



NOTARKA
MARINA RUŽIČ TRATNIK
Šmartinska cesta 111, 1000 Ljubljana

Opr. št.: SV 1342/2013

NOTARSKI ZAPISNIK

21. (enaindvajsete) redne seje delničarjev družbe **PIVOVARNA UNION d.d.**, s sedežem in poslovnim naslovom Ljubljana, Pivovarniška ulica 2 (dva). Skupščina navedene delniške družbe je bila izvedena na sedežu družbe dne 23.07.2013 (triindvajsetega julija dvatisočtrinajst). Začela se je ob 9.00 (deveti) uri in je trajala do 9:30 (devet trideset) ure, ves čas v moji prisotnosti. -----

V zvezi s potekom skupščine-----

UGOTAVLJAM

- da je bil sklic skupščine objavljen v časopisu Delo 19.06.2013 (devetnajstega junija dvatisočtrinajst) in istega dne na spletni strani družbe, -----
- da je skupščino otvoril predsednik uprave družbe Dušan Zorko, -----
- da je bil na skupščini sestavljen seznam prisotnih oz. zastopanih delničarjev, ki ga je podpisal predsednik skupščine pred začetkom glasovanja, pri čemer je bil seznam ves čas zasedanja skupščine na vpogled udeležencem. Pooblastila zastopanih delničarjev hrani družba,-----
- da je predsednik skupščine po odprtju skupščine družbe, na podlagi poročila verifikacijske komisije ugotovil, da je bilo od vseh 451.114 (štiristoenainpetdesettisočstoštirinajst) delnic oz. 451.045 (štiristoenainpetdesettisočpetinštirideset) delnic z glasovalno pravico, na skupščini prisotnih oz. zastopanih 445.532 glasov, kar predstavlja 98.78 (osemindevdeset celih osemindeset) % vseh delnic z glasovalno pravico, -----

- da je skupščino vodil predsednik skupščine odvetnik Stojan Zdolšek, da so imeli navzoči možnost izraziti svoja mnenja v razpravi in da je glasovanje pri prvi točki dnevnega reda potekalo z dvigom rok, pri ostalih pa z glasovalnimi lističi.

Po gornjih ugotovitvah podpisana notarka

POTRJUJEM,

da so bili na 21. (enaindvajseti) redni seji delničarjev družbe Pivovarna Union d.d., sprejeti naslednji sklepi:

K 1. (prvi) točki dnevnega reda - Odprtje, ugotovitev prisotnosti in izvolitev delovnih teles, je bil sprejet naslednji

sklep:

Za predsednika skupščine se izvoli odvetnik Stojan Zdolšek. V verifikacijsko komisijo se izvolita Igor Centa in Boštjan Šibenik.

Predsednik uprave družbe Dušan Zorko je ugotovil, da je bil sklep sprejet soglasno, saj je zanj glasovalo vseh 445.532 (štiristopetinštiridesettisočpetstodvaintrideset) na skupščini prisotnih oziroma zastopanih glasov.

K 2. (drugi) točki dnevnega reda – Seznanitev skupščine z revidiranim Letnim poročilom za leto 2012 (dvatisočdvanajst), s poročilom nadzornega sveta o preveritvi Letnega poročila in s poročilom nadzornega sveta o preveritvi poročila o odnosih s povezanimi družbami, seznanitev skupščine o pokrivanju čiste izgube, seznanitev skupščine s prejemki članov uprave in članov nadzornega sveta ter odločanje o podelitvi razrešnice upravi in nadzornemu svetu družbe – so bili sprejeti naslednji

sklepi:

k točki 2.1. je bil sprejet naslednji sklep:

Skupščina se seznanila z revidiranim Letnim poročilom Skupine Union in družbe Pivovarna Union d.d. za leto 2012 (dvatisočdvanajst), s Poročilom nadzornega sveta o preveritvi Letnega poročila in s poročilom nadzornega sveta o preveritvi poročila o odnosih s povezanimi družbami.

k točki 2.2. je bil sprejet naslednji sklep:

Skupščina se seznani, da na dan 31.12.2012 (enaintridesetega decembra dvatisočdvanajst) čista izguba družbe v poslovnem letu 2012 (dvatisočdvanajst) znaša 5.439.131,59 (petmilijonovštiristodevetintridesettisočstoenastrideset 59/100) EUR in da jo je uprava v soglasju z nadzornim svetom pokrila v breme prenesenega čistega poslovnega izida v višini 3.304.858,70 (trimilijonetristoštiritisooosemstooseminpetdeset 70/100) EUR in v breme drugih rezerv iz dobička v višini 2.134.272,89 (dvamilijonastotiintridesettisočdvestodvainsedemdeset 89/100) EUR. Bilančni dobiček Pivovarne Union d.d. v poslovnem letu 2012 (dvatisočdvanajst) tako znaša 0 (nič) EUR. -----

k točki 2.3. je bil sprejet naslednji sklep:-----

Skupščina se seznani s prejemi članov uprave in članov nadzornega sveta, ki so jih za opravljanje nalog v družbi in njenih odvisnih družbah prejeli v poslovnem letu 2012 (dvatisočdvanajst).-----

Predsednik skupščine je ugotovil, da so bili gornji sklepi pod 2.1., 2.2. in 2.3., katere je dal na glasovanje skupaj, sprejeti soglasno, saj je za njih glasovalo vseh 445.532 (štiristopetinštiridesettisočpetstodvaintrideset) na skupščini prisotnih oziroma zastopanih glasov.-----

k točki 2.4. je bil sprejet naslednji sklep:-----

Skupščina podeljuje upravi družbe razrešnico za poslovno leto 2012 (dvatisočdvanajst).-----

k točki 2.5. je bil sprejet naslednji sklep:-----

Skupščina podeljuje nadzornemu svetu družbe razrešnico za poslovno leto 2012 (dvatisočdvanajst).-----

Predsednik skupščine je ugotovil, da sta bila gornja sklepa pod točkama 2.4. in 2.5., katera je dal na glasovanje skupaj, sprejeta soglasno, saj je zanju glasovalo vseh 445.532 (štiristopetinštiridesettisočpetstodvaintrideset) na skupščini prisotnih oziroma zastopanih glasov.-----

K 3. (tretji) točki dnevnega reda – Soglasje skupščine h Kupoprodajni pogodbi za prodajo delnic Poslovnega sistema Mercator d.d.– je bil sprejet naslednji-----

sklep:-----

Skupščina se je seznanila z elementi oziroma vsebino Kupoprodajne pogodbe za prodajo delnic Poslovnega sistema Mercator d.d. in soglašala, da Pivovarna Union d.d. proda družbi Agrokor d.d., Trg Dražena Petrovića 3 (tri), Zagreb, 464.390 (štiristoštiriinšestdesettisočtristodevetdeset) navadnih imenskih delnic z oznako MELR izdajatelja Poslovni sistem Mercator d.d., kar

predstavlja 12,33 (dvanajst celih triintrideset) % delež v družbi Poslovni sistem Mercator d.d., po ceni 120 EUR na delnico.

Predsednik skupščine je ugotovil, da je bil sklep sprejet, saj je zanj glasovalo 445.414 (štiristopetinštiridesettisočštiristoštirinajst) na skupščini prisotnih oziroma zastopanih glasov, vzdržanih pa je bilo 118 (stoosemnajst) glasov.

K 4. (četrti) točki dnevnega reda – Imenovanje revizorja za poslovno leto 2013 (dvatisočtrinajst)- je bil sprejet naslednji

sklep:

Skupščina imenuje revizijsko družbo Ernst & Young d.o.o., Dunajska cesta 111 (stoenašt), Ljubljana, za revizorja družbe za revidiranje poslovnih izkazov za leto 2013 (dvatisočtrinajst).

Predsednik skupščine je ugotovil, da je bil sklep sprejet soglasno, saj je zanj glasovalo vseh 445.532 (štiristopetinštiridesettisočpetstodvaintrideset) na skupščini prisotnih oziroma zastopanih glasov.

Pred zaključkom skupščine sem notarka predsednika uprave družbe opozorila na to, da je v skladu z določilom člena 304/5 ZGD-1 dolžno poslovodstvo v roku 24 (štiriindvajset) ur po zaključku skupščine poslati registru notarsko overjen prepis zapisnika s prilogami. Nato me je navedeni pooblastil, da vložim predmetni zapisnik v sodni register.

Ko sem ta zapisnik predsedniku skupščine prebrala, ga je pred menoj potrdil in podpisal.

Danes sem upravi družbe izdala en prepis zapisnika.

Izvirnik hranim notarka.

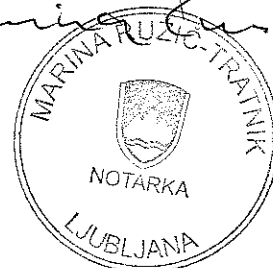
Priloge:

- Sklic skupščine v časopisu Delo;
- Seznam prijavljenih delničarjev;
- Seznam prisotnih in zastopanih delničarjev;
- Izpis prisotnosti;
- Rezultati glasovanja;
- Kopija Kupoprodajne pogodbe za prodajo delnic Poslovnega sistema Mercator d.d.

Ljubljana, dne 23.07.2013 (triindvajsetega julija dvatisočtrinajst)

Lastnoročni podpis predsednika skupščine:

Lastnoročni podpis in žig notarke:





SKLIC SKUPŠČINE

Na podlagi 281. in 295. člena Zakona o gospodarskih družbah (ZGD-1) ter 34. člena Statuta delniške družbe uprava Pivovarne Union d.d. uprava in nadzorni svet družbe sklicujeta

21. redno skupščino delničarjev Pivovarne Union d.d.,

Pivovarniška ul. 2, Ljubljana,
ki bo v torek, dne 23. 7. 2013, ob 9.00 uri v poslovnih prostorih Pivovarne Union d.d.,
v sejni sobi, Pivovarniška ulica 2, Ljubljana.

DNEVNI RED:

- Odprije, ugotovitev prisotnosti in izvoitev delovnih teles
- Seznanitev skupščine z revidiranim Letnim poročilom za leto 2012, s poročilom nadzornega sveta o preveritvi Letnega poročila in s poročilom nadzornega sveta o preveritvi poročila o odnosih s povezanimi družbami, seznanitev skupščine o pokrivanju čiste izgube, seznanitev skupščine s prejemki članov uprave in članov nadzornega sveta ter odločanje o podelitvi razrešnice upravi in nadzornemu svetu družbe
- Soglasje skupščine h Kupoprodajni pogodbi za prodajo delnic Poslovnega sistema Mercator d.d.
- Imenovanje revizorja za poslovno leto 2013

PREDLOGI SKLEPOV

Uprava in nadzorni svet družbe predlagata k točkam od 1 do 3, nadzorni svet pa k točki 4 dnevnega reda skupščine naslednje sklope:

- Odprije, ugotovitev prisotnosti in izvoitev delovnih teles

PREDLOG SKLEPA:

Za predsednika skupščine se izvoli odvetnik Stojan Zdošek. V verifikacijsko komisijo se izvolita Igor Centa in Boštjan Šibenik, skupščini prisostvuje notarka ga. Marina Ružič Trtnik.

- Seznanitev skupščine z revidiranim Letnim poročilom za leto 2012, s poročilom nadzornega sveta o preveritvi Letnega poročila in s poročilom nadzornega sveta o preveritvi poročila o odnosih s povezanimi družbami, seznanitev skupščine o pokrivanju čiste izgube, seznanitev skupščine s prejemki članov uprave in članov nadzornega sveta ter odločanje o podelitvi razrešnice upravi in nadzornemu svetu družbe

PREDLOG SKLEPA:

- Skupščina se seznanila z revidiranim Letnim poročilom Skupine Union in družbe Pivovarna Union d.d. za leto 2012, s Poročilom nadzornega sveta o preveritvi Letnega poročila in s poročilom nadzornega sveta o preveritvi poročila o odnosih s povezanimi družbami.
- Skupščina se seznanila, da na dan 31. 12. 2012 čista izguba družbe v poslovnem letu 2012 znaša 5.439.131,59 EUR in da jo je uprava v soglasju z nadzornim svetom pokrila v breme pranesenega čistega poslovnega izida v višini 3.304.858,70 EUR in v breme drugih rezerv iz dobička v višini 2.134.272,89 EUR. Bilančni dobiček Pivovarne Union d.d. v poslovnem letu 2012 tako znaša 0 EUR.
- Skupščina se seznanila s prejemki članov uprave in članov nadzornega sveta, ki so jih za opravljanje nalog v družbi in njenih odvisnih družbah prejeli v poslovnem letu 2012.
- Skupščina podeljuje upravi družbe razrešnico za poslovno leto 2012.
- Skupščina podeljuje nadzornemu svetu družbe razrešnico za poslovno leto 2012.

- Soglasje skupščine h Kupoprodajni pogodbi za prodajo delnic Poslovnega sistema Mercator d.d.

PREDLOG SKLEPA:

Skupščina se je seznanila z elementi oziroma vsebino Kupoprodajne pogodbe za prodajo delnic Poslovnega sistema Mercator d.d. in soglasja, da Pivovarna Union d.d. proda družbi Agrokor d.d., Tig Dražena Petroviča 3, Zagreb, 464.390 navadnih imenskih delnic z oznako MELR izdajatelja Poslovni sistem Mercator d.d., kar predstavlja 12,33 % delež v družbi Poslovni sistem Mercator d.d., po ceni 120 EUR za delnico.

- Imenovanje revizorja za poslovno leto 2013

PREDLOG SKLEPA:

Skupščina imenuje revizijsko družbo Ernst & Young d.o.o., Dunajska cesta 111, Ljubljana, za revizorja družbe za revidiranje poslovnih izkazov za leto 2013.

GRADIVO ZA SKUPŠČINO

Gradivo s predlogi sklepov in njihovo obrazložitvijo je delničarjem na vpogled na sedežu družbe, Pivovarniška ulica 2, Ljubljana, vsak delovni dan od 10.00 do 12.00 ure v tajništvo družbe, V nadstropje. Gradivo s predlogi sklepov skupščine, navedbo predlagatelja in njihovo obrazložitvijo lahko delničarji brezplačno pridobijo na sedežu družbe.

Delničar lahko na skupščini družbe uresničuje svojo pravico do obveščeniosti iz prvega odstavka 305. člena ZGD-1.

Dopolnitev dnevnega reda in predlogi delničarjev:

Delničarji, katerih skupni deleži dosegajo dvajsetino osnovnega kapitala, lahko po objavi sklica skupščine pisno zahtevajo dodatno točko dnevnega reda v skladu s prvim odstavkom 298. člena ZGD-1. Zadošča, da zahtevo pošljejo družbi najpozneje sedem dni po objavi sklica skupščine.

Delničarji lahko k vsaki točki dnevnega reda v pisni obliki dajejo predloge sklepov. Predlog delničarja se objavi in sporocil na zakonsko določen način le, če je delničar v sedmih dneh po objavi sklica skupščine poslal družbi razumno utemeljen predlog in pri tem sporočil, da bo na skupščini ugovarjal predlogu organa vodenja ali nadzora in da bo druga delničarje pripravil do tega, da bodo glasovali za njegov predlog. Volilnega predloga delničarja za volitve članov nadzornega sveta ni treba utemeljiti. Predlogi delničarjev, ki družbi niso poslani v navedenem roku sedmih dni in so dani najpozneje na dan skupščine, se obravnavajo na skupščini.

Delničarji lahko zahtevo za dodatno točko dnevnega reda in predloge sklepov k točkam dnevnega reda pošljejo družbi tudi v skenirani obliki na elektronski poštni naslov: agata.rape@pivo-union.si ali po telefaksu št. 01-471-72-55.

Udeležba in uresničevanje glasovalne pravice na skupščini:

Pravico do udeležbe na skupščini in uresničevanja glasovalne pravice imajo tisti delničarji, ki so kot imetniki delnic vpisani v centralnem registru nematerializiranih vrednostnih papirjev konec četrtega dne pred zasedanjem skupščine, tj. konec dne 19. 7. 2013, in ki svojo udeležbo na skupščini prijavijo družbi najpozneje konec četrtega dne pred skupščino, tj. do vključno dne 19. 7. 2013.

Delničarji lahko prijavijo svojo udeležbo na skupščini tudi z uporabo elektronskih sredstev, tako da družbi posredujejo prijavo v skenirani obliki na elektronski poštni naslov: agata.rape@pivo-union.si ali po telefaksu št. 01-471-72-55.

Vsak delničar, ki je upravičen do udeležbe na skupščini, ima pravico pooblastiti poslovno sposobno fizično ali pravno osebo, da se v njegovem imenu udeleži skupščine in na njej uresničuje njegovo glasovalno pravico. Pooblastilo mora biti v pisni obliki.

Delničarji lahko imenujejo pooblaščenca tudi z uporabo elektronskih sredstev, tako da družbi posredujejo pooblastilo v skenirani obliki na elektronski poštni naslov: agata.rape@pivo-union.si ali po telefaksu št. 01-471-72-55.

V Ljubljani, dne 19. 6. 2013

Predsednik uprave:
mag. Dušan Zorko


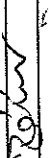

Predsednik nadzornega sveta:
dr. Peter Groznik

Članica uprave:
Marijeta Zemik

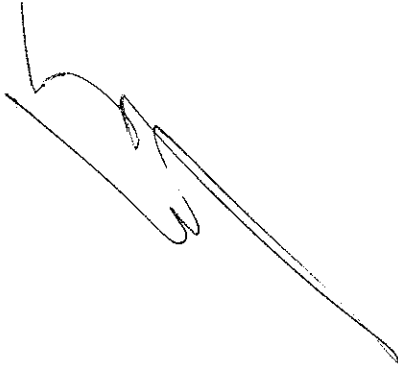
DELO 19.06.2013

PIVOVARNA UNION D.D.
PIVOVARNIŠKA ULICA 2
1000 LJUBLJANA

SEZNAM PRIJAVLJENIH DELNIČARJEV
na 21. skupščini Pivovarne Union d.d. dne 23.7.2013

Naziv in naslov	Št.delnic	Št.glasov	Zap.št.	Podpis
PIVOVARNA LAŠKO D.D., zanjo TOMAŽ ZAVSEK, POŽENELOVA ULICA 3, 3270 LAŠKO	441.762	441.762	1.	
MAY ALEXANDER, zanj DUŠAN ZORKO, KOŠNICA PRI CELJU 52 I, 3000 CELJE	3.652	3.652	2.	
POTOČNIK MARKO, ULICA HERMANA POTOČNIKA 2, 1230 DOMŽALE	118	118	3.	
Skupaj oseb : 2	445.532	445.532		

V Ljubljani, 23.7.2013



PIVOVARNA UNION D.D.
PIVOVARNIŠKA ULICA 2
1000 LJUBLJANA

SEZNAM PRISOTNIH IN ZASTOPANIH DELNIČARJEV
na 21. skupščini Pivovarne Union d.d. dne 23.7.2013

TOMAŽ ZAVŠEK, POŽENELOVA ULICA 3, 3270 LAŠKO

Zaporedna št. prihoda : 1

Delničar (pooblastitelj)	Razred	Št.delnic	Št.glasov
PIVOVARNA LAŠKO D.D., TRUBARJEVA 28, 3270 LAŠKO	G	441.762	441.762
Skupaj oseb : 1		441.762	441.762

DUŠAN ZORKO, KOŠNICA PRI CELJU 52 I, 3000 CELJE

Zaporedna št. prihoda : 2

Delničar (pooblastitelj)	Razred	Št.delnic	Št.glasov
MAY ALEXANDER, WALDMUHLGASSE 5, PERCHTOLDSDORF	G	3.652	3.652
Skupaj oseb : 1		3.652	3.652

Zaporedna št. prihoda : 3

Delničar (pooblastitelj)	Razred	Št.delnic	Št.glasov
POTOČNIK MARKO, ULICA HERMANA POTOČNIKA 2, 1230 DOMŽALE	Razred G	118	118
Skupaj oseb : 1		118	118

Delnic z glasovalno pravico : 451.045
Delnic prisotnih na skupščini : 445.532

Prisotnih je 98,78% delnic z glasovalno pravico.

V Ljubljani, 23.7.2013



PIVOVARNA UNION D.D.
PIVOVARNIŠKA ULICA 2
1000 LJUBLJANA

IZPIS PRISOTNOSTI
na 21. skupščini Pivovarne Union d.d. dne 23.7.2013

Datum : 23.7.2013
Ura : 9:00:13

	Število glasov
Vseh delnic družbe	451.114
Delnic z glasovalno pravico	451.045
Delnic prisotnih na skupščini	445.532

Prisotnih je 98,78% delnic z glasovalno pravico.

A large, stylized handwritten signature or mark, possibly a checkmark or a signature, is drawn in black ink on the page.

PIVOVARNA UNION D.D.
PIVOVARNIŠKA ULICA 2
1000 LJUBLJANA

REZULTAT GLASOVANJA

1. Izvolitev delovnih teles

Datum : 23.7.2013

Ura : 9:00:56

Prisotnost na skupščini ob glasovanju

	Število glasov
Vseh delnic družbe	451.114
Delnic z glasovalno pravico	451.045
Delnic prisotnih na skupščini	445.532

Rezultat glasovanja glede na število oddanih glasov

	Število glasov	Odstotek
Za	445.532	100,000%
Proti		0,000%
Neveljavni	0	0,000%
Skupaj	445.532	100,000%



PIVOVARNA UNION D.D.
PIVOVARNIŠKA ULICA 2
1000 LJUBLJANA

REZULTAT GLASOVANJA

2. Seznani tev z revidiranim Letnim poročilom Skupine Union in družbe Pivovarna Union d.d. za leto 2012, s Poročilom nadzornega sveta o preveritvi Letnega poročila in s poročilom nadzornega sveta o preveritvi Poročila o odnosih s povezanimi družbami

Datum : 23.7.2013
Ura : 9:05:51

Prisotnost na skupščini ob glasovanju

	Število glasov
Vseh delnic družbe	451.114
Delnic z glasovalno pravico	451.045
Delnic prisotnih na skupščini	445.532

Rezultat glasovanja glede na število oddanih glasov

	Število glasov	Odstotek
Za	445.532	100,000%
Proti	0	0,000%
Neveljavni	0	0,000%
Skupaj	445.532	100,000%



