

ISIN: DE000A3L3AE4

**TERMS AND CONDITIONS
of the**

**1.5L 4.250 per cent PIK Notes
issued by
ADLER Financing S.à r.l.**

**§ 1
CURRENCY, DENOMINATION, FORM, CERTAIN DEFINITIONS**

(1) *Issuer.* ADLER Financing S.à r.l. is a private limited liability company (*société à responsabilité limitée*) incorporated under the laws of the Grand Duchy of Luxembourg having its registered office at 46A, Avenue John F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg and registered in the Trade and Companies Register of Luxembourg (*Registre de Commerce et des Sociétés, Luxembourg*) (the "**Issuer**").

(2) *Currency; Denomination.* The issue by the Issuer issued on 18 September 2024 (the "**Issue Date**") in Euro ("**EUR**") (the "**Specified Currency**") in the aggregate principal amount of EUR 116,700,000 (in words: Euro one hundred sixteen million seven hundred thousand) is divided into 1,167 notes in a denomination of EUR 100,000.00 each payable to bearer and ranking *pari passu* with each other (the "**Notes**" and each a "**Note**").

(3) *Form and Permanent Global Note.* The Notes are in bearer form and represented by a permanent global note (the "**Permanent Global Note**") without coupons. The Permanent Global Note will be created by Clearstream Frankfurt (as defined below) in accordance with a power of attorney of the Issuer authorizing the Principal Paying Agent to arrange the issuing of financial instruments including authority to grant delegated authority to Clearstream Frankfurt as instructed by the Principal Paying Agent. Definitive Notes and interest coupons will not be issued.

(4) *Clearing System.* The Permanent Global Note representing the Notes will be kept in custody by or on behalf of the Clearing System. "**Clearing System**" means Clearstream Banking AG, Mergenthalerallee 61, 65760 Eschborn, Federal Republic of Germany ("**Clearstream Frankfurt**") and any successor in such capacity.

(5) *Holder of Notes.* "**Holder**" means any holder of a proportionate co-ownership or other beneficial interest or right in the Notes.

(6) *Inclusion to trading on the open market segment (Freiverkehr) of the Frankfurt Stock Exchange.* The Issuer undertakes (i) to cause, with the assistance of an admission agent to be appointed by the Issuer, an application to be made for the Notes to be included to trading on the open market segment (*Freiverkehr*) of the Frankfurt Stock Exchange (the "**Open Market**") and (ii) to use its reasonable endeavours to obtain and maintain such inclusion for as long as any Note is outstanding.

**§ 2
STATUS, COLLATERAL, SECURITY AGENT,
PRIORITY OF PAYMENTS, NEGATIVE PLEDGE**

(1) *Status.* The obligations under the Notes constitute unsubordinated obligations of the Issuer which are secured on a first-lien basis on the collateral specified in § 2 (2) and which are ranking *pari passu* among themselves and also with all other 1.5L Notes but shall rank junior to the obligations of the Issuer under the 1L Notes. In the event of the liquidation, dissolution or insolvency of the Issuer, or composition or any other proceedings for the avoidance of insolvency against the Issuer, the claims of the Holders under the Notes will be satisfied after (but only after) the claims of all holders of the 1L Notes. In any such event, Holders will not receive any amounts payable in respect of the Notes until the obligations of the Issuer under the 1L Notes have first been satisfied in full. The obligations of the Issuer under the Notes will not be guaranteed by any third party.

"**1L Notes**" means the Issuer's EUR 1,205,304,900 12.5 per cent PIK notes (*Schuldverschreibungen*) due 2028 issued by the Issuer on or about the Issue Date, as may be increased by an amount required at that time to fund a loan from the Issuer to Adler Group S.A. intended to be used to redeem (including unpaid but accrued interest and a payable make whole premium) the EUR 300,000,000 senior unsecured notes due 2026 issued by Adler Real Estate GmbH (ISIN:

XS1713464524) together with any fees and premium on the issue price incurred by or on behalf of the Issuer in connection with such increase of the notes (such increase, the "**1L Notes Increase**").

"**1.5L Notes**" means these Notes, the Issuer's EUR 555,611,000 1.5L Notes 14 per cent PIK notes (*Schuldverschreibungen*) issued by the Issuer on or about the Issue Date (the "**1.5L Notes 14%**"), and such other notes (*Schuldverschreibungen*) that may replace any of the foregoing notes or other 1.5L notes from time to time (be it by way of an exchange of these Notes or the 1.5L Notes 14% or an increase of any of the 1.5L notes (as applicable), a refinancing or otherwise), as increased or refinanced from time to time.

(2) *Collateral*. The obligations under the Notes will be secured by first-ranking pledges to the Security Agent over (i) all the shares of the Issuer and (ii) the bank accounts of the Issuer (with the Issuer maintaining the sole signing rights in respect of its general accounts and the Security Agent and the Issuer having joint signing rights in relation to any other bank account of the Issuer, including the bank account holding the proceeds of the Notes).

(3) *Security Agent*. "**Security Agent**" means GLAS Frankfurt Projekt GmbH incorporated and existing under the laws of the Federal Republic of Germany, having its registered office at Bockenheimer Anlage 46, 60322 Frankfurt am Main, Germany and registered with commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Frankfurt am Main, Germany under register number HRB 130586.

(4) *Priority of Payments*. Funds that the Issuer receives under contractual relationships entered into by the Issuer or otherwise will be applied in the order of priorities (the "**Priority of Payments**") set out and defined in the security trust agreement (the "**Security Trust Agreement**") that will be entered into between the Issuer and the Security Agent, substantially in the form as attached hereto as an Annex, provided that if and to the extent the deduction of amounts ranking senior in accordance with the Priority of Payments is already reflected in the amounts payable hereunder, such deduction shall not be made (again).

The above Priority of Payments applies to all funds of the Issuer irrespective of when and from which source they are received by the Issuer, provided that funds that the Issuer receives through the issuance of these Notes shall not be subject to the above Priority of Payments. In this context only the obligation to repay the EUR 937,474,000 Notes due 2025 (ISIN: DE000A3LF6J0) issued by the Issuer (the "**Existing 1L Notes**") plus capitalized interest amounts (howsoever defined and calculated thereunder for purposes of a redemption of the Existing 1L Notes in full) and to make a loan available to Adler Group S.A. in the amount of EUR 93,263,800 is taken into account. Only if there are funds remaining after fulfilment of the obligations at one level of the Priority of Payments, such funds will be used to fulfil the obligations at the next subordinate level of the Priority of Payments. If, at any level of the Priority of Payments, the funds held by the Issuer are not sufficient to fulfil all obligations at this particular level, these obligations will be fulfilled on a *pro-rata* basis.

(5) *Negative Pledge*. So long as any Note remains outstanding, but only up to the time all redemption amounts have been paid to the Holders in accordance with these Terms and Conditions, the Issuer undertakes, subject to § 2 (6), not to grant or permit to subsist any pledge, assignment, transfer, mortgage of or other charge or security interest over any or all of its present or future assets, without at the same time having the Holders share equally and rateably in such security; provided that this obligation does not apply to security interests of any kind that are already attached to an asset at the time when such asset is acquired for by the Issuer.

(6) *Permitted Security*. § 2 (5) does not apply to (i) the security created pursuant to § 2 (2), (ii) any security interests arising by law or administrative order, and (iii) any security interests arising under the general terms and conditions of banks or saving banks (*Sparkassen*).

§ 3 INTEREST

There will not be any periodic payments of interest on the Notes.

§ 4 PAYMENTS

(1) *Payment*. Payment of any amount payable in respect of Notes shall be made, subject to sub-paragraph (2) below, to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System outside the United States.

(2) *Manner of Payment.* Subject to (i) applicable fiscal and other laws and regulations and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the "**Code**") or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or any law implementing an intergovernmental approach thereto, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

(3) *United States.* For purposes of § 4 (1), "**United States**" means the United States of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands).

(4) *Discharge.* The Issuer shall be discharged by payment to, or to the order of, the Clearing System.

(5) *Payment delay.* Where any amount owed in respect of the Notes is payable and payment of such amount is not made on the relevant due date for such payment, but within five Payment Business Days following such due date, such delay shall not constitute an event of default under the Notes and the Holder shall not be entitled to interest or other payment in respect of such delay.

(6) *Payment Business Day.* If the date for payment of any amount in respect of any Note is not a Payment Business Day then the Holder shall not be entitled to payment until the next such day in the relevant place and shall not be entitled to interest or other payment in respect of such delay.

For these purposes, "**Payment Business Day**" means any day (other than a Saturday or a Sunday) on which banks are open for general business in London and Frankfurt am Main and on which the Clearing System as well as all relevant parts of the real-time gross settlement system operated by the Eurosystem or any successor system (T2) are open to effect payments.

(7) *References to Principal.* Reference in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable and unless the context suggests otherwise: the Redemption Amount, the Early Redemption Amount and any premium and any other amounts which may be payable under or in respect of the Notes, including any Additional Amounts which may be payable under § 7.

§ 5 REDEMPTION

(1) *Redemption at Maturity; Redemption Amount on the Maturity Date or a Relevant Early Redemption Date.* Unless previously redeemed in whole or in part or cancelled, the Notes shall be redeemed at their Redemption Amount on 31 December 2029 (the "**Maturity Date**").

The "**Redemption Amount**" in respect of each Note shall be its outstanding principal amount at the relevant time plus the PIK Amount in relation to such outstanding principal amount.

If the Notes are redeemed in whole or in part prior to the Maturity Date, the PIK Amount shall be determined in respect of the date of such redemption (the "**Relevant Early Redemption Date**") in relation to the principal amount for each outstanding Note to be so redeemed and will be paid on the Relevant Early Redemption Date as a component of the Early Redemption Amount (as defined below).

In the case of a redemption of the Notes in part only, the portion of the PIK Amount attributable to the principal amount of a Note that remained outstanding following any such redemption will be paid on the Maturity Date or (as and when applicable) on the next applicable Relevant Early Redemption Date(s) as a component of the then payable Redemption Amount or Early Redemption Amount (as defined below) (as applicable).

If the Issuer for any reason fails to redeem the Notes as and when due, the PIK Amount shall be calculated with respect to the date of the actual redemption of the Notes instead of the Maturity Date or (as the case may be) the applicable Relevant Early Redemption Date.

"**PIK Amount**" means, in respect of the Maturity Date or (as applicable) the Relevant Early Redemption Date and a Note, the amount determined by the Calculation Agent in accordance with the following formula (rounded to the nearest full Cent with EUR 0.005 being rounded upwards):

$$P = N * ((1+2.125\text{per cent})^{i+DCFi} * (1+7.000\text{ per cent})^{j+DCFj} - 1)$$

Where:

"**P**" means the PIK Amount.

"**N**" means, in respect of a Note to be redeemed:

- (i) the outstanding principal amount of such Note on the Maturity Date; or
- (ii) in the case of a redemption on a Relevant Early Redemption Date, the portion of the principal amount of the relevant Note to be redeemed on such date.

"**i**" means the number of full six (6)-month periods elapsed since (and including) the Issue Date until the earlier of (but excluding) (x) the relevant date of redemption or (y) 31 July 2025.

"**j**" for a determination of the PIK Amount in respect of a date falling on or prior to 31 July 2025, is equal to zero (0), and thereafter means the number of full six (6)-month periods elapsed since (and including) 31 July 2025.

"**DCFi**" means the number of actual days in the Determination Period_i, divided by 180.

"**DCFj**" for a determination of the PIK Amount in respect of a date falling on or prior to 31 July 2025, is equal to zero (0), and thereafter means the number of actual days in the Determination Period_j, divided by 180.

"**Determination Period_i**:" means the period commencing on (and including) the last day of the last full six (6)-month period that has elapsed since the Issue Date and ending on (but excluding) 31 July 2025 or, if applicable, the day that is five Payment Business Days prior to the Relevant Early Redemption Date.

"**Determination Period_j**:" means the period commencing on (and including) the last day of the last full six (6)-month period that has elapsed since (and including) 31 July 2025 and ending on (but excluding) the Maturity Date or, if applicable, the day that is five Payment Business Days prior to the Relevant Early Redemption Date.

(2) *Early Redemption at the Option of the Issuer.*

- (a) The Issuer may, upon notice given in accordance with clause (b), redeem the Notes in whole or in part at the Early Redemption Amount on the Call Redemption Date

"**Call Redemption Date**" means the date on which the redemption will occur.

"**Early Redemption Amount**" means, in relation to a Note, where the Notes are to be redeemed in whole, the Redemption Amount and, where the Notes are to be redeemed in part only, the principal amount of such Note to be redeemed, provided that Notes shall be redeemed in aggregate at least in an amount of EUR 1,000,000, and such Early Redemption Amount shall be specified in the notice of redemption in accordance with § 5 (2) (b), in each case together with PIK Amount related to the principal amount to be so redeemed, determined in accordance with § 5 (1) in respect of the Call Redemption Date

- (b) Notice of redemption shall be given by the Issuer to the Holders of the Notes in accordance with § 15. Such notice shall specify:
 - (i) the Early Redemption Amount for each Note (including the relevant PIK Amount forming part of such Early Redemption Amount) and the relevant aggregate principal amount of the Notes to be so redeemed; and
 - (ii) the Call Redemption Date, which shall be not less than one day after the date on which notice is given by the Issuer to the Holders.

(3) *Early Redemption for Reasons of Taxation.* If as a result of any change in, or amendment to, the laws or regulations of the Federal Republic of Germany and/or the Grand Duchy of Luxembourg or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the Issue Date, the Issuer is required to pay Additional Amounts (as defined in § 7 herein) on a Relevant Early Redemption Date, and this obligation cannot be avoided by the use of reasonable measures available to the Issuer, the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not more than 30 days' nor less than 15 days' prior notice of redemption given to the Principal Paying Agent and, in accordance with § 15 to the Holders, at their Redemption Amount, (including the PIK Amount determined in accordance with § 5 (1) in respect of the date fixed for redemption).

However, no such notice of redemption may be given (i) earlier than 90 days prior to the earliest date on which the Issuer would be obligated to pay such Additional Amounts where a payment in respect of the Notes then due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not exist or does not remain in effect.

Any such notice shall be given in accordance with § 15. It shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.

(4) *Mandatory Redemption upon Illegality.* If at any time while any Notes remain outstanding there occurs an Illegality Event, the Notes shall be redeemed by the Issuer on the Mandatory Redemption Date (as defined below) at the Redemption Amount (including the PIK Amount determined in accordance with § 5 (1) in respect of the Mandatory Redemption Date).

Promptly upon the Issuer becoming aware that an Illegality Event has occurred, the Issuer shall give notice (a "**Mandatory Redemption Notice**") to the Holders in accordance with § 15 specifying the nature of the Illegality Event and the circumstances giving rise to it and the Mandatory Redemption Date.

For the purposes of this § 5 (4):

An "**Illegality Event**" shall have occurred if due to an event beyond the control of the Issuer it becomes illegal for the Issuer to perform its obligations under these Notes and this cannot be avoided by the use of reasonable measures available to the Issuer.

"**Mandatory Redemption Date**" means the date specified by the Issuer in the Mandatory Redemption Notice following the occurrence of an Illegality Event.

§ 6

PAYING AGENT AND CALCULATION AGENT

(1) *Appointment; Specified Offices.* The initial principal paying agent (the "**Principal Paying Agent**") and the initial calculation agent (the "**Calculation Agent**") and their initial specified offices are:

Principal Paying Agent:

Joh. Berenberg, Gossler & Co. KG
 Neuer Jungfernstieg 20
 20354 Hamburg
 Germany
 E-Mail: Project_titanium_settlement@berenberg.com

Calculation Agent:

Joh. Berenberg, Gossler & Co. KG
 Neuer Jungfernstieg 20
 20354 Hamburg
 Germany
 E-Mail: Project_titanium_settlement@berenberg.com

The Calculation Agent, the Principal Paying Agent and any other Paying Agent reserve the right at any time to determine instead of their respective specified offices another specified office in the same country.

(2) *Variation or Termination of Appointment.* The Issuer reserves the right at any time to appoint additional paying agents (together with the Principal Paying Agent, the "Paying Agents" and each a "Paying Agent"). The Issuer further reserves the right at any time to vary or terminate the appointment of the Calculation Agent, the Principal Paying Agent and other Paying Agents. The Issuer shall at all times maintain a Principal Paying Agent.

The Issuer will ensure that (i) a Paying Agent with an office in a continental European country and (ii) so long as the Notes are listed on a stock exchange at the initiative of the Issuer, a Paying Agent with a specified office in such country as may be required by the rules of the relevant stock exchange, are maintained at all times.

Any variation, termination, appointment or change shall only take effect (other than in the case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days prior notice thereof has been given to the Holders in accordance with § 15.

(3) *Agents of the Issuer.* Each of the Calculation Agent and the Paying Agents acts solely as agent of the Issuer and does not have any obligations towards or relationship of agency or trust to any Holder.

§ 7 TAXATION

All amounts payable in respect of the Notes shall be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or on behalf of the Federal Republic of Germany and/or the Grand Duchy of Luxembourg or any political subdivision or any authority thereof or therein having power to tax unless the Issuer is required by law to pay such withholding or deduction.

In such event, the Issuer, subject as set out below, will pay such additional amounts (the "**Additional Amounts**") as shall be necessary in order that the net amounts received by the Holders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments made by it, or
- (b) are payable by reason of the Holder having, or having had, some personal or business connection with the Federal Republic of Germany and/or the Grand Duchy of Luxembourg and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, the Federal Republic of Germany and/or the Grand Duchy of Luxembourg, or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which the Federal Republic of Germany, the Grand Duchy of Luxembourg or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding, or
- (d) are payable by reason of a change in a law that becomes effective more than 30 days after the relevant payment becomes due, or is duly provided for and notice thereof is published in accordance with § 15, whichever occurs later, or
- (e) are payable by reason of the Holder residing in a non-cooperative state or territory as defined in the German Defense Against Tax Haven Act (*Gesetz zur Abwehr von Steuervermeidung und unfairem Steuerwettbewerb - Steueroasen-Abwegengesetz*) of 25 June 2021, as amended or replaced from time to time (including any ordinance enacted based on this law).

For the avoidance of doubt, the withholding tax levied in the the Federal Republic of Germany at the level of the custodian bank plus the solidarity surcharge imposed thereon as well as church tax, where such tax is levied by way of withholding,

pursuant to tax law as in effect as of the Issue Date do not constitute a tax or duty as described above in respect of which Additional Amounts would be payable by the Issuer.

§ 8 PRESENTATION PERIOD

The presentation period provided in § 801 paragraph 1, sentence 1 BGB (*German Civil Code*) is reduced to ten years for the Notes.

§ 9 EVENTS OF DEFAULT

(1) *Events of default.* Each Holder shall be entitled to declare his Notes due and demand immediate redemption thereof at the Redemption Amount (including the PIK Amount determined in respect of the date of redemption) in the event that any of the following events (each, an "**Acceleration Event**") occurs:

- (a) the Issuer fails to pay amounts payable under the Notes within 30 days from the relevant due date, or
- (b) the Issuer fails to duly perform any other obligation arising from the Notes which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 days after the Principal Paying Agent has received notice thereof from a Holder, or
- (c) the Issuer announces its inability to meet its financial obligations or ceases its payments, or
- (d) a court opens insolvency proceedings against the Issuer, or the Issuer applies for or institutes such proceedings, or
- (e) the Issuer goes into liquidation unless this is done in connection with a merger, or other form of combination with another company and such company assumes all obligations contracted by the Issuer, as the case may be, in connection with this issue, or
- (f) any governmental order, decree or enactment shall be made in or by the Federal Republic of Germany and/or the Grand Duchy of Luxembourg whereby the Issuer is prevented from observing and performing in full its obligations as set forth in these Terms and Conditions and this situation is not cured within 90 days.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

(2) *Notice.* Any notice, including any notice declaring Notes due, in accordance with subparagraph (1) above shall be made by means of a declaration in text format (*Textform*, e.g. email or fax) or in written form in the English language delivered to the specified office of the Principal Paying Agent together with proof that such Holder at the time of such notice is a Holder of the relevant Notes by means of a certificate of his Custodian or in other appropriate manner.

