**deposit agreement**

concluded as of the day, month and year below between the following contracting parties:

**Ing. Lee Louda Ph.D.**,IČO: 69326681**,** with registered office at Vodičkova 41, 110 00 Praha 1, Czech Republic

insolvency practitioner of the debtor Arca Investments, a.s., v reštrukturalizácii, ID No.: 359 75 041, with registered office at Plynárenská 7A, 821 09 Bratislava, Slovakia

Hereinafer as the "**Seller**"

AS one party

and

Name: Click or tap here to enter text.

Registered office / residence: Click or tap here to enter text.

ID / birth number: Click or tap here to enter text.

Authorized person (for a legal entity): Click or tap here to enter text.

Position of the authorized person

(for a legal entity): Click or tap here to enter text.

hereinafter as the "**Participant**"

AS the other party

the seller and the Participant are hereinafter collectively reffered to as the "**Parties**" or "**Contracting Parties**"

or any of the parties as the "**Party**" or "**Contracting Party**"

this deposit agreeement hereinafter as the "**Agreement**"

# definitions, interpretation and introductiory provisions

## In this Agreement, unless the context of this Agreement indicates otherwise, the following word and phrases shall heave the meaning ascribed to them later in this Article:

|  |  |
| --- | --- |
| "**Shares**" | means shares listed in the Debtor’s inventory of insolvency estate published in the insolvency register maintained in the insolvency proceeding at sheet number No. B-874 under item “V. Other assets”, item No. 8, namely 495 460 pcs. of shares in book-entry form with a nominal value of 2.27 EUR issued by the Wiener Privatbank SE, Parkring 12, 1010 Vídeň, Austria, ISIN: AT0000741301. |
| "**Balance payment** " | has the meaning defined in the Conditions of SP. |
| "**Debtor**" | means the company Arca Investments, a.s., v reštrukturalizácii, ID: 359 75 041, with registered office at Plynárenská 7A, 821 09 Bratislava, Slovakia. |
| "**Insolvency proceeding** " | means main insolvency proceeding of the Debtor conducted by the Municipal court in Prague under file no. MSPH 98 INS 723/2021. |
| "**Deposit**" | means the amount of EUR 500 000 (in words: five hundred thousand euros). |
| "**Civil Code**" | means the Czech Act No. 89/2012 Coll., civil code, as amended. |
| "**Conditions of SP** " | means the CONDITIONS OF SELECTION PROCESS to determine a winning Participant for the purchase of the Shares in the Selection process, which the Participant has confirmed by his signature. |
| "**Share purchase agreement**" | means the Share purchase agreement which may be concluded between the Seller and the Participant as the SP Winner (as defined in the Conditions of SP), if the latter is selected as the SP Winner of the Selection process in accordance with the Conditions of SP, whereby the draft of the Share purchase agreement forms Annex No. 1 of this Agreement, with the provision that the Share purchase agreement shall be amended by the Seller to the necessary extent of the facts communicated by the Participant in the Binding offer sent to the Seller in accordance with the Conditions of SP (in particular the addition of any conditions precedent to the Share purchase agreement in connection with the need to obtain any approvals that may be required to be obtained by the Participant prior to the acquisition of the Shares, or any other appropriate modification of the terms of the Share purchase agreement made by the Seller in good faith). |
| "**Seller’s account**" | means the Seller’s bank account no. 2500097995\5800, IBAN CZ3458000000002500097995, held with the J&T Banka. |
| "**Selection process**" | means the selection process announced by the Seller to find the purchaser – buyer – of the Shares with the best offer. |
| "**Binding offer** " | has the meaning defined in the Conditions of SP. |
| "**Intermediary**" | has the meaning defined in the Conditions of SP. |

## **Introductory provisions.**

### The Municipal court in Prague, by resolution of 11 May 2021, file No. MSPH 98 INS 723/2021-A-186, established bankruptcy of the Debtor, commenced local insolvency proceeding in accordance to the Article 3 par. 2 and 4 of the Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceeding and by the same resolution appointed the Seller as the Debtor’s insolvency practitioner.

### The High court in Prague, by resolution of 13 October 2021, file. No. 4 VSPH 816/2021-A-249 amended the resolution of Municipal court in Prague of 11 May 2021, file No. MSPH 98 INS 723/2021-A-186 so that the main Insolvency proceeding was commenced and by the same resolution appointed the Seller as the Debtor’s insolvency practitioner.

### The Municipal court in Prague, by resolution of 11 August 2023, file. No. MSPH 98 INS 723/2021-B-852, as amended by the resolution of the Municipal court in Prague dated on 17 August 2023 file. No. MSPH 98 INS 723/2021-B-856, the right of the Debtor to dispose with the insolvency estate was limited and transferred to the Seller.

### The Seller, as the insolvency practitioner of the Debtor, has in the Insolvency proceeding in accordance with the Article 217 of the Czech Act No. 182/2006 Coll., on Bankruptcy and methods of solving it (hereinafter as “Insolvency Act”) entered the Shares into the inventory of the insolvency estate.

### The Shares are offered for sale in the Selection process.

## This Agreement shall be interpreted in accordance with the following rules:

### in this Agreement mention or use of the term:

* 1. document “in agreed upon form” refers to a document in a form agreed upon and signed by or on behalf of both Parties for the purpose of identification,
  2. article, introductory provision, paragraph or Annex, unless the context specifies otherwise, refers to an article, paragraph or introductory provision or annex of this Agreement or, as the case may be, the annexes thereto,
  3. in the singular includes the plural and vice versa, unless the context specifies otherwise, and
  4. time of the day refers to the time in Prague, unless otherwise specified.

### The introductory provisions and the annexes attached to this Agreement shall form an integral part of this Agreement.

### A “person” can be either natural or legal.

### The Parties agree that no articles or terms of this Agreement shall be attributed to any Party as articles or terms first used by that Party in negotiation of this Agreement.

### The headings in this Agreement shall not affect the interpretation of the Agreement.

# subeject matter of the agreement – payment of the deposit

## The Participant undertakes to provide the Seller with the Deposit in accordance with the Conditions of SP as evidence of its serious interest in concluding the Share purchase agreement and acquiring the Shares. The Deposit shall be deposited by the Participant by transfer to the Seller’s account. The variable symbol of the payment shall be the ID or birth number of the Participant. The moment of the payment shall be the date of crediting the amount of the specified deposit to the Seller’s account.

## The Contracting Parties expressly agree that if the amount of the Deposit is not credited to the Seller’s account in accordance with Article ‎2.1 of this Agreement, this Agreement shall cease to be valid and effective (termination condition) and the Participant shall lose the right to submit a written offer for the purchase price for the Shares and its written offer for the purchase price, if any, shall be deemed invalid and shall not be evaluated by the Seller.

## By signing this Agreement, the Seller declares that he will deposit the Deposit in his account and is authorized to dispose with it only in accordance with this Agreement.

## The Contracting Parties expressly state that the deposit under this Agreement shall be understood as an innominate institute of the Civil Code and the Deposit shall not be considered (according the Civil Code) as an advance payment (in accordance with sec. 1808 of Civil Code) or deposit (in accordance with sec. 1807 of Civil Code).

# declaration of the Participant

## The Participant declares that it has been provided with all necessary information about the Shares and that it has had the opportunity to acquaint itself with such information in detail.

## The Participant declares that it meets all of the conditions set forth for the acquisition of the Shares, except for the facts disclosed by the Participant in the Binding offer (as defined in the Conditions of SP) sent to the Seller pursuant to the Conditions of SP (particularly in connection with the need to obtain any approvals that may be required to be obtained by the Participant prior to the acquisition of the Shares)

## The Participant declares that it has read the text of the sample Share purchase agreement, that the Participant accepts this text and agrees to be bound by the terms and conditions set out in this text of the Share purchase agreement, provided that the Share purchase agreement shall be modified only in the extent necessary in respect of the facts disclosed by the Participant in the Participant’s Binding offer (e.g. addition of any conditions precedent to the Share purchase agreement in connection with the need to obtain any approvals that may be required to be obtained by the Participant prior to the acquisition of the Shares) and the Participant agrees to enter into the Share purchase agreement as so worded and the Participant also represents that it has satisfied all conditions precedent to the transfer of Shares pursuant to such Share purchase agreement.

## The Participant declares and undertakes that if the Binding offer of the Participant is determined by the Seller to be the best, it shall conclude the Share purchase agreement with the Seller, on the terms and within the timeframe specified by the Seller in accordance wit the Conditions of SP.

## The Participant acknowledges and agrees that this Agreement does not create any obligations of the Seller, so the Participant does not have any rights towards the Seller until the moment of signing the Share purchase agreement between the Participant and the Seller. This is without prejudice to Article ‎2.3 of this Agreement.

## The Participant acknowledges that it shall not be entitled to reimbursement for any costs or lost profits, if any, associated with its actions in connection with this Agreement or depositing the Deposit.

## The Participant acknowledges that the Seller is entitled to conclude the Share purchase agreement with such Participant whose offer for purchase of the Shares is evaluated by the Seller as the best.

## The Participant also declares that it is aware that the Seller is entitled to reject all or any of the offers for the purchase of the Shares, not to determine the winning offer, or to invite the Participant to submit an additional offer, or to cancel the Selection process, or sale process up to the moment prior the signing of the Share purchase agreement without any claims of the Participant.

## The Participant declares and by signing this Agreement confirms that it is eligible to acquire the Shares into its ownership pursuant to the Binding offer in accordance with the relevant legal regulations, in particular with the regulation of Czech Republic and Republic of Austria, and in accordance with the Conditions of SP. The Participant declares that its assets have not been declared bankrupt, the bankruptcy petition has never been dismissed for lack of assets, it has not been dissolved with liquidation, it is not in bankruptcy, which would require measures in accordance with Czech Act No. 182/2006 Coll., on bankruptcy and the methods of solving it (Insolvency Act) or other similar law, in particular according to the registered office of the Participant or the place where the main interests of the Participant are concentrated, or is threatened with such bankruptcy, no insolvency petition has been filed against the Participant and no insolvency proceeding under the Insolvency Act and/or enforcement proceeding or other similar proceeding are pending against the Participant, in particular according to the law of the registered office or the Participant or the place where the main interests of the Participant are concentrated.

# Contractual penalty

## The Parties agree that the Participant shall be obliged to pay the Seller a contractual penalty in the amount of the Deposit in the event of a breach of the Participant’s obligation:

### to conclude the Share purchase agreement with the Seller pursuant to Article ‎3.4 of this Agreement in accordance with the Conditions of SP

### or

### to pay the Balance payment for the Shares (i.e., the difference between the offered purchase price according to the Binding offer and the amount of the Deposit paid to the Seller) in accordance with the Conditions of SP.

## The Contracting Parties agree that the Seller is entitled to use the Deposit deposited by the Participant to the Seller’s bank account to pay the contractual penalty under this Article of the Agreement, i.e. the Deposit shall be used without further delay and in its entirety to pay the contractual penalty in the favour of the Seller. The Parties agree that the Seller shall not be obliged to make any further call or notices to the Participant in connection with the payment of the contractual penalty, i.e. the Seller shall not be obliged to send the Participant a notice to pay the contractual penalty or a notice of unilateral set off of the contractual penalty against the Deposit. Thus, the Deposit will be automatically accounted for as payment of the contractual penalty.

# other dealing with the deposit by the seller

## In the event that the Seller does not apply the contractual penalty according to the article ‎4 of this Agreement, the Seller agrees that the Deposit shall be disposed of as follows:

### In the event that the Participant pays the offered purchase price according to the Binding offer for the Shares (pays the Balance payment) within the limits set out in the Conditions of SP and concludes the Share purchase agreement with the Seller, the Deposit will be used as a partial payment of the purchase price for the Shares.

### In the event that the Seller decides to cancel the sale of the Shares (even after the Seller has selected the winning offer), the Deposit shall be returned by the Seller to the account from which the Deposit was credited to the Seller’s account without undue delay, provided that any bank or transaction fees related thereto shall be paid by the Participant.

### In the event that the Participant is invited to submit an additional offer via electronic communication and within five days from the date of sending the invitation to submit an additional offer the Participant asks the Seller in writing to return the Deposit, the Deposit shall be returned to the Participant to the account from which the Deposit was credited to the Seller’s account without undue delay, provided that any bank or transaction fees related thereto shall be paid by the Participant.

### In the event that the Participant is invited to submit an additional offer and does not request the Seller in writing to return the Deposit within five days from the date of delivery of the invitation to submit additional offer, the Deposit shall remain in the Seller’s account and shall be disposed of in accordance with other provisions of this Agreement.

### In the event that the Seller decides to select the winning offer, and it is not the offer of the Participant or any other additional offer of the Participant, the Deposit will be returned to the Participant to the account from which the Deposit was credited to the Seller’s account without undue delay, with a any bank or transaction fees related thereto shall be paid by the Participant.

### In the event that the Seller decides to select the winning offer, which will be the Binding offer or any additional offer of the Participant, the deposit will remain in the Seller’s account.

# final provisions

## The Parties agree that any claim under this Agreement against the Seller may not be assigned to any person without prior written consent of the Seller. The Parties agree that no set off of any claim, whether arising under this Agreement, whether acquired by assignment or otherwise, may be made against any claim of the Seller under this Agreement.

## The Seller reserves the right to change the deadline set out in this Agreement or the Conditions of SP.

## This Agreement supersedes all prior Agreements or agreement between the Parties relating to the same object, whether written or oral, express or implied.

## All changes, amendments and termination of this Agreement shall be in writing, on the same page and signed by both Parties. The Share purchase agreement shall not supersede this Agreement in any way unless otherwise expressly agreed in the Share purchase agreement. This Agreement shall come into force and effect on the date of signature by the last of the Parties. This Agreement may not be unilaterally terminated by the Participant, including by withdrawal or termination.

## In the event that any provision of this Agreement is found to be invalid, ineffective or unenforceable or any provision is missing, the remaining provision of this Agreement shall remain unaffected thereby. The Parties agree to replace such invalid, ineffective or unenforceable provisions with another provision that best fulfils the same business purpose as the invalid ineffective or unenforceable provision.

## If this Agreement contemplates the delivery of any document or notices, the delivery address of the registered office of the Participant shall be the address set forth in the Binding offer. Any document, notice or communication contemplated by this Agreement addressed to the Participant shall be deemed to have been duly delivered to the Participant on the 5th day after it has been sent to the Participant by the postal licensee (by registered mail, return receipt requested).

## The Parties assume the risk of a change of circumstances within the meaning of Article 1765 par. 2 of the Civil Code. There are no collateral provisions to this Agreement and this Agreement contains the entire understanding of the Parties.

## This Agreement shall be binding on the successors of each Party (if any) but shall not be assignable.

## This Agreement shall be governed by the law of the Czech Republic excluding conflicts of laws rules and excluding the United Nations Convention on contracts of the international sale of goods. All disputed under or relating to this Agreement shall be decided by the ordinary courts of the Czech Republic.

## This Agreement is drawn up in two counterparts, of which the Participant (buyer) shall receive one counterpart and the Seller shall receive one counterpart.

## The Parties represent that they have read and understand the terms and conditions contained in this Agreement. They hereby affix their signatures as evidence of their genuine willingness to accept the obligations under this Agreement. The Parties hereby also acknowledge receipt of the appropriate number of copies of this Agreement.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Seller**: | | | On behalf of the **Participant**: | | |
| Signature: |  |  | | Signature: |  |
| Name: | Ing. Lee Louda Ph.D. |  | | Name: | Click or tap here to enter text. |
| Position: | Insolvency practitioner of the debtor Arca Investments, a.s., v reštrukturalizácii |  | | Position: | Click or tap here to enter text. |
| Date: |  |  | | Date: |  |

**Annex No. 1**

**Share purchase agreement**