

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (hereinafter referred to as the “**Agreement**”) is entered into by and between:

- (1) TP **insolvency, v.o.s.**, Company ID No.: 032 96 636, with its registered office at Černokostecká 281/7, Strašnice, 100 00 Prague 10, as the insolvency administrator of **Liberty Ostrava a.s.**, Company ID No.: 451 93 258, with its registered office at Vratimovská 689/117, Kunčice, 719 00 Ostrava (hereinafter referred to as the “**Insolvency Administrator**”), and
- (2) [●] (hereinafter referred to as the “**Interested Party**”);

(the Insolvency Administrator and the Interested Party shall hereinafter be collectively referred to as the “**Parties**” and each individually as a “**Party**”).

WHEREAS:

- (A) On 13 June 2024, insolvency proceedings were initiated at the Regional Court in Ostrava under File No. KSOS 37 INS 10270 / 2024 at the request of **Liberty Ostrava a.s.**, Company ID No.: 451 93 258, with its registered office at Vratimovská 689/117, Kunčice, 719 00 Ostrava (hereinafter referred to as the “**Debtor**”). By Ruling of 4 December 2024, the insolvency court declared the Debtor’s assets bankrupt.
- (B) The Insolvency Administrator has announced a tender procedure for the sale of the Debtor’s Enterprise (hereinafter referred to as the “**Tender Procedure**”). The rules of the Tender Procedure are set out in the procedural letter dated 11 February 2025 (hereinafter referred to as the “**Procedural Letter**”).
- (C) The purpose of the Tender Procedure is to find an investor to whom the ownership of the Main Plant and the Coking Plant or just the Main Plant (hereinafter referred to as the “**Transaction**”) will be transferred in accordance with the principles of insolvency proceedings.
- (D) The Interested Party is interested in receiving documents and information concerning the Debtor in order to submit a Binding Tender in the Tender Procedure and for this purpose this Agreement is concluded between the Interested Party and the Insolvency Administrator.

NOW, THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

- 1.1 Unless otherwise specified in this Agreement, the following terms shall have the meanings set forth below:

“**Confidential Information**” shall mean:

- (a) The existence and content of discussions and negotiations between the Interested Party (including the Authorised Recipients), the Insolvency Administrator (or its respective advisors) and the Debtor relating directly or indirectly to the Transaction (whether in written, oral, visual, electronic, magnetic, digital or any other form), whether such discussions and/or negotiations took place before or after the time of the execution of this Agreement; and

- (b) Any information of whatever nature and in whatever form (including information provided in written, oral, visual, electronic, magnetic, digital or any other form) which relates directly or indirectly to any Group company, its business, the Insolvency Administrator or the Transaction (including, without limitation, the contents of the Transaction Documentation) which has been provided by the Insolvency Administrator, Debtor (or their respective advisors) or any of their Affiliates to the Interested Party or any of its Authorised Recipients (whether such information is provided before or after the time of entering into this Agreement), including (but not limited to) any information relating to any member of the Group which has been disclosed in any way (directly or indirectly, whether before or after the time of entering into this Agreement) by the Insolvency Administrator, the Debtor (or their respective advisors) and/or any of their Affiliates. Confidential Information also includes any Copies.
- (c) Any information concerning the participation of the Interested Party in the Tender Procedure which may obviously be capable of influencing the outcome of the Tender Procedure; such information shall be understood in particular as communication about the economic offer of the Interested Party submitted in the Tender Procedure or information about the intention to submit / not to submit a Binding Tender.
- (d) (For the avoidance of doubt) any information or document of whatever nature and in whatever form provided to the Interested Party in the Tender Procedure via the Digital (Virtual) Data Room (VDR) for the purpose of, in particular, conducting a legal and financial due diligence of the Interested Parties.

“**Copies**” shall mean any copies of Confidential Information, including any document, electronic file, memo, extract, analysis, compilation, forecast, study (regardless of by whom or for whom prepared) or any other means of capturing or recording information that contains, reflects or is otherwise derived from Confidential Information.