"**Custodian**" means any bank or other financial institution authorized to engage in securities custody business with which the Holder maintains a securities account in respect of the Notes, including the Clearing System.

(3) *Quorum.* Any notice declaring Notes due shall become effective only if the Principal Paying Agent has received such notices from the Holders of at least 25 per cent. of the aggregate principal amount of all Notes still outstanding at that time.

§ 10 SUBSTITUTION

(1) *Substitution.* The Issuer (any reference to which shall be read to include also any previous Substitute Debtor (as defined below), unless the context requires otherwise) may, without the consent of the Holders, if no payment under the Notes is in default, at any time substitute for the Issuer any Subsidiary or SPV (each as defined below) as principal debtor in respect of all obligations arising from or in connection with the Notes (the "**Substitute Debtor**") provided that:

- (a) the Substitute Debtor undertakes to reimburse any Holder for such taxes, fees or duties which may be imposed upon it as a consequence of assumption of the obligations of the Issuer by the Substitute Debtor;

- (b) the Substitute Debtor assumes all obligations of the Issuer arising from or in connection with the Notes;
- (c) the Substitute Debtor is in a position to fulfil all payment obligations arising from or in connection with the Notes without the necessity of any taxes or duties being withheld at source and to transfer all amounts which are required therefore to the Principal Paying Agent without any restrictions;
- (d) the Issuer irrevocably and unconditionally guarantees in favour of each Holder the payment of all sums payable by the Substitute Debtor in respect of the Notes on terms substantially in the form of the guarantee attached to the agency agreement related to these Notes (whereby to this guarantee the provisions set out below in § 11 applicable to the Notes shall apply *mutatis mutandis*); and
- (e) there shall have been delivered to the Principal Paying Agent for each jurisdiction affected an opinion of lawyers of recognised standing to the effect that subparagraphs (a), (b), (c) and (d) above have been satisfied.

"**Subsidiary**" means any corporation or partnership in which the Issuer directly or indirectly in the aggregate holds 50 per cent. of the capital of any class or of the voting rights.

"**SPV**" means any special purpose vehicle established under Luxembourg or Irish law.

(2) *Notice.* Notice of any such substitution shall be published in accordance with § 15.

(3) *Authorisation of the Issuer.* In the event of any such substitution, the Issuer is authorised to amend the Permanent Global Note representing the Notes and these Terms and Conditions without the consent of the Holders to the extent necessary to reflect the changes resulting from the substitution. An appropriately amended global note representing the Notes and Terms and Conditions will be deposited with the Clearing System.

§ 11

AMENDMENT OF THE TERMS AND CONDITIONS, HOLDERS' REPRESENTATIVE

(1) *Amendment of the Terms and Conditions.* In accordance with the Act on Debt Securities of 2009 (*Schuldverschreibungsgesetz aus Gesamtemissionen – "SchVG"*) the Holders may agree with the Issuer on amendments of the Terms and Conditions with regard to matters permitted by the SchVG by resolution with the majority specified in subparagraph (2). Majority resolutions shall be binding on all Holders. Resolutions which do not provide for identical conditions for all Holders are void, unless Holders who are disadvantaged have expressly consented to their being treated disadvantageously.

(2) *Majority.* Resolutions shall be passed by a majority of not less than 75 per cent. of the votes cast. Resolutions relating to amendments of the Terms and Conditions which are not material and which do not relate to the matters listed in § 5 paragraph 3, sentence 1, nos. 1 to 9 of the SchVG require a simple majority of the votes cast.

(3) *Resolution of Holders.* Resolutions of Holders shall be passed at the election of the Issuer by vote taken without a meeting in accordance with § 18 SchVG or in a Holder's meeting in accordance with § 9 SchVG.

(4) *Chair of the vote.* The vote will be chaired by a notary appointed by the Issuer or, if the Holders' Representative (as defined below) has convened the vote, by the Holders' Representative.

(5) *Voting rights.* Each Holder participating in any vote shall cast votes in accordance with the principal amount or the notional share of its entitlement to the outstanding Notes.

(6) *Holders' Representative.*

The Holders may by majority resolution appoint a common representative for all Holders (the "**Holders' Representative**") to exercise the Holders' rights on behalf of each Holder.

The Holders' Representative shall have the duties and powers provided by law or granted by majority resolution of the Holders. The Holders' Representative shall comply with the instructions of the Holders. To the extent that the Holders' Representative has been authorised to assert certain rights of the Holders, the Holders shall not be entitled to assert such

rights themselves, unless explicitly provided for in the relevant majority resolution. The Holders' Representative shall provide reports to the Holders on its activities. The regulations of the SchVG apply with regard to the recall and the other rights and obligations of the Holders' Representative.

(7) *Publications*. Any notices under this § 11 shall be made exclusively pursuant to the provisions of the SchVG.

§ 12

ISSUER ACTIONS WITH HOLDER MAJORITY CONSENT

(1) *Issuer Actions*. Without prejudice to § 11, the Issuer shall be entitled to take actions, measures and decisions in respect of the Adler Facilities Agreement and any other loans extended by the Issuer to Adler Group S.A. and/or any of its subsidiaries and any guarantee, collateral, intercreditor agreement or any other contractual arrangements related to any of the foregoing, however, in the following cases only subject to a Holder Majority Consent:

- (a) terminating or accelerating or exercising any other material rights under the Facilities 1.5L and loans made available thereunder;
- (b) giving consent or release to disposals of collateral related to the Facilities 1.5L;
- (c) where a consent of the holders of the Existing 1L Notes is required under the Adler Facilities Agreement giving such consent;
- (d) giving any other consent or waivers with respect to the Facilities 1.5L and any loans made available thereunder; and
- (e) other major actions, measures or decisions or the non-taking of such actions, measures or decisions, respectively, which may have a material impact on the value of the Notes or the recoverability of such loans, including any enforcement measures related to collateral securing such loans.

"**Adler Facilities Agreement**" means the originally EUR 1,703,048,800 loan agreement between inter alia Adler Group S.A. as borrower and the Issuer as lender initially dated 22 April 2023, as last amended and restated on or about the Issue Date.

"**Facilities 1.5L**" means (i) the EUR 116,700,000 term loan facility (designated as facility 1.5L 4.25) made available under the Adler Facilities Agreement and (ii) the EUR 555,611,000 term loan facility (designated as facility 1.5L 14) made available under the Adler Facilities Agreement.

(2) *Right to Seek Holder Majority Consent*. Without prejudice to subparagraph (1) above, the Issuer shall always be entitled, but not obliged, to seek a Holder Majority Consent for any other actions, measures or decisions or for the omission of these in relation to the Notes or any loans granted to Adler Group S.A. or any of its subsidiaries.

(3) *Holder Majority Consent*. "**Holder Majority Consent**" means the consent (given by letter, fax or e-mail) in respect of any of the potential actions, measures and decisions set out in subparagraph (1) and (2) above given by Holders of the 1.5L Notes representing more than 50 per cent of the aggregate outstanding principal of the 1.5L Notes held by noteholders that have expressly given or withheld their consent within 15 Payment Business Days following a consent request submitted by the Issuer (i) to Holders in accordance with § 15 and (ii) holders of other 1.5L Notes in accordance with their respective terms and conditions. Notes of Holders who do not submit a vote within 15 Payment Business Days will be disregarded for the purpose of calculating the Holder Majority Consent.

§ 13

RESTRICTIONS ON OBLIGATIONS AND ACTIVITIES OF THE ISSUER

Restrictions on Obligations and Activities. The Issuer undertakes not to enter into any obligations other than obligations arising from or in connection with subscription agreements concluded with purchasers of the Notes (including the issuance of additional Notes) and with purchasers of the 1L Notes (including any 1L Notes issued under the 1L Notes Increase) or any other 1.5L Notes (the 1L Notes and the 1.5L Notes together, the "**Issuer Notes**"), the Issuer Notes, the agency agreements in relation to the issuance of the Issuer Notes, one or more Security Trust Agreements relating to the

Issuer Notes, any pledge agreements between the Issuer and the Security Agent, any agreements in connection to loans granted to Adler Group S.A. and/or any of its subsidiaries (in particular under the Adler Facilities Agreement) as well as any agreement for the taking of collateral or any intercreditor agreement in relation to such loans granted to Adler Group S.A. and/or any of its subsidiaries and/or the other contracts concluded in the ordinary course of business of the Issuer (collectively the "**Transaction Agreements**"), or in connection therewith. The Issuer further undertakes not to engage in any activities other than those arising from or in connection with the Issuer Notes or the Transaction Agreements.

§ 14

FURTHER ISSUES, PURCHASES AND CANCELLATION

(1) *Further Issues.* The Issuer may from time to time, without the consent of the Holders, issue further Notes having the same terms and conditions as the Notes in all respects (or in all respects except for the relevant issue date and/or issue price) so as to form a single series with the Notes.

(2) *Purchases.* The Issuer may at any time purchase Notes in the open market or otherwise and at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Principal Paying Agent for cancellation.

(3) *Cancellation.* All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

§ 15

NOTICES AND HOLDER INFORMATION

(1) *Publication.* Except as provided for in § 11(7), all notices concerning the Notes will be made by means of electronic publication on the internet website of the Issuer (www.adlerfinancing.com) and, if legally required, in the form of media determined by law in addition thereto. Any notice so given will be deemed to have been validly given to the Holders on the third calendar day following the date of such publication (or, if published more than once, on the third calendar day following the date of the first such publication).

(2) *Notification to Clearing System.*

Additionally, the Issuer may deliver the relevant notice to the Clearing System for communication by the Clearing System to the Holders. Any such notice shall be deemed to have been validly given to the Holders on the fifth calendar day following the day on which said notice was given to the Clearing System (or, if earlier, on the third calendar day following the date of the first such publication pursuant to § 15 (1)).

(3) *Form of Notice.* Notices to be given by any Holder shall be made by means of a declaration in text format (*Textform*, e.g. email or fax) or in written form to be sent together with the evidence of the Holder's entitlement in accordance with § 16 (3) to the Principal Paying Agent. Such notice may be given through the Clearing System in such manner as the Principal Paying Agent and the Clearing System may approve for such purpose.

(4) *Holder Information.*

(a) Any and all reports and notifications the Issuer receives formally under the relevant agreements in respect of its loans extended to Adler Group S.A. and/or any of its subsidiaries and/or any collateral relating thereto or otherwise in connection therewith will be promptly made available by the Issuer to the Holders in accordance with this § 15.

(b) So long as any of the Notes are outstanding, the Issuer shall provide to the Holders in accordance with this § 15:

(i) all information which the Issuer is required to submit to the Frankfurt Stock Exchange in accordance with the rules of the Open Market; and

(ii) its annual audited financial statements as soon as the same become available, but in any event no later than (x) as required to be published under Luxembourg law or (y), where no such Luxembourg law requirements exist or apply to the Issuer, 180 days following the end of the Issuer's fiscal year.

§ 16
APPLICABLE LAW, PLACE OF JURISDICTION, ENFORCEMENT

(1) *Applicable Law.* The Notes, as to form and content, and all rights and obligations of the Holders and the Issuer, shall be governed by German law. For the avoidance of doubt, the application of articles 470-1 to 470-19 (inclusive) of the Luxembourg law on commercial companies, dated 10 August 1915, as amended, is expressly excluded.

(2) *Submission to Jurisdiction.* The District Court (*Landgericht*) in Frankfurt am Main shall have exclusive jurisdiction for any action or other legal proceedings ("**Proceedings**") arising out of or in connection with the Notes. This is subject to any exclusive court of venue for special legal proceedings in connection with the SchVG.

(3) *Enforcement.* Any Holder of Notes may in any Proceedings against the Issuer, or to which such Holder and the Issuer are parties, protect and enforce in his own name his rights arising under such Notes on the basis of (i) a statement issued by the Custodian with whom such Holder maintains a securities account in respect of the Notes (a) stating the full name and address of the Holder, (b) specifying the aggregate principal amount of Notes credited to such securities account on the date of such statement and (c) confirming that the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b) and (ii) a copy of the Note in global form certified as being a true copy by a duly authorised officer of the Clearing System or a depository of the Clearing System, without the need for production in such Proceedings of the actual records or the global note representing the Notes. Each Holder may, without prejudice to the foregoing, protect and enforce his rights under these Notes also in any other manner permitted in the country of the Proceedings.

Annex 1
Security Trust Agreement

Dated ___ September 2024

ADLER Financing S.à r.l.
as Issuer

and

GLAS Frankfurt Projekt GmbH
as Security Agent

SECURITY TRUST AGREEMENT

HENGELERMUELLER

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This **SECURITY TRUST AGREEMENT** (the "**Agreement**") is made on __ September 2024

BETWEEN:

- (1) **ADLER Financing S.à r.l.**, a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of the Grand Duchy of Luxembourg, having its registered office at 46A, Avenue John F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register (*Registre de Commerce et des Sociétés, Luxembourg*) under number B275592 as issuer of the Notes (as defined below) (the "**Issuer**"); and
- (2) **GLAS Frankfurt Projekt GmbH**, a limited liability company (*Gesellschaft mit beschränkter Haftung*) incorporated and existing under the laws of the Federal Republic of Germany, having its registered office at Bockenheimer Anlage 46, 60322 Frankfurt am Main, Germany and registered with commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Frankfurt am Main, Germany under register number HRB 130586 (in its capacity as security agent under this Agreement and any Collateral Agreement, together with any assignees and successors from time to time in accordance with this Agreement, the "**Security Agent**").

The persons under (1) and (2) are hereinafter each referred to as a "**Party**" and, collectively, the "**Parties**".

WHEREAS:

- (A) On or about the date hereof, the Issuer will issue certain Notes (as defined below) to the initial Beneficiaries (as defined below) under the Subscription Agreement (as defined below).
- (B) On or about the date hereof, the Issuer and the Security Agent will enter into certain Collateral Agreements (as defined below) in order to secure the claims of the Beneficiaries against the Issuer under the Notes.
- (C) The Security Agent has agreed to act as trustee for the benefit of the Beneficiaries upon and subject to the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties hereby agree as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement the following terms shall have the meanings ascribed to them in this Clause 1.1:

"**1L Notes**" means the 12.5% notes (*Schuldverschreibungen*) to be issued by the Issuer on or about 18 September 2024 in an aggregate principal amount of EUR 1,205,304,900 (or any other amount determined by the Issuer on or prior to the relevant issuance date) due on 31 December 2028, as increased or refinanced from time to time.

"**1.5L Notes 4.25%**" means the 4.25%/14% notes (*Schuldverschreibungen*) to be issued by the Issuer on or about 18 September 2024 in an aggregate principal amount of EUR 116,700,000 (or any other amount determined by the Issuer on or prior to the relevant issuance date) due on 31 December 2029, as increased or refinanced from time to time.

"**1.5L Notes 14%**" means the 14% notes (*Schuldverschreibungen*) to be issued by the Issuer on or about 18 September 2024 in an aggregate principal amount of EUR 555,611,000 (or any other amount determined by the Issuer on prior to the relevant issuance date) due on 31 December 2029, as increased or refinanced from time to time.

"**1.5L Notes**" means the 1.5L Notes 4.25% and the 1.5L Notes 14%, and such other notes (*Schuldverschreibungen*) that may replace any of the foregoing notes or other 1.5L Notes from time to time (be it by way of a conversion pursuant to the terms and conditions of the 1.5L Notes 4.25% or the 1.5L Notes 14% or other 1.5L Notes (as applicable), a refinancing or otherwise), as increased or refinanced from time to time.

"**Account Pledge Agreement**" means an account pledge agreement relating to certain bank accounts held by the Issuer dated on or about the date hereof between the Issuer as pledgor and the Security Agent, as supplemented or amended and/or restated from time to time.

"**Beneficiary**" means each holder of any of the Notes from time to time.

"**Business Day**" means a day on which banks are open for general business in Frankfurt am Main (Germany) and Luxembourg.

"**Collateral Agreement**" means each of the Account Pledge Agreement and the Share Pledge Agreement.

"**Eligible Institution**" has the meaning given to such term in Clause 13.1 (*Resignation*).

"**Enforcement Event**" has the meaning given to such term in the relevant Collateral Agreement.

"**Holder Majority Decision**" means the consent or instruction given to the Security Agent (given by way of holders' resolutions or by letter, fax or e-mail) by Beneficiaries or the relevant Holders' Representative on behalf of such Beneficiaries representing more than (i) 50% of the then outstanding aggregate principal amount of the 1L Notes, or (ii) if the 1L Notes have been redeemed in full and cancelled at that time, 50% of the then outstanding aggregate principal amount of the 1.5L Notes (counted across all 1.5L Notes) in each case to be determined by the Security Agent in its reasonable discretion).

"**Holders' Representative**" means the common representative (*gemeinsamer Vertreter*) appointed under any issuance of Notes from time to time (if any).

"**Notes**" means the 1L Notes and the 1.5L Notes.

"**Notes Collateral**" means the security interests established under each Collateral Agreement in favour of the Security Agent.

"**Notes Terms and Conditions**" means the terms and conditions (*Anleihebedingungen*) of the relevant Notes.

"**Parallel Debt Obligations**" has the meaning given to that term in Clause 3.1 (*Parallel Debt*).

"**Payment**" means a payment, prepayment, repayment, redemption, defeasance, discharge or repurchase of any of the Notes or the entry into any liabilities acquisition, sub-participation or arrangement having a similar economic effect in respect of the Notes.

"**Principal Obligations**" has the meaning given to that term in Clause 3.1 (*Parallel Debt*).

"**Priority of Payments**" means the priority of payments set out in Clause 7 (*Payments prior to an Enforcement Event*) and Clause 8.3 (*Order of application of Recoveries*).

"**Secured Obligations**" means all present and future obligations (including, without limitation, the Parallel Debt Obligations) of the Issuer to any of the Secured Parties at any time, both actual and contingent and whether incurred solely or jointly or as principal, surety or in any other capacity, whether for principal, interest, costs or otherwise under or in connection with the Transaction Documents, as well as any obligation based on unjust enrichment (*ungerechtfertigte Bereicherung*) or tort (*Delikt*) arising to any Secured Party under or in connection with any Transaction Document.

"**Secured Party**" means each of the Security Agent, each Holders' Representative and each Beneficiary.

"**Share Pledge Agreement**" means the share pledge agreement relating to any and all current and future shares in the Issuer dated on or about the date hereof between Stichting ADLER Finance, a foundation (*stichting*) organized under the laws of The Netherlands, having its official seat in the municipality of Amsterdam, The Netherlands, and registered with the Netherlands Chamber of Commerce (*Kamer van Koophandel*) under number 864974619 as pledgor, the Security Agent and the Issuer as company, as supplemented or amended and/or restated from time to time.

"**Subscription Agreement**" means each subscription agreement relating to certain Notes dated on or about the date of this Agreement and entered into between the Issuer as issuer, certain investors as subscribers and Joh. Berenberg, Gossler & Co. KG as settlement bank.

"**Titanium 2L BondCo**" means Titanium 2L BondCo S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of the Grand Duchy of Luxembourg, having its registered office at 46A, Avenue John F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies Register (*Registre de Commerce et des Sociétés, Luxembourg*) under number B275592.

"**Titanium 2L BondCo Bond**" means the EUR 3,041,900,000 6.250% January 2031 notes (or notes in any other amount as determined by Titanium 2L BondCo) issued by Titanium 2L BondCo.

"Transaction Documents" means the Notes, the Notes Terms and Conditions, each Subscription Agreement, this Agreement and the Collateral Agreements.

- 1.2 Unless otherwise stated therein or inconsistent therewith or the context requires otherwise, the following rules of interpretation shall apply to this Agreement:
- (a) Words denoting the singular shall also include the plural and *vice versa*; words denoting persons only shall also include firms and corporations and *vice versa*;
 - (b) References to any statutory provision shall be deemed also to refer to any statutory modification, re-statement or re-enactment and to any statutory instrument, order or regulation made thereunder or under any statutory modification, re-statement or re-enactment thereof;
 - (c) Reference to any document or agreement shall include reference to such document or agreement as amended, amended and restated, varied, supplemented, replaced, novated or otherwise modified from time to time and to any document or agreement expressed to be supplemental thereto or executed pursuant thereto;
 - (d) Headings in any Transaction Document are for ease of reference only and are not intended to affect its interpretation.
- 1.3 Save where the contrary is indicated in this Agreement, any reference in this Agreement to a time of day shall be construed as a reference to time in Frankfurt am Main, Germany.
- 1.4 Where the Security Agent is referred to in this Agreement as acting "reasonably" or in a "reasonable" manner or as coming to an opinion or determination that is "reasonable" (or any similar or analogous wording is used), this shall mean that the Security Agent shall, where it has in fact sought such instructions, be acting or coming to an opinion or determination on the instructions of the Beneficiaries or from Holders' Representatives (in case Holders' Representatives have been appointed) or any other creditors or group of creditors as applicable acting reasonably and that the Security Agent shall be under no obligation to determine the reasonableness of such instructions from the Beneficiaries or from the relevant Holders' Representatives (in case Holders' Representatives have been appointed) or any other creditors or group of creditors as applicable or whether in giving such instructions by the Beneficiaries or Holders' Representatives (in case Holders' Representatives have been appointed) or any other creditors or group of creditors as applicable are acting in a reasonable manner.
- 1.5 Where agreement or approval, acceptability to or satisfaction with or approval of the Security Agent is referred to (or any similar or analogous wording is used) in relation to a matter not affecting the personal interests of the Security Agent, this shall mean the agreement or approval, acceptability to or satisfaction with or approval of, (or similar where similar or analogous wording is used, as applicable) the Beneficiaries or Holders' Representatives (in case Holders' Representatives have been appointed) or any other creditors or group of creditors as applicable as notified by or on behalf of, the Beneficiaries or Holders' Representatives (in case Holders' Representatives have been

appointed) or any other creditors or group of creditors as applicable to the Security Agent.

- 1.6 Where the Security Agent is obliged to consult under the terms of the Transaction Documents, unless otherwise specified, the Security Agent shall carry out that consultation in accordance with the instructions (if any) it receives from the Beneficiaries or Holders' Representatives (in case Holders' Representatives have been appointed) or any other creditors or group of creditors as applicable. The Security Agent should be under no obligation to determine the reasonableness of such circumstances or whether in giving such instructions the Beneficiaries or Holders' Representatives (in case Holders' Representatives have been appointed) or any other creditors or group of creditors as applicable are acting in a reasonable manner.
- 1.7 In respect of paragraphs 1.4 to 1.6 above, the Security Agent shall not be responsible for any liability occasioned or by any delay or failure on the part of the Beneficiaries or Holders' Representatives (in case Holders' Representatives have been appointed) to give any such instructions or direction or to form any such opinion.
- 1.8 This Agreement is made in the English language and the English language version of this Agreement shall prevail over any possible translation of this Agreement. Where a German term has been used, it alone, and not the English term to which it relates, shall be authoritative for the interpretation of this Agreement. Where English terms are accompanied by German definitions, such definitions shall define how such terms are to be interpreted under the laws of Germany.
- 1.9 Each Beneficiary is entitled to enforce and benefit from the terms of this Agreement unless provided otherwise as follows or otherwise in this Agreement. If any Beneficiary seeks to enforce and benefit from any term of this Agreement, then:
 - (a) such Beneficiary shall only be entitled to the benefits of this Agreement under the same terms and conditions (including any action required to be taken) as if such person were a Party; and
 - (b) where any provision in this Agreement provides for any obligation of any Beneficiary to undertake any actions, such provision shall (x) not be understood to purport to confer any legal obligation on such Beneficiary where this would not be possible for mandatory legal reasons, but shall (y) solely be read and construed to limit the entitlement of such Beneficiary, accordingly, where any relevant actions required under this Agreement are not taken by or on behalf of such Beneficiary.

2. DUTIES OF THE SECURITY AGENT

- 2.1 This Agreement constitutes a genuine contract for the benefit of third parties (*echter Vertrag zugunsten Dritter*) pursuant to § 328 (1) of the German Civil Code (*Bürgerliches Gesetzbuch*) in respect of the obligations of the Security Agent contained herein to act as trustee (*Treuhänder*) for the benefit of the Beneficiaries which are not party to this Agreement.

- 2.2 This Agreement sets out the general rights and obligations of the Security Agent which govern the performance of its functions in respect of the Notes Collateral, provided that the Security Agent shall only be obliged to perform the obligations, activities and services explicitly set out in this Agreement and no duties shall be implied.
- 2.3 The Security Agent shall hold the Notes Collateral and exercise its rights in respect thereof and discharge its duties under the Transaction Documents as a trustee (*Treuhänder*) for the benefit of the Beneficiaries. For the avoidance of doubt, the Security Agent does not act as a common representative (*gemeinsamer Vertreter*) within the meaning of the German Act on Debt Securities (*Schuldverschreibungsgesetz*).
- 2.4 Subject to the provisions of this Agreement, the Security Agent shall exercise its duties under this Agreement with regard to the interests of and for the benefit of the Beneficiaries. If the Security Agent receives an instruction according to a Holder Majority Decision, the Security Agent shall act as instructed subject to Clause 16 (*General Provisions regarding the Security Agent*) below.
- 2.5 The Security Agent is not obliged to monitor the discharge by the Issuer of its payment and other obligations arising from the Notes or any other relevant Transaction Documents or to carry out duties which are the responsibility of the Issuer.
- 2.6 The Security Agent shall, unless otherwise provided for under Clause 2.4 above and elsewhere in this Agreement and/or any other Transaction Document, decide on any consents or approvals to be given by it pursuant to the Transaction Documents in its reasonable discretion in accordance with this Agreement (in particular Clause 16 (*General Provisions regarding the Security Agent*)).
- 2.7 Nothing in this Agreement shall prevent the Security Agent from rendering services similar to those provided for in this Agreement to other persons carrying on business similar to or in competition with the business of the Issuer or any other person.

3. PARALLEL DEBT

- 3.1 The Issuer hereby agrees and undertakes with the Security Agent by way of an abstract acknowledgement of debt (*abstraktes Schuldanerkenntnis*) that the Issuer shall pay to the Security Agent sums equal to, and in the currency of, any Secured Obligations owing by it to a Secured Party (other than the Security Agent) under any Transaction Document (the "**Principal Obligations**") as and when the same fall due for payment under the relevant Transaction Document (the "**Parallel Debt Obligations**").
- 3.2 The right of the Security Agent to demand payment of the Parallel Debt Obligations shall be independent and several from the rights of the other Secured Parties to demand payment of the Principal Obligations provided that the payment by the Issuer of its Parallel Debt Obligations to the Security Agent in accordance with this Clause 3 shall also discharge (in the amount of the relevant payment) the corresponding Principal Obligations and *vice versa* the payment by the Issuer of its Principal Obligations in accordance with the provisions of the relevant Transaction Documents shall also discharge (in the amount of the relevant payment) the corresponding Parallel Debt Obligations. No Principal Obligation shall be discharged by a discharge of the Parallel Debt Obligations if such discharge of the Parallel Debt Obligations is effected by virtue

of any set-off, counterclaim or similar defence invoked by the Issuer vis-à-vis the Security Agent other than in accordance with the terms of the relevant Transaction Document.

4. RELEASE OF NOTES COLLATERAL

As soon as the Security Agent is satisfied that the Issuer has fully and finally discharged all Secured Obligations or, prior to the full and final discharge of all Secured Obligations, with the consent of Beneficiaries representing more than (i) 50% of the then outstanding aggregate principal amount of the 1L Notes and (ii) 50% of the then outstanding aggregate principal amount of the 1.5L Notes (counted across all 1.5L Notes), the Security Agent shall promptly transfer back or release to the Issuer or to the Issuer's order the Notes Collateral transferred or pledged to it.

5. ACTIONS BY THE SECURITY AGENT

5.1 If the Security Agent in the course of its activities, subject to Clause 2.5 above, is notified (without implying any obligation on the Security Agent to investigate) that the existence of the Notes Collateral is at risk, the Security Agent shall:

- (a) promptly notify the Beneficiaries about such event; and
- (b) subject to Clause 5.2 below, take or initiate all required actions in accordance with the instructions according to a Holder Majority Decision.

5.2 The Security Agent shall only be obliged to perform any action hereunder, including, without limitation, intervene in accordance with paragraph (b) of Clause 5.1 above if, and to the extent that:

- (a) it has received a corresponding prior instruction according to a Holder Majority Decision; and
- (b) it is satisfied that it will be fully secured, pre-funded or indemnified (either by reimbursement or in any other way it deems appropriate including payment in advance) against all charges, fees, costs and expenses resulting from its activities (including fees for retaining counsel, banks, auditors or other experts as well as the expenses of retaining third parties to perform certain duties) and against all liabilities (except for liabilities which arise from its own breach of the standard of care owed by it pursuant to Clause 15 (*Standard of Care for Liability*)), obligations and/or attempts to bring any action in or outside court.

6. REPRESENTATIONS AND WARRANTIES

The Issuer hereby represents to the Security Agent that it has the legal capacity, is in a position to perform and has obtained all authorisations, registrations and licences required for the performance of its duties and obligations under the Transaction Documents.

7. PAYMENTS PRIOR TO AN ENFORCEMENT EVENT AND SALE OF FACILITY 1L AND FACILITIES 1.5L

7.1 Prior to the occurrence of an Enforcement Event:

- (a) the Issuer must make Payments in respect of the 1L Notes from time to time in accordance with the Note Terms and Conditions of the 1L Notes on a *pro rata* and *pari passu* basis; for the avoidance of doubt, it being understood that the Issuer will promptly apply any proceeds from the sale of the Facilities 1L (as such term is defined in such Notes Terms and Conditions) or any loans thereunder towards the redemption of the 1L Notes in accordance with such Notes Terms and Conditions, it being further understood that a sale of the Facilities 1L or any loans thereunder shall only be made when the proceeds from such sale are sufficient to fully redeem the 1L Notes;
- (b) at any time prior to the date on which the 1L Notes have been redeemed in full and cancelled, the Issuer must not make any Payments in respect of the 1.5L Notes, subject to the payments referred to under the proviso under (c) below which may be made also prior to such date;
- (c) once the 1L Notes have been redeemed in full and cancelled, the Issuer must make Payments in respect of the 1.5L Notes from time to time in accordance with the Note Terms and Conditions of the relevant 1.5L Notes on a *pro rata* and *pari passu* basis *provided that* the Issuer will promptly apply any proceeds from the sale of the Facilities 1.5L (as such term is defined in such Notes Terms and Conditions) or any loans thereunder (the "**1.5L Sales Proceeds**") to any purchaser other than Adler Group S.A. or a subsidiary thereof towards the redemption of the 1.5L Notes in accordance with such Notes Terms and Conditions (it being understood that proceeds resulting from a sale to Adler Group S.A. or a subsidiary thereof shall not constitute 1.5L Sales Proceeds and shall be applied in accordance with (a) through (c) without any modification by this proviso), it being understood that a sale of the Facilities 1.5L or any loans thereunder shall only be made when the proceeds from such sale are sufficient to fully redeem the 1.5L Notes.

7.2 The Issuer may only sell or otherwise dispose of any of its rights and claims under the Facilities 1L or Facilities 1.5L:

- (a) with the consent of Beneficiaries representing more than (i) 50% of the then outstanding aggregate principal amount of the 1L Notes and (ii) 50% of the then outstanding aggregate principal amount of the 1.5L Notes (counted across all 1.5L Notes); or
- (b) without the consent of Beneficiaries representing more than (i) 50% of the then outstanding aggregate principal amount of the 1L Notes and (ii) 50% of the then outstanding aggregate principal amount of the 1.5L Notes (counted across all 1.5L Notes) provided that:
 - (i) such sale or other disposal is made in relation to the entire Facilities 1L and/or the entire Facilities 1.5L for a consideration in cash at par including accrued interest so that the 1L Notes and/or the 1.5L Notes respectively will be repaid in full (including any PIK Amount (as defined in the Notes Terms and Conditions) and any other amounts) immediately following such sale;

- (ii) the Issuer has obtained the prior written consent of Titanium 2L BondCo, as instructed by the majority of the holders of the Titanium 2L BondCo Bond; and
- (iii) the Issuer has obtained the prior written consent of Adler Group S.A., in which Adler Group S.A. confirms that the commercial terms which it will agree with respect to Facilities 1L and/or Facilities 1.5L (as the case may be) following such transfer will have a lower aggregate yield and a maturity date that is no earlier than the existing maturity date of the Facilities 1L or Facilities 1.5L (as the case may be).

8. ENFORCEMENT OF NOTES COLLATERAL

8.1 Enforcement Event

The Notes Collateral may be exercised, collected, claimed and enforced exclusively by the Security Agent in accordance with the provisions of this Agreement and the relevant Collateral Agreement. Each Notes Collateral may be enforced independently from the other Notes Collateral if and when an Enforcement Event as set out in the relevant Collateral Agreement has occurred.

8.2 Manner of Enforcement

- (a) As soon as reasonably practicable, and in any event within five (5) Business Days of the Security Agent obtaining actual knowledge of the occurrence of an Enforcement Event or having been informed accordingly by any Beneficiary to do so, the Security Agent shall give notice to the Beneficiaries and request from the Beneficiaries (or, in case Holders' Representatives have been appointed, from the relevant Holders' Representatives) instructions as to whether and in which manner the Notes Collateral shall be enforced.
- (b) Upon having obtained or received a Holders Majority Decision the Security Agent shall proceed with any enforcement action as instructed by the Holders Majority Decision. The Security Agent shall not incur any liability vis-à-vis the Issuer or any Beneficiary or any Holders' Representative by following any such instruction.
- (c) In the event that the Security Agent has not received any instructions in accordance with paragraph (b) above or unclear or unequivocal instructions have been provided to the Security Agent, the Security Agent may refrain from enforcing the Notes Collateral until it receives an enforcement instruction pursuant to a Holders Majority Decision (or, in case Holders' Representatives have been appointed, from the relevant Holders' Representatives) and shall be free to decide in its own discretion whether and what action to take or not to take (without incurring any liability).

8.3 Order of application of Recoveries

All amounts from time to time received or recovered by the Security Agent in connection with the realisation or enforcement of any Notes Collateral shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its

discretion) sees fit, to the extent permitted by applicable law in the following order of priority:

- (a) for the fulfilment of the Issuer's tax liabilities, if any, or liabilities of the Issuer ranking senior by mandatory law, to the extent due and payable, on a *pro rata* basis;
- (b) in discharging any sums owing to the Security Agent, any paying agent and, if any Holders' Representatives have been appointed, to the relevant Holders' Representatives, on a *pro rata* basis;
- (c) for the fulfilment of other obligations of the Issuer (other than under the Notes), including with respect to the management and administration costs of the Issuer, on a *pro rata* basis;
- (d) ranking equally amongst themselves and on a *pro rata* basis, in payment or distribution to the holders of the 1L Notes (or to their or the Issuer's paying agent towards the discharge of the liabilities under the 1L Notes in accordance with the terms of the 1L Notes);
- (e) ranking equally amongst themselves and on a *pro rata* basis, in payment or distribution to the holders of the 1.5L Notes (or to their or the Issuer's paying agent towards the discharge of the liabilities under the 1.5L Notes in accordance with the terms of the 1.5L Notes);

except that 1.5 Sales Proceeds (if any) shall be applied first towards the items referred to under (a) through (c) (and in that order), and second towards the items referred to under (e) and third, and only if the 1.5L Notes have been redeemed in full and cancelled at that time, towards the items referred to under (d).

9. RETAINING THIRD PARTIES

9.1 The Security Agent may, where necessary, at reasonable market prices (if appropriate, after obtaining several offers), retain the services of a suitable law firm, accounting firm or credit institution or seek information and advice from legal counsel, financial consultants, banks and other experts (and irrespective of whether such persons are already retained by the Security Agent, the Issuer or a Beneficiary), to assist it in performing the duties, rights or powers assigned to it under this Agreement and the other Transaction Documents, in particular in respect of the following actions:

- (a) the taking of specific measures under Clause 5 (*Actions by the Security Agent*);
- (b) enforcement of Notes Collateral pursuant to Clause 7 (*Enforcement of Notes Collateral*);
- (c) any amendment, supplement or waiver of, under or in relation to any Transaction Document; or
- (d) any other duty, right or power of the Security Agent under the Transaction Documents.

Any properly and reasonably incurred fees, costs, charges and expenses, indemnity claims and any other amounts payable by the Security Agent to such third parties or advisers shall be promptly reimbursed by the Issuer.

- 9.2 The Security Agent may rely on such third parties retained pursuant to Clause 9.1 and any information and advice obtained therefrom without having to make its own investigations, and the Security Agent shall not be liable for any wilful misconduct (*Vorsatz*) or negligence (*Fahrlässigkeit*) of such persons. The Security Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying and shall only remain liable for diligently selecting (*ordnungsgemäße Auswahl*) such third parties retained pursuant to Clause 9.1 in accordance with Clause 15 (*Standard of Care for Liability*).
- 9.3 The Security Agent may sub-contract or delegate the performance of some (but not all) of any of its duties and obligations not specifically referred to in Clause 9.1. Any breach in the performance of the delegated obligations by such sub-contractor or delegate shall not be treated as a breach of obligation by the Security Agent pursuant to Section 278 of the German Civil Code (*Bürgerliches Gesetzbuch*) and the Security Agent shall only remain liable for diligently selecting (*ordnungsgemäße Auswahl*) such sub-contractors and delegates in accordance with Clause 15 (*Standard of Care for Liability*).

10. REIMBURSEMENT OF EXPENSES

In addition to the remuneration of the Security Agent, the Issuer shall promptly pay out-of-pocket costs, charges and expenses which the Security Agent properly and reasonably incurs in relation to any action taken by it under or in relation to this Agreement or the other Transaction Documents.

11. RIGHT TO INDEMNIFICATION

- 11.1 The Issuer shall indemnify the Security Agent in respect of all proceedings (including claims and liabilities in respect of taxes other than on the Security Agent's own overall net profits, income or gains and subject to Clause 12 (*Taxes*)), losses, claims and demands and all costs, charges, expenses, and liabilities to which the Security Agent (or any third party pursuant to Clause 9 (*Retaining Third Parties*)) may be or become liable or which may be incurred by the Security Agent (or any such third party) in respect of anything done or omitted in relation to this Agreement and any of the other Transaction Documents, unless such costs and expenses have been incurred by the Security Agent due to a wilful or grossly negligent breach of the duty of care provided for in Clause 15 (*Standard of Care for Liability*).
- 11.2 Any indemnities shall be owed by the Issuer and the Security Agent has no right of indemnification against the Beneficiaries hereunder, save for any indemnity provided by any Beneficiary in accordance with any instructions received by the Security Agent from a Beneficiary.
- 11.3 The indemnity set out in Clause 11.1 shall survive the termination of this Agreement and the appointment of the Security Agent.

12. TAXES

12.1 The Issuer shall bear all stamp duties, transfer taxes and other similar taxes, duties or charges which are imposed on or in connection with:

- (a) the creation of, holding of, or enforcement of the Notes Collateral;
- (b) any action taken by the Security Agent pursuant to any Transaction Document;
or
- (c) the entry by the Security Agent into any Transaction Document.

12.2 All payments of fees and reimbursements of expenses to the Security Agent shall include any turnover taxes, VAT or similar taxes, other than taxes on the Security Agent's net profits, overall income or gains, which are imposed in the future on the services of the Security Agent.

13. RESIGNATION AND REVOCATION

13.1 Resignation

The Security Agent may resign from its office as Security Agent at any time by giving 30 days prior written notice to the Issuer, provided that upon or prior to the last Business Day of such notice period a reputable accounting firm or financial institution in Germany which is experienced in the business of security trusteeship and which has obtained any required authorisations, registrations and licences (an "**Eligible Institution**") has been appointed by the Issuer as successor security trustee (the "**New Security Agent**") hereunder and the other Transaction Documents and which has been furnished with all authorities and powers that have been granted to the Security Agent. The Security Agent shall as soon as reasonably practicable notify the Issuer in advance and in writing of its intention to resign.

13.2 Appointment of New Security Agent

The Issuer shall, upon receipt of a written notice of resignation by the Security Agent in accordance with Clause 13.1 (*Resignation*), promptly appoint an Eligible Institution as New Security Agent under the Transaction Documents and procure that such New Security Agent accedes to all Transaction Documents to which the Security Agent is a party. The Security Agent shall have the right (but no obligation) to nominate a New Security Agent for appointment by the Issuer. The Issuer shall have the right to veto any nomination of a New Security Agent by the resigning Security Agent if such New Security Agent is not an Eligible Institution or if any other Eligible Institution has been appointed by the Issuer to be the New Security Agent and has accepted such appointment under the Transaction Documents and agreed to accede to all Transaction Documents. The proposed appointment of the New Security Agent shall further be subject to Clause 13.3 (*Revocation*).

13.3 Revocation

The Issuer and the Beneficiaries (by way of a Holder Majority Decision) shall be authorised to revoke the appointment of the Security Agent as security agent under this Agreement for good cause (*aus wichtigem Grund*).

13.4 Effects of Resignation or Revocation

Any termination or revocation of the appointment of the Security Agent shall not become effective unless a New Security Agent has been appointed under each of the relevant Collateral Agreement and such New Security Agent has accepted such security trusteeship and assumed all right and obligations of the Security Agent under this Agreement (including under Clause 3 (*Parallel Debt*) hereof).

13.5 Continuation of Rights and Obligations

Notwithstanding a resignation pursuant to Clause 13.1 (*Resignation*) or revocation pursuant to Clause 13.3 (*Revocation*), the rights and obligations of the Security Agent under the Transaction Documents shall continue until the appointment of the New Security Agent has become effective and the assets and rights have been assigned to it pursuant to Clause 14 (*Transfer of Notes Collateral and parallel debt obligation*). However, none of the provisions of this Clause 13 shall affect the right of the Security Agent to resign from its office for good cause (*aus wichtigem Grund*) with immediate effect hereunder. Upon the appointment of the New Security Agent, the retiring Security Agent shall be discharged from any further obligation in respect of the Transaction Documents but shall remain entitled to the benefit of Clause 11 (*Right to Indemnification*) and any Security Agency fee for the account of the retiring Security Agent shall be payable on that date.

14. TRANSFER OF NOTES COLLATERAL AND PARALLEL DEBT OBLIGATION

14.1 Transfer of Notes Collateral and Parallel Debt Obligation

In case of a replacement of the Security Agent pursuant to Clause 13 (*Resignation and Revocation*), the Security Agent shall forthwith transfer the Notes Collateral, its claims under the Parallel Debt Obligation and other assets and other rights it holds as fiduciary (*Treuhänder*) or trustee (as applicable) under any Transaction Document to the New Security Agent.

14.2 Assumption of Obligations

In the event of a replacement of the Security Agent pursuant to Clause 13 (*Resignation and Revocation*), the Security Agent shall reach an agreement with the New Security

Agent that the New Security Agent assumes the obligations of the Security Agent's under the relevant Collateral Agreement and under this Agreement.

14.3 **Costs for replacement of Security Agent**

The costs incurred in connection with replacing the Security Agent pursuant to Clause 13 (*Resignation and Revocation*) shall be borne by the Issuer.

14.4 **Accounting and Records**

The Security Agent shall be obliged to account to the New Security Agent for its activities under or with respect to any Collateral Agreement. The Security Agent shall deliver to the New Security Agent, subject to any applicable law (in particular, data protection legislation), all relevant contracts, correspondence, files and other documents, books, books of accounts, registers, records and other information and documents relating to the performance of its obligations under the Transaction Documents.

15. **STANDARD OF CARE FOR LIABILITY**

15.1 The Security Agent shall in the performance of its obligations and duties under the Transaction Documents meet the due care and diligence of a prudent business manager (*Sorgfalt eines ordentlichen Kaufmannes*).

15.2 The Security Agent shall in any circumstances not be liable to any person for any losses, liability, claims, damages or expenses arising out of any acts or omissions by it in the exercise of its rights or the performance or non-performance of its obligations and duties under the Transaction Documents except in the case of any such loss, liability, claim, damage or expense being directly caused by the gross negligence (*grobe Fahrlässigkeit*) or the wilful misconduct (*Vorsatz*) on the part of the Security Agent. In no event shall the Security Agent have any liability for special, indirect or consequential losses or damages of any kind whatsoever (including, but not limited to, loss of business, goodwill, opportunity, reputation, anticipated savings or profit (Section 252 German Civil Code (*Bürgerliches Gesetzbuch*))) irrespective of whether the Security Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

16. **GENERAL PROVISIONS REGARDING THE SECURITY AGENT**

16.1 The Security Agent shall not be liable for:

- (a) any action or failure to act of the Issuer or of other parties to the Transaction Documents;
- (b) the Transaction Documents (including any security interest created thereunder) not being legal, valid, binding or enforceable, or for the fairness or practicability of the provisions of the Transaction Documents; or
- (c) a failure to deposit or loss of documents related to the Notes Collateral,

in each case to the extent such failure is not attributable to a breach of the standard of care of the Security Agent as set out in Clause 15 (*Standard of Care for Liability*).

- 16.2 The Security Agent shall (save as otherwise expressly provided in any Transaction Document), have discretion as to the exercise or non-exercise of any and all the powers, authorities and discretions vested in it by or pursuant to this Agreement and/or any other Transaction Document to which the Security Agent is a party or conferred upon the Security Agent by operation of law (the exercise of which, as between the Security Agent and the Beneficiaries, shall be conclusive and binding on the Beneficiaries), and provided it shall not have acted in violation of its standard of care as set out in in Clause 15 (*Standard of Care for Liability*), the Security Agent shall not be responsible for any loss, costs, damages, expenses or inconvenience that may result from the exercise or non-exercise thereof.
- 16.3 The Security Agent, as between itself and the Beneficiaries, shall have full power to undertake any calculations (including, without limitation, any necessary currency conversions) in relation to any of the provisions of any Transaction Document and determine all questions and doubts arising in relation to any of the provisions of any Transaction Document and every such calculation or determination, whether made upon a question actually raised or implied in the acts or proceedings of the Security Agent, shall be conclusive and shall bind the Security Agent and the Beneficiaries.
- 16.4 Any consent given by the Security Agent for the purposes of any Transaction Document may be given on such terms and subject to such conditions (if any) as the Security Agent thinks fit in its discretion and, notwithstanding anything to the contrary contained in any Transaction Document, may be given retrospectively.
- 16.5 The Security Agent shall not be responsible for recitals, statements, warranties or representations of any party (other than those relating to or provided by it) contained in any Transaction Document or other document entered into in connection therewith and may rely on the accuracy and correctness thereof (absent actual knowledge to the contrary) and shall not be responsible for the execution, legality, effectiveness, adequacy, genuineness, validity or enforceability or admissibility in evidence of any such agreement or other document or security thereby constituted or evidenced. The Security Agent may accept without enquiry, requisition or objection such title as the Issuer may have to the Notes Collateral or any part thereof from time to time and shall not be bound to investigate or make any enquiry into the title of the Issuer to the Notes Collateral or any part thereof from time to time.
- 16.6 No provision of this Agreement or any other Transaction Document shall require the Security Agent to do anything which may be illegal, contrary to any applicable law or regulation, court order or order by a regulator, a breach of fiduciary duty or duty of confidentiality or expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties, or in the exercise of any of its rights or powers or otherwise in connection with any Transaction Document (including, without limitation, forming any opinion or employing any legal, financial or other adviser), if it determines in its reasonable discretion that repayment of such funds or adequate indemnity against such risk or liability is not assured to it. In particular, and for the avoidance of doubt, nothing in this Agreement shall be construed so as to constitute an obligation of the Security Agent to perform any services which it would not be entitled

to render pursuant to the provisions of the German Act on Rendering Legal Services (*Rechtsdienstleistungsgesetz*) or pursuant to the provisions of the German Tax Advisory Act (*Steuerberatungsgesetz*) or any other services that require an express official approval, licence or registration. The Security Agent shall be entitled to refrain without liability from any actions or undertake measures, when this is, in its opinion, necessary in order to comply with any applicable law, directive or regulation at any time, including for the avoidance of doubt, applicable law relating to the funding of terrorist activities or money laundering.

- 16.7 The Security Agent shall not be responsible for the genuineness, validity, effectiveness or suitability of any Transaction Documents or any other documents entered into in connection therewith or any other document or any obligation or rights created or purported to be created thereby or pursuant thereto or any security or the priority thereof constituted or purported to be constituted thereby or pursuant thereto, nor shall it be responsible or liable to any person because of any invalidity of any provision of such documents or the unenforceability thereof, whether arising from statute, law or decisions of any court and (without prejudice to the generality of the foregoing) the Security Agent shall not have any responsibility for or have any duty to make any investigation in respect of or in any way be liable whatsoever for:
- (a) the nature, status, creditworthiness or solvency of the Issuer or any other person or entity who has at any time provided any security or support whether by way of guarantee, charge or otherwise in respect of any advance made to the Issuer;
 - (b) the execution, legality, validity, adequacy, admissibility in evidence or enforceability of any Transaction Document or any other document entered into in connection therewith;
 - (c) the scope or accuracy of any representations, warranties or statements made by or on behalf of the Issuer or any other person or entity who has at any time provided any Transaction Document or in any document entered into in connection therewith;
 - (d) the performance or observance by the Issuer or any other person of any provisions or stipulations relating to the Notes or any Transaction Document or in any document entered into in connection therewith or the fulfilment or satisfaction of any conditions contained therein or relating thereto or the supervision of the Issuer or such other person in respect thereof or as to the existence or occurrence at any time of any default, event of default or similar event contained therein or any waiver or consent which has at any time been granted in relation to any of the foregoing;
 - (e) the existence, accuracy or sufficiency of any legal or other opinions (irrespective of any monetary or other limitation), searches, reports, certificates, valuations, calculations or investigations delivered or obtained or required to be delivered or obtained at any time in connection with the Transaction Documents;
 - (f) the failure by the Issuer or any other party to the Transaction Documents (other than the Security Agent) to obtain or comply with any licence, consent or other

authority in connection with the Notes Collateral or the Transaction Documents or the failure to effect or procure registration of or to give notice to any person in relation to or otherwise perfect or protect the security created or purported to be created by or pursuant to any of the Notes Collateral or the Transaction Documents or other documents entered into in connection therewith; or

- (g) any accounts, books, records or files maintained by the Issuer or any other person in respect of any of the Notes Collateral or the Transaction Documents.

16.8 The Security Agent may, in the absence of actual knowledge to the contrary, assume without enquiry that the Issuer and each of the other parties to the Transaction Documents is duly performing and observing all of the provisions of those documents binding on or relating to it and that no event has happened which constitutes an Enforcement Event.

16.9 In no event shall the Security Agent be liable for any losses arising from the Security Agent receiving or transmitting any data to the Issuer (or any authorised person) or acting upon any notice, instruction or other communications via any Electronic Means by the Issuer or any authorised person other than losses deriving from the Security Agent's gross negligence (*grobe Fahrlässigkeit*) or wilful misconduct (*Vorsatz*). If the Security Agent is requested to act on instructions or directions delivered by fax, email or any other unsecured method of communication or any Electronic Means used to submit instructions, the Security Agent shall have (i) no duty or obligation to verify or confirm that the person who sent such instructions or directions is, in fact, a person authorised to give instructions or directions on behalf of the Issuer, and (ii) no liability for any losses, liabilities, costs or expenses incurred or sustained by the Issuer as a result of the Security Agent's reliance upon or compliance with such instructions or directions. The Issuer agrees that the security procedures, if any, to be followed in connection with a transmission of any such notice, instructions or other communications, provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

16.10 "**Electronic Means**" shall mean the following communications methods:

- (a) non-secure methods of transmission or communication such as e-mail and facsimile transmission;
- (b) secure electronic transmission containing applicable authorisation codes, passwords and/or authentication keys issued by the Security Agent; and
- (c) any other method or system specified by the Security Agent as available for use in connection with its services hereunder.

16.11 The Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Beneficiaries and, if Holders' Representatives have been appointed, from the relevant Holders' Representatives, as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security Agent may refrain from acting unless and until it receives those instructions or that clarification.

17. REFINANCING OR INCREASE OF NOTES

If the Issuer refinances or increases the principal amount of any of the Notes, it shall promptly grant such confirmatory or junior-ranking Notes Collateral to the Security Agent as the Security Agent may require in its sole discretion (acting reasonably), or as otherwise necessary, to ensure the continued validity and enforceability of the Notes Collateral in respect of all Secured Obligations.

18. DISCLOSURE OF INFORMATION

18.1 None of the Parties may, during the continuance of this Agreement or after its termination, disclose to any person whatsoever (except with the written approval of the other Party (such approval not to be unreasonably withheld or delayed)) any information which such Party has received under or in connection with this Agreement other than disclosure:

- (a) to the parties to any of the Transaction Documents or any person intending to accede thereto or to acquire any rights and/or obligations thereunder or interests therein by way of assignment, transfer or participation or otherwise, in accordance with the Transaction Documents;
- (b) to its shareholders;
- (c) to the holders of the Notes;
- (d) to the court or the auditors or legal or other professional advisers (provided that such advisers are subject to a professional duty of confidentiality or execute an undertaking of confidentiality) in connection with any proceedings arising out of or in connection with this Agreement or any other Transaction Document or the preservation or maintenance of its rights thereunder;
- (e) if required to do so by:
 - (i) an order of a court of competent jurisdiction whether in pursuance of any procedure for discovering documents or otherwise or of any competent judicial, governmental, supervisory or regulatory body; or
 - (ii) the rules of any stock exchange on which securities of any member of such party's group are listed;
- (f) pursuant to any law or regulation or requirement of any governmental agency or regulator or banking or taxation authority of competent jurisdiction, in accordance with which that party is required or accustomed to act;
- (g) to the auditors or legal or other professional advisers (provided that such advisers are subject to a professional duty of confidentiality or execute an undertaking of confidentiality) of any entity mentioned in sub-paragraphs (a), (b) or (c) above;

provided that the above restriction shall not apply to:

- (i) employees, officers or agents of the parties referred to in sub-paragraph (a) above any part of whose functions are or may be related in any way to this Agreement;
- (ii) information which has become known to the recipient otherwise than in breach of this Clause 18;
- (iii) information which has been received from another source upon conditions not requiring that the information to be kept confidential; and
- (iv) information which is or becomes available to the general public otherwise than in breach of this Clause 18.

18.2 The provisions of Clause 18.1 shall survive the termination of this Agreement.

19. PARTIAL INVALIDITY AND FURTHER ASSURANCE

19.1 If any provision of this Agreement is or becomes invalid or unenforceable under any jurisdiction, such invalidity or unenforceability shall not render invalid or unenforceable any other provision of this Agreement in such jurisdiction and the validity and enforceability of the relevant provision and all other provisions in any other jurisdiction. Such invalid or unenforceable provision shall be replaced by the Parties with a provision which comes as close as possible to the commercial intention of the invalid provision and the invalid provision itself. In case of a gap in the provisions of this Agreement, the Parties shall agree on a provision, which comes legally as close as possible to the commercial intention.

19.2 This Agreement shall not be affected by the invalidity, illegality or unenforceability with respect to any provision in any jurisdiction or with respect to any party of any other Transaction Document or amendment agreement thereto.

20. NOTICES

20.1 Any notice, declaration or other communication under or in connection with this Agreement shall be made in writing or text form. Unless otherwise agreed in this Agreement, fax or email is sufficient. Any declaration or notice which is delivered by fax or email shall be immediately confirmed by letter (in particular any notice regarding the termination of this Agreement or the resignation of the Security Agent pursuant to Clause 13 (*Resignation and Revocation*)); the validity of the original fax notice or email is not affected by such confirmation not being sent or received, as long as such notice or email has been received.

20.2 Subject to any written notification given fifteen (15) calendar days in advance of any change of address, all notices, declaration and other communication under this Agreement or any Collateral Agreement shall be sent to the following address of such party:

Notices to the Issuer:

ADLER Financing S.à r.l.

46A, Avenue John F. Kennedy, L-1855 Luxembourg, Grand Duchy of Luxembourg

To the attention of the managers
E-mail: AdlerFinancingSarl@tmf-group.com

Notices to the Security Agent:

GLAS Frankfurt Projekt GmbH

c/o Global Loan Agency Services GmbH

Bockenheimer Anlage 46

60322 Frankfurt am Main, Germany

Attn: Transaction Management Group / Project Steel_Adler Real State

Fax: +44 (0)20 3070 0113

E-Mail: tmg.frankfurt@glas.agency

- 20.3 Each notice, declaration or other communication under or in connection with this Agreement shall be provided in English.

21. COUNTERPARTS; AMENDMENTS

- 21.1 This Agreement may be executed in one or more counterparts (*Ausfertigungen*), all of which taken together shall constitute one and the same contract, and may also be executed by facsimile or by email-scan.

- 21.2 Amendments, supplements and other modifications to this Agreement (including this Clause 21.2) shall only be effective, if they are in writing and signed by all Parties and, if such amendment, supplement or other modification adversely affects, in the opinion of the Security Agent, the Beneficiaries, after a respective Holder Majority Decision has been obtained. The Parties agree that no variation, change, amendment, annulment and/or termination of this Agreement shall constitute a novation thereof.

- 21.3 Neither any failure to exercise nor any delay in exercising, on the part of any Party, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy.

- 21.4 The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law or any other Transaction Document.

22. EXEMPTION

The restrictions set forth in Section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and any similar restrictions contained in any laws of any other jurisdiction shall not apply to any Party to the fullest extent permitted under applicable law in respect of its rights and obligations hereunder.

23. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding between the Parties in relation to the subject matter hereof and cancels, replaces and modifies any other agreement or understanding in relation thereto.

24. APPLICABLE LAW; PLACE OF JURISDICTION

- 24.1 This Agreement (including, without limitation, any non-contractual obligation arising out of it) shall be governed by, and construed in accordance with, the laws of Germany.
- 24.2 The courts of Frankfurt am Main, Germany shall have non-exclusive jurisdiction over disputes arising out of or in connection with this Agreement.

25. CONDITION PRECEDENT

This Agreement and the rights and obligations hereunder are subject to the condition precedent (*aufschiebende Bedingung*) that the Notes will be issued and that the Issuer's claim for the payment of the subscription monies for the Notes will be satisfied.

26. TERMINATION

This Agreement shall terminate upon the release of the security interest created under all Collateral Agreements.

SIGNATURE PAGE

ADLER Financing S.à r.l.
as Issuer

By: _____
Name:
Title:

By: _____
Name:
Title:

GLAS Frankfurt Projekt GmbH
as Security Agent

By: _____
Name:
Title:

By: _____
Name:
Title: