

Protocol for the Disclosure of Sensitive Information through a Clean Team

This Protocol for the Disclosure of Sensitive Information through a Clean Team (the "**Protocol**") is entered into by and between:

- (1) **MERCELL HOLDING AS ("Bidder")**, a company incorporated under the laws of the Norway (registration No. 980 921 565) whose registered office is at Karihaugveien 89, 1086 Oslo, Norway; and
- (2) **EU SUPPLY PLC ("Company")**, a company incorporated under the laws of the England and Wales (registration No. 08513444) whose registered office is at 10 Queen Street Place, London EC4R 1AG,

(the Bidder and the Company are referred to together as the "**Parties**" and individually as a "**Party**").

1. **BACKGROUND**

- 1.1 The Parties are in discussions over a potential offer for the entire issued share capital of the Company by the Bidder or any member of its Group (the "**Proposed Transaction**").
- 1.2 The Parties have entered into a non-disclosure agreement dated 12 February 2019 (the "**NDA**").
- 1.3 This Protocol is intended to ensure that the disclosure of Sensitive Information (as defined below) necessary for the evaluation and planning of the Proposed Transaction does not give rise to any infringement of antitrust law. The Protocol stipulates the procedure for the disclosure of Sensitive Information. For the avoidance of doubt, Sensitive Information will also constitute Confidential Information (as defined in the NDA). This Protocol is without prejudice to the obligations contained in the NDA in respect of Confidential Information.

2. **DEFINITION OF SENSITIVE INFORMATION**

- 2.1 Sensitive Information is any information provided by the Company to the Bidder which contains **non-public information** on the commercial strategy of the Company that might be expected to influence the commercial strategy of the Bidder. For the purposes of the Protocol, Sensitive Information may include, without being limited to, the following information:
 - current or future pricing information or intentions (including price related terms such as discounts, rebates, commissions etc.);
 - current or future commercial strategy (including business plans) or marketing plans;
 - customer information (including details of specific customer terms);
 - existing specific customer or supplier contracts with competitively sensitive terms (e.g. identity of customer/supplier; revenue/contract value/selling price; margins; cash flow and profit; duration/termination provisions; product development obligations) which have not been redacted;
 - detailed price, margin and/or other financial information in particular on recent awards/lost orders/current projects (including revenue/contract value/selling price; margins);
 - specific (non-aggregated) current or future costs relating to individual projects, including costs of inputs, supplies and facilities, as well as details of current wage or salary

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information;

- unannounced plans to make significant investments;
- detailed information on prospective bids and/or specific projects not yet awarded/under negotiation (including identity of customer and project name, specific location, order value);
- detailed information regarding "pipeline" contracts, proposals, intention to bid for new customers or ongoing negotiations with customers or suppliers; and
- current or proposed proprietary technologies, trade secrets or methods of doing business.

2.2 It is understood that Sensitive Information shall not include information which: (i) is in the public domain prior to the disclosure; (ii) is lawfully in the Bidder's possession prior to the disclosure; or (iii) becomes part of the public domain by publication or otherwise through no unauthorised act or omission on the part of the Bidder.

3. **TREATMENT OF SENSITIVE INFORMATION**

3.1 Sensitive information shall only be disclosed by the Company to the Bidder for the purpose of:

- undertaking commercial due diligence in order to evaluate the Proposed Transaction;
- evaluating the synergies expected to result from the Proposed Transaction;
- planning the Proposed Transaction and integration process; or
- undertaking the antitrust analysis and/or the preparation of filings or subsequent communication with any relevant antitrust authority as required by the Bidder.

3.2 Sensitive Information will be kept strictly confidential and will not be used for any other purposes (including, but not limited to, any competitive or commercial purpose) other than those set out at clause 3.1 above.

3.3 The Bidder will ensure that Sensitive Information from the Company is made available only to:

- (i) the employees who are part of the Bidder's Clean Team; and/or
- (ii) the Bidder's external professional advisers (see clause 5 below).

3.4 Each Party shall keep an accurate record of all Sensitive Information disclosed in the context of the Proposed Transaction and the date and circumstances of such disclosure (e.g. through data room disclosure, correspondence, meetings, conference calls etc.).

4. **CLEAN TEAM**

4.1 The Bidder will notify the Company in writing of those persons who are members of its Clean Team.

4.2 A person will not become a member of the Clean Team until they have been made aware of their obligations under this Agreement.

4.3 The Bidder is entitled to add and/or to substitute its Clean Team members at any time by giving written notice to the Company.

- 4.4 The Bidder will ensure that its Clean Team contains only persons who require access to Sensitive Information for the purposes of evaluating and/or planning the Proposed Transaction. The Bidder will further ensure that its Clean Team does not contain any persons involved in the day-to-day commercial/strategic operations and decisions (including decisions on pricing and future bids) and other commercially sensitive areas of business that compete directly with the Company's business for the duration of the Restricted Period.
- 4.5 The Restricted Period is the period from the time a person first joins the Clean Team (even if they subsequently leave the Clean Team) until the earlier of:
- (i) completion of the Proposed Transaction; or
 - (ii) 12 months from the time the person no longer has access to Sensitive Information.
- 4.6 The Bidder shall ensure that Sensitive Information is not passed to other persons or entities outside the Clean Team, and that the information is kept separate from all the documents and records of the Bidder and is protected with the same security measures and degree of care that would apply to its own confidential information.
- 4.7 The Clean Team and/or the external professional advisers can report to the Bidder any conclusions/findings arising from their review of Sensitive Information as reasonably required for the purposes stated in clause 3.1, provided that any Sensitive Information has been omitted, redacted or otherwise sufficiently masked. The Clean Team and/or the external professional advisers can also provide the Bidder with a summary of the Sensitive Information, provided that this summary is in a form that no longer constitutes Sensitive Information (e.g., because the information has been sufficiently aggregated and/or anonymised).
- 4.8 No member of the Clean Team shall copy or reproduce in whole or in part any of the Sensitive Information without the express consent of the Company.
- 4.9 If the Bidder or a Clean Team member is required by any law, rule or regulation or requested by any court, legislative or administrative body, stock exchange rules or regulations or listing requirement to disclose any Sensitive Information, then the Bidder or the Clean Team member, as the case may be, shall, to the fullest extent permitted by law, promptly and prior to disclosure, notify the Company and shall provide full documentation concerning the disclosure sought so that an appropriate protective order can be sought and/or action can be taken if possible.

5. **EXTERNAL PROFESSIONAL ADVISER**

The Bidder can provide Sensitive Information to external professional advisers advising it in connection with the Proposed Transaction (e.g. independent accountants, lawyers, financial advisers).

6. **RETURN AND DESTRUCTION OF SENSITIVE INFORMATION**

- 6.1 In the event of discussions concerning the Proposed Transaction terminating, all Sensitive Information will be returned to the Provider or destroyed according to the terms outlined in the NDA.
- 6.2 It is further understood that in the event of the Proposed Transaction not completing, the obligations set out under this Protocol shall continue in full force until the date that is 6 months after termination of discussions or negotiations.

7. **BREACH OF THIS PROTOCOL**

The parties acknowledge and agree that a breach of the provisions of this Protocol may cause the Company to suffer irreparable damage that could not be adequately remedied by an action of law. Accordingly the Bidder agrees that the Company is entitled to seek specific performance of the provisions of this Protocol to enjoin a breach or attempted or threatened breach of the provisions thereof and to any other remedy, including damages and injunctive relief, awarded by a court of competent jurisdiction as set out below.

8. **GOVERNING LAW**

This Protocol, and any other obligations arising out or in connection with it, shall be governed by, and construed in accordance with, the laws of England and Wales. In the event of any litigation arising under this Protocol or in relation to any non-contractual or other obligations arising out of or in connection with this Protocol, the Parties agree to submit to the exclusive jurisdiction of England and Wales.

This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

SIGNED for and on behalf of **Merzell Holding AS**

Represented by: **MAGNUS B. WILLUMSEN**

Title: **INVESTMENT MANAGER**

Date: **9 APRIL 2019**

A handwritten signature in blue ink, appearing to read 'Magnus B. Willumsen', with a long horizontal flourish extending to the right.

SIGNED for and on behalf of **EU Supply PLC**

Represented by:

Title:

Date:

7. **BREACH OF THIS PROTOCOL**

The parties acknowledge and agree that a breach of the provisions of this Protocol may cause the Company to suffer irreparable damage that could not be adequately remedied by an action of law. Accordingly the Bidder agrees that the Company is entitled to seek specific performance of the provisions of this Protocol to enjoin a breach or attempted or threatened breach of the provisions thereof and to any other remedy, including damages and injunctive relief, awarded by a court of competent jurisdiction as set out below.

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SIGNED for and on behalf of **Mercell Holding AS**

Represented by:

Title:

Date:

SIGNED for and on behalf of **EU Supply PLC**

Represented by:

Title:

Date:



THOMAS BEERGREHN

CEO

9 April 2019