

FACILITY AGREEMENT

UP TO EUR30,900,000

CREDIT FACILITY

dated 15 APRIL 2019

for

ZVOLENSKÁ TEPLÁRENSKÁ, A.S.
as Company

provided by

МЕЖДУНАРОДНЫЙ ИНВЕСТИЦИОННЫЙ БАНК / INTERNATIONAL INVESTMENT BANK
as Lender

ALLEN & OVERY

Allen & Overy Bratislava, s.r.o.

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THIS AGREEMENT is dated 15 April 2019 and made

BETWEEN:

- (1) **ZVOLENSKÁ TEPLÁRENSKÁ, A.S.**, with its registered seat at Lučenecká cesta 25, Zvolen 961 50, Slovak Republic, company identification number (*IČO*): 36 052 248, registered in the commercial register of the District Court Banská Bystrica, section Sa, insert No. 686/S as borrower (the **Company**); and
- (2) **МЕЖДУНАРОДНЫЙ ИНВЕСТИЦИОННЫЙ БАНК / INTERNATIONAL INVESTMENT BANK**, an inter-governmental organisation organised and existing under public international law, created by the Agreement on the Establishment of the International Investment Bank dated 10 July 1970 and registered with the Secretariat of the United Nations, with its official seat at 7, Mashi Poryvaevoy Street, 107078 Moscow, Russian Federation as lender (the **Lender**).

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

Account means:

- (a) any bank account of the Company that is open and is maintained as at the date of this Agreement; and
- (b) any other bank account of the Company opened and maintained after the date of this Agreement with the prior written consent of the Lender.

Account Agreement means each agreement between the Company and the relevant financial institution on the opening and maintenance of an Account.

Affiliate means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

AML/CFT means any anti-money laundering/combating the financing of terrorism or similar laws or regulations applicable to the Lender.

AML/CFT Officer means the officer of the Company responsible for supervising the compliance by the Company with AML/CFT.

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

Availability Period means the period from and including the date of this Agreement to and including the date which falls 24 Months after the date of this Agreement.

Available Commitment means the Commitment minus:

- (a) the amount of any outstanding Loans; and

- (b) in relation to any proposed Utilisation, the amount of any Loans that are due to be made on or before the proposed Utilisation Date.

Assets Pledge Agreement means a Slovak law governed security agreement creating a pledge over any movable and immovable assets of the Company unregistrable in the cadastral register, between the Company as pledgor and the Lender as pledgee, in form and substance satisfactory to the Lender.

Break Costs means the amount (if any) by which:

- (a) the interest which the Lender should have received for the period from the date of receipt of all or any part of a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

- (b) the amount which the Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

Budgeted Costs means the itemised budgeted costs and expenses relating to the Plant Development, in the form set out in Schedule 5 (Budgeted Costs), in any event not to exceed EUR30,900,000.

Building means any immovable structure of any kind comprised in the Plant including:

- (a) the buildings set out in Schedule 7 (Existing Buildings); and
- (b) any other building, road, path, concrete plot, parking place or any other result of construction activity that could be regarded as a structure (*stavba*) under the applicable construction legislation.

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in Bratislava and Moscow and which is also a TARGET Day.

Cashflow Projections means cash flow projections prepared by the Company in respect of the Project until the Termination Date, in form and substance satisfactory to the Lender and confirmed by the Project Monitor in the Zero Report.

Cashflow Report means cash flow report prepared by the Company quarterly in accordance with the parameters set out in Schedule 9 (Cashflow Report) in respect of the Project.

Central Registry means the notarial central registry of pledges (*Notársky centrálny register záložných práv*) in the Slovak Republic established under the Slovak Act No. 323/1992 Coll. on Notaries and Notarial Activities, as amended.

Centre of Main Interests means the "centre of main interests" of the Company for the purposes of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings.

Charged Property means all of the assets of the Company which from time to time are, or are expressed to be, the subject of the Transaction Security.

Civil Code means the Slovak Act No. 40/1964 Coll., as amended.

Commitment means EUR30,900,000 to the extent not cancelled, reduced or transferred under this Agreement.

Commercial Code means the Slovak Act No.513/1991 Coll., as amended.

Commercial Valuation means a report prepared by the Commercial Valuer on the determination of the open market value of the Plant (including all its constituent parts) addressed to, or capable of being relied on by, the Lender.

Commercial Valuer means a provider of property valuation services with international experience in the valuation of properties similar to the Plant, acceptable to the Lender.

Company's Insurance Policy means each contract or policy of insurance required to be arranged and entered into by the Company pursuant to Clause 21.4 (Insurances).

Compliance Certificate means a certificate substantially in the form set out in Schedule 3 (Form of Compliance Certificate) or any other form agreed between the Lender and the Company.

Confidential Information means all information relating to the Company, the Group, the Finance Documents or the Facility of which the Lender becomes aware in its capacity as Lender or which is received by the Lender in relation to the Finance Documents or the Facility from any member of the Group or any of its advisers in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (a) information that:
 - (i) is or becomes public information other than as a direct or indirect result of any breach by the Lender of Clause 34 (Confidential Information);
 - (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
 - (iii) is known by the Lender before the date the information is disclosed to it by any member of the Group or any of its advisers or is lawfully obtained by the Lender after that date, from a source which is, as far as the Lender is aware, unconnected with the Group and which, in either case, as far as the Lender is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
- (b) any Funding Rate.

Confidentiality Undertaking means a confidentiality undertaking in a form agreed between the Company and the Lender.

Construction Permit means, in relation to the Plant Development, any construction permit (*stavebné povolenie*) required by Slovak law or requested by the Lender at the advice of the Project Monitor for the purposes of the Plant Development, which is final and conclusive (*právoplatné*).

Cost Overrun means, at any time, the amount by which any item of costs and expenses comprised within the Projected Costs exceeds the Budgeted Costs for that item at that time and which has not been compensated at that time by:

- (a) a saving on another item included in the Budgeted Costs that has been completed; or

- (b) a reasonably expected saving on any other item (but only to the extent accepted by the Lender in its sole discretion), as such actual or reasonably expected saving is confirmed in the then latest Project Monitor Report, provided that no new items that have not been included in the Budgeted Costs may be compensated from such savings.

Default means an Event of Default or any event or circumstance specified in Clause 22 (Events of Default) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

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 Facility (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, either Party; 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 the other Party:
 - (i) from performing its payment obligations under the Finance Documents; or
 - (ii) from communicating with the other Party 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.

Enforceable Notarial Deed means an enforceable notarial deed in accordance with section 45(2) of the Slovak Act No. 233/1995 Coll. the Execution Code, as amended, under which the Company consented to its enforceability, executed with respect to the Company's payment obligations under the Finance Documents, in form and substance satisfactory to the Lender.

Environment means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including air within natural or man-made structures, whether above or below ground);
- (b) water (including territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including land under water).

Environmental and Social Laws means any applicable law or regulation which relates to:

- (a) pollution or protection of the environment, including related laws or regulations relating to public access to information and participation in decision-making;
- (b) labour and employment conditions;
- (c) occupational health and safety;
- (d) public health, safety and security;

- (e) cultural heritage; or
- (f) resettlement or economic displacement of persons.

Environmental and Social Action Plan means the Environmental and Social Action Plan (ESAP) of the Company, agreed or to be agreed between the Lender and the Company prior to the second Utilisation Date, as amended from time to time with the prior written consent of the Lender.

Environmental and Social Exclusion List means the environmental and social exclusion list of the Lender, contained in a document "Environmental and Social Exclusion List", as it may be amended from time to time and published on the Lender's web-site (www.iib.int, Annex to the IIB Environmental and Social Impact Assessment Guidelines).

Environmental and Social Policy means the environmental and social impact assessment guidelines" of the Lender, contained in a document "Environmental and Social Impact Assessment Guidelines", as amended from time to time and published on the Lender's web-site (www.iib.int).

Environmental Claim means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental and Social Laws.

Environmental Permits means any authorisation and the filing of any notification, report or assessment required at any time under any Environmental and Social Law for the operation of the business of the Company conducted on or from the properties owned or used by the Company.

Establishment means any place of operations where the Company carries out non-transitory economic activity with human means and assets.

EURIBOR means, in relation to any Loan in euro:

- (a) the applicable Screen Rate as of the Specified Time for euro and for a period equal in length to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 10.1 (Unavailability of Screen Rate),

and if, in either case, that rate is less than zero, EURIBOR shall be deemed to be zero.

Event of Default means any event or circumstance specified as such in Clause 22 (Events of Default).

Facility means the term loan facility made available under this Agreement as described in Clause 2 (The Facility).

Facility Office means the office or offices through which the Lender will perform its obligations under this Agreement.

Final Report means, in relation to the Plant Development, the final written report issued by the Project Monitor addressed to the Lender in form and substance satisfactory to the Lender containing confirmations by the Project Monitor at least of the following matters:

- (a) a confirmation that the Plant (including all Buildings and Technology) was completed in compliance with the Specifications and the Supply Documents (as may be changed or amended in accordance with terms of this Agreement), and, except as mentioned under paragraph (b) below, without any defects preventing standard commercial operation of the Plant in accordance with the Specifications;

- (b) a list of defects (*vady*) and incompletions (*nedorobky*), if any, which prevent standard commercial operation of the Plant in compliance with the Specifications, together with a confirmation of:
 - (i) the estimated time within which these defects and incompletions can be removed or rectified; and
 - (ii) amount of costs, which will have to be expended for the removal or rectification of these defects and incompletions and specifying how much of these costs will have to be borne by the Company;
- (c) a confirmation that all occupancy and use Permits (*kolaudačné rozhodnutia*) and all other Permits required for the permanent (*trvalá*) standard commercial operation of all parts of the Plant (which, under applicable laws, may be used and operated only subject to an occupancy, use or other Permits) without any reservations or exceptions that would prevent permanent (*trvalá*) standard commercial operation of the Plant have been issued, including specification of any remarks submitted by any affected public authorities and received by the Company, which remarks are not listed in the Permits;
- (d) a confirmation that Practical Completion has occurred and all Permits required for Practical Completion to occur have been issued and are final and conclusive (*právoplatné*);
- (e) a confirmation of the final status of the Budgeted Costs, the final amount of the actual costs of the Plant Development and the total amount of Cost Overruns, if any, with evidence that all Cost Overruns have been duly paid and a breakdown of the sources from which such Cost Overruns were paid;
- (f) a confirmation that all obligations of the Company towards all Suppliers under the Supply Documents have been fully settled (apart from, if applicable, any obligations towards Suppliers that remain unsettled due to failure of the relevant Supplier to comply with its obligations under the Supply Document or with consent of the Lender) and that the Plant is free and clear of any encumbrances (except for the Security created under the Transaction Security Documents and any Permitted Easements);
- (g) a confirmation that all warranties, guarantees, and other post-completion security arrangements provided by or on behalf of the relevant Suppliers are in place in accordance with the relevant Supply Contracts (including a list and specification of all such security arrangements); and
- (h) any other matters reasonably required by the Lender to be included in that report, which matters have not been reasonably foreseeable as of the date of this Agreement, upon having given a reasonable notice to the Project Monitor with a copy to the Company.

Finance Document means this Agreement, any Transaction Security Document, any Enforceable Notarial Deed and any other document designated as such by the Lender and the Company.

Finance Lease means any lease or hire purchase contract a liability under which would, in accordance with GAAP in force on the date of this Agreement, be treated as a balance sheet liability.

Financial Indebtedness means any indebtedness for or in respect of:

- (a) moneys borrowed;

- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any Finance Lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (i) any amount raised by the issue of shares which are redeemable or are otherwise classified as borrowing under GAAP;
- (j) the amount of any deferred payment due in respect of an asset or service after it has been delivered or provided where the deferred payment is arranged primarily as a method of raising finance or of financing the acquisition of that asset or service or the construction of that asset or service;
- (k) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back, or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under GAAP; and
- (l) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (k) above.

Fitch means Fitch Ratings Limited or any successor to its ratings business.

Funding Rate means any rate notified by the Lender to the Company pursuant to paragraph (a)(ii) of Clause 10.4 (Cost of funds).

GAAP means generally accepted accounting principles in the Original Jurisdiction, excluding IFRS.

General Supplier means a company chosen in compliance with Slovak law to be contracted by the Company as the main supplier of goods and services necessary for the Plant Development.

General Supplier's Insurance Policy means a construction all risk (CAR) insurance policy arranged by the General Supplier for the benefit of the Company in relation to the construction of the Plant arranged pursuant to Clause 21.4 (Insurances).

General Supply Contract means, in relation to the Plant Development a general contractor agreement to be entered into after the date of this Agreement between the Company and the General Supplier, approved by the Project Monitor and acceptable to the Lender, whereby any such agreement must comply with the following minimum criteria:

- (a) fixed schedule of delivery conforming to the Specifications;
- (b) acceptable warranties, penalties customary for the relevant type and volume of works, services or goods;
- (c) immediate ownership by the Company of all supplied assets upon their installation or implementation (*zabudovanie*) into the Plant, irrespective of the payment;
- (d) insurance customary for the relevant type and volume of works, services, or goods;
- (e) guaranteed maximum price or price based on the "open book" principle, as applicable, for the relevant works, services or goods denominated and payable in euro; and
- (f) performance bond securing the due and timely performance of the General Supplier's obligations of not less than 10 per cent. of the respective contractual price of the relevant supply, to be issued on behalf of the General Supplier by a bank acceptable to the Lender and on terms acceptable to the Lender.

Group means the Company and its Subsidiaries for the time being.

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

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

IIB Member States means the countries that are members of the International Investment Bank, a list of which can be found at www.iib.int and currently comprises the Republic of Bulgaria, the Republic of Cuba, the Czech Republic, Hungary, Mongolia, Romania, the Russian Federation, the Slovak Republic, and the Socialist Republic of Vietnam.

IIB Procurement Rules means the rules for the procurement of projects funded by the Lender, as amended from time to time and published on the Lender's web-site (<https://iib.int/en/tenders-procurement-rules>).

Immovable Assets Pledge Agreement means a Slovak law governed security agreement creating a pledge over the Land and the Buildings registrable in the cadastral register, between the Company as pledgor and the Lender as pledgee, in form and substance satisfactory to the Lender.

Information Act means the Slovak Act No. 211/2000 Coll. on free access to information, as amended.

Insurance Policy means a General Supplier's Insurance Policy or a Company's Insurance Policy.

Interest Payment Date means 25 February, 25 May, 25 August and 25 November in each year and falling prior to the Termination Date and the Termination Date, starting with first such date following the first Utilisation Date.

Interest Period means, in relation to a Loan, 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).

Interpolated Screen Rate means, in relation to any Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time for the currency of that Loan.

Invoice means:

- (a) an official tax or accounting document denominated in euro issued by a Supplier to the Company under a Supply Contract in connection with the Plant Development, containing an itemised breakdown of the invoiced materials, works, services and the related prices and all the other details required by applicable regulations; or
- (b) if in relation to a particular cost an official tax or accounting document is not required to be issued pursuant to the applicable regulations, a document in form and substance satisfactory to the Lender issued by a Supplier to the Company under a Supply Contract or entered into between the Company and a Supplier under a Supply Contract, as applicable, evidencing at least an itemised breakdown of the invoiced materials, works, services and the related prices; and identification details of the party to whom the costs shall be paid, and the respective payment details and terms of payment (including account number and maturity date).

Land means plots of land set out in Schedule 8 (Land).

Loan means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan.

Margin means 3.50 per cent. per annum.

Material Adverse Effect means a material adverse effect on:

- (a) the business, operations, property or condition (financial or otherwise) or prospects of the Company or of the Group taken as a whole;
- (b) the ability of the Company to perform its obligations under any Finance Document; or
- (c) the validity or enforceability of, or the effectiveness or ranking of, any Security granted or purporting to be granted pursuant to any of, the Finance Documents, or the rights or remedies of the Lender under any of the Finance Documents.

Month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

Offtake Agreement means an agreement entered into between the Company and its end customer relating to sale and distribution of heat or electricity.

Original Financial Statements means audited individual financial statements of the Company for the year ended 31 December 2017.

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

Own Resources means funds of the Company raised by the Company:

- (a) as a monetary contribution into the registered capital (*peňažný vklad do základného imania*) or other capital funds (*peňažný vklad do ostatných kapitálových fondov*) of the Company;
- (b) as a monetary contribution to its shareholders' or its participants' contributions capital fund (*peňažný vklad do kapitálového fondu z príspevkov akcionárov / spoločníkov*) in accordance with applicable laws;
- (c) as a monetary contribution to funds from profits (*prídely do fondov zo zisku*) in accordance with applicable laws; or
- (d) by provision of funds constituting Subordinated Debt received by the Company in compliance with the Finance Documents.

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.

Permit means:

- (a) the Planning Permit;
- (b) the Construction Permit;
- (c) each Environmental Permit; and
- (d) any other permission, decision, consent, position or any other document or act (whether explicit or implicit) of any person or authority which is required under applicable laws or regulations (whether having the force of a national law or regional or local rule) for the purposes of the development and standard commercial operation of the Plant.

Permitted Activity means:

- (a) the production and distribution of heat and electricity and performance of activities related to the same, including provision of supporting services to the power system of the Slovak Republic (*elektrizačná sústava Slovenskej Republiky*);
- (b) the realization, ownership and management of “Tepláreň A” and “Tepláreň B”, both being heat production facilities owned by the Company;
- (c) the realization, ownership and management of the Project;
- (d) the activities exercised in order to ensure and maintain the corporate existence of the Company; and
- (e) any other business activity carried out after the prior written consent of the Lender.

Permitted Easements means, in relation to the Plant:

- (a) the easements (*vecné bremená*) granted prior to the date of this Agreement to third parties which are recorded on the relevant ownership certificates (*listy vlastníctva*) relating to the Land and the Building(s) as of the date of this Agreement;
- (b) any statutory easement arising in respect of the Plant after the date of this Agreement by operation of law otherwise than as a result of breach by the Company of any of its obligations under any applicable law or regulation or under any arrangement with any third party, to the extent to which it does not prevent or limit standard commercial operation of the Plant; and
- (c) any other easement created with the prior written consent of the Lender.

Planning Permit means in relation to the Plant Development, the decision of the competent authorities in the Slovak Republic that approves the construction of the Plant and all Buildings that constitute the Plant, which is final and conclusive (*právoplatné*).

Plant means the heat production plant constructed as part of the Plant Development and comprising of:

- (a) the Land;
- (b) all Buildings; and
- (c) the Technology.

Plant Development means, as at the date of this Agreement, the project of development of a heating plant in Zvolen, Slovak Republic, to be located on the Land, including the purchase and installation of boilers and other related Technology.

Practical Completion means, in relation to the Plant Development, the date on which:

- (a) all occupancy and use permits (*kolaudačné rozhodnutia*) required for permanent standard commercial operation of the Plant in accordance with the Specifications have become final (*právoplatné*) and copies of such permits were delivered by the Company to the Lender;
- (b) all separate parts of the Plant which may be used without any occupancy and use permits (*kolaudačné rozhodnutia*) have been handed over to the Company by the relevant

Supplier(s) without any defects (*vady*) preventing the use of these parts of the Plant for the purpose for which they were intended and built; and

- (c) the Plant has successfully passed all tests and testing operations required to be made before its permanent commercial use, it has been confirmed as fit for permanent operation and constantly produces heat at the minimum level acceptable to the Lender which is set out in the Zero Report.

Progress Report means, in respect of the Plant Development, a written report issued by the Project Monitor and addressed to the Lender in form and substance satisfactory to the Lender (i) setting out photographs documenting the progress of the Plant Development and (ii) in which the Project Monitor confirms, among other things, the following matters:

- (a) whether the relevant Zero Report or the latest relevant Progress Report (if any) is still complete, correct and up to date (as of the date on which it was prepared), informing the Lender in particular of any change in the relevant Supply Documents, Permits and Specifications (including any partial or full cancellation or revocation thereof) and of any applicable legal regulations relating to the Plant Development, which could cause the relevant Projected Costs to exceed the relevant Budgeted Costs or could cause delay to Practical Completion as set against the relevant Specifications or beyond the Required Completion Date;
- (b) the actual total in percentage terms of the degree of completeness of the Plant Development and of the progress of each item of costs and expenses set out in the relevant Budgeted Costs;
- (c) compliance of the Plant Development with the relevant Permits, Specifications and Supply Documents (including compliance with the timetable and identifying any delays and shifts in the approved timetable);
- (d) the itemised Projected Costs, comparing each item against the corresponding item of the relevant Budgeted Costs and identifying any potential or incurred Cost Overruns;
- (e) that costs and expenses to be financed from any Loan within the relevant period are included in the relevant Budgeted Costs together with an approval of the relevant Invoices;
- (f) that the materials, works, services and other items set out in the Invoices delivered to the Lender (may be an attachment to the Progress Report), other than in any Invoices delivered to the Lender in connection with any previous Progress Report, have been procured and performed and have not been paid for;
- (g) that the Invoices delivered to the Lender in connection with any previous Utilisation Request have been fully paid;
- (h) whether any risks have emerged or are expected to emerge in the course of the Plant Development and, if so, the steps taken or to be taken to mitigate those risks;
- (i) whether any damage has occurred to any part of the Plant and, if so, the steps taken or to be taken to remedy it;
- (j) overview of Supplier(s)' payment instructions based on the Invoice(s) delivered to the Lender which are to be financed from a Loan (at least with the following scope: identification of a Supplier, Invoice no., issue date, Supplier's bank account no., due amount, due date, variable symbol);

- (k) confirming that the current stage of the Plant Development is in compliance with the Supply Documents, Specifications and the Budgeted Costs or all their relevant parts (and, if there are any discrepancies, providing justification and comments on these discrepancies); and
- (l) any other matter required by the Lender (acting reasonably) to be included in that report, which matters have not been reasonably foreseeable as of the date of this Agreement, upon having given reasonable notice to the Project Monitor, with a copy to the Company.

Prohibited Activities means production or trade of weaponry, ammunition, military goods, production or trade of tobacco; casinos, lottery or other gambling facilities, any activity that is capable of causing harm to the Environment and cannot be remedied, activities prohibited by international conventions, activities which are illegal in the Original Jurisdiction, any activities prohibited by the Environmental and Social Exclusion List and any other practices prohibited by the Lender's internal policies.

Prohibited Practice means any Corrupt Actions, Fraudulent Actions, Coercive Actions, Collusive Actions or Obstructive Actions, as those terms are defined and interpreted in accordance with Schedule 6 (Definitions and interpretative guidelines of the Lender).

Project means:

- (a) the Plant Development; and
- (b) the subsequent standard commercial operation of the Plant, primarily for the purposes of generating and distributing heat.

Projected Costs means, at any time, the latest estimate by the Company and confirmed by the Project Monitor in the latest Project Monitor Report of each of the items of costs and expenses specified in the Budgeted Costs.

Project Monitor means a reputable provider of development monitoring and surveillance services with experience in the monitoring of the progress and completion of projects similar to the Project, acceptable to the Lender.

Project Monitor Agreement means the agreement between the Lender, the Company and the Project Monitor (including all its schedules and annexes) for the provision of development monitoring and surveillance services related to the status, progress and completion of the Plant Development specified therein by the Project Monitor to the Lender at the Company's cost (which must be provided for in the Budgeted Costs) and with direct liability of the Project Monitor for damage caused to the Lender by the Project Monitor, in form and substance satisfactory to the Lender.

Project Monitor Report means the Zero Report, a Progress Report or the Final Report.

Quotation Day means, in relation to any period for which an interest rate is to be determined, two TARGET days before the first day of that period (unless market practice differs in the Relevant Market, in which case the Quotation Day will be determined by the Lender in accordance with market practice in the Relevant Market (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days)).

Receivables Pledge Agreement means a Slovak law governed security agreement creating a pledge over the existing and future rights and receivables of the Company (including receivables under all Account Agreements, Supply Documents, Offtake Agreement and Insurance Policies) between the Company as pledgor and the Lender as pledgee, in form and substance satisfactory to the Lender.

Reference Banks means three leading banks on the Relevant Market, as appointed by the Lender in consultation with the Company.

Reference Bank Rate means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Lender at its request by the Reference Banks:

- (a) (other than where paragraph (b) below applies) as the rate at which the relevant Reference Bank believes one prime bank is quoting to another prime bank for interbank term deposits in euro within the Participating Member States for the relevant period; or
- (b) if different, as the rate (if any and applied to the relevant Reference Bank and the relevant period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator.

Relevant Jurisdiction means, in relation to the Company:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security expressed to be created by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) any jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

Relevant Market means the European interbank market.

Repayment Date means each date specified under Clause 6.1 (Repayment of Loans).

Repayment Instalment means each scheduled instalment for repayment of the Loans specified under Clause 6.1 (Repayment of Loans).

Repeating Representations means each of the representations set out in Clauses 16.1 (Status) to 16.6 (Governing law and enforcement), Clause 16.9 (No Default), Clause 16.10 (No misleading information), paragraph (e) of Clause 16.11 (Financial statements) and Clauses 16.12 (Pari passu ranking) to 16.24 (Commercial valuations).

Required Completion Date means 30 June 2020.

Screen Rate means the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters.

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

Specifications means:

- (a) all drawings;

- (b) all technical and other specifications (including all applicable building regulations and technical norms);
- (c) all Permits; and
- (d) any timetable,

in each case for the Plant Development and approved by the Project Monitor and supplied by the Company to the Lender as a condition precedent to the second Utilisation Date, as they may be amended from time to time in accordance with terms of this Agreement.

Specified Time means a day or time determined in accordance with Schedule 4 (Timetables).

S&P means S&P Global Ratings, a division of S&P Global Inc. or any successor to its ratings business.

Subordinated Debt means Financial Indebtedness owed by the Company to a creditor, which is subordinated to all Financial Indebtedness owed by the Company to the Lender on terms which are satisfactory to the Lender.

Subsidiary means an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership and **control** for this purpose means the power to direct the management and policies of the entity whether through the ownership of voting capital, by contract or otherwise.

Supplier means the General Supplier and each other supplier of technology, construction, engineering and other works and any services related to the Plant Development engaged directly by the Company.

Supply Contract means:

- (a) the General Supply Contract; and
- (b) each other contract for the supply of construction, technology, engineering and other works, services, and goods related to the Plant Development entered into directly between the Company and the relevant Supplier in form and substance satisfactory to the Lender, including at least the following key terms:
 - (i) a fixed schedule of delivery conforming to the Specifications;
 - (ii) acceptable warranties customary for the relevant type and volume of works, services, or goods;
 - (iii) (if applicable considering the nature of the supplies) immediate ownership by the Company of all supplied assets upon their installation or implementation (*zabudovanie*) into the Plant, irrespective of the payment;
 - (iv) insurance customary for the relevant type and volume of works, services or goods;
 - (v) a guaranteed maximum price or fixed price for the relevant works, services and/or goods in line with the Budgeted Costs for the relevant works, services and/or goods;
 - (vi) a price for the relevant works, services, or goods denominated and payable in euro;and

- (vii) in the case of contracts for construction works, a performance bond bank guarantee in an amount not less than 10 per cent. of the respective contractual price of the relevant supply, securing due and timely performance of Supplier's obligations.

Supply Document means:

- (a) a Supply Contract; and
- (b) any performance bond, warranty bond, or other guarantee or similar instrument securing performance of the obligations of a Supplier under a Supply Contract.

TARGET2 means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

TARGET Day means any day on which TARGET2 is open for the settlement of payments in euro.

Tax means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

Tax Deduction means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

Technology means any movable and immovable assets of the Company unregistrable in the cadastral register, installed in the Building or on the Land and standardly used or operated (or purported to be used or operated) for production of heat, mainly boilers (gas or other substance powered), gas tanks (both overground and underground), turbines, generators, electricity and heat storage units, cogeneration units, measuring units, heat exchangers, heat and other meters, coolers, pipes, feed and return lines (both overground and underground), including any hardware units and software forming part of, or needed for proper operation, of the above, including all related accessories (*príslušenstvo*).

Termination Date means the 15th anniversary of the date of this Agreement.

Transaction Document means:

- (a) a Finance Document;
- (b) a Supply Document;
- (c) an Insurance Policy;
- (d) the Project Monitor Agreement; and
- (e) any other document designated as such by the Lender and the Company.

Transaction Security means the Security created or expressed to be created in favour of the Lender pursuant to the Transaction Security Documents.

Transaction Security Documents means:

- (a) each of the documents listed as being a Transaction Security Document in paragraph 4(b) of Schedule 1 (Conditions precedent); and

- (b) any other document entered into by the Company creating or expressed to create any Security over all or any part of its assets to secure the obligations of the Company under any of the Finance Documents.

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

Utilisation means a utilisation of the Facility.

Utilisation Date means the date of a Utilisation, being the date on which the relevant Loan is to be made.

Utilisation Request means a notice substantially in the relevant form set out in Schedule 2 (Utilisation Request).

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.

Zero Report means, in relation to the Plant Development, an initial written report by the Project Monitor addressed to the Lender containing confirmations of the Project Monitor on at least the following matters:

- (a) a confirmation that the submitted Specifications contain all the Permits and that all these Permits are final and conclusive (*právoplatné*) and in form and substance sufficient for the Plant Development and its completion and further operation in accordance with the Specifications;
- (b) a confirmation that the Supply Documents contain such terms, which (in the context of the Specifications) will ensure that the Plant Development will be completed in accordance with the Specifications;
- (c) a confirmation that the Plant will be capable of permanent operation and constant production of heat at the minimum amount acceptable to the Lender once the Technology is installed at the Plant;
- (d) a confirmation that the Project is capable to generate cashflow which at least at the level of the Cashflow Projections once the Technology is installed at the Plant;
- (e) a confirmation that the Budgeted Costs or their part:
 - (i) have been, having regarded all Specifications, calculated accurately and realistically;
 - (ii) are based on prices standard on the relevant market at the relevant time; and
 - (iii) cover all supplies and works that will be required for completion of the Plant Development in accordance with the Specifications;

- (f) a confirmation on potential savings in Budgeted Costs (if any) resulting from using of a cheaper raw materials and considering any announced reduction of employees and other staff of the Company;
- (g) a confirmation on potential savings in costs of operating of the Plant (if any) resulting from using the Technology (which is, or which is to be, installed within the Plant Development) calculated by comparing the financial performance of the Company, anticipated following Practical Completion, with the financial results of the Company set out in the Original Financial Statements;
- (h) confirming that the timetable of the Plant Development (being part of the Specifications), having regarded all the other Specifications and the relevant Supply Documents, is realistic for Practical Completion to take place on or before the Required Completion Date;
- (i) evaluating potential technical and construction risks of the Plant Development;
- (j) evaluating the existing Suppliers (with respect to their qualifications) and the existing Supply Documents (in particular whether the Supply Contracts: (i) have a guaranteed maximum price in line with the Budgeted Costs or their part and fixed delivery date in line with the timetable, (ii) provide for safeguards and warranties customary and reasonable for the particular type of Supply Contract, providing an overview of performance bonds or other guarantees for the performance of the Suppliers' obligations, and outlining the potential Suppliers and Supply Contracts that will need to be concluded in the later stages of the development; and
- (k) a confirmation that the Cashflow Projections:
 - (i) have been, having regarded all Specifications, calculated accurately and realistically; and
 - (ii) are based on prices standard on the relevant market at the relevant time.

1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
 - (i) the Lender, the Company 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) an **amendment** includes a supplement, novation, extension (whether of maturity or otherwise), restatement, re-enactment or replacement (in each case, however fundamental and whether or not more onerous or involving any change in or addition to the parties to any agreement or document) and **amended** shall be construed accordingly;
 - (iii) **assets** includes present and future properties, revenues and rights of every description;
 - (iv) **disposal** includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary and **dispose** shall be construed accordingly;
 - (v) a **Transaction Document**, **Finance Document** or any other agreement or instrument is a reference to that Transaction Document, Finance Document or other agreement or instrument as amended;

- (vi) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (vii) a **person** includes any 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);
 - (viii) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (ix) a provision or matter **including** or which **includes** shall be construed without limitation to any events, circumstances, conditions, acts or matters specified after those words;
 - (x) a provision of law is a reference to that provision as amended or re-enacted; and
 - (xi) a time of day is a reference to Central European 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) Clause and Schedule headings are for ease of reference only and do not affect the interpretation of this Agreement.
 - (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.
 - (e) A Default is **continuing** if it has not been remedied or waived.

1.3 Currency symbols and definitions

€, EUR and euro denote the single currency of the Participating Member States.

1.4 Slovak law terms

In this Agreement, where it relates to the Company or any other person that is incorporated or has its Centre of Main Interests in the Slovak Republic or to any event or circumstance under Slovak law:

- (a) a **novation** includes *privatívna novácia* and *kumulatívna novácia*;
- (b) a **Security** governed by Slovak law includes *záložné právo*, *zádržné právo*, *zabezpečovací prevod práva*, and *zabezpečovacie postúpenie pohľadávky*;
- (c) a **bankruptcy** or **insolvency** or **administration** includes *konkurzné konanie*, *konkurz*, *reštrukturalizačné konanie*, *reštrukturalizácia*, and *nútená správa*;
- (d) a person being **bankrupt** or **insolvent** includes being *v úpadku*, *predĺžený* or *platobne neschopný*;
- (e) an **expropriation**, **attachment**, **sequestration**, **distress** or **execution** or **analogous event** includes *vyvlastnenie*, *exekúcia* and *výkon rozhodnutia*;

- (f) **winding up, dissolution, administration or reorganisation** includes *likvidácia, zrušenie s likvidáciou, zrušenie bez likvidácie bez právneho nástupcu, konkurzné konanie, konkurz, reštrukturalizačné konanie, reštrukturalizácia* and *nútená správa*;
- (g) **a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer** includes *likvidátor, konkurzný správca, reštrukturalizačný správca* and *nútený správca*;
- (h) **a moratorium** includes *reštrukturalizačné konanie* and *reštrukturalizácia*;
- (i) **constitutional documents** includes *spoločenská zmluva, zakladateľská listina, zakladateľská zmluva, zriaďovacia listina, štatút* and *stanovy*; and
- (j) **shares** includes (i) shares (*akcie*) in a company having the form of a Slovak joint-stock company (*akciová spoločnosť*); and (ii) participation interest (*obchodný podiel*) in a company having the form of a Slovak private limited liability company (*spoločnosť s ručením obmedzeným*).

1.5 Third party rights

- (a) Unless expressly provided to the contrary in a Finance Document 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.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

2. THE FACILITY

Subject to the terms of this Agreement, the Lender makes available to the Company a euro term loan facility in an aggregate amount equal to the Commitment.

3. PURPOSE

3.1 Purpose

- (a) The Company shall apply all amounts borrowed by it under the Facility only towards financing the following costs and expenses relating to the Plant Development (and only to the extent these are Budgeted Costs):
 - (i) costs and expenses associated with the Plant Development; and
 - (ii) upfront fee payable pursuant to Clause 11.1 (Upfront fee).
- (b) For the avoidance of doubt, the Company may not use (in whole or in part) any Loan utilised under the Facility to finance any Cost Overrun.

3.2 Monitoring

The Lender is not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

The Company may not deliver a Utilisation Request unless the Lender has received (or waived receipt of) all of the documents and other evidence listed in Schedule 1 (Conditions precedent) in form and substance satisfactory to the Lender. The Lender shall notify the Company promptly upon being so satisfied.

4.2 Further conditions precedent to the second Utilisation

A Utilisation Request for the second Utilisation may not be delivered unless the Lender has received (or waived receipt of) not later than ten Business Days before the delivery of that Utilisation Request to the Lender in form and substance satisfactory to the Lender:

- (a) a copy of the Specifications;
- (b) a copy of the General Supply Contract (including all its amendments, if any);
- (c) a copy of the Project Monitor Agreement (including all its amendments, if any); and
- (d) the Cashflow Projections.

The Lender shall notify the Company promptly upon being so satisfied.

4.3 Further conditions precedent to the second and each subsequent Utilisation

A Utilisation Request for the second and each subsequent Utilisation may not be delivered unless the Lender has notified the Company that it has received (or waived receipt of) not later than ten Business Days before the delivery of the relevant Utilisation Request to the Lender in form and substance satisfactory to the Lender:

- (a) in relation to the second Utilisation, the Zero Report;
- (b) in relation to the third and any subsequent Utilisation, a Progress Report;
- (c) in case of a Loan to be utilised for the purpose specified in paragraph 3.1(a)(i), counterpart(s) of Invoice(s) to be settled from the proceeds of the requested Loan (if any), approved by the Project Monitor (such Invoices and approval may be part of the Zero Report or Progress Report submitted pursuant to paragraphs (a) or (b) above).

The Lender shall notify the Company promptly upon being so satisfied.

4.4 Further conditions precedent

The Lender will only be obliged to comply with Clause 5.4 (Advance of Loan) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) no Default is continuing or would result from the proposed Loan;
- (b) the Repeating Representations to be made by the Company are true in all material respects; and
- (c) there are no outstanding Cost Overruns identified in the most recent Progress Report that have not been compensated in accordance with the definition of Cost Overrun.

4.5 Maximum number of Utilisations

The Company may not deliver more than one Utilisation Request in any calendar month.

4.6 Waiver of a condition precedent

The Lender may (in its sole discretion) agree to waive any of the conditions precedent set out or referred to in this Clause 4 (Conditions of Utilisation).

5. UTILISATION

5.1 Delivery of a Utilisation Request

The Company may utilise the Facility by delivery to the Lender of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

(a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

(i) the proposed Utilisation Date is:

(A) a Business Day within the Availability Period; and

(B) in the case of a Loan to be utilised for the purpose specified in paragraph 3.1(a)(ii), a day which is the Utilisation Date of the first Loan under the Facility;

(ii) the currency and amount of the Loan comply with Clause 5.3 (Currency and amount);

(iii) it specifies the purpose of the Loan;

(iv) the proceeds of the Loan are to be disbursed as follows:

(A) in case of a Loan to be used for the purpose specified in paragraph 3.1(a)(i) above, to the bank account of the Company specified in the relevant Utilisation Request; and

(B) in case of a Loan under the Facility to be used for the purpose specified in paragraph 3.1(a)(ii) above, the upfront fee payable pursuant to Clause 11.1 (*Upfront fee*), will be paid from the proceeds of the first Utilisation by deducting and retaining by the Lender of the respective amount to be disbursed to the Company .

(b) Except as expressly provided in paragraph (a)(i)(B) above, only one Loan under the relevant Facility may be requested in a Utilisation Request.

5.3 Currency and amount

(a) The currency specified in a Utilisation Request must be euro.

(b) The amount of the proposed Loan must be:

(i) in relation to the first Utilisation, a maximum of EUR1,000,000;

- (ii) in relation to the each Utilisation a minimum of EUR1,000,000 or, if less, the Available Commitment, and:
 - (A) in case of a Loan to be used for the purpose specified in paragraph 3.1(a)(i), the amount of the Invoice(s) to be settled from the proceeds of that Loan approved by the Project Monitor (such approval may be part of the Zero Report or Progress Report submitted to the Lender); and
 - (B) in case of a Loan to be utilised for the purpose specified in paragraph 3.1(a)(ii) above, the amount of upfront fee determined in accordance with Clause 11.1 (Upfront fee);
- (iii) or such other amount as the Lender may agree; and
- (iv) in any case such that it is less than or equal to the Available Commitment.

5.4 Advance of Loan

- (a) If the conditions set out in this Agreement have been met, the Lender shall make each requested Loan available on the Utilisation Date through its Facility Office.
- (b) The Company expressly agrees with disbursement of the Loans pursuant to Clause 5.2(a)(iv) and will owe to the Lender the Loans so disbursed as if they were disbursed to its own account.

5.5 Cancellation of Commitment

The Commitment which, at that time, is unutilised shall be immediately cancelled at the end of the Availability Period.

6. REPAYMENT

6.1 Repayment of Loans

- (a) The Company shall repay the Loans by quarterly instalments each of EUR561,818 (each a **Repayment Instalment**) payable on each Interest Payment Date (each such date being a **Repayment Date**) with the first Repayment Date being the Interest Payment Date which falls, or follows immediately after date which falls, 18 Months after the date of this Agreement.
- (b) The Company may not re-borrow any part of the Facility which is repaid.

6.2 Repayment of amounts outstanding on the Termination Date

Except as specifically provided in the Finance Documents, on the Termination Date the Company shall pay all amounts that remain outstanding from it under the Finance Documents.

7. PREPAYMENT AND CANCELLATION

7.1 Illegality

If, in any applicable jurisdiction, it becomes unlawful for the Lender to perform any of its obligations as contemplated by any Finance Document or to fund or maintain any Loan:

- (a) the Lender shall promptly notify the Company upon becoming aware of that event;
- (b) with immediate effect, the Available Commitment will be cancelled; and

- (c) the Company shall repay each Loan made to it on the last day of the Interest Period for each Loan occurring after the Lender has notified the Company or, if earlier, the date specified by the Lender in the notice delivered to the Company (being no earlier than the last day of any applicable grace period permitted by law).

7.2 Change of control

- (a) For the purposes of this Clause 7.2 (Change of control) a **change of control** occurs if:
 - (i) the Slovak Republic ceases to beneficially own and have the right to vote the entire issued share capital of the Company; and/or
 - (ii) any person or group of persons acting in concert gains direct or indirect control of the Company.
- (b) The Company must notify the Lender promptly upon becoming aware of any change of control.
- (c) After a change of control, unless the Lender gives its prior written consent to such change of control, the Lender:
 - (i) shall not be obliged to fund a Utilisation;
 - (ii) may, by not less than 15 days' notice to the Company:
 - (A) cancel the Commitment whereupon it shall immediately be cancelled; and
 - (B) declare that all Loans, together with accrued interest, and all other amounts accrued under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable.
- (d) For the purpose of paragraph (a) above:

control means the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

- (i) appoint or remove a director or other equivalent officer of an entity; or
- (ii) give directions with respect to the operating and financial policies of an entity with which the directors or other equivalent officers of that entity are obliged to comply; and

acting in concert means acting together or actively co-operating pursuant to an agreement or understanding (whether formal or informal).

7.3 Mandatory prepayment – Zero Report

If the Zero Report has not been delivered to the Lender in form and substance satisfactory to the Lender within six months of the first Utilisation, the Lender:

- (a) shall not be obliged to fund a Utilisation;
- (b) may, by not less than five days' notice to the Company:
 - (i) cancel the Commitment whereupon it shall immediately be cancelled; and

- (ii) declare that all Loans, together with accrued interest, and all other amounts accrued under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable.

7.4 **Mandatory prepayment – insurance proceeds**

- (a) In this Agreement:

Excluded Insurance Proceeds means any proceeds of an insurance claim, received under any Insurance Policy, which:

- (i) are received under liability policies held by the Company;
- (ii) are received by the Company as a result of business interruption, damage or destruction of the Plant or any other assets of the Company provided that no Default has occurred and is outstanding and the total amount of insurance claim in respect of a particular business interruption, damage or destruction does not exceed EUR500,000 on individual basis; or
- (iii) are from time to time agreed in writing between the Company and the Lender not to be used for mandatory prepayment pursuant to this Clause 7.4.

Net Insurance Proceeds means the proceeds of any insurance claim received under any Insurance Policy by the Company, other than Excluded Insurance Proceeds.

- (b) The Company must notify the Lender of receipt of any Net Insurance Proceeds within five Business Days of their receipt.
- (c) Unless the Lender requires otherwise, the Company must apply all Net Insurance Proceeds towards prepaying of the Loans and interest and any other amounts, owed by the Company that are or will become due and payable as a result of such prepayment, on the first Interest Payment Date following after the day of receipt of the respective Net Insurance Proceeds.
- (d) If the Lender so requires, any Net Insurance Proceeds that are to be applied towards prepayment pursuant to this Clause 7.4 must (until so applied) be deposited in a special blocked account opened for this purpose, which will be subject to Security in favour of the Lender.

7.5 **Voluntary cancellation**

The Company may, if it gives the Lender not less than 10 Business Days' (or such shorter period as the Lender may agree) prior notice, cancel the whole or any part (being a minimum amount of EUR1,000,000 and an integral multiple of EUR500,000) of the Available Commitment under the Facility.

7.6 **Voluntary prepayment of Loans**

- (a) The Company may, if it gives the Lender not less than 10 Business Days' (or such shorter period as the Lender may agree) prior notice, prepay the whole or any part of any Loan (but, if in part, being an amount that reduces the amount of the Loan by a minimum amount of EUR1,000,000 and an integral multiple of EUR500,000).
- (b) A Loan may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the Available Commitment under the Facility is zero).

7.7 Right of repayment and cancellation

- (a) If:
 - (i) any sum payable to the Lender by the Company is required to be increased under paragraph (c) of Clause 12.2 (Tax gross-up); or
 - (ii) the Lender claims indemnification from the Company under Clause 12.3 (Tax indemnity) or Clause 13.1 (Increased Costs),

the Company may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Lender notice of cancellation of the Commitment and its intention to repay the Loans.

- (b) On receipt of a notice of cancellation referred to in paragraph (a) above, the Commitment shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Company has given notice of cancellation under paragraph (a) above (or, if earlier, the date specified by the Company in that notice), the Company shall repay that Loan.

7.8 Restrictions

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7.8 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs and prepayment fee in accordance with Clause 11.3 (Prepayment fee), without premium or penalty.
- (c) The Company may not re-borrow any part of the Facility which is prepaid.
- (d) The Company shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitment except at the times and in the manner expressly provided for in this Agreement.
- (e) No amount of the Commitment cancelled under this Agreement may be subsequently reinstated.
- (f) An amount of the Commitment (equal to the amount of the Loan which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

7.9 Effect of cancellation and prepayment on scheduled repayments and reductions

- (a) If the whole or any part of any Available Commitment is cancelled under Clause 7.5 (Voluntary cancellation) or the whole or any part of any Commitment is cancelled under Clause 5.5 (Cancellation of Commitment), then the amount of the Repayment Instalment for each Repayment Date falling after the cancellation will reduce in reverse chronological order by the amount cancelled.
- (b) If the whole or any part of any Loan is prepaid in accordance with Clause 7.4 (Mandatory prepayment – insurance proceeds), and subject to paragraph (c) below, in accordance with Clause 7.6 (Voluntary prepayment of Loans) then the amount of the Repayment Instalment for each

Repayment Date falling after that prepayment will reduce in reverse chronological order by the amount repaid.

- (c) If any prepayment of a Loan meets the criteria set out in paragraph (b) of Clause 11.3 (Prepayment fee), such prepayment will be considered only as an early prepayment of the Repayment Instalment payable on the Repayment Date immediately following the date of prepayment and will have no effect on any other subsequent Repayment Instalments. As a consequence of such prepayment such Repayment Instalment will be deemed reduced by the amount so prepaid, or will be deemed paid in full, if prepaid by the Company in full.

8. INTEREST

8.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of:

- (a) Margin; and
- (b) the applicable EURIBOR.

8.2 Payment of interest

The Company shall pay accrued interest on each Loan on each Interest Payment Date.

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, subject to paragraph (b) below, is 4 per cent. per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Lender (acting reasonably). Any interest accruing under this Clause 8.3 shall be immediately payable by the Company on demand by the Lender.
- (b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
 - (i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
 - (ii) the rate of interest applying to the overdue amount during that first Interest Period shall be 4 per cent. per annum higher than the rate which would have applied if the overdue amount had not become due.
- (c) 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 Lender shall promptly notify the Company of the determination of a rate of interest under this Agreement.

9. INTEREST PERIODS

9.1 Length of Interest Periods

- (a) Each Interest Period for a Loan shall start on its Utilisation Date (including) or (if already made) on the last day of its preceding Interest Period (including) and end on the day immediately preceding the next Interest Payment Date.
- (b) An Interest Period for a Loan shall not extend beyond the Termination Date.

9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

9.3 Consolidation of Loans

If two or more Interest Periods end on the same date, the relevant Loans will be consolidated into, and treated as, a single Loan on the last day of the Interest Period.

10. CHANGES TO THE CALCULATION OF INTEREST

10.1 Unavailability of Screen Rate

- (a) *Interpolated Screen Rate*: If no Screen Rate is available for EURIBOR for the Interest Period of a Loan, the applicable EURIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.
- (b) *Reference Bank Rate*: If no Screen Rate is available for EURIBOR for:
 - (i) euro; or
 - (ii) the Interest Period of a Loan and it is not possible to calculate the Interpolated Screen Rate,the applicable EURIBOR shall be the Reference Bank Rate as of the Specified Time for euro and for a period equal in length to the Interest Period of that Loan.
- (c) *Cost of funds*: If paragraph (b) above applies but no Reference Bank Rate is available for euro or the relevant Interest Period there shall be no EURIBOR for that Loan and Clause 10.4 (Cost of funds) shall apply to that Loan for that Interest Period.

10.2 Calculation of Reference Bank Rate

- (a) Subject to paragraph (b) below, if EURIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks.
- (b) If at or about noon on the Quotation Day none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period.

10.3 Market disruption

If before close of business in Moscow on the Quotation Day for the relevant Interest Period the Lender determines that the costs to it of funding its participation in that Loan from whatever source

it may reasonably select would be in excess of EURIBOR then Clause 10.4 (Cost of funds) shall apply to that Loan for the relevant Interest Period.

10.4 Cost of funds

- (a) If this Clause 10.4 applies, the rate of interest on the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:
 - (i) the Margin; and
 - (ii) the rate notified to the Company by the Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to the Lender of funding that Loan from whatever source it may reasonably select.
- (b) If this Clause 10.4 applies and the Lender or the Company so requires, the Lender and the Company shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.
- (c) Any alternative basis agreed pursuant to paragraph (b) above shall be binding on all Parties.

10.5 Notification to Company

If Clause 10.4 (Cost of funds) applies the Lender shall, as soon as is practicable, notify the Company.

10.6 Break Costs

- (a) The Company shall, within three Business Days of demand by the Lender, pay to the Lender its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Company on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) The Lender shall, as soon as reasonably practicable after a demand by the Company, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

11. FEES

11.1 Upfront fee

- (a) The Company must pay to the Lender an upfront fee in the amount of EUR309,000.
- (b) The upfront fee under paragraph (a) above is payable on the earlier of:
 - (i) the date falling three Months after the date of this Agreement; and
 - (ii) the first Utilisation Date.

11.2 Commitment fee

- (a) The Company shall pay to the Lender a fee computed at the percentage rate per annum equal to 33^{1/3} per cent. of the Margin on the Available Commitment for the Availability Period.
- (b) The commitment fee accrues from day to day and accrued commitment fee is payable on each Interest Payment Date which occurs during the Availability Period, on the last day of the

Availability Period and, if cancelled in full, on the cancelled amount of the Commitment at the time the cancellation is effective.

11.3 Prepayment fee

- (a) Subject to paragraph (b) below, the Company must pay to the Lender a prepayment fee on the date of prepayment of any part of a Loan under clause 7.6 (Voluntary prepayment of Loans). The amount of the prepayment fee is the amount set out opposite the period below in which the date of prepayment falls:

Period in which date of prepayment falls	Prepayment fee
On or before the fifth anniversary of the date of this Agreement	2.00 per cent. of the amount prepaid
After the fifth anniversary and on or before the ninth anniversary of the date of this Agreement	1.50 per cent. of the amount prepaid
After the ninth anniversary and on or before the twelfth anniversary of the date of this Agreement	1.00 per cent. of the amount prepaid
thereafter	0.50 per cent. of the amount prepaid

- (b) The Company is not obliged to pay a prepayment fee under paragraph (a) above if the prepayment of the Loan (in whole or in part) under Clause 7.6 (Voluntary prepayment of Loans) is made:
- (i) on a Business Day falling between two Repayment Dates; and
 - (ii) the amount prepaid does not exceed the Repayment Instalment payable on the immediately following Repayment Date (ignoring for this purpose any deemed reduction or payment in full of that Repayment Instalment referred to in paragraph (c) of Clause 7.9 (Effect of cancellation and prepayment on scheduled repayments and reductions)).

12. TAX GROSS-UP AND INDEMNITIES

12.1 Definitions

- (a) In this Agreement:

Tax Credit means a credit against, relief or remission for, or repayment of any Tax.

Tax Payment means either the increase in a payment made by the Company to the Lender under Clause 12.2 (Tax gross-up) or a payment under Clause 12.3 (Tax indemnity).

- (b) Unless a contrary indication appears, in this Clause 12 a reference to "determines" or "determined" means a determination made in the absolute discretion of the person making the determination.

12.2 Tax gross-up

- (a) The Company shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.

- (b) The Company shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Lender accordingly. Similarly, the Lender shall promptly notify the Company on becoming so aware in respect of a payment payable to it.
- (c) If a Tax Deduction is required by law to be made by the Company, the amount of the payment due from the Company shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) If the Company is required to make a Tax Deduction, the Company shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (e) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Company shall deliver to the Lender evidence reasonably satisfactory to the Lender that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

12.3 Tax indemnity

- (a) The Company shall (within three Business Days of demand by the Lender) pay to the Lender an amount equal to the loss, liability or cost which the Lender determines will be or has been (directly or indirectly) suffered for or on account of Tax by the Lender in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on the Lender:
 - (A) under the law of the jurisdiction in which the Lender is incorporated or, if different, the jurisdiction (or jurisdictions) in which the Lender is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which the Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by the Lender; or
 - (ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 12.2 (Tax gross-up).
- (c) If the Lender makes, or intends to make a claim under paragraph (a) above it shall promptly notify the Company of the event which will give, or has given, rise to the claim.

12.4 Tax Credit

If the Company makes a Tax Payment and the Lender determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) it has obtained and utilised that Tax Credit,

the Lender shall pay an amount to the Company which the Lender determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Company.

12.5 Stamp Taxes

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

12.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by the Company to the Lender 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, if VAT is or becomes chargeable on any supply made by the Lender to the Company under a Finance Document and the Lender is required to account to the relevant tax authority for the VAT, the Company must pay to the Lender (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 the Lender must promptly provide an appropriate VAT invoice to the Company).
- (b) Where a Finance Document requires the Company to reimburse or indemnify the Lender for any cost or expense, the Company shall reimburse or indemnify (as the case may be) the Lender for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that the Lender reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (c) Any reference in this Clause 12.6 to any Party will, at any time when that 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 person who is treated as making the supply, or (as appropriate) receiving the supply, under the grouping rules (as provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by a member state of the European Union)).
- (d) In relation to any supply made by the Lender to the Company under a Finance Document, if reasonably requested by the Lender, the Company must promptly provide the Lender with details of the Company's VAT registration and such other information as is reasonably requested in connection with the Lender's VAT reporting requirements in relation to such supply.

12.7 Other information

- (a) Subject to paragraph (b) below, each Party shall, within ten Business Days of a reasonable request by another Party 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 applicable law or regulation implementing international arrangements for the exchange of Tax or financial information between jurisdictions.
- (b) Paragraph (a) above shall not oblige the Lender to do anything, and paragraph (a) above shall not oblige the Company to do anything, which would or might in its reasonable opinion constitute a breach of any applicable:
 - (i) law or regulation;
 - (ii) fiduciary duty; or

- (iii) duty of confidentiality.

13. INCREASED COSTS

13.1 Increased Costs

- (a) Subject to Clause 13.3 (Exceptions) the Company shall, within three Business Days of a demand by the Lender, pay the amount of any Increased Costs incurred by the Lender as a result of:

- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
- (ii) compliance with any law or regulation made after the date of this Agreement.

- (b) In this Agreement **Increased Costs** means:

- (i) a reduction in the rate of return from the Facility or on the Lender's overall capital;
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by the Lender to the extent that it is attributable to the Lender having entered into its Commitment or funding or performing its obligations under any Finance Document.

13.2 Increased Cost claims

- (a) If the Lender intends to make a claim pursuant to Clause 13.1 (Increased Costs) it shall notify the Company of the event giving rise to the claim.
- (b) The Lender shall, as soon as practicable after a demand by the Company, provide a certificate confirming the amount of its Increased Costs.

13.3 Exceptions

Clause 13.1 (Increased Costs) does not apply to the extent any Increased Cost is:

- (a) attributable to a Tax Deduction required by law to be made by the Company;
- (b) compensated for by Clause 12.3 (Tax indemnity) (or would have been compensated for under Clause 12.3 (Tax indemnity) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 12.3 (Tax indemnity) applied); or
- (c) attributable to the wilful breach by the Lender of any law or regulation.

14. OTHER INDEMNITIES

14.1 Currency indemnity

- (a) The Company shall as an independent obligation, within three Business Days of demand, indemnify the Lender against any cost, loss or liability arising out of or as a result of:
 - (i) the Lender receiving an amount in respect of the Company's liability under the Finance Documents; or

(ii) that liability being converted into a claim, proof, order, judgment or award, in a currency other than the currency in which it is expressed to be payable under the relevant Finance Document.

(b) The Company waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

14.2 Other indemnities

The Company shall, within three Business Days of demand, indemnify the Lender against any cost, loss or liability incurred by the Lender as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by the Company to pay any amount due under a Finance Document on its due date;
- (c) funding, or making arrangements to fund a Loan requested by the Company in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by the Lender alone);
- (d) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Company;
- (e) investigating any event which it reasonably believes is a Default;
- (f) any failure by the Company to comply with its obligations under Clause 15 (Costs and expenses);
- (g) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
- (h) the taking, holding, protection or enforcement of the Transaction Security;
- (i) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Lender by the Finance Documents or by law;
- (j) any default by the Company in the performance of any of the obligations expressed to be assumed by it in the Finance Documents;
- (k) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; or
- (l) acting as Lender under the Finance Documents or which otherwise relates to any of the Charged Property (otherwise, in each case, than by reason of the Lender's gross negligence or wilful misconduct).

15. COSTS AND EXPENSES

15.1 Transaction expenses

The Company shall, promptly on demand, pay the Lender the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with the negotiation, preparation, printing, execution and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement or the Transaction Security; and
- (b) any other Finance Documents executed after the date of this Agreement.

15.2 Amendment costs

If:

- (a) the Company requests an amendment, waiver or consent; or
- (b) an amendment is required or expressly contemplated under a Finance Document,

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

15.3 Enforcement and preservation costs

The Company shall, within three Business Days of demand, pay to the Lender the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of, or the preservation of any rights under, any Finance Document or the Transaction Security and any proceedings instituted by or against the Lender as a consequence of entering into any Finance Document, taking or holding the Transaction Security or enforcing those rights.

16. REPRESENTATIONS

The Company makes the representations and warranties set out in this Clause 16 to the Lender.

16.1 Status

- (a) It is a joint-stock company, duly incorporated and validly existing under the law of its Original Jurisdiction.
- (b) It and each other member of the Group has the power to own its assets and carry on its business as it is being conducted.

16.2 Binding obligations

- (a) Subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered pursuant to Clause 4 (Conditions of Utilisation) or Clause 20.20 (Conditions subsequent):
 - (i) the obligations expressed to be assumed by it in each Transaction Document are legal, valid, binding and enforceable obligations; and
 - (ii) without limiting the generality of paragraph (i) above, each Transaction Security Document to which it is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective.
- (b) Each Transaction Document to which it is a party is in the proper form for its enforcement in the jurisdiction of its incorporation.

16.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Transaction Documents, and the granting of the Transaction Security do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its Subsidiaries or any of its or any of its Subsidiaries' assets.

16.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents to which it is a party and the transactions contemplated by those Transaction Documents.

16.5 Validity and admissibility in evidence

All Authorisations required:

- (a) to enable it lawfully to 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 it is a party admissible in evidence in its Relevant Jurisdictions,

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

16.6 Governing law and enforcement

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

16.7 Deduction of Tax

It is not required to make any Tax Deduction from any payment it may make under any Finance Document to the Lender.

16.8 No filing or stamp Taxes

Under the laws of its Relevant Jurisdictions, it is not necessary that the Finance Documents be registered, filed, recorded, notarised or enrolled with any court or other authority in any of those jurisdictions or that any stamp, registration, notarial or similar tax or fee be paid on or in relation to them or the transactions contemplated by them except:

- (a) fees payable for notarisation of signatures in respect of Transaction Security Documents;
- (b) fees payable for execution of the Enforceable Notarial Deed in a form of notarial deed;

- (c) registration of Transaction Security created under Slovak law in respect of immovable assets in the cadastral register and payment of associated fees;
- (d) registration of Transaction Security created under Slovak law in respect of assets in the Central Registry and payment of associated fees;
- (e) registration of Transaction Security created under Slovak law in respect of rights and receivables in the Central Registry and payment of associated fees,

which registrations, filings, taxes and fees will be made and paid promptly after the date of the relevant Finance Document.

16.9 No Default

- (a) No Event of Default is continuing or might reasonably be expected to result from the making of any Utilisation or its entry into, its performance of, or any transaction contemplated by, any Finance Document.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which might have a Material Adverse Effect.

16.10 No misleading information

- (a) All information provided by it (or its advisers) to the Lender in connection with the Finance Documents was true and accurate and complete in all material respects as at the date it was provided or as at the date (if any) at which it is stated to be given and was not at that date misleading in any material respect.
- (b) The financial projections (including the Cashflow Projections) supplied to the Lender have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred and no information has been omitted from the information referred to in paragraphs (a) and (b) above and no information has been given or withheld that results in that information being untrue or misleading in any material respect.

16.11 Financial statements

- (a) Its Original Financial Statements were prepared in accordance with GAAP consistently applied unless expressly disclosed to the Lender in writing to the contrary before the date of this Agreement.
- (b) Its Original Financial Statements fairly present its financial condition as at the date to which they were drawn up and its results of operations during the relevant financial year (consolidated if applicable) unless expressly disclosed to the Lender in writing to the contrary before the date of this Agreement.
- (c) There has been no material adverse change in its business or financial condition (consolidated if applicable) since the date to which the Original Financial Statements were drawn up.
- (d) Its most recent financial statements delivered pursuant to Clause 17.1 (Financial statements):
 - (i) were prepared in accordance with GAAP as applied to the Original Financial Statements; and

- (ii) fairly present its financial condition as at the date to which they were drawn up and its results of operations for the period to which they relate (consolidated if applicable).
- (e) There has been no material adverse change in its business or financial condition (consolidated if applicable) since the date to which the most recent financial statements delivered pursuant to Clause 17.1 (Financial statements) were drawn up.

16.12 Pari passu ranking

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

16.13 No proceedings

- (a) No litigation, arbitration or administrative proceedings or investigations of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries.
- (b) No judgment or order of a court, arbitral body or agency which might reasonably be expected to have a Material Adverse Effect has (to the best of its knowledge and belief) been made against it or any of its Subsidiaries.

16.14 Immunity

- (a) The entry into by it of each Finance Document to which it is a party, and the exercise by it of its rights and performance by it of its obligations under each Finance Document to which it is a party, constitute private and commercial acts performed for private and commercial purposes.
- (b) The transactions contemplated by each Finance Document to which it is a party are commercial transactions.
- (c) It will not be entitled to claim immunity from suit, recognition, enforcement, execution, attachment or other legal process, or other relief in any proceedings taken in any Relevant Jurisdiction in relation to any Finance Document.

16.15 No adverse consequences

- (a) It is not necessary under the laws of its Relevant Jurisdictions:
 - (i) to enable the Lender to enforce its rights under any Finance Document; or
 - (ii) by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,

that the Lender should be licensed, qualified or otherwise entitled to carry on business in any of its Relevant Jurisdictions.

- (b) The Lender is not and nor will it be deemed to be resident, domiciled or carrying on business in its Relevant Jurisdictions by reason only of the execution, performance and/or enforcement of any Finance Document.

16.16 Environment

- (a) It:
 - (i) complies with all Environmental and Social Laws to which it may be subject;
 - (ii) it and its businesses, operations, assets, equipment, business premises and other facilities are, in all material respects, in compliance with the provisions of all applicable Environmental and Social Laws and the Environmental and Social Policy;
 - (iii) has obtained all Environmental Permits required in connection with its business;
 - (iv) complies with the terms of those Environmental Permits; and
 - (v) has implemented procedures to monitor compliance with and to prevent liability under any Environmental and Social Law,

where failure to do so has or is reasonably likely to have a Material Adverse Effect.

- (b) No circumstances have occurred which would prevent environmental compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
- (c) No Environmental Claim has been commenced or is threatened against the Company or its assets where that claim has or is reasonably likely, if determined against that the Company or its assets, to have a Material Adverse Effect.

16.17 Prohibited Practices and Prohibited Activities

- (a) It:
 - (i) has implemented and is in compliance with internal procedures and controls, in compliance with all applicable laws and best international practices (to the extent reasonable to implement such practices), for the purpose of preventing the Company and the Lender from being used for money laundering, terrorist financing activities or other Prohibited Practices;
 - (ii) has duly appointed officers for coordinating the implementation of internal policies and practices in accordance with the relevant anti-money laundering, combating the financing of terrorism, anti-corruption and anti-fraud legislation;
 - (iii) has established and maintains adequate procedures to ensure that it is in compliance at all times with all "know your customer" and other similar requirements under all applicable laws and regulations;
 - (iv) will not use a Loan for any purpose which would breach anti-corruption and anti-fraud legislation or lead to Prohibited Practices.
- (b) Neither it nor its Subsidiary or any person acting on its or their behalf, or directors and officers have committed or engaged in, with respect to any transaction contemplated by any Transaction Document any Prohibited Practice.
- (c) Neither it nor its Subsidiary or any person acting on its or their behalf is included into debarment lists issued by the international organizations.
- (d) Neither it nor its Subsidiary is engaged in any Prohibited Activity.

- (e) It has informed its staff about their rights to report to the Lender about any issues regarding the Company's involvement in the Prohibited Practices or breaches of any other Company's obligations of this Agreement. The messages can be send to the Lender by email to compliance@iibbank.com, by phone +7 495 604-75-80 or by web form <https://www.iib.int/en/abuse>.

16.18 Bank accounts

The Company does not have any bank accounts other than the Accounts.

16.19 Plant and assets

- (a) The Company is the sole and exclusive owner of the Plant (and each part thereof), free of any Security or any other third parties rights (including restitution claims, easements (*vecné bremená*), restrictions on disposals, rights of set-off against any credit balances on its accounts, pre-emptive rights, rights of first refusal), except for Security or other rights permitted under the Finance Documents.
- (b) Nothing has occurred that has a material adverse effect on the market value of the Plant or any part of it.
- (c) All facilities and easements (*vecné bremená*) necessary for the enjoyment and use of the Plant (including those necessary for the carrying on of the Company's business at the Plant and the Plant Development) are enjoyed by the Plant; and none of these facilities and easements are enjoyed on terms entitling any person to terminate or curtail use of the Plant by the Company or which conflict with or restrict the standard commercial operation of the Plant for its approved purpose.
- (d) It has not received any notice from any relevant third party of any substantiated claim in respect of the Plant that could adversely affect the Company's ownership of the Plant.
- (e) The Plant is accessible from a public road (*verejná komunikácia*).

16.20 Permits

All Permits (in each case in respect of the relevant stage of the Project in accordance with terms of this Agreement) have been duly obtained or issued, are valid and conclusive and no Permit is subject to any appeal and no grounds exist for any Permit to be changed or revoked in any other review.

16.21 No other business

The Company does not carry on business activities except for the Permitted Activities.

16.22 Centre of Main Interests

Its Centre of Main Interests is situated in its jurisdiction of incorporation and it has no Establishment in any other jurisdiction.

16.23 No notarial deed, acknowledgment of debt or promissory note

- (a) Except as provided in paragraph (b) below, the Company:
- (i) is not an obliged party (*povinná osoba*) under any notarial deed (as referred to in section 45(2) of the Slovak Act No. 233/1995 Coll., as amended) and has not acknowledged any debt by such notarial deed;

- (ii) has not acknowledged any of its debts by a written declaration on acknowledgment of debt pursuant to section 558 of the Civil Code;
 - (iii) has not acknowledged any of its obligations by a written declaration on acknowledgment of obligations pursuant to section 323 of the Commercial Code; and
 - (iv) has not issued or guaranteed any promissory note or bill of exchange (blank or completed), and has not granted to any person a right to complete any blank promissory note issued by it.
- (b) Paragraph (a) does not apply to:
- (i) an Enforceable Notarial Deed; or
 - (ii) any act specified in paragraph (a) executed with the prior written consent of the Lender.

16.24 Commercial valuations

- (a) All information supplied by the Company or on its behalf to the Commercial Valuer for the purposes of each Commercial Valuation was true and accurate as at its date or (if appropriate) as at the date (if any) at which it is stated to be given.
- (b) Any financial projections contained in the information referred to in paragraph (a) above have been prepared as at their date, on the basis of recent historical information and assumptions believed by it to be fair and reasonable.
- (c) It has not omitted to supply any information which, if disclosed, would adversely affect the Commercial Valuation.

16.25 Time when representations made

- (a) All the representations and warranties in this Clause 16 are made by the Company on the date of this Agreement except for the representation and warranty in paragraph (d) of Clause 16.11 (Financial statements) which is deemed to be made by the Company on the date each set of its financial statements is delivered pursuant to Clause 17.1 (Financial statements).
- (b) The Repeating Representations are deemed to be made by the Company:
 - (i) on the date of each Utilisation Request;
 - (ii) on each Utilisation Date; and
 - (iii) on the first day of each Interest Period.
- (c) Each representation or warranty deemed to be made after the date of this Agreement shall be deemed to be made by reference to the facts and circumstances then existing.

17. INFORMATION UNDERTAKINGS

The undertakings in this Clause 17 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or the Commitment is in force.

17.1 Financial statements

The Company shall supply to the Lender in English (or translated into English):

- (a) as soon as the same become available, but in any event within 180 days after the end of each of its financial years, its audited financial statements for that financial year (together with the audit report);
- (b) as soon as the same become available, but in any event within 45 days after the end of each half of each of its financial years, its financial statements for that financial half year; and
- (c) as soon as the same become available, but in any event within 45 days after the end of each quarter of each of its financial years, its financial statements for that financial quarter year and its general ledger; and
- (d) as soon as the same become available, but in any event within 10 days after the end of each calendar month, its management accounts for that month (consisting of breakdowns of the main balance-sheet accounts and the statement of income).

17.2 Compliance Certificate

- (a) The Company shall supply to the Lender, with each set of financial statements delivered pursuant to paragraph (a) and (b) of Clause 17.1 (Financial statements), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 19 (Financial covenant) as at the date as at which those financial statements were drawn up.
- (b) Each Compliance Certificate shall be signed by two directors of the Company.

17.3 Requirements as to financial statements

- (a) Each set of financial statements delivered by the Company pursuant to Clause 17.1 (Financial statements) shall be certified by a director of the Company as fairly presenting its financial condition as at the date to which those financial statements were drawn up and its results of operations during the period to which they relate.
- (b) The Company shall procure that each set of financial statements delivered pursuant to Clause 17.1 (Financial statements) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements unless, in relation to any set of financial statements, it notifies the Lender that there has been a change in GAAP, the accounting practices or reference periods and its auditors deliver to the Lender:
 - (i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which its Original Financial Statements were prepared; and
 - (ii) sufficient information, in form and substance as may be reasonably required by the Lender, to enable the Lender to determine whether Clause 19 (Financial covenants) has been complied with and make an accurate comparison between the financial position indicated in those financial statements and the Company's Original Financial Statements.
- (c) Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

17.4 Information – documents and Specifications

The Company must promptly deliver to the Lender a copy of each executed Transaction Document and Specification (or any change or amendment thereto or waiver thereunder) that has not been

previously submitted to the Lender, without undue delay, but no later than 10 Business Days following execution or issue of the relevant Transaction Document or Specification (or the relevant change, modification or amendment thereto or waiver thereunder).

17.5 Information – Plant Development

- (a) The Company must supply to the Lender a Progress Report at least once in three consecutive months until Practical Completion, starting with the Progress Report supplied in relation to the Utilisation Request for the third Utilisation.
- (b) The Company must supply to the Lender the Final Report on or prior to the Required Completion Date.
- (c) The Company must supply to the Project Monitor, on request, sufficient information to enable the Project Monitor to supply each Project Monitor Report in time pursuant to paragraphs (a) and (b) above.
- (d) The Company must promptly inform the Lender upon becoming aware of:
 - (i) any material breach under any Transaction Document; and
 - (ii) any material claim or demand made against the Company by any person in connection with the Project.
- (e) The Company acknowledges that:
 - (i) no approval of drawings or specifications or the passing of any work by the Lender or the Project Monitor; or
 - (ii) any visit to the Plant or attendance at any meetings by the Lender or the Project Monitor or its respective officers, employees or agents,will excuse the Company from the due performance of any of its obligations under the Finance Documents.
- (f) Promptly upon becoming aware of them, the Company must without undue delay inform the Lender and the Project Monitor of the occurrence of any Cost Overrun (including its amount) or any circumstances which will or may reasonably be expected to lead to the occurrence of any Cost Overrun (including its amount).

17.6 Cashflow Projections

The Company must provide to the Lender as soon as the same become available, but in any event within 45 days after the end of each quarter of each of its financial years, a Cashflow Report for that quarter and updated Cashflow Projections for the immediately following quarter.

17.7 Value of Plant and other Charged Property

The Company must provide to the Lender on a semi-annual basis, no later than on 1 February and 1 August of each calendar year, a statement prepared by the Company on the book value of the Plant and any other Charged Property (consolidated and also in respect of each individual asset forming part of the Plant or any other Charged Property).

17.8 Information – AML/CFT and Prohibited Practices

- (a) The Company must provide to the Lender on annual basis at least one of the following:
 - (i) a report by the AML/CFT Officer on the implementation of, and compliance with, the Company's AML/CFT policies, procedures and controls;
 - (ii) an internal or external auditor's assessment on the adequacy of the Company's policies, procedures and controls for AML/CFT; or
 - (iii) a report by the AML/CFT Officer of the Company concerning the Company's compliance with local AML/CFT laws and regulations.
- (b) The Company must inform the Lender immediately upon being aware of:
 - (i) any economic restrictions imposed on it or on its directors or officers;
 - (ii) any legal or criminal cases, fines or sanctions that may result in occurrence of a Material Adverse Effect; or
 - (iii) any international financial institution having imposed any sanction on the Company for any Prohibited Practice or having included it in any debarment list.

17.9 Information – Environmental compliance

- (a) The Company must, promptly upon becoming aware of the same, inform the Lender in writing of:
 - (i) any Environmental Claim against the Company which is current, pending or threatened;
 - (ii) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against the Company, where the claim, if determined against the Company, has or is reasonably likely to have a Material Adverse Effect;
 - (iii) information on compliance by the Company with all applicable Environmental and Social Laws, including the results of any inspections carried out by environmental labour, and health and safety or other relevant authorities, any violations of any applicable Environmental and Social Laws and any remedial action relating thereto and any fines imposed for any such violations; and
 - (iv) a summary of any notices, reports and other communications on environmental, labour, health and safety and social matters submitted by the Company to any relevant authorities.
- (b) The Company must supply to the Lender:
 - (i) within 60 days after the end of each half of each of its financial years:
 - (A) information on the health and safety record of the Company, including the rate of accidents and any initiatives in relation to health and safety matters which have been implemented or planned by the Company;
 - (B) information on compliance by the Company with the Environmental and Social Policy and the Environmental and Social Exclusion List and any violations of same and remedial action relating thereto; and

- (C) the status of implementation of the Environmental and Social Assessment and Environmental and Social Action Plan; and
- (ii) within 60 days after the end of each of its financial years, an annual environmental and social performance report in form agreed with the Lender.

17.10 Information: miscellaneous

The Company shall supply to the Lender:

- (a) all documents dispatched by the Company to its creditors generally (or any class of them) at the same time as they are dispatched;
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings or investigations which are current, threatened or pending against it or 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 it or any member of the Group, and which might have a Material Adverse Effect;
- (d) promptly upon request, such further information regarding:
 - (i) any assets that are subject to Security under the Transaction Security Documents, and
 - (ii) compliance by the Company with its obligations under the Finance Documents,as the Lender may reasonably request;
- (e) with each set of financial statements delivered pursuant to paragraph (a) of Clause 17.1 (Financial statements) a current list of shareholders of the Company specifying the amount of shares held by each shareholder; and
- (f) promptly, such further information regarding the financial condition, business and operations of any member of the Group as the Lender may reasonably request.

17.11 Notification of Default

- (a) The Company shall notify the Lender of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon a request by the Lender, the Company shall supply to the Lender 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).

17.12 Inspection

- (a) Upon the written request of the Lender, the Company must provide the Lender and any of its representatives, professional advisers and contractors with access to and permit inspection of the books and records of the Company or the Plant (including all accounting books and records, account statements and other documents or information possessed by the Company and to all premises and assets of the Company) at reasonable times and upon reasonable notice (not to be shorter than five Business Days, unless a Default is outstanding, in which case the notice may be shorter) for the

purpose of verifying of compliance by the Company with its obligations under the Finance Documents and correctness of any representation made by the Company under the Finance Documents, or enforcement of any rights of the Lender under the Finance Documents. The Company shall also allow the Lender to make copies of any documents where the Lender so requests.

- (b) The Company must ensure that its employees or statutory and other corporate bodies are available for the Lender during normal working hours on the Business Days for meeting, telephone call or other form of consultation.

17.13 "Know your customer" checks

The Company shall promptly upon the request of the Lender supply such documentation and other evidence as is reasonably requested by the Lender (for itself or on behalf of any prospective new Lender) in order for the Lender or any prospective new Lender 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.

18. ACCOUNT COVENANTS

18.1 Opening and maintenance of the Accounts

- (a) The Company may not, without the prior consent of the Lender, maintain any other bank account or otherwise place its funds with any person, except for the Accounts which are subject to Security under the Transaction Security Documents.

18.2 Miscellaneous Accounts provisions

- (a) Notwithstanding any provision in any Account Agreement to the contrary, the Company may not terminate or rescind any Account Agreement without the prior written consent of the Lender.
- (b) The Company must, within five Business Days of any request by the Lender, supply the Lender with the following information in relation to any payment received in or made from any account of the Company:
 - (i) the date of payment or receipt;
 - (ii) the payer; and
 - (iii) the purpose of the payment or receipt.

19. FINANCIAL COVENANTS

19.1 Definitions

In this Agreement:

Borrowings means, in respect of the Company, at any time, the aggregate of the following liabilities calculated at the nominal, principal or other amount at which the liabilities would be carried in a balance sheet of the Company drawn up at that time (or in the case of any guarantee, indemnity or similar assurance referred to in paragraph (j) below, the maximum liability under the relevant instrument):

- (a) any moneys borrowed;
- (b) any redeemable preference shares;

- (c) any acceptance under any acceptance credit (including any dematerialised equivalent);
- (d) any bond, note, debenture, loan stock or other similar instrument;
- (e) any indebtedness under a Finance Lease;
- (f) any indebtedness under bills of exchange;
- (g) any moneys owing in connection with the sale or discounting of receivables (except to the extent that there is no recourse);
- (h) any indebtedness arising from any deferred payment agreements arranged primarily as a method of raising finance or financing the acquisition of an asset;
- (i) any indebtedness arising in connection with any other transaction (including any forward sale or purchase agreement) which has the commercial effect of a borrowing; and
- (j) any indebtedness of any person of a type referred to in the above paragraphs which is the subject of a guarantee, indemnity or similar assurance against financial loss given by the Company.

Debt Service means, in relation to a Measurement Period, the aggregate of (without double counting):

- (a) Finance Costs for that Measurement Period;
- (b) all repayments of Borrowings made by the Company during that Measurement Period and calculated as the difference between the amount of Borrowings outstanding on the first day of that Measurement Period and on the last day of that Measurement Period.

DSCR means, in relation to a Measurement Period, the ratio (expressed as a percentage) of (a) EBIT decreased by the taxes which are due and payable by the Company for that Measurement Period to (b) Debt Service for that Measurement Period.

EBIT means, in relation to a Measurement Period, the aggregate of:

- (a) the operating profits of the Company (including the results from discontinued operations) before finance costs and tax for that Measurement Period;

adjusted by:

- (i) taking no account of any Exceptional Items;
- (ii) taking no account of any unrealised gains or losses on any financial instrument (other than any derivative instrument which is accounted for on a hedge accounting basis) which is reported through the income statement;
- (iii) taking no account of any income or charge attributable to a post-employment benefit scheme other than the current service costs attributable to the scheme;
- (iv) taking no account of any expense referable to equity-settled share-based compensation of employees.

EBITDA means, in relation to a Measurement Period, EBIT for that Measurement Period after adding back any depreciation and amortisation and taking no account of any charge for impairment or any reversal of any previous impairment charge made in the period.

Eligible Cash and Cash Equivalents means, at any time:

- (a) cash in hand or on deposit with any acceptable bank;
- (b) certificates of deposit, maturing within one year after the relevant date of calculation, issued by an acceptable bank;
- (c) any other debt, security or investment approved by the Lender,

in each case, to which the Company is beneficially entitled at that time and which is capable of being applied against Borrowings. For this purpose an **acceptable bank** is a commercial bank or trust company which has a rating of BB- or higher by S&P or Fitch or a comparable rating from a nationally recognised credit rating agency for its long-term unsecured and non-credit enhanced debt obligations or has been approved by the Lender.

Equity means, at any time the aggregate of:

- (a) the amount paid up or credited as paid up on the issued share capital of the Company; and
- (b) the net amount standing to the credit (or debit) of the consolidated reserves of the Company,

based on the latest published audited balance sheet of the Company (the **latest balance sheet**) but adjusted by:

- (i) deducting any dividend or other distribution proposed, declared or made by the Company (except to the extent it has been taken into account in the latest balance sheet);
- (ii) deducting any amount attributable to goodwill or any other intangible asset;
- (iii) deducting any amount attributable to an upward revaluation of assets (other than financial instruments) after 31 December 2017 or, in the case of assets of a company which becomes a member of the Group after that date, the date on which that company becomes a member of the Group;
- (iv) reflecting any variation in the amount of the issued share capital of the Company after the date of the latest balance sheet (and any change in the consolidated reserves of the Group resulting from that variation);
- (v) reflecting any variation in the interest of the Company in any other member of the Group since the date of the latest balance sheet (to be calculated on the assumption that the variation had occurred immediately before the latest balance sheet date); and
- (vi) excluding any amounts debited or credited to deferred tax which relates to the revaluation of any item which is excluded from the calculation.

Exceptional Items means any material item of income or expense that represents:

- (a) any gain or loss arising from:
 - (i) write-downs of inventories to net realisable value or of property, plant and equipment to recoverable amount, and reversals of such write-downs;

- (ii) restructuring the activities of the Company and any reversals of any provision for the costs of restructuring;
 - (iii) disposals of items of property, plant or equipment;
 - (iv) disposals of investments; or
 - (v) disposals or settlements of liabilities of the Company that fall within the definition of Borrowings;
- (b) any gain of a highly unusual or non-recurring nature; or
- (c) any gain or loss arising from a transaction entered into otherwise than in the carrying on of the normal core business operations of the Company.

Finance Costs means, in relation to a Measurement Period, all finance costs (whether paid, payable or added to principal) incurred by the Company during that period but taking no account of dividends on preference shares.

LTV means, at any time, the ratio (expressed as a percentage) of (a) the aggregate of the then outstanding Loans to (b) the then most recently determined Market Value.

Market Value means the market value of the Plant determined by the Commercial Valuation.

Measurement Date means any date on which the relevant Commercial Valuation has been supplied to the Lender.

Measurement Period means (a) each period of twelve Months ending on 30 June of each calendar year starting with the period ending on 30 June 2019 and (b) each period of twelve Months ending on 31 December of each calendar year, starting with the period ending on 31 December 2018.

Net Borrowings means, at any time, Borrowings less Eligible Cash and Cash Equivalents.

19.2 Interpretation

- (a) Unless a contrary indication appears in this Agreement, any reference to an accounting term in this Clause shall be construed in accordance with the principles applied in connection with the Original Financial Statements.
- (b) No item may be credited or deducted more than once in any calculation under this Clause.

19.3 Cashflow

The Company must ensure that the Cashflow Projections for any relevant period do not exceed the corresponding cashflow indicators, as evidenced in the Cashflow Report relating to that period, by more than 20 per cent.

19.4 DSCR

The Company must ensure that DSCR is, for each Measurement Period, not less than 140 per cent.

19.5 LTV

The Company must ensure that LTV is, on each Measurement Date, not more than 70 per cent.

19.6 Gearing

The Company shall ensure that the ratio (expressed as a percentage) of (a) Borrowings to (b) Equity does not:

- (a) at any time until 31 December 2024 exceed 140 per cent.; and
- (b) at any time thereafter exceed 100 per cent..

19.7 Net Borrowings to EBITDA

The Company shall ensure that the ratio of (a) Net Borrowings to (b) EBITDA on the last day of each Measurement Period specified in Column 1 shall not be more than the ratio set out in Column 2 below opposite that Measurement Period:

Column 1 - relevant period ending on or prior to	Column 2 - ratio
31 December 2021	5.50:1
31 December 2022	4.60:1
31 December 2023	4.20:1
31 December 2024	3.80:1
31 December 2025	3.40:1
thereafter	3.00:1

19.8 Interest cover

The Company shall ensure that the ratio of (a) EBIT to (b) Finance Costs for any Measurement Period specified in Column 1 is not less than the ratio set out in Column 2 below opposite that Measurement Period:

Column 1 - relevant period ending on or prior to	Column 2 - ratio
31 December 2021	3.20:1
31 December 2022	4.00:1
31 December 2023	4.40:1
thereafter	4.70:1

20. GENERAL UNDERTAKINGS

The undertakings in this Clause 20 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or the Commitment is in force.

20.1 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 (to the extent required by the Lender) copies to the Lender of,

any Authorisation required under any applicable law or regulation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in each of its Relevant Jurisdictions of any Finance Document.

20.2 Compliance with laws

The Company shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

20.3 Compliance with IIB Procurement Rules

The Company shall comply in all material respects with the IIB Procurement Rules.

20.4 Pari passu ranking

The Company shall ensure that its payment obligations under the Finance Documents at all times rank at least pari passu with the claims of all its unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

20.5 Negative pledge

In this Clause 20.5, **Quasi-Security** means an arrangement or transaction described in paragraph (b) below.

- (a) The Company shall not (and shall ensure that no other member of the Group will) create or permit to subsist any Security or any other third parties rights (including easements (*vecné bremená*), restrictions on disposals, rights of set-off against any credit balances on its accounts, pre-emptive rights, rights of first refusal) on or over any of its assets.
- (b) The Company shall not (and shall ensure that no other member of the Group will):
 - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Company or any other member of the Group;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (iv) enter into any other preferential arrangement having a similar effect,in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- (c) Paragraphs (a) and (b) above do not apply to any Security or (as the case may be) Quasi-Security, listed below:

- (i) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (ii) any payment or close out netting or set-off arrangement pursuant to any hedging transaction entered into by a member of the Group for the purpose of:
 - (A) hedging any risk to which any member of the Group is exposed in its ordinary course of trading; or
 - (B) its interest rate or currency management operations which are carried out in the ordinary course of business and for non-speculative purposes only,excluding, in each case, any Security or Quasi-Security under a credit support arrangement in relation to a hedging transaction;
- (iii) any lien arising by operation of law and in the ordinary course of trading (other than as a result of a breach of any member of the Group of its statutory or contractual obligation);
- (iv) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any member of the Group;
- (v) any Security or Quasi-Security over or affecting any asset acquired by a member of the Group after the date of this Agreement if:
 - (A) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Group;
 - (B) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by a member of the Group; and
 - (C) the Security or Quasi-Security is removed or discharged within three months of the date of acquisition of such asset;
- (vi) any Security or Quasi-Security over or affecting any asset of any company which becomes a member of the Group after the date of this Agreement, where the Security or Quasi-Security is created prior to the date on which that company becomes a member of the Group, if:
 - (A) the Security or Quasi-Security was not created in contemplation of the acquisition of that company;
 - (B) the principal amount secured has not increased in contemplation of or since the acquisition of that company; and
 - (C) the Security or Quasi-Security is removed or discharged within three months of that company becoming a member of the Group;
- (vii) any Security or Quasi-Security entered into pursuant to any Finance Document;

- (viii) any Permitted Easement;
- (ix) any Security or Quasi-Security created with the prior written consent of the Lender.

20.6 Disposals

- (a) The Company shall not (and shall ensure that no other member of the Group will), enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, licence, transfer or otherwise dispose of any asset.
- (b) Paragraph (a) above does not apply to any sale, lease, licence, transfer or other disposal:
 - (i) made in the ordinary course of trading of the disposing entity;
 - (ii) of assets in exchange for other assets comparable or superior as to type, value and quality (other than an exchange of a non-cash asset for cash);
 - (iii) any Permitted Easement; or
 - (iv) made upon prior written consent of the Lender.

20.7 Loans or credit

- (a) The Company shall not (and shall ensure that no other member of the Group will) be a creditor in respect of any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
 - (i) any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities;
 - (ii) any loan made by any person acquired by a member of the Group which is made under arrangements in existence at the date of the acquisition and not made or increased or having its maturity date extended in contemplation of, or since, that acquisition, but only until the date three months after the date of the acquisition;
 - (iii) any Financial Indebtedness not referred to in paragraphs (i) to (ii) above, the principal amount of which (when aggregated with the principal amount of any other Financial Indebtedness made available or allowed to remain outstanding by any member of the Group which is permitted under this paragraph (b)) does not exceed EUR500,000 (or its equivalent in another currency or currencies) at any time; or
 - (iv) a loan made with the prior written consent of the Lender.

20.8 No guarantees or indemnities

- (a) The Company shall not (and shall ensure that no other member of the Group will) provide or allow to remain outstanding any guarantee in respect of any obligation of any person.
- (b) Paragraph (a) above does not apply to:
 - (i) any guarantee or indemnity given under the Finance Documents;
 - (ii) the endorsement of negotiable instruments in the ordinary course of trade;

- (iii) any performance bond, demand guarantee, standby letter of credit or similar instrument guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of trade;
- (iv) any guarantee permitted under Clause 20.9 (Financial Indebtedness); or
- (v) any guarantee given in respect of the netting or set-off arrangements permitted under paragraph (c)(i) of Clause 20.5 (Negative pledge); or
- (vi) any guarantee made with the prior written consent of the Lender.

20.9 Financial Indebtedness

- (a) The Company shall not (and shall ensure that no other member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to any Financial Indebtedness:
 - (i) incurred under the Finance Documents;
 - (ii) incurred under any Subordinated Debt in compliance with this Agreement;
 - (iii) which is referred to in paragraph (b) of Clause 20.7 (Loans or credit) or paragraph (b) of Clause 20.8 (No guarantees or indemnities);
 - (iv) of any person acquired by a member of the Group which is incurred under arrangements in existence at the date of the acquisition and not incurred or increased or having its maturity date extended in contemplation of, or since, that acquisition, but only until the date three months after the date of the acquisition;
 - (v) arising under any hedging transaction entered into by any member of the Group for the purpose of:
 - (A) hedging any risk to which any member of the Group is exposed in its ordinary course of trading; or
 - (B) its interest rate or currency management operations which are carried out in the ordinary course of business and for non-speculative purposes only;
 - (vi) not referred to in paragraphs (i) to (v) above, the principal amount of which (when aggregated with the principal amount of any other Financial Indebtedness incurred or allowed to remain outstanding by any member of the Group which is permitted under this paragraph (b)) does not exceed EUR500,000 (or its equivalent in another currency or currencies) at any time; or
 - (vii) incurred with the prior written consent of the Lender.

20.10 Merger

- (a) The Company shall not (and shall ensure that no other member of the Group will) enter into any amalgamation, demerger, merger or corporate reconstruction (including changing its legal form) without the prior written consent of the Lender.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal permitted pursuant to Clause 20.6 (Disposals).

20.11 Change of business

- (a) The Company must not carry on any business other than a Permitted Activity.
- (b) The Company shall procure that no substantial change is made to the general nature of the business of the Group from that carried on at the date of this Agreement.

20.12 Acquisitions

Unless the Lender has agreed otherwise in advance in writing, the Company shall not (and shall ensure that no other member of the Group will) acquire any business, shares or other ownership interests in any other person.

20.13 Centre of Main Interests

The Company must not cause or allow its registered office or Centre of Main Interests to be in or maintain an Establishment in any jurisdiction other than the Original Jurisdiction.

20.14 Shares, dividends and repayment of the Subordinated Debt

- (a) Except as provided in paragraph (b) below, the Company shall not approve a resolution or take any step (and shall ensure that its shareholder(s) will not adopt resolution, approve or take steps) aimed at:
 - (i) declaring or paying by the Company of any dividend or making by the Company of any other distribution in respect of its participation interest or shares;
 - (ii) any rights attaching to the participation interest or shares of the Company as at the date of this Agreement;
 - (iii) repaying or redeeming any share capital of the Company; or
 - (iv) repaying of any Subordinated Debt (in whole or in part).
- (b) Paragraph (a) above does not apply to approving any resolution or taking any step with the prior written consent of the Lender.

20.15 Investigation by the Lender

- (a) The Company shall, if the Lender notifies the Company of its concerns that there has been a violation of the provisions Prohibited Practices, cooperate in good faith with the Lender and its representatives in determining whether such a violation has occurred, and shall respond promptly and in reasonable detail to any notice from the Lender, and shall furnish documentary support for such response upon the Lender's request.
- (b) If the Company has been engaged in Prohibited Practices or has breached any of its obligations under the Finance Documents, the Lender has the right to start an internal investigation in which the Company shall assist the Lender and provide access to any documents, spaces, rooms and facilities. The Company shall also provide the Lender with all facilities in order to interview the Company's staff.

20.16 Environmental audit

- (a) The Company shall identify and address all environmental aspects of its activity and utilise an objective methodology to prioritise such aspects depending on their impact on the Environment. The

Company shall carry on internal complete environmental audits and, whenever required by law or relevant circumstances, engage external environmental audits and comply with the provisions thereof within the timeframes prescribed by such audits. The Company shall immediately supply to the Lender all reports of such audits and any other information requested by the Lender in connection thereof.

- (b) The Company must ensure that its management system standards comply with the customary management system standards for similar business, (for example, ISO 9001:2015). The Company shall immediately provide to the Lender evidence of such certifications and any other information requested by the Lender in connection thereof.

20.17 Environmental and Social Action Plan

- (a) The Company shall supply to the Lender the Environmental and Social Action Plan on or prior to the second Utilisation Date.
- (b) The Company shall diligently implement and adhere to the Environmental and Social Action Plan.

20.18 Taxes

- (a) The Company must pay all Taxes due and payable by it prior to the accrual of any fine or penalty for late payment, unless (and only to the extent that):
 - (i) payment of those Taxes is being contested in good faith;
 - (ii) adequate reserves are being maintained for those Taxes and the costs required to contest them; and
 - (iii) failure to pay those Taxes is not reasonably likely to have a Material Adverse Effect.
- (b) The Company must file all Tax returns within the periods prescribed under applicable laws.

20.19 Notarial deed, acknowledgment of debt or promissory note

- (a) Except as provided in paragraph (b) below, the Company must not:
 - (i) be or become an obliged party (*povinná osoba*) under any notarial deed (as referred to in section 45(2) of the Slovak Act No. 233/1995 Coll. as amended or acknowledge any debt by such notarial deed;
 - (ii) acknowledge any of its debts by a written declaration on acknowledgment of debt pursuant to section 558 of the Civil Code;
 - (iii) acknowledge any of its obligations by a written declaration on acknowledgment of obligations pursuant to section 323 of the Commercial Code; or
 - (iv) issue or guarantee any promissory note or bill of exchange (blank or completed) or grant to any person a right to complete any blank promissory note issued by the Company.
- (b) Paragraph (a) does not apply to:
 - (i) an Enforceable Notarial Deed; or
 - (ii) any act specified in paragraph (a) executed with the prior written consent of the Lender.

20.20 Conditions subsequent

The Company must procure that the Lender receives all of the documents and other evidence listed in the table below in form and substance satisfactory to the Lender no later than the date specified in that table opposite the relevant document or other evidence. The Lender shall notify the Company promptly upon being so satisfied.

Documents and other evidence	Deadline
To the extent required by the Lender a new Transaction Security Document creating a Security over all or any part of assets of the Company created or acquired within the Plant Development with Slovak law legal opinion(s) on the status and capacity of the Company and validity and enforceability of such new Transaction Security Document, acceptable to the Lender.	Within 60 days after the date of Practical Completion or until any other later date as may be agreed between the Company and the Lender.
Evidence that the Security under the above mentioned new Transaction Security Document has been duly created and perfected in accordance with the terms of the relevant Transaction Security Document.	Within 60 days after the date of Practical Completion or until any other later date as may be agreed between the Company and the Lender.
The Company must ensure that all assets of the Company, newly created or acquired within the Plant Development, are insured and the relevant Insurance Policy complies with requirements of Clause 21.4 (Insurances) and provide evidence thereof to the Lender.	Within 60 days after the date of Practical Completion or until any other later date as may be agreed between the Company and the Lender.

21. PLANT DEVELOPMENT AND PROPERTY COVENANTS

21.1 Plant Development completion

- (a) The Company must ensure that the Plant Development is completed:
- (i) in accordance with the Specifications and the Transaction Documents; and
 - (ii) in a good and workmanlike manner, using materials of good quality which are fit for their respective purposes.
- (b) The Company must ensure that Practical Completion occurs by no later than the Required Completion Date.
- (c) The Company must ensure access to the Plant to the extent required for standard commercial operation of the Plant. If in order to ensure such access, any access to property owned by a third party is required, the Company must ensure such access via an easement for the benefit of the Company and any future owner of the Plant or by any other means acceptable for the Lender (with the key consideration being that the legal instruments ensuring the access to the Plant must be fully and unconditionally assignable or transferable to any future owner of the Plant without any further consent being required from any person).

21.2 Project costs

- (a) The Company must not incur any cost or expense for goods or services in connection with the Plant Development which is not anticipated in the Budgeted Costs unless it is funded from Own Resources.
- (b) The Company may use the amounts reserved in the Budgeted Costs for contingency only:
 - (i) for financing of an item included in the Budgeted Costs in order to avoid occurrence of a Cost Overrun in relation to that item of the Budgeted Costs (in which case the prior written consent of the Lender under paragraph (ii) below shall not be required); or
 - (ii) with the prior written consent of the Lender.
- (c) The Company must ensure prompt payment or funding of all Cost Overruns as and when they are determined from Own Resources. The Company may not use the proceeds of a Loan (directly or indirectly) for this purpose.

21.3 Documents and Specifications

- (a) The Company must:
 - (i) exercise its rights and comply with its obligations (in each case acting with due care) under each Transaction Document (other than a Finance Document); and
 - (ii) ensure (so far as this is within its control) that other parties exercise their rights and comply with their obligations under each Transaction Document,

in a manner consistent with the Company's obligations under the Finance Documents and in a proper and timely manner.
- (b) The Company must ensure that all Transaction Documents are entered into on arm's length terms.
- (c) The Company must not enter into, amend, terminate, withdraw, rescind, repudiate or waive its rights under any Transaction Document (other than a General Supply Contract) or claim full or partial invalidity of any such Transaction Document where such action would cause an Event of Default or has or is reasonably likely to have a Material Adverse Effect.
- (d) The Company must not amend in any material respect, terminate, withdraw, rescind, repudiate or waive its material rights under any General Supply Contract or claim full or partial invalidity of any General Supply Contract.
- (e) The Company must not amend any Specification or add any new Specification to the extent that such amendment or addition:
 - (i) would require notification or other procedure at any authority that has issued any of the Permits;
 - (ii) increases or could increase of the Budgeted Costs; or
 - (iii) affects or could cause that Practical Completion does not occur on or before the Required Completion Date.
- (f) Unless the Lender has agreed otherwise in advance in writing, the Company must ensure that each Transaction Document (other than a Finance Document) provides at all times, to the satisfaction of

the Lender, that the Company's rights under that Transaction Document may be assigned or pledged in favour of, and the Company's obligations under that Transaction Document may be assumed by, each of the following persons:

- (i) the Lender; and
- (ii) purchaser of the Plant or its relevant part within the process of enforcement of the Security under the relevant Transaction Security Documents,

without any requirement for consent from any other person.

21.4 Insurances

- (a) In this Clause, **Replacement Value** means at any given time the amount equalling at least to the total amount of payment obligations owed by the Company to the Lender under the Finance Documents.
- (b) The Company shall (and shall ensure that each other member of the Group will) insure its business and assets with insurance companies to such an extent and against such risks as companies engaged in a similar business normally insure.
- (c) Without prejudice to paragraph (b) above, the Company must ensure that at all times (until any liability of the Company is outstanding under the Finance Documents) Insurance Policies are maintained in full force and effect, which:
 - (i) insure the Company in respect of its interests in the Project and the Plant for their full Replacement Value and provide at least for cover:
 - (A) against all normally insurable risks of loss or damage (including damage caused by fire, water, wind, earthquake and liability of the Company towards third parties);
 - (B) for Suppliers' all risks insurance covering contractors and sub-contractors and architects' professional liability;
 - (C) for site clearance, professional fees and VAT together with adequate allowance for inflation;
 - (D) for business interruption insurance (in respect of a period of not less than 16 years); and
 - (E) against acts of sabotage and terrorism, including any third-party liability arising from such acts;
 - (ii) include property owner's public liability insurance;
 - (iii) do not provide for "first risk insurance" (*poistenie na prvé riziko*);
 - (iv) insure such other risks as a prudent company in the same business as the Company would insure if protecting its property and investments with professional care; and

in each case are with an insurance company or underwriters, acceptable to the Lender,

provided that:

- (A) during the construction phase of the Plant Development, certain or all of the above risks, to the extent to which they relate to the Plant Development, may be insured under the General Supplier's Insurance Policy; and
 - (B) immediately upon the insurance cover under the General Supplier's Insurance Policy ceases to apply in relation to any risk, the Company must ensure that such risk is insured under an appropriate Company's Insurance Policy.
- (d) The Company must procure that each Insurance Policy complies with paragraph 21.3(f) above.
 - (e) The Company must deliver to the Lender copies of each Insurance Policy and, upon request, any information in connection with the Insurance Policies and claims under them which the Lender may reasonably require.
 - (f) The Company must:
 - (i) comply with the terms of the Insurance Policies;
 - (ii) not do or permit anything to be done which may make void or voidable any of the Insurance Policies; and
 - (iii) do everything that is required under each Insurance Policy to avoid any risk of any termination or reduction of any obligations of the insurer under the Insurance Policy with respect to any claim or potential claim that the Company may have under the Insurance Policy.
 - (g) The Company must ensure that:
 - (i) each premium for insurance is paid promptly and in any event prior to the commencement of the period of insurance for which that premium is payable; and
 - (ii) all other things necessary are done so as to keep each of the Insurance Policies in full force and effect at all times.
 - (h) The Company must ensure that:
 - (i) each Insurance Policy excludes the right of the insurer to terminate the Insurance Policy or to reject payment of any insurance benefits as a result of any breach by the Company of any of its duties under the Insurance Policy until the expiry of a grace period of 30 Business Days from the date when the insurer has delivered the notification of that breach to the Lender; and
 - (ii) pursuant to each Insurance Policy, the insurer will be obliged to:
 - (A) inform the Lender about any breach of obligation under the Insurance Policy (including the obligation to pay the insurance premium as required), which would entitle the insurer to terminate the Insurance Policy, or any other circumstance which could lead to termination or invalidation of an Insurance Policy or full or partial refusal of the insurer to perform under the Insurance Policy; and
 - (B) accept any step-in action by the Lender aimed at rectification of the breach of obligations and/or preventing the termination or invalidation of the Insurance Policy or full or partial refusal of the insurer to perform under the Insurance Policy

(including payment of insurance premium by the Lender on behalf of the Company).

- (i) The Company must promptly notify the Lender of:
 - (i) the proposed terms of any future renewal of any of the Insurance Policies;
 - (ii) any amendment, termination, avoidance or cancellation of any of the Insurance Policies made or, to its knowledge, threatened or pending;
 - (iii) any claim, and any actual or threatened refusal of any claim, under any of the Insurance Policies; and
 - (iv) any event or circumstance which has led or may lead to a breach by the Company of any term of this Clause.
- (j) If the Company fails to comply with any term of this Clause, the Lender may (but is not obliged to), at the expense of the Company, effect any Insurance Policy and generally do such things and take such other action as the Lender may reasonably consider necessary or desirable to prevent or remedy any breach of this Clause, including the payment of any insurance premium.
- (k) Except as provided below, the proceeds of any Insurance Policy must, unless the Lender otherwise requires, be used to prepay the Loans in accordance with Clause 7.4 (Mandatory prepayment – insurance proceeds).
- (l) The proceeds received under any Insurance Policy as a result of damage or destruction of the Plant or any other assets of the Company, if the total amount of claim under the Insurance Policy in respect of a particular damage or destruction does not exceed EUR500,000 on individual basis and to the extent no Default has occurred and is outstanding, shall be applied by the Company towards replacing, restoring or reinstating that part of the Plant or such other assets of the Company.
- (m) The proceeds of any business interruption insurance will be treated as the proceeds received under any Insurance Policy as a result of damage or destruction of the Plant.
- (n) The proceeds received under liability policies held by the Company which are required by the Company to satisfy its established liabilities to third parties, must be used to satisfy these liabilities.

21.5 Maintenance of the Plant

The Company shall maintain the Plant in good working order and suitable for standard commercial operation of the Plant in compliance with the terms of this Agreement, subject to ordinary wear and tear.

21.6 Alterations to the Plant

- (a) Except for the Plant Development, the Company must not undertake any steps leading to any material change of the Plant (including any planning or zoning permissions related to such change) prior to Practical Completion without the prior written consent of the Lender.
- (b) No material construction works or other alterations shall be made to the Plant after Practical Completion without prior written consent of the Lender.
- (c) For the purpose of paragraph (b) above, construction work or alteration will be considered **material** if it meets at least one of the following criteria:

- (i) according to applicable legislation it may be carried out only on the basis of a construction or other permit(s) issued by competent public authorities;
 - (ii) time required to complete the construction work or alteration will exceed two Months from its commencement; or
 - (iii) the aggregate costs required to complete the construction work or alteration exceed EUR100,000 in a calendar year.
- (d) The consent of the Lender required pursuant to paragraph (b) above shall not be unreasonably withheld or delayed if:
- (i) the costs of the relevant works or alterations are fully funded from the Own Resources (to the extent such Own Resources are not required to be used for other purposes in accordance with the Finance Documents); and
 - (ii) the works or alterations are not reasonably likely to cause an Event of Default to occur.
- (e) All construction works and alterations must be made in a good and workmanlike manner, using materials of good quality which are fit for their respective purposes, and so as to minimize their adverse impact on the standard commercial operation of the Plant.

21.7 Commercial Valuations

- (a) The Company must supply to the Lender a Commercial Valuation:
- (i) on a date falling 30 days after Practical Completion (in this Clause, the **initial valuation date**), such Commercial Valuation to contain the market and liquidation value of the Plant; and then
 - (ii) on annual basis on each anniversary of the initial valuation date,
- each such Commercial Valuation to be prepared as at the same date but not earlier than 30 days before it is submitted to the Lender.
- (b) The Company must:
- (i) provide the Commercial Valuer with all information and access that the Commercial Valuer will require in order to produce the Commercial Valuation; and
 - (ii) pay to the Lender or, if the Lender so requires, directly to the Commercial Valuer all fees, costs and expenses for preparation of any Commercial Valuation specified in paragraph (a) above.

22. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 22 is an Event of Default (save for Clause 22.15 (Acceleration)).

22.1 Non-payment

The Company does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by:

- (i) administrative or technical error; or
 - (ii) a Disruption Event; and
- (b) payment is made within three Business Days of its due date.

22.2 Financial covenants

Any requirement of Clause 19 (Financial covenants) is not satisfied.

22.3 Other obligations

- (a) The Company does not comply with any provision of the Finance Documents (other than those referred to in Clause 22.1 (Non-payment) and Clause 22.2 (Financial covenants)).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 30 days of the earlier of the Lender giving notice to the Company and the Company becoming aware of the failure to comply.

22.4 Misrepresentation

Any representation or statement made or deemed to be made by the Company in the Finance Documents or any other document delivered by or on behalf of the Company under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made, unless the circumstances giving rise to the misrepresentation or misstatement:

- (a) are capable of remedy; and
- (b) are remedied within 30 days of the earlier of the Lender giving notice of the misrepresentation, breach of warranty or misstatement to the Company and the Company becoming aware of the misrepresentation, breach of warranty or misstatement.

22.5 Cross Default

- (a) Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period.
- (b) Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- (d) Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).
- (e) No Event of Default will occur under this Clause 22.5 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than EUR500,000 (or its equivalent in any other currency or currencies).

22.6 Insolvency

(a) The Company:

- (i) is deemed or is declared for the purposes of any applicable law to be insolvent or over-indebted (*predlžený*) or unable to pay its debts (*platobne neschopný*);
- (ii) meets the conditions under any applicable legislation to be declared bankrupt (*vyhlásený konkurz*) or for its restructuring to be permitted (*povolená reštrukturalizácia*) or for any analogous procedure with similar purpose to be initiated against it in any jurisdiction;
- (iii) is unable or admits inability to pay its debts as they fall due;
- (iv) is deemed, or is declared, under any applicable law to be unable to pay its debts as they fall due;
- (v) suspends making payments on any of its debts;
- (vi) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness; or
- (vii) it has appointed any person to produce a restructuring feasibility opinion (*reštrukturalizačný posudok*) in respect of it or has consented to the same.

(b) A moratorium is declared in respect of any indebtedness of the Company.

22.7 Insolvency proceedings

(a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (i) 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 any member of the Group other than a solvent liquidation or reorganisation of any member of the Group other than the Company;
- (ii) a composition, compromise, assignment or arrangement with any creditor of any member of the Group;
- (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group other than the Company), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets; or
- (iv) enforcement of any Security over any assets of any member of the Group,

or any analogous procedure or step is taken in any jurisdiction.

(b) This Clause 22.7 shall not apply to any winding-up petition which is frivolous or vexatious which is being contested in good faith and with due diligence and, in each case, is discharged, stayed or dismissed within 15 days of commencement.

22.8 Creditors' process

Any expropriation, attachment, sequestration, distress, execution or analogous event affects any asset or assets of a member of the Group having an aggregate value of EUR500,000 and is not discharged within 15 days.

22.9 Cessation of business, delay and abandonment

- (a) The Company suspends or ceases, or threatens to suspend or cease, to carry on all or a material part of its business except as a result of any disposal or other transaction allowed under this Agreement.
- (b) The Company is in delay with Plant Development for more than six Months when tested against timeline and/or milestones in the Specifications or ceases, or threatens to cease, realising the Plant Development.
- (c) The Company abandons the Plant Development as a whole or its substantial part for a period of more than 30 days.

22.10 Unlawfulness and invalidity

- (a) It is or becomes unlawful for the Company to perform any of its obligations under the Finance Documents.
- (b) Any Finance Document is not effective in accordance with its terms or is alleged by the Company to be ineffective in accordance with its terms for any reason.
- (c) A Transaction Security Document does not create a Security it purports to create.

22.11 Repudiation

The Company repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

22.12 Litigation

Any litigation, arbitration, administrative, governmental or regulatory proceedings or disputes or investigations of, or before, any court, arbitral body or agency are commenced:

- (a) in relation to the Transaction Documents or the transactions contemplated in the Transaction Documents, which, if adversely determined, are likely to have a Material Adverse Effect; or
- (b) against the Company or its assets other than covered in (a) above, which, if adversely determined, are likely to have a Material Adverse Effect.

22.13 Major Damage

Any part of any Plant is destroyed or damaged and in the opinion of the Lender (taking into account the amount and timing of receipt of the proceeds of insurance effected in accordance with the terms of this Agreement or other sources of funding available to the Company for the purposes of remedying the destruction or damage), the destruction or damage has or is reasonably likely to have a Material Adverse Effect.

22.14 Material adverse change

Any event or circumstance, or series of events or circumstances, occurs which in the opinion of the Lender has or is reasonably likely to have a Material Adverse Effect.

22.15 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Lender may:

- (a) by notice to the Company:
 - (i) cancel the Commitment whereupon it shall immediately be cancelled;
 - (ii) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or
 - (iii) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be payable on demand, whereupon they shall immediately become payable on demand by the Lender; and/or
- (b) exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

23. TRANSFER BY THE LENDER

23.1 Assignments and transfers by the Lender

Subject to this Clause 23, the Lender (the **Existing Lender**) may at any time:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

under the Finance Documents to another bank or financial institution or to a trust, fund or other person (the **New Lender**).

23.2 Company consent

The consent of the Company is not required for an assignment or transfer by the Existing Lender.

23.3 Other conditions of assignment or transfer

If the Lender assigns or transfers any of its rights or obligations under the Finance Documents and, as a result of circumstances existing at the date the assignment or transfer occurs, the Company would be obliged to make a payment to the New Lender under Clause 12 (Tax gross-up and indemnities) or Clause 13 (Increased Costs), then the New Lender is only entitled to receive payment under those Clauses to the same extent as the Existing Lender would have been if the assignment or transfer.

23.4 Procedure

A transfer of obligations will only be effective on receipt by the Company of written confirmation from the New Lender (in form and substance satisfactory to the Company) that it is bound by the

terms of this Agreement as the Lender. On the transfer becoming effective in this manner, the Existing Lender will be released from its obligations under this Agreement to the extent that they are transferred to the New Lender.

23.5 Security over the Lender's rights

(a) In addition to the other rights provided to the Lender under this Clause 23, the Lender may without consulting with or obtaining consent from the Company, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of the Lender including:

- (i) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and
- (ii) any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by the Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (A) release the Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
- (B) require any payments to be made by the Company other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the Lender under the Finance Documents.

(b) The limitations on assignment or transfer by the Lender set out in any Finance Document, in particular in Clauses 23.1 (Assignments and transfers by the Lender) to 23.3 (Other conditions of assignment or transfer) shall not apply to:

- (i) the creation of Security pursuant to paragraph (a)(i) above; or
- (ii) any assignment or transfer of rights under the Finance Documents made by a federal reserve or central bank to a third party in connection with the enforcement of such Security.

(c) The Lender may disclose such Confidential Information as the Lender is required to disclose to a federal reserve or central bank to (or through) whom it creates Security pursuant to paragraph (a)(i) above and any federal reserve or central bank may disclose such Confidential Information to a third party to whom it assigns or transfers (or may potentially assign or transfer) rights under the Finance Documents in connection with the enforcement of such Security.

24. CHANGES TO THE COMPANY

The Company may not assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

25. APPLICATION OF PROCEEDS

25.1 Order of application

Subject to Clause 25.2 (Prospective liabilities), all amounts from time to time received or recovered by the Lender pursuant to the terms of any Finance Document or in connection with the realisation

or enforcement of all or any part of the Transaction Security (for the purposes of this Clause 25, the **Recoveries**) shall be held by the Lender to apply them at any time as the Lender (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 25, in the following order:

- (a) in payment of all costs and expenses incurred by the Lender in connection with any realisation or enforcement of the Transaction Security in accordance with the terms of this Agreement; and
- (b) in payment to the Lender in accordance with this Agreement.

25.2 Prospective liabilities

After the Lender exercises any of its rights under Clause 22.15 (Acceleration) the Lender may, in its discretion, hold any amount of the Recoveries in one or more interest-bearing suspense or impersonal accounts in the name of the Lender with such financial institution (including itself) and for so long as the Lender shall think fit (the interest being credited to the relevant account) for later application under Clause 25.1 (Order of application) in respect of:

- (a) any sum to the Lender; and
- (b) any part of the obligations and liabilities secured by the Transaction Security Documents,

that the Lender reasonably considers, in each case, might become due or owing at any time in the future.

25.3 Investment of proceeds

Except as otherwise provided in any Transaction Security Document, the Lender may:

- (a) invest any Recoveries in its name or under its control in any other investments which may be selected by the Lender; or
- (b) place any Recoveries on deposit in its name or under its control at any bank or institution (including itself) and on such terms as the Lender may agree.

25.4 Currency conversion

- (a) For the purpose of, or pending the discharge of, any of the obligations and liabilities secured by the Transaction Security Documents, the Lender may convert any moneys it receives or recovers from one currency to another, at a market rate of exchange.
- (b) The obligations of the Company to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

25.5 Permitted deductions

The Lender shall be entitled, in its discretion:

- (a) to set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any law or regulation to make from any distribution or payment made by it under this Agreement; and

- (b) to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as Lender under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

26. CONDUCT OF BUSINESS BY THE LENDER

No provision of any Finance Document will:

- (a) interfere with the right of the Lender to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige the Lender 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 the Lender to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

27. PAYMENT MECHANICS

27.1 Payments to the Lender

- (a) On each date on which the Company is required to make a payment under a Finance Document, the Company shall make the same available to the Lender (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Lender as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Unless a Finance Document specifies that payments under it are to be made in another manner, all payments must be made to such account in the principal financial centre of a Participating Member State, with such bank as the Lender specifies.

27.2 Partial payments

- (a) If the Lender receives a payment that is insufficient to discharge all the amounts then due and payable by the Company under the Finance Documents, the Lender shall apply that payment towards the obligations of the Company under the Finance Documents in the order the Lender chooses.
- (b) Paragraph (a) above will override any appropriation made by the Company.

27.3 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.

27.4 Business Days

- (a) Any payment under the Finance Documents 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) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

27.5 Currency of account

- (a) Subject to paragraphs (b) and (c) below, euro is the currency of account and payment for any sum due from the Company under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than euro shall be paid in that other currency.

27.6 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 Lender (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 Lender (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Lender (acting reasonably and after consultation with the Company) specifies 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.

27.7 Disruption to payment systems etc

If either the Lender determines (in its discretion) that a Disruption Event has occurred or the Lender is notified by the Company that a Disruption Event has occurred:

- (a) the Lender may, and shall if requested to do so by the Company, consult with the Company for a period of not more than five days with a view to agreeing with the Company such changes to the operation or administration of the Facility as the Lender may deem necessary in the circumstances;
- (b) the Lender shall not be obliged to consult with the Company in relation to any changes mentioned in paragraph (a) above if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes; and
- (c) any such changes agreed upon by the Lender and the Company shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon them as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents.

28. SET-OFF

The Lender may set off any matured obligation due from the Company under the Finance Documents (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to the Company, regardless of the place of payment, booking branch or currency of either

obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

29. NOTICES

29.1 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 fax or letter.

29.2 Addresses

The address and fax number (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; and
- (b) in the case of the Lender, that identified with its name below,

or any substitute address or fax number or department or officer as the Company may notify to the Lender (or the Lender may notify to the Company, if a change is made by the Lender) by not less than five Business Days' notice.

29.3 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 fax, 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 29.2 (Addresses), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).
- (c) Any communication or document which becomes effective, in accordance with paragraphs (a) to (b) above, on a non-working day or after 5pm in the place of receipt shall be deemed only to become effective on the next working day in that place.

29.4 Electronic communication

- (a) Any communication to be made between the Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including by way of posting to a secure website) if the 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 electronic mail address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above to be made between the Company and the Lender may only be made in that way to the extent that the Lender and the Company agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above made between the Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by the Company to the Lender only if it is addressed in such a manner as the Lender shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, on a non-working day or after 5pm in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the next working day in that place.
- (e) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 29.4.
- (f) An electronic communication will be treated as being in writing for the purposes of the Finance Documents.

29.5 English language

- (a) Any communication made 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 (save as expressly provided otherwise in this Agreement) Russian; or
 - (ii) if not in English or Russian, and if so required by the Lender, accompanied by a certified English or Russian translation and, in this case, the English or Russian translation (as applicable) or, if both English and Russian translations are prepared, the Russian translation, will prevail unless the document is a constitutional, statutory or other official document.

30. CALCULATIONS AND CERTIFICATES

30.1 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 the Lender are prima facie evidence of the matters to which they relate.

30.2 Certificates and determinations

Any certification or determination by the Lender 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.

30.3 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.

31. 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.

32. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of the Lender, 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 the Lender 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, and may be waived only in writing and specifically.

33. AMENDMENTS AND WAIVERS

33.1 Amendments and waivers

Any term of or any right or remedy under the Finance Documents may be amended or waived only with the consent of the Lender and the Company.

33.2 Replacement of Screen Rate

(a) If a Screen Rate Replacement Event has occurred in relation to any Screen Rate for a currency which can be selected for a Loan, any amendment or waiver which relates to:

(i) providing for the use of a Replacement Benchmark in relation to that currency in place of that Screen Rate; and

(ii)

(A) aligning any provision of any Finance Document to the use of that Replacement Benchmark;

(B) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);

(C) implementing market conventions applicable to that Replacement Benchmark;

(D) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or

(E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Lender and the Company.

Relevant Nominating Body means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

Replacement Benchmark means a benchmark rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Screen Rate by:
 - (i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
 - (ii) any Relevant Nominating Body,and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the Replacement Benchmark will be the replacement under paragraph (ii) above;
- (b) in the opinion of the Lender and the Company, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to a Screen Rate; or
- (c) in the opinion of the Lender and the Company, an appropriate successor to a Screen Rate.

Screen Rate Replacement Event means, in relation to a Screen Rate:

- (a) the methodology, formula or other means of determining that Screen Rate has, in the opinion of the Lender, and the Company materially changed;
- (b)
 - (i)
 - (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
 - (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent,provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;
 - (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;
 - (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or
 - (iv) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or

- (c) the administrator of that Screen Rate determines that that Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
 - (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Lender and the Company) temporary; or
 - (ii) that Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than the period opposite that Screen Rate in Schedule 10 (Screen Rate contingency periods); or
- (d) in the opinion of the Lender and the Company, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

34. CONFIDENTIAL INFORMATION

34.1 Confidentiality

The Lender agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 34.2 (Disclosure of Confidential Information), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

34.2 Disclosure of Confidential Information

The Lender may disclose:

- (a) to any of its Affiliates, representatives of IIB Member States in the governing, supervising and auditing bodies of the Lender and any of its or their officers, directors, employees, professional advisers, auditors, partners such Confidential Information as the Lender shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents and to any of that person's Affiliates and professional advisers;
 - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or the Company and to any of that person's Affiliates and professional advisers;
 - (iii) appointed by the Lender or by a person to whom paragraph (b)(i) or (b)(ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;

- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange, listing authority or similar body or pursuant to any applicable law or regulation;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (vii) to whom or for whose benefit the Lender charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 23.5 (Security over the Lender's rights);
- (viii) who is a member of the Group;
- (ix) a Commercial Valuer; or
- (x) with the consent of the Company,

in each case, such Confidential Information as the Lender shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii), (b)(iii) and (b)(ix) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
 - (B) in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
 - (C) in relation to paragraphs (b)(v), (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Lender, it is not practicable so to do in the circumstances; and
- (c) to any person appointed by the Lender or by a person to whom paragraph (b)(i) or (b)(ii) above applies such Confidential Information as the Lender shall consider appropriate to provide administration or settlement services in respect of one or more of the Finance Documents if such service provider has entered into such form of confidentiality undertaking agreed between the Company and the Lender;
 - (d) such Confidential Information as the Lender shall consider appropriate, by publishing of the Finance Documents together with their schedules and amendments (if applicable) in accordance with Section 5a(5) of the Information Act in connection with Section 47a(1) of the Civil Code;

- (e) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Company if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information; and
- (f) to anyone for general marketing purposes provided that so disclosed Confidential Information is limited to the identity of the Company, that it has acted as a borrower of the Lender, the amount of the Facility and the term of the Facility.

34.3 Entire agreement

This Clause 34 constitutes the entire agreement between the Parties in relation to the obligations of the Lender under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

34.4 Inside information

The Lender acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Lender undertakes not to use any Confidential Information for any unlawful purpose.

34.5 Notification of disclosure

The Lender agrees (to the extent permitted by law and regulation) to inform the Company:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 34.2 (Disclosure of Confidential Information) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 34.

34.6 Continuing obligations

The obligations in this Clause 34 are continuing and, in particular, shall survive and remain binding on the Lender for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Company under or in connection with this Agreement have been paid in full and the Commitment has been cancelled or otherwise cease to be available; and
- (b) the date on which the Lender otherwise ceases to be the Lender.

35. CONFIDENTIALITY OF FUNDING RATES

35.1 Confidentiality and disclosure

- (a) The Company agrees to keep each Funding Rate confidential and not to disclose it to anyone, save to the extent permitted by paragraph (b) below.
- (b) The Company may disclose any Funding Rate to:

- (i) any of its Affiliates, representatives of IIB Member States in the governing, supervising and auditing bodies of the Lender and any of its or their officers, directors, employees, professional advisers, auditors and partners if any person to whom that Funding Rate is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Funding Rate or is otherwise bound by requirements of confidentiality in relation to it;
- (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Company it is not practicable to do so in the circumstances;
- (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Funding Rate is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Company it is not practicable to do so in the circumstances; and
- (iv) any person with the consent of the Lender.

35.2 Related obligations

- (a) The Lender and the Company acknowledge that each Funding Rate is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Lender and the Company undertake not to use any Funding Rate for any unlawful purpose.
- (b) The Company agrees (to the extent permitted by law and regulation) to inform the Lender:
 - (i) of the circumstances of any disclosure made pursuant to paragraph (b)(ii) of Clause 35.1 (Confidentiality and disclosure) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
 - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 35.

35.3 No Event of Default

No Event of Default will occur under Clause 22.3 (Other obligations) by reason only of the Company's failure to comply with this Clause 35.

36. 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.

37. GOVERNING LAW

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

38. ENFORCEMENT

38.1 Jurisdiction

- (a) Unless specifically provided in another Finance Document in relation to that Finance Document, any dispute arising out of or in connection with any Finance Document (including a dispute relating to the existence, validity or termination of any Finance Document and a dispute relating to any non-contractual obligation arising out of or in connection with any Finance Document) (a **Dispute**), must be referred to and finally resolved by arbitration under the LCIA Arbitration Rules (the **Rules**).
- (b) The Rules are incorporated by reference into this Clause 38 (Enforcement) and capitalised terms used in this Clause 38 (Enforcement) which are not otherwise defined in this Agreement have the meaning given to them in the Rules.
- (c) The number of arbitrators will be three. The Claimant and the Respondent will each nominate one arbitrator for appointment by the LCIA Court. Within 14 days of the delivery of the Response, the two party-nominated arbitrators will jointly nominate the presiding arbitrator for appointment by the LCIA Court, failing which the presiding arbitrator will be appointed by the LCIA Court.
- (d) The seat, or legal place of arbitration, will be London.
- (e) The language used in any arbitral proceedings will be English. All documents submitted in connection with the proceedings must be in English or, if in another language, accompanied by an English translation.
- (f) This arbitration agreement is governed by English law.

38.2 Waiver of immunity

To the fullest extent permitted by law the Company irrevocably and unconditionally on behalf of itself and its assets:

- (a) agrees not to claim any immunity from and submits to the jurisdiction of the courts of any jurisdiction in relation to:
 - (i) the recognition of any judgment or order of the English courts in support of any arbitration contemplated by this Clause 38 (Enforcement); and
 - (ii) the recognition of any arbitral award made in accordance with this Clause 38 (Enforcement); and
- (b) consents generally to the enforcement in any jurisdiction of any judgment or order in support of any arbitration contemplated by, or any arbitral award made in accordance with, this Clause 38 (Enforcement) and the giving of any relief in the English courts and the courts of any other jurisdiction whether before or after final arbitral award, including:
 - (i) relief by way of interim or final injunction or order for specific performance or recovery of any property; and

- (ii) attachment of and enforcement or execution against any property, revenues or other assets (irrespective of their use or intended use); and
- (c) waives all rights of immunity from the jurisdiction of the English courts or the courts of any other jurisdiction in relation to such recognition and enforcement and the giving of such relief (including to the extent that such immunity may be attributed to it), and agrees to ensure that no such claim is made on its behalf.

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

SCHEDULE 1

CONDITIONS PRECEDENT

1. The Company

The following documents issued in the English or Russian language or officially translated into the English or Russian language by a sworn translator:

- (a) An original or a certified copy of the constitutional documents of the Company in their original wording and in their present full wording.
- (b) An original or a certified copy of an up-to-date extract from the commercial register for the Company not older than 10 days, and, if any information showed on any such extract is untrue, incomplete or incorrect, a copy of all documents proving such change to the information and a copy of the application to register with the commercial register such change to the information as filed with the relevant authority.
- (c) An original or a certified copy of a resolution of the board of directors of the Company:
 - (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;
 - (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.
- (d) An original or a certified copy of a resolution of the MH Manažment, a. s. as the sole shareholder of the Company approving the terms of, and the transactions contemplated by, the Finance Documents to which the Company is a party and resolving that the Company executes the Finance Documents, and performs the transactions contemplated by the Finance Documents, to which the Company is a party.
- (e) Originals or certified copies of any other corporate resolutions of the Company that are required under applicable laws or the constitutional documents of the Company for entry into by the Company and performance of, and the transactions contemplated by, the Finance Documents to which the Company is a party or for the validity and enforceability of the Finance Documents to which the Company is a party.
- (f) A specimen of the signature of each person authorised by the resolutions referred to in paragraph (c) above.
- (g) An original or a certified copy of the resolution(s) appointing the current members of the board of directors of the Company.
- (h) A certificate of an authorised signatory of the Company certifying that each copy document relating to it specified in this Schedule 1 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

2. Financial information

- (a) The Original Financial Statements of the Company.
- (b) An original or a certified copy of confirmation issued by the relevant Tax authority confirming that the Company is not in default with payment of any Tax, not more than 30 days before the first Utilisation Date.
- (c) Originals or certified copies of confirmations issued by the banks holding any of the bank accounts of the Company that there are not outstanding execution proceedings against the Company affecting such bank accounts, not more than 30 days before the first Utilisation Date.

3. Insurance Policies

Copies of all existing Insurance Policies and evidence of insurance cover in compliance with this Agreement.

4. Finance Documents

- (a) This Agreement executed by the parties to it.
- (b) The following Transaction Security Documents each executed by the parties to it:

Security Document	To be signed and delivered by
Immovable Assets Pledge Agreement	the Company and the Lender
Assets Pledge Agreement	the Company and the Lender
Receivables Pledge Agreement	the Company and the Lender

- (c) Confirmation of registration and extract (*potvrdenie o registrácii* and *úradný výpis*) from the Central Registry evidencing that the Security under the Assets Pledge Agreement has been duly registered as a first ranking security in accordance with the Assets Pledge Agreement and that there is no other Security registered in the Central Registry in relation to the assets of the Company forming part of the collateral under the Assets Pledge Agreement.
- (d) Confirmation of registration and extract (*potvrdenie o registrácii* and *úradný výpis*) from the Central Registry evidencing that the Security under the Receivables Pledge Agreement has been duly registered as a first ranking security in accordance with the Receivables Pledge Agreement and that there is no other Security registered in the Central Registry in relation to the assets of the Company forming part of the collateral under the Receivables Pledge Agreement.
- (e) Valid and conclusive decisions of the competent District office on approval of the entry (*vkład*) into the cadastral registry of the Security over the Buildings and Land created under the Immovable Assets Pledge Agreement.
- (f) Extracts from the relevant ownership certificate (*listy vlastníctva*) issued by the competent District office evidencing that the Security under the Immovable Assets Pledge Agreement has been registered in the cadastral registry as a first ranking security in accordance with Immovable Assets Pledge Agreement and that there is no other Security registered in the cadastral registry in relation to the Buildings or Land.

(g) Duplicate (*odpis*) of the Enforceable Notarial Deed.

5. Legal opinions

(a) A legal opinion of Allen & Overy LLP, legal advisers to the Lender in England, substantially in the form distributed to the Lender prior to signing this Agreement.

(b) A legal opinion of Allen & Overy Bratislava, s.r.o., legal advisers to the Lender as to the matters of the laws of the Slovak Republic, relating to status and capacity of the Company and validity and enforceability of the Finance Documents (other than the Enforceable Notarial Deed), substantially in the form distributed to the Lender prior to signing this Agreement.

6. Other documents and evidence

(a) Evidence that the fees, costs and expenses then due from the Company pursuant to this Agreement or any other Finance Document have been paid or will be paid by the first Utilisation Date.

(b) A copy of any other Authorisation or other document, opinion or assurance which the Lender considers to be necessary or desirable (if it has notified the Company accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

7. Publishing of Finance Documents

(a) Evidence that this Agreement and each other Finance Document entered into prior to the first Utilisation Date and each amendment to this Agreement and each such document have been published in accordance with Section 5a et seq. of the Information Act in the Central registry of contracts (*Centrálny register zmlúv*) and that such publishing occurred within three months from the date of the relevant documents.

SCHEDULE 2

UTILISATION REQUEST

From: Zvolenská teplárenská, a.s.

To: International Investment Bank

Dated:

Zvolenská teplárenská, a.s. – EUR30,900,000 Facility Agreement dated [●] (the Agreement)

1. We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
2. We wish to borrow a Loan on the following terms:

Proposed Utilisation Date:	[] (or, if that is not a Business Day, the next Business Day)
Currency of Loan:	euro
Amount:	[] or, if less, the Available Commitment
Purpose:	[]
Proceeds of the Loan are to be disbursed as follows:	[]
Bank account:	[]
3. We confirm that each condition specified in Clause 4.4 (Further conditions precedent) of the Agreement is satisfied on the date of this Utilisation Request.
4. This Utilisation Request is irrevocable.

Yours faithfully

Company

Zvolenská teplárenská, a.s.

By: _____

Name: [●]

Title: [●]

By: _____

Name: [●]

Title: [●]

SCHEDULE 3

FORM OF COMPLIANCE CERTIFICATE

To: International Investment Bank as Lender

From: Zvolenská teplárenská, a.s.

Dated:

**Zvolenská teplárenská, a.s. – EUR30,900,000 Facility Agreement
dated [●] (the Agreement)**

1. We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
2. We confirm that as at [relevant testing date or for the Measurement Period ending on that date]:
 - (a) DSCR is [●] per cent;
 - (b) ratio (expressed as a percentage) of Borrowings to Equity is [●] per cent;
 - (c) ratio of Net Borrowings to EBITDA is [●] to 1;
 - (d) ratio of EBIT to Finance Costs is [●] to 1.
3. [We set out below calculations establishing the figures in paragraph 2 above:
[].]
4. [We confirm that as at [relevant testing date] [no Default is continuing]/[the following Default[s] [is/are] continuing and the following steps are being taken to remedy [it/them]:
[]].]

Yours faithfully

Company
Zvolenská teplárenská, a.s.

By: _____
Name: [●]
Title: [●]

By: _____
Name: [●]
Title: [●]

SCHEDULE 4

TIMETABLES

Loans

Delivery of a duly completed Utilisation Request (Clause 5.1 (Delivery of a Utilisation Request))	11:00 a.m. one Business Day before the Quotation Day.
EURIBOR is fixed	Quotation Day 11:00 a.m. (Brussels time).
A Reference Bank fails to supply a quotation under Clause 10.2 (Calculation of Reference Bank Rate).	Noon on the Quotation Day (Brussels time).

SCHEDULE 5
BUDGETED COSTS

Project costs	Amount in EUR
Investment project for renovation of DH plant (2x 20 MW HOB for biomass + 3x 12.5 MW boilers - 1 for biomass, 2 for natural gas)	28 000 000,00
<i>heating room for steam/hot water - technology</i>	<i>16 773 800,00</i>
<i>boiler room for biomass and natural gas - construction part</i>	<i>7 137 000,00</i>
<i>reconstruction of source of heat - project preparation</i>	<i>1 450 000,00</i>
<i>control room of heat source, technology</i>	<i>480 400,00</i>
<i>renovation of heat exchange station-heat distribution network (technology)</i>	<i>1 500 000,00</i>
<i>renovation of heat exchange station-heat distribution network (construction)</i>	<i>250 000,00</i>
<i>renovation of heat exchange station-heat distribution network (project preparation)</i>	<i>100 000,00</i>
<i>other small investment costs</i>	<i>308 800,00</i>
Engineering, project implementation, construction supervision	2 900 000,00
TOTAL investment costs	30 900 000,00

SCHEDULE 6

DEFINITIONS AND INTERPRETATIVE GUIDELINES OF THE LENDER

The purpose of these Guidelines is to clarify the meaning of the terms **Corrupt Practices, Fraudulent Practices, Coercive Practices, Collusive Practices** and **Obstructive Practices** in the context of the operations of the Lender.

1. **Corrupt Practices**

A **Corrupt Practice** is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.

Corrupt practices are understood as kickbacks and bribery. The conduct in question must involve the use of improper means (such as bribery) to violate or derogate a duty owed by the recipient in order for the payer to obtain an undue advantage or to avoid an obligation. Antitrust, securities and other violations of law that are not of this nature are excluded from the definition of corrupt practices.

It is acknowledged that foreign investment agreements, concessions and other types of contracts commonly require investors to make contributions for bona fide social development purposes or to provide funding for infrastructure unrelated to the project. Similarly, investors are often required or expected to make contributions to bona fide local charities. These practices are not viewed as Corrupt Practices for purposes of these definitions, so long as they are permitted under local law and fully disclosed in the payer's books and records. Similarly, an investor will not be held liable for corrupt or fraudulent practices committed by entities that administer bona fide social development funds or charitable contributions.

In the context of conduct between private parties, the offering, giving, receiving or soliciting of corporate hospitality and gifts that are customary by internationally-accepted industry standards shall not constitute corrupt practices unless the action violates applicable law.

Payment by private sector persons of the reasonable travel and entertainment expenses of public officials that are consistent with existing practice under relevant law and international conventions will not be viewed as Corrupt Practices.

The Lender does not condone facilitation payments. For the purposes of implementation, the interpretation of Corrupt Practices relating to facilitation payments will take into account relevant law and international conventions pertaining to corruption.

2. **Fraudulent Practices**

A **Fraudulent Practice** is any act or omission, including misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

An action, omission, or misrepresentation will be regarded as made recklessly if it is made with reckless indifference as to whether it is true or false. Mere inaccuracy in such information, committed through simple negligence, is not enough to constitute a Fraudulent Practice for purposes of this Agreement.

Fraudulent Practices are intended to cover actions or omissions that are directed to or against the Lender. It also covers Fraudulent Practices directed to or against Lender's member country in

connection with the award or implementation of a government contract or concession in a project financed by the Lender. Frauds on other third parties are not condoned but are not specifically sanctioned in the Lender's operations. Similarly, other illegal behaviour is not condoned, but will not be sanctioned as a Fraudulent Practice for the purpose of this Agreement.

3. **Coercive Practices**

A **Coercive Practice** is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party. Coercive Practices are actions undertaken for the purpose of bid rigging or in connection with public procurement or government contracting or in furtherance of a Corrupt Practice or a Fraudulent Practice.

Coercive Practices are threatened or actual illegal actions such as personal injury or abduction, damage to property, or injury to legally recognizable interests, in order to obtain an undue advantage or to avoid an obligation. It is not intended to cover hard bargaining, the exercise of legal or contractual remedies or litigation.

4. **Collusive Practices**

A **Collusive Practice** is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party. Collusive Practices are actions undertaken for the purpose of bid rigging or in connection with public procurement or government contracting or in furtherance of a Corrupt Practice or a Fraudulent Practice.

5. **Obstructive Practice**

An **Obstructive Practice** is (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making of false statements to investigators, in order to materially impede an investigation by the Lender into allegations of a corrupt, fraudulent, coercive or collusive practice, and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) acts intended to materially impede the exercise of Lender's access to contractually required information in connection with an investigation by the Lender into allegations of a corrupt, fraudulent, coercive or collusive practice.

Any action legally or otherwise properly taken by a party to maintain or preserve its regulatory, legal or constitutional rights such as the attorney-client privilege, regardless of whether such action had the effect of impeding an investigation, does not constitute an Obstructive Practice.

SCHEDULE 7

EXISTING BUILDINGS

- (1) Buildings registered in the ownership certificate No. 112 kept by the District Office Zvolen, cadastral territory Môťová, municipality Zvolen, district Zvolen:

Building registration No.	Description	Built on land plot of register "C", land plot No.	Ownership share
1792	Warehouse heated	1298/25	1/1
1792	Warehouse heated	1298/26	1/1
1792	assembling workshops	1298/27	1/1
1792	operational and social building	1298/28	1/1
1792	measurement and regulatory control	1298/29	1/1
1792	Boiler room	1298/30	1/1
1792	Dredging station	1298/34	1/1
1792	fire water mains	1298/35	1/1
1792	Warehouse for oils and lubricants	1298/36	1/1
1792	Trailing tray, engine room	1298/37	1/1
1792	Pumping station for returned water	1298/50	1/1
1792	Metering object	1298/51	1/1
1792	Pumping station for returned water	1298/52	1/1
1792	Chemical water treatment	1547/3	1/1
1792	Chemical water treatment	1547/8	1/1
1801	Main production block	1536/1	1/1
1801	Main production block	1536/2	1/1
1801	Main production block	1547/19	1/1
4431	Control station	255	1/1
4483	Sewage	1558/83	1/1
4484	Wastewater treatment	1558/86	1/1
4485	Rotary tipper	1558/79	1/1
4486	Scaling room	1558/75	1/1
4486	Scaling room	1558/76	1/1
4487	Defrosting tunnel	1558/84	1/1
4492	Waterworks	1547/17	1/1
4492	Spill tower	1547/18	1/1
5166	locksmith workshops and dressing rooms	1546	1/1
5167	Garages and transport warehouses	1535/2	1/1
5168	Gatehouse	1535/1	1/1
5211	Boiler room gas station control	1547/6	1/1
5212	Boiler room gas station control	1547/5	1/1
5581	Road weight Shenck	1547/4	1/1
7849	Chemical water treatment	1539	1/1
7850	Oil separator	1547/7	1/1
7994	Cottage	1792/160	1/1
7995	Chimney	1547/15	1/1
8007	Carpenter workshop	1534	1/1
8008	Warehouse	1538	1/1
8009	Fueling station	1547/9	1/1

8010	Garage - warehouse	1547/2	1/1
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- (2) Buildings registered in the ownership certificate No. 7700 kept by the District Office Zvolen, cadastral territory Zvolen, municipality Zvolen, district Zvolen:

Building registration No.	Description	Built on land plot of register "C", land plot No.	Ownership share
1243	Exchange station	485/13	1/1

SCHEDULE 8

LAND

- (1) Land registered in the ownership certificate No. 112 kept by the District Office Zvolen, cadastral territory Môťová, municipality Zvolen, district Zvolen:

Land plots of register "C"

Plot No.	Area in m2	Type of land	Ownership share
24	370	Build-up area and courtyard	1/1
114	239	Build-up area and courtyard	1/1
255	215	Build-up area and courtyard	1/1
1534	163	Build-up area and courtyard	1/1
1537	490	Build-up area and courtyard	1/1
1538	228	Build-up area and courtyard	1/1
1539	1064	Build-up area and courtyard	1/1
1543	398	Build-up area and courtyard	1/1
1546	1314	Build-up area and courtyard	1/1
1298/14	73450	Build-up area and courtyard	1/1
1298/145	265	Build-up area and courtyard	1/1
1298/146	1076	Build-up area and courtyard	1/1
1298/152	732	Permanent grassland	1/1
1298/153	582	Permanent grassland	1/1
1298/17	39541	Water area	1/1
1298/204	3086	Water area	1/1
1298/21	4048	Build-up area and courtyard	1/1
1298/25	395	Build-up area and courtyard	1/1
1298/26	397	Build-up area and courtyard	1/1
1298/27	687	Build-up area and courtyard	1/1
1298/28	810	Build-up area and courtyard	1/1
1298/29	473	Build-up area and courtyard	1/1
1298/30	3064	Build-up area and courtyard	1/1
1298/31	91	Build-up area and courtyard	1/1
1298/32	95	Build-up area and courtyard	1/1
1298/33	133	Build-up area and courtyard	1/1
1298/34	251	Build-up area and courtyard	1/1
1298/35	143	Build-up area and courtyard	1/1
1298/36	332	Build-up area and courtyard	1/1
1298/37	451	Build-up area and courtyard	1/1
1298/50	254	Build-up area and courtyard	1/1
1298/51	58	Build-up area and courtyard	1/1
1298/52	491	Build-up area and courtyard	1/1
1298/55	13051	Build-up area and courtyard	1/1
1298/62	3693	Other area	1/1
1298/66	10749	Other area	1/1
1298/70	935	Other area	1/1

1298/76	41610	Build-up area and courtyard	1/1
1298/77	1690	Build-up area and courtyard	1/1
1298/8	9760	Build-up area and courtyard	1/1
1535/1	157	Build-up area and courtyard	1/1
1535/2	135	Build-up area and courtyard	1/1
1536/1	4839	Build-up area and courtyard	1/1
1536/2	179	Build-up area and courtyard	1/1
1547/1	5231	Build-up area and courtyard	1/1
1547/12	453	Build-up area and courtyard	1/1
1547/13	106	Build-up area and courtyard	1/1
1547/14	974	Build-up area and courtyard	1/1
1547/15	110	Build-up area and courtyard	1/1
1547/16	220	Build-up area and courtyard	1/1
1547/17	50	Build-up area and courtyard	1/1
1547/18	199	Build-up area and courtyard	1/1
1547/19	37	Build-up area and courtyard	1/1
1547/2	61	Build-up area and courtyard	1/1
1547/20	3464	Build-up area and courtyard	1/1
1547/21	2217	Build-up area and courtyard	1/1
1547/22	2689	Build-up area and courtyard	1/1
1547/23	256	Build-up area and courtyard	1/1
1547/24	722	Build-up area and courtyard	1/1
1547/25	3722	Build-up area and courtyard	1/1
1547/26	1047	Build-up area and courtyard	1/1
1547/27	242	Build-up area and courtyard	1/1
1547/28	3013	Build-up area and courtyard	1/1
1547/29	538	Build-up area and courtyard	1/1
1547/3	60	Build-up area and courtyard	1/1
1547/30	1287	Build-up area and courtyard	1/1
1547/31	7	Build-up area and courtyard	1/1
1547/34	61	Build-up area and courtyard	1/1
1547/35	225	Build-up area and courtyard	1/1
1547/36	69	Build-up area and courtyard	1/1
1547/37	49	Build-up area and courtyard	1/1
1547/38	86	Build-up area and courtyard	1/1
1547/4	48	Build-up area and courtyard	1/1
1547/5	33	Build-up area and courtyard	1/1
1547/6	11	Build-up area and courtyard	1/1
1547/7	90	Build-up area and courtyard	1/1
1547/8	1804	Build-up area and courtyard	1/1
1547/9	67	Build-up area and courtyard	1/1
1558/2	1473	Build-up area and courtyard	1/1
1558/66	658	Build-up area and courtyard	1/1
1558/67	251	Build-up area and courtyard	1/1
1558/68	452	Build-up area and courtyard	1/1
1558/71	69	Build-up area and courtyard	1/1

1558/72	11	Build-up area and courtyard	1/1
1558/74	1196	Build-up area and courtyard	1/1
1558/75	28	Build-up area and courtyard	1/1
1558/76	147	Build-up area and courtyard	1/1
1558/77	124	Build-up area and courtyard	1/1
1558/78	1320	Build-up area and courtyard	1/1
1558/79	591	Build-up area and courtyard	1/1
1558/80	939	Build-up area and courtyard	1/1
1558/81	410	Build-up area and courtyard	1/1
1558/82	23	Build-up area and courtyard	1/1
1558/83	27	Build-up area and courtyard	1/1
1558/84	520	Build-up area and courtyard	1/1
1558/85	78	Build-up area and courtyard	1/1
1558/86	306	Build-up area and courtyard	1/1
1558/87	198	Build-up area and courtyard	1/1
1558/88	254	Build-up area and courtyard	1/1
1558/89	617	Build-up area and courtyard	1/1
1558/90	86	Build-up area and courtyard	1/1
1558/91	2416	Build-up area and courtyard	1/1
1558/92	378	Build-up area and courtyard	1/1
1558/93	746	Build-up area and courtyard	1/1
1558/94	1344	Build-up area and courtyard	1/1
1558/95	198	Build-up area and courtyard	1/1
1558/96	3216	Build-up area and courtyard	1/1
1558/97	792	Build-up area and courtyard	1/1
1602/126	532	Other area	1/1
1602/127	7	Other area	1/1
1602/128	1468	Other area	1/1
1602/129	557	Other area	1/1
1602/13	169	Build-up area and courtyard	1/1
1602/130	532	Other area	1/1
1602/131	86	Other area	1/1
1602/132	230	Other area	1/1
1602/14	107	Build-up area and courtyard	1/1
1602/15	126	Build-up area and courtyard	1/1
1602/16	102	Build-up area and courtyard	1/1
1602/17	436	Build-up area and courtyard	1/1
1602/239	389	Permanent grassland	1/1
1602/240	541	Permanent grassland	1/1
1602/243	263	Permanent grassland	1/1
1602/246	245	Permanent grassland	1/1
1602/248	590	Permanent grassland	1/1
1602/249	27	Permanent grassland	1/1
1602/253	1308	Permanent grassland	1/1
1602/257	31	Permanent grassland	1/1
1602/258	106	Permanent grassland	1/1

1602/259	102	Permanent grassland	1/1
1602/26	456	Other area	1/1
1602/62	1732	Other area	1/1
1602/63	3614	Build-up area and courtyard	1/1
1602/8	5408	Build-up area and courtyard	1/1
1607/11	5905	Other area	1/1
1607/13	162	Permanent grassland	1/1
1607/14	248	Permanent grassland	1/1
1607/15	17	Permanent grassland	1/1
1607/2	11625	Other area	1/1
1607/4	146	Other area	1/1
1607/5	1454	Other area	1/1
1611/2	456	Water area	1/1
1792/160	77	Build-up area and courtyard	1/1
1792/61	123	Water area	1/1
2101/13	38	Other area	1/1
2101/19	33	Other area	1/1
2101/4	1914	Other area	1/1
2101/9	24	Other area	1/1

- (2) Land registered in the ownership certificate No. 4134 kept by the District Office Zvolen, cadastral territory Môt'ová, municipality Zvolen, district Zvolen:

Land plots of register "C"

Plot No.	Area in m2	Type of land	Ownership share
1706	731	arable land	1/1

- (3) Land registered in the ownership certificate No. 4142 kept by the District Office Zvolen, cadastral territory Môt'ová, municipality Zvolen, district Zvolen:

Land plots of register "C"

Plot No.	Area in m2	Type of land	Ownership share
1602/250	805	Permanent grassland	1/1

- (4) Land registered in the ownership certificate No. 5726 kept by the District Office Zvolen, cadastral territory Môt'ová, municipality Zvolen, district Zvolen:

Land plots of register "C"

Plot No.	Area in m2	Type of land	Ownership share
1602/242	94	Permanent grassland	1/1
1607/12	1632	Permanent grassland	1/1

- (5) Land registered in the ownership certificate No. 5745 kept by the District Office Zvolen, cadastral territory Môt'ová, municipality Zvolen, district Zvolen:

Land plots of register "C"

Plot No.	Area in m2	Type of land	Ownership share
1607/17	423	Permanent grassland	1/1
1602/245	705	Permanent grassland	1/1

- (6) Land registered in the ownership certificate No. 5821 kept by the District Office Zvolen, cadastral territory Môt'ová, municipality Zvolen, district Zvolen:

Land plots of register "C"

Plot No.	Area in m2	Type of land	Ownership share
1602/252	1500	Permanent grassland	1/1

- (7) Land registered in the ownership certificate No. 5823 kept by the District Office Zvolen, cadastral territory Môt'ová, municipality Zvolen, district Zvolen:

Land plots of register "C"

Plot No.	Area in m2	Type of land	Ownership share
1602/244	8	Permanent grassland	1/1

- (8) Land registered in the ownership certificate No. 6174 kept by the District Office Zvolen, cadastral territory Môt'ová, municipality Zvolen, district Zvolen:

Land plots of register "C"

Plot No.	Area in m2	Type of land	Ownership share
1602/256	700	Permanent grassland	1/1
2101/18	95	Other area	1/1

- (9) Land registered in the ownership certificate No. 7700 kept by the District Office Zvolen, cadastral territory Zvolen, municipality Zvolen, district Zvolen:

Plot No.	Area in m2	Type of land	Ownership share
485/13	169	Build-up area and courtyard	1/1

SCHEDULE 9
CASHFLOW REPORT

	month/year	month/year	month/year
Heat sales			
<i>Heat supply (v MWh)</i>			
<i>Average price (EUR/MWh)</i>			
Revenue from unreturned condensate			
Heat sales total			
Revenue for supply of electric energy (core)			
Revenue for supply of electric energy (HEPP Slatinka only)			
Other sales of goods related to use of legacy plant/technology			
A. Sales of goods			
Sales of demineralised water			
Sales of industrial water			
Other sales (HV distr. and other)			
B. Sales of services			
Sales of material			
Clearing of reserves			
Other operating revenues			
Adjustments			
Capitalization			
Depreciation (from grant)			
C. Other revenues			
I. Operating revenue (A + B + C)			
Material cost related to heat (until 1H 2020 inclusive related to old plant, from 2H 2020 related to new plant)			
Material cost related to electricity (related to old plant)			
Material cost total (wood chip, natural gas)			
<i>Wood chip in tonnes</i>			
<i>Natural gas volume in ths. M3</i>			
<i>Price of wood chip (EUR/t)</i>			
<i>Price of natural gas (EUR/th. m3)</i>			
Cost of purchased heat			
Material costs related to heat (until 1H 2020 inclusive related to old plant, from 2H 2020 related to new plant)			
Material costs related to electricity			
Material costs total			
Water consumption related to heat (until 1H2020 inclusive related to old plant, from 2H2020 related to new plant)			
Water consumption related to electricity			
Water consumption total			
Electricity consumption			
Other cost related to use of legacy plant/technology			
Repair costs (suppliers) related to heat (until 1H2020 incl. related to old plant, from 2H2020 related to new plant)			
Repair costs (suppliers) related to electricity			
Repair costs (suppliers) total			
Cost of services related to heat (until 1H 2020 inclusive related to old plant, from 2H 2020 related to new plant)			
Cost of services related to electricity			
Cost of services total			
Personal costs			
Depreciation from project only			
Depreciation other			
Unreturned condensate			
Adjustments			
Other operating costs - fees related to heat (until 1H 2020 inclusive related to old plant, from 2H 2020 related to new plant)			
Other operating costs - fees related to electricity			
Other operating costs - fees total			
Reserves			
Project supporting services			
Corrections related to use of legacy plant/technology			
II. Operating costs			
III. Operating profit (I. – II.)			
Interest income			

Other financial income			
Interest expense			
Other financial costs			
IV. Profit/loss from financial operations			
Irregular revenues			
Irregular costs			
V. Profit from irregular activities			
VI. Earnings before tax (III. + IV. + V.)			
Deferred / payable tax			
VII. Net profit			
EBITDA (Net profit + Depreciation + Interest + Tax – Depreciation from grant)			

SCHEDULE 10

SCREEN RATE CONTINGENCY PERIODS

Screen Rate

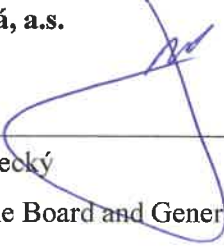
Period

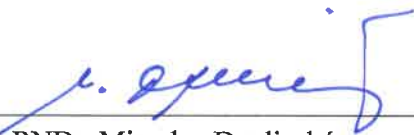
EURIBOR

One month

SIGNATORIES


Company
Zvolenská teplárenská, a.s.

By: 
Name: Ing. Jozef Pobiecký
Title: Chairman of the Board and General Director

By: 
Name: RNDr. Miroslav Duplinský
Title: Member of the Board of Directors and Director of Production and Trade with Electricity

Address: Lučenecká cesta 25, 961 50 Zvolen, Slovak Republic
Fax: +421 (45) 2424 180
E-mail: sekretariat@zvtp.sk
Attention: Ing. Jozef Pobiecký and RNDr. Miroslav Duplinský

Lender
International Investment Bank

By: 
Name: Denis Rodionov
Title: Head of Lending and Investment

Address: Mashy Poryvaevoy str., 7 Moscow, Russian Federation
Fax: +7 (499) 975 2070
E-mail: maxim.samolazov@iibbank.com
Attention: Maxim Samolazov

