

Draft Date: 27 March 2014

FACILITY AGREEMENT

DATED _____

FOR

OJSC GC "TNS ENERGY"

ARRANGED BY

RCB BANK LTD

AS MANDATED LEAD ARRANGER

WITH

RCB BANK LTD
ACTING AS AGENT

FACILITY AGREEMENT

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THIS AGREEMENT is dated [•] 2014 and made

BETWEEN:

- (1) **OJSC GC "TNS Energy"**, an open joint stock company organised under the laws of the Russian Federation (main registration number [] with its registered address at [], the Russian Federation (the "**Borrower**");
- (2) **THE COMPANIES** listed in Part I of Schedule 1 (*The Original Parties*) as original guarantors (the "**Original Guarantors**");
- (3) **RCB BANK LTD** (formerly **RUSSIAN COMMERCIAL BANK (CYPRUS) LIMITED**) as mandated lead arranger (the "**Arranger**");
- (4) **THE FINANCIAL INSTITUTIONS** listed in Part II of Schedule 1 (*The Original Parties*) as lenders (the "**Original Lenders**"); and
- (5) **RCB BANK LTD** (formerly **RUSSIAN COMMERCIAL BANK (CYPRUS) LIMITED**) as agent of the other Finance Parties (the "**Agent**").

IT IS AGREED as follows:

**SECTION 1
INTERPRETATION**

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Acceptable Bank**" means:

- (a) any member of the VTB Group;
- (b) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of [BBB-] or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or [Baa3] or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or
- (c) any other bank or financial institution approved by the Agent.

"**Accession Deed**" means a document substantially in the form set out in Schedule 6 (*Form of Accession Deed*).

"**Account Bank**" means any bank that is a member of the VTB Group.

"**Account Pledge**" means a pledge over each account held by a member of the Group with a member of VTB Group in favour of the Agent.

"**Additional Guarantor**" means a company which becomes an Additional Guarantor in accordance with Clause 25 (*Changes to the Obligors*).

"**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.

"**Alfa Bank Facility Agreement**" means a RUB [] loan agreement dated [] between the Borrower as borrower and Alfa Bank OJSC as lender.

"**Alfa Bank Repayment Schedule**" means the schedule of repayments of principal under the Alfa Bank Facility Agreement set out in Schedule 10 (*Alfa Bank Repayment Schedule*).

"**Annual Financial Statements**" has the meaning given to that term in Clause 19 (*Information Undertakings*).

"**Assignment Agreement**" means an agreement substantially in the form set out in Schedule 5 (*Form of Assignment Agreement*) or any other form agreed between the relevant assignor and assignee.

"**Auditors**" means one of PricewaterhouseCoopers, Ernst & Young, KPMG or Deloitte & Touche¹ or any other firm approved in advance by the Majority Lenders (such approval not to be unreasonably withheld or delayed).

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

"**Authorised Signatory**" means, in relation to a person (the "**Relevant Entity**"), any person who is duly authorised to act on behalf of that person:

- (a) by virtue of his or her office as provided in the constitutive documents of that Relevant Entity; or
- (b) under a power of attorney from or other proper form of delegation by another Authorised Signatory of that Relevant Entity; or
- (c) if the Agent so consents, where the Agent has received a certificate signed by another Authorised Signatory of the Relevant Entity setting out the name and signature of such person and confirming such person's authority to act.

"**Availability Period**" means the period from and including the date of this Agreement to and including 30 November 2014.

"**Available Commitment**" means a Lender's Commitment minus:

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

"**Available Facility**" means the aggregate for the time being of each Lender's Available Commitment.

¹ Please note that certain currently contemplated changes to UK and European regulations may affect the validity of this provision.

"Bankruptcy Law" means Federal Law of the Russian Federation No.127-FZ dated 26 October 2002 "On insolvency (bankruptcy)".

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

"Cash" means, at any time, cash in hand or at bank and (in the latter case) credited to an account in the name of a member of the Group with an Acceptable Bank and to which a member of the Group is alone (or together with other members of the Group) beneficially entitled and for so long as:

- (a) that cash is repayable on demand;
- (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of any member of the Group or of any other person whatsoever or on the satisfaction of any other condition;
- (c) there is no Security over that cash [except for any Permitted Security constituted by a netting or set-off arrangement entered into by members of the Group in the ordinary course of their banking arrangements]; and
- (d) the cash is freely and immediately available to be applied in repayment or prepayment of the Facility.

"Cash Equivalent Investments" means at any time:

- (a) certificates of deposit maturing within 12 months after the relevant date of calculation and issued by an Acceptable Bank;
- (b) any investment in marketable debt obligations issued or guaranteed by the government of the [United States of America, the United Kingdom or any Participating Member State], or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within 12 months after the relevant date of calculation and not convertible or exchangeable to any other security;
- (c) commercial paper not convertible or exchangeable to any other security:
 - (i) for which a recognised trading market exists;
 - (ii) issued by an issuer incorporated in the United States of America, the United Kingdom or any Participating Member State;
 - (iii) which matures within 12 months after the relevant date of calculation; and
 - (iv) which has a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;

- (d) any investment in money market funds which (i) have a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investors Service Limited, (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (d) above and (iii) can be turned into cash on not more than [30] days' notice; or
- (e) any other debt security approved by the Majority Lenders,

in each case, and to which any member of the Group is alone (or together with other members of the Group beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security).

"**CBR**" means the Central Bank of the Russian Federation.

"**Commitment**" means:

- (a) in relation to an Original Lender, the amount set opposite its name in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Commitment transferred to it under this Agreement,

to the extent not:

- (i) cancelled, reduced or transferred by it under this Agreement; or
- (ii) deemed to be zero pursuant to Clause 24.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Borrower Affiliates*).

"**Compliance Certificate**" means a certificate substantially in the form set out in Schedule 7 (*Form of Compliance Certificate*).

"**Confidential Information**" means all information relating to any Obligor, the Group, the Transaction Documents or the Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Transaction Documents or the Facility from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly 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 information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 36 (*Confidentiality*); or

- (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 that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

"Confidentiality Undertaking" means a confidentiality undertaking substantially in a recommended form of the LMA from time to time or in any other form agreed between the Borrower and the Agent.

"Currency Law" means Federal Law No. 173-FZ of 10 December 2003 On Currency Regulation and Currency Control, together with any regulations adopted or issued by the Government of the Russian Federation or the CBR pursuant thereto or implementing the provisions thereof.

"Debt Purchase Transaction" means, in relation to a person, a transaction where such person:

- (a) purchases by way of assignment or transfer;
- (b) enters into any sub-participation in respect of; or
- (c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,

any Commitment or amount outstanding under this Agreement.

"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 Transaction Documents or any combination of any of the foregoing) be an Event of Default.

"Direct Debit Agreement" means each direct debit agreement entered into or to be entered into between the a member of the Group and the Agent giving effect to the rights to directly debit each Obligor's account with a member of VTB Group.

"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, any of the Parties; or

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

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

"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, without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including, without limitation, land under water).

"Environmental Claim" means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

"Environmental Law" means any applicable law or regulation which relates to:

- (a) the pollution or protection of the Environment;
- (b) the conditions of the workplace;
- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste; or
- (d) any purchase of credits or allowances, or an obligation to pay Tax, make other payments or provide financial security, in each case, in connection with any matter referred to in paragraphs (a) to (c) above.

"Environmental Permits" means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by any member of the Group.

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

"Existing Financial Indebtedness" means any Financial Indebtedness of the Group members outstanding and disclosed to the Agent in writing prior to the date of this Agreement.

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

"**Facility Office**" means:

- (a) in respect of a Lender, the office or offices notified by that Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement; or
- (b) in respect of any other Finance Party, the office in the jurisdiction in which it is resident for tax purposes.

"**Fee Letter**" means any letter or letters dated on or about the date of this Agreement between the Arranger and the Borrower (or the Agent and the Borrower) setting out any of the fees referred to in Clause 11 (*Fees*).

"**Finance Document**" means:

- (a) this Agreement;
- (b) any Accession Deed;
- (c) each Account Pledge;
- (d) any Compliance Certificate;
- (e) each Direct Debit Agreement;
- (f) a Fee Letter;
- (g) each any Interest Rate Adjustment Notice;
- (h) the Side Letter;
- (i) any Utilisation Request; and
- (j) any other document designated as such by the Agent and the Borrower.

"**Finance Party**" means the Agent, the Arranger or a Lender.

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

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) 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 Finance Leases (as defined in Clause 20.1 (*Financial definitions*));

- (e) receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis and meet any requirement for de-recognition under IFRS);
- (f) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (g) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before [the Termination Date] or are otherwise classified as borrowings under IFRS);
- (h) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than [180] days after the date of supply;
- (i) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (j) 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 IFRS; and
- (k) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above.

"**Financial Quarter**" has the meaning given to that term in Clause 20.1 (*Financial definitions*).

"**Financial Year**" has the meaning given to that term in Clause 20.1 (*Financial definitions*).

"**Group**" means the Borrower and each of its Subsidiaries for the time being, to the extent that (except in the case of OJSC "Kubanskaya energosbytovaya kompaniya"), they are consolidated with the Borrower under IFRS by way of a direct consolidation method.

"**Group Structure Chart**" means the group structure chart in the agreed form.

"**Guarantor**" means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 25 (*Changes to the Obligors*).

"**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 IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"Interest Period" means, in relation to a Loan, each period determined in accordance with Clause 10 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 9.4 (*Default interest*).

"Interest Rate Adjustment Notice" means a request substantially in the form set out in Schedule 9 (*Form of Interest Rate Adjustment Notice*).

"Joint Venture" means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

"JSC Law" means Federal Law of the Russian Federation No. 208-FZ "On Joint Stock Companies" dated 26 December 1995.

"Legal Reservations" means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim; and
- (c) similar principles, rights and defences under the laws of any Relevant Jurisdiction.

"Lender" means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party as a Lender in accordance with Clause 23 (*Changes to the Lenders*),

which in each case has not ceased to be a Lender in accordance with the terms of this Agreement.

"Limitation Acts" means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

"LLC Law" means Federal Law of the Russian Federation No. 14-FZ "On Limited Liability Companies" dated 8 February 1998.

"LMA" means the Loan Market Association.

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

"Loan Passport" means the transaction passport required to be issued in relation to this Agreement by the bank through which the Loans are to be serviced, in accordance with the Currency Law.

"Majority Lenders" means a Lender or Lenders whose Commitments aggregate 51 per cent. or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 51 per cent. or more of the Total Commitments immediately prior to that reduction).

"Management Agreements" means agreements between the Borrower and each Guarantor in respect of the transfer of each Guarantor's sole executive body functions to the Borrower.

"Material Adverse Effect" means a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) or prospects of the Group or an Obligor;
- (b) the ability of an Obligor or another party (other than a Finance Party) to perform its obligations under the Transaction Documents; 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 Transaction Documents or the rights or remedies of any Finance Party or RCB BANK LTD under any of the Transaction Documents.

"New Lender" has the meaning given to that term in Clause 23 (*Changes to the Lenders*).

"Notifiable Debt Purchase Transaction" has the meaning given to that term in paragraph (b) of Clause 24.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Borrower Affiliates*).

"Obligor" means the Borrower or a Guarantor.

"Option Agreement" means the put and call option agreement dated on or about the date of this Agreement made between Vidovi Holdings Limited and RCB BANK LTD in respect of shares in the Borrower.

"Option Guarantee" means each of:

- (a) the deeds of guarantees executed in relation to the Option Agreement on or about the date of this Agreement by each of the Borrower, OJSC "Nizhegorodskaya Energosbytovaya Companiya", OJSC "Kubanskaya Energosbytovaya Companiya", OJSC "Energosbyt Rostovenergo" and other Group members; and
- (b) any deed of guarantee executed in relation to the Option Agreement when expressly required under the terms of the Option Agreement.

"Original Financial Statements" means:

- (a) in relation to the Borrower, its reviewed consolidated financial statements prepared under IFRS for its Financial Half-Year ended 30 June 2013;

- (b) in relation to each Original Obligor other than the Borrower, its RAS financial statements for the Financial Quarter ended 30 September 2013.

"Original Jurisdiction" means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated as at the date of this Agreement or, in the case of an Additional Guarantor, as at the date on which that Additional Guarantor becomes Party as a Guarantor.

"Original Obligor" means the Borrower or an Original Guarantor.

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

"Party" means a party to this Agreement.

"Permitted Acquisition" means:

- (a) an acquisition by an Obligor of an asset sold, leased, transferred or otherwise disposed of by another Obligor in circumstances constituting a Permitted Disposal;
- (b) the acquisition of any assets by an Obligor **provided that**:
- (i) the aggregate purchase price for all such acquisitions by that Obligor in any 12 months does not exceed 5% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; and
- (ii) at any time, the aggregate purchase price for all such acquisitions by that Obligor after the date of this Agreement does not exceed 20% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; or
- (c) an acquisition carried out with the consent of the Majority Lenders.

"Permitted Disposal" means any sale, licence, transfer or other disposal which is on arm's length terms and is:

- (a) of trading stock or cash made by an Obligor in the ordinary course of trading of the disposing entity;
- (b) arising as a result of any Permitted Security;
- (c) of any asset by an Obligor to another Obligor;
- (d) any other assets, provided that
- (i) the aggregate purchase price for all such disposals by an Obligor in any 12 months does not exceed 5% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; and

- (ii) at any time, the aggregate purchase price for all such acquisitions by an Obligor after the date of this Agreement does not exceed 20% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; or
- (e) entered into with the prior written approval of the Agent (acting on the instructions of the Majority Lenders).

"Permitted Distribution" means the declaration and payment of a dividend by an Obligor to its immediate shareholders, provided that:

- (a) no Default is continuing or would result from such declaration or payment; and
- (b) such declaration and payment are made in compliance with the Shareholders' Agreement;
- (c) at the time of such declaration and payment, no Put Option Notice or Call Option Notice (as defined in the Option Agreement) has been given;
- (d) such declaration and payment are made not more than once in respect of any financial year and in an amount not exceeding [5]% of the net profit of the relevant Obligor for that financial year.

"Permitted Financial Indebtedness" means Financial Indebtedness:

- (a) arising under any of the Transaction Documents;
- (b) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of trade, but not a foreign exchange transaction for investment or speculative purposes;
- (c) that is Existing Financial Indebtedness;
- (d) arising as a result of the refinancing of the Existing Financial Indebtedness, **provided that** the principal amount of such new Financial Indebtedness does not exceed the principal amount of the refinanced Existing Financial Indebtedness and, in the opinion of the Agent, the terms of such new Financial Indebtedness are substantially the same as (or more favourable to the borrower than) those of the refinanced Existing Financial Indebtedness;
- (e) not permitted by the preceding paragraphs or as a Permitted Transaction, **provided that**:
 - (i) in the year 2014, the outstanding amount of such Financial Indebtedness of an Obligor does not exceed 7.5% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; and
 - (ii) at any other time, the outstanding amount of such Financial Indebtedness of an Obligor does not exceed 5% that Obligor's balance sheet asset

value according to its most recent financial statements prepared in accordance with local accounting standards; or

- (f) incurred with the prior written approval of the Agent (acting on the instructions of the Majority Lenders).

"Permitted Guarantee" means:

- (a) a guarantee by an Obligor of the obligations of another Obligor;
- (b) any guarantee given by an Obligor (not otherwise permitted under (a) above) so long as:
 - (i) the aggregate amount of all such guarantees given together with all loans made pursuant to paragraph (b) of the definition of Permitted Loan in any Financial Year by an Obligor does not exceed 2% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; and
 - (ii) at any time, the aggregate amount of all such guarantees given together with all loans made pursuant to paragraph (b) of the definition of Permitted Loan after the date of this Agreement by an Obligor does not exceed 7% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; or
- (c) any guarantee given with the prior written approval of the Agent (acting on the instructions of the Majority Lenders).

"Permitted Loan" means:

- (a) a loan made by an Obligor to another Obligor;
- (b) any loan made by an Obligor to any other party, so long as:
 - (i) the aggregate amount of all such loans made or committed together with all guarantees given pursuant to paragraph (b) of the definition of Permitted Guarantee in any Financial Year by an Obligor does not exceed 2% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; and
 - (ii) at any time, the aggregate amount of all such loans made or committed together with all guarantees given pursuant to paragraph (b) of the definition of Permitted Guarantee after the date of this Agreement by an Obligor does not exceed 7% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; or
- (c) any loan made with the prior written approval of the Agent (acting on the instructions of the Majority Lenders).

"Permitted Security" means:

- (a) any lien arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any member of the Group;
- (b) 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 of members of the Group but only so long as (i) such arrangement does not permit credit balances of Obligors to be netted or set off against debit balances of members of the Group which are not Obligors and (ii) such arrangement does not give rise to other Security over the assets of Obligors in support of liabilities of members of the Group which are not Obligors except in the case of (i) and (ii) above, to the extent such netting, set-off or Security relates to, or is granted in support of, a loan permitted pursuant to paragraph (a) of the definition of "Permitted Loan";
- (c) any payment or close out netting or set-off arrangement pursuant to any Treasury Transaction or foreign exchange transaction entered into by a member of the Group, excluding any Security or Quasi-Security under a credit support arrangement;
- (d) any Security or Quasi-Security created prior to the date of this Agreement and notified to the Agent in writing prior to the date of this Agreement; or
- (e) any Security created with the prior written approval of the Agent (acting on the instructions of the Majority Lenders).

"Permitted Transaction" means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Transaction Documents; and
- (b) the solvent liquidation or reorganisation of any member of the Group which is neither an Obligor nor a shareholder of any Obligor, so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other members of the Group.

"Quasi-Security" has the meaning given to that term in Clause 21.12 (*Negative pledge*).

"RAS" means Russian accounting standards, being the accounting standards established by applicable Russian law from time to time.

"Related Fund" in relation to a fund (the "**first fund**"), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

"Relevant Interbank Market" means the Moscow interbank market.

"Relevant Jurisdiction" means, in relation to an Obligor:

- (a) its Original Jurisdiction; and
- (b) any jurisdiction where it conducts its business.

"Relevant Period" has the meaning given to that term in Clause 20.1 (*Financial definitions*).

"Repayment Date" means each of:

- (a) the date falling 12 months after the last day of the Availability Period;
- (b) the last day of each period of 3 months thereafter that ends prior to the Termination Date; and
- (c) the Termination Date.

"Repeating Representations" means each of the representation and warranties set out in Clause 18 (other than Clause 18.9 (*Insolvency*), Clause 18.10 (*No filing or stamp taxes*) and Clause 18.11 (*Deduction of Tax*)).

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

"Russian Corporate Reorganisation" means a consolidation or reorganisation, whether by way of merger (*sliyaniye obschestva*), company accession (*prisoedinyeniye obschestva*), company division (*razdelyeniye obschestva*), company separation (*vydelyeniye obschestva*), company transformation (*preobrazovaniye obschestva*), company liquidation (*likvidatsiya obschestva*) or any other company reorganisation (*reorganizatsiya obschestva*) (as these terms are construed by applicable Russian law) or otherwise.

"Russian Insolvency Proceedings" means, in respect of any person, any of the following:

- (a) the implementation of measures to prevent its bankruptcy, including but not limited to the implementation of recovery (*sanatsiya*) in respect of it;
- (b) its seeking, consenting, or acquiescing to the introduction of proceedings for its liquidation or bankruptcy, or the appointment of a liquidation commission (*likvidatsionnaya komissiya*);
- (c) the presentation or filing of a petition in respect of it in any court or arbitrazh court or other similar body or agency for its bankruptcy or liquidation;
- (d) the institution of the supervision (*nablyudeniye*), financial recovery (*finansovoe ozdorovleniye*), external management (*vneshneye upravleniye*) or bankruptcy management (*konkursnoye proizvodstvo*) of it, and/or the appointment of a temporary manager (*vremenniy upravlyaushchiy*), administrative manager (*administrativniy upravlyaushchiy*), external manager

(*vneshniy upravlyaushchiy*), bankruptcy manager (*konkursniy upravlyaushchiy*) or similar officer of it;

- (e) the convening or announcement of an intention to convene a meeting of its creditors for the purposes of considering an amicable settlement, or its entry into a voluntary arrangement (*mirovoye soglasheniye*); or
- (f) the initiation of any voluntary or involuntary case or other similar proceeding against or in respect of it causing any other condition or event similar to that contemplated by paragraphs (a) to (e) hereof.

"Russian Insolvency Test" means, in respect of any person, it meets (but ignoring any requirement for a court determination to this effect) any criterion for the commencement of bankruptcy proceedings (by itself or another party) specified by the Bankruptcy Law or other applicable law, including, as of the date of this Agreement, any of the following:

- (a) it does not discharge the claims of any creditor related to monetary obligations and/or make any mandatory payments (*obyazatel'niye platezhi*) (as such term is defined in the Bankruptcy Law) within three months after their due date, or is otherwise incapable of satisfying the claims of any creditor related to monetary obligations and/or to make any mandatory payment on the due date;
- (b) the settlement of claims of one or more creditors makes it impossible for it to discharge its monetary obligations or to make mandatory payments (*obyazatel'niye platezhi*) (as such term is defined in the Bankruptcy Law) and/or other payments in full to its other creditors;
- (c) its competent body adopts a resolution to file a petition with an arbitrazh court for its liquidation or bankruptcy;
- (d) the levying of execution of any judgment, award or order on its property will materially impair or make impossible its ability to carry on its business activity; or
- (e) there are signs of its inability to pay (*priznak neplatezhesposobnosti*) and/or signs of insufficiency of its property (*priznak nedostatochnosti imuschestva*) (as such terms are defined in the Bankruptcy Law).

"Russian Obligor" means any Obligor that is organised under the laws of the Russian Federation.

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

"Share Purchase Agreement" means the agreement for the sale and purchase of shares the Borrower dated on or about the date hereof between Magna Carta Capital Limited as seller and RCB BANK LTD as buyer.

"Shareholders' Agreement" means the shareholders' agreement dated on or about the date hereof made between [Magna Carta Capital Limited] and RCB BANK LTD.

"Side Letter" means the side letter to be entered into between the Borrower and RCB BANK LTD in connection with the rights of RCB BANK LTD in relation to certain services to be provided to the Obligors or any other member of the Group.

"Specified Time" means a time determined in accordance with Schedule 8 (*Timetables*).

"Subsidiary" means any person (referred to as the **"first person"**) in respect of which another person (referred to as the **"second person"**):

- (a) holds a majority of the voting rights in that first person or has the right under the constitution of the first person to direct the overall policy of the first person or alter the terms of its constitution; or
- (b) is a member of that first person and has the right to appoint or remove a majority of its board of directors, management board or equivalent administration, management or supervisory body, or any person entitled under applicable law to bind that first person without reference to any such body (including, in the case of a Russian company, its chief executive officer); or
- (c) has the right to exercise a dominant influence (which must include the right to give directions with respect to operating and financial policies of the first person which its directors (or equivalent body or other person referred to in paragraph (b) above) are obliged to comply with whether or not for its benefit) over the first person by virtue of provisions contained in the articles (or equivalent) of the first person or by virtue of a control contract which is in writing and is authorised by the articles (or equivalent) of the first person and is permitted by the law under which such first person is established; or
- (d) is a member of that first person and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the first person or the rights under its constitution to direct the overall policy of the first person or alter the terms of its constitution; or
- (e) has the power to exercise, or actually exercises dominant influence or control over the first person; or
- (f) together with the first person are managed on a unified basis,

and for the purposes of this definition, a person shall be treated as a member of another person if any of that person's Subsidiaries is a member of that other person or, if any shares in that other person are held by a person acting on behalf of it or any of its Subsidiaries. A Subsidiary shall include any person the shares or ownership interests in which are subject to Security and where the legal title to the shares or ownership interests so secured are registered in the name of the secured party or its nominee pursuant to such Security.

"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).

"Termination Date" means:

- (a) the date falling 84 months after the first Utilisation Date; or
- (b) if the Agent has agreed to an extension pursuant to Clause 6.2 (*Extension option*), the Extended Termination Date.

"Total Commitments" means the aggregate of the Commitments, being RUB 5,000,000,000 as of the date of this Agreement.

"Transaction Documents" means each of:

- (a) the Finance Documents;
- (b) the Option Agreement;
- (c) each Option Guarantee;
- (d) the Share Purchase Agreement; and
- (e) the Shareholders' Agreement.

"Transfer Certificate" means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrower.

"Transfer Date" means, in relation to an assignment or a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Assignment Agreement or Transfer Certificate; and
- (b) the date on which the Agent executes the relevant Assignment Agreement or Transfer Certificate.

"Treasury Transactions" means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

"Ultimate Beneficial Owner" means the ultimate beneficial owner of the Group, as specified in a certificate of the Borrower (signed by an Authorised Signatory of the Borrower) addressed and delivered to the Agent on or about the date of this Agreement.

"Unpaid Sum" means any sum due and payable but unpaid by an Obligor 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 form set out in Schedule 3 (*Utilisation Request*).

"VAT" means value added tax and any other tax of a similar nature.

"**VTB Bank**" means VTB Bank (open joint-stock company).

"**VTB Group**" means VTB Bank and each of the companies which are listed as subsidiaries in the consolidated IFRS financial statements of VTB Bank under the direct consolidation method.

1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:
- (i) an "**agency**" includes any agency, central bank, court, department, municipal, governmental, intergovernmental or supranational body, legislature, minister, ministry, official or public or statutory person (whether autonomous or not), or any statutory, regulatory, self-regulatory or other authority or organisation, of any republic, state or political sub-division of any state;
 - (ii) the "**Agent**", the "**Arranger**", any "**Finance Party**", any "**Lender**", any "**Obligor**", any "**Party**" or any other person 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;
 - (iii) a document in "**agreed form**" is a document which is previously agreed in writing by or on behalf of the Borrower and the Agent or, if not so agreed, is in the form specified by the Agent;
 - (iv) "**assets**" includes present and future properties, revenues and rights of every description;
 - (v) an "**attachment**" includes any suspension of operations or arrest of any account with a Russian bank on the instruction of any authority;
 - (vi) a "**certified**" document is a document that has been certified as true and correct by an Authorised Signatory of the Obligor providing that document;
 - (vii) the "**chief executive officer**" or the "**chief accountant**" of a Russian company includes any management company duly authorised by that company to carry of the functions of its chief executive officer or chief accountant (as the case may be);
 - (viii) a "**Transaction Document**" or any other agreement or instrument is a reference to that Transaction Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
 - (ix) a "**group of Lenders**" includes all the Lenders;
 - (x) "**guarantee**" means (other than in Clause 17 (*Guarantee and Indemnity*)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or

- contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- (xi) "**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;
 - (xii) a "**reorganisation**" or "**corporate reconstruction**" of a Russian company includes a reorganisation (*reorganisatsiya obschestva*), whether by way of merger (*sliyaniye obschestva*), company accession (*prisoedineniye obschestva*), company division (*razdeleniye obschestva*), company separation (*vydeleniye obschestva*) or company transformation (*preobrazovaniye obschestva*) or otherwise;
 - (xiii) "**Russia**" includes the Russian Federation and any republic or political sub division thereof (and "**Russian**" has a corresponding meaning);
 - (xiv) a "**Russian**" company is a company that is incorporated under the laws of the Russian Federation;
 - (xv) 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);
 - (xvi) 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;
 - (xvii) "**shares**" in a Russian company includes a participatory interest (*dolya uchastiya*) in that company;
 - (xviii) a provision of law is a reference to that provision as amended or re-enacted; and
 - (xix) a time of day is a reference to London time.
- (b) Section, Clause and Schedule headings are for ease of reference only.
 - (c) Where a Russian translation of a word or phrase appears in this Agreement, the meaning of the Russian translation of that word or phrase shall prevail over its meaning in English.
 - (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 (other than an Event of Default) is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been waived.

1.3 **Currency symbols and definitions**

"\$", "USD" and "**dollars**" denote the lawful currency of the United States of America and "RUB" and "**roubles**" means the lawful currency of Russia.

1.4 **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 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.

SECTION 2 THE FACILITY

2. THE FACILITY

2.1 The Facility

Subject to the terms of this Agreement, the Lenders make available to the Borrower a term loan facility in an aggregate amount equal to the Total Commitments.

2.2 Finance Parties' rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

3. PURPOSE

3.1 Purpose

The Borrower shall apply all amounts borrowed by it as follows and in the following order of priority:

- (a) firstly, towards repayment of principal under the Alfa Bank Facility Agreement in accordance with the Alfa Bank Repayment Schedule; and
- (b) secondly, towards on-lending to its Subsidiaries to be applied solely to financing their working capital.

3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

- (a) The Borrower may not deliver a Utilisation Request unless the Agent has received all of the documents and other evidence listed in Part I of Schedule 2 (*Conditions precedent*) in form and substance satisfactory to the Agent. The

Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.

- (b) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (a) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

4.2 Further conditions precedent

Subject to Clause 4.1 (*Initial conditions precedent*), the Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*), 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 Utilisation;
- (b) all the representations and warranties in Clause 18 (*Representations*) to be made by each Obligor are true in all material respects; and
- (c) RCB BANK LTD as Original Lender has received cleared funds in the full amount of its participation in the proposed Loan in accordance with the terms of a certain funded participation agreement dated on or about the date of this Agreement between RCB BANK LTD (in its capacity as Original Lender) as grantor and VTB Bank as participant in relation to this Agreement.

4.3 Maximum number of Utilisations

- (a) The Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation more than [five] Loans would be outstanding.
- (b) The Borrower may not request that a Loan be divided.

SECTION 3 UTILISATION

5. UTILISATION

5.1 Delivery of a Utilisation Request

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

5.2 Completion of a Utilisation Request

- (a) Each Utilisation Request for a Loan is irrevocable and will not be regarded as having been duly completed unless:
 - (i) the proposed Utilisation Date is a Business Day within the Availability Period;
 - (ii) it indicates the purpose towards which the proposed Utilisation will be applied in accordance with Clause 3.1 (*Purpose*); and
 - (iii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*).
- (b) Only one Utilisation may be requested in each Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be roubles.
- (b) The amount of the proposed Utilisation:
 - (i) must be a minimum of RUB [1,000,000,000] or, if less, the Available Facility; and
 - (ii) if the proposed Utilisation is to be applied towards repayment of principal under the Alfa Bank Facility Agreement, must be equal to the amount of the immediately following principal payment due under the Alfa Bank Facility Agreement according to the Alfa Bank Repayment Schedule.

5.4 Lenders' participation

- (a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.

- (c) The Agent shall notify each Lender of the amount of each Loan, the amount of its participation in that Loan and, if different, the amount of that participation to be made available in accordance with Clause 29.1 (*Payments to the Agent*) by the Specified Time.

5.5 **Cancellation of Commitment**

The Commitments which, at that time, are unutilised shall be immediately cancelled at the end of the applicable Availability Period.

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

6. REPAYMENT

6.1 Repayment of Loans

- (a) Subject to Clause 6.2 (*Extension option*), the Borrower shall repay the Loans in instalments as follows:
 - (i) 70 per cent. of the Loans borrowed by the Borrower as at the close of business on the last day of the Availability Period shall be repaid in equal instalments on each Repayment Date other than the Termination Date;
 - (ii) 30 per cent. of the Loans borrowed by the Borrower as at the close of business on the last day of the Availability Period shall be repaid on the Termination Date.
- (b) Within 10 Business days after the last day of the Availability Period, the Agent shall deliver to the Borrower a repayment schedule indicating the Repayment Dates and repayment instalments calculated in accordance with this Clause.
- (c) The Borrower may not reborrow any part of a Loan which is repaid.

6.2 Extension option

- (a) Upon a prior request by the Borrower, the Termination Date may be extended to a date falling not later than 10 years after the first Utilisation Date, if:
 - (i) the Borrower's request is given not less than 180 days prior to the original Termination Date;
 - (ii) the Agent (acting on the instructions of the Majority Lenders) has given consent to the extension, which consent may be given or refused at the Majority Lenders' sole discretion;
 - (iii) the Agent (acting on the instructions of the Majority Lenders) and the Borrower have agreed on such changes to the repayment schedule in respect of the Facility as any of them may require in connection with the proposed extension;
 - (iv) no Default is continuing; and
 - (v) the Agent has received such further documents or evidence in connection with the proposed extension as the Agent may require.
- (b) The Agent shall notify the Borrower and the Lenders of an extended Termination Date promptly upon the conditions set out in paragraph (a) above being satisfied.

7. ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION

7.1 Illegality

If it is or becomes unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in any Utilisation or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:

- (a) that Lender, shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying Borrower, the Available Commitment of that Lender will be immediately cancelled; and
- (c) the Borrower shall repay that Lender's participation in the Facility on the last day of the Interest Period for each Utilisation occurring after the Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment(s) shall be cancelled in the amount of the participations repaid.

7.2 Regulatory ratios

If the participation of any Lender in a Loan causes that Lender or any of its Affiliates to violate any regulatory ratios to which it may be subject:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Borrower, the Available Commitment of that Lender will be immediately cancelled; and
- (c) the Borrower shall repay that Lender's participation in the Facility on the last day of the Interest Period for each Utilisation occurring after the Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) and that Lender's corresponding Commitment(s) shall be cancelled in the amount of the participations repaid.

7.3 Option Agreement

If any party to the Option Agreement delivers a Put Option Notice or Call Option Notice (as defined in the Option Agreement) under the Option Agreement, then the Agent (acting on the instructions of the Majority Lenders) may, by notice to the Borrower:

- (a) cancel the Available Facility, at which time it will immediately be cancelled; and/or

- (b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be due and payable, and they shall be paid as follows:
 - (i) if no Trigger Event (as defined in the Option Agreement) has occurred, within 15 Business Days of the date of such Put Option Notice or Call Option Notice, as applicable; or
 - (ii) if a Trigger Event (as defined in the Option Agreement) has occurred, within 5 Business Days of the date of such Put Option Notice or Call Option Notice, as applicable.

or, if earlier, on such date on which they were originally due and payable.

7.4 Interest rate prepayment

If the Borrower fails to countersign an Interest Rate Adjustment Notice in the form provided by the Agent and return it to the Agent prior to the Effective Date (as defined in Clause 9.2 (*Interest rate adjustment*)):

- (a) the Available Facility will immediately be cancelled; and
- (b) the Borrower shall immediately repay all the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents.

7.5 Voluntary prepayment

- (a) Subject to the provisions of this Clause 7.4, after the end of the Availability Period the Borrower may, if it gives the Agent not less than 10 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of a Loan (but, if in part, being an amount that reduces that Loan by a minimum amount of RUB 300,000,000).
- (b) The Borrower may not prepay any Loan on or before the date falling 1095 days after the first Utilisation Date, without the prior written consent of the Agent (acting on the instructions of the Majority Lenders) and subject to such prepayment fee as the Majority Lenders may direct.
- (c) Any prepayment made under this Clause 7.4 shall be applied against the Borrower' obligations under Clause 6 (*Repayment*) in inverse chronological order.

7.6 Right of cancellation and repayment in relation to a single Lender

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

the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice of cancellation of the Commitment(s) of that Lender and its intention to procure the repayment of that Lender's participation in the Utilisations.

- (b) On receipt of a notice referred to in paragraph (a) above in relation to a Lender, the Commitment(s) of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Borrower has given notice under paragraph (a) above in relation to a Lender (or, if earlier, the date specified by the Borrower in that notice), the Borrower to which a Utilisation is outstanding shall repay that Lender's participation in that Utilisation together with all interest and other amounts accrued under the Finance Documents.

8. RESTRICTIONS

8.1 Notices of cancellation or prepayment

Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 7 (*Illegality, voluntary prepayment and cancellation*) shall (subject to the terms of that Clause) 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.

8.2 Interest and other amounts

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid, prepayment fee in accordance with Clause 11.3 (*Prepayment fee*) and all other amounts due under this Agreement.

8.3 No reborrowing

The Borrower may not reborrow any part of a Loan which is prepaid.

8.4 Prepayment in accordance with Agreement

The Borrower shall not repay or prepay all or any part of the Utilisations or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

8.5 No reinstatement of Commitments

No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

8.6 Agent's receipt of notices

If the Agent receives a notice under Clause 7 (*Illegality, voluntary prepayment and cancellation*), it shall promptly forward a copy of that notice or election to either the Borrower or the affected Lender, as appropriate.

8.7 **Effect of repayment and prepayment on Commitments**

If all or part of any Lender's participation in a Utilisation is repaid or prepaid and is not available for redrawing, an amount of that Lender's Commitment (equal to the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

**SECTION 5
COSTS OF UTILISATION**

9. INTEREST

9.1 Calculation of interest

- (a) Subject to Clause 9.2 (*Interest rate adjustment*) below, the rate of interest for each Interest Period for each Loan is 11.05 per cent. per annum.

9.2 Interest rate adjustment

- (a) The Agent (on the instructions of the Majority Lenders) may from time to time deliver to the Borrower an Interest Rate Adjustment Notice requiring an increase in the rate of interest for the Loans, to the extent that the Majority Lenders, at their sole discretion, consider such increase to be necessary to take account of:
- (i) any changes in the Russian or international financial markets; and/or
 - (ii) any other factor or factors the Majority Lenders reasonably believe to be relevant.
- (b) Without limiting the generality of paragraph (a) above, the Agent (on the instructions of the Majority Lenders) may from time to time deliver to the Borrower an Interest Rate Adjustment Notice requiring an increase in the rate of interest for the Loans by an amount equivalent to the Relevant Increase in relation to the month of such delivery.
- (c) The interest rate set out in an Interest Rate Adjustment Notice will apply with effect from the first day of the calendar month starting after the date on which such Interest Rate Adjustment Notice was given (the "**Effective Date**").
- (d) On or before the Effective Date, the Borrower shall either:
- (i) countersign such Interest Rate Adjustment Notice (and return it to the Agent) confirming that it agrees to the interest rate increase; or
 - (ii) prepay the Loans in accordance with Clause 7.4 (*Interest rate prepayment*).
- (e) In this Clause:
- "Indicator"** means any of the following rates and yield:
- (i) the refinancing rate of the CBR as published on CBR website;
 - (ii) the key rate (*klyuchevaya stavka*) of the CBR as published on CBR website;

- (iii) the weighted average rate calculated on the basis of auctions held by CBR in respect of direct repo operations for a period of 7 days or more, as published on CBR website;
- (iv) USD three month LIBOR rate;
- (v) three month MOSPRIME rate; and
- (vi) yield under Russian federal bonds (*obligatsii federalnogo zaima*).

"**Relevant Increase**" means, in relation to any month, the highest of the Relevant Differences for all Indicators for that month.

"**Relevant Difference**" means, in relation to any month and any Indicator, the difference between:

- (i) that Indicator as of the first day of that month or, in the case of the Indicator referred to in paragraph (iii) of the definition of "Indicator", as of the closest day preceding the first day of that month; and
- (ii) that Indicator as of the date of the then most recent Interest Rate Adjustment Notice, or if none was given, as of the first day of the calendar month starting after the date of this Agreement.

9.3 **Payment of interest**

The Borrower shall pay accrued interest on each Loan on the last day of each Interest Period.

9.4 **Default interest**

- (a) If an Obligor 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 2 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 Agent (acting reasonably). Any interest accruing under this Clause 9.4 shall be immediately payable by the Obligor on demand by the Agent.
- (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 2 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.

10. INTEREST PERIODS

10.1 Duration of Interest Periods

- (a) The duration of each Interest Period for a Loan will, save as otherwise provided herein, be 3 months.
- (b) Each Interest Period for a Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.
- (c) Subject to paragraphs (d) and (e) below, if an Interest Period for a Loan begins during an Interest Period for another Loan, the new Interest Period will end on the last day of the existing Interest Period.
- (d) If a Repayment Date would otherwise fall on a day during an Interest Period other than the last day of that Interest Period, that Interest Period shall end on that Repayment Date.
- (e) An Interest Period for a Loan shall not extend beyond the Termination Date.

10.2 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 that calendar month (if there is one) or the preceding Business Day (if there is not).

10.3 Consolidation of Loans

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

11. FEES

11.1 Commitment fee

- (a) The Borrower shall pay to the Agent (for the account of each Lender) a commitment fee at the rate of 0.55 per cent. per annum on that Lender's Available Commitment for the Availability Period.
- (b) The accrued commitment fee is payable on the last day of each successive period of three months which ends during the Availability Period, on the last day of the Availability Period and on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

11.2 Facility fee

The Borrower shall pay to the Arranger a facility fee in the amount and at the times agreed in a Fee Letter.

11.3 Prepayment fee

If all or any part of a Loan is prepaid during a period set out in column A below (other than pursuant to Clause 7.4 (*Interest rate prepayment*)), each such prepayment shall be made together with a fee payable by the Borrower to the Agent (for the account of the Lenders pro rata to the amounts payable to each at the time of prepayment) in the amount referred to in column B below:

Column A - Period	Column B - Percentage
From and including the date falling 1096 days after the first Utilisation Date to and including the date falling 1276 days after the first Utilisation Date	0.80% of the amount prepaid
From and including the date falling 1277 days after the first Utilisation Date to and including the date falling 1460 days after the first Utilisation Date	0.75% of the amount prepaid
From and including the date falling 1461 days after the first Utilisation Date to and including the date falling 1641 days after the first Utilisation Date	0.70% of the amount prepaid
From and including the date falling 1642 days after the first Utilisation Date to and including the date falling 1825 days after the first Utilisation Date	0.65% of the amount prepaid
From and including the date falling 1826 days after the first Utilisation Date to and including the date falling 2006 days after the first Utilisation Date	0.55% of the amount prepaid

From and including the date falling 2007 days after the first Utilisation Date to and including the date falling 2190 days after the first Utilisation Date	0.40% of the amount prepaid
From and including the date falling 2191 days after first Utilisation Date to and including the date falling 2371 days after the first Utilisation Date	0.30% of the amount prepaid
From and including the date falling 2372 days after the first Utilisation Date	Nil

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

12. TAX GROSS UP AND INDEMNITIES²

12.1 Definitions

In this Agreement:

"Protected Party" means a Finance Party which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"Qualifying Lender" means a Lender which is:

- (a) incorporated under the laws of the Russian Federation;
- (b) a partnership each member of which is incorporated under the laws of the Russian Federation;
- (c) a company not incorporated under the laws of the Russian Federation which carries on business in the Russian Federation through a permanent establishment and for which interest payable in respect of the Loans must be taken into account in computing its chargeable profits in the Russian Federation (within the meaning given by Article 507 of the Tax Code); or
- (d) is a Treaty Lender.

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

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

"Tax Payment" means either the increase in a payment made by an Obligor to a Finance Party under Clause 12.2 (*Tax gross-up*) or a payment under Clause 12.3 (*Tax indemnity*).

"Tax Treaty Jurisdiction" means a jurisdiction which has in force a double tax treaty with Russia (or with the Union of Soviet Socialist Republics to which the Russian Federation has succeeded) which provides for full exemption from Russian withholding tax on interest derived from a source within Russia payable to a resident of such jurisdiction.

"Treaty Lender" means a Lender which:

- (a) is treated as a resident of a Tax Treaty Jurisdiction;

² FATCA provisions TBD.

- (b) does not carry on a business in the jurisdiction of incorporation or formation of the Borrower through a permanent establishment with which that Lender's participation in a Loan is effectively connected; and
- (c) is acting from the Facility Office located in its jurisdiction of incorporation.

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) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Borrower shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrower and that Obligor.
- (c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor 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 an Obligor is required to make a Tax Deduction, that Obligor 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) An Obligor is not required to make an increased payment to a Lender pursuant to paragraph (c) above for a Tax Deduction in respect of tax imposed by the Russian Federation from a payment of interest on a Loan, if on the date on which the payment falls due the payment could have been made to the relevant Lender without a Tax Deduction if it was a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or Treaty, or any published practice or concession of any relevant taxing authority.
- (f) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
- (g) A Treaty Lender and each Obligor which makes a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural

formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.

12.3 Tax indemnity

- (a) The Borrower shall (within three Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on a Finance Party:
 - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which that Finance Party'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 that Finance Party;
 - (ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 12.2 (*Tax gross-up*); or
 - (iii) would have been compensated for by an increased payment under Clause 12.2 (*Tax gross up*) but was not so compensated solely because paragraph (f) of Clause 12.2 (*Tax gross up*) applied.
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify the Borrower.
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 12.3, notify the Agent.

12.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Finance Party 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) that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Obligor which that Finance Party 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 Obligor.

12.5 Stamp taxes

The Borrower shall pay and, within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, 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 any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
 - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
 - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or

expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

- (d) Any reference in this Clause 12.6 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the representative member of such group at such time (the term "representative member" to have the same meaning as in the Value Added Tax Act 1994).
- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

13. INCREASED COSTS

13.1 Increased costs

- (a) Subject to Clause 13.3 (*Exceptions*), the Borrower shall, within three Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates 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 a Finance Party's (or its Affiliate'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 a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

13.2 Increased cost claims

- (a) A Finance Party intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Borrower.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.

13.3 Exceptions

- (a) Clause 13.1 (*Increased costs*) does not apply to the extent any Increased Cost is:
 - (i) attributable to a Tax Deduction required by law to be made by an Obligor;
 - (ii) 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);
 - (iii) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.
- (b) In this Clause 13.3 reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 12.1 (*Definitions*).

14. OTHER INDEMNITIES

14.1 Currency indemnity

- (a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:
 - (i) making or filing a claim or proof against that Obligor; or
 - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Obligor 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 Borrower shall (or shall procure that an Obligor will), within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by it as a result of:

- (a) the occurrence of any Event of Default;

- (b) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 28 (*Sharing among the Finance Parties*);
- (c) any prepayment of a Loan or any part thereof;³
- (d) funding, or making arrangements to fund, its participation in a Utilisation requested by the Borrower 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 that Finance Party alone);
- (e) a Utilisation (or part of a Utilisation) not being prepaid in accordance with a notice of prepayment given by the Borrower or the Borrower.

14.3 Indemnity to the Agent

The Borrower shall promptly indemnify the Agent against:

- (a) any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
 - (i) investigating any event which it reasonably believes is a Default;
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and
- (b) any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct) (or, in the case of any cost, loss or liability pursuant to Clause 29.10 (*Disruption to Payment Systems etc.*) notwithstanding the Agent's negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Agent) in acting as Agent under the Finance Documents.

15. MITIGATION BY THE LENDERS

15.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (*Illegality*), Clause 12 (*Tax gross-up and indemnities*) or Clause 13 (*Increased Costs*) including (but not limited to)

³ Please note that if it is the intention to cover any specific costs, e.g. any swap unwinding costs, this should be set out expressly (otherwise there is a risk they would not be covered).

transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

15.2 Limitation of liability

- (a) Each Obligor shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 15.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

16. COSTS AND EXPENSES

16.1 Transaction expenses

The Borrower shall, promptly on demand, pay the Agent and the Arranger the amount of all costs and expenses (including documented legal fees, subject to any agreed cap) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution, syndication and perfection of the Finance Documents and any other documents referred to in this Agreement.

16.2 Amendment costs

If:

- (a) an Obligor requests an amendment, waiver or consent; or
- (b) an amendment is required pursuant to Clause 29.9 (*Change of currency*),

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

SECTION 7 GUARANTEE

17. GUARANTEE AND INDEMNITY

17.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents;
- (b) undertakes with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Finance Party that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that Finance Party immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 17 if the amount claimed had been recoverable on the basis of a guarantee.

17.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

17.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 17 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

17.4 Waiver of defences

The obligations of each Guarantor under this Clause 17 will not be affected by an act, omission, matter or thing which, but for this Clause 17, would reduce, release or prejudice any of its obligations under this Clause 17 (without limitation and whether or not known to it or any Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;

- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, an increase in interest rate by way of an Interest Rate Adjustment Notice or otherwise, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

17.5 Guarantor Intent

Without prejudice to the generality of Clause 17.4 (*Waiver of defences*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents.

17.6 Immediate recourse

Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 17. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

17.7 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this Clause 17.

17.8 **Deferral of Guarantors' rights**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 17:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 17.1 (*Guarantee and indemnity*);
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Finance Party.

If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application in accordance with Clause 29 (*Payment mechanics*).

17.9 **Additional security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

SECTION 8
REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

18. REPRESENTATIONS

18.1 General

Each Obligor makes the representations and warranties set out in this Clause 18 to each Finance Party.

18.2 Status

- (a) It is a company, duly incorporated and validly existing under the law of its Original Jurisdiction.
- (b) Each of its Subsidiaries is a company, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (c) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

18.3 Binding obligations

Subject to the Legal Reservations, the obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations.

18.4 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 do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) the constitutional documents of it or any member of the Group; or
- (c) any agreement or instrument binding upon it or any member of the Group or any of its or any member of the Group's assets or constitute a default or termination event (however described) under any such agreement or instrument.

18.5 Power and authority

- (a) 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 or will be a party and the transactions contemplated by those Transaction Documents.
- (b) No limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Transaction Documents to which it is a party.

- (c) Without prejudice to paragraphs (a) and (b) above:
- (i) in respect of each Obligor, for the purposes of Article 78 of the JSC Law/Article 46 of the LLC Law, the execution by it and delivery of, and performance of its obligations under, the Transaction Documents or any related transactions, constitutes a major transaction for it, and the relevant Obligor has obtained all necessary corporate approvals required therefor in accordance with the relevant provisions of the JSC Law/LLC Law and its constitutive documents;
 - (ii) in respect of the Borrower, for the purposes of Article 81 of the JSC Law) there are no parties interested in the conclusion by it of the Finance Documents or any transactions contemplated thereby or any related transactions;
 - (iii) [†]in respect of each Guarantor, [[all its shareholders/participants] are interested in the conclusion by it of the Finance Documents or any transactions contemplated thereby or any related transactions]/[the only person interested in the conclusion by it of the Finance Documents or any transactions contemplated thereby or any related transactions is [the Borrower], and each Guarantor has obtained all necessary corporate approvals required therefor in accordance with the relevant provisions of the JSC Law/LLC Law and its constitutive documents.
 - (iv) for the purposes of Article 84.6 of the JSC Law the relevant Obligors have not received any mandatory or voluntary offer such that the provisions of Article 84.6(1) of the JSC Law would apply; and
 - (v) The Borrower is not and will not become subject to the Federal Law No. 223-FZ of 18 July 2011 "On procurement of goods, works, services by certain types of legal entities".

18.6 Validity and admissibility in evidence

- (a) All Authorisations required or desirable:
- (i) 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
 - (ii) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions (other than, in the case of Russia, the requirement to provide a certified Russian translation of the same),
- have been obtained or effected and are in full force and effect.
- (b) All Authorisations necessary for the conduct of the business, trade and ordinary activities of members of the Group have been obtained or effected and are in full force and effect.

[†]TBC by the Borrower

18.7 **Governing law and enforcement**

- (a) The choice of governing law of the Transaction Documents will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment or arbitral award obtained in relation to a Transaction Document in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its Relevant Jurisdictions (other than, in the case only of a foreign court judgment, the Russian Federation).

18.8 **Application of the Loans**

No Utilisation proceeds have been applied towards any purpose not specified in Clause 3 (*Purpose*).

18.9 **Insolvency**

- (a) No
 - (i) corporate action, legal proceeding or other procedure or step described in Clause 22.9 (*Insolvency proceedings*); or
 - (ii) creditors' process described in Clause 22.10 (*Creditors' process*)has been taken or, to the knowledge of any Obligor, threatened in relation to an Obligor.
- (b) None of the circumstances described in Clause 22.8 (*Insolvency*) applies to any Obligor.

18.10 **No filing or stamp taxes**

Under the laws of its Relevant Jurisdiction it is not necessary that the Transaction Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Transaction Documents or the transactions contemplated by the Transaction Documents.

18.11 **Deduction of Tax**

Subject to compliance with any procedural requirements relating to tax treaties, it is not required to make any deduction for or on account of Tax from any payment it may make to or for the benefit of the Original Lender under any Finance Document.

18.12 **No default**

- (a) No Default is continuing or is reasonably likely to result from the making of any Utilisation or the entry into, the performance of, or any transaction contemplated by, any Transaction Document.
- (b) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination

or any combination of any of the foregoing, would constitute) a default or termination event (however described) 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 has or is reasonably likely to have a Material Adverse Effect.

18.13 No misleading information

- (a) All information provided to a Finance Party by or on behalf of the Obligors in connection with the Facility on or before the date of this Agreement and not superseded before that date is accurate and not misleading in any material respect.
- (b) No Obligor has withheld any information from the Agent which could reasonably be expected to be relevant to the Finance Parties' decision to enter into this Agreement.

18.14 Financial statements

- (a) Its Original Financial Statements were prepared in accordance with IFRS and/or RAS, as applicable, consistently applied.
- (b) Its unaudited Original Financial Statements fairly represent its financial condition and results of operations for the relevant period.
- (c) Its audited Original Financial Statements give a true and fair view of its financial condition and results of operations during the relevant financial year.
- (d) There has been no material adverse change in its assets, business or financial condition (or the assets, business or consolidated financial condition of the Group, in the case of the Borrower) since the date of the Original Financial Statements.
- (e) Its most recent financial statements delivered pursuant to Clause 19.1 (*Financial statements*):
 - (i) have been prepared in accordance with IFRS or RAS, as applicable; and
 - (ii) give a true and fair view of (if audited) or fairly represent (if unaudited) its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.
- (f) The budgets and forecasts supplied under this Agreement were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied.
- (g) Since the date of the most recent financial statements delivered pursuant to Clause 19.1 (*Financial statements*) there has been no material adverse change in the business, assets or financial condition of the Group.

18.15 **No proceedings pending or threatened**

No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, are reasonably likely to have a Material Adverse Effect have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it or any of its Subsidiaries.

18.16 **No breach of laws**

It has not (and none of its Subsidiaries has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

18.17 **Environmental laws**

- (a) Each member of the Group is in compliance with Clause 21.3 (*Environmental compliance*) and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
- (b) No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened against any member of the Group where that claim has or is reasonably likely, if determined against that member of the Group, to have a Material Adverse Effect.

18.18 **Taxation**

- (a) It is not (and none of its Subsidiaries is) materially overdue in the filing of any Tax returns and it is not (and none of its Subsidiaries is) overdue in the payment of any amount in respect of Tax of [*] (or its equivalent in any other currency) or more.
- (b) No claims or investigations are being, or are reasonably likely to be, made or conducted against it (or any of its Subsidiaries) with respect to Taxes such that liabilities of, and/or claims against, members of the Group in an aggregate amount of USD 10,000,000 (or its equivalent in any other currency) or more are reasonably likely to arise.
- (c) It is resident for Tax purposes only in its Original Jurisdiction.

18.19 **Anti-corruption law**

Each member of the Group has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

18.20 **Security and Financial Indebtedness**

- (a) No Security or Quasi-Security exists over all or any of the present or future assets of any member of the Group other than as permitted by this Agreement.

- (b) No member of the Group has any Financial Indebtedness outstanding other than as permitted by this Agreement.

18.21 **Ranking**

Any claims of a Finance Party against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

18.22 **Good title to assets**

It and each of its Subsidiaries has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

18.23 **Inside Information**

In entering into and performing its obligations under the Transaction Documents, neither it nor (to the best of its knowledge and belief) any individual who is an officer, director or employee of an Obligor (or any individual able to direct the decision-making of an Obligor, including but not limited to the ultimate beneficial owners) or any individual working on their behalf, who has knowledge of the transactions contemplated in the Transaction Documents (each such person being a "**Relevant Individual**") is or has engaged in market abuse (including insider dealing) or market manipulation and nor has any Borrower or (to the best of its knowledge and belief) any Relevant Individual made, or in any way influenced, the decision to enter into the Transaction Documents on the basis of Inside Information, in each case for the purposes of and in violation of the Federal Law On Combating Illegal Use of Insider Information and Market Manipulation and Amending Certain Legislative Acts of the Russian Federation No. 224-FZ dated 27 July 2010 (as amended), the UK Criminal Justice Act 1993, the UK Financial Services and Markets Act 2000, the EU Market Abuse Directive (Directive 2003/6/EC) on insider dealing and market manipulation or any comparable applicable legislation in any other relevant jurisdiction.

18.24 **Group Structure Chart**

The Group Structure Chart delivered to the Agent pursuant to Schedule 2 (*Conditions precedent*) is true, complete and accurate in all material respects.

18.25 **Centre of main interests and establishments**

For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "**Regulation**"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its Original Jurisdiction and it has no "establishment" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

18.26 **No adverse consequences**

- (a) It is not necessary under the laws of its Relevant Jurisdictions:

- (i) in order to enable any Finance Party 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 any Finance Party should be licensed, qualified or otherwise entitled to carry on business in any of its Relevant Jurisdictions.

- (b) No Finance Party is or will 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.

18.27 No claims

No claims have been made to members of the Group (i) for an aggregate amount exceeding USD 10,000,000; or (ii) under any suretyship, guarantee or indemnity.

18.28 Times when representations made

- (a) All the representations and warranties in this Clause 18 are made by each Obligor on the date of this Agreement, the date of each Utilisation Request and each Utilisation Date.
- (b) The Repeating Representations are deemed to be made by each Obligor on the first day of each Interest Period.
- (c) All the representations and warranties in this Clause 18 except Clause 18.13 (*No misleading information*) and Clause 18.24 (*Group Structure Chart*) and are deemed to be made by each Additional Guarantor on the day on which it becomes (or it is proposed that it becomes) an Additional Guarantor.
- (d) 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 existing at the date the representation or warranty is deemed to be made.

19. INFORMATION UNDERTAKINGS

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

In this Agreement:

"**Annual Financial Statements**" means the financial statements for a Financial Year delivered pursuant to paragraph (a) Clause 19.1 (*Financial statements*).

"**Semi-Annual Financial Statements**" means the financial statements delivered for Financial Half Year pursuant to paragraph (b) Clause 19.1 (*Financial statements*).

19.1 Financial statements

The Borrower shall supply to the Agent in sufficient copies for all the Lenders:

- (a) as soon as they are available, but in any event within 150 days after the end of each of its Financial Years, the audited consolidated financial statements of the Borrower for that Financial Year, prepared in accordance with IFRS;
- (b) as soon as they are available, but in any event within 90 days after the end of each of its Financial Half-Years, the reviewed consolidated financial statements of the Borrower for that Financial Half-Year prepared in accordance with IFRS;
- (c) as soon as they are available, but in any event within 105 days after the end of each of its Financial Years, the audited financial statements prepared in accordance with RAS (forms 1-5) of each Obligor for that Financial Year; and
- (d) as soon as they are available, but in any event within 45 days after the end of each of its Financial Half-Years and Financial Quarters, the unaudited financial statements (forms 1 and 2) of each Obligor prepared in accordance with RAS.

19.2 Provision and contents of Compliance Certificate

- (a) The Borrower shall supply a Compliance Certificate to the Agent with each set of the Annual Financial Statements and Semi-Annual Financial Statements.
- (b) Each Compliance Certificate shall, amongst other things, set out (in reasonable detail) computations as to compliance by the Borrower with paragraphs (f) and (g) of Clause 20.2 (*Financial condition*).
- (c) Each Compliance Certificate shall be signed by an Authorised Signatory and the chief accountant of the Borrower of Borrower and shall be reported on by the Borrower's Auditors in the form agreed by the Borrower and the Majority Lenders.

19.3 Additional financial information

The Borrower shall provide to the Agent, no later than 10 February of each calendar year, a letter (in the form set out in Schedule 11 (*Form of annual letter*) or such other form as the Agent may notify to the Borrower from time to time) confirming the Borrower's financial and business activity for the period from 1 October to 31 December of the immediately preceding year.

19.4 Requirements as to financial statements

- (a) The Borrower shall procure that each set of financial statements delivered pursuant to paragraphs (c) and (d) of Clause 19.1 (*Financial statements*) is prepared using RAS. Each set of the annual RAS statements shall have a stamp from the tax authority on receipt of such financials (or any other

documentary evidence that is has received by the tax authorities). Each set of RAS financial statements shall include or be accompanied by (as applicable):

- (i) a balance sheet, profit and loss statement and, in respect of the annual statements, the auditor's report;
 - (ii) a breakdown of accounts receivable and payable, information on overdue payments of Taxes and other statutory charges to the federal budget and budgets of constituents of the Russian Federation, local budgets and extrabudgetary funds, information on overdue salary payments to employees and information on the current file of unpaid settlement documents with respect to any bank accounts (in each case, certified by an Authorised Signatory);
 - (iii) a certificate issued by the Federal Tax Service confirming, in respect of each Group member absence of any overdue payments of Taxes and other statutory charges to the federal budget and budgets of constituents of the Russian Federation, local budgets and extrabudgetary funds in an aggregate amount exceeding 5% of the net assets of that Obligor;
- (b) The Borrower shall procure that each set of the financial statements prepared under IFRS includes a balance sheet, profit and loss account and, if required under IFRS, cashflow statement.
- (c) Each set of financial statements delivered pursuant to Clause 19.1 (*Financial statements*) shall be certified by an Authorised Signatory of the relevant company as giving a true and fair view of (in the case of Annual Financial Statements and Semi-Annual Financial Statements for any Financial Year), or fairly representing (in other cases), its financial condition and operations as at the date as at which those financial statements were drawn up and, in the case of the Annual Financial Statements, shall be accompanied by any letter addressed to the management of the relevant company by the Auditors and accompanying those Annual Financial Statements.
- (d) If the Agent wishes to discuss the financial position of any member of the Group with the Auditors, the Agent may notify the Borrower, stating the questions or issues which the Agent wishes to discuss with the Auditors. In this event, the Borrower must ensure that the Auditors are authorised (at the expense of the Borrower):
- (i) to discuss the financial position of each member of the Group with the Agent on request from the Agent; and
 - (ii) to disclose to the Agent for the Finance Parties any information which the Agent may reasonably request.

19.5 Year-end

The Borrower shall procure that each Financial Year-end of each member of the Group falls on 31 December.

19.6 Information: miscellaneous

The Borrower shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

- (a) at the same time as they are dispatched, copies of all documents dispatched by the Borrower to its shareholders generally (or any class of them) or dispatched by an Obligor to its creditors generally (or any class of them);
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group and which, if adversely determined, are reasonably likely to have a Material Adverse Effect or which would involve a liability, or a potential or alleged liability, exceeding USD 1,000,000 (or its equivalent in other currencies);
- (c) in the case only of each Obligor, no later than 20 Business Days after the end of each of its Financial Quarters, certificates from each of the Federal Tax Service of the Russian Federation, the State Pension Fund of the Russian Federation and the Social Security Fund of the Russian Federation confirming that the amounts of any outstanding liabilities of that Obligor to such agencies do not in aggregate exceed USD [1,000,000];
- (d) within 10 Business Days of any change to 20 per cent. or more of the shareholders of the Borrower or another Group member, details of such change and new shareholders;
- (e) within 10 Business Days of any change to the structure or composition of any management body of any Group member, details of such change;
- (f) within 10 Business Days of any competent corporate body adopting a resolution on liquidation or reorganisation, or proceedings for insolvency being initiated, in respect of any Obligor or another member of the Group (whether or not this constitutes a Default);
- (g) within 10 Business Days, details of any actual or proposed:
 - (i) Obligor's transactions for an amount exceeding [5]% of the balance sheet asset value of an Obligor, other than in the ordinary course of trading of that Obligor;
 - (ii) shareholders' or intragroup loans to, or from, a Group member.
- (h) within 10 Business Days of any change of the Borrower's registered address, factual address or formal postal address, or a change of the Borrower's payment details, the relevant new details;
- (i) within 10 days of state registration of any amendment to constitutive documents of any member of the Group, notarised copies of such amendments and an extract from the Unified State Register of Legal Entities showing registration of such amendments;

- (j) promptly upon becoming aware of them, information of any circumstances that may, in the reasonable opinion of the Borrower, have a material adverse effect on the Borrower's financial condition or assets or may affect its solvency, and any steps being taken to remedy them;
- (k) promptly on request, such further information regarding the financial condition, assets and operations of the Group and/or any member of the Group (including any requested amplification or explanation of any item in the financial statements, budgets or other material provided by any Obligor under this Agreement and an up to date copy of its shareholders' register (or equivalent in its Original Jurisdiction)) as any Finance Party through the Agent may reasonably request.

19.7 Notification of default

- (a) Each Obligor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).
- (b) Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by an Authorised Signatory 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).

19.8 "Know your customer" checks

- (a) If:
 - (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
 - (ii) any change in the status of an Obligor or the composition of the shareholders of an Obligor after the date of this Agreement; or
 - (iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in paragraph (iii) above, 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.

- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent 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.
- (c) The Borrower shall, by not less than 10 Business Days' prior written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Guarantor pursuant to Clause 25 (*Changes to the Obligors*).
- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Guarantor obliges the Agent or any Lender to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the Agent or such 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 accession of such Subsidiary to this Agreement as an Additional Guarantor.

20. FINANCIAL COVENANTS

20.1 Financial definitions

In this Agreement:

"Borrowings" means, at any time, the aggregate outstanding principal, capital or nominal amount (and any fixed or minimum premium payable on prepayment or redemption) of any Financial Indebtedness of the Group members.

"Debt to Assets Ratio" means, in respect of any Relevant Period, the ratio of:

- (a) the aggregate amount of all obligations of members of the Group for or in respect of Borrowings on the last day of that Relevant Period;

to

- (a) the value of the total assets of the Group, determined on a consolidated basis in accordance with IFRS on the last day of that Relevant Period.

"EBITDA" means, in respect of any Relevant Period, the consolidated operating profit of the Group before taxation (excluding the results from discontinued operations):

- (a) **[before deducting** any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable or capitalised by any member of the Group (calculated on a consolidated basis) in respect of that Relevant Period;]
- (b) **not including** any accrued interest owing to any member of the Group;
- (c) **after adding back** any amount attributable to the amortisation or depreciation of assets of members of the Group (and taking no account of the reversal of any previous impairment charge made in that Relevant Period);
- (d) **before taking into account** any Exceptional Items;
- (e) **after deducting** the amount of any profit (or adding back the amount of any loss) of any member of the Group which is attributable to minority interests;
- (f) **plus or minus** the Group's share of the profits or losses (after finance costs and tax) of Non-Group Entities;
- (g) **before taking into account** any unrealised gains or losses on any financial instrument (other than any derivative instrument which is accounted for on a hedge accounting basis);
- (h) **before taking into account** any gain arising from an upward revaluation of any other asset;
- (i) **excluding** the charge to profit represented by the expensing of stock options,

in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining operating profits of the Group before taxation.

"**Exceptional Items**" means any items of unusual, exceptional, one off, non-recurring or extraordinary nature.

"**Finance Charges**" means, for any Relevant Period, the aggregate amount of the accrued interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments in respect of Borrowings paid or payable by any member of the Group (calculated on a consolidated basis) in cash or capitalised in respect of that Relevant Period:

- (a) **including** any upfront fees or costs;
- (b) **including** the interest (but not the capital) element of payments in respect of Finance Leases; and
- (c) **including** any commission, fees, discounts and other finance payments payable by (and deducting any such amounts payable to) any member of the Group under any interest rate hedging arrangement,

together with the amount of any cash dividends or distributions paid or made by the member of the Group in respect of that Relevant Period and so that no amount shall be added (or deducted) more than once.

"**Finance Lease**" means any lease or hire purchase contract which would, in accordance with IFRS, be treated as a finance or capital lease.

"**Financial Half Year**" means the semi-annual accounting period of 6 months ending on or about 30 June in each year.

"**Financial Quarter**" means the accounting period of 3 and 9 months ending on 31 March and 30 September in each year respectively.

"**Financial Year**" means the annual accounting period ending on or about 31 December in each year.

"**Interest Cover**" means the ratio of EBITDA of the Group to Finance Charges in respect of any Relevant Period.

"**Leverage**" means, in respect of any Relevant Period, the ratio of Total Net Debt on the last day of that Relevant Period to EBITDA in respect of that Relevant Period.

"**Non-Group Entity**" means any investment or entity (which is not itself a member of the Group (including associates and Joint Ventures)) in which any member of the Group has an ownership interest.

"**Relevant Period**" means each period of twelve months ending on or about the last day of the Financial Year and each period of twelve months ending on or about the last day of each Financial Half Year.

"**Total Net Debt**" means, at any time, the aggregate amount of all obligations of members of the Group for or in respect of Borrowings at that time but:

- (a) **excluding** any such obligations to any other member of the Group;
- (b) **including**, in the case of Finance Leases only, their capitalised value;
- (c) **deducting** the aggregate amount of Cash and Cash Equivalent Investments held by members of the Group at that time according to the relevant IFRS financial statements,

and so that no amount shall be included or excluded more than once.

20.2 **Financial condition**

The Borrower shall ensure that:

- (a) **Interest Cover**: Interest Cover shall not be less than:
 - (i) in respect of the Relevant Period ending on 30 June 2014, 2.5:1; and
 - (ii) in respect of each other Relevant Period, 3.0:1.
- (b) **Leverage**: Leverage shall not exceed:
 - (i) in respect of the Relevant Period ending on 30 June 2014, 5.0:1; and

- (ii) in respect of each other Relevant Period, 4.0:1.
- (c) **Debt to Assets Ratio:** Debt to Assets Ratio shall not exceed 0.6:1 in respect of any Relevant Period.
- (d) **Financial investments:** The value of the Group's financial investments (ignoring any change in value of the shares in group members caused by (i) revaluation on the basis of a recognised market quotation; or (ii) conversion of interests of any shareholders that are not members of the Group into shares in the Borrower) shall not exceed RUB 7,000,000,000.
- (e) **Overdue receivable/payables:**
 - (i) The aggregate receivables of the Group overdue for over three months (save for receivables in respect of which adequate bad debt reserves are made and receivables owed by JSC "Russian Grids" and its Subsidiaries) shall not exceed 15% of the total amount of the Group's receivables.
 - (ii) The aggregate payables of the Group overdue for over one month (save for payables owed to JSC "Russian Grids" and its Subsidiaries) shall not exceed 10% of the total amount of the Group's payables.
- (f) **Other receivables:**
 - (i) The portion of the Group's receivables owed by (i) any individual counterparty or (ii) any group of counterparties that are Affiliates (other than, in each case, JSC "Russian Grids" and its Subsidiaries), shall not exceed 5% of the total amount of the Group's receivables.
 - (ii) The portion of the Group's receivables owed by any of JSC "Russian Grids" or any its Subsidiary (individually) shall not exceed 20% of the total amount of the Group's receivables.

For the purposes of this paragraph (f) non-trade receivables of RUB 3,600,000,000 owed by OOO "Novoe Energeticheskoe Partnerstvo" to OJSC "Energosbyt Rostovenergo" are not taken into account.

- (g) **Obligor cover:**
 - (i) Subject to paragraph (ii) below, the Borrower shall ensure that at all times the aggregate of:
 - (A) the earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA, as defined in Clause 20 (*Financial Covenants*)) of the Obligors;
 - (B) the assets of the Obligors; and
 - (C) the revenues of the Obligors,

in each case calculated on an unconsolidated basis represents not less than 90 per cent. of the EBITDA, assets and revenues of the Group.

- (ii) If at any time the undertaking under sub-paragraph (i) above is breached (the "**Relevant Breach**"), the Borrower shall, within 5 days of the Agent's notice of the Relevant Breach, procure that one or more Group members that are operating companies accede as Guarantor in accordance with, and subject to, Clause 25.2 (*Additional Guarantors*), so as to rectify the Relevant Breach. Immediately following such accession, the Borrower shall provide the Agent such financial statements and calculation in connection with the accession as the Agent may reasonably require and the undertaking set out in sub-paragraph (i) above shall be recalculated accordingly. If on such basis such undertaking is satisfied, the Relevant Breach shall be deemed to have been remedied.

20.3 Financial testing

- (a) The financial covenants set out in paragraphs (a) to (e) of Clause 20.2 (*Financial condition*) shall be calculated in accordance with IFRS and tested by reference to each of the Semi-Annual Financial Statements and the Annual Financial Statements delivered pursuant to Clause 19.1 (*Financial statements*), for each Financial Half-Year and each Financial Year.
- (b) The financial covenant set out in paragraph (f) of Clause 20.2 (*Financial condition*) shall be calculated in accordance with IFRS and tested by reference to each Compliance Certificate and Auditors' report delivered pursuant to Clause 19.2 (*Provision and contents of Compliance Certificate*).
- (c) The financial covenant set out in paragraph (g) of Clause 20.2 (*Financial condition*) shall be calculated in accordance with IFRS and tested by reference to:
 - (i) each of the Semi-Annual Financial Statements and the Annual Financial Statements delivered pursuant to Clause 19.1 (*Financial statements*), for each Financial Half-Year and each Financial Year; and
 - (ii) each Compliance Certificate and Auditors' report delivered pursuant to Clause 19.2 (*Provision and contents of Compliance Certificate*).
- (d) For the purposes of Clause 20.2 (*Financial condition*), the fact that the financial statements of the Borrower for the periods ending 31 December 2014 do not refer to consolidation of OJSC "Kubanskaya energosbytovaya kompaniya" into the Group shall not prevent its EBITDA, revenues and assets from being taken into account for the relevant financial covenants, by reference to its IFRS financial statements for 2014.

21. GENERAL UNDERTAKINGS

The undertakings in this Clause 21 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

Authorisations and compliance with laws

21.1 Authorisations

- (a) Each Obligor shall promptly:
- (i) obtain, comply with and do all that is necessary to maintain in full force and effect; and
 - (ii) supply certified copies to the Agent of:
any Authorisation required under any law or regulation of a Relevant Jurisdiction to:
 - (A) enable it to perform its obligations under the Transaction Documents;
 - (B) ensure the legality, validity, enforceability or admissibility in evidence of any Transaction Document; and
 - (C) carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

21.2 Compliance with laws

Each Obligor shall (and the Borrower shall ensure that each member of the Group will) comply in all respects with all laws to which it may be subject, if failure so to comply has or is reasonably likely to have a Material Adverse Effect.

21.3 Environmental compliance

Each Obligor shall (and the Borrower shall ensure that each member of the Group will):

- (i) comply with all Environmental Law;
- (ii) obtain, maintain and ensure compliance with all requisite Environmental Permits;
- (iii) implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

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

21.4 Environmental claims

Each Obligor shall (through the Borrower), promptly upon becoming aware of the same, inform the Agent in writing of:

- (a) any Environmental Claim against any member of the Group which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim, if determined against that member of the Group, has or is reasonably likely to have a Material Adverse Effect.

21.5 Anti-corruption law

- (a) No Obligor shall (and the Borrower shall ensure that no other member of the Group will) directly or indirectly use the proceeds of the Facility for any purpose which would breach the Bribery Act 2010, the United States Foreign Corrupt Practices Act of 1977 or other similar legislation in other jurisdictions.
- (b) Each Obligor shall (and the Borrower shall ensure that each other member of the Group will):
 - (i) conduct its businesses in compliance with applicable anti-corruption laws; and
 - (ii) maintain policies and procedures designed to promote and achieve compliance with such laws.

21.6 Taxation

- (a) Each Obligor shall pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
 - (i) such payment is being contested in good faith;
 - (ii) adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Agent under Clause 19.1 (*Financial statements*); and
 - (iii) the aggregate amount of any unpaid Taxes does not at any time exceed USD 10,000,000.
- (b) No Obligor may change its residence for Tax purposes without the prior written consent of the Agent.

Restrictions on business focus

21.7 Merger

No Obligor shall enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction (including a Russian Corporate Reorganisation), other than with the prior consent of the Majority Lenders.

21.8 Change of business

The Borrower shall procure that no substantial change is made to the general nature of the business of any Obligor from that carried on by that Obligor at the date of this Agreement.

21.9 Acquisitions

- (a) Except as permitted under paragraph (b) below, no Obligor shall:
 - (i) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or
 - (ii) incorporate a company.
- (b) Paragraph (a) above does not apply to an acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is:
 - (i) a Permitted Acquisition; or
 - (ii) a Permitted Transaction.

Restrictions on dealing with assets and Security

21.10 Preservation of assets

Each Obligor shall (and the Borrower shall ensure that each other member of the Group will) maintain in good working order and condition (ordinary wear and tear excepted) all of its assets necessary or desirable in the conduct of its business.

21.11 Pari passu ranking

Each Obligor shall ensure that at all times any unsecured and unsubordinated claims of a Finance Party against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

21.12 Negative pledge

In this Clause 21.12, "Quasi-Security" means an arrangement or transaction described in paragraph (b) below.

Except as permitted under paragraph (c) below:

- (a) No Obligor shall (and the Borrower shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets.
- (b) No Obligor shall (and the Borrower 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 an Obligor 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, which is:
 - (i) Permitted Security; or
 - (ii) a Permitted Transaction.

21.13 Disposals

- (a) Except as permitted under paragraph (b) below, no Obligor shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal which is:
 - (i) a Permitted Disposal;
 - (ii) a Permitted Distribution; or
 - (iii) a Permitted Transaction.

21.14 **Arm's length basis**

No Obligor shall (and the Borrower shall ensure that no other member of the Group will) enter into any transaction with any person except on arm's length terms and for full market value.

Restrictions on movement of cash – cash out

21.15 **Loans or credit**

- (a) Except as permitted under paragraph (b) below, no Obligor shall be a creditor in respect of any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
 - (i) a Permitted Loan; or
 - (ii) a Permitted Transaction.

21.16 **No guarantees or indemnities**

- (a) Except as permitted under paragraph (b) below, no Obligor shall incur or allow to remain outstanding any guarantee in respect of any obligation of any person.
- (b) Paragraph (a) does not apply to a guarantee which is:
 - (i) a Permitted Guarantee; or
 - (ii) a Permitted Transaction.

21.17 **Dividends and share redemption**

- (a) Unless the Majority Lenders agree otherwise, no Obligor shall:
 - (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
 - (ii) repay or distribute any dividend or share premium reserve;
 - (iii) pay any management, advisory or other fee to or to the order of any of their shareholders;
 - (iv) repay any shareholder loans;
 - (v) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so; or
 - (vi) take any similar steps.
- (b) Paragraph (a) does not apply to:

- (i) a Permitted Distribution; or
- (ii) payments under the terms of the Management Agreements in force as at the date of this Agreement.

Restrictions on movement of cash – cash in

21.18 Financial Indebtedness

- (a) Except as permitted under paragraph (b) below, no Obligor shall incur or allow to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to Financial Indebtedness which is:
 - (i) Permitted Financial Indebtedness; or
 - (ii) a Permitted Transaction.

21.19 Share capital

No Obligor shall (and the Borrower shall ensure that no other member of the Group will) issue, split or consolidate any shares except with the prior written consent of the Agent.

Miscellaneous

21.20 Charter capital

No Obligor shall reduce its charter capital without the prior written consent of the Majority Lenders.

21.21 Other transactions

- (a) No Obligor shall enter into any transaction, unless:
 - (i) such transactions are made on arm's length terms in an ordinary course of trading;
 - (ii) such transaction is a Permitted Transaction;
 - (iii) in relation to other transactions:
 - (A) the aggregate value of all such transactions of any Obligor in any 12 months does not exceed 5% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; and
 - (B) at any time, the aggregate value of all such transactions by an Obligor after the date of this Agreement does not exceed 20% of that Obligor's balance sheet asset value according to its most recent financial statements prepared in accordance with local accounting standards; or

- (iv) such transaction is made with the prior written approval of the Agent (acting on the instructions of the Majority Lenders).
- (b) The Borrower shall not, and shall ensure that that the relevant parties will not, amend any Transaction Document (other than a Finance Document) or a Management Agreement without the prior consent of the Agent.

21.22 Access

Each Obligor shall, and the Borrower shall ensure that each member of the Group will, permit the Agent and/or accountants or other professional advisers and contractors of the Agent free access at all reasonable times and on reasonable notice at the risk and cost of the Obligor to (a) the premises, assets, contracts, books, accounts and records of each member of the Group and (b) meet and discuss matters with senior management.

21.23 Treasury Transactions

No Obligor shall (and the Borrower will procure that no other member of the Group will) enter into any Treasury Transaction other than spot and forward delivery foreign exchange contracts entered into in the ordinary course of business and not for speculative purposes.

21.24 Compliance with Currency Law

- (a) The Borrower shall:
 - (i) at all times maintain the Loan Passport with an Account Bank;
 - (ii) within the time periods prescribed by the Currency Law, submit to the relevant Account Bank (or, if applicable, the relevant territorial subdivision of the Central Bank of the Russian Federation) such documents and other information as may be required from time to time under the Currency Law for the purpose of utilising the Facility and performing its obligations under Finance Documents, in the form and in accordance with the procedure described therein;
 - (iii) comply with all requirements established under or pursuant to the Currency Law in relation to any payment made or to be made by or to it under Finance Documents; and
 - (iv) ensure that its compliance with such requirements does not impair its ability to comply with its obligations under the Finance Documents.
- (b) Upon the occurrence of a Default which is continuing, each Russian Guarantor shall, if so requested by the Agent, open and maintain with the VTB Bank a loan passport to the extent required under the Currency Law in relation to the guarantee given by it pursuant to Clause 17 (*Guarantee and Indemnity*).

21.25 **Change of Control**

The Borrower shall ensure that no Change of Control occurs without the prior written consent of the Majority Lenders.

In this Clause "**Change of Control**" means

- (a) the Ultimate Beneficial Owner ceases to directly or indirectly control the Borrower; and/or
- (b) the Borrower ceases to be the legal owner of more than 51 per cent. of the issued share capital of any other Obligor or ceases to control an Obligor.

For the purposes of the definition:

"**control**" of an Obligor means:

- (a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (i) cast, or control the casting of, more than 51 per cent. of the maximum number of votes that might be cast at a general meeting of that Obligor;
 - (ii) appoint or remove all, or the majority of the directors or other equivalent officers of that Obligor; or
 - (iii) give directions with respect to the operating and financial policies of that Obligor, with which the directors or other equivalent officers of that Obligor are obliged to comply; and
- (b) the holding beneficially of more than 51 per cent., of the issued share capital of that Obligor (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

21.26 **Accounts**

- (a) The Borrower shall, and shall ensure that each member of the Group will, procure that each account of each Group member opened with a member of VTB Group is subject to a Direct Debit Agreement.
- (b) If the Agent so requests on or after 1 July 2014, the Borrower shall, and shall ensure that each member of the Group will, promptly enter into an Account Pledge in respect of each account of each Group member opened with a member of VTB Group, and promptly take all such steps as the Agent may require in connection with each such Account Pledge, including, without limitation, procure such registration or recording as the Agent may require and enter into such amendments to this Agreement as the Agent may require, in each case, in connection with the Account Pledges.
- (c) The Borrower shall not have accounts with any financial institution other than VTB Bank/members of the VTB Group.

- (d) The Borrower shall ensure that the ratio of its quarterly credit turnover in respect of its accounts with VTB Bank to its total credit turnover for that quarter is not less than the ratio of the Borrower's outstanding loans obtained from members of the VTB Group to the Borrower's total outstanding loans.

22. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 22 is an Event of Default (save for Clause 22.20 (*Acceleration*)).

22.1 Non-payment

An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable.

22.2 Financial covenants and other obligations

- (a) Any requirement of Clause 20 (*Financial covenants*) is not satisfied or an Obligor does not comply with the provisions of Clause 19 (*Information undertakings*), Clause 21.7 (*Merger*) and/or 21.25 (*Change of Control*).
- (b) Any step is taken by a Group member or a party to the Transaction Documents (other than a Finance Party) that is inconsistent with the Shareholders' Agreement or is taken without an authorisation required under the Shareholders' Agreement.

22.3 Other obligations

Any party (other than a Finance Party) does not comply with any provision of the Transaction Documents (other than those referred to in Clause 22.2 (*Financial covenants and other obligations*)).

22.4 Misrepresentation

Any representation or statement made or deemed to be made by any party (other than a Finance Party) in the Transaction Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Transaction Document is or proves to have been incorrect or misleading when made or deemed to be made.

22.5 Other obligations – VTB Group

Any Obligor defaults in the performance of any of its obligations, or an event of default (however described) occurs, under any agreement between a member of the VTB Group and any Obligor.

22.6 Cross default

- (a) Any Financial Indebtedness of any Obligor is not paid when due nor within any originally applicable grace period.

- (b) Any Financial Indebtedness of any Obligor 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 Obligor is cancelled or suspended by a creditor of any Obligor as a result of an event of default (however described).
- (d) Any creditor of any Obligor becomes entitled to declare any Financial Indebtedness of any Obligor 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 22.6, **provided that** the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than USD 10,000,000 (or its equivalent in any other currency or currencies).

22.7 Proceedings

- (a) JSC "Russian Grids" or its Subsidiary initiates litigation or arbitration proceedings against an Obligor for an amount exceeding 10% of that Obligor's net assets according to its most recent financial statements prepared in accordance with local accounting standards.
- (b) Any power grid company initiates litigation or arbitration proceedings against an Obligor for an amount exceeding 10% of its balance sheet asset value as of the date of this Agreement according to its most recent financial statements prepared in accordance with local accounting standards.

22.8 Insolvency

- (a) Any Obligor satisfies a Russian Insolvency Test.
- (b) Any Obligor:
 - (i) is unable or admits inability to pay its debts as they fall due;
 - (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law;
 - (iii) suspends or threatens to suspend making payments on any of its debts;
or
 - (iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Finance Party in its capacity as such) with a view to rescheduling any of its indebtedness.
- (c) The value of the assets of any Obligor is less than its liabilities (taking into account contingent and prospective liabilities).

- (d) A moratorium is declared in respect of any indebtedness of any Obligor. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

22.9 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 Obligor;
 - (ii) a composition, compromise, assignment or arrangement with any creditor of any Obligor
 - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Obligor; or
 - (iv) enforcement of any Security over any assets of any Obligor,or any analogous procedure or step is taken in any jurisdiction.
- (b) Any Russian Insolvency Proceedings are commenced in respect of any Obligor.

22.10 Creditors' process

Any expropriation, confiscation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Obligor having an aggregate value exceeding 10% of the consolidated balance sheet value of the Group's assets according to the most recent financial statements prepared in accordance with IFRS.

22.11 Unlawfulness and invalidity

- (a) It is or becomes unlawful for an Obligor to perform any of its obligations under the Transaction Documents.
- (b) Any obligation or obligations of any Obligor under any Transaction Documents are not or cease to be legal, valid, binding or enforceable.
- (c) Any Transaction Document ceases to be in full force and effect.

22.12 Cessation of business

Any member of the Group suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business except as a result of a Permitted Disposal or a Permitted Transaction.

22.13 Status

Any Guarantor ceases to be a guaranteeing supplier (*garantiruyuschiy postavshik*) of electricity or an authorised participant of the wholesale market for electricity (in each case, as defined in Federal Law No. 35-FZ "On Electric Power Industry").

22.14 Unsatisfied judgments

- (a) Any judgment or arbitral award is made against a Group member, has entered into force and remains unsatisfied after the due date for payment or compliance.
- (b) No Event of Default under paragraph (a) will occur, if the aggregate value of all such judgments and arbitral awards does not exceed USD 10,000,000.

22.15 Corporate management bodies

Any change to the structure or members of any corporate management body of an Obligor (including the chief executive officer) occurs that, in the opinion of the Majority Lenders', may have a Material Adverse Effect.

22.16 Audit qualification

The Auditors of the Group qualify the audited annual consolidated financial statements of the Borrower.

22.17 Repudiation

An Obligor or another person (other than a Finance Party):

- (a) repudiates a Transaction Document or a Management Agreement or evidences an intention to repudiate a Transaction Document or a Management Agreement; or
- (b) takes any step with a view to having any Transaction Document or a Management Agreement become or declared invalid, illegal or unenforceable in accordance with its terms (in full or in part).

22.18 Criminal proceedings

Any criminal charges are brought or any other criminal proceedings are commenced against any of the Ultimate Beneficial Owner, the sole executive body of any Obligor (or the sole executive body of the management company of any Obligor), a member of any corporate management body of any Obligor or a shareholder or participant of any Obligor, or any such person is found guilty of a criminal offence.

22.19 Material adverse change

Any event or circumstance occurs which the Majority Lenders reasonably believe might have a Material Adverse Effect.

22.20 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower:

- (a) cancel the Total Commitments at which time they shall immediately be cancelled;
- (b) declare that all or part of the Utilisations, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable; and/or
- (c) declare that all or part of the Utilisations be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders.

**SECTION 9
CHANGES TO PARTIES**

23. CHANGES TO THE LENDERS

23.1 Assignments and transfers by the Lenders

Subject to this Clause 23 and to Clause 24 (*Restriction on Debt Purchase Transactions*), a Lender (the "Existing Lender") may:

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

under any Finance Document to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the "New Lender").

23.2 Conditions of assignment or transfer

- (a) An assignment will only be effective on:
 - (i) receipt by the Agent (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties as it would have been under if it was an Original Lender; and
 - (ii) the performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender.
- (b) A transfer will only be effective if the procedure set out in Clause 23.5 (*Procedure for transfer*) is complied with.
- (c) If:
 - (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
 - (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 13 (*Increased Costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under that Clause to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

- (d) Each New Lender, by executing the relevant Transfer Certificate or Assignment Agreement, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer or assignment becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.

23.3 Assignment or transfer fee

Unless the Agent otherwise agrees and excluding an assignment or transfer (i) to an Affiliate of a Lender or (ii) to a Related Fund, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of USD 5,000.

23.4 Limitation of responsibility of Existing Lenders

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
 - (i) the legality, validity, effectiveness, adequacy or enforceability of the Transaction Documents or any other documents;
 - (ii) the financial condition of any Obligor, or any member of the Group;
 - (iii) the performance and observance by any Obligor or any other member of the Group of its obligations under the Transaction Documents or any other documents; or
 - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender, the other Finance Parties that it:
 - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Transaction Document; and
 - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Transaction Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:

- (i) accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations assigned or transferred under this Clause 23; or
- (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

23.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 23.2 (*Conditions of assignment or transfer*) a transfer is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.
- (b) The Agent shall only be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) Subject to Clause 23.9 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the "**Discharged Rights and Obligations**");
 - (ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other member of the Group and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;
 - (iii) the Agent, the Arranger, the New Lender and the other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Arranger and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
 - (iv) the New Lender shall become a Party as a "Lender".

23.6 Procedure for assignment

- (a) Subject to the conditions set out in Clause 23.2 (*Conditions of assignment or transfer*) an assignment may be effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.
- (b) The Agent shall only be obliged to execute an Assignment Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.
- (c) Subject to Clause 23.9 (*Pro rata interest settlement*), on the Transfer Date:
 - (i) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;
 - (ii) the Existing Lender will be released from the obligations (the "**Relevant Obligations**") expressed to be the subject of the release in the Assignment Agreement; and
 - (iii) the New Lender shall become a Party as a "Lender" and will be bound by obligations equivalent to the Relevant Obligations.
- (d) Lenders may utilise procedures other than those set out in this Clause 23.6 to assign their rights under the Finance Documents (but not, without the consent of the relevant Obligor or unless in accordance with Clause 23.5 (*Procedure for transfer*), to obtain a release by that Obligor from the obligations owed to that Obligor by the Lenders nor the assumption of equivalent obligations by a New Lender) **provided that** they comply with the conditions set out in Clause 23.2 (*Conditions of assignment or transfer*).

23.7 Copy of Transfer Certificate or Assignment Agreement to the Borrower

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrower a copy of that Transfer Certificate or Assignment Agreement.

23.8 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 23, each Lender may without consulting with or obtaining consent from any Obligor, 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 that Lender including, without limitation:

**SCHEDULE 2
CONDITIONS PRECEDENT**

**PART I
CONDITIONS PRECEDENT REQUIRED TO BE DELIVERED BY ORIGINAL
OBLIGORS**

1. **Corporate documents relating to each Obligor incorporated in Russia⁵**
- (a) An original or a notarised copy of the extract from the Unified State Register of Legal Entities in respect of each Obligor dated no earlier than 14 days prior to the date of this Agreement.
 - (b) A notarised copy of the certificate of state registration of each Obligor issued by the relevant registration authority in accordance with the Federal Law of the Russian Federation No. 129-FZ of 8 August 2001 On State Registration of Legal Entities and Individual Entrepreneurs.
 - (c) Notarised copy of the first edition of the charter as of the moment of incorporation of each Obligor.
 - (d) Notarised copies of the charter of each Obligor and all amendments thereto (including the charter which was in force as of the date of the appointment of the chief executive officer together with all amendments thereto).
 - (e) Notarised copies of the certificates of registration of charter and the amendments to the charter of each Obligor mentioned above.
 - (f) A notarised copy of the certificate of registration of each Obligor with the relevant federal tax authority in the Russian Federation.
 - (g) Notarised copy of the decision (minutes or other document) on establishment of each Obligor.
 - (h) Copies certified by an Authorised Signatory of each Obligor of the resolutions and orders appointing the chief executive officer (including, if applicable, the chief executive officer who issued the power of attorney referred to below) of each Obligor and if no chief executive officer, the documentation demonstrating the authority of the person acting in the chief executive officer's place.
 - (i) If applicable, certified copies of the corporate decisions appointing the board of directors.
 - (j) A notarised copy or a copy certified by the bank of the most recent banking sample signatures and seal card of each Obligor.
 - (k) Copies certified by an Authorised Signatory of each Obligor of all necessary corporate resolutions (including, but not limited to, the ones required under the charter of each Obligor) of each Obligor approving the entry into, the

⁵ Subject to review by VTB Legal.

terms of and transactions contemplated by the Transaction Documents to which it is a party.

- (l) Notarised copies of the powers of attorney (to the extent applicable) in favour of the signatories of each Obligor authorising the execution by them of the Transaction Documents to which it is a party.
- (m) Certified copy of the employment agreement (contract) with the single-member executive body, or an extract from it with the clauses setting out his/her powers (if no such agreement was signed, confirmation of this should be obtained in writing), or an original letter confirming that such employment contract is in full force and effect and does not contain any restrictions on the capacity of the single-member executive body.
- (n) Certified copies of the internal documents of each Obligor and minutes approving them (regulation on the board of directors, the executive board, the general director, etc.), or original of the statement indicating the absence thereof; if internal documents are not available, a letter signed by the single-member executive body must be provided confirming there are no such internal documents.
- (o) Original or certified copy of the statement on the presence/absence of legal disputes with the amount exceeding five per cent of the net assets as of the last reporting date, including the amount sought and the subject matter of the claim where the Borrower is a defendant under such claim issued not later than 14 days prior to the date of this Agreement.
- (p) A statement from the Russian tax authorities, dated no earlier than 14 days prior to the date of this Agreement confirming that it has no outstanding liabilities to the state budget and other no-budgetary funds or, to the extent that such liabilities exist, a payment schedule has been agreed upon with the respective authorities.
- (q) A letter signed by an Authorised Signatory of each Obligor confirming that it is/is not a strategic entity for the purposes of Federal Law № 57-FZ of April 29, 2008 «Procedures for foreign investments in the business entities of strategic importance for Russian national defense and state security» (regarding the foreign investments in strategic companies).
- (r) A letter signed by an Authorised Signatory of each Obligor containing the information on each Obligor's assets encumbered by pledge/mortgage or guarantees on the obligations of third parties, including the total amount thereof (as of the date of this Agreement).
- (s) Certified copy of the balance sheet of each Obligor as of the most recent reporting date.
- (t) Certified copies of each Management Agreement and all amendments thereto (in the case there are no amendments, a certificate confirming the same shall be provided).

- (u) If applicable, certified copies of the consent from or notification to (as applicable) the Federal Antimonopoly Service in connection with the transfer of the functions of the chief executive officer to the Management Company.
- (v) A list of affiliates of each Obligor as of the last reporting date.
- (w) If applicable:
 - (i) copies certified by an Authorised Signatory of each Obligor of the resolutions of each relevant Obligor approving the transfer of the power of the chief executive officer of the relevant Obligor to the management company;
 - (ii) copies certified by an Authorised Signatory of each Obligor of the resolutions confirming the appointment of the person who signed the management agreements on behalf of the relevant Obligor;
 - (iii) copies certified by an Authorised Signatory of each Obligor of the management agreements (and all amendments thereto) of each relevant Obligor with the management company;
 - (iv) copies certified by an Authorised Signatory of each Obligor of the consent/notification of the Federal Antimonopoly Service of the Russian Federation in respect to the transfer of the power of the chief executive officer of the relevant Obligor to the management company.
- (x) A copy certified by an Authorised Signatory of each Obligor of an extract from the shareholders' register/an extract from the depo account/a list of participants (as applicable) of each Obligor dated on or about the date of this Agreement.
- (y) An original certificate of the chief executive officer (or a person acting under a power of attorney referred above) confirming, inter alia, that:
 - (i) there has been no material adverse change in the financial condition of the Group since the date of the Original Financial Statements;
 - (ii) the documents provided pursuant to this Schedule 2 (*Conditions Precedent*) are copies of the current versions of such documents and are in full force and effect;
 - (iii) there has been no amendment to the information contained in the extract from the Unified State Register of Legal Entities listed above;
 - (iv) the conclusion and performance of its obligations under the Finance Documents and related documents does not violate any internal regulations of an Obligor nor any decisions of its management bodies;
 - (v) there are/there are no parties which are interested in concluding by an Obligor the transaction contemplated in the Finance Documents and, if applicable (together with all related documents) to which such Obligor is a party;

- (vi) the transaction contemplated in the Finance Documents to which an Obligor is a party (together with all related documents) does/does not constitute a major transaction for such Obligor;
- (vii) an Obligor has not received any voluntary or mandatory offers to purchase its shares during the period beginning on and including the date which is 240 days before the date of the confirmation letter and ending on and including the date of the confirmation letter (in the case when an Obligor is an open-joint stock company); and
- (viii) an Obligor is not subject to the requirements of the Federal Law No. 223-FZ of 18 July 2011 "On procurement of goods, works, services by certain types of legal entities".

2. Transaction Documents

An original of each of this Agreement, each Fee Letter, Direct Debit Agreements in respect of all accounts of the Obligors with members of VTB Group, the Share Purchase Agreement, the Option Agreement and the Shareholders' Agreement executed by the parties to those documents.

3. Legal opinions

- (a) A legal opinion of Clifford Chance CIS Limited, legal advisers to the Arranger and the Agent in England, substantially in the form distributed to the Original Lender prior to signing this Agreement.
- (b) A legal opinion of Clifford Chance CIS Limited, legal advisers to the Arranger and the Agent in the Russian Federation, substantially in the form distributed to the Original Lender prior to signing this Agreement.

4. Other documents and evidence

- (a) The Group Structure Chart.
- (b) A certificate setting out the ultimate beneficiaries of the Obligors and the Ultimate Beneficial Owner, in the form satisfactory to the Agent.
- (c) A copy of the agreed form report to be delivered by the Auditors pursuant to paragraph (c) of Clause 19.2 (*Provision and contents of Compliance Certificate*) together with confirmation from the Auditors that it can be relied upon by the Finance Parties.
- (d) A copy, certified by an authorised Signatory of the Borrower to be a true copy, of each of the Original Financial Statements.
- (e) A copy of the Loan Passport.
- (f) Evidence that each Obligor has opened an account with a member of VTB Group.

- (g) The financial statements of the Borrower prepared in accordance with RAS for the 5 most recent reporting dates (in the case of annual statements, bearing a stamp from the tax authority confirming receipt of such financials), together with a breakdown of accounts receivable and payable, information on overdue payments of Taxes and other statutory charges to the federal budget and budgets of companies incorporated in the Russian Federation, local budgets and extrabudgetary funds, information on overdue salary payments to employees and information on the current file of unpaid settlement documents with respect to any bank accounts, each certified by an Authorised Signatory.
- (h) Certificates issued by the Federal Tax Service or other competent authorities or a certificate executed by an Authorised Signatory of the relevant Borrower confirming, in respect of each Obligor absence of any overdue payments of Taxes and other statutory charges to the federal budget and budgets of constituents of the Russian Federation, local budgets and extrabudgetary funds in an aggregate amount exceeding 5% of the net assets of that Obligor.
- (i) Each Obligor's certificate confirming whether any arbitration or litigation proceedings have been initiated by or against that Obligor (or involving that Obligor as a third party) for an aggregate amount exceeding 5% of that Obligor's net assets under the applicable Original Financial Statements, and setting out details of such proceedings.
- (j) Each Obligor's consent to the disclosure of any information to the credit history bureau.
- (k) A copy of the Alfa Bank Facility Agreement.
- (l) A copy of any other Authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Transaction Document or for the validity and enforceability of any Transaction Document.
- (m) Evidence that the fees, costs and expenses then due from the Borrower pursuant to Clause 11 (*Fees*), Clause 12.5 (*Stamp taxes*) and Clause 16 (*Costs and expenses*) have been paid or will be paid by the first Utilisation Date.
- (n) Confirmation from the Original Lender that it has completed its legal and financial due diligence and obtained all necessary authorisations in connection with the Transaction Documents.

PART II
CONDITIONS PRECEDENT REQUIRED TO BE DELIVERED BY AN
ADDITIONAL GUARANTOR

1. An Accession Deed executed by the Additional Guarantor and the Borrower.
2. An original or a notarised copy of the extract from the Unified State Register of Legal Entities in respect of the Additional Guarantor dated no earlier than 30 days prior to the date of the Accession Deed.
3. A notarised copy of the certificate of state registration of the Additional Guarantor issued by the relevant registration authority in accordance with the Federal Law of the Russian Federation No. 129 FZ of 8 August 2001 On State Registration of Legal Entities and Individual Entrepreneurs.
4. Notarised copies of the charter of the Additional Guarantor and all amendments thereto (including the charter which was in force as of the date of the appointment of the chief executive officer together with all amendments thereto)
5. Notarised copies of the certificates of registration of charter and the amendments to the charter of the Additional Guarantor mentioned above.
6. A notarised copy of the certificate of registration of the Additional Guarantor with the relevant federal tax authority in the Russian Federation.
7. Copies certified by an Authorised Signatory of the Additional Guarantor of the resolutions and orders appointing the chief executive officer (including, if applicable, the chief executive officer who issued the power of attorney referred to below).
8. If applicable:
 - (i) copies certified by an Authorised Signatory of the Additional Guarantor of the resolutions of the Additional Guarantor approving the transfer of the power of the chief executive officer of the Additional Guarantor to the management company;
 - (ii) copies certified by an Authorised Signatory of the Additional Guarantor of the resolutions confirming the appointment of the person who signed the management agreements on behalf of the Additional Guarantor;
 - (iii) copies certified by an Authorised Signatory of the Additional Guarantor of the management agreements (and all amendments thereto) of the Additional Guarantor with the management company;
 - (iv) copies certified by an Authorised Signatory of the Additional Guarantor of the consent/notification of the Federal Antimonopoly Service of the Russian Federation in respect to the transfer of the power of the chief executive officer of the Additional Guarantor to the management company.

- (b) Copies certified by an Authorised Signatory of all necessary corporate resolutions approving the entry into, the terms of and transactions contemplated by the Finance Documents to which the Additional Guarantor is a party.
- (c) Notarised copies of the powers of attorney (to the extent applicable) in favour of the signatories of the Additional Guarantor authorising the execution by them of the Finance Documents to which such Obligor is a party.
- (d) A notarised copy or a copy certified by the bank of the most recent banking sample signatures and seal card of the Additional Guarantor.
- (e) A copy certified by an Authorised Signatory of the Additional Guarantor of an extract from the shareholders' register/an extract from the depo account/a list of participants (as applicable) of the Additional Guarantor dated on or about the date of the Accession Deed.
- (f) An original certificate of the chief executive officer (or a person acting under a power of attorney referred above) confirming, inter alia, that:
 - (i) the documents provided pursuant to this Schedule 2 (*Conditions Precedent*) are copies of the current versions of such documents and are in full force and effect;
 - (ii) there has been no amendment to the information contained in the extract from the Unified State Register of Legal Entities listed above;
 - (iii) the conclusion and performance of its obligations under the Finance Documents and related documents does not violate any internal regulations of the Additional Guarantor nor any decisions of its management bodies;
 - (iv) there are/there are no parties which are interested in concluding by the Additional Guarantor of the transaction contemplated in the Finance Documents (together with all related documents) to which the Additional Guarantor is a party;
 - (v) the transaction contemplated in the Finance Documents to which the Additional Guarantor is a party (together with all related documents) does/does not constitute a major transaction for the Additional Guarantor;
 - (vi) the Additional Guarantor has not received any voluntary or mandatory offers to purchase its shares during the period beginning on and including the date which is 240 days before the date of the confirmation letter and ending on and including the date of the confirmation letter (in the case when the Additional Guarantor is an open-joint stock company); and
 - (vii) the Additional Guarantor is not subject to the requirements of the Federal Law No. 223-FZ of 18 July 2011 "On procurement of goods, works, services by certain types of legal entities".

9. A copy of any other Authorisation or other document, opinion or assurance which the Agent considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by the Accession Letter or for the validity and enforceability of any Finance Document.
10. The latest audited financial statements of the Additional Guarantor.
11. The following legal opinions, each addressed to the Agent and the Lenders:
 - (a) A legal opinion of the legal advisers to the Agent in England, as to English law in the form distributed to the Lenders prior to signing the Accession Deed.
 - (b) If the Additional Guarantor is incorporated in or has its "centre of main interest" or "establishment" (as referred to in Clause 18.25 (*Centre of main interests and establishments*)) in a jurisdiction other than England and Wales or is executing a Finance Document which is governed by a law other than English law, a legal opinion of the legal advisers to the Agent in the jurisdiction of its incorporation, "centre of main interest" or "establishment" (as applicable) or, as the case may be, the jurisdiction of the governing law of that Finance Document (the "**Applicable Jurisdiction**") as to the law of the Applicable Jurisdiction and in the form distributed to the Lenders prior to signing the Accession Deed.

**SCHEDULE 3
UTILISATION REQUEST**

From: [*Borrower*]

To: [*Agent*]

Dated:

Dear Sirs

**OJSC GC "TNS ENERGY" – Up to RUB5,000,000,000 Facility Agreement
dated [•] (the "Facility Agreement")**

1. We refer to the Facility Agreement. This is a Utilisation Request. Terms defined in the Facility 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:
 - (a) Proposed Utilisation Date: [•] (or, if that is not a Business Day, the next Business Day)
 - (b) Currency of Loan: Roubles
 - (c) Amount: [•] or, if less, the Available Facility
 - (d) Purpose
3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Utilisation Request.
4. The proceeds of the Loan should be credited to [*account*].
5. This Utilisation Request is irrevocable.

Yours faithfully

.....
authorised signatory for
the Borrower [*insert name of Borrower*]

SCHEDULE 4
FORM OF TRANSFER CERTIFICATE

To: [] as Agent

From: [*The Existing Lender*] (the "**Existing Lender**") and [*The New Lender*] (the "**New Lender**")

Dated:

OJSC GC "TNS ENERGY" – Up to RUB5,000,000,000 Facility Agreement

dated [•] (the "Facility Agreement")

1. We refer to the Facility Agreement. This agreement (the "**Agreement**") shall take effect as a Transfer Certificate for the purpose of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to Clause 23.5 (*Procedure for transfer*) of the Facility Agreement:
 - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation and in accordance with Clause 23.5 (*Procedure for transfer*) all of the Existing Lender's rights and obligations under the Facility Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Commitment(s) and participations in Utilisations under the Facility Agreement as specified in the Schedule.
 - (b) The proposed Transfer Date is [].
 - (c) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) are set out in the Schedule.
3. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 23.4 (*Limitation of responsibility of Existing Lenders*).
4. The New Lender confirms that it [is]/[is not]*** a Borrower Affiliate.
5. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
6. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
7. This Agreement has been entered into on the date stated at the beginning of this Agreement.

*** Delete as applicable.

THE SCHEDULE

Commitment/rights and obligations to be transferred

[insert relevant details]

[Facility Office address, fax number and attention details for notices and account details for payments,]

[Existing Lender]

[New Lender]

By: By:

This Agreement is accepted as a Transfer Certificate for the purposes of the Facility Agreement by the Agent, and the Transfer Date is confirmed as [].

[Agent]

By:

SCHEDULE 5
FORM OF ASSIGNMENT AGREEMENT

To: [] as Agent and [] as Borrower

From: [the *Existing Lender*] (the "**Existing Lender**") and [the *New Lender*] (the "**New Lender**")

Dated:

OJSC GC "TNS ENERGY" – Up to RUB5,000,000,000 Facility Agreement

dated [•] (the "Facility Agreement")

1. We refer to the Facility Agreement. This is an Assignment Agreement. This agreement (the "**Agreement**") shall take effect as an Assignment Agreement for the purpose of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to Clause 23.6 (*Procedure for assignment*) of the Facility Agreement:
 - (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Facility Agreement and the other Finance Documents which correspond to that portion of the Existing Lender's Commitment(s) and participations in Utilisations under the Facility Agreement as specified in the Schedule.
 - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitment(s) and participations in Utilisations under the Facility Agreement specified in the Schedule.
 - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
3. The proposed Transfer Date is [].
4. On the Transfer Date the New Lender becomes Party to the relevant Finance Documents as a Lender.
5. The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) are set out in the Schedule.
6. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in paragraph (c) of Clause 23.4 (*Limitation of responsibility of Existing Lenders*).
7. The New Lender confirms that it [is]/[is not]*** a Borrower Affiliate.

*** Delete as applicable.

8. This Agreement acts as notice to the Agent (on behalf of each Finance Party) and, upon delivery in accordance with Clause 23.7 (*Copy of Transfer Certificate or Assignment Agreement to the Borrower*), to the Borrower (on behalf of each Obligor) of the assignment referred to in this Agreement.
9. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
10. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
11. This Agreement has been entered into on the date stated at the beginning of this Agreement.

THE SCHEDULE

Commitment/rights and obligations to be transferred by assignment, release and accession

[insert relevant details]

[Facility office address, fax number and attention details for notices and account details for payments]

[Existing Lender]

[New Lender]

By: By:

This Agreement is accepted as an Assignment Agreement for the purposes of the Facility Agreement by the, and the Transfer Date is confirmed as [].

Signature of this Agreement by the Agent constitutes confirmation by the Agent of receipt of notice of the assignment referred to in this Agreement, which notice the Agent receives on behalf of each Finance Party.

[Agent]

By:

**SCHEDULE 6
FORM OF ACCESSION DEED**

To: [] as Agent for itself and each of the other Finance Parties

From: [*Subsidiary*] and [*Borrower*]

Dated:

Dear Sirs

**OJSC GC "TNS ENERGY" – Up to RUB5,000,000,000 Facility Agreement
dated [•] (the "Facility Agreement")**

1. We refer to the Facility Agreement. This deed (the "**Accession Deed**") shall take effect as an Accession Deed for the purposes of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in paragraphs 1-4 of this Accession Deed unless given a different meaning in this Accession Deed.
2. [*Subsidiary*] agrees to become an Additional Guarantor and to be bound by the terms of the Facility Agreement and the other Finance Documents as an Additional Guarantor] pursuant to Clause 25.2 (*Additional Guarantors*) of the Facility Agreement. [*Subsidiary*] is a company duly incorporated under the laws of [*name of relevant jurisdiction*] and is a limited liability company and registered number [].
3. The [*Subsidiary's*] administrative details for the purposes of the Facility Agreement are as follows:

Address:

Fax No.:

Attention:
4. This Accession Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS ACCESSION DEED has been signed on behalf of the Borrower and executed as a deed by [*Subsidiary*] and is delivered on the date stated above.

[*Subsidiary*]

[**EXECUTED as a DEED**])

By: [*Subsidiary*])

..... Director

..... Director/Secretary

OR

[EXECUTED as a DEED

By: [*Subsidiary*]

..... Signature of Director

..... Name of Director

in the presence of

..... Signature of witness

..... Name of witness

..... Address of witness

.....

.....

.....

..... Occupation of witness]

The Borrower

..... [*Borrower*]

By:

**SCHEDULE 7
FORM OF COMPLIANCE CERTIFICATE**

To: [] as Agent

From: [*Borrower*]

Dated:

Dear Sirs

**OJSC GC "TNS ENERGY" – Up to RUB5,000,000,000 Facility Agreement
dated [•] (the "Facility Agreement")**

1. We refer to the Facility Agreement. This is a Compliance Certificate. Terms defined in the Facility Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
2. We confirm that:

[Insert details of covenants to be certified - paragraphs (f) and (g) of Clause 20.2 (Financial condition)].
3. [We confirm that no Default is continuing.]*

Signed

.....
Authorised Signatory
of
[Borrower]

.....
Chief Accountant
of
[Borrower]

NOTES:

- * If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

To be accompanied by the Auditors' report.

**SCHEDULE 8
TIMETABLES**

Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*)) [U-3]
[9.30am]

Agent notifies the Lenders of the Loan in accordance with Clause 5.4 (*Lenders' participation*) [U-3]
noon

Agent gives notice in accordance with Clause [•] (*Unavailability of a currency*)

"U" = date of utilisation or, if applicable, in the case of a Loan that has already been borrowed, the first day of the relevant Interest Period for that Loan.

"U - X" = X Business Days prior to date of utilisation

SCHEDULE 9
FORMS OF NOTIFIABLE DEBT PURCHASE TRANSACTION NOTICE

PART I
FORM OF NOTICE ON ENTERING INTO NOTIFIABLE DEBT PURCHASE TRANSACTION

To: [] as Agent

From: [*The Lender*]

Dated:

**OJSC GC "TNS ENERGY" – Up to RUB5,000,000,000 Facility Agreement
dated [•] (the "Facility Agreement")**

1. We refer to paragraph (b) of Clause 24.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Borrower Affiliates*) of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this notice unless given a different meaning in this notice.
2. We have entered into a Notifiable Debt Purchase Transaction.
3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below.

**Amount of our Commitment to which Notifiable Debt
Purchase Transaction relates**

*[insert amount (of the Commitment) to which the
relevant Debt Purchase Transaction applies]*

[Lender]

By:

PART II
FORM OF NOTICE ON TERMINATION OF NOTIFIABLE DEBT PURCHASE TRANSACTION / NOTIFIABLE DEBT PURCHASE TRANSACTION CEASING TO BE WITH BORROWER AFFILIATE

To: [] as Agent

From: [The Lender]

Dated:

OJSC GC "TNS ENERGY" – Up to RUB5,000,000,000 Facility Agreement dated [] (the "Facility Agreement")

1. We refer to paragraph (c) of Clause 24.2 (*Disenfranchisement on Debt Purchase Transactions entered into by Borrower Affiliates*) of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this notice unless given a different meaning in this notice.
2. A Notifiable Debt Purchase Transaction which we entered into and which we notified you of in a notice dated [•] has [terminated]/[ceased to be with a Borrower Affiliate].*
3. The Notifiable Debt Purchase Transaction referred to in paragraph 2 above relates to the amount of our Commitment(s) as set out below.

Amount of our Commitment to which Notifiable Debt Purchase Transaction relates

[insert amount (of the Commitment) to which the relevant Debt Purchase Transaction applies]

[Lender]

By:

* Delete as applicable

**SCHEDULE 11
FORM OF ANNUAL LETTER**

To: [] as Agent

From: [] as Borrower

Dated:

OJSC GC "TNS ENERGY" – Up to RUB5,000,000,000 Facility Agreement

dated [] (the "Facility Agreement")

1. We refer to clause 19.3 (*Additional financial information*) of the Facility Agreement.
2. Please be informed that, as of []⁶, in respect of OJSC GC "TNS ENERGY" (the "**Borrower**"):
 - (a) [there are no overdue payments of Taxes and other statutory charges to the federal budget and budgets of constituents of the Russian Federation, local budgets and extrabudgetary funds;]

OR

[there are overdue payments of Taxes and other statutory charges to the federal budget and budgets of constituents of the Russian Federation, local budgets and extrabudgetary funds, in an aggregate amount of [], which is []% of the net assets of the Borrower;]
 - (b) [there are no overdue salary payments to employees];

OR

[there are overdue salary payments to employees in an aggregate amount of []];
 - (c) [there is no file of unpaid settlement documents with respect to any bank accounts of the Borrower;]

OR

[there is a file of unpaid settlement documents with respect to [specify details of the bank account and value of unpaid documents]
3. None of the following has occurred in respect of the Borrower from 1 October [] to date:
 - (a) negative net assets;

⁶ 1 January of the relevant year or the date of the letter, being not earlier than 1 January of the relevant year.

- (b) reduction of revenues by more than 30% compared to revenues for the same period in the year []
- (c) losses exceeding 25% of the net assets resulting in a reduction of the net assets by more than 25% compared to their maximum value for the past 12 months;
- (d) increase in receivables or payables by more than three times;
- (e) the Borrower having any overdue receivables, non-liquid inventory in excess of 25% of the Borrower's net assets;
- (f) short term liabilities are 200% or more of current assets; or
- (g) any enforcement or execution proceedings.

[If any of the above has occurred, set out the relevant details, including the amount of increase/other relevant parameters]

Signed

.....

Authorised Signatory

[Borrower]

**SCHEDULE 12
FORM OF INTEREST RATE ADJUSTMENT NOTICE**

From: [•] as Agent

To: [•]

Dated:

Dear Sirs

OJSC GC "TNS ENERGY" – Up to RUB5,000,000,000 Facility Agreement
dated [] (the "Facility Agreement")

1. We refer to the Facility Agreement. This is an Interest Rate Adjustment Notice and is delivered to you pursuant to Clause 9.2 (*Interest Rate adjustment*) of the Facility Agreement.
2. Terms defined in the Facilities Agreement have the same meaning in this Interest Rate Adjustment Notice.
3. We refer to [*describe the relevant factor in accordance with Clause 9.2*]
4. We hereby give notice that, with effect from [*insert date*], the Interest Rate shall be [•] per cent. per annum.
5. This Interest Rate Adjustment Notice and any non contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully

.....
authorised signatory for
[•] as Agent

We agree to the terms set out above.

For and on behalf of the Borrower

By:

Name:

SIGNATURES

THE BORROWER

OJSC GC "TNS ENERGY"

By:

Name:

Title:

Address:

Fax:

Attention:

THE ORIGINAL GUARANTORS

OJSC "NIZHEGORODSKAYA ENERGOSBYTOVAYA COMPANIYA"

By:

Name:

Title:

Address:

Fax:

Attention:

OJSC "KUBANSKAYA ENERGOSBYTOVAYA COMPANIYA"

By:

Name:

Title:

Address:

Fax:

Attention:

OJSC "ENERGOSBYT ROSTOVENERGO"

By:

Name:

Title:

Address:

Fax:

Attention:

OJSC "VORONEZHSKAYA ENERGOSBYTOVAYA COMPANIYA"

By:

Name:

Title:

Address:

Fax:

Attention:

OJSC "KARELSKAYA ENERGOSBYTOVAYA COMPANIYA"

By:

Name:

Title:

Address:

Fax:

Attention:

OJSC "TULSKAYA ENERGOSBYTOVAYA COMPANIYA"

By:

Name:

Title:

Address:

Fax:

Attention:

OJSC "YAROSLAVSKAY ENERGOSBYTOVAYA COMPANIYA"

By:

Name:

Title:

Address:

Fax:

Attention:

OOO "GARANTENERGOSERVICE"

By:

Name:

Title:

Address:

Fax:

Attention:

OJSC "MARIENERGOSBYT"

By:

Name:

Title:

Address:

Fax:

Attention:

OOO "ENERGOTRADING"

By:

Name:

Title:

Address:

Fax:

Attention:

THE ARRANGER

RCB BANK LTD

By:

By:

THE AGENT

For and on behalf of

RCB BANK LTD

By:

By:

Address:

Fax:

Attention: The Manager, Loans Administration

THE ORIGINAL LENDER

RCB BANK LTD

By:

By: