

**BEGLAUBIGTE ABSCHRIFT**  
**CERTIFIED TRUE COPY**



**DR. RUDOLF KAINDL**

ÖFFENTLICHER NOTAR

WIEN - DONAUSTADT

gerichtl. zertif. Dolmetsch  
für Englisch und Französisch

Notary's File Number: 6798  
dp (2011)

ORIGINAL

**NOTARIAL DEED**

Before me, Dr. Rudolf KAINDL, Civil Law Notary and -----  
Certified Court Translator in English and German,  
practicing at Vienna-Donaustadt IV, and having office at  
1220 Vienna, Donaustadtstrasse 1, appeared today in the  
law-offices of -----  
----- Schönherr Rechtsanwälte GmbH-----  
----- in 1010 Wien, Tuchlauben 17,-----  
whereto I came upon request of the parties, the following  
individuals, who have proved their identities and the  
correctness of their birth dates by presenting valid photo-  
identifications, namely: -----

1. Mag. Miriam SIMSA, born on 25.12.1985 (this twenty-fifth day of December nineteen hundred and eighty-five), 1010 Vienna, Tuchlauben 17, ----- acting as Attorney-in-Fact pursuant to the Power of Attorney, issued on 22.08.2011 (this twenty-second day of August two thousand and eleven), ----- which is attached hereto in form of a certified true copy as ..... Exhibit ./A for, in the name and on behalf of -----

**VTB CAPITAL PE INVESTMENT HOLDING (CYPRUS) LIMITED,**  
with its corporate seat in Nicosia and registered  
business address at CY-PC1520 Nicosia, Thasou, 3 DADLAW  
HOUSE, registered with the Cypriot Registrar of  
Companies under File Number 263030; -----

2. **Mr. Bünyamin TASKAPAN, born on 29.04.1982** (this twenty-ninth day of April nineteen hundred and eighty-two), acting as Attorney-in-Fact for, in the name and on behalf of -----
  - a) **LIVERO ESTABLISHMENT** with its corporate seat in Ruggell and registered business address at LI-9491 Ruggell, c/o FIBEKO Treuhandanstalt, Industriestrasse 36, registered with the Public Register under File Number 0002.373.200-6, ----- pursuant to the Power of Attorney, issued on 19.08.2011 (this nineteenth day of August two thousand and eleven), ----- which is attached hereto in form of a certified true copy as ..... **Exhibit ./B**
  - b) **BELOM FOUNDATION**, with its seat in Ruggell and its registered business address at LI-9491 Ruggell, c/o FIBEKO Treuhandanstalt, Industriestrasse 26, Liechtenstein, ----- pursuant to the Power of Attorney, issued on 19.08.2011 (this nineteenth day of August two thousand and eleven), ----- which is attached hereto in form of a certified true copy as ..... **Exhibit ./C**
  - c) **SEDONA FOUNDATION**, with its seat in Ruggell and its registered business address at LI-9491 Ruggell, c/o FIBEKO Treuhandanstalt, Industriestrasse 26, Liechtenstein, ----- pursuant to the Power of Attorney, issued on 19.08.2011 (this nineteenth day of August two thousand and eleven), ----- which is attached hereto in form of a certified true copy as ..... **Exhibit ./D**

The individuals present have a perfect command of the English language and upon their request this Notarial Deed is drafted in English pursuant to Section 62 (sixty-two) Notary Act. -----  
The parties waive and renounce to attach a translation into the German language of this Notarial Deed. -----

The Power of Attorney Exhibit ./A is attached as copy only. Pursuant to Section 69a (sixty-nine item a) Paragraph 4 (four) Notary Act this Notarial Deed will have the force of an authentic instrument upon presentation of the Original of Exhibit ./A duly legalized within 30 (thirty) days. ---

The present individuals herewith submit to me a Private Deed which was signed and executed today, a -----

----- **Framework Agreement** -----

for the purpose of notarization and authentication. -----

I, the undersigned Notary, herewith declare to have verified and signed this private deed pursuant to Sections 54 (fifty-four) et seq. Notary Act. -----

Any number of Counterparts (authentic copies), certified true copies and simple copies of this Notarial Deed may be issued upon request to the Parties to this Notarial Deed, at each Party's cost. -----

The individuals who appeared before me acknowledge and explicitly approve that the whole content of this Deed has to be transmitted and stored as an electronic file in the Record Office of the Austrian Notaries according to the respective regulations of the Notary Act as well as the corresponding directives and that pursuant to the respective legal regulations and conventions reading access of the stored electronic files may be granted to Courts, administrative- and tax authorities. -----

...oooOooo...

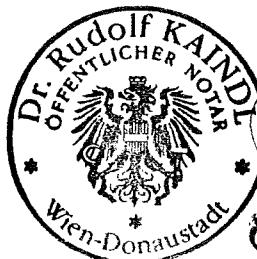
IN WITNESS WHEREOF this Notarial Deed and the said Private Deed were recorded, read in full to the individuals present, fully approved by them as being in complete accordance with their intentions respectively the Intentions of the Parties represented by them, and THEREUPON signed by them before me, Civil Law Notary. ---- Given at Vienna, this 22.08.2011 (this twenty-second day of August two thousand and eleven) -----

for: VTB CAPITAL PE INVESTMENT  
HOLDING (CYPRUS) LIMITED

for: LIVERO ESTABLISHMENT

for: BELOM FOUNDATION

for: SEDONA FOUNDATION



Öffentl. Notar



**F r a m e w o r k A g r e e m e n t**

*(Notarial Deed)*

between

**VTB CAPITAL PE INVESTMENT HOLDING (CYPRUS) LIMITED**  
**("HoldCo")**

on the one hand and

**LIVERO ESTABLISHMENT**

**("SponsorCo")**

**BELOM FOUNDATION**

**("S1")**

**SEDONA FOUNDATION**

**("S2")**

on the other hand as follows

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## Preamble

WHEREAS, HoldCo is exploring the opportunity to invest in the Target;

WHEREAS, In exploring such opportunity, HoldCo has caused the establishment of BidCo and has caused BidCo to purchase the Tender Rules, to submit the Qualification Documents to APPC and to purchase the Information Memorandum so that, as of the date hereof, BidCo has been certified by APPC as eligible financial investor and is entitled to submit a Bid;

WHEREAS, HoldCo considers to acquire an equity and/or a debt interest in the Target via BidCo and to evaluate the prospects of the economic performance of such interest over a certain period of time;

WHEREAS, HoldCo is interested in securing an exit from its entire equity investment after a certain period of time should it decide, in its sole discretion, that such exit is desirable;

WHEREAS, the Sponsors are willing to provide to HoldCo the opportunity for such exit;

Now, therefore, the Parties agree as follows:

### I. Definitions and Interpretation

#### I.1 Definitions

Affiliate	means, in respect of any Person ("First Person"), any other Person (A) Controlling such First Person or (B) Controlled by such First Person or (C) Controlled by a Person falling within the meaning of the preceding sub clause (A).
Agreement	means this framework agreement.
Ancillary Agreement	means any agreement or arrangement entered into in connection with the transactions contemplated under this Agreement.
APPC	means the Bulgarian Agency for Privatisation and Post-Privatisation Control.
Applicable Laws	means all laws (constitutional or otherwise) and regulations and all decrees, orders and judgments enacted or published by a Governmental Authority (whether or not having the force of law) and, unless explicitly otherwise indicated for each concrete case, irrespective of which jurisdiction.
Bank	means Russian Commercial Bank (Cyprus) Ltd, 2, Amathuntos Street, 3310 Limassol, Cyprus.
Bid	means an offer to acquire the Privatization Shares.
BidCo	means BT Invest GmbH with its seat in Vienna and the business address Czerninplatz 4, 1020 Vienna, regis-

	tered with the Commercial Court Vienna under FN 361573 a.
BidCo Share	means the entire share ( <i>Geschäftsanteil</i> ) which HoldCo holds in BidCo whether already issued or issued in the future as a result of a capital increase, conversion of capital reserves or otherwise.
Bid Security	means a security provided in the form and amount and by such time as required in connection with Bid Submission under the Tender Rules.
Bid Submission	means the submission of a Bid with APPC as contemplated under the Tender Rules.
Business Days	means calendar days when banks are open for general business in London, Sofia, Nicosia and Vienna.
Call Expiry Date	means the second anniversary of the date of the PC Closing or, if such day is not a Business Day, the immediately following Business Day.
Call Option Event	means that breach by BidCo of any of its material obligations under the Privatization Contract has been established provided, further, that such breach is not a consequence of breach by Sponsors or SponsorCo or any of their Affiliates of any of their material obligations towards BidCo or any Affiliate of BidCo.
Cash Collateral and Security Agreement	shall have the meaning given to such term in Clause 8.
Clause	means a clause, sub-clause, section or sub-section of this Agreement.
Conditions	means the conditions set out in Clause 2.2 (and "Condition" means either of them).
Control	means in general the possession, directly or indirectly, solely or jointly with another Person, of power to direct or cause the direction of the management or policies of a Person (whether through the ownership of securities, other shareholder-, partnership- or ownership interest, by establishing total or partial identity of individuals in management, by contract or otherwise).
Eligible Individual	means any individual listed in <b>Schedule 1.1 EI</b> and up to 3 further individuals which HoldCo may nominate in addition until PC Closing.
Fee Schedule	shall have the meaning given to such term in Clause 12.6.1.

Good Reason	means, in the reasonable opinion of HoldCo, (i) any material breach by an Eligible Individual of Applicable Law, the provisions of any constitutive documents (including the articles, bylaws, rules of procedure etc) or its employment agreement with Target, (ii) the initiation of legal investigations for breach of Applicable Law by any Governmental Authority or criminal prosecution against an Eligible Individual, (iii) any serious threat of damage (including reputational damage) to Target and/or any of its Affiliates, (iv) a material deterioration of the financial and/or earnings position of the Target and/or Target Group or (v) a disease or similar circumstance of such nature which renders the Eligible Individual unable to duly perform its obligations as director of the Target.
Governmental Authority	means any national, federal, regional, state, local or other governmental body, agency, commission, department, court, ministry, or similar regulatory authority or organization and including authorities of the European Union.
GSM	means general shareholders' meeting (whether an annual or an extraordinary meeting).
HoldCo	means VTB CAPITAL PE INVESTMENT HOLDING (CYPRUS) LIMITED, a company incorporated and registered in Cyprus, registered with the Cypriot Registrar of Companies under HE 263030, with its registered office at Thasou, 3 DADLAW HOUSE, P.C. 1520, Nicosia, Cyprus.
Information Memorandum	means the information memorandum in relation to Target prepared by APPC for the purposes of the Tender.
Longstop Date	means the earlier of (A) the Call Expiry Date or (B) the occurrence of a Put EOD.
Options	means the Share Call and the Share Put.
Parties	means S1, S2, SponsorCo and HoldCo (and Party means either of them).
PC Closing	means the closing of the Privatization Contract.
Person	means any individual, corporation, partnership, foundation, association, trust, unincorporated organization, government, subdivisions and administrative units thereof, governmental agencies and other public and private legal entities of whatsoever nature and, in each

<b>Privatization Contract</b>	means, in respect of the Tender Procedure, an agreement between APPC and the State, by which APPC sells the Privatization Shares to the State.
<b>Privatization Shares</b>	means 5,881,380 shares representing approximately 79.83 percent of the share capital of Target which are currently owned by the State and which are subject to the Tender Procedure.
<b>Put EOD</b>	means any of the following events: (A) the failure to close the share sale and purchase agreement attached as schedule to the agreement relating to the Share Put within 180 days from exercise of the Share Put or (B) the initiation of insolvency, liquidation, winding up, reorganization (except for solvent reorganization), creditor protection or similar proceedings to the same effect against any of the Sponsors or SponsorCo, provided that a request for initiation of any such proceeding shall not constitute a Put EOD if (x) it is set aside or rejected within 120 days from the date of filing with the competent authority and (y) Sponsors have, immediately following the notification by SponsorCo or any of the Sponsors on the request, submitted to VTB confirmations signed by their respective officers (and under their personal liability) that the request is unfounded and will be rejected.
<b>Qualification Documents</b>	means the set of documents submitted by BidCo to APPC on 4 July 2011 to prove eligibility of BidCo as financial investor in the Tender Procedure.
<b>Rules</b>	shall have the meaning given to such term in Clause 11.2.1.
<b>§1</b>	means BELOM FOUNDATION, a foundation incorporated and registered in Liechtenstein, registered with the Public Register ( <i>Öffentlichkeitsregister</i> ) under FL-0002.373.203-8, with its registered office at c/o FIBEKO Treuhandanstalt, Industriestrasse 26, 9491 Ruggell.
<b>§2</b>	means SEDONA FOUNDATION, a foundation incorporated and registered in Liechtenstein, registered with the Public Register ( <i>Öffentlichkeitsregister</i> ) under FL-

	0002.373.200-6, with its registered office at c/o FIBEKO Treuhandanstalt, Industriestrasse 26, 9491 Ruggell.
Schedule	means any schedule, annex and/or other document attached to this Agreement.
Share Call	shall have the meaning given to such term in Clause 5.2.2.5.
Share Call Term	means the period (A) from the earlier of (i) the day falling thirteen months after the day of the PC Closing or, if such day is not a Business Day, the immediately following Business Day and (ii) the occurrence of a Call Option Event, and (iii) the termination of this Agreement pursuant to Clause 10.1 (B) to (D), both inclusive, and (iv) any date on which BidCo and/or APPC decide, for any reason whatsoever, not to sign or complete the Privatization Contract (B) until the Call Expiry Date.
Share Put	shall have the meaning given to such term in Clause 5.1.2.5.
SponsorCo	means LIVERO ESTABLISHMENT, a company incorporated and registered in Liechtenstein, registered with the Public Register ( <i>Öffentlichkeitsregister</i> ) under FL-0002.373.383-3, with its registered office at c/o FIBEKO Treuhandanstalt, Industriestrasse 26, 9491 Ruggell.
Sponsors	means S1 and S2 (and Sponsor means either of them).
State	means the Republic of Bulgaria.
Subordinated Loan	means the loan facility agreement contemplated under Clause 3.3.
Target	means Bulgartabak-Holding AD, Sofia.
Target Group	means all companies Controlled by Target.
Tender Procedure	means the competition in one stage for the sale of the Privatization Shares publicly announced in the Bulgarian State Gazette issue No 38 of 10 May 2011.
Tender Rules	means the tender documentation issued by APPC setting out the rules and procedures governing the Tender Procedure.

## 1.2 Interpretation

### 1.2.1 Use of Defined Terms

Capitalized terms used in this Agreement (including the Preamble) shall have the meaning allocated to such terms in Clause 1.1 unless the context clearly requires otherwise.

### 1.2.2 Cause and Procure

1.2.2.1 Wherever in this Agreement a Party shall "cause" another Person to act, or to refrain from acting, in a certain way the relevant obligation of such Party shall be construed as an obligation that such Party uses its reasonable endeavors so as to induce the Person to so act or to refrain from so acting.

1.2.2.2 Wherever in this Agreement a Party shall "procure" that another Person acts, or refrains from acting, in a certain way the relevant obligation of such Party shall be construed as an unconditional guarantee given by such Party that the Person will so act or refrain from so acting.

### 1.2.3 Headings etc

Headings, preamble, recitals and titles are for convenience of reference only and do not affect the interpretation of this Agreement.

### 1.2.4 Schedules

The Schedules to this Agreement shall form an integral part thereof and the contents of such Schedules shall have the same force and effect as if such contents had been set out in the body of this Agreement in full.

## 2 Participation in Tender Procedure

### 2.1 Pre Bid Submission Actions

#### 2.1.1 Due Diligence

HoldCo has caused BidCo to conduct a due diligence review of the Target for the sole benefit of HoldCo. The scope of the due diligence review has been determined by HoldCo in its sole discretion and is as set out on **Schedule 2.1.1**. SponsorCo and Sponsors acknowledge and confirm that this scope is sufficient in order to obtain such knowledge over the Target that is required to form an educated investment decision.

#### 2.1.2 Bid Preparation

HoldCo, in its sole discretion, has caused BidCo to prepare a Bid compliant with the terms of the Tender Rules. The Bid including certain annexes thereto is attached hereto as **Schedule 2.1.2**. SponsorCo and Sponsors acknowledge and confirm that terms and conditions of the Bid including, without limitation, the proposed changes and amendments to the Privati-

zation Contract, are reasonable and adequate from the perspective of a prudent and diligently acting businessman.

### **Bid Submission**

HoldCo shall, subject to prior satisfaction of all Conditions, cause BidCo to (A) deposit with APPC the Bid Security and (B) submit the Bid in accordance with the Tender Rules, provided that Bid Submission by BidCo shall occur on the last Business Day of the deadline as provided for in the Tender Rules (as extended by APPC from time to time) or such other earlier date as agreed by the Parties.

The obligations of HoldCo pursuant to this Clause 2.2 shall be subject to the prior satisfaction of each of the following conditions (the "**Conditions**"):

- (A) the agreement on the Share Put has been validly entered into by all parties thereto as contemplated under Clause 5.1 (and continues to remain valid);
- (B) the agreement on the Share Call has been validly entered into by all parties thereto as contemplated under Clause 5.2 (and continues to remain valid);
- (C) the Cash Collateral and Security Agreement has been validly entered into by all parties thereto as contemplated under Clause 8 (and continues to remain valid);
- (D) Bank or any other provider of subordinated debt to BidCo has successfully granted a funded subparticipation in the amount of its entire funding commitment under the relevant subordinated loan agreement and the amount of the Bid Security plus EUR 5,250,000 (Euro five million two hundred fifty thousand) has actually been received by the Bank;
- (E) delivery of one or more legal opinion(s) to HoldCo by reputable law firm(s) acting as counsel to the Sponsors and SponsorCo in their relevant jurisdiction(s) of residence or incorporation confirming to HoldCo due authorization of, and compliance with the respective Applicable Laws by, the Sponsors and SponsorCo in entering into this Agreement and the Ancillary Agreements and performing the transactions contemplated hereunder and otherwise in a form reasonably acceptable to HoldCo;
- (F) there are no payments outstanding by the Sponsors or SponsorCo under this Agreement or any of the Ancillary Agreements;
- (G) satisfactory completion of the due diligence (Clause 2.1.1);
- (H) approval by all competent corporate bodies of HoldCo; and
- (I) no breach of this Agreement or any of the Ancillary Agreements has occurred.

### **Privatization Contract**

If BidCo is selected as a bidder with whom negotiations on the Privatization Contract are conducted with a view to conclude the same between APPC as seller and BidCo as purchaser then HoldCo shall cause BidCo to enter into such negotiations

and discussions and to ultimately execute the final version of the Privatization Contract. For the avoidance of doubt the terms and conditions of the Privatization Contract negotiated with APPC shall be determined in HoldCo's sole discretion but, to the extent reasonably possible, in accordance with the changes and amendments proposed in the Bid. Further, if no common agreement can be reached between HoldCo and APPC, HoldCo shall be free, at its sole discretion, to withdraw from the negotiations with APPC.

#### **2.4 PC Closing**

If BidCo ultimately signs the Privatization Contract with APPC then HoldCo shall cause BidCo to use its best efforts such that the PC Closing occurs as soon as reasonably practical.

### **3. BidCo Funding**

#### **3.1 Investment and Related Cost**

BidCo will require funds sufficient to (A) finance the acquisition cost of the Privatization Shares, (B) finance investments which it may be required to make according to the terms and conditions of the Privatization Contract, (C) pay for the expenses incurred in connection with participation in the Tender Procedure and negotiating, signing and closing the Privatization Contract and (D) pay for the running operational costs (cost for managing director, staff and other administrative cost etc).

#### **3.2 Equity**

HoldCo has funded the entire registered share capital (*Stammkapital*) of BidCo in the amount of EUR 35,000 in cash.

#### **3.3 Subordinated Loan**

HoldCo shall cause BidCo to obtain subordinated debt at such times and in such amount as is required to fulfill its obligations under the Tender Rules and under the Privatization Contract plus EUR 250,000 (Euro two hundred fifty thousand). The terms and conditions of such subordinated debt shall correspond materially to those set out in **Schedule 3.3**. In addition and/or in lieu of such subordinated debt, HoldCo may cause BidCo to obtain equity and/or senior financing with SponsorCo's prior consent, such consent not to be unreasonably withheld or delayed.

### **4. Conduct of Target's Affairs**

#### **4.1 General**

Unless otherwise contemplated under this Clause 4 HoldCo and its Affiliates shall be free to use their voting and other control rights in BidCo and the Target in any way they, in their sole discretion, deem fit.

## 4.2 Exceptions

### 4.2.1 Board of Directors

- 4.2.1.1 Immediately following the PC Closing HoldCo shall cause BidCo to take all actions necessary or advisable to replace the then current members of Target's board of directors by up to 5 Eligible Individuals.
- 4.2.1.2 Upon appointment of the new members of the board of directors in accordance with Clause 4.2.1.1 HoldCo shall cause BidCo not to exercise its voting and other control rights in the Target in a way so as to replace these new members by individuals who are not Eligible Individuals, except for Good Reason.

### 4.2.2 Consent Matters

Whenever the Target's GSM, the Target's board of directors or any other of the Target's corporate bodies intends to resolve on a matter falling within any of the categories referred to in **Schedule 4.2.2** concerning any company Controlled by the Target, then HoldCo shall cause BidCo to see to it that the relevant matter is not resolved upon prior to SponsorCo's written consent. Such consent shall not be unreasonably withheld.

### 4.2.3 BidCo

HoldCo shall procure that any payments received by BidCo from the State under the Privatization Contract (eg for breach of representations and warranties or out of indemnities) shall remain with and not be disposed of by BidCo in any manner whatsoever.

## 4.3 Termination of Exceptions

The exceptions from the general principle contemplated under Clause 4.2 terminate and shall have no further effect whatsoever from the earlier of (A) the Longstop Date and (B) the date on which the BidCo Share is transferred to SponsorCo.

## 5. Options

### 5.1 Share Put

#### 5.1.1 Obligation to Enter into Share Put

HoldCo, as option holder, shall, on or immediately following the date hereof, enter into a put option agreement with SponsorCo as option counterparty. SponsorCo shall, and Sponsors shall procure that SponsorCo will, on or immediately following the date hereof, enter, as option counterparty, into a put option agreement with HoldCo as option holder.

#### 5.1.2 Details of Share Put

- 5.1.2.1 The put option shall relate to HoldCo's BidCo Share.

- 5.1.2.2 Following exercise of the Share Put and simultaneously with the transfer of the BidCo Share to SponsorCo, or a person nominated by SponsorCo, Bank shall transfer and the acquirer of the BidCo Share shall acquire, and SponsorCo shall procure that such acquirer acquires, all of Bank's rights, title and interest in the Subordinated Loan.
- 5.1.2.3 The put option shall be capable of being exercised by HoldCo (A) any time from the day falling six months after the PC Closing or (B) if, in HoldCo's reasonable opinion, a material adverse change in the financial conditions of either of the Sponsors, SponsorCo, the Target and its subsidiaries taken as a whole, has occurred or (C) if, in HoldCo's reasonable opinion, Target or BidCo or any of their directors, officers or employees have breached any of their respective material obligations under or in connection with the Privatization Contract, or (D) in case this Agreement is terminated pursuant to Clauses 10.1 (B) to (D), both inclusive, or (E) any date on which BidCo and/or APPC decide, for any reason whatsoever, not to sign or complete the Privatization Contract. If the Share Put is exercised in the circumstances described under subclause (B) or (C) of the preceding sentence then HoldCo shall submit, together with the notice by which the Share Put is exercised, a written statement which describes the facts which lead HoldCo to be of the reasonable opinion that these circumstances prevail and such notice shall be conclusive upon the Parties that these circumstances prevail save for cases of manifest error.
- 5.1.2.4 The put option agreement shall be transferable by HoldCo together with the BidCo Share but only to an Affiliate of HoldCo.
- 5.1.2.5 The put option agreement shall correspond in form and substance to the draft set out in **Schedule 5.1.2.5 ("Share Put")**.

## 5.2 Share Call

### 5.2.1 Obligation to Enter into Share Call

SponsorCo shall, and Sponsors shall procure that SponsorCo will, on or immediately following the date hereof, enter, as option holder, into a call option agreement with HoldCo as option counterparty. HoldCo, as option counterparty, shall, on or immediately following the date hereof, enter into a call option agreement with SponsorCo as option holder.

### 5.2.2 Details of Share Call

5.2.2.1 The call option shall relate to HoldCo's BidCo Share.

- 5.2.2.2 Following exercise of the Share Call and simultaneously with the transfer of the BidC Share to SponsorCo, or a person nominated by SponsorCo, Bank shall transfer and the acquirer of the BidCo Share shall acquire, and SponsorCo shall procure that such acquirer acquires, all of Bank's rights, title and interest in the Subordinated Loan.
- 5.2.2.3 The call option shall be capable of being exercised by SponsorCo during the Share Call Term.
- 5.2.2.4 The call option agreement shall be transferable by HoldCo together with the BidCo Share but only to an Affiliate of HoldCo.
- 5.2.2.5 The call option agreement shall correspond in form and substance to the draft set out in **Schedule 5.2.2.5 ("Share Call")**.
- 5.2.2.6 Upon the occurrence of a Put EOD the Share Call shall terminate and no party thereto shall have any more rights and obligations thereunder.

### 5.3 Obligations Unconditional

The obligation of SponsorCo under the Options to purchase, and to pay the consideration for, the BidCo Share shall be strict, not subject to any defenses of whatsoever nature and, except for any required merger control clearance, unconditional. Accordingly, SponsorCo waives all defenses, counterclaims and excuses of whatsoever nature, in particular without limitation, the right to set off its payment obligation against claims it may have (whether alleged only, substantiated, acknowledged or confirmed), the right (if any) to refuse consummation of the purchase of the BidCo Share on the grounds that HoldCo or any of its Affiliates has breached this Agreement, any Ancillary Agreement or any other obligation assumed vis a vis SponsorCo, the right to void or to amend this Agreement or any Ancillary Agreement or to withhold payments on the grounds of error (*Irrtum*), *rebus sic stantibus* (*Wegfall der Geschäftsgrundlage*), *exceptio non adimpleti contractus* (*Einrede des nichterfüllten Vertrags*) or any other legal concept of similar nature. Nothing of the foregoing shall prevent SponsorCo to make claims against any other Person for whatever legal reason, provided, that SponsorCo has duly fulfilled and complied with all of its obligations under the Options.

### 5.4 No Prior Disposal or Encumbrance

#### 5.4.1 No Prior Disposal

HoldCo agrees that, until (and including) the Longstop Date, it shall not, (A) sell, convey or otherwise transfer its BidCo Share in whole or in part to any Person, other than an Affiliate of HoldCo and (B) allow BidCo to increase its registered capital or otherwise issue any new share, participation right or other equity like instrument to any Person. The foregoing restrictions shall not apply to a sale, conveyance and transfer of the BidCo

Share or increase of BidCo's registered capital (A) following exercise of an Option or (B) upon the SponsorCo's prior written consent.

In case HoldCo sells, conveys or otherwise transfers its BidCo Share in whole or in part to an Affiliate of HoldCo on or prior to the Longstop Date, HoldCo shall, to the same extent, transfer its rights and obligations under the Options to such Affiliate of HoldCo.

#### 5.4.2 No Prior Encumbrance

HoldCo agrees that, until (and including) the Longstop Date, it shall not create or permit to exist any security interest, including any pledge, claim, charge, mortgage, lien, option, over the BidCo Share or any additional equity like instruments issued in accordance with Clause 5.4.1 (B) above.

### 6. Indemnity

#### 6.1 General

Sponsors and SponsorCo jointly and severally undertake to hold HoldCo and all of HoldCo's Affiliates (including HoldCo's and all such Affiliates' directors, officers and employees), who shall have a separate right to claim hereunder, fully harmless from and, at the direction of HoldCo, undertake to pay immediately on demand to HoldCo or the respective HoldCo Affiliate (or director, officer or employee), an amount equal to any and all damages, losses, liabilities, obligations (whether current or future, contingent or non-contingent) and costs and/or expenses (including invoiced costs of external legal, financial, tax and other professional advisors instructed by HoldCo) suffered or incurred as a result of or in connection with:

- (A) the preparation, negotiation and entering into this Agreement and the performance of any of the transactions contemplated hereby (including without limitation the costs of the establishment and operation of BidCo);
- (B) the participation by HoldCo (via BidCo) in the Tender Procedure, the preparation of the Bid and Bid Submission;
- (C) the preparation, negotiation and entering into of the Privatization Contract;
- (D) any Person claiming, for whatever reason, the invalidity of the Privatization Contract;
- (E) the taking of any and all steps required to proceed to and/or effect PC Closing and take over the Privatization Shares;
- (F) HoldCo's (via BidCo) holding of the Privatization Shares in the period from PC Closing until the date on which the BidCo Share is transferred to SponsorCo;
- (G) BidCo's or Target's actual or alleged breach of or non compliance with or non performance of obligations under the Privatization Contract or under any Applicable Law relating to privatizations in Bulgaria or the acquisition of control over the Target;

- (H) the transfer of the BidCo Share to SponsorCo (or any other permitted transferee, as the case may be);
- (I) disclosing certain information obtained in the course of the Tender Procedure to Sponsors, SponsorCo and/or any of its Affiliates as well as to its and/or its Affiliates' directors, officers, employees and/or advisors;
- (J) the taking of any and all steps or actions and/or any omissions necessary or advisable in HoldCo's sole discretion – to the extent not in violation of this Agreement – in connection with any of the foregoing (e.g. disclosing or not disclosing the existence of this Agreement and/or (parts of) its terms and conditions to APPC or any other competent Governmental Authority etc); or
- (K) the occurrence of any other matters, the taking of any and all other steps or actions or any omissions under or in connection with the dealings contemplated by this Agreement or any of the Ancillary Agreements.

## 6.2 Failure to complete Share Put

### 6.2.1 Right to Divest

If, for any reason whatsoever, completion of the transfer of the BidCo Share to SponsorCo does not occur on or prior to the Longstop Date, then (A) HoldCo shall be free to sell the Privatization Shares (directly or indirectly, eg via a sale of BidCo) in whole or partly to any third Person(s) at its sole discretion (and, for the avoidance of doubt, any Ancillary Agreement which may have been entered into granting Sponsors, SponsorCo and/or any of their Affiliates a right to acquire (any of) the Privatization Shares (and/or the BidCo Share) shall be deemed null and void), provided that such sale is structured in manner that it does not trigger penalties under the Privatization Contract and (B) Sponsors and SponsorCo jointly and severally undertake to, at the direction of HoldCo, pay immediately on demand to HoldCo or the respective HoldCo Affiliate, who shall have a separate right to claim hereunder, an amount equal to the difference between (i) the aggregate proceeds which would have been obtained under the Share Put and (ii) the aggregate proceeds actually obtained from such third Person(s) for the Privatization Shares.

### 6.2.2 Mitigation

Should HoldCo become free to sell the Privatization Shares (directly or indirectly via a sale of BidCo) pursuant to Clause 6.2.1 then it shall use its reasonable efforts to sell the Privatization Shares in an arms' length transaction and report on a regular basis to SponsorCo on developments in its sales efforts.

## 7. Reps and Warranties

### 7.1 Sponsors and SponsorCo

Sponsors and SponsorCo hereby jointly and severally represent and warrant and guarantee that the statements set forth in this Clause 7.1 are true and correct as

of the date of signing of this Agreement and that they will remain true and correct until the date on which the BidCo Share is transferred to SponsorCo:

**7.1.1 Power and Authority**

Sponsors and SponsorCo have obtained all necessary corporate and other consents and approvals in relation to the performance of this Agreement and, accordingly, have full power and authority to execute this Agreement and to perform their obligations hereunder, the Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. This Agreement has been duly and validly executed by Sponsors and SponsorCo and constitutes a legal, valid and binding obligation of Sponsors and SponsorCo, enforceable against each of them in accordance with its terms.

**7.1.2 No Violation**

The execution of this Agreement by Sponsors and SponsorCo does not and the performance by Sponsors and SponsorCo of their obligations under this Agreement or the consummation of the transactions contemplated hereby (including the exercise and consummation of the Share Put) will not conflict with or result in a violation or breach of any of the terms, conditions or provisions of the articles of association or other organisational or constitutional documents of Sponsors or SponsorCo, any other agreement by which Sponsors or SponsorCo or any of their respective assets is or are bound or any Applicable Laws.

**7.1.3 No Participation in Tender**

Sponsors do not have any intention to participate and are not participating in the Tender Procedure whether directly (by themselves or by any of their Affiliates) or indirectly (through any agent, trustee or similar Person).

**7.2 HoldCo**

HoldCo hereby represents and warrants and guarantees that the statements set forth in this Clause 7.2 are true and correct as of the date of signing of this Agreement and that they will remain true and correct until the date on which the BidCo Share is transferred to SponsorCo:

**7.2.1 Power and Authority**

HoldCo has obtained all necessary corporate and other consents and approvals in relation to the performance of this Agreement and, accordingly, has full power and authority to execute this Agreement and to perform its obligations hereunder, the Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. This Agreement has been duly and validly executed by HoldCo and constitutes a legal, valid and binding obligation of HoldCo, enforceable against it in accordance with its terms.

### 7.2.2 No Violation

The execution of this Agreement by HoldCo does not and the performance by HoldCo of its obligations under this Agreement or the consummation of the transactions contemplated hereby (including the exercise and consummation of the Share Put) will not conflict with or result in a violation or breach of any of the terms, conditions or provisions of the articles of association or other organisational or constitutional documents of HoldCo, any other agreement by which HoldCo or any of its assets is or are bound or any Applicable Laws.

## 8. Cash Collateral

### 8.1 Purpose

HoldCo as beneficiary on the one hand, and the Sponsors and SponsorCo, as joint and several obligors and security providers on the other hand, shall, on or without undue delay following the date of this Agreement, enter into an agreement pursuant to which the Sponsors and SponsorCo shall provide cash collateral or such other cash collateral or other securities as may be agreed from time to time between the Parties, which shall secure any and all of HoldCo's and BidCo's current and future claims against the Sponsors and SponsorCo under or in connection with this Agreement and the Ancillary Agreements (the "**Cash Collateral and Security Agreement**"). The Cash Collateral and Security Agreement shall correspond in form and substance to the draft attached hereto as **Schedule 8**.

### 8.2 Amount

The amount of the security to be provided under the Cash Collateral and Security Agreement shall be equal to the aggregate of (A) 30% of the maximum penalties that the Privatization Contract may provide for non compliance with a tobacco purchase obligation plus (B) 20% of the maximum penalties that the Privatization Contract may provide for non compliance with obligations relating to maintenance of work force and working conditions plus (C) 25% of the maximum penalties that the Privatization Contract may provide for non compliance with an obligation to procure capital expenditure by the Target or any of its Affiliates plus (D) EUR 1,000,000 and minus (E) the fair market value of any collateral which the Target may have provided to APPC as a security for its potential penalty claims, provided that the maximum amount to be provided shall not exceed EUR 2,500,000 (Euro two million five hundred thousand).

### 8.3 Funding of Cash Collateral

On or prior to the PC Closing (A) HoldCo shall submit to Sponsors and SponsorCo a written notice which sets forth the amount of security calculated pursuant to Clause 8.2 ( the amount so calculated and included in the written notice shall be conclusive and binding upon the Parties save for cases of manifest error) and (B) Sponsors and SponsorCo shall fund the cash deposit in which a security interest is granted pursuant to the Cash Collateral and Security Agreement with the amount included in HoldCo's written notice.

## **9. Confidentiality**

### **9.1 Confidential Information**

Each Party to this Agreement shall treat as strictly confidential all information received or obtained in connection with the negotiation, preparation, entering into or performance of this Agreement and the Ancillary Agreements and/or relating to the provisions, negotiations or subject matter of this Agreement and the Ancillary Agreements.

### **9.2 Exemption**

Notwithstanding the other provisions of this Clause 9, any Party may disclose confidential information only

- (A) if and to the extent mandatorily required by Applicable Law or by any Governmental Authority;
- (B) to its Affiliates and its (and its Affiliates') directors, officers, employees, professional advisers, auditors and finance providers who are involved in assessing this Agreement and/or the transactions contemplated hereby and are further subject to a professional or contractual obligation of confidentiality; or
- (C) if and to the extent the information has come into the public domain through no breach of this Clause 9.

Any information intended to be disclosed pursuant to the above subclause (A) (including in particular any announcement to be made to APPC, the competent competition authorities, any securities exchange or (other) Governmental Authority the supervision of which that Party or the Target is subject to) shall be disclosed only after notice to and consultation with the other Parties, to the extent that such notice and consultation is reasonably practicable in the circumstances.

## **10. Term / Termination**

### **10.1 Term**

This Agreement shall come into effect on the date it is countersigned by all Parties thereto and shall remain in full force and effect until the earlier of:

- (A) the date on which all Parties agree in writing to terminate the Agreement;
- (B) the date following the deadline for Bid Submission as provided for in the Tender Rules (as extended by APPC from time to time), if BidCo has not submitted a Bid;
- (C) the date on which the Privatization Contract has been concluded with any bidder other than BidCo and (i) such Privatization Contract has become final and binding and is not subject to appeal, challenge or rescission by any bidder or (ii) HoldCo has declared in writing to the Sponsors to accept the award of the Privatization Contract to the winning bidder and does not intend to raise objections;

- (D) the date on which APPC has declared by final and unappealable decision to terminate the Tender Procedure;
- (E) any date prior to Bid Submission on which HoldCo has received written notice from the Sponsors and SponsorCo that they do not wish to pursue participation in the Tender Procedure or the acquisition of the Privatization Shares; or
- (F) the date of completion of the transfer of the BidCo Share to SponsorCo or to a Person nominated by SponsorCo pursuant to either of the Options and full payment by SponsorCo and/or Sponsors and receipt by HoldCo of all amounts owed hereunder and under the Ancillary Agreements.

HoldCo shall have the right to terminate this Agreement with immediate effect by giving written notice to the Sponsors and SponsorCo if any of Sponsors and/or SponsorCo or any of their Affiliates have failed to timely comply with any of their material obligations under this Agreement and/or any of the Ancillary Agreements and such default has not been fully remedied within 10 Business Days upon giving of notice by HoldCo to the Sponsors and/or SponsorCo and/or their respective Affiliate, as applicable, in which it/they are requested to promptly remedy the default.

Other than as explicitly set out above, each of the Parties hereby waives to the fullest extent permitted under Applicable Law any rights to early terminate, rescind or otherwise challenge or set aside this Agreement in whole or in part.

#### **10.2 Surviving Provisions**

Clauses 1 (Definition and Interpretation), 6 (Indemnity), 7 (Reps and Warranties), 9 (Confidentiality), 10.2 (Surviving Provisions), 11 (Governing Law and Jurisdiction), 12 (Miscellaneous) and 13 (Notices) shall survive any termination of this Agreement. In case of a termination pursuant to Clause 10.1 (B) to (D), both inclusive, Clause 5 shall also survive such termination.

### **11. Governing Law and Jurisdiction**

#### **11.1 Governing Law**

This Agreement and the relationship between the Parties shall be governed by, and construed in accordance with the laws of Austria excluding any conflict of law rules.

#### **11.2 Dispute Resolution**

##### **11.2.1 Rules**

Any and all disputes arising out of or in connection with this Agreement including any question regarding its breach, its existence, its construction, its validity or termination shall be referred to and finally resolved by arbitration under the Rules of Arbitration and Conciliation of the International Chamber of Commerce in Paris (the "**Rules**").

#### 11.2.2 Place and Language

The place of the arbitration proceedings for the purposes of the Rules is Vienna, Austria. The arbitral tribunal shall conduct all hearings and meetings in Vienna in the English language and the award shall be delivered in English. The arbitral tribunal shall apply only Austrian Law with the exception of its conflict of laws rules.

#### 11.2.3 Arbitrators and Decision

The decision of the arbitral tribunal shall be binding and not subject to revision. There shall be 3 (three) arbitrators appointed in accordance with the Rules. Any monetary award shall be made and promptly payable free of any tax, deduction or offset, and the arbitral tribunal shall be authorized in its discretion to grant pre-award and post-award interest at statutory rates. The losing Party shall bear all costs of the arbitration proceedings.

### **12. Miscellaneous**

#### 12.1 No Partnership

Nothing in this Agreement shall be construed as establishing or implying any partnership of any kind between the Parties (including *Gesellschaft bürgerlichen Rechts* pursuant to Article 1175 of the Austrian Civil Code (*ABGB*)) and none of the Parties shall have any authority to bind or commit any other party in any way.

#### 12.2 No Assignment

Except as expressly set out otherwise in this Agreement, no Party may without the prior written consent of the other Parties (such consent not to be unreasonably withheld, delayed or conditioned), assign, grant any security interest over, hold on trust or otherwise transfer the benefit of the whole or any part of this Agreement or propose to do any of the forgoing. This applies also in case of universal succession by way of merger, spin-off, split-off and other types of corporate restructurings.

#### 12.3 Joint and Several Obligations

Except as otherwise stated in this Agreement, the obligations of the Sponsors and SponsorCo under this Agreement are joint and several.

#### 12.4 Entire Agreement

This Agreement sets out the entire Agreement and understanding between the Parties in respect of its subject matter. This Agreement supersedes all prior agreements and correspondence in relation to the subject matter of this Agreement between the Parties.

#### 12.5 Conflicts

In the event of any conflict or inconsistency of any term of this Agreement (except for the Schedules) with a term contained in a Schedule, the term of this Agree-

ment (except for the Schedules) shall prevail. In the event of any conflict or inconsistency of any term of this Agreement with a term of an Ancillary Agreement, the terms of the Ancillary Agreement shall prevail.

## 12.6 Fees, Costs and Equity Upside

### 12.6.1 Fees and Costs

HoldCo's fees are set out in **Schedule 12.6.1** to this Agreement (the "**Fee Schedule**"). The Fee Schedule also provides for reimbursement of advisory fees and other expenses incurred by HoldCo or any of HoldCo's Affiliates. Notwithstanding the payment intervals and/or due dates for payment as set out in the Fee Schedule, any and all fees and expenses incurred and other claims of HoldCo against any of the Sponsors and/or SponsorCo shall become fully and promptly payable upon any termination of this Agreement. Without prejudice to the provisions of the Fee Schedule and the provisions of Clause 6 (*Indemnity*), all stamp, transfer, registration and/or other taxes, duties and charges and all notarial fees payable in connection with the entering into and performance of this Agreement shall be borne by the Sponsors.

### 12.6.2 Equity Upside

On or about the date of PC Closing BidCo, HoldCo and Sponsors shall enter into an agreement whereby BidCo undertakes to grant an option over 5% of the shares in Target at the terms and conditions materially corresponding to Schedule **12.6.2**. HoldCo undertakes to provide to SponsorCo a copy of the final negotiated drafts of such option and of the signed option agreement without undue delay.

## 12.7 Third Party Rights

Except as expressly set out otherwise in this Agreement, the Parties to this Agreement do not intend that any term of this Agreement should be enforceable by any Person who is not a Party to this Agreement under any concept whatsoever.

## 12.8 Waiver, Rights and Remedies

No failure to exercise, or a delay in exercising, any right or remedy provided by this Agreement or by the Applicable Law shall be construed as constituting a waiver of that or any other right or remedy.

## 12.9 Severance

The provisions of the Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions. If any provisions of the Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (A) a suitable and equitable provision shall be substituted therefore in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (B) the remainder of the Agreement and the application of

such provision to other Persons, or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

#### **12.10 Variation**

Any variation of this Agreement shall be valid only if it is in writing and signed by or on behalf of each Party.

#### **12.11 Payments and Withholdings**

Any sum payable by the Sponsors or SponsorCo to HoldCo or any of its Affiliates under this Agreement shall be paid free and clear of any set-off, charges, counter-claim, deduction or withholding whatsoever, save only as may be required by Applicable Law. If any deduction or withholding is required by Applicable Law to be made from any payment by the Sponsors or SponsorCo under this Agreement or if HoldCo is subject to taxation (other than income taxes) in respect of any such payment, Sponsors or SponsorCo shall increase the amount of the payment by such additional amount as is necessary to ensure that the net amount received and retained by HoldCo or its Affiliate (after taking account of all deductions or any withholdings or other taxation) is equal to the amount that it would have received and retained had the payment in question not been subject to any deductions or any withholdings or other taxation.

### **13. Notices**

#### **13.1 Addresses**

Any notice or other communication in connection with this Agreement shall be (A) provided by the relevant Party in writing in English and (B) sent to the other Party personally or by pre-paid priority post or courier service or by telefax, to the address set forth below.

##### **13.1.1 to the Sponsors and/or SponsorCo:**

att: Andreas Schurti and Buenyamin Taskapan  
c/o FIBEKO Treuhandanstalt,  
Industriestrasse 26,  
9491 Rugell, Liechtenstein,  
telefax: +423-237 2100  
e-mail: livero@gmx.com; belom@gmx.us; sedona@gmx.us

13.1.2 to HoldCo:

att: Mr. Alex Moroz  
Director Infrastructure Capital  
VTB Capital plc  
14 Cornhill  
London EC3V 3ND  
telefax: +44 203 334 8980  
e-mail: alex.moroz@vtbcapital.com

**13.2 Change of Address**

Each Party may notify (pursuant to Clause 13.1) the other Parties of a change to any of the details referred to in Clause 13.1. The notice shall state the date on which the change is to occur, which date must be on or after the fifth Business Day after the date on which the notice is given.

**List of Schedules**

Schedule No.	Description
<b>1.1 EI</b>	Eligible Individuals
<b>2.1.1</b>	Scope of Due Diligence
<b>2.1.2</b>	Bid
<b>3.3.</b>	Subordinated Loan Terms
<b>4.2.2</b>	Consent Matters
<b>5.1.2.5</b>	Share Put
<b>5.2.2.5</b>	Share Call
<b>6</b>	Cash Collateral and Security Agreement
<b>12.6.1</b>	Fee Schedule
<b>12.6.2</b>	Equity Upside

[Signature Page follows]

FOR :  
**VTB CAPITAL PE INVESTMENT  
HOLDING (CYPRUS) LIMITED**

Wien 22. August 2011 (place and date)

Name: MIRALTA SIMSA  
Title:

Name:  
Title:

FOR : **BELOM FOUNDATION**

Wien, 22. August 11 (place and date)  


Name: BUENYAMIN TAKKAPAN  
Title:

Name:  
Title:

signed pursuant to Sect 54 et sequ.  
Notary's Act  
mitgefertigt gemäß §§ 54 ff NO



FOR :  
**LIVERO ESTABLISHMENT**

Wien, 22. August 11 (place and date)  


Name: BUENYAMIN TAKKAPAN  
Title:

Name:  
Title:

FOR : **SEDONA FOUNDATION**

Wien, 22. August 11 (place and date)  


Name: BUENYAMIN TAKKAPAN  
Title:

Name:  
Title:

**Schedule 1.1 EI - Eligible Individuals**

- Mr. Yavor Nikolaev Draganov, date of birth 16 October 1969
- Mr. Angel Dimitrov Dimitrov, date of birth 12 April 1963
- Mr. Svetoslav Emanuilov Mladenov, date of birth 4 October 1974
- Ms. Miglena Petrova Hristova, date of birth 24 July 1980
- Mr. Geno Rumenov Andreev, date of birth 30.08.1982
- Mr. Martin Todorov Petrov, date of birth 09.03.1975
- Mr. Lyuben Lyubenov Dimitrov, date of birth 14.14.1960