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**RESTRUCTURING AGREEMENT**

DATED [\_\_\_\_] 2013

BY AND BETWEEN

PBG S.A., in arrangement bankruptcy;

THE CREDITORS;

and

THE SHAREHOLDER

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[•] dated [*date*]

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This agreement regarding the terms of servicing financial indebtedness (the “**Agreement**”) is made on [date] by and between:

- (1) “**PBG**” **S.A.**, in arrangement bankruptcy with its registered office in Wysogotowo near Poznań, address: ul. Skórzewska 35, 62-081, entered in the Register of Business Entities of the National Court Register maintained by the District Court Poznań – Nowe Miasto i Wilda in Poznań, VIII Division of the National Court Register, under KRS No. 0000184508, NIP 7772194746, with a share capital of PLN 14,295,000.00 fully paid up (the “**Company**” or the “**Debtor**”);
- (2) the **Banks** listed in **Schedule 1** (the “**Banks**”);
- (3) the **Bondholders** listed in **Schedule 1** (the “**Bondholders**”);
- (4) the **Insurers** listed in **Schedule 1** (the “**Insurers**”);
- (5) the **Trade Creditors** listed in **Schedule 1** (the “**Trade Creditors**”); and
- (6) Jerzy Wiśniewski, [●] (the “**Shareholder**”).

The Banks, the Bondholders, the Insurers, the Trade Creditors and the Shareholder shall hereinafter be jointly referred to as the “**Creditors**” and each of them individually as a “**Creditor**”, while the Banks, Bondholders, Insurers and Trade Creditors shall hereinafter be jointly referred to as “**Non-Affiliated Creditors**” and each of them as a “**Non-Affiliated Creditor**”.

The Company and the Creditors shall hereinafter be jointly referred to as the “**Parties**” and each of them individually as a “**Party**”.

## **P R E A M B L E**

**WHEREAS**, on 13 June 2012, the District Court Poznań – Stare Miasto in Poznań, XI Commercial Division for Bankruptcy and Restructuring Matters, declared the bankruptcy of the Company with the option of entering into an arrangement.

**WHEREAS**, the Company and the Creditors commenced negotiations, either directly or through their representatives, the purpose of which was to reach an understanding regarding the restructuring of the Company and the execution of a restructuring agreement.

**WHEREAS**, the Creditors and the Company agreed to restructure the Company on the terms stated in the Agreement and in the Arrangement Proposals.

**WHEREAS**, the Company, within the scope of its bankruptcy proceedings, will file the Arrangement Proposals.

**WHEREAS**, in the opinion of the Parties, the Arrangement Proposals comprise the best available solution to prevent the liquidation of the Company and restore the Company’s ability to satisfy its obligations, which is in the best interest of each of the Company, the Creditors, including the Shareholder, other shareholders and other creditors.

**WHEREAS**, in the opinion of the Parties, besides the changes in the Company’s shareholding structure made in compliance with the Arrangement Proposals, in order to

perform the Company's Arrangement with the Creditors based on the Arrangement Proposals, it will be necessary to maintain the Shareholder's material involvement in the Company's share capital as well as in the management and supervision of the Company.

**WHEREAS**, the Parties agreed that upon the adoption, approval and performance of the Arrangement, the total share of the Non-Affiliated Creditors is to amount to approximately 75%, while the Shareholder's share is to amount to approximately 23.54% and the remaining shares in the Company are to be held by the other existing shareholders of the Company.

**WHEREAS**, the Company's Management Board convened a General Meeting to be held on [●] in order to adopt the resolutions required to adopt and perform the Arrangement in accordance with the Arrangement Proposal. The agenda of such General Meeting includes the adoption of resolutions regarding, *inter alia*: a) a decrease of the Company's share capital; b) the conversion of the registered, preferred series A shares owned by the Shareholder into ordinary bearer shares; c) the issuance of shares; and d) the making of amendments to the Articles of Association concerning corporate governance and the competencies of the Company authorities, provided that the Arrangement is adopted, approved and that the decision on the approval of the Arrangement becomes final in compliance with the Arrangement Proposal.

**WHEREAS**, for the Company to perform the Arrangement, the Company must obtain new financing for the duration of the performance of the Arrangement in order to be able to service the contracts which are to be procured and performed in accordance with the Company's financial model; therefore, certain Creditors agreed to provide the Company with new financing on the terms provided in the New Financing Agreement (as defined below). Under the New Financing Agreement, the Company will acquire the right to benefit from financing on the terms agreed in the New Financing Agreement after the dismissal of the grounds for the declaration of the bankruptcy of the Company and the Company having regained its creditworthiness as a consequence of the adoption and approval of the Arrangement. In view of reaching an understanding regarding the wording of the New Financing Agreement, the Parties: (i) confirm their readiness to grant the Creditors who are ready to finance the Company's operations after the adoption of the Arrangement certain financial incentives to provide the Company with financing after the date of adoption of the Arrangement in a manner and within the scope as stated in the Company's Arrangement Proposals; (ii) confirm that the adoption of the Arrangement by the required majority of votes of the creditors in accordance with the prevailing laws, and based on this Agreement, will be understood as acceptance of the incentives stated in the Arrangement Proposals to provide financing to the Company by the Creditors; and (iii) confirm also that regardless of a significant reduction of the Company's debt under the Arrangement, the Company operations are subject to continued risk in light of external circumstances in which the Company will operate after the restructuring and that during the term of the performance of the Arrangement the Company will be subject to certain additional financial burdens related to the need to repay the Arrangement Instalments (as defined in the Arrangement Proposal).

**WHEREAS**, as a result of the above-mentioned negotiations, the Parties to this Agreement agreed, on the terms stated in this Agreement, to exercise duly diligent efforts as is customary in professional trading to adopt, validly approve and perform the Arrangement on an as soon as possible basis.

**WHEREAS**, the Company is a public company; thus, all the Parties to this Agreement are required to observe the relevant regulations that are in force in Poland, in particular the Act

on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading and Public Companies dated 29 July 2005 and the Act on Trading in Financial Instruments dated 29 July 2005, including the secondary legislation thereto.

**NOW, THEREFORE**, the Parties resolve as follows:

## **1 DEFINITIONS AND INTERPRETATION**

**1.1** The capitalised terms used in the Agreement shall have the meanings as assigned thereto below:

“**Shares**” mean the new shares in the Company issued for the Creditors under the Arrangement on the basis of the Arrangement Proposals in accordance with the Company’s Articles of Association, including the amendments to the Company’s Articles of Association resulting from each of the Resolutions, the Arrangement Proposal and Schedule 9.

“**Shares for the Shareholders**” has the meaning assigned thereto in the Arrangement Proposals.

“**Effective Date**” has the meaning assigned thereto in Article 3.1(a) (*Effective Date*).

“**Expiry Date**” has the meaning assigned thereto in Article 3.2 (*Expiry Date*).

“**Minor Creditor**” means a creditor of the Company with monetary receivables covered by the arrangement and due to it from the Company in the aggregate amount due and payable on all grounds (including also statutory interest, contractual interest or interest due on other grounds accrued on the principal amount of the receivable) – not exceeding a total of PLN 500,000 (five hundred thousand) as at the date of the declaration of the bankruptcy of the Company.

“**Bankruptcy Declaration Date**” means the date of declaration of the bankruptcy of the Company, open to an arrangement, by the District Court Poznań-Stare Miasto, i.e. 13 June 2012.

“**Business Day**” means any day other than a Saturday or Sunday, or any other public holiday on which courts in Poland are open for business.

“**WSE**” means, either the Warsaw Stock Exchange (*Gielda Papierów Wartościowych w Warszawie S.A.*) or the regulated market operated by the Warsaw Stock Exchange (*Gielda Papierów Wartościowych w Warszawie S.A.*), as the case may be.

“**Conversion of the Receivables into the Shares**” has the meaning assigned thereto in the Arrangement Proposals.

“**List of Receivables**” has the meaning assigned thereto in the Arrangement Proposals and constitutes Schedule No. 13 to the Agreement.

“**Default**” means an Event of Default or any other event or circumstance which would constitute (after the term designated for the remedy of any such default, following notice or any determination made in accordance with this Agreement, or any combination of the above) an Event of Default.

“**Arrangement Performance Term**” has the meaning assigned thereto in the Arrangement Proposals.

“**Representation on Accession**” means the representation made by the Acceding Creditor substantially in the form constituting Schedule 12 to the Agreement.

“**Loan**” the loan agreement dated 15 May 2012 executed between the Shareholder as the lender and the Company as the borrower.

“**Bankruptcy Law**” means the Act of 28 February 2003 – Bankruptcy and Reorganization Law.

“**Arrangement Proposals**” means the arrangement proposals of the Company which constitute Schedule No. 2 to the Agreement.

“**Event of Default**” means an event or circumstances as described in Article 15 (*Events of Default*).

“**Supervisory Board**” means the supervisory board of the Company.

“**Restructuring**” means the restructuring of the Company’s liabilities under the Arrangement on the terms as provided in the Agreement.

“**Bankruptcy Court**” means the District Court Poznań-Stare Miasto.

“**Company’s Articles of Association**” mean the Company’s articles of association dated 3 April 2012.

“**Arrangement**” means the arrangement adopted by the Company’s creditors in compliance with the Bankruptcy Law on the terms determined in the Arrangement Proposals and approved by the Bankruptcy Court by a final decision on the approval of the arrangement.

“**New Financing Agreement**” has the meaning assigned thereto in Article 12 (New Financing), while the draft thereof is attached as Schedule 11 [*as of the date of this draft, Schedule 11 contains an overview of the principal terms of the new financing as anticipated by the Company*].

“**Resolutions**” has the meaning assigned thereto in Article 4.1 (*General Meeting*) and applies to the draft resolutions of the General Meeting attached as Schedules No. 3 through No. 8 to the Agreement.

“**General Meeting**” means the general meeting of the shareholders of the Company.

“**Acceding Creditor**” has the meaning assigned thereto in Art. 22 (*Accession to the Agreement*).

“**Receivables**” mean the Receivables Covered by the Arrangement.

“**Receivables Covered by the Arrangement**” mean, in accordance with the Arrangement Proposals and the Bankruptcy Law, the receivables of the Company’s

creditors covered by the Arrangement by operation of law or on the basis of filings made by creditors, including the receivables included in the List of Receivables.

“**Schedules**” means the schedules to this Agreement.

“**Management Board**” means the Company’s management board.

**1.2** In this Agreement, any reference to:

(a) a “**court-appointed administrator**” (*nadzorca sądowy*) includes the *court-appointed administrator* of the Company appointed in compliance with the Bankruptcy Law.

**1.3** Headings used in this Agreement are for ease of reference only and have no effect on the interpretation hereof.

## **2 PURPOSE OF THE AGREEMENT**

The objective of the Agreement is to define the terms and conditions of restructuring and the new terms of financing the Company by:

- (a) reaching an agreement regarding the terms of satisfying the Creditors’ claims by the Company under the Arrangement;
- (b) reaching an agreement regarding the terms of the Creditors’ shareholding in the Company and their membership in the Company’s authorities after the Arrangement is adopted, becomes final and is performed; and
- (c) allowing for the future financing of the Company that is necessary to ensure that the Company is capable of performing the Arrangement and to allow the Creditors to participate in such financing, including the benefits resulting from the Arrangement for the Creditor who finances the future operations of the Company.

## **3 TERM**

**3.1** Effective Date

- (a) Subject to Art. 3.1(b) below, this Agreement will become effective on the date on which the Creditors constituting the majority of the creditors (other than Minor Creditors) whose Receivables have been included in the List of Receivables, sign the Agreement and/or make the written Representations on Accession to the Agreement and deliver such Representations to the Company (the “**Effective Date**”);
- (b) The Management Board will confirm the occurrence of the Effective Date to the Creditors in writing.

**3.2** Expiry Date

This Agreement shall expire upon the earlier of (the “**Expiry Date**”):

- (a) [date], if the Arrangement is not adopted by such date by vote at the meeting of the Creditors of the Company;
- (b) the last day of the Arrangement Performance Term;
- (c) the date on which all the Receivables are satisfied; or
- (d) the date on which the Agreement is terminated in accordance with Article 16 (*Termination*) by all of the Creditors.

#### **4 RESOLUTIONS OF THE GENERAL MEETING**

**4.1** The Management Board and the Shareholder covenant to present the General Meeting, convened for [●] 2013, with draft resolutions of the General Meeting and to exercise duly diligent efforts necessary for the General Meeting to adopt the resolutions substantially in compliance with the draft resolutions attached as Schedules No. 3 through No. 8 to the Agreement (the “**Resolutions**”):

- (a) resolution of the General Meeting regarding the decrease of the Company’s share capital – in compliance with Schedule No. 3 to the Agreement;
- (b) resolution of the General Meeting regarding the conversion of the preferred series A shares owned by, among others, the Shareholder into ordinary bearer shares – in compliance with Schedule No. 4 to the Agreement;
- (c) resolution of the General Meeting regarding the approval of increase of the Company’s share capital – in compliance with Schedule No. 5 to the Agreement;
- (d) resolution of the General Meeting regarding the amendment of the Articles of Association concerning corporate governance and the competencies of the Management Board and the Supervisory Board – in compliance with Schedule No. 6 to the Agreement;
- (e) resolution of the General Meeting regarding the adoption of the consolidated version of the Company’s Articles of Association – in compliance with Schedule No. 7 to the Agreement; and
- (f) resolution of the General Meeting regarding the adoption of the consolidated version of the Company’s Articles of Association that includes also the coming into force of the resolution regarding the approval of the increase of the Company’s share capital, the draft of which constitutes Schedule No. 5 to the Agreement – in compliance with Schedule No. 8 to the Agreement.

**4.2** All of the Resolutions will be adopted on the condition the Arrangement is adopted and approved as well as the decision on the approval of the Arrangement becoming final in accordance with the Arrangement Proposal.

**4.3** The Management Board, acting on behalf of the Company, will file a motion with the Register of Business Entities for making all the entries required under the Resolutions by a competent registry court within three (3) Business Days from the date on which the decision on the approval of the Arrangement, in accordance with the Arrangement



Proposal, becomes final. The Management Board will exercise duly diligent efforts to ensure that the motion for making the relevant entries in the Register of Business Entities as required under the Resolution is immediately considered in accordance with the motion of the Company.

## **5 ACQUISITION OF RECEIVABLES BY THE SHAREHOLDER**

**5.1** The Shareholder covenants on the Effective Date to acquire from the Creditors, Receivables with a total nominal value of PLN 3,500,000 (in words: three million, five hundred thousand) zlotys (the “**Transferred Receivables**”) on the following terms:

- (a) each Creditor interested in selling all or a part of its receivables should provide the Shareholder with an offer in writing, with the signatures thereon having been certified by a notary, regarding the sale of the Transferred Receivables (“**Offer to Transfer the Transferrable Receivables**”) not later than within one (1) Business Day after the Effective Date, substantially in the form provided in Schedule 10;
- (b) if the Creditors present Offers to Transfer the Transferrable Receivables for more than the sum of the Transferred Receivables specified in Article 5.1 above, the Shareholder will acquire the offered Receivables from all of the Creditors who presented Offers to Transfer the Transferrable Receivables prior to the end of the deadline for presenting Offers to Transfer the Transferrable Receivables, subject to the proportional reduction of the Offers to Transfer the Transferrable Receivables;
- (c) the purchase price payable for the Transferred Receivables (the “**Purchase Price**”) will be distributed among the Creditors in proportion to the nominal value of the Transferred Receivables sold to the Shareholder;
- (d) the Purchase Price of each Transferred Receivable or a part of the Transferred Receivable acquired by the Shareholder will amount to 15% (in words: fifteen per cent) of the nominal value of each Transferred Receivable acquired from the Creditor; and
- (e) the Shareholder will acquire each of the Transferred Receivables upon the payment of the Purchase Price, i.e. when he pays the Purchase Price in full for each of the Transferred Receivables to the accounts named by the Creditors in the submitted Offer to Transfer the Transferrable Receivables [not later than upon the lapse of the fifth (5) Business Day after the Effective Date].

**5.2** The Shareholder represents that it is aware of the condition of the Transferred Receivables. Any liability of the Creditors for the condition of the Transferred Receivables, including for the ability to demand that the Company satisfy the Transferred Receivables, is excluded, save for liability for the right to a given Transferred Receivable of a given Creditor. Furthermore, the Shareholder will not have the right to withdraw from the purchase of the Transferred Receivables if the Agreement is not performed or if it is not performed properly by any of the Parties or if the Agreement is terminated by any of the Parties, and, specifically, the Shareholder will not have the right to withdraw from the purchase of the Transferred Receivables

if, during the term of the Agreement, the Arrangement is not adopted in compliance with the Arrangement Proposals or if it is not approved or the decision on the approval of the Arrangement does not become final. The Shareholder hereby agrees to the above.

## **6 SHAREHOLDER'S COVENANT NOT TO DISPOSE OF THE SHARES IN THE COMPANY**

**6.1** The Shareholder covenants to the Creditors that until the earlier of the following dates: (a) the Repayment Completion Date as referred to in section I.4 of the Arrangement Proposals or (b) five (5) years from the Effective Date, it will not dispose of its shares in the Company.

**6.2** As part of the obligation not to dispose of its shares in the Company, the Shareholder will specifically refrain from taking the following actions:

- (a) transfer shares in the Company under any legal title (for any charge or for free);
- (b) encumber shares in the Company with a right of use or other property rights;
- (c) subject shares in the Company to trust-related transactions, lease, loan or other obligatory rights;
- (d) establish, with respect to the shares in the Company, pre-emptive rights, rights of first refusal, put or call options or other institutions which could be used for the purposes of acquiring shares in the Company or restricting trading therein;
- (e) actions of a similar effect to any of the actions referred to above;
- (f) granting a power of attorney to perform any of the actions referred to above; and
- (g) actions requiring one to take any of the above actions or making offers for the execution of an agreement as referred to in the following section.

**6.3** The Shareholder's obligation applies to shares which have been or will be allocated to the Shareholder within the scope of the ownership status thereof based on Article 10.1(b) of the Agreement.

## **7 EXECUTION OF THE ARRANGEMENT**

**7.1** Obligations of the Parties.

- (a) The Parties covenant to exercise duly diligent efforts in cooperating with one another so that an Arrangement compliant with the Arrangement Proposals is approved by the creditors' meeting on as soon as possible a basis and also validly approved by the Bankruptcy Court during the term of the Agreement.
- (b) Each of the Parties is responsible for the relevant actions it is authorised to take in accordance with the Agreement and the law with the objective of

having the Arrangement adopted and finally approved in a valid and effective manner.

## **7.2** Obligations of the Company.

The Company hereby covenants:

- (a) to file the Arrangement Proposals, including the grounds therefor, in the form of a writ with the Bankruptcy Court as the final arrangement proposal of the Company within three (3) Business Day after the Effective Date;
- (b) not to make any objections against the Arrangement adopted by the creditors' meeting in accordance with the Arrangement Proposals;
- (c) not to submit any arrangement proposals other than those presented in the Arrangement Proposals;
- (d) not to file any complaints against the decision of the Bankruptcy Court on the approval of the Arrangement;
- (e) to file a complaint, within the statutory deadline, against a decision on the refusal to approve the Arrangement and request the revocation or change of such decision and the approval of the Arrangement, and support its own complaint and applications in the course of the appeal procedure;
- (f) to request the dismissal of any complaints of the creditors against the decision of the Bankruptcy Court on the approval of the Arrangement and support its own application throughout the appeal procedure up to the final completion thereof;
- (g) to repeat the above-referenced actions until the Arrangement is finally approved; and
- (h) to perform the Arrangement in compliance therewith and, specifically, to issue to the Creditors the Shares in the Company acquired by the Creditors under the Arrangement and perform all other actions necessary or advisable to allow the Creditors to exercise the voting rights attached to the shares in the Company acquired under the Arrangement immediately after the decision of the Bankruptcy Court regarding the approval of the Arrangement becomes final, however, not later than by the date of convocation of the General Meeting on the basis of Article 11.1.

## **7.3** Obligations of the Creditors.

Each of the Creditors hereby covenants:

- (a) to participate in the creditors' meeting convened for the purposes of voting on the adoption of the Arrangement with all the Receivables due thereto as provided in the List of Receivables and to vote in favour of the execution of the Arrangement and the adoption of the Arrangement Proposals;

- (b) not to make any objections against the Arrangement adopted by the creditors' meeting in accordance with the Arrangement Proposals;
- (c) not to submit any arrangement proposals other than those presented in the Arrangement Proposals;
- (d) not to file any complaints against the decision of the Bankruptcy Court on the approval of the Arrangement;
- (e) to file a complaint, within the statutory deadline, against a decision on the refusal to approve the Arrangement and request the revocation or change of such decision and the approval of the Arrangement, and support its own complaint and applications in the course of the appeal procedure;
- (f) to request the dismissal of any complaints of the creditors against the decision of the Bankruptcy Court on the approval of the Arrangement and support its own application throughout the appeal procedure up to the final completion thereof;
- (g) to repeat the above-referenced actions until the Arrangement is finally approved;
- (h) not to raise any objections or appeal against the Resolutions;
- (i) to participate in the General Meeting convened after the execution of the Arrangement in compliance with Article 9 and vote all the shares held in the Company in favour of the adoption of the resolutions proposed in compliance with Article 11.1;
- (j) to vote all the shares in the Company held thereby in favour of the adoption by the General Meeting of the Company's articles of association in the wording as provided in Schedule No. 9;
- (k) to take any and all steps and to make all other representations and perform all other actions as may be reasonably required by the Company to adopt and to perform the Arrangement, and to perform the Agreement in accordance with its terms; and
- (l) to the extent that it complies with the law, either individually or in cooperation with others, not to take any action in order to advise, assist or solicit any person to act in a manner that could prevent the performance of the Agreement or the adoption and performance of the Arrangement.

#### **7.4 Obligations of the Shareholder.**

The Shareholder hereby covenants:

- a) to participate in the General Meeting convened by the Company to adopt the Resolutions and to vote all the shares in the Company held thereby in favour of the adoption of the Resolutions;

- b) to approve the wording of the Resolutions that change the Shareholder's personal rights and cancel the voting preference attached to the series A shares, on the terms as provided in the draft Resolutions attached as Schedules No. 3 through No. 8;
- c) to participate in the General Meeting convened after the execution of the Arrangement in compliance with Article 9 and to vote all the shares in the Company held thereby in favour of the resolutions proposed thereat in compliance with Article 11.1; and
- d) to consent to the adoption by the General Meeting and to vote all the shares in the Company held thereby in favour of the Company's articles of association, in the wording as provided in Schedule No. 9.

## **8 DELIVERY OF ARRANGEMENT SHARES**

- 8.1** The Management Board, acting on behalf of the Company, will file a motion with the Register of Business Entities for making all the entries required under the Arrangement by a competent registry court within three (3) Business Days from the date on which the decision on the approval of the Arrangement, in accordance with the Arrangement Proposal, becomes final. In particular, the Management Board will file a motion for the registration in the Register of Business Entities of the increase of the Company's share capital as a result of the exchange of the Receivables into the Shares within the scope of the Conversion of the Receivables into the Shares and within the exchange of the Receivables into the Shares for the Shareholders.
- 8.2** The Management Board will exercise duly diligent efforts to ensure that the motion regarding the relevant entries in the Register of Business Entities which are required as a consequence of the approval of the Arrangement in accordance with the Arrangement Proposals is considered immediately as requested in the Company's motion.
- 8.3** The Company will take all the actions necessary for the purposes of the admission and introduction of the Shares acquired by the Creditors within the scope of the Conversion of the Receivables into the Shares and within the exchange of the Receivables into the Shares for the Shareholders to stock exchange trading on the WSE, and will, specifically, register the Shares issued to the Creditors within the scope of the Conversion of the Receivables into the Shares and within the exchange of the Receivables into the Shares for Shareholders with the National Depository of Securities and will file an application with the Management Board of the WSE for the admission and introduction of the Shares from the Conversion of the Receivables into the Shares and the Shares for the Shareholders to stock exchange trading on the WSE.

## **9 ARTICLES OF ASSOCIATION AND COMPANY AUTHORITIES AFTER THE RESTRUCTURING**

- 9.1** The Creditors and the Shareholder covenant to ensure that after the Restructuring the Company operates on the basis of the Company's articles of association in the wording as provided in Schedule No. 9.

- 9.2** If the Company's Articles of Association are not amended by the Resolutions in compliance with the wording of the articles of association agreed in Schedule No. 9, the Creditors, the Shareholder and the Company will, at the request of any of the Parties, take the actions necessary to procure that the Company's Articles of Association comply with the wording of Schedule No. 9, including, without limitation, the actions referred to in Article 11 of the Agreement.

## **10 COMPANY SHAREHOLDING AFTER THE RESTRUCTURING**

- 10.1** After the Restructuring, the Company shareholding will be as presented below once all the Shares provided for in the Arrangement are issued, including: (i) the Shares from the Conversion of the Receivables into the Shares; (ii) the Shares for the Shareholders, depending on the option chosen under the Arrangement, in accordance with the Arrangement Proposals):

- (a) the Non-Affiliated Creditors and other arrangement creditors will hold not more than 536,064,000 Shares constituting 75% of the Company's share capital;
- (b) the Shareholder will hold not more than 164,393,000 Shares for the Shareholders and not less than 3,881,224 other shares in the Company constituting 23.54% of the Company's share capital; and
- (c) the other shareholders will hold 10,413,776 ordinary bearer shares constituting 1.46% of the Company's share capital.

## **11 CONVENING THE GENERAL MEETING AFTER THE EXECUTION OF THE ARRANGEMENT**

- 11.1** Within 30 (thirty) Business Days from the date on which the decision regarding the approval of the Arrangement in accordance with the Arrangement Proposal becomes final, the Management Board will convene a General Meeting with an agenda comprising the following:

- (a) the dismissal and appointment of the members of the Supervisory Board in accordance with the Company's articles of association;
- (b) the revocation and repeated adoption of some or all of the Resolutions in the event that any of such Resolutions were appealed by any of the Company's shareholders who raised objections or in the event that, for reasons independent of the Company, the performance by the Company and the Management Board of the obligations resulting from Article 4.3 and Articles 7.1 – 7.2 of the Agreement proved impossible, was hindered or delayed or subject to any obstacles that were difficult to overcome; and
- (c) the adoption of amendments to the Company's Articles of Association in compliance with Schedule No. 9 if the wording of the prevailing Company's articles of association, including the amendments to the Company's Articles of Association resulting from the adopted Resolutions, differs from the wording of Schedule 9.

**11.2** The Creditors will ensure that, on the first Business Day after the completion of the General Meeting convened in accordance with Article 11.1, however, not later than on the first Business Day after the date on which the amendments to the Company's Articles of Association provided for in Schedule No. 9 are entered into the Register of Business Entities, the Shareholder, in cooperation and in agreement with the Supervisory Board, at the meeting of the Supervisory Board, will appoint the Management Board of the Company the composition of which will comply with the wording of the Company's articles of association agreed in Schedule No. 9.

## **12 NEW FINANCING**

**12.1** The Creditors listed in Schedule No. 11 and the Company will enter into a New Financing Agreement, substantially on the terms provided in the draft of the New Financing Agreement attached as Schedule No. 11 to the Agreement, within [●] from the Effective Date; however, not later than on the Business Day preceding the voting on the Arrangement Proposals at the meeting of the creditors.

**12.2** The Creditors listed in Schedule 11 and the Company will take all the actions necessary and will act in good faith to execute the New Financing Agreement within the time stated in Article 12.1 above and for such agreement to become effective immediately after the decision on the approval of the Arrangement becomes final, in accordance with the Arrangement Proposal.

**12.3** The Company will advise the Creditors of any and all necessary actions taken to ensure the execution and enforcement of the New Financing Agreement within the deadlines as stated in Article 12.2 above.

## **13 REPRESENTATIONS AND WARRANTIES**

**13.1** The Company represents to each Creditor that:

- (a) it is authorised to execute and perform the Agreement as well as the transactions provided for in the Agreement, and that it has taken and performed all the actions necessary to approve the execution and performance of the Agreement and the transactions provided for therein;
- (b) the Company's execution of the Agreement and the performance of its rights and obligations resulting from the Agreement do not constitute and will not result in a breach of prevailing laws or any of its founding documents;
- (c) it has not taken and, according to its best knowledge, no action has been taken with respect thereto which is aimed at or has resulted in depleting its assets to the detriment of the Creditors;
- (d) except for the consent of the court-appointed administrator and other events provided for in this Agreement, no consent, waiver, approval, order or authorisation of any third party or authority is required on the part of the Company in relation to the Company's execution and performance of this Agreement and the Arrangement or the Company's compliance with the terms of this Agreement;

- (e) as of the date of execution of this Agreement, there are 14,295,000 issued and outstanding shares in the Company, including 3,740,000 preferred shares; and
- (f) as of the date of execution of this Agreement, the Company's Articles of Association are in force and have not been amended, and no resolutions of the General Meeting were adopted or any other actions taken in order to amend the Company's Articles of Association, except for the convening of the General Meeting by the Management Board for the purposes of the adoption of the Resolutions.

**13.2** Each of the Creditors individually represents and warrants to the other Parties that:

- (a) it consents to the terms of restructuring the Company's obligations as provided in the Arrangement Proposals;
- (b) it is authorised to execute and perform the Agreement as well as the transactions provided for in the Agreement, and that it took and performed all the actions necessary to approve the execution and performance of the Agreement and the transactions provided for therein;
- (c) the execution of the Agreement and the performance of its rights and obligations resulting from the Agreement do not constitute and will not result in a breach of prevailing laws or any of its founding documents;
- (d) except as provided in this Agreement, no consent, waiver, approval, order or authorisation of any third party or authority is required on the part of the Creditor in relation to the Creditor's execution and performance of this Agreement and the Arrangement or the Creditor's compliance with the terms of this Agreement; and
- (e) the Creditor's acquisition of the shares in the Company under the Arrangement will not require the Creditor to obtain the consent of the President of the Office of Competition and Consumer Protection.

**13.3** The Shareholder represents and warrants to each of the other parties that:

- (a) as of the date of execution of this Agreement, the Shareholder holds 3,881,224 shares in the Company which authorise it to exercise 42.23% of the votes at the General Meeting, where: a) 146,170 or 0.81% are ordinary bearer shares, while 3,735,054 or 41.42% are series A shares preferred as to voting rights in accordance with the Company's Articles of Association; and
- (b) the Company owes it a Receivable under the Loan amounting to PLN 35.902.470,90 (in words: three million, nine hundred and two thousand, four hundred and seventy zlotys and ninety groszy) as of the Bankruptcy Declaration Date.

**13.4** Further assurances of the Parties.

Each of the Parties to this Agreement agrees to sign and deliver such other documents and take such other actions as may be reasonably required or necessary for the



performance of this Agreement and the enforcement of the transactions provided for herein.

## **14 UNDERSTANDING BETWEEN THE CREDITORS**

### **14.1** Legal Nature of the Creditors' Obligations:

- (a) Unless all the Creditors agree otherwise:
  - (i) the Creditors' obligations under the Agreement are several;
  - (ii) a Creditor's failure to comply with its obligations under the Agreement will not impact the obligations of any other Creditor under the Agreement; and
  - (iii) none of the Creditors is liable for the obligations of any other Creditor under the Agreement.
- (b) The Rights of each Creditor under the Agreement:
  - (i) may be exercised as often as necessary;
  - (ii) are cumulative and do not exclude any rights based on general regulations of law; and
  - (iii) may be waived exclusively in writing and in an explicit manner.
- (c) Any delayed or failed performance of a right shall not constitute a waiver thereof.

## **15 EVENTS OF DEFAULT**

### **15.1** Each of the events and circumstances described in this Article 15 (*Events of Default*) constitutes an Event of Default:

- (a) if a representation made by the Company in this Agreement is or is found to be untrue in any material respect at the time it was made; and
- (b) the Company fails to duly perform any of its material obligations within the deadlines provided in the Agreement or fails to duly perform any of its obligations immediately after receipt of a request of another Party authorised to demand the performance by the Company in accordance with the terms of the Agreement within a time reasonably given to the Company for the performance of any such obligation by such authorised Party.

### **15.2** The Parties are required to notify one another of each determined Event of Default, while simultaneously disclosing to all the other Parties the circumstances of each determined Event of Default.

### **15.3** Pursuant to Article 15.1 above, no Event of Default is deemed to have occurred if the default may be remedied and is remedied within ten (10) Business Days from delivery a notice related thereto in accordance with Article 15.2 or from the time that the

Creditors have otherwise become aware of such Event of Default, whichever of such events occurred earlier.

#### **15.4 Default Notice**

- (a) Without prejudice to the obligations of the Parties resulting from Article 15.2, the Company is required to notify the Creditors of each Default, including any Default by the Company (and of the actions taken to remedy the Default, if any) immediately after becoming aware of the Default.
- (b) Immediately at the request of each Creditor, the Company will present the Creditors with a certificate, signed in its name in accordance with the rules of representation of the Company confirming that no Default by the Company exists and that the Company did not receive information of a Default from a Creditor or, if a Default exists, a certificate describing such Default and the steps, if any, taken to remedy such Default.

### **16 TERMINATION**

- 16.1** The Creditors may terminate the Agreement with immediate effect by written notice delivered to the Company in compliance with Article 16.2, if an Event of Default has occurred and continues.
- 16.2** A notice of termination of the Agreement must be in writing, otherwise being null and void, and must be delivered to the Company and all the Creditors to the addresses as stated in the Agreement or in the Representations on Accession.
- 16.3** Notice of termination of the Agreement will be considered effective with respect to the Parties once it is delivered to the other Parties, although if delivery is made after 6:00 p.m. local time, such termination will be effective as of the next Business Day.
- 16.4** Termination will be effective only with respect to the Creditor who terminates the Agreement.

### **17 NOTICES**

- 17.1** Subject to the clauses of the Agreement that provide otherwise, all notices and representations delivered by the Parties in relation to the Agreement will be sent to the addresses as stated below, provided that such notices and representations which are not required by the Agreement to be made in writing (since otherwise they would be null and void), may be sent by email from or to the email addresses as stated below.

- (a) **PBG S.A. in arrangement bankruptcy**

Address: ul. Skórzewska 35 Wysogotowo near Poznań, 62-081 Przeźmierowo

Tel.: 61 665 17 00

Fax: 61 665 17 01

Attention of: the Company's Management Board

E-mail: [restrukturyzacja@pbg-sa.pl](mailto:restrukturyzacja@pbg-sa.pl)

**17.2** In case of the Creditors – the address of the registered office of the relevant Creditor as indicated beside the signature thereof under the Agreement.

**17.3** Each of the Parties may change its data for deliveries by relevant notice to the other Parties.

## **18 CONFIDENTIALITY**

**18.1** Each of the Creditors covenants to keep confidential all of the information related to the Company or connected with any other document related to the Agreement provided thereto by any other Creditor or the Company or on behalf thereof, except for the disclosure of information that is required by law or pursuant to an exemption granted by the Company with respect to confidentiality or a bank secret or any other professional secret pursuant to Article 18.2.

**18.2** The Company releases each Creditor from the obligation to maintain confidentiality or bank secrets and authorises each of them to disclose the information referred to in Article 18.1 to:

(a) another Creditor;

(b) all professional advisors and auditors appointed by the Creditors or Company as well as their employees and collaborators,

provided that each of the entities referred to in Articles 18.2 (a) – 18.2 (b) above shall be authorised to disclose the information obtained in compliance with this Article to the other entities referred to in Articles 18.2 (a) – 18.2 (b).

**18.3** The Creditors hereby confirm that since the Company is a public company and its shares are listed on the regulated market of the WSE, some of the information relating to or connected with the Company, its group and the Agreement may be considered as “inside information” for the purposes of Article 154 of the Act on Trading in Financial Instruments, while the Creditors and their representatives to whom such information is disclosed may be subject to restrictions resulting from the Act on Trading.

**18.4** No Party will, without the prior written consent of all the other Parties, publish any notice or disclose any other information regarding the Agreement, except for the Company or another Party which is a public company that must publish a relevant current report (provided that conditions necessitating such publication are met).

**18.5** The Creditors are authorised to disclose all information, documents and reports obtained in connection with the Agreement to their legal advisors, financial advisors and auditors.

**18.6** The exemption from the obligation to maintain confidentiality, as referred to in this Article 18, shall remain in force until the Expiry Date.

**18.7** The obligations of the Parties provided for in this Article 18 will not prejudice the terms of the confidentiality agreements executed between the various Creditors and the Company.

## **19 INTERPRETATION**

The Parties to this Agreement have jointly participated in the negotiation and drafting of this Agreement. In case of any dispute regarding the wording or interpretation of the Agreement, this Agreement will be interpreted as if it was drafted by the Parties jointly. Any presumption or burden of proof in favour or against any of the Parties on account of the authorship of any of the clauses of this Agreement is excluded.

## **20 SEVERABILITY**

If any clause of the Agreement is or becomes to any extent illegal, invalid or unenforceable, it shall not influence the legality, validity or effectiveness of any other clause of the Agreement.

## **21 TRANSFER OF RIGHTS AND OBLIGATIONS**

None of the Creditors may assign or transfer any of its rights or obligations under the Agreement without the prior written consent of the Parties.

## **22 ACCESSION TO THE AGREEMENT**

**22.1** Each creditor of the Company who has a Receivable Covered by the Arrangement (an “**Acceding Creditor**”) may accede to this Agreement as a Creditor within the meaning of this Agreement by delivering to the Company a duly completed Representation on Accession.

**22.2** On the date of delivery to the Company of a duly completed Representation on Accession, the Acceding Creditor acquires the rights and assumes the obligations of a Creditor arising under this Agreement and becomes a Creditor within the meaning of the Agreement.

**22.3** The Company shall provide to the other Creditors copies of received Representations on Accession in accordance with Art. 17 (*Notices*) within three (3) Business Days from the day of receipt of a duly completed Representation on Accession.

## **23 AMENDMENT OF THE AGREEMENT**

Any and all amendments of the Agreement must be in writing, otherwise being null and void.

## **24 GOVERNING LAW AND JURISDICTION**

This Agreement and all the non-contractual obligations resulting herefrom or related hereto shall be governed by Polish law. Any and all disputes will be settled by the relevant common courts having jurisdiction over the registered office of the Company.

## **25 COSTS**

Each of the Parties hereto shall be exclusively responsible for all the costs and expenses incurred thereby in relation to the negotiation, preparation and execution of this Agreement as well as compliance with the terms of this Agreement.

## **26 COUNTERPARTS**

This Agreement may be signed in any number of counterparts, each of which shall constitute an original and all of which will constitute one and the same document.

**[SIGNATURE PAGE – RESTRUCTURING AGREEMENT]**

**IN WITNESS WHEREOF**, the parties to this Agreement procured the execution hereof by their duly authorised competent officers on the date first above written.

## LIST OF SCHEDULES

<b>Schedule No. 1</b>	List of Creditors
<b>Schedule No. 2</b>	Arrangement Proposals
<b>Schedules Nos. 3-8</b>	<ol style="list-style-type: none"><li>3. draft resolution of the General Meeting regarding the decrease of the Company's share capital;</li><li>4. draft resolution of the General Meeting regarding the conversion of the preferred series A shares owned by, among others, the Shareholder, into ordinary bearer shares;</li><li>5. draft resolution of the General Meeting regarding the approval of the increase of the Company's share capital;</li><li>6. draft resolution of the General Meeting regarding the amendment of the Company's Articles of Association concerning corporate governance and the competencies of the Management Board and the Supervisory Board;</li><li>7. draft resolution of the General Meeting regarding the adoption of the consolidated version of the Company's Articles of Association; and</li><li>8. draft resolution of the General Meeting regarding the adoption of the consolidated version of the Company's Articles of Association that includes also the coming into force of the resolution regarding the approval of the increase of the Company's share capital, a draft of which constitutes Schedule No. 5 to the Agreement.</li></ol>
<b>Schedule No. 9</b>	The Company's Articles of Association after the Restructuring
<b>Schedule No. 10</b>	Offer to Transfer the Transferred Receivables ( <i>sample</i> ) [ <i>to be agreed</i> ]
<b>Schedule No. 11</b>	New Financing Agreement [ <i>as of the date of this draft, Schedule 11 contains an overview of the principal terms of the new financing as anticipated by the Company</i> ]
<b>Schedule No. 12</b>	Representation on Accession ( <i>sample</i> )
<b>Schedule No. 13</b>	List of Receivables