PIVOVARNA UNION D.D.
PIVOVARNIŠKA ULICA 2
1000 LJUBLJANA

REZULTAT GLASOVANJA

3. Seznanitev s poslovanjem Pivovarne Union d.d. v poslovnem letu 2012

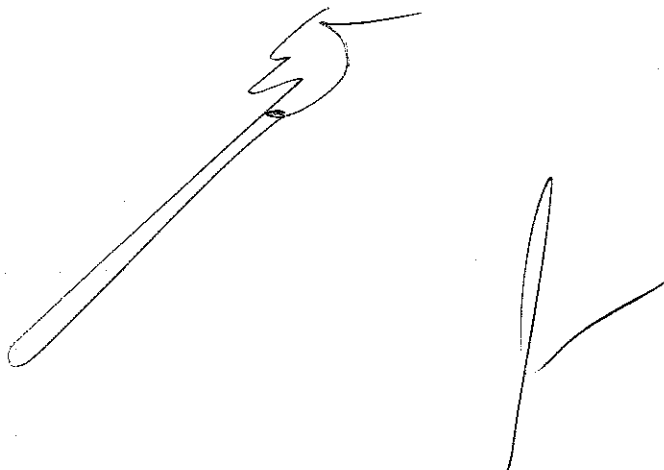
Datum : 23.7.2013
Ura : 9:06:33

Prisotnost na skupščini ob glasovanju

	Število glasov
Vseh delnic družbe	451.114
Delnic z glasovalno pravico	451.045
Delnic prisotnih na skupščini	445.532

Rezultat glasovanja glede na število oddanih glasov

	Število glasov	Odstotek
Za	445.532	100,000%
Proti	0	0,000%
Neveljavni	0	0,000%
Skupaj	445.532	100,000%

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PIVOVARNA UNION D.D.
PIVOVARNIŠKA ULICA 2
1000 LJUBLJANA

REZULTAT GLASOVANJA

4. Seznanitev s prejemi uprave in nadzornega sveta

Datum : 23.7.2013

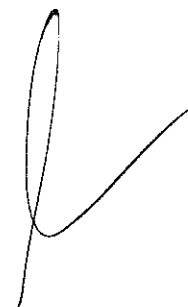
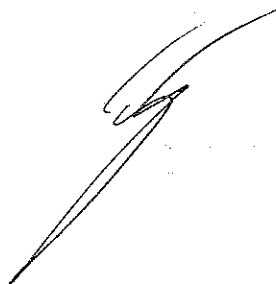
Ura : 9:07:57

Prisotnost na skupščini ob glasovanju

	Število glasov
Vseh delnic družbe	451.114
Delnic z glasovalno pravico	451.045
Delnic prisotnih na skupščini	445.532

Rezultat glasovanja glede na število oddanih glasov

	Število glasov	Odstotek
Za	445.532	100,000%
Proti	0	0,000%
Neveljavni	0	0,000%
Skupaj	445.532	100,000%



PIVOVARNA UNION D.D.
PIVOVARNIŠKA ULICA 2
1000 LJUBLJANA

REZULTAT GLASOVANJA

5. Podelitev razrešnice upravi in nadzornemu svetu

Datum : 23.7.2013
Ura : 9:07:17

Prisotnost na skupščini ob glasovanju

	Število glasov
Vseh delnic družbe	451.114
Delnic z glasovalno pravico	451.045
Delnic prisotnih na skupščini	445.532

Rezultat glasovanja glede na število oddanih glasov

	Število glasov	Odstotek
Za	445.532	100,000%
Proti	0	0,000%
Neveljavni	0	0,000%
Skupaj	445.532	100,000%



PIVOVARNA UNION D.D.
PIVOVARNIŠKA ULICA 2
1000 LJUBLJANA

REZULTAT GLASOVANJA

6. Soglasje h Kupoprodajni pogodbi za prodajo delnic
Poslovnega sistema Mercator d.d.

Datum : 23.7.2013
Ura : 9:16:16

Prisotnost na skupščini ob glasovanju

	Število glasov
Vseh delnic družbe	451.114
Delnic z glasovalno pravico	451.045
Delnic prisotnih na skupščini	445.532

Rezultat glasovanja glede na število oddanih glasov

	Število glasov	Odstotek
Za	445.414	100,000%
Proti		0,000%
Neveljavni	0	0,000%
Skupaj	445.414	100,000%

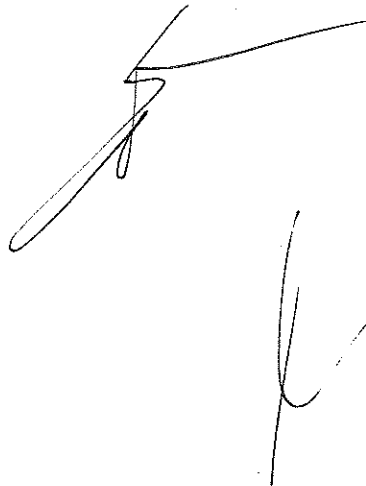
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POPR.



Vzdržani

118



PIVOVARNA UNION D.D.
PIVOVARNIŠKA ULICA 2
1000 LJUBLJANA

REZULTAT GLASOVANJA

7. Imenovanje pooblaščenega revizorja za poslovno leto 2013


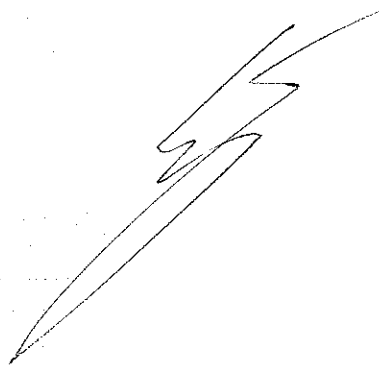
Datum : 23.7.2013
Ura : 9:18:21

Prisotnost na skupščini ob glasovanju

	Število glasov
Vseh delnic družbe	451.114
Delnic z glasovalno pravico	451.045
Delnic prisotnih na skupščini	445.532

Rezultat glasovanja glede na število oddanih glasov

	Število glasov	Odstotek
Za	445.532	100,000%
Proti		0,000%
Neveljavni	0	0,000%
Skupaj	445.532	100,000%



14 June 2013

Agreement for the sale and purchase of shares in
POSLOVNI SISTEM MERCATOR d.d.

between

THE MAJORITY SHAREHOLDERS
as Sellers

and

AGROKOR d.d.
as Buyer

31 COUNTERPARTS 45
32 NOTICES 45
33 GOVERNING LAW 46
34 ARBITRATION 46
35 GOVERNING LANGUAGE 46
36 ANTI-CORRUPTION CLAUSE 46

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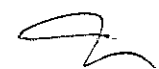
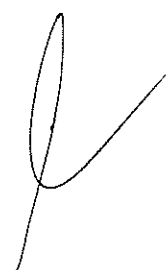
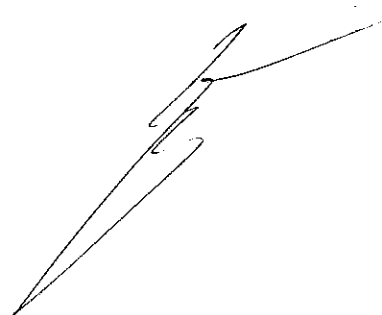
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Handwritten initials and signatures

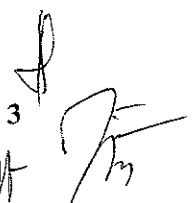
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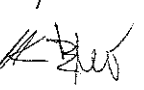
37 BANK GUARANTEES 47
38 ENTRY INTO FORCE 47

90 47



Page 3



MP Hc 02 



THIS AGREEMENT is made on 14 June 2013 between the following parties:

- (1) **THOSE PERSONS** whose names and addresses are set out in Schedule 1 (the "**Sellers**"); and
- (2) **AGROKOR d.d.**, a company organised and existing under the laws of Croatia, whose registered office is at Trg Dražena Petrovića 3, Zagreb, Croatia (the "**Buyer**").

(the Sellers and the Buyer are hereinafter collectively referred to as the "**Parties**" and each of them as a "**Party**")

RECITALS

- (A) Poslovni sistem Mercator d.d. (the "**Company**") is a company incorporated in Slovenia and listed on the Ljubljana Stock Exchange.
- (B) The Sellers have agreed to sell and the Buyer has agreed to buy all of the Sellers' Shares as set out in Schedule 1 for the consideration and in each case upon the terms and subject to the conditions set out in this Agreement.
- (C) The rights of first refusal and/or rights of pre-emption relating to the Shares held by the Pre-emption Seller have not been exercised by their beneficiaries.
- (D) The Buyer was given access to the VDDR and the Data Room, containing documents and information relating to the Company and was also provided with the data and information (some but not all) it had requested during meetings with the management and/or during (or in connection with) the examinations it had carried out on basis of which the Buyer carried out *inter alia* a limited financial, tax, legal, technical and commercial due diligence exercise in relation to the Company.
- (E) The Sellers have performed all the necessary actions pursuant to the Prevention of Money Laundering and Terrorist Financing Act (*Zakon o preprečevanju pranja denarja in financiranja terorizma*, Official Gazette of the Republic of Slovenia, No. 60/07 and subs.) in relation to this Agreement and the Transaction prior to the Date of this Agreement.
- (F) The Buyer and the Company are expected to enter into a business combination agreement in respect of the Transaction (the "**Business Combination Agreement**"), pursuant to which the Buyer will give to the Company *inter alia* the undertakings, which are set out in Clauses 15.1.1 to 15.1.12 of this Agreement.
- (G) The Buyer understands that there is a debt restructuring of the Company in progress.
- (H) The European Bank for Reconstruction and Development ("**EBRD**"), One Equity Partners ("**OEP**") and The Blackstone Group International Partners LLP ("**Blackstone**") have as investment partners of the Buyer expressed an interest to invest in the Buyer with the proceeds of such investment being used to fund the acquisition of Shares, subject to their internal rules and approvals.

IT IS AGREED as follows:

1 INTERPRETATION

1.1 In this Agreement:

“Affiliate” means, in relation to any person, a person which controls (excluding in any case the Republic of Slovenia and any persons under its control except the Sellers and the persons under their control), is controlled by, or is under common control with, such person;

“Associate” means, in relation to any person:

- (i) an Affiliate of that person;
- (ii) any person acting on behalf of that person or of any of its Affiliates; and
- (iii) any Concert Party of that person or of any of its Affiliates;

“Breach Notice” has the meaning given to it in Clause 14.3;

“Business Combination Agreement” has the meaning given to it in Recital (F);

“Business Day” means any day other than a Saturday or Sunday on which banks are normally open for general business in Ljubljana, Zagreb and London;

“Buyer’s Legal Advisers” means Law firm Rojs, Peljhan, Prelesnik & partners;

“Competition Authority” means any of the competition authorities of Slovenia, Croatia, Serbia, Bosnia and Herzegovina, and Montenegro (including any supra-national competition authority such as the European Commission) which is or will be responsible and competent for applying merger control legislation in such jurisdictions at the relevant time;

“Competition Conditions” means the Conditions set out in Clause 4.1.1;

“Completion Date” means the date of Completion in accordance with Clause 11.1;

“Completion” means completion of the sale and purchase of the Shares in accordance with Clause 11 of this Agreement;

“Concert Party” means, in relation to any person, any other person with whom that first person has an agreement or understanding (whether formal or informal) to co-operate to obtain or consolidate control of the Company or to acquire (directly or indirectly) any interest in Shares;

The bottom of the page contains several handwritten signatures and initials. On the left, there are two distinct signatures. In the center, there is a large, stylized signature. To the right of this, there are several smaller initials and signatures, including one that appears to be 'MR' and another that looks like 'J'. On the far right, there is a signature that includes the word 'Page' and some other illegible markings.

“Conditions”

means the conditions set out in Clause 4.1;

“Confidential Information”

has the meaning given to it in Clause 20;

“Counsel to Counsel Basis”

means (i) the provision of information reasonably required to be shared between the Sellers and the Buyer’s Legal Advisers in relation to the Regulatory Prohibitions, such information being provided by the Sellers or their legal advisers to the Buyer’s Legal Advisers on condition and understanding that it is not shared with (or otherwise communicated to) the Buyer or the Company or any other person, otherwise than as agreed under this Agreement, or (ii) the provision of information reasonably required to be shared between the Buyer and the Sellers’ Legal Advisers in relation to the Required Submissions or the satisfaction of the Competition Conditions, such information being provided by the Buyer or its legal advisers to the Sellers’ Legal Advisers on condition and understanding that it is not shared with (or otherwise communicated to) the Sellers or the Company or any other person, otherwise than as agreed under this Agreement;

“Country Material Adverse Change”

means any material adverse effect or change (or series of effects or changes) on the condition (financial, trading, operational, legal or otherwise), business, earnings, prospects or results of operations of the Company or any of its Affiliates taken as a whole resulting from or related to (i) any outbreak or escalation of war or hostilities or any act of terrorism or other calamity or crisis in Slovenia, Croatia, Bosnia and Herzegovina, Serbia or Montenegro, or (ii) changes in general economic conditions in Slovenia, Croatia, Bosnia and Herzegovina, Serbia or Montenegro (for the avoidance of doubt, a sovereign credit downgrade in these countries for any reason other than a material change in general economic conditions shall not represent a material adverse effect in of itself).

“Data Room”

means the virtual data room with documents containing disclosed information and to which the Buyer was given access for the purposes of conducting a due diligence review of the Company in the period from 27 March 2013 onwards and which shall continue to be open until 31 August 2013 (all such documents from the Data Room are included on the DVD marked as “Data Room DVD” and delivered to the Buyer at Completion by

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	the Sellers' Representative);
"Date of Receipt of Signed Agreement"	means the date on which the Buyer actually receives a copy (or copies) of this Agreement signed by all the Sellers, subject to the Buyer also signing this Agreement;
"Date of this Agreement"	means the date of execution of this Agreement, as shown on the first page of this Agreement;
"Debt Restructuring Condition"	has the meaning given in Clause 4.1.2;
"Dividends"	has the meaning given in Clause 2.3;
"EBITDA"	means, in relation to the Company, on a consolidated basis, for the relevant period, Results from operating activities (EBIT) and depreciation, amortisation calculated on the same basis as the EBITDA figure of EUR 21,607 thousand in respect of the first quarter of 2013 (as reported in the Q1 Report) was calculated (for the avoidance of doubt, excluding one-off costs of advisors in respect of debt restructuring);
"Effective Date"	has the meaning given in Clause 15.1;
"Encumbrance"	means any mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre-emption, or any other third party right or interest;
"Escrow Agent"	means the KDD;
"Escrow Agreement"	means the escrow agreement to be entered into between the Parties, the Escrow Agent and the Pledgees, in the agreed form which is attached to this Agreement as Schedule 2 together with any amendments that the Parties may agree (for the avoidance of doubt, such agreed form to be updated for all missing data);
"EU Competition Clearance"	has the meaning given in Clause 4.1.1;
"Expert"	has the meaning given in Clause 12.7;
"Fiduciary Bank Account"	means the bank account specified in the Escrow Agreement;
"Fiduciary Securities Account"	means the Fiduciary Securities Account as specified in the Escrow Agreement;
"Group"	means the Company and any of its Affiliates;

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“Higher Price”

has the meaning given in Clause 12.1;

“Increase of Share Capital”

means any increase of share capital of the Company (or other dilution of equity or voting rights), including (but not limited to) any adoption by the general meeting of shareholders of the Company of a resolution on the increase of share capital of the Company, or authorization of the management of the Company to increase the share capital (approved capital), as the case may be;

“Individual Seller’s Price”

means, in relation to a Seller, an amount equal to the applicable Price multiplied by the number of Shares of the relevant Seller as set out in column 4 of Schedule 1;

“Interest Rate”

means 3-month EURIBOR published by THOMSON REUTERS plus 3%;

“KDD Register”

means the register as defined under Article 3 of the Slovenian Dematerialised Securities Act (*Zakon o nematerializiranih vrednostnih papirjih*, the Official Gazette of the Republic of Slovenia, no. 23/1999, as amended);

“KDD”

means KDD - Central Securities Clearing Corporation Inc. (*KDD - centralna klirinško depotna družba delniška družba*);

“Leakage”

means:

(i) the payment of any sum by the Company or its Affiliates to, on behalf of, or for the benefit of, any Sellers or any of their Affiliates, other than (A) in the ordinary course of business in line with past business practices, but always taking into account any changed circumstances (*ceteris paribus*) or (B) the payment of any restructuring fee and costs pursuant to the Debt Restructuring Documents or the payment of any due principal amounts, interest or costs with respect to loans which are restructured pursuant to the Debt Restructuring Documents;

(ii) any transfer of any asset by the Company or its Affiliates to, on behalf of, or for the benefit of, any Sellers or any of their Affiliates, other than (A) in the ordinary course of business in line with past business practices, but always taking into account any changed circumstances (*ceteris paribus*) or (B) the payment of any restructuring fee and costs pursuant to the Debt Restructuring Documents or the payment of any due principal amounts, interest or costs with respect to loans which are restructured

pursuant to the Debt Restructuring Documents;

(iii) the indemnification or incurring of any liability by the Company or its Affiliates to, on behalf of, or for the benefit of, any Sellers or any of their Affiliates;

(iv) the release or waiver by the Company or its Affiliates of sums due to the Company or its Affiliates by any Sellers or any of their Affiliates;

(v) the payment of any benefits, costs, bonuses, or other sums by the Company or its Affiliates to any directors, members of the board, officer, consultant or employee of any member of the Sellers or any of their Affiliates for each only in their respective roles and functions within the Sellers or any of their Affiliates (excluding, for avoidance of doubt, any payments made to such persons for or in connection with performance of function of a member of any board of the Company or its Affiliates) or in connection with the Sellers or any of their Affiliates, as the case may be;

(vi) the payment by the Company or its Affiliates of any costs, advisory and other fees and similar expenses relating to the transactions contemplated by this Agreement in the aggregate amount of more than EUR 750,000, but always excluding any payments that were or are repaid to the Company or its Affiliates by the Sellers (e.g. 50 percent of the costs of VDDR and Data Room) and, for the avoidance of doubt, any payments relating to the debt restructuring, such as the costs and fees of the additional advisor as envisaged in Clause 19.4.2, and any payments made by the Company in this regard prior to 31 December 2012;

(vii) the purchase or redemption by the Company or its Affiliates of Ordinary Shares for the price which is higher than the Price;

(viii) any offer or agreement to do any of the foregoing; and

(ix) any tax paid or that will become payable by the Company or its Affiliates to the extent attributable to any of the foregoing (excluding, for avoidance of doubt, tax paid or that will become payable by the Company or its Affiliates relating to any permitted payment under any of the foregoing);

"Liquidated Damages Bank

means 12 irrevocable abstract bank guarantees to be

Guarantees"

issued and delivered to the Sellers (as beneficiaries of such bank guarantees) (one bank guarantee to each Seller) as a security instrument in relation to the Buyer's payment obligations pursuant to Clause 18.1.2 while such bank guarantees shall be payable on first demand and without objections and issued by either of the following banks: (1) Sberbank banka d.d., (2) UNICREDIT BANKA SLOVENIJA d.d., (3) SKB d.d., (4) RAIFFEISEN BANKA d.d. or (5) BANKA SPARKASSE d.d. with the expiry date of 14 April 2014, in the total amount equal to 17.5 percent of the Total Purchase Price (and to each individual Seller for the amount equal to 17.5 percent of the Individual Seller's Price), such bank guarantees being in form and contents set out in Schedule 4 (for the avoidance doubt, to be updated for all missing data);

"Long Stop Date"

means 31 December 2013 but shall be:

(i) on 1 November 2013 automatically prolonged until 31 March 2014 in case that the Debt Restructuring Condition has not been fulfilled by 31 October 2013; or

(ii) on the date falling on six (6) Business Days before 31 December 2013 automatically prolonged until 31 March 2014 in case that merger clearance decision or decisions have not been obtained in respect of the Transaction from the Competition Authority of Croatia or Serbia or European Commission (as the case may be) by the date falling on seven (7) Business Days before 31 December 2013; or

(iii) on the date falling on eleven (11) Business Days before 31 December 2013 automatically prolonged until 31 March 2014 if any of the Shares are on such date subject to a Regulatory Prohibition (other than law as a Regulatory Prohibition) and the Buyer does not waive the Threshold Condition;

"Mandatory Offer"

means the mandatory public takeover bid required to be made under Slovenian law by the Buyer after Completion in accordance with the Slovenian Takeovers Act (*Zakon o prevzemih*; the Official Gazette of the Republic of Slovenia, no. 79/2006, as amended);

"Material Adverse Change"

means the occurrence of any of the following:

(i) the Net Debt at the end of the month preceding Completion is greater

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than EUR 1,059,803,000; or

(ii) the Working Capital at the end of the month preceding Completion is a greater negative amount than EUR(202,544,000); or

(iii) the EBITDA for the 12-month period ending on the end of the month preceding Completion is lower than EUR 100,800,000;

“Net Debt”

means, in relation to the Company, on a consolidated basis, the sum of the Current financial liabilities and Non-current financial liabilities, Derivative financial instruments (liabilities) (excluding any liabilities of any member of the Group pursuant to (i) any additional rolling credit facilities being granted under the Debt Restructuring Documents; and/or (ii) any securitisation or factoring of any Receivables (present or future) less Cash and cash equivalents, Derivative financial instruments (assets), Available-for-sale financial assets and Current and Non-Current Loans and deposits in each case, as at the end of the relevant month, where each such amount shall be the corresponding amount (whether presented on a standalone basis or not) to that amount falling under the equivalent line item in the Condensed consolidated statement of financial position as at 31 March 2013 set out on page 33 of the Q1 Report. For illustrative purposes only and, for the avoidance of doubt, the relevant amounts as at 31 March 2013 as set out in the Condensed consolidated statement of financial position on page 33 of the Q1 Report were (in EUR thousand):

- Current financial liabilities (633,204);
- Non-current financial liabilities (463,742);
- Derivative financial instruments (liabilities) (4,117).

Less:

- Cash and cash equivalents (36,036);
- Current loans and deposits (5,235);
- Non-current loans and deposits (48,885)

- Available-for-sale financial assets (1,065); and
- Derivative financial instruments (assets) (39);

“Ordinary Shares”

means ordinary shares in the Company which are in the KDD Register entered with the ISIN code SI0031100082;

“Overseas Competition Clearances”

has the meaning given in Clause 4.1.1;

“Pledgees”

means:

- (1) ABANKA d.d.;
- (2) Banka Celje d.d.;
- (3) Banka Koper d.d.;
- (4) GB d.d.;
- (5) NKBM d.d.;
- (6) NLB d.d.;
- (7) PROBANKA d.d.;
- (8) SKB d.d.; and
- (9) Unicredit Banka Slovenija d.d.;

“Pre-emption Seller”

means Hypo Alpe-Adria-Bank, d.d.;

“Price”

means EUR 120 per Share, subject to downwards adjustment pursuant to Clause 2.3 and upwards adjustment pursuant to Clause 12;

“Q1 Report”

means the document named “Business Report of the Mercator Group and the company Poslovni sistem Mercator, d.d., for the period 1-3 2013” dated May 2013 and published on the Ljubljana Stock Exchange SEOnet information system;

“Receivable”

means the unpaid portion of the obligations of any trade debtor of the Company or one of its Affiliates in respect of the supply of goods and/or services by the Company or that Affiliate;

“Regulatory Prohibition”

means, in relation to any Share, any law, decree, injunction, executive order or other order, whether temporary, preliminary or permanent, adopted or issued by a relevant authority, regulatory authority, arbitration tribunal or court with competent jurisdiction prohibiting and/or limiting and/or preventing the transfer of that Share pursuant to this Agreement;

“Required Submissions”

has the meaning given in Clause 5.1;

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“Restructuring End Date” means the date falling on forty-five (45) calendar days before the date falling ten (10) Business Days before the Long Stop Date;

“Seller’s Account” means, in relation to any Seller, an account of such Seller as set out opposite its name in column 5 of Schedule 1;

“Sellers’ Legal Advisers” means legal advisers of the Sellers (not having previously represented or advised the Company or its Affiliates or otherwise having a conflict of interest due to their links with the Company or its Affiliates) notified to the Buyer (the notification of the Sellers’ Legal Advisers must include their full name, address, email and fax number) (for the avoidance of doubt the Sellers may at any point in time notify to the Buyer only one law firm as the Sellers’ Legal Advisers);

“Sellers’ Representative” means ING Bank N.V., London Branch;

“Shareholder Approval Condition” has the meaning given in Clause 4.1.3;

“Shareholder Approval Seller” means Pivovarna Union, d.d.;

“Shares” means the Ordinary Shares which the Sellers have agreed to sell to the Buyer on the terms of this Agreement and the number of which is set opposite each Seller’s name in column 4 of Schedule 1;

“Specific Sellers’ Warranties” has the meaning given in Clause 14.1;

“Termination Fee Bank Guarantees” means 12 irrevocable abstract bank guarantees to be issued and delivered to the Sellers (as beneficiaries of such bank guarantees) (one bank guarantee to each Seller) as a security instrument in relation to the Buyer’s payment obligations pursuant to Clauses 5.7.1, 6.3.1 and 18.1.2 while such bank guarantees shall be payable on first demand and without objections and issued by either of the following banks: (1) Sberbank banka d.d., (2) UNICREDIT BANKA SLOVENIJA d.d., (3) SKB d.d., (4) RAIFFEISEN BANKA d.d. or (5) BANKA SPARKASSE d.d. with the expiry date of 14 April 2014, in the total amount equal to 7.5% of the Total Purchase Price (and to each individual Seller for the amount equal to 7.5% of the Individual Seller’s Price), such bank guarantees being in form and contents set out in Schedule 3 (for the avoidance of doubt, to be updated for all missing data);

“Threshold Condition”	has the meaning given in Clause 4.1.4;
“Top-up Payment”	has the meaning given in Clause 12.3;
“Top-up Period”	has the meaning given in Clause 12.1;
“Total Purchase Price”	has the meaning given in Clause 3;
“Transaction Document”	has the meaning given in Clause 13.1.4.;
“Transaction”	means the acquisition of the Sellers’ Shares by the Buyer pursuant to the terms of and subject to the conditions set out this Agreement;
“Undertakings Guarantee”	means an irrevocable abstract bank guarantee as a security instrument in relation to the Buyer’s obligations under Clauses 15.3.1 to 15.3.3 which is payable on first demand and without objections and issued by either of the following banks: (1) Sberbank banka d.d., (2) UNICREDIT BANKA SLOVENIJA d.d., (3) SKB d.d., (4) RAIFFEISEN BANKA d.d. or (5) BANKA SPARKASSE d.d. and issued for the amount of EUR 15,000,000 and with the expiry date of two (2) years following the date falling on five (5) Business Days after the Effective Date and the beneficiary of which is Nova Ljubljanska Banka d.d., being in form and contents set out in Schedule 5 (for the avoidance of doubt, to be updated for all missing data);
“VDDR”	means Financial and Tax Vendor Due Diligence Report prepared by Deloitte d.o.o. Ljubljana and Legal Vendor Due Diligence Reports prepared by Wolf Theiss Rechtsanwälte GmbH, Vienna, which form part of documents disclosed in the Data Room;
“Working Capital”	means, in relation to the Company, on a consolidated basis, the sum of Inventories and Current trade and other receivables less Current trade and other payables and excluding any liabilities of any member of the Group pursuant to (i) any additional rolling credit facilities being granted under the Debt Restructuring Agreements; and/or (ii) any securitisation or factoring of any Receivables present or future, in each case, as at the end of the relevant month, where each such amount shall be the corresponding amount (whether presented on a standalone basis or not) to that amount falling under the equivalent line item in the Condensed consolidated statement of financial position as at 31 March 2013 set out on page 33 of the Q1 Report. For illustrative purposes only and,

The bottom of the page contains several handwritten signatures and initials in black ink. On the right side, there is a large, stylized signature that appears to be 'M. V. J.'. Below it, there are several smaller initials and signatures, including one that looks like 'D. J.' and another that looks like 'B. J.'. On the left side, there are a few more initials, including one that looks like 'S.' and another that looks like 'D.'.

for the avoidance of doubt, the relevant amounts as at 31 March 2013 as set out in the Condensed consolidated statement of financial position on page 33 of the Q1 Report were (in EUR thousand):

- Inventories (251,546);
- Current trade and other receivables (281,050);
and
- Current trade and other payables (685,140).

1.2 In this Agreement:

- 1.2.1 references to a **“person”** include an individual, body corporate (wherever incorporated), unincorporated association, trust or partnership (whether or not having separate legal personality), government, state or agency of a state, or two or more of the foregoing;
- 1.2.2 references to a document in the **“agreed form”** are to that document in the form agreed to and initialled for the purposes of identification by or on behalf of the parties;
- 1.2.3 references to **“satisfied”** include all situations in case of which a condition or matter referred to in this Agreement is actually satisfied or deemed to be satisfied in accordance with this Agreement;
- 1.2.4 references to a clause or schedule are to a clause or schedule of this Agreement, and references to this Agreement include the schedules;
- 1.2.5 the headings in this Agreement do not affect its construction or interpretation;
- 1.2.6 a reference to any law, treaty, statute, decree, regulation, directive or other legally binding act or decision is a reference to that law, treaty, statute, decree, regulation, directive or other legally binding act or decision as amended, restated, extended, consolidated or replaced from time to time, and includes all subordinate legislation made thereunder;
- 1.2.7 a reference to any agreement or document is a reference to that agreement or document as amended or modified from time to time in writing by the mutual consent of the parties;
- 1.2.8 references to writing will be deemed to include any modes of reproducing words in a legible or non-transitory form; and
- 1.2.9 the singular includes the plural and vice versa and any gender includes any other gender.

1.3 All obligations of the Sellers under this Agreement, including all liabilities in respect of any claim for breach of warranty or any other breach of this Agreement, will be several and not joint. No claim shall be made against any Seller in respect of any breach of this Agreement by any other Seller.

2 SALE AND PURCHASE

2.1 Pursuant and subject to the terms and conditions of this Agreement, each of the Sellers and the Buyer agree that as of the Completion Date each Seller sells and transfers to the Buyer the number of Shares set opposite its name in column 4 of Schedule 1 and the Buyer purchases and accepts from the Sellers those Shares, with all rights and title and interest attaching thereto.

2.2 The Shares will be acquired by the Buyer fully paid and free from all Encumbrances and together (subject to Clause 2.3) with all rights existing at the Date of this Agreement or attaching to the Shares after the Date of this Agreement, including the right to receive and retain in full all dividends, interim dividends and other distributions of profit (if any) voted for, declared, made or paid or payable or any other return of capital made on or after the Date of this Agreement.

2.3 Notwithstanding the provision of Clause 2.3, the following shall apply:

2.3.1 subject to clause 2.3.2, the Sellers shall be entitled to retain any dividend or interim dividend which may be paid (other than dividends in the amount of up to EUR 1,500,000 declared but not yet paid for business years preceding the business year ending 31 December 2012), declared or voted for by the Company (or for the avoidance of doubt any general meeting of shareholders of the Company) after the Date of this Agreement and prior to Completion (the aggregate gross amount thereof accruing to all shareholders of the Company being the "Dividends");

2.3.2 if any dividend or interim dividend is paid (other than dividends in the amount of up to EUR 1,500,000 declared but not yet paid for business years preceding the business year ending 31 December 2012), declared or voted for by the Company (or for the avoidance of doubt any general meeting of shareholders of the Company) after the Date of this Agreement and prior to Completion, the applicable Total Purchase Price shall decrease for total of gross Dividends which have been paid, payable, declared or voted for prior to Completion and, accordingly, the applicable Price shall decrease for all gross Dividends which have been paid, payable, declared or voted for prior to Completion on the basis of a reduction in Price per Share equal to the amount of gross Dividends divided by the number of Shares which are the subject of sale pursuant to this Agreement and actually transferred to the Buyer at Completion and such decrease of Price shall become effective on the earlier of the date that the Dividends are paid, payable or declared or voted for;

2.3.3 for the avoidance of doubt, (i) if any Dividends are declared or voted for by the Company (or for the avoidance of doubt any general meeting of shareholders of the Company) after the Date of this Agreement and prior to Completion and the amount of net Dividends should be paid by the Company on or after the Completion, the Total Purchase Price shall be decreased in accordance with Clause 2.3.2; (ii) if any Dividends are

declared or voted for by the Company (or for the avoidance of doubt any general meeting of shareholders of the Company) after the Date of this Agreement and prior to Completion and the amount of net Dividends should be paid on or after the Completion and the Buyer pays upon Completion the Total Purchase Price, decreased in accordance with Clause 2.3.2, and after Completion the Company does not pay the amount of net Dividends to the shareholders (including the Sellers) as a result of the Company's legally binding obligation to pay such Dividends having fallen away (for whatever reason), the Buyer shall be obliged to pay the difference between the decrease of Total Purchase Price and the Total Purchase Price to the Sellers (to each Seller in proportion to the number of Shares actually transferred to the Buyer by such Seller at Completion, with payment to be made to such Seller's Account) within 30 days from the date the Company's legally binding obligation to pay such Dividends falls away.

- 2.4 Notwithstanding anything in this Agreement suggestive of the contrary, each Seller shall be entitled in its absolute and sole discretion to exercise all voting rights attaching to the Shares held by it from the date of this Agreement up to and including Completion of the sale of such Shares (save where such Seller is prohibited from exercising such rights by the order of any governmental authority) and no provision in this Agreement shall be interpreted as obliging any Seller to exercise the voting rights attaching to the Shares in any specific manner.

3 CONSIDERATION

Subject to the provisions of Clause 2, Clause 11 and Clause 12 of this Agreement, the consideration for the purchase of the Shares will be satisfied by the payment by the Buyer at Completion to the Escrow Account in accordance with the Escrow Agreement of an amount in Euro in cash in immediately available funds equal to the number of Shares to be transferred at Completion by the Sellers to the Buyer pursuant to this Agreement multiplied by the Price (the "Total Purchase Price").

4 CONDITIONS

- 4.1 The obligation of the Parties to fulfil their obligations in connection with Completion shall be conditional on the satisfaction (or waiver in accordance with Clause 4.3), at or prior to the Completion Date, of each of the following conditions:

4.1.1 The Buyer having received:

- (a) from the Competition Authority of Slovenia (or in case if merger clearance from the Competition Authority of Slovenia is not required due to the transaction having a Community dimension and the European Commission undertaking the review of the concentration in relation to the Slovenian territory, from the European Commission), a merger clearance decision permitting the completion of the Transaction contemplated by this Agreement (without the imposition of any conditions and/or obligations that might be regarded by the Buyer in its sole and absolute discretion as material providing always that the Buyer must accept any commitments or obligations offered by it pursuant to Clause 5.1); and
- (b) from the Competition Authorities of Croatia (or in case if merger clearance from the Competition Authority of Croatia is not required due to the transaction having a Community dimension and the European Commission

undertaking the review of the concentration in relation to the Croatian territory, from the European Commission), Bosnia and Herzegovina, Serbia and Montenegro merger clearance decisions permitting the completion of the Transaction contemplated by this Agreement (without the imposition of any conditions and/or obligations that might be regarded by the Buyer in its sole and absolute discretion as material providing always that the Buyer must accept any commitments or obligations offered by it pursuant to Clause 5.1);

the merger clearances referred to in paragraph (b) being the "Overseas Competition Clearances" and the merger clearance by the European Commission (if applicable) being the "EU Competition Clearance";

4.1.2 (a) the Company having at the latest until the date falling on five Business Days before the Restructuring End Date published on the Ljubljana Stock Exchange SEOnet information system a statement evidencing that the Company and its Affiliates have with their financing banks and holders of debt instruments effected a long-term debt restructuring; (b) the Buyer having at the latest until the Restructuring End Date in relation to the statement from part (a) received binding debt restructuring agreement(s) entered into between the Company and its Affiliates on one side and their financing banks and holders of debt instruments on the other side with respect to majority of the Group's debt, together with all schedules, annexes, agreements and other documents referred to in such agreement(s) (the "Debt Restructuring Documents") with such Debt Restructuring Documents and restructuring of Group debt effected thereunder being satisfactory to the Buyer in its sole and absolute discretion (parts (a) and (b) together the "Debt Restructuring Condition);

4.1.3 Pivovarna Union, d.d. having obtained consent of its general meeting of shareholders for the execution of this Agreement, as required under Article 330 of the Companies Act (*Zakon o gospodarskih družbah*) (the "Shareholder Approval Condition");

4.1.4 the transfer by all Sellers to the Buyer at Completion of all Shares, free of all Encumbrances (for the avoidance of doubt, in the number as set out in column 4 of Schedule 1)(the "Threshold Condition"); and

4.1.5 the Buyer, Sellers and the Pledges having entered into the Escrow Agreement (the "Escrow Agreement Condition").

4.2 Without limiting any other provision of this Agreement, the Parties agree that the following shall apply in relation to satisfaction of the Conditions:

4.2.1 the provisions of Clause 5 shall apply to the Competition Conditions;

4.2.2 the provisions of Clause 6 shall apply to the Debt Restructuring Condition;

4.2.3 the provisions of Clause 7 shall apply to the Shareholder Approval Condition;

4.2.4 the provisions of Clause 8 shall apply to the Threshold Condition; and

4.2.5 the provisions of Clause 9 shall apply to the Escrow Agreement Condition.

4.3 The Conditions may be waived at or prior to the Completion Date as follows:

4.3.1 the Buyer may with a written notice to the Sellers waive the Competition Conditions and/or the Threshold Condition and/or the Debt Restructuring Condition; and

4.3.2 the Shareholder Approval Seller may with a written notice to the Buyer waive the Shareholder Approval Condition.

5 COMPETITION CONDITIONS ENDEAVOURS

5.1 The Buyer shall offer to the Competition Authorities in Slovenia, Croatia, Bosnia and Herzegovina, Serbia, and Montenegro (and/or the European Commission as the case may be) commitments and obligations addressing any potential merger clearance concerns to the extent that such commitments and obligations are regarded as reasonable by the Buyer in its absolute and sole discretion. The Buyer shall (at its own cost) as soon as practicable make all appropriate merger notifications and filings (and updates thereof) in connection with, or required to satisfy, the Competition Conditions (the "Required Submissions") on such basis.

5.2 The Buyer shall:

5.2.1 keep the Sellers' Legal Advisers promptly informed about any material developments regarding the fulfilment of the Competition Conditions of which it becomes aware; and

5.2.2 as soon as reasonably practicable disclose to the Seller's Legal Advisers any material matter (of which it is or becomes aware) which will prevent the Competition Conditions from being fulfilled on or before the date falling 5 Business Days prior to the Long Stop Date immediately upon it coming to its notice.

5.3 Without limiting the generality of Clause 5.2, the Buyer shall:

5.3.1 provide the Sellers' Legal Advisers with reports on all the Required Submissions (and any other submissions made to any Competition Authority on or before the Date of this Agreement), in any case without disclosing any business secrets or other confidential data; and

5.3.2 communicate as required with, and provide all information which is requested or required by, the Competition Authorities in connection with the Required Submissions as soon as practicable and provide report of any such communications and/or information which are material and made in writing to the Sellers' Legal Advisers, in any case without disclosing any business secrets or other confidential data.

5.4 If any Competition Authority requires a meeting with any Party, the Sellers' Legal Advisers and the Buyer (and their advisers) will discuss and, acting reasonably, consult in advance of such meeting how best to present any relevant matters in order to secure prompt satisfaction of the Competition Conditions.

5.5 The Buyer shall notify the Sellers and the Sellers' Legal Advisers in writing as soon as any Competition Condition has been fulfilled.

5.6 The Buyer shall (A) within two (2) Business Days of receiving a merger clearance decision permitting the completion of the Transaction contemplated by this Agreement from any of the Competition Authorities of Croatia, Bosnia and Herzegovina, Serbia or Montenegro, notify the Sellers' Legal Advisers of receipt of such clearance decisions and (B) within ten (10) Business Days of receiving a merger clearance decision permitting the completion of the Transaction contemplated by this Agreement from any of the Competition Authorities of Croatia, Bosnia and Herzegovina, Serbia or Montenegro, notify the Sellers' Legal Advisers whether such merger clearance decision in accordance with the discretionary opinion of the Buyer imposes any conditions and/or obligations that might be regarded by the Buyer in its sole and absolute discretion as material and therefore the relevant Competition Condition is not satisfied. If the Buyer does not notify the Sellers' Legal Adviser within the deadline set out in part (B) of the previous sentence, then it shall be deemed that the relevant merger decision does not impose any conditions and/or obligations that might be regarded by the Buyer as material and that therefore the relevant Competition Condition is satisfied.

5.7 If by the date falling 5 Business Days prior to the Long Stop Date the Buyer has not received all of the Overseas Competition Clearances and/or the EU Competition Clearance (as the case may be) and has not waived the Competition Conditions in respect of which the Overseas Competition Clearances and/or the EU Competition Clearance (as the case may be) were not received and all other Conditions have been satisfied (or waived in accordance with Clause 4.3 or in the case of the Threshold Condition is capable of satisfaction) on or before the Long Stop Date then the following shall apply:

5.7.1 the Buyer shall immediately pay a termination fee of 7.5% of the Total Purchase Price, or, if one of the Overseas Competition Clearances which has not been received is from the Competition Authority of Serbia, a termination fee of five per cent (5%) of the Total Purchase Price, which shall be payable to the Sellers (to their respective Seller's Account) in proportion to the number of Shares set out opposite each Seller's name in column 4 of Schedule 1;

5.7.2 this Agreement shall automatically terminate;

5.7.3 the Buyer shall have no further liability to any Seller under this Agreement; for the avoidance of doubt, the claim for the payment of the termination fee shall be the Sellers' only remedy and the Sellers shall not be entitled to and expressly waive and relinquish all claims for the performance of this Agreement or any damages from the Buyer or any other claims arising from or in connection with this Agreement, save for any potential liability as a result of a breach of any surviving obligations pursuant to Clause 19.9; and

5.7.4 the Sellers shall have no liability to the Buyer under this Agreement for any reason save for any potential liability as a result of a breach of any surviving obligations pursuant to Clause 19.9.

5.8 For the avoidance of doubt, the Threshold Condition shall not be capable of satisfaction on the Long Stop Date if on or after the date falling 10 Business Days prior to the Long Stop Date any Regulatory Prohibition (by itself or together with any other Regulatory Prohibitions) prevents the satisfaction of the Threshold Condition.

5.9 The provision of information by the Buyer to the Sellers' Legal Advisers pursuant to this Clause 5 shall be on a Counsel to Counsel Basis only. For the avoidance of doubt, the Buyer shall have no obligation whatsoever to disclose to the Sellers' Legal Advisers any information

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which qualifies as a business secret as defined under any applicable law or is otherwise of a confidential nature or is prohibited to be disclosed to the Sellers' Legal Advisers under any applicable law or decision of any regulatory authority. The Sellers' Legal Advisers may inform the Sellers in general on the progress and/or any potential hold-ups with respect to the fulfilment of Competition Conditions (for the avoidance of doubt the Sellers' Legal Advisers shall not be entitled to share with the Sellers any market sensitive information related to the Buyer and/or the Company). The Sellers' Legal Advisers may share any information provided to them with any reputable legal adviser (not having a conflict of interests with the Company) reasonably acceptable to the Buyer in any relevant jurisdiction, provided that such legal advisers shall not share so received information with the Sellers or any other third person.

6 DEBT RESTRUCTURING CONDITION

6.1 If part (a) of the Restructuring Condition is not satisfied or full and complete copies of Debt Restructuring Documents are not received by the Buyer at the latest until the Restructuring End Date and the Debt Restructuring Condition is not waived by the Buyer in accordance with the Clause 4.3, then the following shall apply:

6.1.1 this Agreement shall automatically terminate; and

6.1.2 no Party shall have any liability to the other Parties under this Agreement for any reason, save for any potential liability as a result of a breach of any surviving obligations pursuant to Clause 19.9.

6.2 The Buyer shall within 45 calendar days from the later of (a) statement published on the Ljubljana Stock Exchange SEOnet information system evidencing that the Company and its Affiliates have with their financing banks and holders of debt instruments effected a long term debt restructuring and (b) receipt of full and complete copies of Debt Restructuring Documents, of which the Buyer shall inform the Sellers within two (2) Business Days from the receipt of full and complete copies of Debt Restructuring Documents, send a notice to all Sellers in which the Buyer shall inform the Sellers either that: (a) the debt restructuring of the Group, as effected pursuant to the Debt Restructuring Documents, is satisfactory to the Buyer (the "**Satisfactory Debt Restructuring Notice**"); or (b) the debt restructuring of the Group, as effected pursuant to the Debt Restructuring Documents, is not satisfactory to the Buyer (the "**Non-Satisfactory Debt Restructuring Notice**"). In case that the Buyer does not send to the Sellers the Non-Satisfactory Debt Restructuring Notice within the deadline set out in the previous sentence, the Debt Restructuring Condition shall be deemed to be satisfied in full. For the avoidance of doubt, it shall be in the Buyer's sole and absolute discretion to decide whether the debt restructuring of the Group effected pursuant to the Debt Restructuring Documents is satisfactory to it or not.

6.3 If the Buyer within the deadline set out in Clause 6.2 sends to the Sellers a Non-Satisfactory Debt Restructuring Notice, then the following shall apply:

6.3.1 subject to Clause 6.4, the Buyer shall immediately pay a termination fee of 7.5% of the Total Purchase Price, to the Sellers' Accounts, which shall be payable to the Sellers (to their respective Seller's Account) in proportion to the number of Shares set out opposite each Seller's name in column 4 of Schedule 1;

6.3.2 this Agreement shall automatically terminate;

6.3.3 the Buyer shall have no further liability to any Seller under this Agreement; for the avoidance of doubt, the claim for the payment of the termination fee pursuant to Clause 6.3.1 shall be the Sellers' only remedy and the Sellers shall not be entitled to and expressly waive and relinquish all claims for the performance of this Agreement or any damages from the Buyer or any other claims arising from or in connection with this Agreement, save for any potential liability as a result of a breach of any surviving obligations pursuant to Clause 19.9; and

6.3.4 the Sellers shall have no liability to the Buyer under this Agreement for any reason, save for any potential liability as a result of a breach of any surviving obligations pursuant to Clause 19.9.

6.4 Unless otherwise agreed by the Parties in writing and notwithstanding the provisions of Clause 6.3, the termination fee pursuant to Clause 6.3.1 shall not be payable by the Buyer if any of the Debt Restructuring Documents requires or stipulates a capital injection or financial support from the Buyer or any of its Affiliates or any third party.

7 SHAREHOLDER APPROVAL CONDITION

7.1 Pivovarna Laško d.d. shall procure satisfaction of the Shareholder Approval Condition as soon as practicable following the Date of this Agreement. If the Shareholder Approval Condition is not satisfied in 60 calendar days following the Date of this Agreement, the Shareholder Approval Conditions shall for all purposes under this Agreement be deemed to be satisfied on the date falling on 61 calendar days after the Date of this Agreement (and shall be deemed to be satisfied continuously thereafter).

7.2 The Shareholder Approval Seller shall notify the Buyer and all other Sellers in writing as soon as the Shareholder Approval Condition has been satisfied and in any event not less than three Business Days following the date of the Shareholder Approval Condition being satisfied.

8 THRESHOLD CONDITION

8.1 The Sellers shall procure satisfaction of the Threshold Condition.

8.2 Subject always to Clause 10.2, if the Threshold Condition is not fulfilled on the Completion Date and waived in accordance with Clause 4.3 on or before the Completion Date, then the following shall apply:

8.2.1 this Agreement shall automatically terminate; and

8.2.2 no Party shall have any liability to the other Parties under this Agreement for any reason, save for the Party or Parties who prevented the satisfaction of the Threshold Condition and save for any potential liability of any Party as a result of a breach of any surviving obligations pursuant to Clause 19.9. For the avoidance of doubt, the Party or Parties who prevented the satisfaction of the Threshold Condition shall not be liable to any other Parties if the first Party or Parties prevented the satisfaction of the Threshold Condition solely due to Regulatory Prohibitions being imposed in relation to their Shares.

8.3 If the Escrow Agent on Completion Date informs the Buyer that the Threshold Condition cannot be or is not satisfied and provides to the Buyer the information on the number of Shares that may be free of any Encumbrances transferred to the Buyer at Completion, then the following shall apply:

8.3.1 the Buyer shall have the right to waive the Threshold Condition on Completion Date and proceed to Completion with respect to Shares that may be transferred to the Buyer free of any Encumbrances by delivering to the Escrow Agent a written statement on waiving the Threshold Condition; or

8.3.2 the Parties may subject to the terms of the Escrow Agreement agree on an alternative Completion Date; or

8.3.3 the provisions of Clause 8.2 shall apply if there is no waiver of the Threshold Condition pursuant to Clause 8.3.1 or agreement on an alternative Completion Date pursuant to Clause 8.3.2.

9 ESCROW AGREEMENT CONDITION

9.1 The Parties shall use their best endeavours to negotiate in good faith and to agree the terms of the Escrow Agreement with each other, KDD and the Pledgeses as soon as possible after the Date of this Agreement in accordance with the provisions of this Clause 9.

9.2 If the Escrow Agreement has not been agreed and signed by all parties thereto by the date falling on 45 calendar days after the Date of this Agreement, the Buyer shall have the right to immediately terminate this Agreement by sending a written notice to the Sellers.

9.3 If the Buyer does not terminate this Agreement pursuant to Clause 9.2 and the Escrow Agreement has not been agreed and signed by all parties thereto by the date falling on 60 calendar days after the Date of this Agreement (the "**Escrow Agreement End Date**"), then the following shall apply:

9.3.1 the Buyer shall continue to have the right to terminate this Agreement by sending a written notice to the Sellers at any time up to the Long Stop Date; and

9.3.2 each of the Pledged Share Sellers shall have in the period between the Escrow Agreement End Date and (including) the date falling on five Business Days after the Escrow Agreement End Date the right to terminate this Agreement by sending a written notice to the other Sellers and the Buyer (for the avoidance of doubt, the Pledged Share Sellers shall not have the right to terminate this Agreement after the date falling on five Business Days after the Escrow Agreement End Date and in case if they terminate this Agreement in the relevant period this Agreement shall terminate with respect to all Parties).

9.4 If the Escrow Agreement Condition is not satisfied until the Long Stop Date this Agreement shall automatically terminate.

9.5 In case of any termination of this Agreement pursuant to Clause 9.3 by either the Buyer or any of the Pledged Share Sellers or automatically pursuant to Clause 9.4, no Party shall have any

liability to the other Parties under this Agreement for any reason, save for any potential liability of any Party as a result of a breach of any surviving obligations pursuant to Clause 19.9.

10 REGULATORY PROHIBITIONS

10.1 Each of the Sellers shall in relation to its Shares use all possible endeavours to procure that no Regulatory Prohibition is issued or becomes effective. Without limiting the generality of the previous sentence, the Sellers shall comply with applicable legislation and sub-legislative rules and regulations and shall not breach any agreement if such breach may likely result in a Regulatory Prohibition being issued or becoming effective.

10.2 Provided always that the provisions of Clause 10.4 do not apply, if any of the Shares is subject to a Regulatory Prohibition immediately prior to or on the date set for Completion pursuant to this Agreement and provided that the Buyer does not waive the Threshold Condition in accordance with Clause 4.3, then:

10.2.1 the provisions of Clause 10.3 shall apply; and

10.2.2 Completion shall be deferred until the tenth (10) Business Day following the date on which the Buyer becomes aware that the Regulatory Prohibition(s) no longer prevent the satisfaction of the Threshold Condition (or such other date that the Parties may agree).

10.3 Any Seller whose Shares become subject to a Regulatory Prohibition shall use all possible endeavours to promptly procure that the Regulatory Prohibition ceases to prevent the transfer of Shares to the Buyer pursuant to this Agreement. Without limiting the generality of the previous sentence, any Seller whose Shares are subject to a Regulatory Prohibition shall, among other things, use its best endeavours to successfully challenge the Regulatory Prohibition by all possible legal remedies (including requests for temporary measures) and shall, to the extent possible, also request the relevant authority that imposed the Regulatory Prohibition to approve the transfer of Shares to the Buyer pursuant to this Agreement.

10.4 If any of the Shares is subject to a Regulatory Prohibition on or after the date falling on ten (10) Business Days before the Long Stop Date (and provided that the Buyer until (including) the date falling on 10 Business Days prior to the Long Stop Date does not waive the Threshold Condition in accordance with Clause 4.3) then:

10.4.1 this Agreement shall automatically terminate; and

10.4.2 no Party shall have any liability to any other Party under this Agreement in relation to the failure to fulfil any Conditions or for any other reason, save in relation to the breach of Clause 10.1 and/or 10.3 of this Agreement and save for any potential liability of any Party as a result of a breach of any surviving obligations pursuant to Clause 19.9.

10.5 Each Seller shall:

10.5.1 keep the Buyer's Legal Advisers promptly informed about any material matter (of which it is or becomes aware) which may give rise or relate to a Regulatory Prohibition upon becoming aware of it and shall immediately upon the issue of any Regulatory Prohibition deliver reports relating to such Regulatory Prohibition to the Buyer's Legal Advisers;

10.5.2 keep the Buyer's Legal Advisers promptly informed if any Regulatory Prohibition ceases to prevent the transfer of Shares pursuant to this Agreement;

10.5.3 as soon as reasonably practicable disclose to the Buyer's Legal Advisers:

(a) any material matter (of which it is or becomes aware) which may prevent the Regulatory Prohibition from being successfully challenged or approval for the transfer of Shares subject to the Regulatory Prohibition being obtained from the relevant authority before the date falling on 10 Business Days prior to the Long Stop Date immediately upon it coming to its notice; and

(b) any indication (of which it is or becomes aware) that any relevant authority may intend to impose a Regulatory Prohibition or withhold its approval for the transfer of Shares subject to the Regulatory Prohibition.

10.6 Without limiting the generality of Clause 10.5, each Seller shall:

10.6.1 progress any material matters relating to the challenge of Regulatory Prohibitions and/or requests for approval of the relevant authority to transfer the Shares pursuant to this Agreement in consultation with the Buyer's Legal Advisers (without any obligation whatsoever to take into account such consultations); and

10.6.2 provide the Buyer's Legal Advisers with reports on all the Regulatory Prohibitions and reports on all the legal remedies by which the Regulatory Prohibitions are challenged and reports on all requests to the relevant authorities to approve the transfer of Shares pursuant to this Agreement, in any case without disclosing any business secrets or other confidential data.

10.7 The provision of information by the Sellers to the Buyer's Legal Advisers pursuant to this Clause 11 shall be on a Counsel to Counsel Basis only. For the avoidance of doubt the Sellers shall have no obligation whatsoever to disclose to the Buyer's Legal Advisers any information which qualifies as a bank secrecy or business secret as defined under applicable law or is otherwise of a confidential nature or is prohibited to be disclosed to the Buyer's Legal Advisers under any applicable law or decision of any regulatory authority. The Buyer's Legal Advisers may inform the Buyer in general on all important material aspects of any Regulatory Prohibitions and related proceedings.

11 COMPLETION

11.1 Subject to satisfaction or waiver (in accordance with this Agreement) of the Conditions, Completion will take place at the offices of the Escrow Agent or at any other place mutually agreed between the Parties on the (i) date which is ten (10) Business Days after the date on which the last of the Conditions (excluding the Threshold Condition) is satisfied or waived by the Parties in accordance with Clause 4.3 (or, if such date is not a Business Day, on the next following Business Day); or (ii) such other date as the Parties may agree in writing, but, in any event, no later than the Long Stop Date.

11.2 On Completion the Sellers and the Buyer and the Escrow Agent shall undertake the following actions in accordance with and subject to the Escrow Agreement:

- 11.2.1 Sellers shall transfer to the Fiduciary Securities Account (as defined in the Escrow Agreement) all of their Shares;
- 11.2.2 Sellers shall procure the delivery to the Escrow Agent of all documents necessary for the deletion of any and all Encumbrances on Shares (to the extent that the Escrow Agent is under the Escrow Agreement not already entitled to delete certain Encumbrances and can on that basis delete such Encumbrances);
- 11.2.3 the Buyer shall transfer to the Fiduciary Bank Account (as defined in the Escrow Agreement) an amount in Euro equal to the Total Purchase Price;
- 11.2.4 the Escrow Agent shall verify whether all Shares have been transferred to its Fiduciary Securities Account (as defined in the Escrow Agreement) and whether it can in accordance with the Escrow Agreement and received documents delete all Encumbrances on Shares and transfer Shares free of any Encumbrances to the Buyer's Securities Account (as defined in the Escrow Agreement) in satisfaction of the Threshold Condition;
- 11.2.5 the Escrow Agent shall inform the Parties in writing if the Threshold Condition can be satisfied or in case it cannot be satisfied of the number of Shares that can be at Completion transferred to the Buyer free of any Encumbrances;
- 11.2.6 the Escrow Agent shall verify whether the amount of Total Purchase Price has been credited to its Fiduciary Bank Account (as defined in the Escrow Agreement) and inform in writing thereof the Parties; and
- 11.2.7 subject to the Escrow Agent finding that the Threshold Condition can be satisfied and (or the Buyer waiving the Threshold Condition) and that the amount of Total Purchase Price has been credited to the Fiduciary Bank Account the Escrow Agent shall: (i) delete all Encumbrances from the Shares which can be transferred free of Encumbrances to the Buyer; (ii) transfer such Shares free of any Encumbrances to the Buyer to its Buyer's Securities Account; and (iii) transfer from its Fiduciary Bank Account to such bank accounts and persons as each relevant Seller determines in accordance with the Escrow Agreement the total of such Seller's Individual Seller Price in consideration for the Shares that have been transferred to the Buyer free of all Encumbrances; and
- 11.2.8 the Sellers shall procure that the Sellers' Representative shall deliver to the Buyer the Data Room DVD.

12 TOP UP

12.1 If, during the period commencing on the Date of this Agreement and ending on the date falling 12 months after the date of completion of the Mandatory Offer (the "Top-up Period"), the Buyer or any of its Associates directly or indirectly acquires or disposes of or agrees to acquire or dispose of Ordinary Shares or any interest in Ordinary Shares from or to any person (other than the Buyer or an Associate of the Buyer or pursuant to this Agreement) at a price per Ordinary Share greater than the then applicable Price (the "Higher Price") then the Price shall increase to the Higher Price. That increase shall become effective on the date of completion of such acquisition or disposal (whether or not such completion takes place

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during the Top-up Period) (and, for the avoidance of doubt, such increase shall not become effective and the then applicable Price shall not increase to the Higher Price if completion of the agreed acquisition or disposal of Ordinary Shares or an interest in Ordinary Shares does not occur pursuant to the relevant agreement). For the avoidance of doubt, acquisition or disposal of Ordinary Shares during the Top-Up Period shall also mean any completion of acquisition or disposal of Ordinary Shares which may have been agreed prior to the Date of this Agreement.

12.2 In the case of an increase in the Price becoming effective pursuant to Clause 12.1 prior to Completion where either (i) that increase occurs as a result of the direct or indirect acquisition or disposal of Ordinary Shares or an interest in Ordinary Shares and the consideration for such acquisition or disposal is cash only payable upon completion of that acquisition or disposal or (ii) the amount of that increase is agreed or determined in accordance with this Clause 12 on or prior to Completion, that increase shall be reflected accordingly in the amounts payable by the Buyer at Completion pursuant to Clauses 3 and 11.

12.3 In the case of any other increase in the Price becoming effective pursuant to Clause 12.1, the Buyer shall pay to each Seller to its Seller's Account an amount equal to the applicable Top-up Payment. The "Top-up Payment" in relation to any Seller means (i) an amount equal to the number of Shares transferred by that Seller to the Buyer at Completion pursuant to this Agreement multiplied by the Higher Price less (ii) the aggregate of all previous amounts paid by the Buyer to that Seller pursuant to Clauses 3 and 11 and this Clause 12.

12.4 Any amount payable pursuant to Clause 12.3 shall be paid by the Buyer in Euro in cash in immediately available funds within five (5) Business Days after:

12.4.1 in the case of an increase in the Price which occurs as a result of the direct or indirect acquisition or disposal of Ordinary Shares or an interest in Ordinary Shares and the consideration for such acquisition is cash only payable upon completion of that acquisition or disposal, the date of such completion of acquisition or disposal;

12.4.2 in any other case, the date on which the amount of that increase is agreed or finally determined in accordance with this Clause 12.

12.5 For the purposes of this Clause 12, references to an acquisition of Ordinary Shares shall be deemed to include the entry into of any arrangements giving rise to an interest in Ordinary Shares and references to a disposal of Ordinary Shares shall be deemed to include the entry into of any arrangements pursuant to which any other person acquires an interest in Ordinary Shares but specifically exclude any security interests in Ordinary Shares (such as pledges) granted to providers of finance of the Buyer or the Associates of the Buyer.

12.6 For the purposes of determining the amount of any Higher Price where an amount is payable denominated in a currency other than Euro, that amount shall be converted into Euro at the European Central Bank reference rate on the day of that payment.

12.7 For the purposes of determining the amount of any Higher Price where any consideration payable for Ordinary Shares consists, in whole or in part, of consideration other than cash, or there is an indirect acquisition of an interest in Ordinary Shares (including, without limitation, an interest arising through a derivative or other financial instrument), then the amount of the Higher Price shall be any amount agreed between the Buyer and the Sellers. If the Buyer and the Sellers are unable to so agree, the amount of any Higher Price shall be determined by an Expert (the "Expert"). The Expert shall be an internationally recognized accounting firm or

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investment bank with relevant experience. If the Buyer and the Sellers do not agree on the identity of the Expert, then either the Buyer or the Sellers may at any time request that the Expert be nominated by the International Center for Expertise in accordance with the provisions for the appointment of experts under the Rules for Expertise of the International Chamber of Commerce.

12.8 The Parties shall cooperate with all reasonable requests by the Expert for information and shall otherwise provide the Expert with all assistance which it may reasonably request in relation to its determination. Any determination by the Expert of the amount of any Higher Price shall be final and binding on the parties to this Agreement and may not be challenged except in case of error.

12.9 The fees of the Expert shall be borne 50% by the Buyer and 50% by the Sellers.

12.10 In relation to amounts payable by the Buyer to any Seller pursuant to Clause 12.3, the Buyer shall pay to the Seller such additional amount (if any) equivalent to interest at the Interest Rate from (and including) the date falling fifteen (15) Business Days after the date of the event giving rise to the obligation to make a payment pursuant to this Clause 12 to (but excluding) the actual date of payment at the Interest Rate, calculated and accruing daily and compounding quarterly.

12.11 For the avoidance of doubt, the provisions of this Clause 12 may apply more than once with the intention that the Sellers will each receive, in aggregate, an amount per Share equal to the highest price per Ordinary Share paid or agreed to be paid by or to the Buyer or an Associate of the Buyer during the Top-up Period.

13 WARRANTIES

13.1 Each of the Sellers warrants to the Buyer and the Buyer warrants to each Seller in the following terms (unless specified otherwise below, the warranties are given as of the Date of this Agreement and as of the Completion Date)

13.1.1 in the case of each Seller only, at the Date of this Agreement it is and at Completion it will be the sole legal and beneficial owner of the Shares set opposite its name in Schedule 1 (for the avoidance of doubt, in the number as set out in column 4 of Schedule 1);

13.1.2 in the case of each Seller only, such Shares at Completion will be free from any Encumbrance and transferred to the Buyer free from any Encumbrance and there is no agreement or commitment outstanding to create an Encumbrance in relation to such Shares;

13.1.3 in the case of each Seller only, the subscription contribution for the acquisition of Shares has been fully paid and based on this the Shares have lawfully been established and no claims for additional payments regarding or in connection with the Shares exist;

13.1.4 it has the requisite power and authority to enter into and perform this Agreement and any other document to be executed pursuant to this Agreement (each a "Transaction Document") to which it is or will be a party;

- 13.1.5 this Agreement constitutes, and each Transaction Document to which it is or will be a party constitutes or will constitute, its binding obligations in accordance with their respective terms;
- 13.1.6 no consent or approval by any governmental or other authority is required on its part in connection with the execution of this Agreement or the consummation of the Transaction as contemplated in it (other than those consents and approvals referred to in Clause 4.1);
- 13.1.7 the execution and the delivery of, and its performance of, its obligations under this Agreement and each of the Transaction Documents to which it is a party will not:
- (a) result in a material breach of any of its constitutional documents;
 - (b) result in a material breach of, or constitute a default under any instrument to which it is a party or by which it is bound;
 - (c) result in a breach of any order, judgment or decree of any court or governmental agency to which it is a party or is bound;
 - (d) except as contemplated by the Shareholder Approval Condition, require the consent of its shareholders or the shareholders of any of its Affiliates;
- 13.1.8 at the Date of this Agreement it is not insolvent or unable to pay its debts within the meaning of any relevant insolvency legislation nor has it stopped paying its debts as they fall due;
- 13.1.9 it is not aware of anything that will or may prevent any of the Conditions set out in Clause 4.1 being satisfied;
- 13.1.10 in the case of the Buyer only, at the Completion Date it will have immediately available on an unconditional basis (subject only to Completion) the necessary cash resources (including available financing and guarantees) to it to satisfy in full its obligations under this Agreement and the Transaction Documents and the Mandatory Offer; and
- 13.1.11 in the case of the Buyer only, the Company shall not secure an advance or a loan for the acquisition of Ordinary Shares by the Buyer or any of its Affiliates or in relation to the Buyer or any of its Affiliates in any other way breach Article 248 of the Companies Act (*Zakon o gospodarskih družbah*).

14 SPECIFIC SELLERS' WARRANTIES AND UNDERTAKINGS

- 14.1 Each of the Sellers (in respect of itself and its Affiliates) warrants to the Buyer (unless specified otherwise below, the warranties are given as of 31 December 2012 and until the Completion Date) that:
- 14.1.1 apart from the Shares, there exist no other direct or indirect equity participations of the Sellers or their Affiliates, including silent participations or sub-participations, in the Company and its Affiliates (excluding for the avoidance of doubt (i) any Ordinary Shares that may be at any time held by mutual funds (*vzajemni skladi*) managed by any of the Sellers or their

Affiliates; and (ii) any Ordinary Shares that may at any time form part of the cover assets (*kritni sklad*) pursuant to the Slovenian Insurance Act (*Zakon o zavarovalništvu*) of any Sellers or their Affiliates), and there exist no conditional obligations or binding offers concerning the creation of such participations of the Sellers or their Affiliates. There are neither any trust agreements or similar agreements in relation to the Shares nor are there obligations in relation to shareholder rights or similar rights (e.g. a voting trust, participation in profits);

- 14.1.2 there exist no agreements between the Company or its Affiliates on one side and the Sellers or their Affiliates on the other side pursuant to which the Company is obliged to issue or transfer Ordinary Shares or other securities of the Company and/or rights to subscribe Ordinary Shares or other securities in the Company, as the case may be. This is in particular true with regard to convertible bonds and similar rights or instruments;
- 14.1.3 to the knowledge of the Sellers, no contracts or undertakings for the issuance of shares, bonds or other securities of the Company exist upon which a right to demand the issuance of the shares, bonds or other securities would be ensured to any person;
- 14.1.4 there is no and there will be no outstanding indebtedness or other liability (actual or contingent) by the Company and/or its Affiliates to the Sellers or their Affiliates, other than (A) in the ordinary course of business and (B) other than any indebtedness or other liability (actual or contingent) arising from any agreements between the Company and/or its Affiliates and the Sellers or their Affiliates existing at the Date of this Agreement, as amended from time to time in the ordinary course of business;
- 14.1.5 in the period from 31 December 2012 and until the Completion Date, except as (i) expressly contemplated herein, or (ii) as required by mandatory laws or a binding decision of any governmental authority with jurisdiction over the Sellers and/or the Company:
- (a) the Sellers or their Affiliates have not and will not request and/or obtain any additional guarantees or warranties for their obligations by the Company and its Affiliates;
 - (b) the Sellers and their Affiliates have not and will not enter into any new contract with the Company or its Affiliates outside of the ordinary course of business (other than any contracts forming part of the Debt Restructuring Documents) or conclude an amendment to any existing contract with the Company or its Affiliates outside of the ordinary course of business (other than as contemplated by the Debt Restructuring Documents);
 - (c) the Sellers and their Affiliates have not and will not enter into new purchase or lease agreements with the Company and/or its Affiliates other than in the ordinary course of business;
 - (d) without prejudice to Clause 2.3 there has not been and will be no Leakage;
 - (e) the Sellers and their Affiliates have not and will not commence or settle any legal or arbitration proceedings with the Company or its Affiliates in which