

## TRANSACTION SUPPORT AGREEMENT

This TRANSACTION SUPPORT AGREEMENT (including any exhibit attached hereto or as this agreement may be modified or amended from time to time, this "Agreement") is made and entered into as of February 28, 2018, by and among:

- (i) Eletson Holdings Inc. ("Holdings") and Eletson Finance (US) LLC (the "Co-Issuer");
- (ii) each of the undersigned guarantors of the Notes (the "Guarantors", and together with Holdings, the Co-Issuer and their non-guarantor subsidiaries, the "Company" and each a "Company Party"); and
- (iii) the undersigned beneficial holders or investment managers or advisors for such beneficial holders (the "Supporting Holders") of the Notes (as defined below) that have executed and delivered counterpart signature pages to this Agreement or signature pages to a Joinder or Transfer Agreement (as applicable).

This Agreement collectively refers to the Company and the Supporting Holders as "Parties" and each individually as a "Party."<sup>1</sup>

### RECITALS

**WHEREAS**, the Parties have in good faith and at arm's length negotiated a potential transaction (the "Transaction") with respect to the Company's capital structure on the terms set forth in this Agreement and as specified in the term sheet attached as Exhibit A hereto (the "Term Sheet");

**WHEREAS**, under that certain indenture, dated as of December 19, 2013 (as amended, supplemented or modified from time to time, the "Indenture"), by and among Holdings and the Co-Issuer, as the issuers, the Guarantors, and Deutsche Bank Trust Company Americas, as trustee and collateral agent (in either or both such capacities, the "Agent"), the Company issued certain 9.625% First Preferred Ship Mortgage Notes due 2022 (the "Notes");

**WHEREAS**, the current principal amount outstanding of the Notes is \$300,000,000;

**WHEREAS**, as of the date hereof, the Supporting Holders directly or indirectly hold or control the voting power with respect to \$247,263,000 in principal amount of outstanding Notes;

**WHEREAS**, the Parties desire to express their respective support of and commitment to the Transaction and have agreed to take certain actions in support of the Transaction, all on the terms and conditions set forth in this Agreement and the Term Sheet;

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<sup>1</sup> Capitalized terms used but not defined in the preamble and recitals to this Agreement have the meanings ascribed to them in Section 1 or elsewhere in this Agreement or the Term Sheet, attached hereto as Exhibit A.

**NOW, THEREFORE**, in consideration of the covenants and agreements contained herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Party, intending to be legally bound hereby, agrees as follows:

## **AGREEMENT**

**Section 1. Definitions.** The following terms shall have the following definitions:

**“Agreement Effective Date”** means the date on which (a) Supporting Holders who collectively hold at least 75% of the aggregate outstanding principal amount of the Notes and (b) each of the other Parties shall have executed and delivered counterpart signature pages of this Agreement to each of the other Parties.

**“Agreement Effective Period”** means, with respect to a Party, the period from the Agreement Effective Date to the Termination Date applicable to that Party (except where a provision of this Agreement survives the Termination Date pursuant to the terms of this Agreement, in which case such provision shall remain in effect to the extent set forth in this Agreement).

**“Alternative Proposal”** means any proposal, offer, bid, term sheet, or discussion with respect to a restructuring, reorganization, merger, acquisition, debt investment, equity investment, liquidation, recapitalization, chapter 11 plan, or similar transaction involving any one or more Company Parties or the debt, equity, or other interests in any one or more Company Parties other than the Transaction.

**“Business Day”** means any day other than a Saturday, Sunday, and any day that is a legal holiday or a day on which banking institutions in New York, New York are authorized by law or other governmental action to close.

**“Claims”** means (a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured and calculated together with all applicable accrued interest, fees and commission due, owing or incurred from time to time by any Company Party or an applicable obligor or security provider under any applicable document, or (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

**“Company Claims/Interests”** means, collectively, all Claims against, and Interests in, a Company Party.

**“Definitive Documents”** means the documents set forth in Section 3.

**“Effective Date”** means the date on which the Transaction is consummated.

**“Event of Default”** has the meanings ascribed to it in the Indenture.

“Exchange Offer” means the exchange offer and consent solicitation of the holders of the Notes as described in the Term Sheet.

“Forbearance Default” means any defaults or Events of Default under the Indenture in connection with the Issuers’ failure to pay the interest payment due January 16, 2018 in the amount of \$14,437,500.

“Interest” means any equity security or other rights, options, warrants, stock appreciation rights, phantom stock rights, restricted stock units, redemption rights, repurchase rights, convertible, exercisable or exchangeable securities or other agreements, arrangements or commitments of any character relating to, or whose value is related to, any such interest or other ownership interest in the Company.

“Joinder Agreement” means a joinder to this Agreement substantially in the form attached hereto as Exhibit B.

“Qualified Marketmaker” means an entity that holds itself out to the public or applicable private markets as standing ready in the ordinary course of business to purchase from customers and sell to customers claims against the Company, in its capacity as a dealer or market maker in claims against the Company.

“Qualified Unrestricted Claims” shall have the meaning set forth in section 10.

“Required Supporting Holders” means holders of two-thirds (2/3) of the principal amount of Notes held by all Supporting Holders.

“Securities Acts” means the Securities Act of 1933 and the Securities Exchange Act of 1934, as each may be amended from time to time.

“Termination Date” means the date that is the earlier of (a) the date on which termination of this Agreement as to a Party is effective in accordance with Section 12, and (b) the Effective Date.

“Termination Event” has the meaning set forth in Section 12.

“Transfer” means to sell, assign, pledge, lend, hypothecate, transfer, or otherwise dispose of.

**Section 2. *Effectiveness of this Agreement.*** This Agreement shall become effective and binding on the Agreement Effective Date.

**Section 3. *Definitive Documents***

3.01 Term Sheet. The Term Sheet is expressly incorporated herein and is made a part of this Agreement. The general terms and conditions of the Transactions shall be as set forth in the Term Sheet; *provided, however*, that the Term Sheet shall be deemed modified or supplemented by the terms and conditions set forth in this Agreement and, after the Parties reach agreement on

the forms of the Definitive Documents, by the terms and conditions set forth in the Definitive Documents.

3.02 The Transaction will be implemented pursuant to certain definitive documents and agreements (collectively, the “Definitive Documents”), which shall include, without limitation, the following (as applicable): (i) the definitive offering memorandum for the Exchange Offer and any other appropriate offering documents in connection with the Exchange Offer, (ii) the consent solicitation statement, including one or more letters of transmittal with respect to certain amendments to the Indenture as described in the Term Sheet (the “Proposed Amendment”) (iii) the New Notes Indenture, any related security documents or other documentation, (iv) the Supplemental Indenture, and (v) any documents governing the Golden Share Mechanism and “golden share” or independent director concepts described in the Term Sheet. The Definitive Documents shall be consistent with the Term Sheet and reasonably acceptable to the Company and the Required Supporting Holders.

3.03 The Definitive Documents remain subject to negotiation and completion but shall be consistent in all material respects with this Agreement and the Term Sheet and shall be reasonably acceptable to the Required Supporting Holders. For the avoidance of doubt, any document, deed, agreement, filing, notification, letter, or instrument related to the Transaction that is not a Definitive Document shall be reasonably acceptable in form and substance to the Required Supporting Holders and shall be reasonably consistent with the terms of this Agreement (including the Term Sheet) as this Agreement may be modified, amended, or supplemented from time to time in accordance with Section 13.

#### **Section 4. *Covenants of All Parties***

During the Agreement Effective Period, each Party agrees, including in respect of all of its Company Claims/Interests, pursuant to this Agreement that it shall directly and indirectly:

- (a) support the Transaction as contemplated under this Agreement and the Term Sheet;
- (b) negotiate in good faith and use commercially reasonable efforts to implement and consummate the Transaction in a timely manner and take any and all commercially reasonable and appropriate actions in furtherance of the Transaction, as contemplated under this Agreement and the Term Sheet; and
- (c) to the extent any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the Transaction contemplated herein, support and take all steps reasonably necessary or desirable to resolve any such impediment.

#### **Section 5. *Forbearance***

- (a) Until the occurrence of a Termination Event, each Supporting Holder agrees to forbear from exercising its rights and remedies (as well as any setoff rights and remedies) with respect to the Forbearance Default under the Indenture, against the Company Parties and, with respect to each, their property and interests in property (including not instructing the trustee under the Indenture to exercise any rights or remedies thereunder).

(b) Upon the occurrence of a Termination Event, the agreement of the Supporting Holders hereunder to forbear from exercising rights and remedies in respect of the Forbearance Default shall immediately terminate without requirement of any demand, presentment, protest, or notice of any kind, all of which the Company Parties hereby waive (to the extent permitted by applicable law).

(c) The Company Parties agree that, upon the occurrence of, and at any time after the occurrence of, a Termination Event, the Supporting Holders may proceed, subject to the terms of the Indenture and applicable law, to exercise any or all rights and remedies under the Indenture, applicable law, and/or in equity, including, without limitation, the rights and remedies on account of the Forbearance Default, all of which rights and remedies are fully reserved.

(d) For the avoidance of doubt, and notwithstanding anything herein, the forbearance set forth in this Section 5 shall not, except to the extent provided in relation to the Forbearance Default, constitute a waiver with respect to any Defaults or any Events of Defaults under the Indenture and shall not bar any Supporting Holder from taking action to establish the amount of such Claim consistent with this Agreement.

#### **Section 6. *Covenants of the Company Parties***

Except as set forth in Section 7 of this Agreement, during the Agreement Effective Period, each Company Party agrees pursuant to this Agreement that it shall:

(a) use commercially reasonable efforts to implement the Transaction in accordance with the terms set forth in this Agreement and the Term Sheet;

(b) support and take all actions reasonably necessary or reasonably requested by the Required Supporting Holders to facilitate the implementation of the Exchange Offer and consummation of the Transaction;

(c) negotiate in good faith and use commercially reasonable efforts to execute and deliver the Definitive Documents and any other required agreements to effectuate and consummate the Transaction, as contemplated by this Agreement;

(d) obtain, file, submit, or register any and all required governmental, regulatory, and third-party approvals that are necessary or advisable for the Transaction;

(e) inform counsel to the Supporting Holders as soon as reasonably practicable after becoming aware of: (i) any event or circumstance that has occurred, or that is reasonably likely to occur (and if it did so occur), that would permit any Party to terminate, or would result in the termination of, this Agreement; (ii) any matter or circumstance which they know, or suspect is likely, to be a material impediment to the implementation or consummation of the Transaction; (iii) any notice of any commencement of any material involuntary insolvency proceedings, legal suit for payment of debt or securement of security from or by any entity in respect of any Company Party; (iv) a breach of this Agreement (including a breach by any Company Party); and (v) any representation or statement made or deemed to be made by them under this Agreement which is or proves to have been materially incorrect or misleading in any respect when made or deemed to be made;

(f) maintain good standing and legal existence under the laws of the jurisdiction in which it is incorporated, organized, or formed;

(g) operate the Company in the ordinary course consistent with industry practice;

(h) other than in accordance with the Term Sheet, not, outside of the ordinary course of business, incur, directly or indirectly, any indebtedness or create, incur, or suffer to exist any lien upon any of its property or assets or income or profits therefrom, or collaterally assign or convey as collateral any right to receive income therefrom, in each case that is not used immediately to irrevocably repay the Notes;

(i) make commercially reasonable efforts to oppose and object to the efforts of any entity seeking to object to, delay, impede, or take any other action to interfere with the acceptance, implementation, or consummation of the Transaction to the extent such opposition or objection is reasonably necessary or desirable to facilitate implementation of the Transaction;

(j) not object to or otherwise commence any proceeding opposing any of the terms of this Agreement (including the Term Sheet);

(k) reasonably cooperate with the Supporting Holders and their professionals and, upon reasonable request and advance notice from the Supporting Holders or their professionals, provide the Supporting Holders or their professionals (subject to the requirements of applicable law) with reasonable access during normal business hours to information regarding the operations, business affairs and financial condition of the Company;

(l) not make any amortization payments under the Company's bank facilities or any new build payments; and

(m) take no action that (1) is inconsistent in any material respect with, or that is intended or reasonably likely to interfere in any material respect with, this Agreement, the Term Sheet, or any of the Definitive Documents, or (2) materially delays implementation or consummation of any of the transactions contemplated by the Transaction.

## **Section 7. *Additional Provisions Regarding the Covenants of the Company Parties***

**7.01** Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall require a Company Party or the board of directors, board of managers, or similar governing body of a Company Party, after consulting with counsel, to take any action or to refrain from taking any action with respect to the Transaction to the extent taking or failing to take such action would be inconsistent with applicable law or its fiduciary obligations under applicable law, and any such action or inaction pursuant to such exercise of fiduciary duties shall not be deemed to constitute a breach of this Agreement.

**7.02** Notwithstanding anything to the contrary in this Agreement, each Company Party and its respective directors, officers, employees, investment bankers, attorneys, accountants, consultants, and other advisors or representatives during the Agreement Effective Period shall not, directly or indirectly, take any take any action to solicit, initiate, encourage, or assist the

submission of an Alternative Proposal. If any Company Party receives a proposal or expression of interest in undertaking an Alternative Proposal, so long as the Supporting Holders have agreed to comply with any applicable confidentiality restrictions related thereto, the Company Parties shall promptly notify the Supporting Holders of the receipt of such Alternative Proposal; it being acknowledged and agreed that, without limiting the restrictions imposed on the Company Parties, pursuant to this Section 7.02, the Company Parties shall have the right to consider, respond to, and pursue such Alternative Proposal.

7.03 Nothing in this Agreement shall: (i) be construed to prohibit any Company Party from contesting whether any matter, fact, or thing is a breach of, or is inconsistent with, this Agreement; (ii) prevent any Company Party from enforcing this Agreement; (iii) prohibit any Company Party from taking any action that is not inconsistent with this Agreement; or (iv) require any Company Party to incur any material financial or other material liability other than as expressly described in this Agreement.

## **Section 8. *Covenants of the Supporting Holders***

8.01 During the Agreement Effective Period, each Supporting Holder agrees, pursuant to this Agreement to:

(a) on or prior to the applicable deadlines, consent and/or use commercially reasonable efforts to exercise any powers or rights available to it, in each case, in favor of the Proposed Amendment and execute and deliver such reasonable customary documents as may be requested by the Company to evidence such consent;

(b) subject to the receipt of the applicable Definitive Documents and following the commencement of the Exchange Offer, promptly tender or cause to be tendered on its behalf, the Notes beneficially owned by such Supporting Holder or for which it now or hereafter serves as nominee, investment manager, or advisor for beneficial holders thereof, as necessary or appropriate to consummate the Transaction;

(c) give any notice, order, instruction, or direction to the Agent necessary to give effect to the Transaction;

(d) not withdraw, revoke or rescind any tender, vote or consent contemplated by this Agreement, unless and until the Exchange Offer has been terminated in accordance with the terms of the Definitive Documents or this Agreement shall have been terminated;

(e) negotiate in good faith and use commercially reasonable efforts to execute and implement all necessary documents, including, but not limited to, the Definitive Documents, that are consistent with this Agreement to which it is required to be a party; *provided* that any such documents shall be reasonably acceptable to the Required Supporting Holders in their sole discretion;

(f) support and take all commercially reasonable actions necessary or reasonably requested by the Company to facilitate the implementation of the Transaction;

(g) not object to, delay, impede, or take any other action to interfere with acceptance, implementation, or consummation of the Transaction, including without limitation, any action or legal proceeding that is inconsistent with, or that would delay or obstruct the consummation of the Transaction; or

(h) subject to the terms of this Agreement and the Term Sheet, not take any action that is (i) inconsistent with the satisfaction of the conditions precedent set forth in this Agreement and the Term Sheet (ii) inconsistent with, or is intended or is likely to interfere with approval and consummation of the Transaction, or (iii) inconsistent with this Agreement and the Term Sheet.

8.02 Notwithstanding any provision of any document to the contrary, no Party shall exercise any contractual right against any other Party under the terms of any agreement existing immediately prior to the Agreement Effective Date, where such right arises as a result of any action to be taken in accordance with the terms of this Agreement or any of the Definitive Documents (or as otherwise consented to by the Company Parties to be necessary or desirable for the consummation or implementation of the Transaction), unless such exercise of right is contemplated by the terms of this Agreement.

#### **Section 9. *Additional Provisions Regarding the Parties' Covenants***

Notwithstanding anything contained in this Agreement, nothing in this Agreement shall:

- (a) be construed to prohibit any Party from contesting whether any matter, fact, or thing is a breach of, or is inconsistent with, this Agreement;
- (b) prevent any Party from enforcing this Agreement;
- (c) require any Party to take any action that is prohibited by applicable law or to waive or forego the benefit of any applicable legal professional privilege;
- (d) prevent any Party from taking any action that is required by applicable law;
- (e) prevent any Party by reason of this Agreement or the Transaction from making, seeking, or receiving any regulatory filings, notifications, consents, determinations, authorizations, permits, approvals, licenses, or the like; or
- (f) prohibit any Party from taking any other action that is not inconsistent with this Agreement.

#### **Section 10. *Limitation on Transfers of Notes***

10.01 During the Agreement Effective Period, each of the Supporting Holders hereby agrees not to Transfer any ownership (including beneficial ownership) of any Notes (or any rights in respect thereof) held by such Supporting Holder as of the date hereof except to a party who (a) is already a Supporting Holder party to this Agreement, or (b) prior to such Transfer, agrees in writing to be bound by all of the terms of this Agreement (including with respect to any Notes it may have held prior to such Transfer) by executing a Joinder Agreement substantially in the form



of Exhibit B hereto, and delivering an executed copy thereof, within five (5) Business Days of closing of such Transfer, to the Company Parties. After a transferee executes the Joinder Agreement, such transferee Holder shall be a Supporting Holder for all purposes under this Agreement.

10.02 This Agreement shall in no way be construed to preclude the Supporting Holders from acquiring additional Notes; *provided* that such additional Notes shall automatically and immediately upon acquisition by a Supporting Holder be deemed subject to the terms of this Agreement (regardless of when or whether notice of such acquisition is given to any party). A Supporting Holder that acquires additional Notes shall notify the Company of such acquisition within three (3) Business Days and shall indicate the revised aggregate principal amount of Notes held by such Supporting Holder.

10.03 Notwithstanding the foregoing, a Qualified Marketmaker, acting solely in its capacity as such, that acquires any Notes subject to this Agreement shall not be required to execute a transfer agreement or otherwise agree to be bound by the terms and conditions set forth herein if, and only if, such Qualified Marketmaker sells or assigns such Notes within ten (10) Business Days of its acquisition and the purchaser or assignee of such Notes is a Supporting Holder or an entity that executes and provides a transfer agreement in accordance with the terms set forth herein; *provided* that if a Qualified Marketmaker, acting solely in its capacity as such, acquires Notes from an entity who is not a Supporting Holder with respect to such debt (collectively, “Qualified Unrestricted Claims”), such Qualified Marketmaker may Transfer any right, title or interest in such Qualified Unrestricted Claims without the requirement that the transferee execute a transfer agreement; *provided further* that any such Qualified Marketmaker that is a Party to this Agreement shall otherwise be subject to the terms and conditions of this Agreement (including Section 2(a)(iii) hereof) with respect to Qualified Unrestricted Claims pending the completion of any such Transfer.

10.04 Any Transfer of any Notes that does not comply with the foregoing shall be deemed void *ab initio*.

## **Section 11. Representations and Warranties**

11.01 Representations and Warranties of All Parties. Each of the Parties represents and warrants on a several (but not joint) basis to each other Party that the following are true, correct, and complete as of the date of this Agreement (or as of the date a Supporting Holder becomes a Party to this Agreement by executing and delivering a Joinder Agreement):

(a) **Organization; Authority**. Such Party is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization, formation, or incorporation (as applicable). Such Party has all requisite corporate, partnership, limited liability company, or similar power and authority to execute and deliver this Agreement and perform its obligations under, this Agreement, and the execution and delivery of this Agreement by such Party and the performance of such Party’s obligations under this Agreement have been duly authorized by all necessary corporate, limited liability company, partnership, or other similar action on its part. Such Party has all requisite corporate, partnership, limited liability company, or similar power and authority to perform any and all actions that may be required to implement the Transaction, and the performance of such actions have been duly authorized, or will be duly authorized, as the case

may be, by all necessary corporate, limited liability company, partnership or other similar action on its part.

(b) ***Binding Obligation.*** This Agreement constitutes the legally valid and binding obligation of such Party, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability or a ruling of any court of competent jurisdiction.

(c) ***No Pending Alternative Proposal.*** Such Party is not a party to any pending or undisclosed agreement, understanding, negotiation, or discussion (in each case, whether oral or written) with respect to any Alternative Proposal.

(d) ***No Restrictions.*** The execution, delivery and performance by such Party of this Agreement does not, and will not (i) violate any provision of law applicable to it or any of its subsidiaries or its charter or bylaws (or other similar governing documents) or those of any of its subsidiaries; (ii) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any material contractual obligation to which it or any of its subsidiaries is a party other than obligations in the agreements set forth on Schedule 11.01(d)(ii); or (iii) require any registration or filing with, consent or approval of, or notice to, or other action of, with or by, any federal, state, or other governmental authority or regulatory body, except such filings and/or approvals as may be necessary or required by the Securities Acts or any "blue sky" laws.

(e) ***Information.*** None of the material and information provided by or on behalf of such Party to the other Parties in connection with the Transaction, when read or considered together, contains any untrue statement of a material fact or omits to state a fact necessary in order to prevent the statements made therein from being materially misleading.

11.02 Additional Representations and Warranties of Supporting Holders. Each Supporting Holder represents and warrants on a several (but not joint) basis that the following are true, correct, and complete as of the date of this Agreement (or such later date on which a Supporting Holder becomes a Party to this Agreement by executing and delivering a Joinder Agreement):

(a) ***Ownership; Control.*** Such Supporting Holder: (i) either (A) is the sole beneficial owner of the principal amount of Notes set forth on, and, having made reasonable inquiry, is not the beneficial or record owner of any Company Claims/Interests other than those reflected in, its signature page hereto (or below its name on the signature page of a Joinder Agreement for any Supporting Holder that becomes a Party after the date hereof), or (B) has sole investment or voting discretion with respect to the principal amount of such Notes set forth on such signature page and has the power and authority to bind the beneficial owner(s) of such Notes to the terms of this Agreement as such terms relate to the Notes; and (ii) has full power and authority to act on behalf of, vote, and consent to matters concerning such Notes set forth on its signature page (or below its name on the signature page of a Joinder Agreement for any Supporting Holder that becomes a Party after the date hereof) and to dispose of, exchange, assign, and Transfer such Notes, including the power and authority to execute and deliver this Agreement and perform its obligations hereunder.

(b) *Investment Managers.* It is understood and agreed that the representations and warranties made by a Supporting Holder that is an investment manager of a beneficial owner of Notes are made with respect to, and on behalf of, such beneficial owner and not such investment manager, and, if applicable, are made severally (and not jointly) with respect to the investment funds, accounts, and other investment vehicles managed by such investment manager.

(c) *Similar Agreement.* Except as contemplated by this Agreement, such Supporting Holder is not party to any restructuring support or similar agreement in respect of the Company Parties between any of the Supporting Holders that has not been disclosed to the Parties.

## **Section 12. Termination Events**

12.01 Supporting Holder Termination Events. The Required Supporting Holders shall have the right, but not the obligation, to terminate this Agreement by delivering to the Company Parties written notice in accordance with Section 15.10 upon the occurrence of any of the following events (each, a “Supporting Holder Termination Event”):

(a) the material breach of any of the representations, warranties, or obligations, made by a Company Party in this Agreement and, to the extent such material breach is curable, remains uncured for five (5) Business Days, or if the Company is diligently working to cure the same, ten (10) Business Days, after a Supporting Holder transmits a written notice in accordance with Section 15.10 hereof detailing any such breach;

(b) the economic substance or the legal rights, remedies, or benefits of the Transaction to the Supporting Holders is materially and adversely affected in a manner that is a result of fraud, gross negligence, bad faith, or willful misconduct by any of the other Parties hereto and to the extent such material breach is curable, remains uncured for three (3) Business Days, or if the Company is diligently working to cure the same, five (5) Business Days, after such terminating Supporting Holders transmit a written notice in accordance with Section 15.10 hereof detailing any such occurrence;

(c) the board of directors, board of managers, or such similar governing body of the Company determines, based on the written advice of outside counsel, (i) that proceeding with the Transaction would be inconsistent with the exercise of its fiduciary duties or applicable law, or (ii) in the exercise of its fiduciary duties, to pursue an Alternative Proposal;

(d) an Event of Default under the Indenture, other than the Forbearance Default, has occurred and is continuing after expiry of all applicable grace and cure periods;

(e) the acceleration of any of the Company’s bank facilities;

(f) the Company publicly announces their intention not to support the Transaction;

(g) the issuance by any competent governmental authority, including any regulatory authority or court of competent jurisdiction, of any final, non-appealable ruling or order that enjoins the consummation of a material portion of the Transaction and remains in effect for ten (10) Business Days after such Supporting Holder transmits a written notice thereof in

accordance with Section 15.10 hereof detailing any such issuance; *provided* that this termination right may not be exercised by any Party that sought or requested such ruling or order in contravention of any obligation set out in this Agreement;

(h) if the Company Parties have not launched the Exchange Offer by 11:59 p.m. (prevailing Eastern Time) on April 11, 2018 (the “Launch Date”);

(i) if the Transaction has not been consummated by 11:59 p.m. (prevailing Eastern Time) on the date that is forty-five (45) days after the Launch Date;

(j) any Company Party (or any party under the control of a Company Party) commences an action to challenge the validity or priority of, or to avoid, the liens on any asset or assets comprising any material portion of the collateral securing the Notes; or

(k) one or more insolvency proceedings, under applicable law or any other law or legal process in any jurisdiction, and whether voluntary or involuntary, are opened in respect of any Company Party.

12.02 Company Party Termination Events. Any Company Party may terminate this Agreement as to all Parties upon prior written notice to all Parties in accordance with Section 15.10 hereof upon the occurrence of any of the following events (each, a “Company Party Termination Event” and together with the Supporting Holder Termination Events, the “Termination Events”):

(a) the material breach by one or more of the Supporting Holders of any provision set forth in this Agreement that materially and adversely impairs the ability of the Company to consummate the Transactions and remains uncured for a period of five (5) Business Days after the receipt by the Supporting Holders of notice of such breach;

(b) the board of directors, board of managers, or such similar governing body of any Company Party determines, based on the written advice of outside counsel, (i) that proceeding with the Transaction would be inconsistent with the exercise of its fiduciary duties or applicable law, or (ii) in the exercise of its fiduciary duties, to pursue an Alternative Proposal; or

(c) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any final, non-appealable ruling or order that enjoins the consummation of a material portion of the Transaction in a manner that cannot be reasonably remedied in a timely manner by the Company Parties or any Party to this agreement; *provided* that this termination right shall not apply to or be exercised by any Company Party that sought or requested such ruling or order in contravention of any obligation or restriction set out in this Agreement.

12.03 Mutual Termination. This Agreement, and the obligations of all Parties hereunder, may be terminated by mutual written agreement among the following: (a) each Company Party and (b) the Required Supporting Holders.

12.04 Automatic Termination. This Agreement shall terminate automatically and as to all Parties without any further required action or notice on the Termination Date.

**12.05 Effect of Termination.** Except as set forth in Section 15.16, upon the occurrence of a Termination Date, this Agreement shall be of no further force and effect and each Party shall be released from its commitments, undertakings, and agreements under or related to this Agreement and shall have the rights and remedies that it would have had, had it not entered into this Agreement, and shall be entitled to take all actions, whether with respect to the Transaction or otherwise, that it would have been entitled to take had it not entered into this Agreement, including with respect to any and all Claims or Causes of Action. Nothing in this Agreement shall be construed as prohibiting a Company Party or any of the Supporting Holders from contesting whether any such termination is in accordance with its terms or to seek enforcement of any rights under this Agreement that arose or existed before a Termination Date. Except as expressly provided in this Agreement, nothing herein is intended to, or does, in any manner waive, limit, impair, or restrict (a) any right of any Company Party or the ability of any Company Party to protect and preserve its rights (including rights under this Agreement), remedies, and interests, including its claims against any Supporting Holders, and (b) any right of any Supporting Holders, or the ability of any Supporting Holders, to protect and preserve its rights (including rights under this Agreement), remedies, and interests, including its claims against any Company Party or Supporting Holder. No purported termination of this Agreement shall be effective under this Section 12.05 or otherwise if the Party seeking to terminate this Agreement is in material breach of this Agreement, except a termination pursuant to Sections 12.02(b) or 12.02(c). Nothing in this Section 12.05 shall restrict any Company Party's right to terminate this Agreement in accordance with Sections 12.02(b) or 12.02(c).

### **Section 13. Amendments and Waivers**

(a) This Agreement may not be modified, amended, or supplemented, and no condition or requirement of this Agreement may be waived, in any manner except in accordance with this Section 13.

(b) Other than the provisions of this Section 13, this Agreement may be modified, amended, or supplemented, or a condition or requirement of this Agreement may be waived, (i) in a writing signed by the Company and the Required Supporting Holders or (ii) confirmed by email by each of counsel to the Company and counsel to the ad hoc group of holders of Notes representing that it is acting with the authority of the Required Supporting Holders.

(c) Any proposed modification, amendment, waiver, or supplement that does not comply with this Section 13 shall be ineffective and void *ab initio*.

(d) The waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any Party to exercise, and no delay in exercising, any right, power, or remedy under this Agreement shall operate as a waiver of any such right, power, or remedy or any provision of this Agreement, nor shall any single or partial exercise of such right, power, or remedy by such Party preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power, or remedy. All remedies under this Agreement are cumulative and are not exclusive of any other remedies provided by law.



(e) Any amendment that would materially and adversely affect any Supporting Holder in a manner that is disproportionate to any other Supporting Holder, solely in its capacity as such, shall require the prior written consent of the adversely affected Supporting Holder.

#### **Section 14. *Relationship Among Parties; Retention of Professionals and Expenses***

14.01 Relationship Among Parties. Notwithstanding anything herein to the contrary, the duties and obligations of the Company Parties and the Supporting Holders under this Agreement shall be several, not joint. It is understood and agreed that no Party has any duty of trust or confidence in any kind or form with any Party, and, except as expressly provided in this Agreement, there are no commitments among or between them. In this regard, it is understood and agreed that any Supporting Holder may trade in the Notes without the consent of any other Party, subject to applicable securities laws and the terms of this Agreement. No Party hereto shall have any responsibility with respect to the Transfer of any Notes by any other Party by virtue of this Agreement. No prior history, pattern, or practice of sharing confidences among or between the Parties shall in any way affect or negate this understanding and agreement. No Party shall, as a result of its entering into and performing its obligations under this Agreement, be deemed to be part of a “group” (as that term is used in section 13(d) of the Securities Exchange Act) with any other Party. For the avoidance of doubt, no action taken by a Party pursuant to this Agreement shall be deemed to constitute or to create a presumption by the Parties that any or all of the Parties are in any way acting in concert or as such a “group.” The execution of this Agreement by any Party shall not create, or be deemed to create, any fiduciary or other duties (actual or implied) to any other Party other than non-fiduciary duties as expressly set forth in this Agreement.

14.02 Payment of Supporting Holders’ Professionals. The Company agrees to pay the reasonable and documented fees and expenses of Paul Weiss, Rifkind, Wharton & Garrison, V&P Law Firm, and Gilmartin, Poster & Shafto LLP incurred in connection with the Transaction through February 28, 2018 upon the Agreement Effective Date and, thereafter, in accordance with the terms of their respective engagement arrangements with the Company.

#### **Section 15. *Miscellaneous***

15.01 Acknowledgement. Notwithstanding any other provision herein, this Agreement is not and shall not be deemed to be an offer with respect to any securities. Any such offer will be made only in compliance with all applicable securities laws or other applicable law.

15.02 Exhibits Incorporated by Reference; Conflicts. Each of the exhibits, annexes, signatures pages, and schedules attached hereto is expressly incorporated herein and made a part of this Agreement, and all references to this Agreement shall include such exhibits, annexes, signature pages, and schedules. In the event of any inconsistencies between the terms of this Agreement and the Term Sheet, this Agreement shall govern. In the event of any inconsistencies between the terms of this Agreement and/or the Term Sheet, on the one hand, and any of the Definitive Documents, the Definitive Documents shall govern.

15.03 Email. Unless the context of this Agreement clearly requires otherwise, any notice, consent, acceptance, approval, or other communication required by this Agreement may be made by email from counsel to any Party to counsel to any Party in accordance with Section 15.10 of

this Agreement. For the avoidance of doubt, any such communication contemplated by this Agreement, regardless of whether the applicable subsection of this Agreement contemplates email delivery of such communication, may be done via email between any of the Parties or their respective counsel, and all such communications pursuant to this Agreement shall be without representations or warranties of any kind on behalf of such counsel.

15.04 Further Assurances. Subject to the other terms of this Agreement, the Parties agree to execute and deliver such other instruments and perform such acts, in addition to the matters herein specified, as may be reasonably appropriate or necessary, from time to time, to effectuate the Transaction, as applicable.

15.05 Complete Agreement. Except as otherwise explicitly provided herein, this Agreement constitutes the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, among the Parties with respect thereto.

15.06 Governing Law; Jurisdiction; Waiver of Jury Trial.

(a) This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of New York, without giving effect to the conflicts of law principles thereof.

(b) Each of the Parties irrevocably agrees that any legal action, suit, or proceeding arising out of or relating to this Agreement brought by any party or its successors or assigns shall be brought and determined in any federal or state court in the Borough of Manhattan, the City of New York, and each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, with regard to any such proceeding arising out of or relating to this Agreement or the Transaction. Each of the Parties agrees not to commence any proceeding relating hereto or thereto except in the courts described above in New York, other than proceedings in any court of competent jurisdiction to enforce any judgment, decree, or award rendered by any such court in New York as described herein. Each of the Parties further agrees that notice as provided herein shall constitute sufficient service of process and the Parties further waive any argument that such service is insufficient. Subject to the foregoing, each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim, or otherwise, in any proceeding arising out of or relating to this Agreement or the Transaction, (i) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (ii) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment, or otherwise), and (iii) that (A) the proceeding in any such court is brought in an inconvenient forum, (B) the venue of such proceeding is improper, or (C) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

(c) EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED

HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

15.07 Execution of Agreement. This Agreement may be executed and delivered in any number of counterparts and by way of electronic signature and delivery, each such counterpart, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same agreement. Except as expressly provided in this Agreement, each individual executing this Agreement on behalf of a Party has been duly authorized and empowered to execute and deliver this Agreement on behalf of said Party.

15.08 Rules of Construction. This Agreement is the product of negotiations among the Parties, and in the enforcement or interpretation hereof, is to be interpreted in a neutral manner, and any presumption with regard to interpretation for or against any Party by reason of that Party having drafted or caused to be drafted this Agreement, or any portion hereof, shall not be effective in regard to the interpretation hereof. The Parties were each represented by counsel during the negotiations and drafting of this Agreement and continue to be represented by counsel.

15.09 Successors and Assigns; Third Parties. This Agreement is intended to bind and inure to the benefit of the Parties and their respective successors and permitted assigns, as applicable. There are no third-party beneficiaries under this Agreement, and the rights or obligations of any Party under this Agreement may not be assigned, delegated, or transferred to any other entity.

15.10 Notices. All notices hereunder shall be deemed given if in writing and delivered, if sent by email (the preferred method) or courier, registered, or certified mail to the following email addresses or postal addresses (or such other email or postal addresses as a Party may from time to time request):

(a) if a Company Party, to:

Eletson Holdings, Inc.  
118 Kolokotroni Street,  
GR 185 35

Piraeus, Greece

Attn: Lascarina J. Karastamati, General Counsel

Email: [lascarina.karastamati@eletson.com](mailto:lascarina.karastamati@eletson.com)



with copies to:

Holland & Knight LLP  
31 West 52nd Street  
New York, New York 10019, USA  
Attention: Jovi Tenev and Randy DelFranco  
Phone: (212) 513-3218  
Email: [jovi.tenev@hklaw.com](mailto:jovi.tenev@hklaw.com);  
[randy.delfranco@hklaw.com](mailto:randy.delfranco@hklaw.com)

(b) if the Supporting Holders, to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP  
1285 Avenue of the Americas  
New York, New York 10019, USA  
Attention: Andrew N. Rosenberg; Sarah Harnett  
Email addresses: [arosenberg@paulweiss.com](mailto:arosenberg@paulweiss.com);  
[sharnett@paulweiss.com](mailto:sharnett@paulweiss.com)

Any notice given pursuant to this provision shall be effective when received.

15.11 Independent Due Diligence and Decision Making. Each Party hereby confirms that its decision to execute this Agreement has been based upon its independent investigation of the operations, businesses, financial and other conditions, and prospects of the Company Parties, and that it has been represented by counsel or other advisors (or has had ample opportunity to seek representation or advice from counsel or other advisors) in connection with this Agreement and the Transaction. Accordingly, any rule of law or any legal decision that would provide any Party hereto with a defense to the enforcement of the terms of this Agreement against such Party based upon lack of legal counsel or other advisors shall have no application and is expressly waived.

15.12 No Waiver and Preservation of Rights. Except as provided in this Agreement, nothing herein is intended to, does, or shall be deemed in any manner to waive, limit, impair, or restrict the ability of each of the Parties to protect and preserve its rights, remedies, and interests, including, but not limited to, its claims against any other Party and any liens or security interest it may have in any assets of the Company Parties. Without limiting the foregoing sentence in any way, if the Transaction is not consummated, or if this Agreement is terminated for any reason, the Parties fully reserve any and all of their rights. Pursuant to Federal Rule of Evidence 408 and any other applicable rules of evidence, this Agreement and all negotiations relating hereto shall not be admissible into evidence in any proceeding other than a proceeding to enforce its terms or the payment of damages to which a Party may be entitled under this Agreement.

15.13 Specific Performance. It is understood and agreed by the Parties that money damages would be an insufficient remedy for any breach of this Agreement by any Party and each non-breaching Party shall be entitled to specific performance and injunctive or other equitable relief (without the posting of any bond and without proof of actual damages) as a remedy of any such breach, including an order of a court of competent jurisdiction requiring any Party to comply promptly with any of its obligations hereunder.