this Subscription Request.
2. We request the Subscribers to subscribe for an purchase of the Notes on the following terms:

Company	[●]
Proposed Issue Date:	[●] (or, if that is not a Business Day, the next Business Day, provided that it is within the Availability Period)
Currency of Notes:	US Dollars
Amount:	[●] (which shall not be less than EUR 65,000,000 on the Initial Closing Date, upon redenomination into euros in accordance with Clause 4.3 ( <i>Redenomination of the Notes</i> ))
Interest Period:	[●]
3. We confirm that each condition specified in [Clause 4.5 (*Further Conditions Precedent in respect of Non-Certain Funds Issuances*)]/[Clause 4.6 (*Further Conditions Precedent in respect of Certain Funds Issuances & Certain Funds Closing*)] is or will be satisfied on the Issue Date.
4. [we confirm that this is a Certain Funds Issuance.]<sup>1</sup>
5. [The proceeds of this issuance of Notes should be credited to [*account*]].
6. This Subscription Request is irrevocable.

Yours faithfully

\_\_\_\_\_  
For and on behalf of  
**[THE COMPANY]**

\_\_\_\_\_]

<sup>1</sup> Note: to include where applicable.



GLOBAL PORTS HOLDING B.V.

Name: [Redacted]

Title: Authorised signatory

**EXECUTED** by  
PEIF III Luxco Two S.à r.l. acting by

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