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## AGREEMENT ON CASH SECURITY AND CONTRACTUAL PENALTY

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This Agreement on Cash Security and Contractual Penalty (hereinafter referred to as the “**Agreement**”) is entered into by and between:

- (1) **TP Insolvence, v.o.s.**, Company ID No.: 032 96 636, with its registered office at Černokostelecká 281/7, Strašnice, 100 00 Prague 10, Czech Republic, 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 (hereinafter referred to as the “**Insolvency Court**”) 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**”).
- (B) On 21 June 2024, the Insolvency Court established the Debtor’s bankruptcy by Ruling Ref. No. KSOS 37 INS 10270/2024-A-25, with the effects of the bankruptcy ruling occurring upon the publication of the Ruling in the Insolvency Register on 21 June 2024 at 09:24 a.m. The Insolvency Court also appointed the Insolvency Administrator as the Debtor’s insolvency administrator.
- (C) By Ruling of the Regional Court in Ostrava of 4 December 2024, Ref. No. KSOS 37 INS 10270/2024-B-347, the Debtor’s assets were declared bankrupt.
- (D) The Interested Party was invited by the Insolvency Administrator by a procedural letter dated 11 February 2025 (hereinafter referred to as the “**Procedural Letter**”) to participate in a tender procedure for the purpose of selecting a suitable bidder for the purchase of the object of the sale, namely the Enterprise (as that term is defined in the Procedural Letter) (hereinafter referred to as the “**Tender Procedure**”).
- (E) The Interested Party is interested in participating in the Tender Procedure and providing a cash security in accordance with the Procedural Letter; this Agreement is entered into for that purpose.

### NOW, THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:

#### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Capitalised terms used but not otherwise defined in this Agreement shall have the meanings ascribed to them in the Procedural Letter.

1.2 The headings are for ease of reference only and shall not affect the interpretation of this Agreement.

1.1 Unless the context indicates otherwise, words in the singular include the plural and vice versa, and one gender includes all other genders.

## **2. FIRST PORTION OF THE SECURITY**

2.1 The Interested Party undertakes to pay, by bank transfer to the bank account no. 1161004920/2700, IBAN: CZ97 2700 0000 0011 6100 4920, kept at UniCredit Bank Czech Republic and Slovakia, a.s. (hereinafter referred to as the “**Account**”) within ten (10) days of the moment of delivery of one copy of this Agreement duly concluded between the Parties hereto to the Interested Party, a cash security in the amount of CZK 50,000,000 (in words: fifty million Czech crowns) (hereinafter referred to as the “**First Portion of the Security**”) in order to secure its obligations arising in connection with the Tender Procedure.

2.2 The Insolvency Administrator agrees to dispose of the First Portion of the Security in accordance with the provisions of this Agreement.

## **3. SETTLEMENT OF THE FIRST PORTION OF THE SECURITY**

3.1 Return of the First Portion of the Security

3.1.1 The Insolvency Administrator undertakes to return the First Portion of the Security provided by the Interested Party to the Interested Party’s bank account no. [●], IBAN: [●], maintained at [●] (hereinafter referred to as the “**Interested Party’s Account**”), in the following cases:

- (a) The Insolvency Administrator cancels the Tender Procedure prior to the submission of the Binding Tender (as that term is defined in the Procedural Letter) by the Interested Party, in which case the Insolvency Administrator shall promptly inform the Interested Party thereof and the Insolvency Administrator shall return the First Portion of the Security to the Interested Party within five (5) days of sending the notice of cancellation of the Tender Procedure to the Interested Party;
- (b) The Interested Party notifies the Insolvency Administrator in writing prior to the submission of the Binding Tender that it does not intend to participate further in the Tender Procedure and requests the return of the First Portion of the Security, in which case the Insolvency Administrator shall return the First Portion of the Security to the Interested Party within five (5) days of receipt of such notification;
- (c) The Interested Party fails to submit a Binding Tender in the Tender Procedure, in which case the Insolvency Administrator shall return the First Portion of the Security to the Interested Party within five (5) days of the lapse of the deadline for the submission of Binding Tenders; or
- (d) The Interested Party submits a Binding Tender in the Tender Procedure but the Insolvency Administrator does not evaluate the Binding Tender of the Interested Party as the most advantageous tender in accordance with the Procedural Letter and terminates the negotiation of the Transaction (as that term is defined in the Procedural Letter) with the Interested Party, in which case

the Insolvency Administrator shall promptly notify the Interested Party and return the First Portion of the Security to the Interested Party within five (5) days of sending the notification to the Interested Party of the termination of the Transaction negotiations.

- 3.1.2 The Parties agree that all bank charges associated with the return of the First Portion of the Security shall be borne by the Interested Party.
- 3.1.3 The First Portion of the Security shall be deemed to have been returned on the date on which it is debited from the Account in favour of the Interested Party's Account.
- 3.2 Use of the First Portion of the Security as an advance payment of the Purchase Price
  - 3.2.1 In the event that the Interested Party's Binding Tender is determined to be the most advantageous in the Tender Procedure and the Interested Party enters into a Purchase Agreement (as that term is defined in the Procedural Letter) with the Insolvency Administrator, the First Portion of the Security shall in such an event be deemed to be an advance payment of the Purchase Price in accordance with the terms of the Purchase Agreement.
  - 3.2.2 In the event of the conclusion of the Purchase Agreement, upon agreement of the Parties, the funds in the amount of the First Portion of the Security shall become an advance payment of the Purchase Price under the Purchase Agreement, to which the Interested Party expressly agrees. In such an event, the Interested Party hereby irrevocably directs the Insolvency Administrator to take all legal and factual steps to make the funds an advance payment of the Purchase Price (including, but not limited to, transferring them to the Debtor's corresponding asset account).
- 3.3 The Interested Party acknowledges and agrees that the Insolvency Administrator may use the First Portion of the Security for the purpose of payment of other pecuniary obligations of the Interested Party incurred in connection with the Tender Procedure, including in particular payment of contractual penalties pursuant to the Confidentiality Agreement concluded between the Parties in connection with the Tender Procedure. If the First Portion of the Security is to be used to pay the pecuniary obligations under this paragraph 3.3, the Interested Party shall replenish the funds in the Account so that the First Portion of the Security is replenished to the amount required under paragraph 2.1 above no later than ten (10) days after the date of receipt of the Insolvency Administrator's demand.
- 3.4 If the Interested Party deposits the First Portion of the Security into the Account but for any reason any of the events for settlement of the First Portion of the Security provided for in paragraphs 3.1 (*Return of the First Portion of the Security*) or 3.2 (*Use of the First Portion of the Security as an advance payment of the Purchase Price*) above does not occur by 31 December 2025 (hereinafter referred to as the "**Latest Date**"), the Insolvency Administrator undertakes to return the First Portion of the Security to the Interested Party within five (5) days of the Latest Date.
- 3.5 For the purposes of this Article 3 (*Settlement of the First Portion of the Security*), the First Portion of the Security shall mean the First Portion of the Security in its face amount as set forth in paragraph 2.1 above, without any interest accrued on the First Portion of the Security during the period from the deposit of the First Portion of the Security into the Account to the time the First Portion of the Security is disposed of pursuant to this Article 3 (*Settlement of the First Portion of the Security*), and the Interested Party shall not be entitled to any interest accruing

on the First Portion of the Security. Any interest so accrued on the First Portion of the Security shall become part of the Debtor's assets.

#### **4. SECOND PORTION OF THE SECURITY**

- 4.1 The Interested Party undertakes that, if it is interested in submitting a Binding Tender, it shall pay a cash security in the amount of CZK 200,000,000 (in words: two hundred million Czech crowns) (hereinafter referred to as the "**Second Portion of the Security**") by bank transfer to the Account within ten (10) days of the moment of submission of the Binding Tender, but no later than 23 April 2025, in order to secure its obligations arising in connection with the Tender Procedure.
- 4.2 The Insolvency Administrator agrees to dispose of the Second Portion of the Security in accordance with the provisions of this Agreement.

#### **5. SETTLEMENT OF THE SECOND PORTION OF THE SECURITY**

##### **5.1 Return of the Second Portion of the Security**

5.1.1 The Insolvency Administrator undertakes to return the Second Portion of the Security provided by the Interested Party to the Interested Party's Account in the following cases:

- (a) The Insolvency Administrator cancels the Tender Procedure after the submission of the Binding Tender by the Interested Party, in which case the Insolvency Administrator shall promptly inform the Interested Party thereof and the Insolvency Administrator shall return the Second Portion of the Security to the Interested Party within five (5) days of sending the notice of cancellation of the Tender Procedure to the Interested Party; or
- (b) The Interested Party submits a Binding Tender in the Tender Procedure but the Insolvency Administrator does not evaluate the Binding Tender of the Interested Party as the most advantageous tender in accordance with the Procedural Letter and terminates the negotiation of the Transaction (as that term is defined in the Procedural Letter) with the Interested Party, in which case the Insolvency Administrator shall promptly notify the Interested Party and return the Second Portion of the Security to the Interested Party within five (5) days of sending the notification to the Interested Party of the termination of the Transaction negotiations.

5.1.2 The Parties agree that all bank charges associated with the return of the Second Portion of the Security shall be borne by the Interested Party.

5.1.3 The Second Portion of the Security shall be deemed to have been returned on the date on which it is debited from the Account in favour of the Interested Party's Account.

##### **5.2 Use of the Second Portion of the Security as an advance payment of the Purchase Price**

5.2.1 In the event that the Interested Party's Binding Tender is determined to be the most advantageous in the Tender Procedure and the Interested Party enters into a Purchase Agreement with the Insolvency Administrator, the Second Portion of the Security shall in such an event be deemed to be an advance payment of the Purchase Price in accordance with the terms of the Purchase Agreement.

5.2.2 In the event of the conclusion of the Purchase Agreement, upon agreement of the Parties, the funds in the amount of the Second Portion of the Security shall become an

advance payment of the Purchase Price under the Purchase Agreement, to which the Interested Party expressly agrees. In such an event, the Interested Party hereby irrevocably directs the Insolvency Administrator to take all legal and factual steps to make the funds an advance payment of the Purchase Price (including, but not limited to, transferring them to the Debtor's corresponding asset account).

- 5.3 The Interested Party acknowledges and agrees that the Insolvency Administrator may use the Second Portion of the Security for the purpose of payment of other pecuniary obligations of the Interested Party incurred in connection with the Tender Procedure, including in particular payment of contractual penalties pursuant to the Confidentiality Agreement concluded between the Parties in connection with the Tender Procedure. If the Second Portion of the Security is to be used to pay the pecuniary obligations under this paragraph 5.3, the Interested Party shall replenish the funds in the Account so that the Second Portion of the Security is replenished to the amount required under paragraph 4.1 above no later than ten (10) days after the date of receipt of the Insolvency Administrator's demand.
- 5.4 If the Interested Party deposits the Second Portion of the Security into the Account but for any reason any of the events for settlement of the Second Portion of the Security provided for in paragraphs 5.1 (*Return of the Second Portion of the Security*) or 5.2 (*Use of the Second Portion of the Security as an advance payment of the Purchase Price*) above does not occur by the Latest Date, the Insolvency Administrator undertakes to return the Second Portion of the Security to the Interested Party within five (5) days of the Latest Date.
- 5.5 For the purposes of this Article 5 (*Settlement of the Second Portion of the Security*), the Second Portion of the Security shall mean the Second Portion of the Security in its face amount as set forth in paragraph 4.1 above, without any interest accrued on the Second Portion of the Security during the period from the deposit of the Second Portion of the Security into the Account to the time the Second Portion of the Security is disposed of pursuant to this Article 5 (*Settlement of the Second Portion of the Security*), and the Interested Party shall not be entitled to any interest accruing on the Second Portion of the Security. Any interest so accrued on the Second Portion of the Security shall become part of the Debtor's assets.

## **6. THIRD PORTION OF THE SECURITY**

- 6.1 In the event that the Interested Party's Binding Tender is evaluated as the most advantageous tender in the entire Tender Procedure (i.e., if the Interested Party becomes the winning Tenderer in the second round of the Tender Procedure in accordance with the terms of its evaluation pursuant to the Procedural Letter), following which the Interested Party will be invited by the Insolvency Administrator to take the steps set out in paragraph 6.10 of the Procedural Letter, the Interested Party undertakes to pay by bank transfer to the Account no later than within the time limit referred to in paragraph 6.11 of the Procedural Letter a cash security in the amount of CZK 250,000,000 (in words: two hundred and fifty million Czech crowns) (hereinafter referred to as the "**Third Portion of the Security**") in order to secure its obligations arising in connection with the Tender Procedure.
- 6.2 The Insolvency Administrator agrees to dispose of the Third Portion of the Security in accordance with the provisions of this Agreement.

## **7. SETTLEMENT OF THE THIRD PORTION OF THE SECURITY**

- 7.1 Return of the Third Portion of the Security

- 7.1.1 The Insolvency Administrator undertakes to return the Third Portion of the Security provided by the Interested Party to the Interested Party's Account in the following cases:
- (a) The Insolvency Administrator cancels the Tender Procedure after the submission of the Binding Tender by the Interested Party, in which case the Insolvency Administrator shall promptly inform the Interested Party thereof and the Insolvency Administrator shall return the Third Portion of the Security to the Interested Party within five (5) days of sending the notice of cancellation of the Tender Procedure to the Interested Party.
- 7.1.2 The Parties agree that all bank charges associated with the return of the Third Portion of the Security shall be borne by the Interested Party.
- 7.1.3 The Third Portion of the Security shall be deemed to have been returned on the date on which it is debited from the Account in favour of the Interested Party's Account.
- 7.2 Use of the Third Portion of the Security as an advance payment of the Purchase Price
- 7.2.1 In the event that the Interested Party enters into a Purchase Agreement with the Insolvency Administrator, the Third Portion of the Security shall in such an event be deemed to be an advance payment of the Purchase Price in accordance with the terms of the Purchase Agreement.
- 7.2.2 In the event of the conclusion of the Purchase Agreement, upon agreement of the Parties, the funds in the amount of the Third Portion of the Security shall become an advance payment of the Purchase Price under the Purchase Agreement, to which the Interested Party expressly agrees. In such an event, the Interested Party hereby irrevocably directs the Insolvency Administrator to take all legal and factual steps to make the funds an advance payment of the Purchase Price (including, but not limited to, transferring them to the Debtor's corresponding asset account).
- 7.3 The Interested Party acknowledges and agrees that the Insolvency Administrator may use the Third Portion of the Security for the purpose of payment of other pecuniary obligations of the Interested Party incurred in connection with the Tender Procedure, including in particular payment of contractual penalties pursuant to the Confidentiality Agreement concluded between the Parties in connection with the Tender Procedure. If the Third Portion of the Security is to be used to pay the pecuniary obligations under this paragraph 7.3, the Interested Party shall replenish the funds in the Account so that the Third Portion of the Security is replenished to the amount required under paragraph 6.1 above no later than ten (10) days after the date of receipt of the Insolvency Administrator's demand.
- 7.4 If the Interested Party deposits the Third Portion of the Security into the Account but for any reason any of the events for settlement of the Third Portion of the Security provided for in paragraphs 7.1 (*Return of the Third Portion of the Security*) or 7.2 (*Use of the Third Portion of the Security as an advance payment of the Purchase Price*) above does not occur by the Latest Date, the Insolvency Administrator undertakes to return the Third Portion of the Security to the Interested Party within five (5) days of the Latest Date.
- 7.5 For the purposes of this Article 7 (*Settlement of the Third Portion of the Security*), the Third Portion of the Security shall mean the Third Portion of the Security in its face amount as set forth in paragraph 6.1 above, without any interest accrued on the Third Portion of the Security during the period from the deposit of the Third Portion of the Security into the Account to the

time the Third Portion of the Security is disposed of pursuant to this Article 7 (*Settlement of the Third Portion of the Security*), and the Interested Party shall not be entitled to any interest accruing on the Third Portion of the Security. Any interest so accrued on the Third Portion of the Security shall become part of the Debtor's assets.

## **8. CONTRACTUAL PENALTY**

- 8.1 In the event that (i) the Interested Party's Binding Tender is evaluated as one of the three highest Binding Tenders in (the first round of) the Tender Procedure within the meaning of Article 6 of the Procedural Letter; (ii) the Interested Party decides to exercise its right to amend its Binding Tender submitted in the first round of the Tender Procedure and to change its Binding Tender within the meaning of paragraph 6.4 of the Procedural Letter; and (iii) the Interested Party breaches any of its obligations under paragraph 6.10 of the Procedural Letter, the Interested Party shall pay to the Insolvency Administrator a contractual penalty in an amount equal to the sum of the amount of the First Portion of the Security and the Second Portion of the Security.
- 8.2 In the event that the Interested Party breaches its obligation to deposit the Third Portion of the Security pursuant to paragraph 6.1 above, the Interested Party shall pay to the Insolvency Administrator a contractual penalty in an amount equal to the sum of the amount of the First Portion of the Security and the Second Portion of the Security (whichever of the contractual penalties agreed in paragraph 8.1 or paragraph 8.2 of this Agreement hereinafter referred to as the "**Contractual Penalty**").
- 8.3 In the event of the right to the Contractual Penalty arising, the funds deposited as the First Portion of the Security and the Second Portion of the Security shall be used to pay the Contractual Penalty as agreed by the Parties, to which the Interested Party expressly agrees. In such an event, the Interested Party hereby irrevocably directs the Insolvency Administrator to take all legal and factual steps to use the funds to cover the Contractual Penalty (including, but not limited to, transferring them to the Debtor's corresponding asset account).
- 8.4 The payment of the Contractual Penalty does not affect the Insolvency Administrator's right to claim compensation for damage, even beyond the Contractual Penalty. Payment of the Contractual Penalty does not relieve the Interested Party of the obligation secured by the Contractual Penalty.
- 8.5 The Parties expressly declare that the amount of the Contractual Penalty for the failure to conclude the Purchase Agreement pursuant to paragraph 8.1 above and the Contractual Penalty for the failure to deposit the Third Portion of the Security pursuant to paragraph 8.2 above is not unreasonably high and is appropriate to 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 therefore agree to exclude, to the maximum extent possible, the application of the provisions of Section 2051 of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter referred to as the "**Civil Code**").

## **9. 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 and the decision to enter into negotiations in connection with the Transaction shall not constitute an offer to enter into the Transaction

Documentation in relation to the Transaction (in particular the Purchase Agreement) nor shall they form the basis for any representation in relation to the Transaction Documentation (in particular the Purchase Agreement). 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 the Insolvency Administrator 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.

**10. 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.

**11. VALIDITY AND EFFECTIVENESS**

This Agreement shall become valid and effective upon its signing by the last of the Parties.

**12. REMEDIES**

Without prejudice to any other rights or remedies to which the Insolvency Administrator may be entitled, the Interested Party hereby expressly acknowledges that any breach or threatened breach of this Agreement may cause the Debtor and/or the Insolvency Administrator serious harm and that damages may not be an adequate remedy for such a breach or threatened breach of the provisions of this Agreement. Accordingly, a person making a claim under this Agreement will be entitled to seek specific performance, injunctive relief or any other form of appropriate relief, or any combination thereof, to enforce that person's rights under this Agreement, in addition to any other available remedies. The Insolvency Administrator shall be entitled to recover from the Interested Party all costs and expenses, including reasonable attorney's fees and court costs, incurred in enforcing the Interested Party's obligations under this Agreement.

**13. WAIVER**

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

**14. TRANSFER, ASSIGNMENT AND SET-OFF**

14.1 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 Parties.

14.2 The Interested Party shall not be entitled to set off any of its receivables from the Insolvency Administrator against any receivable of the Insolvency Administrator from the Interested Party. The Insolvency Administrator is entitled to unilaterally set off any of its claims against the claims of the Interested Party at any time, in whole or in part.

**15. AMENDMENTS TO THE AGREEMENT**

This Agreement may be supplemented, amended or terminated only by written amendments signed by all 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. GOVERNING LAW AND JURISDICTION**

17.1 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.

17.2 The Parties have agreed that:

17.2.1 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;

17.2.2 Sections 556(2), 557, 558, 1727, second and third sentences, 1728, 1729, 1730, 1740(3), 1793, 1796, 1798, 1799, 1800, 1808, 1809, 1899, 1930(2), 1932, 1949, 1950, 1951, 1977, 1978, 1979, 1980, 1995(2), 2000, 2002, 2003, 2050, 2051, 2901, 2902, 2903 and 2950 of the Civil Code shall not apply to this Agreement; and

17.2.3 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.

17.3 The Parties' actions before or after the conclusion of the Agreement shall not affect the interpretation of the Agreement in a manner contrary to the express provisions of the Agreement.

17.4 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).

*[SIGNATURE PAGE FOLLOWS]*

## SIGNATURE PAGE


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

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

In \_\_\_\_\_, on \_\_\_\_\_

\_\_\_\_\_  
Name:

Office:

On behalf of :

In \_\_\_\_\_, on \_\_\_\_\_

\_\_\_\_\_  
Name:

Office:

\_\_\_\_\_  
Name:

Office: