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**[•], 2023**

**Frigo DebtCo plc  
as the Issuer**

**and**

**Frigo Newco 1 Limited  
as Third Party Security Provider**

**and**

**the purchasers named herein  
as Purchasers**

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**NOTES PURCHASE AGREEMENT**

**relating to**

**€75,000,000 4.00% Cash Interest and 7.00%/8.00% PIK Toggle Interest Senior  
Secured Notes due 2026**

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Ladies and Gentlemen:

## INTRODUCTION

Frigo DebtCo plc, a public limited company, incorporated under the laws of England and Wales, having its registered office at C/O Tmf Group 8th Floor, 20 Farringdon Street, London, EC4A 4AB, United Kingdom and registered with Companies House under 14707701 and (the “**Issuer**”) proposes to issue and sell in a private placement €75,000,000 in aggregate principal amount of Senior Secured Notes due 2026 (the “**New Senior Secured Notes**”) to the several purchasers listed in Part A hereto (together, the “**Purchasers**” and, each individually, a “**Purchaser**”).

The New Senior Secured Notes are being issued in connection with a restructuring of the Frigoglass Group (as defined below), including the acquisition (the “**FH Acquisition**”) by the Issuer of the entire share capital of Frigoinvest Holdings B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands, having its corporate seat (*statutaire zetel*) in Rotterdam, the Netherlands, its registered office at Weerdestein 97, Office 119, 1083 GG Amsterdam, the Netherlands and registered with the Trade Register of the Chamber of Commerce (*Kamer van Koophandel, afdeling Handelsregister*) under number 24434068 (“**FH B.V.**” and, together with its subsidiaries, the “**Frigoglass Group**”), as more fully described under “*Summary—The Restructuring*” in the Private Placement Memorandum (as defined below) (collectively, the “**Transactions**”). As a result of the Transactions on or about the Accession Date (as defined below), (i) the Issuer will own the entire share capital of FH B.V. and (ii) Frigo Newco 1 Limited, a limited liability company incorporated under the laws of England and Wales with its office address at C/O Tmf Group 8th Floor, 20 Farringdon Street, London, EC4A 4AB, United Kingdom and registered with Companies House under 14701481 (“**New TopCo**”) will hold 85.0% of the shares in the Issuer with the remaining 15% being held by Frigoglass S.A.I.C.

The New Senior Secured Notes will be issued under an indenture to be dated as of the Closing Date (as defined below), among, *inter alios*, the Issuer, New TopCo, GLAS Trust Company LLC, as trustee (the “**Trustee**”), and Madison Pacific Trust Limited, as security agent (the “**Security Agent**”) (the “**Indenture**”).

Subject to certain limitations under the applicable law, the New Senior Secured Notes will be guaranteed (the “**Guarantees**”) by the entities set out in Schedule 2 (the “**Guarantors**”) on a joint and several basis. Immediately after closing on the Closing Date (such time and date, the “**Accession Date**”), the Guarantors will (i) accede to this Agreement by entering into an accession agreement substantially in the form of Schedule 4 hereto (the “**Accession Agreement**”), (ii) accede to the Indenture by executing and delivering a supplemental indenture (the “**First Supplemental Indenture**”) and (iii) accede to the Intercreditor Agreement (as defined below) by executing and delivering an intercreditor accession deed (an “**Intercreditor Accession Deed**”). On the Accession Date, Frigoglass S.A.I.C. will accede (i) to this Agreement as third party security provider by executing and delivering an accession agreement (the “**Frigoglass S.A.I.C. Accession Agreement**” and together with the Accession Agreement, the “**Accession Agreements**”)¹, (ii) to the Indenture by executing and delivering a supplemental indenture (the “**Second Supplemental Indenture**” and,

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¹ Frigoglass S.A.I.C. will execute and deliver an accession agreement substantially similar to the Accession Agreement set out in Schedule 4 and as adjusted for the purposes of acceding as third party security provider, as necessary.

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together with the First Supplemental Indenture, the “**Supplemental Indentures**”) and (iii) to the Intercreditor Agreement by executing and delivering an Intercreditor Accession Deed.

Certain of the Purchasers subscribed for and hold Bridge Notes (as defined below) (the “**Bridge Noteholders**”) in order to provide Frigoglass S.A.I.C. and the Frigoglass Group with sufficient liquidity and operational stability to negotiate, agree and implement the Transactions. On the Closing Date, the aggregate principal amount of the Bridge Notes, together with accrued and unpaid interest thereon up to, but excluding, the Closing Date (the “**Bridge Notes Claims**”), will be redeemed in full as part of the Restructuring.

The Bridge Noteholders will enter into a Restructuring Implementation Deed (the “**RID**”) (such Bridge Noteholders, the “**Rolling Purchasers**”), dated the date that falls six (6) Business Days (as defined below) prior to the Closing Date (the “**Funding Deadline**”). The RID will set forth, among other things, the agreement between the Issuer and the Rolling Purchasers that the Purchase Price (as defined below) for the New Senior Secured Notes purchased by them hereunder (the “**Rollover Notes**”) up to an amount of their Bridge Notes Claims will be settled on a cashless basis. To the extent the amount of the Purchase Price for their Rollover Notes exceeds their respective Bridge Notes Claims (such amount, the “**Surplus Funding Obligation**”), the Rolling Purchasers will pre-fund in cash an amount equal to their respective Surplus Funding Obligation via the clearing systems into a designated account held by the Settlement Agent (as defined below) (the “**Pre-Funding Account**”) in accordance with (x) the respective Funding Letters (as defined below) by the Funding Deadline or (y) the respective Backstop Funding Letters (as defined below), if any, by no later than four (4) Business Days prior to the Closing Date. Purchasers who do not own Bridge Notes (the “**Cash Purchasers**”) will pre-fund in cash the Purchase Price for the Initially Purchased Notes purchased by them hereunder in accordance with the respective Funding Letters by the Funding Deadline via the clearing systems into the Pre-Funding Account.

On or prior to the date that falls one (1) Business Day prior to the Closing Date, the Settlement Agent will transfer the so received Cash Purchase Price (as defined below) from the Pre-Funding Account into an escrow account (the “**Escrow Account**”) pursuant to an escrow agreement to be dated on, or prior to, the date hereof (the “**Escrow Agreement**”), among the Issuer, the Trustee and Settlement Agent, as escrow agent (the “**Escrow Agent**”). The Escrow Account will be in the name of the Issuer and controlled by the Escrow Agent.

On or about the Closing Date, the New Senior Secured Notes will benefit from the security, subject to the Agreed Security Principles (as defined in the Intercreditor Agreement, which itself is defined below) and certain perfection requirements, on a first-priority basis set forth in the security documents set out in Part A of Schedule 3 (the “**Closing Security Documents**”).

On the Accession Date, the New Senior Secured Notes will benefit from the security, subject to the Agreed Security Principles and certain perfection requirements, on a first-priority basis set forth in the security documents set out in Part B of Schedule 3 (the “**Accession Security Documents**”).

Within five (5) Business Days of the Closing Date (such date, the “**Post-Closing Security Execution Date**”), the New Senior Secured Notes will benefit from the security, subject to the Agreed Security Principles and certain perfection requirements, on a first priority basis set forth in the security documents described in Part C of Schedule 3 (the “**Post-Closing Security Documents**”).

As soon as reasonably practicable following the Sanctions Fallaway Date and subject to having received all necessary governmental approvals (such date, the “**Russian Security Execution**”).

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**Date**” and, together with the Closing Date, the Accession Date and the Post-Closing Security Execution Date, the “**Security Document Execution Dates**”), the New Senior Secured Notes will benefit from the security, subject to the Agreed Security Principles and certain perfection requirements, set forth in the security documents described in Part D of Schedule 3 (the “**Russian Security Documents**” and, together with the Closing Security Documents, Accession Security Documents and the Post-Closing Security Documents, the “**Security Documents**”). The collateral covered by the Security Documents is hereinafter referred to as the “**Collateral**.”

In order to, *inter alia*, establish the relative rights of the creditors of the Issuer and New TopCo under their existing and future financing arrangements and the priority of the liens which will secure the New Senior Secured Notes, the Guarantees, the Reinstated Notes and certain other indebtedness, the Issuer and New TopCo will enter into an intercreditor agreement (the “**Intercreditor Agreement**”) on the Closing Date among, *inter alios*, the Issuer, New TopCo, the Trustee and the Security Agent, as security agent.

This purchase agreement (the “**Agreement**”), the Accession Agreements, the Indenture, the Supplemental Indentures, the New Senior Secured Notes, the Security Documents, the Escrow Agreement, the Intercreditor Agreement and the Intercreditor Accession Deeds are hereinafter collectively referred to as the “**Transaction Documents**.”

The Issuer and New TopCo (with respect to itself only, and to the extent applicable) hereby confirm, and, upon their accession to this Agreement, Frigoglass S.A.I.C. (with respect to itself only, and to the extent applicable, upon its accession to this Agreement) as third party security provider and each of the Guarantors hereby confirm their agreement with the several Purchasers concerning the purchase of the New Senior Secured Notes, as follows:

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In this Agreement:

“**2017 MAP Determination**” means the final mutual agreement procedure determination letter dated 13 July 2017 between HM Revenue & Customs and the Netherlands Tax Administration (*Belastingdienst*) with respect to the tax residence of Frigoglass Finance B.V. (“**FF B.V.**”) for purposes of the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains signed in London on September 26, 2008 (the “**Convention**”).

“**Affiliate**” means of any specified person means any other person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition, “control” when used with respect to any person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Backstop Funding Letter**” means the backstop funding letter, if any, to be sent to each Backstop Purchaser by the Information Agent on or about the Funding Deadline setting forth, among other things, their allocation of Additional Purchased Notes, if any, and the cash amount equal to the relevant Surplus Funding Obligation, if any.

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**“Backstop Letter”** means the backstop letter, dated March [●], 2023, among, *inter alia*, the Backstop Purchasers, FF B.V. and FH B.V.

**“Bridge Notes”** means the €55,000,000 million in aggregate principal amount of Senior Secured Notes due 2023 issued by FH B.V. and FF B.V. under a trust deed dated December 5, 2022, as amended and supplemented from time to time, between, among others, FH B.V. and FF B.V., as co-issuers, the Guarantors, as guarantors, and Madison Pacific Trust Limited, as trustee and security agent.

**“Business Day”** means each day that is not a Saturday, Sunday or other day on which banking institutions in Amsterdam, Athens, Hong Kong or London are authorized or required by law to close.

**“Closing Date”** means [●], 2023, or such other date thereafter, as the Issuer and the Purchasers may agree in writing.

**“Confidential Information”** means the Transaction Documents, and any information relating to any member of the Group, the Purchasers and the New Senior Secured Notes and/or any Bridge Notes provided to (or otherwise in the possession of) any Purchaser in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (a) is or becomes public knowledge other than as a direct or indirect result of any breach of Clause 17; or
- (b) is known by such Purchaser before the date the information is disclosed to it or is lawfully obtained by it after that date, from a source which is, as far as that Purchaser is aware, unconnected with the Group (other than pursuant to or in connection with its evaluation of the Transaction Documents),

and which, in either case, so far as the relevant Purchaser is aware, has not been obtained in violation of, and is not otherwise subject to, any obligation of confidentiality owed to any member of the Group.

**“Confidentiality Undertaking”** means a confidentiality undertaking substantially in the recommended form of the LMA or in any other form agreed between the Issuer and the Purchasers, and in any case capable of being relied upon by, and not capable of being materially amended without the consent of, the Issuer.

**“Exchange Act”** means the U.S. Exchange Act of 1934, as amended.

**“Funding Letter”** means each of the funding letters to be sent by the Information Agent to each Purchaser on the day hereof setting forth, among other things, the relevant allocations of Initially Purchased Notes and the cash amount equal to the relevant Surplus Funding Obligation (if any) or the cash amount equal to the Purchase Price for the Initially Purchased Notes, as applicable.

**“IFRS”** means the International Financial Reporting Standards, as adopted by the European Union.

**“Obligor”** means the Issuer or the Guarantors.

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**“Original Financial Statements”** means the consolidated financial statements of Frigoglass S.A.I.C. for the financial year ended 31 December 2021 and the most recent consolidated interim financial statements published by Frigoglass S.A.I.C. on its website.

**“NSSN Participation Consideration”** means 5% of the total issued share capital in New TopCo, corresponding to [●] shares, each in a nominal value of €[●].

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

**“Perfection Requirements”** has the meaning ascribed to it in the Intercreditor Agreement.

**“Private Placement Memorandum”** means, collectively, (i) the preliminary private placement memorandum prepared by the Issuer and the Guarantors dated March 8, 2023 setting forth certain information about the Group, the New Senior Secured Notes, the Reinstated Notes, the NSSN Participation Consideration and the transactions contemplated hereby and thereby, as amended and supplemented by any amendments and/or supplements issued by the Issuer and New TopCo prior to the Restructuring Effective Date, and (ii) the final private placement memorandum to be dated on or about the Execution Documentation Publication Deadline (as defined in the Private Placement Memorandum). Any references to Private Placement Memorandum in this Agreement shall include the documents incorporated by reference therein.

**“Prospectus Regulation”** means Regulation (EU) 2017/1129 of the European Parliament and of the Council of June 14, 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as amended or superseded.

**“QIB”** means a “qualified institutional buyer” as such term is defined in Rule 144A under the Securities Act.

**“Regulation S”** means Regulation S under the Securities Act.

**“Reinstated Notes”** means the €150,000,000 in aggregate principal amount of the Senior Secured Second Lien Notes due 2028 issued by the Issuer on or about the Closing Date under the Reinstated Notes Indenture (as defined in the Indenture).

**“Restructuring Advisor Fees”** means the fees, costs and expenses of the Restructuring Advisors incurred pursuant to their respective fee payment arrangements with any member(s) of the Frigoglass Group, and which remain unpaid prior to the Closing Date.

**“Restructuring Advisors”** means Weil, Gotshal & Manges (London) LLP, Daiwa Corporate Advisory Limited, ALPHACAP Partners Limited, Milbank LLP, Perella Weinberg UK Limited, KPMG LLP (UK), Deloitte LLP, Akin Gump LLP and Evercore Partners International LLP and each of their respective Affiliates.

**“Romanian Manufacturing Plant”** means the refrigeration manufacturing facility, currently under reconstruction, owned and operated by Frigoglass Romania S.R.L. and located in Parța village, Timis County, Romania.

**“Romanian Property”** has the meaning ascribed to it in the Intercreditor Agreement.

**“Rule 144A”** means Rule 144A under the Securities Act.

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**“Sanctioned Person”** means, at any time: (a) any person specifically listed in any Sanctions List (and, with respect to any person that is not an Affiliate of the Group, solely in that person’s individual capacity unless otherwise specified in the relevant Sanctions List); (b) any person domiciled in, organised under the laws of or ordinarily resident in a Sanctioned Territory; (c) the government of a Sanctioned Territory; or (d) any person owned or controlled by one or more persons or governments referred to in paragraph (a), (b), or (c) above; or (e) any person who is otherwise a target of Sanctions.

**“Sanctioned Territory”** means, at any time, a country or territory that is the subject of any country-wide or territory-wide comprehensive Sanctions (which comprise, as at the date of this Agreement, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine, the self-proclaimed Donetsk People’s Republic of Ukraine and the self-proclaimed Luhansk People’s Republic of Ukraine).

**“Sanctions”** means the economic or financial sanctions laws and regulations administered, enacted, imposed or enforced, in each case from time to time, by any Sanctions Authority.

**“Sanctions Authority”** means the United States, the United Kingdom, Hong Kong, the United Nations Security Council, any United Nations Security Council Sanctions Committee, the European Union, any Member State of the European Union, the Kingdom of Norway and the respective governmental agencies and institutions of the foregoing including, without limitation, His Majesty's Treasury, the Office of Foreign Assets Control of the U.S. Department of the Treasury and the U.S. Department of State.

**“Sanctions Fallaway Date”** means any date on which the Issuer or, following instruction to the Issuer from the Trustee or holders of at least 25% in aggregate principal amount of the then outstanding New Senior Secured Notes to engage legal counsel reasonably acceptable to the Trustee (such instruction, a **“Sanctions Fallaway Instruction”**), such legal counsel in an Opinion of Counsel (such Opinion of Counsel, a **“Sanctions Opinion”**), determines that Frigoglass Eurasia LLC or any other Group entity incorporated in Russia (and the business or operations of Frigoglass Eurasia LLC or any other relevant entity) is no longer subject to or otherwise restricted by Sanctions in its cross-border ordinary course of business operations (a **“Sanctions Fallaway Determination”**). The Issuer shall be required to engage such legal counsel no later than five (5) Business Days after receipt of such Sanctions Fallaway Instruction and shall be required to obtain a Sanctions Opinion (if such legal counsel is able to make a Sanctions Fallaway Determination) by no later than ten (10) Business Days after such legal counsel is engaged by the Issuer or as soon as practicable thereafter.

**“Sanctions List”** means any list of persons specifically identified as targets under Sanctions as published by any Sanctions Authority.

**“Securities Act”** means the U.S. Securities Act of 1933, as amended.

**“Settlement Agent”** means Kroll Issuer Services Limited, appointed as such in accordance with the terms of the Settlement Agent Agreement.

**“Settlement Agent Agreement”** means the settlement agent agreement signed on or about hereof among the Issuer and the Settlement Agent.

**“Stock Exchange”** means the Vienna MTF market of the Vienna Stock Exchange or such other stock exchange, securities exchange, other trading and/or quotation system on which or

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any relevant authority with which the New Senior Secured Notes are for the time being listed and quoted.

“**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature as well as any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same.

“**VAT**” means:

- (a) any value added tax imposed by the Value Added Tax Act 1994;
- (b) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112) as amended from time to time; and
- (c) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) or (b) above, or imposed elsewhere.

## **2. PURCHASE AND SALE OF THE NEW SENIOR SECURED NOTES**

### **2.1 Purchase and Sale**

On the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, the Issuer agrees to issue and sell (i) to each Purchaser, and each Purchaser, severally and not jointly (and not jointly and severally), agrees to purchase from the Issuer the principal amount of New Senior Secured Notes set forth opposite the name of such Purchaser in Part A of Schedule 1 hereto (such Notes, the “**Initially Purchased Notes**”); and (ii) to each backstop purchaser listed in Part B of Schedule 1 (the “**Backstop Purchaser**”), and each Backstop Purchaser, severally and not jointly (and not jointly and severally), agrees to purchase from the Issuer, the principal amount of Initially Purchased Notes for which any Cash Purchaser has not deposited their respective Cash Purchase Price into the Pre-Funding Account by the Funding Deadline pursuant to Section 3.1(a)(ii) (the “**Additional Purchased Notes**”), if any, as set forth in their respective Backstop Funding Letter and subject to the terms of the Backstop Letter; in each case, at a price equal to 97.00% of the principal amount thereof (the “**Purchase Price**”).

### **2.2 NSSN Participation Consideration**

In consideration of the obligations undertaken in this Agreement by the Purchasers, New TopCo agrees to issue to the Purchasers the NSSN Participation Consideration, to be split among the Purchasers as per the relevant allocation of New Senior Secured Notes actually purchased hereunder. The NSSN Participation Consideration shall be issued on, and subject to the occurrence of, the Closing Date and shall be settled to an account as indicated by the Purchasers to Kroll Issuer Services Limited in its capacity as information agent (the “**Information Agent**”). Each Purchaser shall provide to the Information Agent a duly completed and executed Account Holder Letter, in form and substance substantially consistent with the form Account Holder Letter as appended to the Private Placement Memorandum (the “**Account Holder Letter**”).



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## 2.3 Use of Proceeds

- (a) The Issuer undertakes that the gross proceeds of the New Senior Secured Notes will be applied (i) to partially pay the purchase price of the FH Acquisition, which, in turn, will be used by the Existing Security Agent to repay in full the Bridge Notes Claims, (ii) to pay certain fees and expenses in connection with the Transactions including the Restructuring Advisor Fees (or such portion of the fees that are not settled by FH B.V.) and (iii) for general corporate purposes.
- (b) For the avoidance of doubt, no proceeds shall be used directly or indirectly to fund the operations of Frigoglass Eurasia LLC (other than in accordance with Clause 7.14).

## 3. CLOSING

### 3.1 Closing

- (a) On or prior to the Funding Deadline,
  - (i) each Rolling Purchaser shall (x) execute the RID pursuant to which the Issuer will agree with the Rolling Purchasers to settle all or a portion of the Purchase Price for the Rollover Notes on a cashless basis in accordance with the terms of the RID, and (y) shall deposit an amount in cash equal to the relevant Surplus Funding Obligation, if any, set out in their relevant Funding Letters via Euroclear or Clearstream (as applicable) into the Pre-Funding Account; and
  - (ii) each Cash Purchaser shall deposit a cash amount equal to the Purchase Price for the Initially Purchased Notes purchased by them in accordance with the respective Funding Letters via Euroclear or Clearstream (as applicable) into the Pre-Funding Account.
- (b) By no later than four (4) Business Days prior to the Closing Date, each Backstop Purchaser shall deposit an amount in cash equal to the relevant Surplus Funding Obligation in respect of the Purchase Price for their allocation of Additional Purchased Notes, if any, in accordance with and set out in their relevant Backstop Funding Letters via Euroclear or Clearstream (as applicable) into the Pre-Funding Account. Amounts pre-funded in cash to the Pre-Funding Account under Clause 3.1(a) and (b) are herein referred to as the “**Cash Purchase Price**”.
- (c) Subject to Clause 3.2, the Closing shall occur on the Closing Date, whereupon payment of the Purchase Price for the New Senior Secured Notes shall be made (i) by the Escrow Agent on behalf of the relevant Purchasers by wire transfer of an amount equal to the cash gross proceeds of the corresponding New Senior Secured Notes (representing the Cash Purchase Price for the corresponding principal amount of New Senior Secured Notes issued) from the Escrow Account in immediately available funds, and (ii) by way of cashless settlement in accordance with the RID, in each case against delivery of the New Senior Secured Notes to the Purchasers in the principal amounts as purchased hereunder.

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### 3.2 Conditions precedent to Closing

A Purchaser will only be obliged to purchase the New Senior Secured Notes if the following conditions are satisfied or waived on or prior to the Closing Date, *provided* that the condition set forth below under (j) may not be waived by the Purchasers unilaterally:

- (a) *Representations and Warranties and Agreements.* The representations and warranties made by the Issuer and New TopCo in this Agreement are true and correct in all material respects on the Closing Date.
- (b) *No Material Adverse Change in Business.* Subsequent to the execution and delivery of this Agreement, no event or condition of a type described in Section 6.3 hereof shall have occurred or shall exist, which event or condition is not described in the Private Placement Memorandum (including any documents incorporated by reference therein) the effect of which in the reasonable judgment of the Purchasers makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the New Senior Secured Notes on the terms and in the manner contemplated by this Agreement and the Private Placement Memorandum.
- (c) *No Legal Impediment.* No action shall have been taken and no statutes, rules, regulation or order shall have been enacted, adopted or issued by any governmental agency or body which would, as of the Closing Date, prevent the issuance or sale of the New Senior Secured Notes as contemplated by this Agreement; and no injunction, restraining order or order of any other nature by any supranational, federal, state, regional or local court of competent jurisdiction shall have been commenced or shall be pending or threatened as of the Closing Date which would, temporarily or permanently, prevent the issuance or sale of the New Senior Secured Notes.
- (d) *Opinions of Counsel to the Issuer and the Guarantors.* On the Closing Date, the Purchasers shall have received, in each case in form and substance reasonably satisfactory to counsel for the Purchasers, the following legal opinions:
  - (i) *Opinion of special U.S. Counsel for the Guarantors.* Milbank LLP, special U.S. counsel for the Guarantors, shall have furnished to the Purchasers, at the request of FH B.V., its written U.S. law opinion with respect to the New Senior Secured Notes and the Indenture, dated as of the Closing Date, addressed to the Purchasers, in form and substance reasonably satisfactory to counsel to the Purchasers.
  - (ii) *Opinion of English Counsel for the Guarantors.* Milbank LLP, English counsel for the Guarantors, shall have furnished to the Purchasers, at the request of FH B.V., its written English law opinion, dated as of the Closing Date, with respect to the enforceability of the Intercreditor Agreement and the Closing Date Security Documents, addressed to the Purchasers, in form and substance reasonably satisfactory to counsel to the Purchasers.
  - (iii) *Opinion of English Counsel for the Issuer and New TopCo.* Weil, Gotshal & Manges (London) LLP, English counsel for the Issuer and New TopCo, shall have furnished to the Purchasers, at the request of the Issuer and New TopCo, its written English law capacity opinion, dated as of the Closing Date, with respect to the documentation entered into by the Issuer and New TopCo on or about the

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Closing Date, addressed to the Purchasers, in form and substance reasonably satisfactory to counsel to the Purchasers.

- (e) *Settlement and Clearance.* The New Senior Secured Notes shall have been deemed eligible for clearance and settlement through the facilities of Euroclear and Clearstream.
- (f) *Closing Date Compliance Certificates of the Issuer.* The Purchasers shall have received on and as of the Closing Date a certificate signed by a member of the board of directors of the Issuer in form and substance reasonably satisfactory to counsel for the Purchasers as to (i) the accuracy in all material respects of the representations and warranties of the Issuer and each Guarantor herein as of the date hereof and the Closing Date; (ii) the performance by the Issuer and each Guarantor in all material respects of all of their obligations hereunder to be performed on or prior to the Closing Date; and (iii) the matters set forth in subsection (b) of this Section.
- (g) *New Senior Secured Notes and Indenture.* The Issuer shall have delivered, or caused to be delivered, executed copied of the New Senior Secured Notes and the Indenture to the Purchasers, in each case in form and substance reasonably satisfactory to the Purchasers.
- (h) *Closing Security Documents.* The Issuer shall have delivered a fully executed copy of the Closing Security Documents to the parties specified therein for due acknowledgment.
- (i) *Appointment of Settlement Agent.* The Issuer shall have appointed Kroll Issuer Services Limited to act as settlement agent and escrow agent in connection with the settlement and delivery of the New Senior Secured Notes.
- (j) *Payment of Restructuring Advisor Fees.* The Issuer shall have delivered to Weil, Gotshal & Manges (London) LLP and Milbank LLP evidence of (i) irrevocable escrow release instructions to the Escrow Agent, and (ii) irrevocable payment instructions by FH B.V., which together shall evidence that payment is being made to settle the Restructuring Advisor Fees in each case in accordance with a funds flow statement in agreed form with each Restructuring Advisor in relation to its own respective Restructuring Advisor Fees.
- (k) *Additional Documents.* On or prior to the Closing Date, each of New TopCo and the Issuer shall have furnished to the Purchasers such further certificates and documents, including one or more secretary's certificates of each of New TopCo and the Issuer, as the Purchasers may reasonably request in form and substance reasonably satisfactory to counsel for the Purchasers.

#### **4. TAX GROSS-UP AND INDEMNITIES**

##### **4.1 Stamp taxes**

The Issuer (failing whom, the Guarantors) shall pay and indemnify each Purchaser from and against all stamp duties, stamp duty reserve tax, transfer tax, issue, registration, documentary and other similar fees, charges, duties or taxes (including interest and penalties (if any)), whether arising in the United Kingdom or elsewhere payable on or in connection with (a) the creation, constitution, issue or delivery of the New Senior Secured Notes, (b) the execution,

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delivery, registration, performance or enforcement of this Agreement or any other documents or instruments in relation thereto and the other Transaction Documents, or (c) any action taken by or on behalf of each Purchaser in connection with the New Senior Secured Notes (where permitted under this Agreement to do so) as and when the same shall become due and payable, other than any such amounts payable (i) as a result of a voluntary registration by that Purchaser of a Transaction Document or any other document where such registration is not necessary to maintain, preserve, establish, or enforce the rights of that Purchaser under the Transaction Documents; or (ii) in connection with any assignment or transfer by that Purchaser pursuant to Clause 9 of this Agreement (save where such assignment or transfer is made with the prior written consent of the Issuer, following a written request by or on behalf of the Issuer or Guarantor or following an Event of Default as defined under the Indenture).

## **4.2 VAT**

- (a) All amounts expressed to be payable under this Agreement by the Issuer or the Guarantors to a Purchaser which (in whole or in part) constitute the consideration for any supply for VAT purposes shall be deemed to be exclusive of any VAT which is or becomes chargeable on that supply and, accordingly, if VAT is or becomes chargeable on any supply made by any Purchaser to the Issuer or any Guarantor (as applicable) under this Agreement and (i) if such Purchaser is required to account to the relevant tax authority for the VAT, the Issuer (failing whom, the Guarantors) shall pay to such Purchaser (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and that Purchaser must provide an appropriate VAT invoice to the Issuer or the Guarantors (as applicable)) or (ii) if the Issuer or a Guarantor (as applicable) is required to directly account for such VAT under the reverse charge procedure provided for by the Value Added Tax Act 1994, article 44 of the Council Directive 2006/112/EC or any relevant VAT provisions of the jurisdiction in which the Issuer or the relevant Guarantor (as applicable) receives such supply, then the Issuer or the relevant Guarantor (as applicable) shall account for the VAT at the appropriate rate (and the relevant Purchaser will provide an appropriate VAT invoice to the Issuer or the relevant Guarantor (as applicable) stating that the amount is charged in respect of a supply that is subject to VAT but that the reverse charge procedure applies).
- (b) Where this Agreement requires the Issuer or Guarantors to reimburse or indemnify a Purchaser for any costs or expenses, the Issuer or Guarantors (as the case may be) shall reimburse or indemnify (as the case may be) such Purchaser for the full amount of such cost or expense, including such part thereof as represents VAT incurred by that Purchaser in respect of the costs and expenses, save to the extent that such Purchaser determines (acting reasonably and in good faith) that neither it nor any other member of the group of which it is a member for VAT purposes is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (c) Any reference in this Clause 4.2 to any party shall, at any time when such party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated as making the supply or (as appropriate) receiving the supply under the grouping rules (as provided for by Section 43 of the Value Added Tax Act 1994, Article 11 of the Council Directive 2006/112/EC (or as implemented by the relevant member state of the

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EU) or any other similar provision in any jurisdiction which is not a member state of the EU) so that a reference to a party shall be construed as a reference to that party or the relevant group or unity (or fiscal unity) of which that party is a member for VAT purposes at the relevant time or the relevant member (or head) of that group or unity (or fiscal unity) at the relevant time (as the case may be).

#### **4.3 Withholding tax**

- (a) All payments by the Issuer and the Guarantors to a Purchaser under this Agreement (but excluding for the avoidance of doubt payments made under the terms of the New Senior Secured Notes to which the Indenture shall exclusively apply) shall be paid without set-off or counterclaim, and free and clear of and without deduction or withholding for or on account of, any present or future Taxes, unless required by law.
- (b) If any Taxes are required by law to be deducted or withheld in connection with such payment covered by Clause 4.3(a), the Issuer or the Guarantors (as applicable) will increase the amount paid so that the full amount of such payment is received by the payee as if no such deduction or withholding had been made.
- (c) If payment is made pursuant to Clause 4.3(b) to a Purchaser and that Purchaser determines (acting reasonably and in good faith) that:
  - (i) a tax credit (including any relief or remission for, or repayment of, tax) is attributable to an increased payment of which the payment made pursuant to Clause 4.3(b) forms part; and
  - (ii) it has obtained, utilised and retained the benefit of that tax credit,

that Purchaser shall pay an amount to the Issuer or Guarantors (as applicable) which it determines (acting reasonably) will leave the Issuer or the relevant Guarantor (after that payment) in the same after-tax position as it would have been in had the payment under Clause 4.3(b) not been required to be made.

### **5. REPRESENTATIONS AND ACKNOWLEDGEMENTS OF THE PURCHASERS**

#### **5.1 Representation and Acknowledgments in relation to the subscription of the New Senior Secured Notes hereunder**

Each Purchaser, severally and not jointly (and not jointly and severally), represents and warrants to, and agrees with, the Issuer and the Guarantors, as at the date of this Agreement and the Closing Date:

- (a) It is duly organized and validly existing under the laws of its jurisdiction of incorporation; it has the power to execute, deliver and perform this Agreement and any other documentation relating to this Agreement to which it is a party and it has taken all necessary action to authorize such execution, delivery and performance; such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets; all governmental and other consents that are required to have been obtained by it with respect to this Agreement

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have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

- (b) Prior to purchasing the New Senior Secured Notes, it has received the Private Placement Memorandum and has had access to the documents incorporated by reference therein. It understands and acknowledges that, as the issuance of the New Senior Secured Notes is a private placement of securities, it is responsible for conducting its own due diligence in connection with issuance of the New Senior Secured Notes and any purchase of the New Senior Secured Notes by it. It acknowledges that it has had the opportunity to ask and that it has asked any queries regarding the Group and their affairs, the subscription of the New Senior Secured Notes and their terms as set out in the Indenture, and has received satisfactory answers from representatives of the Group, and it has had access to such information and materials concerning the Group and the New Senior Secured Notes as it has deemed necessary and relevant to conduct its own due diligence and make an informed investment decision on its behalf and on behalf of each account for which it is acting (if any). It has made its own independent assessment concerning the relevant tax, legal, economic and other considerations relevant to its investment in the New Senior Secured Notes.
- (c) It is either (1) a “qualified institutional buyer” within the meaning of Rule 144A (“**QIB**”); or (2) an institutional “accredited investor” (“**IAI**”) within the meaning of Rule 501(a)(1), (2), (3), (7), (8), (9), (12) or (13) under Regulation D that is not a QIB; or (3) it, and each account for which it is acting, is a non-U.S. person (as defined under Regulation S) who is outside the United States purchasing the New Senior Secured Notes in an “offshore transaction”, and, in each case, and its purchase for the New Senior Secured Notes is not part of a plan or scheme to evade the registration requirements of the Securities Act.
- (d) It (i) has professional experience in matters relating to investments falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended (the “**Financial Promotion Order**”), or (ii) is a person falling within Article 49(2)(a) to (d) (high net worth companies, unincorporated associations, etc.) of the Financial Promotion Order or (iii) is a person to whom an invitation or inducement to engage in investment activity (within the meaning of section 21 of the Financial Services and Markets Act 2000) in connection with the issue or sale of any securities may otherwise lawfully be communicated or caused to be communicated. It, and each account for which it is acting, is (i) a “qualified investor” within the meaning of the Prospectus Regulation, (ii) not a “retail investor” in the European Economic Area (a “retail investor” being a person who is one (or more) of the following: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU, as amended (“**MiFID II**”); or (ii) a customer within the meaning of Directive 2016/97/EU, as amended, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II), and (iii) not a “retail investor” in the United Kingdom (a “retail investor” being a person who is one (or more) of the following: (i) a retail client, as defined in point (8) of Article 2 of Regulation 2017/565/EU as it forms part of UK domestic law by virtue of the European Union (Withdrawal) Act 2018 (“**EUWA**”); (y) a customer within the meaning of the provisions of the Financial Services and Markets Act 2000 of the UK (“**FSMA**”) and any rules or regulations made

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under the FSMA to implement the Insurance Distribution Directive, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation 600/2014/EU as it forms part of UK domestic law by virtue of the EUWA; or (z) not a “qualified investor” as defined in Article 2 of the Prospectus Regulation as it forms part of domestic law by virtue of EUWA).

- (e) It represents, warrants and agrees with the Issuer that it will not make, or cause to be made, an offer to the public and acknowledges that no approved prospectus in respect of the New Senior Secured Notes is required or will be prepared in accordance with the Prospectus Regulation.
- (f) (i) It is a sophisticated institutional investor, (ii) it has such knowledge and experience in financial and business matters and expertise in assessing credit risk that it is capable of evaluating the merits and risks of its investments in the New Senior Secured Notes (and have sought such accounting, legal, tax and other advice as it has considered necessary to make an informed investment decision), and (iii) it, and each account for which it is acting, if any, is aware that there are substantial risks incident to the purchase of the New Senior Secured Notes and is able to bear the economic risk, and sustain a complete loss, of such investment in the New Senior Secured Notes.
- (g) It acknowledges that its purchase of the New Senior Secured Notes is subject to and based upon all the terms, conditions, representations, warranties, acknowledgements, agreements and undertakings and other information contained in this Agreement (including the representations and warranties of the Issuer and the Guarantors contained in Section 6 of this Agreement).
- (h) It understands, and each beneficial owner of the New Senior Secured Notes for which it is acting (if any) has been advised and understands, that the New Senior Secured Notes have not been and will not be registered under the Securities Act or with any securities regulatory authority of any state or other jurisdiction of the United States, and that any offer and sale of the New Senior Secured Notes to it is being made in reliance on one or more exemptions from, or in a transaction not subject to, the registration requirements of the Securities Act in a transaction not involving any public offering in the United States. It represents and warrants that its purchase of the New Senior Secured Notes is lawful under the laws of the jurisdiction of its incorporation and the jurisdiction in which it operates (if different), and that such acquisition will not contravene any law, regulation or regulatory policy applicable to it.
- (i) It understands and acknowledges that the New Senior Secured Notes may not be offered, sold, taken up, delivered, reoffered, resold, pledged or otherwise transferred except (i) to the Issuer or any of its subsidiaries, (ii) pursuant to a registration statement that has been declared effective under the Securities Act, (iii) for so long as the New Senior Secured Notes are eligible for resale pursuant to Rule 144A, to a person it reasonably believes is a QIB that purchases for its own account or for the account of a QIB to whom notice is given that the transfer is being made in reliance on Rule 144A, (iv) pursuant to offers and sales that occur outside the United States in compliance with Regulation S in an “offshore transaction” or (v) pursuant to any other available exemption from the registration requirements of the Securities Act, and in each case in accordance with any applicable securities laws of the United States and any state or

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other jurisdiction of the United States. It understands (and each beneficial owner of the New Senior Secured Notes for which it is acting (if any) has been advised and understands) that no representation has been made as to the availability of any exemption under the Securities Act or any applicable securities laws of any state or other jurisdiction of the United States for the reoffer, resale, pledge or transfer of the New Senior Secured Notes.

- (j) It has made its own independent investigation and appraisal of the business, results, financial condition, prospects, creditworthiness, status and affairs of the Group and, following such investigation and appraisal and the other due diligence that it deemed necessary and subsequently conducted in connection with the issuance of the New Senior Secured Notes and its related subscription, it has made its own investment decision to purchase the New Senior Secured Notes. It is aware and understands that an investment in the New Senior Secured Notes involves a considerable degree of risk and no U.S. federal or state or non-U.S. agency has made any finding or determination as to the fairness for investment or any recommendation or endorsement of any such investment.
- (k) It, and each account for which it is acting (if any), is acquiring the New Senior Secured Notes for its own account, or for one or more accounts (and as to each of which it has authority to acquire the New Senior Secured Notes and exercise sole investment discretion), for investment purposes, and not with a view to, or for resale in connection with, the distribution thereof, directly or indirectly, in whole or in part, in the United States in violation of the Securities Act.
- (l) It and any account for which it is acting (if any), became aware of issuance of the New Senior Secured Notes, and the New Senior Secured Notes were offered to it and each account for which it is acting (if any), solely by means of direct contact with the Issuer, and not by any other means. It, and any account for which it is acting (if any), did not become aware of the issuance of New Senior Secured Notes, and the New Senior Secured Notes were not offered to it or any account for which it is acting (if any), in any manner involving a public offering within the meaning of Section 4(a)(2) of the Securities Act or through any directed selling efforts within the meaning of Regulation S.
- (m) It acknowledges that neither the Issuer nor any of its subsidiaries or Affiliates nor any other person, has made any representation, warranty or undertaking (express or implied) to it with respect to the Issuer, the Guarantors, the issuance of the New Senior Secured Notes, the New Senior Secured Notes or the accuracy, completeness or adequacy of any financial or other information concerning the Issuer, the Guarantors, the issuance of the New Senior Secured Notes, other than (in the case of the Issuer and the Guarantors only) any representation, warranty or undertaking of the Issuer and the Guarantors contained in this Agreement. Further, none of the Issuer, its subsidiaries or its Affiliates, directors, officers, employees, agents, representatives or advisors make any representation as to the future performance of the Issuer, its subsidiaries or Affiliates or their respective securities, including the New Senior Secured Notes.
- (n) It understands that there may be certain consequences under United States and other tax laws resulting from an investment in the New Senior Secured Notes and it has made



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such investigation and has consulted its own independent advisers or otherwise has satisfied itself concerning, without limitation, the effects of the United States federal, state and local income tax laws and foreign tax laws generally and the U.S. Employee Retirement Income Security Act of 1974, as amended, the U.S. Investment Company Act of 1940, as amended (the “**Investment Company Act**”), and the Securities Act.

- (o) It acknowledges that the Issuer, its subsidiaries and Affiliates and others will rely upon the truth and accuracy of the acknowledgements, representations, warranties and agreements contained herein and agrees that, (a) if, at any time on or prior to the Closing Date, any of the acknowledgements, representations, warranties and agreements by it made herein and in connection with acquiring the New Senior Secured Notes is no longer accurate, it shall promptly notify, in writing, the Issuer and (b) if it is acquiring the New Senior Secured Notes as a fiduciary or agent for one or more investor accounts, it confirms and represents that it has sole investment discretion with respect to each such account and that it has been duly authorized to sign this Agreement and has full power to, and does, make the acknowledgements, representations, warranties and agreements made herein on behalf of such account and the provisions of this Agreement constitute legal, valid and binding obligations of it and any other person for whose account it is acting (if any). It shall be deemed to have repeated such representations, warranties, agreements and acknowledgements as of the Closing Date. It acknowledges that the Issuer would not have introduced this investment opportunity to it without the execution and delivery of this Agreement.
- (p) It acknowledges that the Issuer may request from it and/or any account for which it is acting (if any) such additional information as the Issuer may deem necessary to evaluate its eligibility or the eligibility of any account for which it is acting to purchase the New Senior Secured Notes, and may request from time to time such information as the Issuer may reasonably deem necessary to determine its eligibility or eligibility of any account for which it is acting to hold the New Senior Secured Notes or to enable the Issuer to comply with applicable regulatory requirements or tax law, and it and each account for which it is acting (if any) shall use reasonable efforts to provide such information as may reasonably be requested, in each case subject to the confidentiality obligations set forth herein; *provided* that in no event shall any Purchaser be obligated to disclose the name (or any other identifying information) of its limited partners, members or shareholders.

## **5.2 Benefit of representation and warranties**

The representations, warranties, covenants and agreements contained in Clauses 5.1 and 5.2 are for the benefit of the Issuer, its subsidiaries and Affiliates and any person acting on their behalf. The Issuer, its subsidiaries and Affiliates and any person acting on their behalf are irrevocably authorized to produce this Agreement or a copy hereof to any interested party in any administrative or legal proceedings, dispute or official inquiry with respect to the matters covered hereby, in each case subject to the confidentiality obligations of the Issuer and its subsidiaries set forth herein.

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## **6. REPRESENTATIONS OF THE ISSUER, NEW TOPCO, FRIGOGLASS S.A.I.C. AND THE GUARANTORS**

The Issuer and New TopCo (with respect to itself only and to the extent applicable) and Frigoglass S.A.I.C. (with respect to itself only and to the extent applicable, upon its accession to this Agreement) as third party security provider and the Guarantors (upon their accession to this Agreement), jointly and severally, represent and warrant to the Purchasers as of the date hereof and as of the Closing Date (*provided that* the representations and warranties made by Frigoglass S.A.I.C. and each of the Guarantors shall not become effective until the applicable Accession Date of Frigoglass S.A.I.C. and such Guarantor), as set forth in this Section 6 (it being understood that, insofar as any of the representations and warranties of the Issuer are made with respect to the Guarantors and/or the Frigoglass Group (as applicable), such representations and warranties are made to the knowledge of the Issuer after due inquiry). Each representation made “to the knowledge” of the relevant Obligor is made to the knowledge of such Obligor’s management.

### **6.1 Financial Statements**

The Original Financial Statements and the related notes thereto present fairly the consolidated financial position of Frigoglass S.A.I.C. and its subsidiaries as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified; such financial statements have been prepared in accordance with IFRS, applied on a consistent basis throughout the periods covered thereby.

### **6.2 Organization and Good Standing**

Each of New TopCo, Frigoglass S.A.I.C., the Issuer and its subsidiaries have been duly incorporated or organized, as applicable, and are validly existing and, where applicable, in good standing under the laws of their respective jurisdictions of organization, are duly qualified to do business in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification, and, where applicable, are in good standing in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification, and except, in each case, where the failure to be so qualified, in good standing or have such power or authority would not, individually or in the aggregate, have a material adverse effect on the general affairs, business, properties, management, condition (financial or otherwise), prospects or results of operations of New TopCo, Frigoglass S.A.I.C., the Issuer and its subsidiaries, taken as a whole (any such event, a “**Material Adverse Effect**”). Each of New TopCo, Frigoglass S.A.I.C., the Issuer and its subsidiaries have all power and authority necessary to own or hold their respective properties and to conduct the businesses in which they are engaged. None of New TopCo, Frigoglass S.A.I.C., the Issuer, any of the Guarantors or any of their respective subsidiaries is in bankruptcy, liquidation or receivership or subject to any similar proceeding.

### **6.3 No Material Adverse Effect**

Except as otherwise disclosed in the Private Placement Memorandum, since the date of publication of the most recent Original Financial Statements in case of the Frigoglass Group and since the date of their respective incorporation in case of the Issuer, (i) there has not been any change in the capital stock or long-term debt of the Group, or any dividend or distribution of any kind declared, set aside for payment, paid or made by FH B.V. on any class of capital

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stock, or any Material Adverse Effect, or any development involving a prospective Material Adverse Effect, in or affecting the business, properties, management, condition (financial or otherwise), results of operations or prospects of FH B.V. and its subsidiaries taken as a whole, except for any Material Adverse Effect suffered by any member of the Group as a result of Sanctions, or the compliance with Sanctions, (ii) neither the Issuer nor any of its subsidiaries has entered into any transaction or agreement that is material to the Group, taken as a whole, or incurred any liability or obligation, direct or contingent, that is materially adverse to the Group taken as a whole and (iii) neither the Issuer and its subsidiaries has sustained any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labour disturbance or dispute or any action, order or decree of any court or arbitrator or governmental or regulatory authority, that is material to the Group taken as a whole.

#### **6.4 Capitalization**

All of the outstanding shares of capital stock or other equity interests of the Issuer and each of its direct and indirect subsidiaries have been, and as of the Restructuring Effective Date (as defined in the Private Placement Memorandum) will be, duly authorized and validly issued, are fully paid and non-assessable and all of the outstanding capital stock of the Issuer will be held by the New TopCo and Frigoglass S.A.I.C., and all of the outstanding capital stock of the Issuer and the Guarantors will be as of the Closing Date free and clear of any lien, charge, encumbrance, security interest, restriction on voting or transfer or any other claim of any third party, except for security granted pursuant to the Security Documents. There are no outstanding options, warrants or other rights to purchase or acquire any shares of the Issuer or any of its subsidiaries.

#### **6.5 Due Authorization**

New TopCo, Frigoglass S.A.I.C., the Issuer and each of the Guarantors, as applicable, have full right, power and authority to execute and deliver the Transaction Documents, to which they are a party, and to perform their respective obligations hereunder and thereunder; and all action (corporate or other) required to be taken for the due and proper authorization, execution and delivery of each of the Transaction Documents and the consummation of the transactions contemplated thereby has been duly and validly taken or will be duly and validly taken prior to the date of its execution.

#### **6.6 The Indenture and the Supplemental Indentures**

Each of the Indenture has been, or will have been prior to the Closing Date, duly authorized by New TopCo and the Issuer and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of New TopCo and the Issuer, enforceable against New TopCo in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, reorganization, moratorium, fraudulent conveyance, examinership, insolvency, rehabilitation, special administration or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability (collectively, the **"Enforceability Exceptions"**). The Supplemental Indentures have been, or will have been prior to the Accession Date, duly authorized by the Guarantors and Frigoglass S.A.I.C., as applicable, and, when duly executed and delivered in accordance with their terms by each of the parties thereto, will constitute a valid and legally binding agreement of the Guarantors and Frigoglass

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S.A.I.C., as applicable, enforceable against each Guarantor and Frigoglass S.A.I.C., as applicable, in accordance with their terms, except as enforceability may be limited by the Enforceability Exceptions.

#### **6.7 The Intercreditor Agreement and Intercreditor Accession Deeds**

The Intercreditor Agreement has been, or will have been prior to the Closing Date, duly authorized by New TopCo and the Issuer and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of New TopCo and the Issuer, enforceable against New TopCo in accordance with its terms, subject to the Enforceability Exceptions. Each Intercreditor Accession Deed has been, or will have been prior to the Accession Date, duly authorized by Frigoglass S.A.I.C. and each of the Guarantors, as applicable, and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of Frigoglass S.A.I.C. and each of the Guarantors, enforceable against the Frigoglass S.A.I.C. and each of the Guarantors, as applicable, in accordance with its terms, subject to the Enforceability Exceptions.

#### **6.8 This Agreement and the Accession Agreements**

This Agreement has been duly authorized, executed and delivered by the Issuer and New TopCo and, when duly executed and delivered in accordance with its terms by each of the other parties thereto, will constitute a valid and legally binding agreement of New TopCo and the Issuer, enforceable against New TopCo and the Issuer in accordance with its terms, subject to the Enforceability Exceptions. The Accession Agreements have been, or will have been prior to the Closing Date, duly authorized by Frigoglass S.A.I.C. and each of the Guarantors, respectively, and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute valid and legally binding agreements of Frigoglass S.A.I.C. and the Guarantors, respectively, enforceable against Frigoglass S.A.I.C. and each of the Guarantors, respectively, in accordance with its terms, subject to the Enforceability Exceptions.

#### **6.9 The New Senior Secured Notes and the Guarantees**

The New Senior Secured Notes have been, or will have been prior to the Closing Date, duly authorized by the Issuer and, when duly executed, authenticated, issued and delivered as provided in the Indenture and paid for as provided herein, will be duly and validly issued and outstanding and will constitute valid and legally binding obligations of the Issuer enforceable against the Issuer in accordance with their terms, subject to the Enforceability Exceptions, will be entitled to the benefits of the Indenture. The Guarantees have been, or will have been prior to the Closing Date, duly authorized by each of the Guarantors and, when the New Senior Secured Notes have been duly executed, authenticated, issued and delivered as provided in the Indenture and paid for as provided herein, will be valid and legally binding obligations of each of the Guarantors, enforceable against each of the Guarantors in accordance with their terms, subject to the Enforceability Exceptions.

#### **6.10 The Escrow Agreement**

The Escrow Agreement has been duly authorized, executed and delivered by the Issuer and, when duly executed and delivered in accordance with their terms by each of the other parties thereto, will constitute a valid and legally binding agreement of the Issuer enforceable against

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the Issuer in accordance with its terms, except as enforceability may be limited by the Enforceability Exceptions.

#### **6.11 Security Documents**

Each of the Security Documents has been, or will have been as of the relevant Security Document Execution Date, duly authorized by New TopCo, Frigoglass S.A.I.C., the Issuer and each of the Guarantors party thereto and will constitute, upon its execution as of the relevant Security Document Execution Date, valid and legally binding obligations of New TopCo, Frigoglass S.A.I.C., the Issuer and each of the Guarantors party thereto, enforceable against them in accordance with their respective terms, subject to the Enforceability Exceptions. Subject to the Perfection Requirements, the Security Documents create, or will create, as of their respective execution on the relevant Security Document Execution Date in favour of the Security Agent for the benefit of the holders of the New Senior Secured Notes, valid and enforceable first-priority security interest in the Collateral as set forth therein, subject to the Enforceability Exceptions, and no filings or further notices and acknowledgements or other things are required to perfect such security interest (other than as contemplated under the Security Documents).

#### **6.12 No Violation or Default**

None of New TopCo, Frigoglass S.A.I.C., the Issuer or any of their subsidiaries is in violation of its certificate of incorporation, articles of association, memorandum of association, respective charter or by-laws or similar organizational documents, as applicable.

#### **6.13 No Conflicts**

The execution, delivery and performance by New TopCo, Frigoglass S.A.I.C., the Issuer and each of the Guarantors of each of the Transaction Documents to which each is a party, the issuance and sale of the New Senior Secured Notes and compliance by New TopCo, Frigoglass S.A.I.C., the Issuer and each of the Guarantors with the terms thereof and the consummation of the transactions contemplated by the Transaction Documents will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of New TopCo, Frigoglass S.A.I.C., the Issuer or any of their subsidiaries pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which New TopCo, the Issuer or any of their subsidiaries is a party or by which New TopCo, Frigoglass S.A.I.C., the Issuer or any of their subsidiaries is bound or to which any of the property or assets of any of New TopCo, Frigoglass S.A.I.C., the Issuer or any of their subsidiaries is subject, (ii) result in any violation of the provisions of the certificate of incorporation, articles of association, memorandum of association, charter or by-laws or similar organizational documents, as applicable, of New TopCo, Frigoglass S.A.I.C., the Issuer or any of their subsidiaries or (iii) result in the violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority, except in the case of clause (i) and (iii) above for any such conflict, violation, breach or default that would not, individually or in the aggregate, have a Material Adverse Effect.

#### **6.14 No Consents Required**

Assuming the accuracy of the representations and warranties of the Purchasers and their compliance with their covenants contained herein, no consent, approval, authorization, order,

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filing, registration or qualification of or with any court or arbitrator or governmental or regulatory authority is required for the execution, delivery and performance by New TopCo, Frigoglass S.A.I.C., the Issuer or any of the Guarantors of each of the Transaction Documents to which each is a party, the issuance of the New Senior Secured Notes and performance by New TopCo, Frigoglass S.A.I.C., the Issuer and each of the Guarantors with the terms thereof and the consummation of the transactions contemplated by the Transaction Documents, except (i) for such consents, approvals, authorizations, orders and registrations or qualifications as may be required under the rules and regulations of the Stock Exchange with respect to the listing thereon of the New Senior Secured Notes or that will have been made or obtained prior to the Closing Date and (ii) for the consent of the Governmental Commission for Control over Foreign Investment in the Russian Federation, required under Decree of the Russian President No. 618 dated September 8, 2022, for entering into the Russian Security Documents and the consummation of transactions contemplated thereby.

#### **6.15 Legal Proceedings**

Except as disclosed in the Private Placement Memorandum, there are no legal or governmental or regulatory proceedings, investigations, actions or suits pending to which the Issuer or any of its subsidiaries is a party or of which any property of the Issuer or any of the Guarantors is the subject, which, if determined adversely to the Issuer, the Guarantors or any of their subsidiaries, would individually or in the aggregate have a Material Adverse Effect, and no such proceedings, investigations, actions or suits are, to the knowledge of the Issuer and the Guarantors, threatened or contemplated.

#### **6.16 Independent Accountants**

PricewaterhouseCoopers S.A. (“PwC”), who have certified certain financial statements of Frigoglass S.A.I.C. and its subsidiaries, are independent public accountants with respect to Frigoglass S.A.I.C. and its subsidiaries under applicable accounting rules and regulations. The report of PwC on the audited financial statements of Frigoglass S.A.I.C. does not contain any limitation or restriction on the ability of the Purchasers to rely upon such report.

#### **6.17 Title to Real and Personal Property**

The Issuer and its subsidiaries each have good and marketable title to all real property, or have valid rights to lease or otherwise use, all items of real and personal property that are material to the respective businesses of the Issuer and its subsidiaries, in each case free and clear of all liens, encumbrances, claims and defects and imperfections of title except those that (i) do not materially interfere with the use made and proposed to be made of such property by the Issuer and its subsidiaries or (ii) could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

#### **6.18 No Undisclosed Relationships**

Except as disclosed in the Private Placement Memorandum, no material relationship, direct or indirect, exists between the Issuer or any of its subsidiaries, on the one hand, and any director, officer, shareholder or other affiliate (as defined under Rule 501(b) of Regulation D under the Securities Act) of the Issuer or any of its subsidiaries, on the other hand.

#### **6.19 Taxes**

The Issuer is not (and none of its subsidiaries are) overdue in the filing of any national, state, federal or local or other tax return and the Issuer is not (and none of its subsidiaries are)

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overdue in the payment of any amount in respect of Tax, except where the delay or failure to file such returns or pay such amounts in respect of Tax (a) is being contested in good faith and for which adequate reserves are being maintained; or (b) would not, individually or in the aggregate, have a Material Adverse Effect.

No claims or investigations are being, or, to the knowledge of the Issuer and each of the Guarantors, are reasonably likely to be, made or conducted against the Issuer or (or any of its subsidiaries) with respect to Taxes, except for any claim or investigation that (a) is being contested in good faith and for which adequate reserves for those Taxes are being maintained; or (b) would not, individually or in the aggregate, have a Material Adverse Effect.

Since the date of the 2017 MAP Determination, FF B.V. has been and continues to be solely resident in the United Kingdom for purposes of the Convention.

No adverse tax consequences have arisen for any member of the Frigoglass Group in respect of FH B.V. not complying with the elevated substance requirements applicable to “*service companies*” pursuant to the Dutch International Assistance Levy Tax Act (*Wet op de internationale bijstandsverlening bij de heffing van belastingen*) (the “**Dutch Substance Requirements**”).

Each member of the Frigoglass Group, other than FF B.V., is resident for Tax purposes only in its jurisdiction of incorporation.

## **6.20 No Withholding Tax**

Except as disclosed in the Private Placement Memorandum, all interest, principal, premium, if any, additional amounts, if any, and other payments on or under the New Senior Secured Notes may, under applicable laws and regulations of any jurisdiction, be paid in euro that may be converted into another currency and freely transferred out of that jurisdiction and all such payments on or under the New Senior Secured Notes will not be subject to withholding taxes under the current laws and regulations of any jurisdiction and are otherwise payable free and clear of any other tax, withholding or deduction (except for any Taxes that are imposed directly on a Purchaser or any holder of the New Senior Secured Notes as a result of such Purchaser or holder of the New Senior Secured Notes being resident for tax purposes (or having a permanent establishment) in the same jurisdiction as the payer of such amount, and without the necessity of obtaining any governmental authorization in any jurisdiction).

## **6.21 Stamp Duty**

Except as disclosed in the Private Placement Memorandum, no stamp duty, stamp duty reserve tax, transfer tax, issue, registration, documentary and other similar fees, charges, duties or Taxes are payable under applicable laws and regulations of any jurisdiction on (i) the creation, constitution, issue or delivery of the New Senior Secured Notes (which, for the avoidance of doubt, includes the deposit of the New Senior Secured Notes with Euroclear or Clearstream), (ii) the creation, issue or delivery by the Guarantors of the Guarantees, (iii) the purchase by the Purchasers of the New Senior Secured Notes in the manner contemplated by this Agreement, (iv) the execution, delivery, registration, performance or enforcement of this Agreement or any other documents or instruments in relation thereto and the other Transaction Documents, or (v) any action taken by or on behalf of each Purchaser in connection with the New Senior Secured Notes (where permitted under this Agreement to do so).

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## **6.22 Licenses and Permits**

The Issuer and its subsidiaries possess all licenses, certificates, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate national, regional, local, foreign or other governmental or regulatory authorities that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses, except where the failure to possess or make the same would not, individually or in the aggregate, have a Material Adverse Effect; and neither the Issuer nor any of its subsidiaries has received notice of any revocation or modification of any such license, certificate, permit or authorization or has any reason to believe that any such license, certificate, permit or authorization will not be renewed in the ordinary course.

## **6.23 No Labor Disputes**

No labor disturbance by or dispute with employees of the Issuer or any of its subsidiaries exists or, to the knowledge of the Issuer and each of the Guarantors, has been threatened; and to the knowledge of the Issuer and each of the Guarantors, no labor disturbance by or dispute with the employees or agents of any principal supplier, contractor or customer of the Issuer or any of its subsidiaries is imminent, contemplated or threatened which could, individually or in the aggregate, have a Material Adverse Effect. The Issuer and the Guarantors is in compliance with all applicable laws relating to worker safety standards, and all laws, regulations and industry standards unless such non-compliance would not, individually or in the aggregate, have a Material Adverse Effect.

## **6.24 Compliance with Environmental Laws**

(i) The Issuer and its subsidiaries (a) are in compliance with any and all applicable federal, state, local and foreign laws, rules, regulations, legal requirements, decisions and orders relating to the protection of human health or safety, the environment, natural resources, hazardous or toxic substances or wastes, pollutants or contaminants (collectively, “**Environmental Laws**”), (b) have received and are in compliance with all permits, licenses, certificates or other authorizations or approvals required of them under applicable Environmental Laws to conduct their respective businesses, and (c) have not received written notice of any actual or potential liability under or relating to any Environmental Laws, including for the investigation or remediation of any disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants, and have no knowledge of any event or condition that would reasonably be expected to result in any such notice, except in the case of each of the foregoing, for any such failure to comply, or failure to receive required permits, licenses or approvals, or written notice, as would not, individually or in the aggregate, have a Material Adverse Effect; (ii) there are no proceedings that are pending, or that are known by the Issuer to be threatened, against the Issuer or any of its subsidiaries under any Environmental Laws in which a governmental entity is also a party, other than such proceedings as would not, individually or in the aggregate, have a Material Adverse Effect and (iii) the Issuer and the Guarantors are not aware of any capital expenditures currently required under any Environmental Laws other than as would not, individually or in the aggregate, have a Material Adverse Effect.

## **6.25 Insurance**

The Issuer and its subsidiaries have insurance customary for the industry and business in which they are engaged covering their respective properties, operations, personnel and



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businesses, including business interruption insurance; and none of the Issuer nor any of the Guarantors has reason to believe that its insurance coverage is in amounts and insures against such losses as would be inadequate to protect the Group and their respective businesses; and neither the Issuer nor any of its subsidiaries has (i) received notice from any insurer or agent of such insurer that capital improvements or other expenditures are required or necessary to be made in order to continue such insurance or (ii) any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage at reasonable cost from similar insurers as may be necessary to continue its business; except, in each case, where the non-compliance with the provisions herein, in particular the lack of such insurance, would not result in a Material Adverse Effect.

#### **6.26 Accounting Controls**

The Issuer and its subsidiaries make and keep books and records which are accurate in all material respects and maintain systems of internal accounting controls sufficient to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with IFRS, including, but not limited to internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of consolidated financial statements in conformity with IFRS and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. There are no material weaknesses or significant deficiencies in the Issuer's and any of its material subsidiaries' internal controls.

#### **6.27 Anti-Corruption**

Neither New TopCo, Frigoglass S.A.I.C., the Issuer, nor any of their subsidiaries, nor any of their respective directors or officers, nor, to the knowledge of New TopCo, Frigoglass S.A.I.C., the Issuer and the Guarantors, any of their respective employees, affiliates, agents or representatives has (i) made or taken any bribe, rebate, payoff, influence payment, kickback or other unlawful payment, (ii) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity, (iii) made any direct or indirect unlawful payment using corporate funds to any foreign or domestic government official or employee, including any official or employee of any government-owned or controlled entity or public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office, in each case described in clause (i) through (iii) in a manner that would constitute or give rise to a violation of applicable anti-corruption or anti-bribery laws or regulations, including, if and to the extent applicable, (A) the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), including, without limitation, provisions thereunder relating to making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA, (B) any law or regulation implementing the OECD Convention

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on Combating Bribery of Foreign Public Officials in International Business Transactions, (C) any U.K. laws and regulations relating to anti-bribery or anti-corruption, including but not limited to the U.K. Bribery Act 2010 or (D) any provision of equivalent laws applicable to the Company or any of its subsidiaries in any other jurisdiction in which any of the Company or its subsidiaries conduct business or operations (collectively, as identified in (A) through (D) the “**Anti-Corruption Laws**”). The Issuer will not, directly or indirectly, use any part of the gross proceeds of the offering of the New Senior Secured Notes, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, in any manner that would constitute or give rise to a violation of any applicable Anti-Corruption Law.

#### **6.28 Compliance with Anti-Money Laundering Laws**

The operations of New TopCo, Frigoglass S.A.I.C., the Issuer and each of their subsidiaries are and have been at all times conducted in compliance in all material respects with applicable financial record-keeping and reporting requirements of the anti-money laundering laws and regulations of the jurisdictions in which any of New TopCo, Frigoglass S.A.I.C., the Issuer or their subsidiaries conduct business or operations and any related or similar applicable anti-money laundering statutes, rules, regulations or guidelines, issued, administered or enforced by any governmental agency (including those of the Bank Secrecy Act, as amended by Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), to the extent applicable) (collectively, the “**Anti-Money Laundering Laws**”), and there is no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving New TopCo, Frigoglass S.A.I.C., any of the Issuer or any of its subsidiaries with respect to the Anti-Money Laundering Laws and, to the knowledge of New TopCo, Frigoglass S.A.I.C., the Issuer or any of the Guarantors, no such action, suit or proceeding is threatened or contemplated.

#### **6.29 No Restrictions on Subsidiaries**

Except as disclosed in the Private Placement Memorandum, no subsidiary of the Issuer is currently, or as of the Closing Date will be, prohibited, directly or indirectly, under any agreement or other instrument to which it is a party or is subject, from paying any dividends, from making any other distribution on such subsidiary’s capital stock, from repaying any intercompany loans or advances or from transferring any of such subsidiary’s properties or assets to any of the Issuer or any other subsidiary of the Issuer.

#### **6.30 No Integration**

Neither the Issuer nor any of its affiliates (as defined in Rule 501(b) of Regulation D) has, directly or through any agent, sold, offered for sale, solicited offers to buy or otherwise negotiated in respect of, any “security” (as defined in the Securities Act), that is or will be integrated with the sale of the New Senior Secured Notes in a manner that would require registration of the New Senior Secured Notes under the Securities Act.

#### **6.31 No General Solicitation or Directed Selling Efforts**

Neither the Issuer nor any of its controlled affiliates or any other person acting on its or their behalf (other than the Purchasers, as to which no representation is made) has (i) solicited offers for, or offered or sold, the New Senior Secured Notes by means of any form of general

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solicitation or general advertising within the meaning of Rule 502(c) of Regulation D or in any manner involving a public offering within the meaning of Section 4(2) of the Securities Act or (ii) engaged in any directed selling efforts within the meaning of Regulation S, and all such persons have complied with the offering restrictions requirement of Regulation S.

### **6.32 Investment Company Act**

Neither the Issuer nor any of the Guarantors is, and after giving effect to the sale of the New Senior Secured Notes and the application of proceeds therefrom would be, required to register as an “investment company” within the meaning of the United States Investment Company Act of 1940, as amended.

### **6.33 Rule 144A Eligibility**

When the New Senior Secured Notes are issued and delivered pursuant to this Agreement, the New Senior Secured Notes will not be of the same class (within the meaning of Rule 144A) as securities which are listed on a national securities exchange registered under Section 6 of the Exchange Act, or quoted in a U.S. automated inter-dealer quotation system.

### **6.34 Foreign Private Issuer**

The Issuer and each of the Guarantors is a “foreign private issuer” (as such term is defined in the rules and regulations under the Securities Act and Exchange Act).

### **6.35 Securities Law Exemptions**

Assuming the accuracy of the representations and warranties of the Purchasers contained in Clause 5.1 and their compliance with their agreements set forth therein, it is not necessary, in connection with the issuance and sale of the New Senior Secured Notes to the Purchasers, to register the New Senior Secured Notes under the Securities Act or to qualify the Indenture under the U.S. Trust Indenture Act of 1939, as amended.

### **6.36 No Immunity**

None of the Issuer or any of its subsidiaries, and none of their respective properties or assets, has any immunity from the jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, executing or otherwise) under the laws of any jurisdiction in which it has been incorporated or in which any of its property or assets are held.

## **7. CERTAIN UNDERTAKINGS OF THE ISSUER AND THE GUARANTORS**

### **7.1 Closing Security Documents**

On or prior to the Closing Date, the Issuer and New TopCo shall make all filings and take all other actions necessary or desirable to perfect the security interests in the relevant Collateral to be created by the Closing Security Documents, in accordance with its terms, subject to the Intercreditor Agreement and except as otherwise described in the Closing Security Documents.

### **7.2 Accession Security Documents**

- (a) On or prior to the Accession Date, Frigoglass S.A.I.C. shall duly authorize, execute and deliver the Issuer Share Pledge (as defined in Part B of Schedule 3) and shall make all filings and take all other actions necessary or desirable to perfect the security interests

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in the relevant Collateral to be created by the Issuer Share Pledge, in accordance with its terms, subject to the Indenture and the Intercreditor Agreement.

- (b) On or prior to the Accession Date, the Issuer, FH B.V. and FF B.V. shall duly authorize, execute and deliver the Accession Security Documents (other than the Issuer Share Pledge) and shall make all filings and take all other actions necessary or desirable to perfect the security interests in the relevant Collateral to be created by the Accession Security Documents (other than the Issuer Share Pledge), in accordance with their terms, subject to the Indenture and the Intercreditor Agreement and except as otherwise described in the Accession Security Documents (other than the Issuer Share Pledge).

### **7.3 Post-Closing Security Documents**

- (a) On or prior to the Post-Closing Security Execution Date, the Issuer and the relevant Guarantors shall, and the Issuer shall procure that the relevant security providers as set forth in the Post-Closing Security Documents will, duly authorize, execute and deliver the Post-Closing Security Documents.
- (b) On or prior to the Post-Closing Security Execution Date, the Issuer and the relevant Guarantors shall, and the Issuer shall procure that the relevant security providers as set forth in the Post-Closing Security Documents will, make all filings and take all other actions necessary or desirable to perfect the security interests in the Collateral to be created by the Post-Closing Security Documents, in accordance with their terms, subject to the Indenture and the Intercreditor Agreement and except as otherwise described in the Post-Closing Security Documents. In the particular case of the Frigoglass Romania S.R.L.'s immovable mortgage over the Romanian Property, the Guarantor will properly file for registration of the security over the Romanian Manufacturing Plant and related real estate (land and buildings) and will act on a best efforts basis to complete registration on or prior to the Post-Closing Security Execution Date.

### **7.4 The Russian Security Documents**

- (a) On or prior to the Russian Security Execution Date, FH B.V. and the Cypriot Guarantor shall duly authorize, execute and deliver the Russian Security Documents.
- (b) On or prior to the Russian Security Execution Date, FH B.V. and the Cypriot Guarantor shall make all filings and take all other actions necessary or desirable to perfect the security interests in the Collateral to be created by the Russian Security Documents, in accordance with their terms, subject to the Indenture and the Intercreditor Agreement and except as otherwise described in the Russian Security Documents.

### **7.5 Accession**

- (a) The Issuer shall procure that, on the Accession Date, each of the Guarantors accedes to (i) this Agreement by executing and delivering an Accession Agreement substantially in the form of Schedule 4 hereto, (ii) the Indenture by executing and delivering the First Supplemental Indenture and (iii) the Intercreditor Agreement by executing and delivering an Intercreditor Accession Deed.
- (b) On the Accession Date, Frigoglass S.A.I.C. shall accede to (i) this Agreement by executing and delivering the Frigoglass S.A.I.C. Accession Agreement, (ii) the

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Indenture by executing and delivering the Second Supplemental Indenture and (iii) the Intercreditor Agreement by executing and delivering an Intercreditor Accession Deed.

## **7.6 Accession Date Opinions**

The Issuer will cause to be delivered to the Purchasers on the Accession Date:

- (a) *Opinion of English Counsel for the Guarantors.* Milbank LLP, English counsel for the Guarantors, shall have furnished to the Purchasers, at the request of FH B.V., its written English law opinion, dated as of the Accession Date, addressed to the Purchasers, in form and substance reasonably satisfactory to counsel to the Purchasers.
- (b) *Opinion of special U.S. Counsel for the Guarantors.* Milbank LLP, special U.S. counsel for the Guarantors, shall have furnished to the Purchasers, at the request of FH B.V., its written U.S. law opinion with respect to the Supplemental Indentures and the Guarantees, dated as of the Accession Date, addressed to the Purchasers, in form and substance reasonably satisfactory to counsel to the Purchasers.
- (c) *Opinion of Dutch Counsel for the Guarantors.* Stibbe London B.V., Dutch counsel for the Guarantors, shall have furnished to the Purchasers, at the request of FH B.V., its written Dutch law opinion, dated as of the Accession Date, addressed to the Purchasers, in form and substance reasonably satisfactory to counsel to the Purchasers.
- (d) *Opinion of Romanian Counsel for the Guarantors.* Bulboaca & Asociatii SPRL, Romanian counsel for the Guarantors, shall have furnished to the Purchasers, at the request of FH B.V., its written Romanian law opinion, dated as of the Accession Date, in form and substance reasonably satisfactory to counsel to the Purchasers.
- (e) *Opinion of Cypriot Counsel for the Guarantors.* Tassos Papadopoulos & Associates LLC, Cypriot counsel for the Guarantors, shall have furnished to the Purchasers, at the request of FH B.V., its written Cypriot law opinion, dated as of the Accession Date in form and substance reasonably satisfactory to counsel to the Purchasers.
- (f) *Opinion of Nigerian Counsel for the Guarantors.* Chris Ogunbanjo LP, Nigerian counsel for the Guarantors, shall have furnished to the Purchasers, at the request of FH B.V., its written Nigerian law opinion, dated as of the Accession Date and in form and substance reasonably satisfactory to counsel to the Purchasers.
- (g) *Opinion of Greek Counsel for Frigoglass S.A.I.C.* Kyriakides Georgopoulos Law Firm, Greek counsel for Frigoglass S.A.I.C., shall have furnished to the Purchasers, at the request of Frigoglass S.A.I.C., its written Greek law opinion, dated as of the Accession Date and in form and substance reasonably satisfactory to counsel to the Purchasers.

## **7.7 Post-Closing Security Execution Date Opinions**

The Issuer will cause to be delivered to the Purchasers on the relevant Post-Closing Security Execution Date:

- (a) *Opinion of Romanian Counsel for the Guarantors.* Bulboaca & Asociatii SPRL, legal adviser to the Guarantors as to Romanian law, shall have furnished to the Purchasers its written Romanian law opinion, dated the relevant Post-Closing Security Execution Date and in form and substance reasonably satisfactory to counsel for the Purchasers.

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- (b) *Opinion of Cypriot Counsel for the Guarantors.* Tassos Papadopoulos & Associates LLC, legal adviser to the Guarantors as to Cypriot law, shall have furnished to the Purchasers its written Cypriot law opinion, dated the relevant Post-Closing Security Execution Date and in form and substance reasonably satisfactory to counsel for the Purchasers.

## **7.8 Russian Security Execution Date Opinion**

*Opinion of Russian Counsel for the Guarantors.* The Issuer will cause SEAMLESS Legal (or other legal counsel acceptable to the Purchasers), legal adviser to the Guarantors as to Russian law, to deliver to the Purchasers on the Russian Security Execution Date its written Russian law opinion, dated the Russian Security Execution Date and in form and substance reasonably satisfactory to counsel for the Purchasers.

## **7.9 Taxation**

The Issuer and each of the Guarantors (and their respective subsidiaries) confirm and agree they will not change their residence for Tax purposes.

## **7.10 Dutch Substance Requirements**

- (a) Subject to paragraph (b) of this Clause 7.10, in the event that any adverse tax consequences arise for any member of the Frigoglass Group in respect of FH B.V. not complying with the Dutch Substance Requirements, as may be amended or supplemented from time to time, the Issuer confirms and agrees that:
- (i) it will notify the Purchasers in writing as soon as practicable of the reasons why FH B.V. has not complied, or does not comply, with the Dutch Substance Requirements and the adverse tax consequences for the relevant member(s) of the Frigoglass Group; and
  - (ii) all steps necessary will be taken promptly to ensure FH B.V. complies with such elevated substance requirements.
- (b) On receipt of any notice given under Clause 7.10(a)(i) above, a Purchaser representing at least 10% of the New Senior Secured Notes may request to consult with the Issuer within 15 Business Days with respect to determining the necessary steps that will be taken to ensure that FH B.V. complies with the Dutch Substance Requirements.
- (c) FH B.V. confirms and agrees that it will comply with, or procure compliance with, all necessary steps requested by a Purchaser representing at least 10% of the New Senior Secured Notes (acting reasonably and in good faith) to ensure that FH B.V. complies with the Dutch Substance Requirements.

## **7.11 No Integration**

The Issuer agrees that it will not and will cause any Affiliate not to make any offer or sale of securities of the Issuer of any class if, as a result of the doctrine of “integration” referred to in Rule 502 under the Securities Act, such offer or sale would render invalid the exemption from the registration requirements of the Securities Act provided by Section 4(a)(2) thereof, by Regulation S thereunder or otherwise.

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## 7.12 No Public Offer

The Issuer agrees that it will not, and will cause any other person acting on its behalf not to make any offer or sale of the New Senior Secured Notes if, as a result of such offer or sale, the offer or sale of the New Senior Secured Notes would be considered as a public offering in accordance with the European Union law, including, without limitation, the Prospectus Regulation.

## 7.13 Compliance Checks

New TopCo, Frigoglass S.A.I.C. and the Issuer agree to, and the Issuer shall procure that each other member of the Group will, respond promptly to all reasonable requests related to a Purchaser's necessary "know-your-customer" and anti-money laundering checks that are notified to a member of the Group in writing.

## 7.14 Compliance with Sanctions

- (a) The Issuer shall not, and shall procure that its subsidiaries will not, directly or indirectly, (x) transfer any cash or make any funds or economic resources available to any entity in the Russian Federation (including Frigoglass Eurasia LLC); (y) make any new investment in the Russian Federation (excluding, for the avoidance of doubt, capital expenditures by Frigoglass Eurasia LLC in the ordinary course of business and in compliance with applicable Sanctions) or (z) use, lend, make payments of, contribute or otherwise make available, all or any part of the gross proceeds of the New Senior Secured Notes to fund any trade, business or other activities, in the Russian Federation, in each case other than provided for in paragraph (c) below.
- (b) The Issuer shall and shall procure that their subsidiaries will: (i) comply with all applicable Sanctions; and (ii) maintain policies and procedures reasonably designed to promote and achieve compliance with applicable Sanctions.
- (c) Prior to the Sanctions Fallaway Date, the Issuer shall not, and shall procure that their subsidiaries will not, make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Russian Intercompany Balance, in each case other than by way of set-off. However, Frigoglass Romania S.R.L. may make payments on a cash on delivery basis for goods and services provided in the ordinary course of business and on pricing terms consistent with historical pricing terms by Frigoglass Eurasia LLC (and in all cases, in accordance with applicable Sanctions) on or after the Closing Date; *provided* that Frigoglass Eurasia LLC provides a written undertaking in a form reasonably acceptable to Frigoglass Romania S.R.L. that it shall not, directly or indirectly, voluntarily make any payment (including in relation to any existing obligations) to any Sanctioned Person or to any person in any Sanctioned Country (for the avoidance of doubt, a voluntarily made payment shall not include any payments made upon maturity or any demand or acceleration by a creditor).
- (d) Nothing in this Clause 7.14 shall create or establish an obligation or right for any person to the extent that by agreeing to it, complying with it, exercising it, having such obligation or right or otherwise (including the giving of any boycott declaration), it would be placed in violation of any law applicable to it in accordance with the law of the place of its incorporation, including (x) EU Regulation (EC) 2271/96 (and any law or regulation implementing such Regulation in any member state of the European

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Union or the United Kingdom) and (y) any similar anti-boycott law or regulation (collectively, the “**Anti-Boycott Laws**”). No representation or undertaking given under this Clause 7.14 shall be made or given for the benefit of any person to the extent that it would result in a violation of or conflict with or liability under any Anti-Boycott Law for that person.

- (e) As soon as reasonably practicable following the Sanctions Fallaway Date and subject to having received all necessary governmental approvals, Frigoglass Eurasia LLC shall accede as a Guarantor to this Agreement.

## **8. LISTING**

### **8.1 Application for Notes Listing**

The Issuer shall make an application and use commercially reasonable efforts for the New Senior Secured Notes to be listed on the Stock Exchange (the “**Notes Listing**”) within twelve months from the Closing Date.

### **8.2 Delivery of Documents**

The Issuer agrees to deliver to the Stock Exchange copies of all documents, information and undertakings as may be required for the purpose of obtaining approval of the Notes Listing on or prior to the Closing Date.

## **9. ASSIGNMENT AND TRANSFER BY THE ISSUER AND THE PURCHASERS**

- (a) The Issuer may not assign any of its rights or transfer any of its rights or obligations under this Agreement or any other Transaction Document without the prior written consent of each Purchaser.
- (b) No Purchaser may assign any of its rights or transfer any of their rights or obligations under this Agreement or any other Transaction Document without the prior written consent of the Issuer, except for any assignments or transfers to any of its Affiliates or Related Funds.

## **10. CONDUCT OF BUSINESS BY THE PURCHASERS**

No provision of this Agreement will:

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

## **11. PAYMENT MECHANICS**

- (a) Subject to paragraphs (b) to (c) below, euro is the currency of account and payment for any sum due under this Agreement.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.



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- (c) Any amount expressed to be payable in a currency other than euro shall be paid in that other currency.

## **12. NOTICES**

### **12.1 Communications in writing**

Any communication to be made under or in connection with this Agreement shall be made in writing (which shall include electronic mail) and, unless otherwise stated, may be made by electronic mail or letter.

### **12.2 Addresses**

The address and electronic mail address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is:

- (a) in the case of New TopCo, the Issuer and/or any Guarantor, the following:

Frigo DebtCo plc  
C/O Tmf Group 8th Floor  
20 Farringdon Street  
London, EC4A 4AB  
United Kingdom  
Attention: [●]  
Email: [●]

Frigo Newco 1 Limited  
C/O Tmf Group 8th Floor  
20 Farringdon Street  
London, EC4A 4AB  
United Kingdom  
Attention: [●]  
Email: [●]

- (b) in the case of the Purchasers, the notice details as set forth in Schedule 1,  
or any substitute address or electronic mail address or department or officer as the Party may notify to the other Parties by not less than five (5) Business Days' notice.

### **12.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
- (i) if by way of electronic mail, when actually received (or made available) in readable form; or
  - (ii) if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

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and, if a particular department or officer is specified as part of its address details provided under Clause 12.2, if addressed to that department or officer.

- (b) Any communication or document made or delivered to the Issuer in accordance with this Section 12 will be deemed to have been made or delivered to each of the Obligors.

#### **12.4 Electronic communication**

- (a) Any communication to be made between any two Parties under or in connection with this Agreement may be made by unencrypted electronic mail or other electronic means to the extent that those two parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication if those two Parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five (5) Business Days' notice.
- (b) Any electronic communication made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to each Purchaser only if it is addressed in such a manner as a Purchaser shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### **12.5 English language**

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents (excluding any constitutional documents of a member of the Group) provided under or in connection with this Agreement must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Purchasers, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

#### **12.6 Purchaser notices**

Each Purchaser may by notice to the Issuer appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Purchaser under this Agreement. Such notice shall contain the address, electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, electronic mail address (or such other information), department and officer by that Purchaser for the purposes of Clause 12.2 and paragraph (a)(ii) of Clause 12.4 and the Issuer shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were the Purchaser.

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## **13. CALCULATIONS AND CERTIFICATES**

### **13.1 Accounts**

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

### **13.2 Certificates and determinations**

Any certification or determination by a Purchaser of a rate or amount under this Agreement is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### **13.3 Day count convention**

Any interest, commission or fee accruing under this Agreement will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days (rounding the resulting figure to the nearest cent (half a cent being rounded upwards)).

## **14. PARTIAL INVALIDITY**

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## **15. REMEDIES AND WAIVERS**

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

## **16. CONFIDENTIALITY**

### **16.1 Confidential Information**

New TopCo, Frigoglass S.A.I.C., the Issuer, and the Purchasers agree to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 16.2.

### **16.2 Disclosure of Confidential Information**

A Party may disclose:

- (a) to any of its Affiliates (or any of their respective Affiliates) or Related Funds, as the case may be, and any of its and their respective investor, co-investor, potential investor, potential co-investor, investment manager and/or limited partner in any Related Funds, as the case may be, and any of its or their respective officers, directors, employees, advisers, professional advisers, agents, auditors, partners and representatives of each of the foregoing and its and their respective employees such Confidential Information;
- (b) to any person:

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- (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under this Agreement or which succeeds (or which may potentially succeed) to any of that person's Affiliates or Related Funds, as the case may be, representatives and professional advisers;
  - (ii) appointed by any Purchaser or by a person to whom paragraph (b)(i) above applies to receive communications, notices, information or documents delivered pursuant to this Agreement on its behalf;
  - (iii) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) above;
  - (iv) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any applicable governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
  - (v) to whom or for whose benefit that Purchaser charges, assigns or otherwise creates Security (or may do so);
  - (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
  - (vii) who is a Party; or
  - (viii) with the consent of the other Party;
- (c) as part of any "due diligence" defence where the recipients have been made aware of, and agree to be bound by the obligations under this Section 16 or are in any event subject to confidentiality obligations as a matter of law or professional practice.

### **16.3 Entire agreement**

This Section 16 constitutes the entire agreement between the Parties in relation to the obligations of the Purchasers under this Agreement regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information

### **16.4 Notification of disclosure**

Each of the Purchasers agrees (to the extent permitted by law and regulation) to inform the Issuer:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(iv) of Clause 16.2 except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 16.4.

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## **16.5 Continuing obligations**

The obligations in this Clause 16.5 are continuing and, in particular, shall survive and remain binding on each Purchaser for a period of twelve months from the earlier of:

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

## **17. ARM'S LENGTH TRANSACTIONS**

The Issuer acknowledges and agrees that:

- (a) each Purchaser is acting only as an independent contractor pursuant to the terms of this Agreement. Regardless of any pre-existing or separate relationship, it is agreed that the issue and subscription of the New Senior Secured Notes (the “**Activities**”) does not give rise to any fiduciary or agency duties on the part of any Purchaser to the Issuer or any other person connected to the Issuer in connection with this Agreement and/or the Activities;
- (b) the Issuer is not relying on any Purchaser for any advice, including investment advice, general financial or strategic advice on legal, regulatory, tax and accounting matters in any jurisdiction and, if the Issuer requires such advice, they will obtain it from their separate advisers;
- (c) consistent with the broad range of activities that each Purchaser undertakes for itself and others, and the Issuer acknowledging that these may involve interests that differ from those of the Issuer, none of the Purchasers are under any duty to disclose to the Issuer or use for the benefit of the Issuer any information about or derived from entering into or acting in connection with the Activities or to account to the Issuer for any benefits obtained in connection with this Agreement or undertaking the Activities; and
- (d) the Issuer will independently determine the price and other commercial aspects of the issue and subscription of the New Senior Secured Notes pursuant to this Agreement with or through the Purchasers following arm's-length negotiations with the Purchasers. The Issuer also acknowledges that such price and commercial terms may not reflect the best price and/or terms obtainable in the market. The Issuer acknowledges that it is capable of evaluating and understands and accepts the terms of and risks associated with the services and transactions contemplated by this Agreement and the Activities.

## **18. COUNTERPARTS**

This Agreement may be executed in counterparts (which may include counterparts delivered by any standard form of telecommunication, including, without limitation, electronic transmission), each of which shall be an original and all of which together shall constitute one and the same instrument.

## **19. GOVERNING LAW**

THIS AGREEMENT AND ANY MATTERS RELATED TO THIS TRANSACTION SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS

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OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAWS OF THE STATE OF NEW YORK.

**20. SUBMISSION TO JURISDICTION**

Each of the parties hereto irrevocably (i) agrees that any legal suit, action or proceeding against the Issuer or any Guarantor brought by the Purchasers or by any person who controls the Purchasers arising out of or based upon this Agreement or the transactions contemplated hereby will be instituted and tried exclusively in any U.S. Federal or New York State court in the Borough of Manhattan in the city of New York, New York, (ii) irrevocably waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such proceeding and (iii) submits to the exclusive jurisdiction of, and venue in, such courts in any such suit, action or proceeding. Each of New TopCo, and the Issuer and, upon their accession to this Agreement, Frigoglass S.A.I.C. and each of the Guarantors shall have appointed, on or prior to the Closing Date, Corporation Service Company, with offices on the date hereof at 19 West 44<sup>th</sup> Street, Suite 200, New York, New York 10036, United States of America, as its authorized agent (the “**Authorized Agent**”) upon whom process may be served in any such action arising out of or based on this Agreement or the transactions contemplated hereby which may be instituted in any New York court by any Purchaser or by any person who controls a Purchaser, expressly consents to the jurisdiction of any such court in respect of any such action, and waives any other requirements of or objections to personal jurisdiction with respect thereto. Such appointment shall be irrevocable. Each of New TopCo and the Issuer and, upon their accession to this Agreement, Frigoglass S.A.I.C. and each of the Guarantors, represent and warrant that the Authorized Agent will agree to act as such agent for service of process and agrees to take any and all action, including the filing of any and all documents and instruments that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent and written notice of such service to the Issuer and the Guarantors shall be deemed, in every respect, effective service of process upon the Issuer and the Guarantors, as applicable.

**21. WAIVER OF IMMUNITY**

To the extent the Issuer, New TopCo, Frigoglass S.A.I.C., the Guarantors or any of their respective properties, assets or revenues may have or may hereafter become entitled to, or have attributed to it, any right of immunity, on the grounds of sovereignty or otherwise, from any legal action, suit or proceeding, from the giving of any relief in any such legal action, suit or proceeding, from service of process, from attachment upon or prior to judgment, from attachment in aid of execution of judgment, or from execution of judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of any judgment, in any competent jurisdiction in which proceedings may at any time be commenced, with respect to its obligations, liabilities or any other matter under or arising out of or in connection with this Agreement, any of the Transaction Documents or any of the transactions contemplated hereby or thereby, the Issuer, New TopCo, Frigoglass S.A.I.C. and the Guarantors hereby irrevocably and unconditionally waive, and agree not to plead or claim, any such immunity and consent to such relief and enforcement.

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**22. WAIVER OF TRIAL BY JURY**

Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

**THE ISSUER:**

**Frigo DebtCo plc**

by:

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Name:

Title: Director



**THIRD PARTY SECURITY PROVIDER:**

**Frigo Newco 1 Limited**

by:

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Name:

Title: Director

*[Signature Page to Purchase Agreement]*

**THE PURCHASERS:**

[•]  
by:

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Name:  
Title:

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**Schedule 1**  
**Purchasers**

**Part A –Purchasers**

| <b>Purchaser</b> | <b>Aggregate<br/>Principal<br/>Amount of<br/>Initially<br/>Purchased Notes</b> | <b>Notice Details</b> |
|------------------|--|-----------------------|
|                  |  |                       |
|                  |  |                       |
|                  |  |                       |
|                  |  |                       |
| <b>TOTAL</b>     | <b>€75,000,000</b>   |                       |

**Part B – Backstop Purchasers**

|  |
|--|
| <b>Backstop Purchaser</b>                        |
| Invesco Monthly Income Plus Fund (UK)            |
| Invesco Pan European High Income Fund (UK)       |
| St James Place Corporate Bond Unit Trust (UK)    |
| Invesco Global Income Fund (Lux)                 |
| Invesco Bond Income Plus Limited (Jersey)        |
| Invesco High Yield Fund (UK)                     |
| Invesco Distribution Fund (UK)                   |
| Invesco Global Targeted Returns Fund (UK)        |
| St James Place Global Absolute Return Unit Trust |
| AILIS – Invesco Income                           |
| Invesco Pan European High Income FAM Fund (Lux)  |
| Invesco Global Targeted Returns Fund (Lux)       |
| Fonditalia – Income Mix                          |
| Invesco Global Income Fund (UK)                  |
| Invesco Global Opportunities                     |
| Burlington Loan Management DAC                   |
| DWS Invest Euro High Yield Corporates            |
| Klirmark Opportunity Fund III, LP                |

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**Schedule 2**  
**Guarantors**

Frigoinvest Holdings B.V.

Frigoglass Finance B.V.

Frigoglass Romania S.R.L.

3P Frigoglass S.R.L.

Frigoglass Cyprus Limited

Frigoglass Global Limited

Frigoglass Industries (Nigeria) Limited

Beta Glass plc

[Dutch NewCo]

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### Schedule 3 Security Documents

#### Part A – Closing Security Documents

| Security Provider | Security Document  | Governing law |
|-------------------|--|---------------|
| Issuer            | Pledge of shares, bank accounts, receivables and a floating charge over the assets of the Issuer under a debenture | England       |
| New TopCo         | Pledge of shares held in the Issuer  | England       |

#### Part B – Accession Security Documents

| Security Provider   | Security Document  | Governing law |
|---------------------|--|---------------|
| Frigoglass S.A.I.C. | Pledge of shares held in the Issuer (the “ <b>Issuer Share Pledge</b> ”)   | England       |
| Issuer              | Pledge of shares held in FH B.V.   | Netherlands   |
| FH B.V.             | Pledge of shares held in [Dutch NewCo]   | Netherlands   |
| FH B.V.             | Pledge of shares held in FF B.V.   | Netherlands   |
| FH B.V. and FF B.V. | Pledge of intercompany receivables owed to FH B.V. and FF B.V. by any other member of the Group  | Netherlands   |
| FH B.V. and FF B.V. | Pledge of bank accounts held in the Netherlands  | Netherlands   |
| FH B.V. and FF B.V. | Pledge of bank accounts held in England and Wales by FF B.V. and FH B.V. and floating charge over the assets of FF B.V. dated on or around the date hereof | England       |

#### Part C – Post-Closing Security Documents

| Security Provider                     | Security Document  | Governing law |
|---------------------------------------|--|---------------|
| FH B.V. and Frigoglass Cyprus Limited | Pledge of shares in Frigoglass Romania S.R.L.  | Romania       |
| FF B.V.                               | Pledge of shares in 3P Frigoglass S.R.L.   | Romania       |
| Frigoglass Romania S.R.L.             | First ranking immovable mortgage over the real estate located in Parta Village, Timis County, Romania and registered with the Parța Land Book under No. 406225, cadastral No. 406225, land and present and future buildings representing the Romanian Manufacturing Plant, to be concluded in authenticated form in front of a | Romania       |

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| Security Provider         | Security Document   | Governing law |
|---------------------------|---|---------------|
|                           | public notary, in form and substance satisfactory to the Security Agent         |               |
| Frigoglass Romania S.R.L. | First lien floating charge over all movable assets of Frigoglass Romania S.R.L. | Romania       |
| FH B.V.                   | Pledge of shares in Frigoglass Global Limited                                   | Cyprus        |
| FH B.V.                   | Pledge of shares in Frigoglass Cyprus Limited                                   | Cyprus        |

#### Part D – Russian Security Documents

| Security Provider         | Security Document  | Governing law |
|---------------------------|--|---------------|
| FH B.V.                   | Pledge of participatory interest (shares) in the charter capital of Frigoglass Eurasia LLC | Russia        |
| Frigoglass Cyprus Limited | Pledge of participatory interest (shares) in the charter capital of Frigoglass Eurasia LLC | Russia        |

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**Schedule 4**  
**Form of Accession Agreement**

**THIS ACCESSION AGREEMENT** (the “**Accession Agreement**”), dated as of [●], 2023, is made by the undersigned entities as Guarantors (the “**Guarantors**”) under the Purchase Agreement referred to below.

WHEREAS, a purchase agreement dated as of [●], 2023 (the “**Purchase Agreement**”), has been entered into by and among Frigo DebtCo plc (the “**Issuer**”), Frigo Newco 1 Limited and the several purchasers (the “**Purchasers**”) named therein, as purchasers, in connection with the purchase by the Purchasers of €[●] aggregate principal amount of the Issuer’s Senior Secured Notes due 2026 (together, the “**New Senior Secured Notes**”).

WHEREAS, the Purchase Agreement contemplates that the Guarantors will, on the Accession Date (as defined in the Purchase Agreement), accede to the Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, each Guarantor covenants and agrees:

- 1        *Capitalized Terms.* Capitalized terms used in this Accession Agreement and not otherwise defined in this Accession Agreement shall have the meanings ascribed to them in the Purchase Agreement.
- 2        *Agreement to Accede.* Each Guarantor, as of the date hereof, hereby agree to accede to the Purchase Agreement on the terms and conditions, and subject to the limitations and restrictions, set forth in this Accession Agreement and the Purchase Agreement and shall have the rights and obligations thereunder as if they had executed the Purchase Agreement as a Guarantor. In connection with such accession, each Guarantor agree to be bound by all of the representations, warranties, covenants, stipulations, promises, agreements and other obligations applicable as set forth in the Purchase Agreement with respect to matters directly related to them, to the extent permitted by applicable law, and subject to the limitations and restrictions set forth therein, as of the dates provided therein. On and after the date of this Accession Agreement, each reference to the “Purchase Agreement” or “this Agreement,” or words of like import referring to the Purchase Agreement, shall mean the Purchase Agreement together with this Accession Agreement.
- 3        *New York Law to Govern.* THIS ACCESSION AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO THE PRINCIPLE OF CONFLICTS OF LAW THEREOF OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK.
- 4        *Effect of Headings.* The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Accession Agreement.
- 5        *Successors.* All covenants and agreements in this Accession Agreement by the parties hereto shall bind their respective successors.
- 6        *Jurisdiction.* Each Guarantor irrevocably submits to the non-exclusive jurisdiction of any U.S. Federal or New York State court in the Borough of Manhattan in the City, County and State of New York, United States of America, in any legal suit, action or proceeding based



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on or arising under this Accession Agreement and agrees that all claims in respect of such suit or proceeding may be determined in any such court. Each Guarantor irrevocably waives the defense of an inconvenient forum or objections to personal jurisdiction with respect to the maintenance of such legal suit, action or proceeding.

- 7 *Waiver of Jury Trial.* Each Guarantor hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding, occurring, for the avoidance of doubt, at any time before or after the Accession Date, arising out of or relating to this Accession Agreement or the transactions contemplated hereby.
- 8 *Waiver of Immunity.* To the extent a Guarantor or any of its properties, assets or revenues may have or may hereafter become entitled to, or have attributed to it, any right of immunity, on the grounds of sovereignty or otherwise, from any legal action, suit or proceeding, from the giving of any relief in any such legal action, suit or proceeding, from service of process, from attachment upon or prior to judgment, from attachment in aid of execution of judgment, or from execution of judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of any judgment, in any competent jurisdiction in which proceedings may at any time be commenced, with respect to their obligations, liabilities or any other matter under or arising out of or in connection with this Accession Agreement, any of the Transaction Documents or any of the transactions contemplated hereby or thereby, each Guarantor hereby irrevocably and unconditionally waive, and agree not to plead or claim, any such immunity and consent to such relief and enforcement.
- 9 *[Frigoglass Romania S.R.L. and 3P Frigoglass S.R.L Confirmations (each a “Romanian Guarantor”).*

Each Romanian Guarantor represents that:

(i) it enters into this Accession Agreement and the Purchase Agreement in its own name and on its own behalf, not as a proxy, agent, asset manager or fiduciary of another person;

(ii) it has independently decided to enter into the Accession Agreement and the Purchase Agreement, on the basis of its own assessment or, where it has considered necessary, based on the legal, financial or technical expertise of external independent consultants selected by it. When making the decision to enter into this Accession Agreement and the Purchase Agreement it relies on no written or oral communication from any other party;

(iii) it is capable of understanding (by itself or assisted by any consultants that it has considered necessary) and understands and accepts the contents of all the (internal and external) clauses and all the rights and obligations it undertakes through the Accession Agreement and the Purchase Agreement; and

(iv) it has negotiated each clause of this Accession Agreement and the Purchase Agreement (for the purpose of this Clause “*negotiation*” meaning both the exchange of proposals between Parties which has resulted in a final agreement in relation to certain clauses, and the unconditional acceptance by a Party of the clauses proposed by the other Party). In particular, the Romanian Guarantor explicitly represents that they understand and accept each and all unusual standard clauses (as defined by Article 1.203 of the Romanian Civil Code) in this Accession Agreement and the Purchase Agreement , as further detailed

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below, and for the purposes of Article 1.175 of the Romanian Civil Code acknowledge and agree that this Accession Agreement and the Purchase Agreement are not contracts of adhesion (*contract de adeziune*) in the meaning of Article 1.175 of the Romanian Civil Code, being the result of the negotiation between the parties.

(v) This Accession Agreement and the Purchase Agreement is the outcome of the negotiation among the Parties and represents the full agreement of the parties with respect to absolutely all the essential and secondary aspects of this Accession Agreement and the Purchase Agreement.

(vi) For the purpose of Article 1.202 and Article 1.203 of the Romanian Civil Code, each Romanian Guarantor expressly accepts and acknowledges each and all Clauses of this Accession Agreement and the Purchase Agreement which stipulate: (i) in favor of the Purchasers, such as: limitation of liability, the right to unilaterally terminate the Accession Agreement and Purchase Agreement, or the right to suspend the enforcement of the Purchasers' obligations; or (ii) to the detriment of that Romanian Guarantor such as: forfeiture of rights, forfeiture of the benefit of time, limitation of the right to raise exceptions, tacit renewal of the Accession Agreement and Purchase Agreement or applicable law and jurisdiction clauses.

(vii) Each Romanian Guarantor, in full awareness of the contents and nature of the transactions contemplated by this Accession Agreement and Purchase Agreement, hereby assumes the risk of change of the circumstances under which this Accession Agreement and Purchase Agreement is entered into, in accordance with Article 1271 paragraph 3 letter (c) of the Romanian Civil Code, and hereby waives any right to raise defences based on hardship (*impreviziune*).]<sup>2</sup>

[Signature page follows]

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<sup>2</sup> To be inserted for Frigoglass Romanian S.R.L. and 3P Frigoglass S.R.L.

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If the foregoing is in accordance with your understanding, please indicate your acceptance of this Agreement by signing in the space provided below.

**[*GUARANTORS*]**

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Name:

Title: Director

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