“**Authorised Recipient**” shall mean, with respect to the Interested Party, (i) an Affiliate of the Interested Party, (ii) the directors, officers, employees and external advisors of the Interested Party and the persons listed in clause (i), and (iii) the directors, officers and employees of external advisors of the Interested Party and the persons listed in clause (i), and, in the case of external advisors, their permanently associated attorneys, partners, paralegals and other professional and administrative employees.

“**Permitted Purpose**” shall mean the review, evaluation and negotiation of the Transaction.

“**Affiliate**” shall mean, in relation to a person, any person falling into any of the following categories:

- (a) A subsidiary of that person;
- (b) The parent company of that person;
- (c) A subsidiary of the parent company under clause (b);
- (d) An advisor or representative of the person referred to in clause (a), (b) or (c); and
- (e) A member of the body, management, employee or associate of that person or of any person referred to in clause (a), (b), (c) or (d) or of a subsidiary of any person referred to in clause (d).

“**Group**” shall mean the Debtor and any of its Related Persons.

“**Security Agreement**” shall mean the agreement on cash security and contractual penalty entered into between the Parties in connection with the Tender Procedure pursuant to the Procedural Letter.

“**Related Person**” shall mean in relation to a person: (i) any subsidiary of the person, any parent of the person, any subsidiary of a parent of the person and any subsidiary of a subsidiary of the person, (ii) any controlling person of the person or any person controlled by the person, (iii) any person in a group of the person, and (iv) any person that has the same beneficial owner as the person.

“**VDR**” shall mean the Digital (Virtual) Data Room (VDR) established by the Insolvency Administrator primarily for the purpose of providing information to the Interested Party for the purpose of conducting a legal and financial due diligence of the Debtor.

- 1.2 The term “**ensure**” in connection with the obligation of a Party is constructed within the meaning of the second sentence of Section 1769 of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter referred to as the “**Civil Code**”), as an obligation of such Party to ensure that the third party in question performs what has been agreed upon in this Agreement and, in the event that the third party in question fails to perform what has been agreed upon in this Agreement, an obligation of the Party in question to compensate for the damage suffered by the other Party. For the avoidance of doubt, it is agreed that performance includes refraining from doing a particular act or performing a simple obligation or performing a simple act within the scope of this Agreement.
- 1.3 References to a “**person**” shall mean a natural person or a legal entity.
- 1.4 References to a “**company**” shall include any company, business corporation or other legal entity, regardless of where or how it was formed or established and whether or not it has legal personality.
- 1.5 References to “**written**” form shall mean any means of reproducing words in a legible and permanent form (excluding email).
- 1.6 All capitalised terms used in the Agreement that are not defined in this Agreement shall have the meanings set forth in the Procedural Letter.
- 1.7 The headings are for ease of reference only and shall not affect the interpretation of this Agreement.
- 1.8 Unless the context indicates otherwise, words in the singular include the plural and vice versa, and one gender includes all other genders.

2. CONFIDENTIALITY OBLIGATION

- 2.1 The Interested Party undertakes:
 - (a) To maintain and ensure that its Authorised Recipients maintain confidentiality and secrecy in relation to the Confidential Information and, to that end, to take all steps necessary to prevent disclosure or publication of the Confidential Information and unauthorised access to or use of the Confidential Information by any third party, and
 - (b) Not to disclose, and to ensure that its Authorised Recipients do not disclose, the Confidential Information or any part thereof to any third party (other than the Authorised Recipients) unless it has the prior written consent of the Insolvency Administrator to disclose the Confidential Information. Under no circumstances shall

an Authorised Recipient be entitled to disclose or make available Confidential Information to a person who is not an Authorised Recipient. For the avoidance of doubt, the Parties expressly agree that the Interested Party is not entitled to provide or disclose Confidential Information to any person who could reasonably be considered a potential interested party or Tenderer in the Transaction.

2.2 In addition to the general duty of confidentiality set forth in Article 2.1 of this Agreement, neither the Interested Party nor any of its Authorised Recipients shall be entitled, without the prior written consent of the Insolvency Administrator, to:

- (a) Disclose to any person other than the Authorised Recipient the fact that the Interested Party is participating in the Tender Procedure and that negotiations (including the conduct and outcome of such negotiations) are ongoing between the Parties;
- (b) Disclose or discuss its interest in participating in the Transaction, or the terms on which it wishes to participate in the Transaction, with any person who is or may reasonably be regarded as a potential prospective participant in the Transaction (interested party);
- (c) Use the Confidential Information for any purpose other than the Permitted Purpose, including, but not limited to, using the Confidential Information in the conduct of its business or to obtain a commercial or other advantage, unless the Parties' actions result in the execution of the Transaction.

3. EXEMPTIONS FROM CONFIDENTIALITY

3.1 The obligations of the Interested Party set forth in each paragraph of Article 2 of this Agreement shall not apply to Confidential Information that:

- (a) Is available from public sources at the time it is provided to the Interested Party;
- (b) Subsequently becomes publicly available other than as a result of a breach of this Agreement by the Interested Party or its Authorised Recipient;
- (c) Is already available to the Interested Party or its Authorised Recipient as of the date of signing of this Agreement in accordance with law (the Interested Party shall be obliged to provide the Insolvency Administrator with reasonable evidence of the relevant written records upon the Insolvency Administrator's request);
- (d) Must be disclosed pursuant to law or pursuant to an order of a public authority or court, and nothing in this Agreement shall be construed to prohibit such disclosure.

3.2 Nothing in this Agreement shall apply to the rights and obligations arising from contracts concluded before the signing of this Agreement between the Insolvency Administrator and the Interested Party and/or its Related Person in the operation of the Debtor's business establishment or the performance of such contracts.

4. OBLIGATION TO ENSURE COMPLIANCE WITH THE AGREEMENT BY AUTHORISED RECIPIENTS

4.1 The Interested Party shall inform the Authorised Recipients to whom it discloses Confidential Information of the confidential nature of the Confidential Information and the rights and obligations set forth in this Agreement. The Interested Party shall ensure that each of its Authorised Recipients who receives any Confidential Information complies with the terms of this Agreement as if each of them were a party to this Agreement.

- 4.2 The Interested Party shall be strictly liable for any act or omission of its Authorised Recipients that results in a breach of the terms of this Agreement or would constitute a breach if the Authorised Recipient were a party to this Agreement in the same capacity as the Interested Party. The Interested Party shall at all times be liable for, among other things, any injury caused to the Debtor and the Insolvency Administrator by any breach of this Agreement as a result of any act or omission of any Authorised Recipient and also for any costs that the Insolvency Administrator or the Debtor may be required to incur to protect their rights as a result of such act or omission. The same shall apply to the exercise of the right to contractual penalty under this Agreement.
- 4.3 The Interested Party shall, upon request of the Insolvency Administrator, inform the Insolvency Administrator of the identity of its Authorised Recipients, including details of which person, if any, they are acting for.

5. DISPOSAL, DESTRUCTION AND RETURN OF CONFIDENTIAL INFORMATION AND COPIES

- 5.1 Neither the Interested Party nor any other Authorised Recipient may remove, deface, alter or render illegible any of the materials provided in the VDR, or mark or otherwise modify the documents (including changing their order or characteristics), without the written consent of the Insolvency Administrator.
- 5.2 The Interested Party shall promptly do and cause the following to be done by it and each Authorised Recipient upon the written request of the Insolvency Administrator:
- (a) Destroy (including all media and information in digital form whatsoever) or return to the Insolvency Administrator all Confidential Information and Copies in their possession;
 - (b) Confirm in writing that the requirements of paragraph 5.2(a) of this Agreement have been met.
- 5.3 Physically provided materials must be returned in the condition in which they were provided to the Interested Party.
- 5.4 The Interested Party and the relevant Authorised Recipient are entitled to retain Confidential Information to the extent that:
- (a) It is required by law or by a requirement of any administrative authority or court made in accordance with law, including the rules of a professional body; or
 - (b) It is contained in an electronic file created as part of a periodic data backup or archiving system, provided that such file shall not be publicly accessible beyond the need for disaster recovery of IT systems, without prejudice to the obligations of the Interested Party and any of its Authorised Recipients under other provisions of this Agreement.
- 5.5 The Interested Party undertakes to retain any Confidential Information retained pursuant to paragraph 5.4 and ensure that it will continue to be retained by each Authorised Recipient only in accordance with this Agreement for so long as it remains in the possession of the Interested Party or the applicable Authorised Recipient.

6. NO GUARANTEE FOR THE CONTENT OF CONFIDENTIAL INFORMATION

- 6.1 The Interested Party hereby expressly acknowledges that neither the Insolvency Administrator nor the Debtor makes any representation or provides any guarantee as to the accuracy,

correctness or completeness of the Confidential Information. The Interested Party expressly agrees that:

- (a) Neither the Insolvency Administrator, the Debtor nor any of their Affiliates shall owe any duty of care or liability to the Interested Party, its Authorised Recipients or any other person for any loss suffered by any person as a result of reliance on any statement contained in or omitted from the Confidential Information;
- (b) Neither the Insolvency Administrator, the Debtor nor any of their Affiliates shall have any obligation to initiate or continue any discussions or negotiations relating to the Transaction; and
- (c) Neither the Insolvency Administrator, the Debtor nor any of their Affiliates shall have any obligation to provide any additional Confidential Information, to update the Confidential Information or to correct any inaccuracies therein.

6.2 The Interested Party and each of its Authorised Recipients are solely responsible for their own evaluation of the Confidential Information and any decisions made on the basis of the Confidential Information.

6.3 The Parties expressly agree that the Insolvency Administrator and each Affiliate of the Debtor shall have the direct right to enforce their rights under this Agreement against the Interested Party and/or its Authorised Recipients, and this Agreement is negotiated pursuant to Section 1767 of the Civil Code for the benefit of each such Affiliate and the Insolvency Administrator. The provisions of Article 6 of this Agreement may not be waived or modified without the prior written consent of the applicable Affiliates of the Debtor or the Insolvency Administrator.

6.4 Article 6 of this Agreement does not exclude liability for any intentionally false statement.

7. COMMUNICATION AND NO CONTACT WITH EMPLOYEES

7.1 All communications relating to the Transaction will be delivered in accordance with the Procedural Letter.

7.2 Neither the Interested Party nor any of its Authorised Recipients shall, without the prior written consent of the Insolvency Administrator, directly or indirectly, in connection with the Transaction, have or maintain any contact with any person who is on the date of this Agreement, or has been within the twelve (12) months prior to the date of this Agreement, a member of the governing or supervisory body, management or employee of the Debtor or any other company in the Group, unless the actions of the Parties result in the execution of the Transaction.

8. SECURITY OF CONFIDENTIAL INFORMATION AND COPIES

8.1 The Interested Party acknowledges that the Confidential Information and/or Copies may contain personal data (hereinafter referred to as the “**Relevant Personal Data**”) that is subject to Regulation (EU) 2016/679 (hereinafter referred to as the “**GDPR**”) and the relevant applicable national data protection laws of EU Member States or other similar laws in other jurisdictions (collectively hereinafter referred to as the “**Data Protection Laws**”) and that, in such a case, it will act as a data controller responsible for the processing of the Relevant Personal Data. In the processing of the Relevant Personal Data, the Interested Party shall ensure, in particular:

- (a) Implementing appropriate organisational and technical measures to ensure that all Relevant Personal Data is protected and secured against unauthorised processing, theft, loss, damage or destruction and loss of availability;

- (b) Compliance with all other obligations under the law (in particular the GDPR) to protect the Relevant Personal Data;
- (c) Prompt notification to the Insolvency Administrator, in addition to the Office for Personal Data Protection, as soon as it becomes aware of any actual, suspected or alleged loss, leakage or unauthorised processing of any Relevant Personal Data or any other breach of Article 8 of this Agreement.

9. INTELLECTUAL OWNERSHIP OF CONFIDENTIAL INFORMATION

Nothing in this Agreement shall be construed or understood as conferring any intellectual property rights or licence in the Confidential Information by the Insolvency Administrator to the Interested Party or any Authorised Recipient.

10. NO OFFER TO CONCLUDE AN AGREEMENT

The Interested Party hereby expressly acknowledges that the Tender Procedure in respect of the Transaction may be amended or terminated at any time and without prior notice. The Interested Party further acknowledges that this Agreement, the decision to enter into negotiations in connection with the Transaction, or the provision of any information and documents, whether or not containing Confidential Information, to the Interested Party or its Authorised Recipients does not constitute an offer to enter into the Transaction Documentation in relation to the Transaction, nor does it form the basis for any representation in relation to the Transaction Documentation pursuant to the Procedural Letter. The Insolvency Administrator shall have no obligation to accept, evaluate or consider any proposal or offer made by the Interested Party in connection with the Transaction and shall be entitled to terminate negotiations with respect to the Transaction at any time without giving any reason and without incurring any liability to the Interested Party or its Authorised Recipients.

11. ACTING IN OWN NAME AND ON OWN ACCOUNT

The Interested Party represents that it is acting in connection with this Agreement in its own name and solely for its own account and not as an agent or representative of another person.

12. REMEDIES AND CONTRACTUAL PENALTY

- 12.1 Without prejudice to any other rights or remedies to which the Debtor or the Insolvency Administrator may be entitled, the Interested Party hereby expressly acknowledges that any breach or threatened breach of this Agreement may cause serious harm to the Insolvency Administrator, the Debtor and/or their Affiliates and that the mere existence of a right to damages may not be an adequate remedy for a breach of this Agreement.
- 12.2 If the Interested Party shall be proven to have breached any of its (i) obligations of confidentiality or secrecy under any of the paragraphs set forth in Article 2 of this Agreement, (ii) obligations to retain information under paragraph 5.4 of this Agreement, or the (iii) prohibition of communication under any of the paragraphs set forth in Article 7 of this Agreement, the Interested Party shall pay to the Debtor's assets a contractual penalty in the amount of CZK 500,000 (in words: five hundred thousand Czech crowns) for each individual breach of such obligation. This contractual penalty serves to compensate for damage, and fault on the part of the Interested Party is not a prerequisite for entitlement to it. Any act or omission of any Authorised Recipient in this regard is attributable to the Interested Party.

- 12.3 If the Interested Party demonstrably fails to comply with any of the obligations pursuant to paragraph 5.2 of this Agreement, it shall be obliged to pay a contractual penalty of CZK 250,000 (in words: two hundred and fifty thousand Czech crowns) to the Debtor's assets for each individual breach of such obligation. This contractual penalty has a punitive function and is not conditional on fault. Any act or omission of any Authorised Recipient in this regard is attributable to the Interested Party.
- 12.4 Any future claim for payment of contractual penalties under this Agreement and the performance thereon shall form part of the Debtor's assets. The exercise of the right to receive, or the payment of, any contractual penalty under this Agreement shall be without prejudice to the right of the Insolvency Administrator or the right of any of the Debtor's Related Persons to claim damages against the Interested Party; damages shall also include the costs referred to in paragraph 4.2 of this Agreement. Even from the perspective of the right to compensation for damage, any act or omission of any Authorised Recipient in this context is attributable to the Interested Party, and the Insolvency Administrator and the Debtor's Affiliate are entitled to invoke such attributability themselves.
- 12.5 The Interested Party shall pay any contractual penalties pursuant to Article 12 of this Agreement within ten (10) business days of receipt of a written demand for payment thereof from the Insolvency Administrator delivered to the address of the Interested Party set forth in the header of this Agreement, to the account number set forth in such demand. In the event that a right to a contractual penalty arises, the funds deposited by the Interested Party as security to secure its obligations in the Tender Procedure in accordance with the Security Agreement shall be used to pay the contractual penalty, as agreed by the Parties, to which the Interested Party expressly agrees and waives in advance the right to the return of such security to the extent of the contractual penalty claimed against it.
- 12.6 The Interested Party declares that it considers the agreed amount of contractual penalties to be reasonable in view of the importance of the legitimate interests of the Debtor, the Insolvency Administrator and the specific circumstances of the Tender Procedure and the Transaction. Any contractual penalty shall be commensurate with the nature and importance of the obligation it secures, and in the event of a breach the Parties are not aware of any reason for modifying any contractual penalty for any reason. The Parties have therefore agreed to exclude the application of the provisions of Section 2051 of the Civil Code to the maximum extent possible.

13. WAIVER

No delay in exercising or failure to exercise any right or remedy by either Party arising at law or under this Agreement shall be construed as a waiver of that right or remedy.

14. TRANSFER AND ASSIGNMENT

The terms and conditions of this Agreement shall also be binding on the legal successors of the Interested Party, if any. Neither Party may assign or transfer this Agreement or any of its rights, obligations, claims or demands hereunder without the prior written consent of the other Party.

15. AMENDMENT OF THE AGREEMENT

This Agreement may be supplemented, amended or terminated only by written amendments signed by both Parties.

16. SEVERABILITY

If any provision of this Agreement is or becomes ineffective, invalid or unenforceable in any respect, the effectiveness, validity or enforceability of the remaining provisions of this Agreement shall not be affected thereby. The Parties undertake to negotiate in good faith to replace any such ineffective, invalid or unenforceable provision with an effective, valid and enforceable provision that conforms as closely as possible to the purpose and content of the ineffective, invalid or unenforceable provision.

17. TERM OF THE AGREEMENT

This Agreement is entered into for a fixed term of six years from the date of this Agreement.

18. FINAL PROVISIONS

18.1 This Agreement, including any non-contractual obligations arising out of or in connection with this Agreement, shall be governed by and construed in accordance with Czech law.

18.2 The Parties have agreed that:

- (a) For the purposes of this Agreement, they accept the risk of a change of circumstances and the provisions of Sections 1764, 1765 and 1766 of the Civil Code shall not apply;
- (b) The following provisions of the Civil Code: Sections 556(2), 557, 558, 1727, second and third sentences, 1728, 1729, 1730, 1740(3), 1793, 1798, 1799, 1800, 1809, 1936(2), 1949, 1950, 1951, 1977, 1978, 1979, 1980, 1995(2), 2000, 2002, 2003, 2901, 2902, 2903 and 2950 shall not apply to this Agreement;
- (c) For the purposes of negotiating and concluding this Agreement, none of them shall be deemed to be a weaker party within the meaning of Czech law and the Parties rely on this assumption in concluding this Agreement.

18.3 The general courts of the Czech Republic shall have jurisdiction to hear and determine any action, dispute, claim or proceedings arising out of or relating to this Agreement (including non-contractual obligations arising out of or relating to this Agreement).

18.4 This Agreement is divided into Articles and paragraphs.

The Parties hereby declare that this Agreement expresses their true and free will, IN WITNESS WHEREOF they affix their signatures hereto.

On behalf of **TP Insolvence, v.o.s.**

insolvency administrator of **Liberty Ostrava a.s.**

In _____, on _____

Name:

Office:

On behalf of [●]:

In _____, on _____

Name:

Office:

Name:

Office: