

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934

(Amendment No. 2)

Telkonet, Inc.

(Name of Issuer)

Common Stock par value \$0.001

(Title of Class of Securities)

879604106

(CUSIP Number)

Piercarlo Gramaglia  
VDA Group S.p.A.  
Viale Lino Zanussi, 3, 33170  
Pordenone PN, Italy  
+39 0434 516111

Kate L. Bechen  
Dykema Gossett PLLC  
111 E. Kilbourn Ave., Suite 1050  
Milwaukee, WI 53202  
(414) 488-7300

(Name, Address and Telephone Number of Person  
Authorized to Receive Notices and Communications)

May 16, 2022

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. ☐

**Note:** Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See §240.13d-7 for other parties to whom copies are to be sent.

\* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP No. 879604106

1. NAMES OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

VDA Group, S.p.A.

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP  
(see instructions)

(a) ☐

(b) ☒

3. SEC USE ONLY

4. SOURCE OF FUNDS (see instructions)

AF

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) ☐

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Italy

7. SOLE VOTING POWER

0

NUMBER OF  
SHARES  
BENEFICIALLY  
OWNED BY  
EACH

8. SHARED VOTING POWER

162,900,947\*

REPORTING PERSON WITH	9.	SOLE DISPOSITIVE POWER
		0
	10.	SHARED DISPOSITIVE POWER
		162,900,947*
11.	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON	
	162,900,947*	
12.	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (see instructions) <input type="checkbox"/>	
13.	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)	
	54.4%**	
14.	TYPE OF REPORTING PERSON (see instructions)	
	CO	

CUSIP No. 879604106

1.	NAMES OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)
	VDA Holding S.A
2.	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (see instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>
3.	SEC USE ONLY
4.	SOURCE OF FUNDS (see instructions)
	OO
5.	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) <input type="checkbox"/>
6.	CITIZENSHIP OR PLACE OF ORGANIZATION
	Luxembourg

	7.	SOLE VOTING POWER
		0
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	8.	SHARED VOTING POWER
		162,900,947*
	9.	SOLE DISPOSITIVE POWER
		0
	10.	SHARED DISPOSITIVE POWER
		162,900,947*
11.	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON	
	162,900,947*	
12.	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (see instructions) <input type="checkbox"/>	
13.	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)	
	54.4%**	
14.	TYPE OF REPORTING PERSON (see instructions)	
	CO & HC	

1.	NAMES OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)	
	Meti Holding Sarl	
2.	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (see instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3.	SEC USE ONLY	
4.	SOURCE OF FUNDS (see instructions)	
	AF	
5.	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) <input type="checkbox"/>	
6.	CITIZENSHIP OR PLACE OF ORGANIZATION	
	Luxembourg	
	7.	SOLE VOTING POWER
		0
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	8.	SHARED VOTING POWER
		162,900,947*
	9.	SOLE DISPOSITIVE POWER
		0
	10.	SHARED DISPOSITIVE POWER
		162,900,947*
11.	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON	
	162,900,947*	
12.	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (see instructions) <input type="checkbox"/>	
13.	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)	
	54.4%**	
14.	TYPE OF REPORTING PERSON (see instructions)	
	CO & HC	

CUSIP No. 879604106

1.	NAMES OF REPORTING PERSONS I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)	
	Flavio De Paulis	
2.	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (see instructions) (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3.	SEC USE ONLY	
4.	SOURCE OF FUNDS (see instructions)	
	AF	
5.	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e) <input type="checkbox"/>	
6.	CITIZENSHIP OR PLACE OF ORGANIZATION	
	Italy & Switzerland	
	7.	SOLE VOTING POWER
		0
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	8.	SHARED VOTING POWER
		162,900,947*
	9.	SOLE DISPOSITIVE POWER
		0
	10.	SHARED DISPOSITIVE POWER
		162,900,947*

## 11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

162,900,947\*

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES  
(see instructions) ☐

## 13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

54.4%\*\*

## 14. TYPE OF REPORTING PERSON (see instructions)

HC and IN

\* The 162,900,947 shares of Common Stock reported herein are or may be deemed beneficially owned by the Reporting Persons as determined in accordance with Rule 13d-3. While voting and dispositive power is shared amongst the Reporting Persons, these powers are not shared with other persons.

\*\* Based upon 299,212,282 Shares outstanding as of March 29, 2022, as reported in the Issuer's Definitive Proxy Statement on Schedule 14A filed with the Securities and Exchange Commission (the "SEC") on April 12, 2022 (the "Proxy Statement"), all determined in accordance with Rule 13d-3.

SCHEDULE 13D  
(Amendment No. 2)

This Amendment No. 2 (the "Amendment") amends the Schedule 13D originally filed on August 16, 2021 (the "Schedule 13D"), and amended by Amendment No. 1 filed on January 19, 2022, by (i) VDA Group S.p.A. an Italian joint stock company ("VDA Group"), with respect to shares of common stock, par value \$0.001 (the "Shares"), of Telkonet, Inc., a Utah corporation (the "Issuer"), beneficially owned by it; (ii) VDA Holding S.A., a Luxembourg limited liability company ("VDA Holding"), with respect to Shares that may be deemed beneficially owned by it; (iii) Meti Holding Sarl a Luxembourg private limited liability company (the "Meti Holding") with respect to Shares that may be deemed beneficially owned by it; and (iv) Flavio De Paulis with respect to Shares that may be deemed beneficially owned by him ("F. De Paulis", and together with VDA Group, VDA Holding and Meti Holding, each a "Reporting Person" and collectively the "Reporting Persons"). Except as otherwise provided herein, each Item of the Schedule 13D remains unchanged.

**Item 3. Source or Amount of Funds or Other Consideration.**

Item 3 of the Schedule 13D, as amended, is hereby amended and restated in its entirety as follows:

The total amount of funds required by VDA Group to consummate the transactions contemplated by that certain Stock Purchase Agreement, dated August 6, 2021, (the "SPA"), previously disclosed in the Schedule 13D, by and between VDA Group and the Issuer, as amended by Amendment No. 1 to the Stock Purchase Agreement, dated September 20, 2021, by and between VDA Group and the Issuer (the "SPA Amendment" and together with the SPA, the "Stock Purchase Agreement"), as more fully detailed in Item 4 below was \$5,000,000. On August 6, 2021, VDA Holding, the parent of VDA Group, executed a Funding Letter (the "Funding Letter") pursuant to which VDA Holding agreed to provide to VDA Group \$5,000,000 to satisfy VDA Group's payment obligations under the Stock Purchase Agreement.

On January 6, 2022 ("Original Loan Effective Date"), VDA Group and VDA Holding entered into a Convertible Loan Agreement (the "Original Loan Agreement") with Nomadix Holdings LLC, a Delaware limited liability company ("Nomadix" and together with VDA Group and VDA Holding, the "Loan Parties") pursuant to which Nomadix loaned to VDA Holding US \$5,000,000.00 (the "Original Loan Amount"). The Original Loan Amount was used to fund VDA Holding's obligations under the Funding Letter, which was in turn used to fund VDA Group's purchase of the Telkonet Shares and Warrant (as such terms are defined in Item 4 below). The loan was to mature six months after the Original Loan Effective Date, with a \$500,000 premium, but the parties concurrently signed a non-binding Term Sheet (the "Term Sheet"), whereby the Original Loan Amount would be refinanced into a longer term facility, and in this circumstance, the premium would be inapplicable and interest would be determined under the long term facility described below.

In connection with the Original Loan Agreement, the two shareholders of VDA Holding pledged all the outstanding shares of VDA Holding, and VDA Holding, the sole shareholder of VDA Group pledged all the shares held by it in VDA Group, in each case to secure VDA Holding's obligations under the Original Loan Agreement (the "Original Pledge Agreements" and, together with the Original Loan Agreement and the Term Sheet, the "Original Loan Transaction Documents"). VDA Holding also agreed to certain subordination provisions with existing creditors. The Original Loan Amount was also convertible, into shares of VDA Holding if not timely repaid, which shares, if issued, would constitute a minority shareholding in VDA Holding.

On May 16, 2022 (the "Investor Senior Loan Effective Date"), VDA Group, VDA Holding and Nomadix entered into an Investor Senior Loan Agreement (the "Investor Senior Loan Agreement") pursuant to which Nomadix loaned to VDA Holding the aggregate amount of US \$6,500,000.00 (the "Investor Senior Loan"), comprised by the sum of (A) the Original Loan Amount under the Original Loan Agreement, and (B) an additional US \$1,500,000.00. The Investor Senior Loan supersedes the Original Loan Agreement and any Original Loan Amount under the Original Loan Agreement that remained outstanding on the Investor Senior Loan Effective Date is subject to the terms and provisions of the Investor Senior Loan. The Investor Senior Loan has a term of 42 months and the interest rate is 6% per annum, payable quarterly. The Investor Senior Loan has certain rights of conversion into a minority shareholding in VDA Holding. During the period from (i) the date which falls eleven (11) calendar months from the Investor Senior Loan Effective Date to (ii) the date which falls thirty-one (31) calendar months from the Investor Senior Loan Effective Date, Nomadix may, at its sole discretion and upon 30 days' written notice to VDA Holding, elect to convert the outstanding Investor Senior Loan amount by requiring VDA Holding to terminate the Investor Senior Loan in exchange for issuance of 159,480 additional shares with a nominal value of one euro (EUR 1) each of VDA Holding allowing Nomadix to be holder of a fully diluted 38.30% of the share capital of VDA Holding.

In connection with the Investor Senior Loan Agreement, (A) the two shareholders of VDA Holding pledged all the outstanding shares of VDA Holding, (B) VDA Holding, the sole shareholder of VDA Group, pledged all the shares held by it in VDA Group, and (C) VDA Group undertook to pledge its shares in the Issuer effective November 23, 2022

or, if earlier, the earliest date permitted under the VDA Leak-Out Agreement (as defined in Item 4 below), in each case to secure VDA Holding's obligations under the Investor Senior Loan Agreement (the "**Investor Senior Loan Pledge Agreements**"). The Investor Senior Loan Pledge Agreements supersede the Original Pledge Agreements. VDA Holding also agreed to certain subordination provisions with existing creditors (the "**Subordination Agreement**" and, together with the Investor Senior Loan Agreement and the Investor Senior Loan Pledge Agreements, the "**Investor Senior Loan Transaction Documents**").

The foregoing descriptions of the Funding Letter, each of the Original Loan Transaction Documents and each of the Investor Senior Loan Transaction Documents set forth in this Item 3 do not purport to be complete and are qualified in their entirety by reference to the copies of the Funding Letter, the Original Loan Transaction Documents and the Investor Senior Loan Transaction Documents included as Exhibits 99.4 through 99.8 and 99.10 through 99.14.

#### **Item 4. Purpose of Transaction**

Item 4 of the Schedule 13D, as amended, is hereby amended as follows:

The first paragraph of Item 4 is hereby amended and restated in its entirety as follows:

As previously reported on the Schedule 13D, as amended, the Issuer and VDA Group entered into the Stock Purchase Agreement and the Closing of the Stock Purchase Agreement occurred on January 7, 2022 (the "**Closing**"). Pursuant to the terms and conditions of the Stock Purchase Agreement, VDA Group acquired, in consideration of a capital contribution to the Issuer of \$5,000,000, (A) 162,900,947 Shares of the Issuer (the "**Telkonet Shares**"), and (B) a warrant ("**Warrant**") to purchase 105,380,666 additional Shares (the "**Warrant Shares**"). Under the terms of the Warrant, VDA Group is entitled to purchase the Warrant Shares, at an exercise price of \$.001 per share, at any time beginning on the date the Issuer achieves a volume weighted average price of the aggregate outstanding Shares of at least \$17,000,000, measured for a period of time consisting of sixty (60) consecutive trading days and ending five years after the date of issuance of the Warrant; provided, however, that the Warrant may not be exercised for the first 12 months from the Closing. The 162,900,947 Shares reported herein represent 54.4% of the Issuer's Shares based upon 299,212,282 Shares outstanding as of March 29, 2022, as reported in the Issuer's Proxy Statement, all determined in accordance with Rule 13d-3. If the Warrant were exercised, the Reporting Persons would own beneficially 66.31% of the Issuer's Shares, as determined in accordance with Rule 13d-3. Because of certain conditions associated with the exercisability of the Warrant, the Reporting Persons do not believe the Warrant Shares are beneficially owned as of this filing.

The fourth paragraph of Item 4 is hereby amended to add the following to the end of the paragraph:

Mr. Tienor resigned from his position as Chief Sales & Operation Officer of the Issuer effective March 31, 2022.

The eighth paragraph of Item 4 is hereby amended and restated in its entirety as follows:

In connection with the Investor Senior Loan described in Item 3, VDA Holding agreed to use best efforts, in each case subject to the Stock Purchase Agreement and United States laws, to enable Nomadix to appoint one member of the Issuer's board, to have certain rights to provide equity and debt financings undertaken by the Issuer, and to facilitate certain commercial cooperation amongst VDA Group, Nomadix and the Issuer. Also in connection with the Investor Senior Loan, VDA Holding agreed to appoint a Nomadix representative to VDA Holding's board. Affiliates of Nomadix operate in the hospitality industry in a similar space with VDA and the Issuer.

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#### **Item 5. Interest in Securities of the Issuer**

Item 5 of the Schedule 13D, as amended, is hereby amended as follows:

Paragraph (a) is hereby amended and restated in its entirety as follows:

- (a) The aggregate number and percentage of Shares beneficially or directly owned by the Reporting Persons is based upon a total of 299,212,282 Shares outstanding as of March 29, 2022, as reported in the Issuer's Proxy Statement. The Reporting Persons beneficially own 162,900,947 Shares, representing approximately 54.4% of the issued and outstanding Shares, all determined in accordance with Rule 13d-3. If the Warrant were exercised, the Reporting Persons would own beneficially 66.31% of the Issuer's Shares, as determined in accordance with Rule 13d-3. Because of certain conditions associated with the exercisability of the Warrant, the Reporting Persons do not believe the Warrant Shares are beneficially owned as of this filing.

#### **Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer.**

Item 6 of the Schedule 13D, as amended, is hereby amended as follows:

The second paragraph of Item 6 is hereby amended and restated in its entirety as follows:

The foregoing descriptions of the Funding Letter, each of the Original Loan Transaction Documents and each of the Investor Senior Loan Transaction Documents in Item 3 do not purport to be complete and are qualified in their entirety by reference to the copy of the Funding Letter, the Original Loan Transaction Documents and the Investor Senior Loan Transaction Documents included as Exhibits 99.4 through 99.8 and 99.10 through 99.14.

#### **Item 7. Materials to Be Filed as Exhibits**

Item 7 is amended by adding the following paragraphs to the end of the item:

[Exhibit 99.10](#) – Investor Senior Loan Agreement by and between Nomadix Holdings LLC, VDA Holding S.A. and VDA Group S.p.A., dated May 16, 2022.

[Exhibit 99.11](#) – Pledge Over Shares Agreement between Meti Holdings, Sarl, Mr. Arturo Iossa Fasano and Nomadix Holdings LLC, dated May 16, 2022.

[Exhibit 99.12](#) – Pledge Agreement between Nomadix Holdings LLC and VDA Holding S.A., dated May 16, 2022.

[Exhibit 99.13](#) – Stock Pledge Agreement by and among VDA Group S.p.A and Nomadix Holdings LLC, dated May 16, 2022.

[Exhibit 99.14](#) – Subordination Agreement by and between Meti Holdings Sarl., Distress to Value S.A. Societe de Titrisation, Multimedia SRL, VDA Holding S.A. and Nomadix Holdings LLC, dated May 16, 2022.

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## SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

### **VDA Group S.p.A.**

/s/ Piercarlo Gramaglia

Name: Piercarlo Gramaglia

Title: Chief Executive Officer

Date: July 14, 2022

### **VDA Holding S.A.**

/s/ Giorgio Bianchi /s/ Tiffany Halsdorf

Name: Giorgio Bianchi & Tiffany Halsdorf

Title: Directors

Date: July 14, 2022

### **Meti Holding Sarl**

/s/ Giorgio Bianchi & /s/ Tiffany Halsdorf

Name: Giorgio Bianchi & Tiffany Halsdorf

Title: Directors

Date: July 14, 2022

/s/ Flavio De Paulis

Name: Flavio De Paulis

Date: July 14, 2022

**INVESTOR SENIOR LOAN AGREEMENT**

This investor senior loan agreement (the “**Agreement**” or the “**Investor Senior Loan Agreement**”) is entered into this 16th day of May 2022 by and between:

- (1) **NOMADIX HOLDINGS LLC**, a limited liability company duly organized and existing under the laws of Delaware (USA), with registered address at 1209 Orange St., New Castle, WILMINGTON, DE 19801, with File Number 7506079, represented by Edward Linn HELVEY, acting in his capacity as manager with the right to individual signature;

Hereinafter referred to as the “**Lender**”; and

- (2) **VDA HOLDING S.A.**, a joint stock company (*société anonyme*) incorporated and existing under the laws of Luxembourg, with registered office at 26, Boulevard Royal, L-2449 LUXEMBOURG, registered with the Register of Commerce and Companies of Luxembourg (*Registre de Commerce et des Sociétés, Luxembourg*) (“**RCSL**”), Section B under no. 239150, represented by Giorgio BIANCHI and Tiffany HALSDORF, acting in their capacity as directors (*administrateurs*) with the right to joint signature;

Hereinafter referred to as the “**Borrower**”;

- (3) **VDA GROUP S.P.A.**, a company incorporated and existing under the laws of Italy with registered office in Pordenone, Via Lino Zanussi 3, CAP 33170, corporate capital of Euro 172,233.50, registered under the Companies Registry of Pordenone under No. 00976420307, represented by Piercarlo GRAMAGLIA, acting in his capacity as CEO and empowered by resolution of the Board of Directors held on 13 May 2022;

hereinafter being referred to as the “**Guarantor**” or “**VDA Group**”; each a “**Party**” and, collectively, the “**Parties**.”

**Recitals**

- A. **WHEREAS** the Borrower’s subscribed and fully paid in share capital is set at EUR 256,932 (two hundred and fifty-six thousand nine hundred and thirty-two euros), represented by 256,932 (two hundred and fifty-six thousand nine hundred and thirty-two) shares with a nominal value of EUR 1 (one euro) each, which are held as follows:

1. METI HOLDING S.à r.l., a private limited company (*société à responsabilité limitée*), incorporated and existing under the laws of Luxembourg, with registered office at 26, Boulevard Royal, L-2449 LUXEMBOURG, registered with the RCSL, Section B under no. B217383 (“**METI**”) holder of 212,637 (two hundred twelve thousand six hundred thirty- seven) shares with a nominal value of EUR 1 (one euro) each, representing approximately 82.76% of the outstanding shares of the Borrower;
2. Mr. Arturo Iossa FASANO, with address at 15, Piazzale Segesta, I-20148 Milan (“**Mr. FASANO**”) holder of 44,295 (forty-four thousand two hundred ninety-five) shares with a nominal value of EUR 1 (one euro) each, representing approximately 17.24% of the outstanding shares of the Borrower.

- B. **WHEREAS** the authorized capital of the Borrower (apart from the subscribed share capital) is set at EUR 159,480.00 (one hundred fifty-nine thousand four hundred and eighty euros) allowing for the issuance of 159,480.00 (one hundred fifty-nine thousand four hundred and eighty) new shares with a nominal value of EUR 1 (one euro) each, enjoying the same rights and benefits as the existing shares.

- C. **WHEREAS** at the date hereof, the Borrower has full and unencumbered title to *detiene, in piena e libera proprietà* 6,499 (six thousand four hundred ninety-nine) ordinary shares of VDA GROUP S.P.A., which are issued in book-entry form (*forma dematerializzata*) and registered in the name of the Borrower in the securities account no. LU55 2981 0000 0005 6707 opened by the Borrower with BPER Bank Luxembourg S.A., a joint stock company (*société anonyme*) incorporated and existing under the laws of Luxembourg, with registered office at 30, Boulevard Royal, L-2449 LUXEMBOURG, registered with the RCSL, Section B under no. 54033 (the “**Depository**”) (the “**Securities Account**”), representing in aggregate a stake equal to 100% of the share capital of VDA Group;

- D. **WHEREAS** VDA Group is currently a party to a certain stock purchase agreement (the stock purchase agreement together with all its annexes, enclosures, related and ancillary agreements and documents, “**SPA**”) entered into as of August 6, 2021, by and between VDA Group and Telkonet, Inc. (“**TKOI**”), a Utah corporation with registered address at 20800 SWENSON DRIVE STE 175 WAUKESHA, WI 53186. The SPA is fully documented and publicly disclosed pursuant to a “DEFINITIVE NOTICE AND PROXY STATEMENT” (SEC Form DEF 14A) filed with the SEC on September 22, 2021, and further identified on EDGAR as SEC Accession No. 0001683168-21-004409 under File No.: 001-31972. The SPA required, inter alia, (i) VDA Group to pay \$5,000,000.00 (five million U.S. dollars) (the “**SPA Payment**”) to TKOI in exchange for title to 162,900,947 shares of Telkonet Common Stock (“**TKOI Shares**”) as well as a warrant and other rights enumerated in the SPA; (ii) that for a period of twelve (12) months after the purchase of the TKOI Shares, VDA Group will not transfer any TKOI Shares owned by VDA Group or publicly disclose the intention to make any such transfer (“**Lock-up Period**”); and (iii) that neither the SPA nor any of a party’s rights thereunder may be assigned by any such party without the prior written consent of the other party, and any attempted assignment of the SPA or of any such rights by the Borrower without the consent of TKOI shall be void and of no effect (the “**VDA-TKOI Stock Purchase**”).

- E. **WHEREAS** the Parties concluded negotiation of the Lender’s providing the Borrower with a convertible loan facility in the aggregate amount of USD 6,500,000.00 (six million five hundred thousand United States Dollars) (the “**Investor Senior Loan**”, “**Investor Senior Loan Amount**” or the “**Transaction**”) for (A) the funding of the VDA-TKOI Stock Purchase by USD 5,000,000.00 (five million United States Dollars) and (B) the remaining USD 1,500,000.00 (one million five hundred thousand United States Dollars) (“**Residual Proceeds**”) to be used by the Borrower solely for the purposes of financing working capital, providing acquisition financing, transaction expenses and for general corporate purposes.

- F. **WHEREAS** given the contractual and timing constraints for VDA Group to make the SPA Payment, the Parties determined in an initial phase (“**Phase 1**”) to have the Lender provide a convertible loan facility (the “**Loan**”) to the Borrower in the amount of \$5,000,000.00 (five million U.S. dollars) (the “**Loan Amount**”) under a convertible loan agreement entered into on 6 January 2022 (the “**Convertible Loan Agreement**” or “**CLA**”) to allow the Borrower to on-lend the proceeds of the Loan to VDA Group on an arm’s length basis, to allow VDA Group to close the SPA, to make the SPA Payment and to purchase the TKOI Shares.

- G. **WHEREAS** on 6 January 2022, the Parties entered into a US Law governed term sheet (the “**Term Sheet**”) to determine in particular the terms of the Investor Senior Loan.

- H. **WHEREAS** it is the intent of the Parties to finalize the closing of the Transaction with this Agreement, which replaces and supersedes the CLA in all aspects (“**Phase 2**”).

NOW THEREFORE IT IS HEREBY AGREED as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement (including the Recitals), the following terms not otherwise defined herein shall have the meanings indicated:

“**Agreement**” means this Investor Senior Loan Agreement as originally executed or as it may be amended from time to time.

“**Appendix**” means an appendix to this Investor Senior Loan Agreement.

“**Applicable Interest Rate**” means a rate of 6% per annum, payable quarterly, with no refunds in case of conversion (pursuant and subject to the provisions set forth in Clause 9). As from the Repayment Date (as defined below), an interest at the rate for commercial transactions as determined in the law of April 18, 2004 regarding actions against late payments for commercial transactions, as amended, will apply on any outstanding amounts (including principal, fees and costs).

“**Availability Period**” means the period starting on the date of this Agreement and expiring two (2) weeks later.

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“**Borrower Bank Account**” has the meaning conferred to it in Clause 15.3.

“**Business Day**” means a day (other than a Saturday or Sunday or public holiday) on which banks and foreign exchange markets are open for general business in Luxembourg.

“**CLA**” has the meaning conferred to it in the Recitals point F.

“**Conditions Precedent**” has the meaning assigned to such term in Clause 5.

“**Conversion Period**” means the period from (i) the date which falls eleven (11) calendar months from the Effective Date to (ii) the date which falls thirty-one (31) calendar months from the Effective Date.

“**Disruption Event**” means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made which disruption is not caused by, and is beyond the control of, any of the Party whose operations are disrupted; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems- related nature) to the treasury or payments operations of a Party preventing payments to be made which disruption is not caused by, and is beyond the control of, the Party whose operations are disrupted.

“**Drawdown**” means the acts of the Borrower of borrowing under the Agreement.

“**Drawdown Date**” means 7 January 2022, on which the drawdown on the Loan was made (“**First Drawdown**”) and any other day on which the drawdown(s) of the Residual Proceeds will be made.

“**Effective Date**” means the date of the First Drawdown.

“**Event of Default**” has the meaning assigned to such term in Clause 11 hereof.

“**Finance Document**” means this Agreement, the Security Documents, the Subordination Agreement, and any ancillary document or additional accession, guarantee or security document.

“**Financial Indebtedness**” means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (c) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability;
- (d) receivables sold or discounted;

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- (e) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (f) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and



(h) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (g) above.

“**First Drawdown Date**” means 7 January 2022.

“**Interest Payment Date**” means in each calendar year, until the earlier of (i) date of exercise of conversion hereunder or (ii) dates and amounts as specified in Schedule 11, if any such date falls on a day which is not a Banking Day, the immediately following Business Day.

“**Investor Senior Loan**” has the meaning conferred to it in the Recitals point E. “**Investor Senior Loan Amount**” has the meaning conferred to it in the Recitals point E.

“**Investor Senior Loan Term**” means a period of forty-two (42) months commencing on the Effective Date.

“**Lender Bank Account**” has the meaning conferred to it in Clause 15.3. “**Loan**” has the meaning conferred to it in the Recitals point F.

“**Loan Amount**” has the meaning conferred to it in the Recitals point F.

“**Material Adverse Effect**” means a material adverse effect on (a) the business, assets, properties, liabilities (actual or contingent), operations, financial condition or business prospects, of the Borrower, individually, or the Borrower and its subsidiaries taken as a whole; or (b) the ability of an Obligor to perform its obligations under any Finance Document; or (c) the validity or enforceability of, or the effectiveness or ranking of any security granted or purported to be granted pursuant to any of, the Finance Documents; or (d) the rights or remedies of the Lender under any of the Finance Documents.

“**Material Agreement**” means any contract or other arrangement (other than the Finance Documents), whether written or oral, to which the Borrower, individually, or the Borrower and its subsidiaries taken as a whole is a party as to which the breach, non-performance, cancellation or failure to renew by any party thereto could reasonably be expected to have a Material Adverse Effect.

“**Obligor**” means the Borrower and VDA Group as Guarantor, and any other party that may in the future become an obligor.

“**Phase 1**” has the meaning conferred to it in the Recitals point F. “**Phase 2**” has the meaning conferred to it in the Recitals point H.

“**Residual Proceeds**” has the meaning conferred to it in the Recitals point E.

“**Security Documents**” means the VDA Holding Share Pledge Agreement, the VDA Group Share Pledge Agreement, the Subordination Agreement and the TKOI Share Pledge Agreement.

“**Signing Date**” means the date of execution of the Agreement by all Parties, being 16 May, 2022

“**SPA**” has the meaning conferred to it in the Recitals point D.

“**SPA Payment**” has the meaning conferred to it in the Recitals point D.

“**Shareholders’ Agreement**” means the shareholders’ agreement between (1) METI and (2) Mr. FASANO acting as the current shareholders of the Borrower and (3) the Lender acting as future shareholder of the Borrower concerning their respective shares in the Borrower.

“**Subordination Agreement**” has the meaning conferred to it in Clause 4. “**Recitals**” are the recitals to this Agreement.

“**Repayment Date**” means the date falling forty-two (42) calendar months from the Effective Date.

“**Taxes**” means any taxes (including interest or penalties thereon) which are now or at any time hereafter imposed, assessed, charged, levied, collected, demanded, withheld or claimed by the United States or Luxembourg or any tax authority thereof or therein or any other jurisdiction through which the Borrower is directed by the Lender to effect payments.

“**TKOI**” has the meaning conferred to it in the Recitals point D.

“**TKOI Shares**” has the meaning conferred to it in the Recitals point D.

“**TKOI Share Pledge Agreement**” has the meaning conferred to it in the Clause 3.3. “**Transaction**” has the meaning conferred to it in the Recitals point E.

“**VDA Group Share Pledge Agreement**” has the meaning conferred to it in the Clause 3.2.

“**VDA Holding Share Pledge Agreement**” has the meaning conferred to it in Clause 3.1. “**VDA Parties**” means the Borrower and VDA Group.

“**VDA-TKOI Stock Purchase**” has the meaning conferred to it in the Recitals point D.

## 1.2 Interpretation

Unless the context or the express provisions of this Agreement otherwise require, the following shall govern the interpretation of this Agreement:

- 1.2.1 All references to “Clause” or “sub-Clause” are references to a Clause or sub- Clause of this Agreement.
- 1.2.2 The terms “hereof”, “herein” and “hereunder” and other words of similar import shall mean this Agreement as a whole and not any particular part hereof.
- 1.2.3 Words importing the singular number include the plural and vice versa.
- 1.2.4 The headings are for convenience only and shall not affect the construction hereof.

## 2. INVESTOR SENIOR LOAN

On the terms and subject to the conditions set forth herein, and subject to the fulfilment of the Conditions Precedent, the Lender will make available to the Borrower a loan in the

aggregate amount of USD 6,500,000 (six million five hundred thousand United States Dollars) which was/will be used as follows:

1. USD 5,000,000 (five million United States Dollars) of the Investor Senior Loan was drawn down and used on the First Drawdown Date solely to allow VDA Group to purchase the TKOI Shares; and
2. USD 1,500,000.00 (one million five hundred thousand United States Dollars), shall be used by the Borrower solely for the purposes of financing working capital, providing acquisition financing, Transaction expenses and for general corporate purposes. The payment of the Residual Proceeds amount will be effected by wire transfer directly to the Borrower Bank Account during the Availability Period.

### 3. COLLATERAL

To secure the repayment of the Investor Senior Loan, the collateral listed below will be granted to the Lender:

- 3.1 The shareholders of the Borrower will grant on the date hereof a pledge over the shares held by them in the Borrower (the “**VDA Holding Share Pledge Agreement**”).
- 3.2 The Borrower will grant on the date hereof a pledge over the shares held by it in VDA Group (the “**VDA Group Share Pledge Agreement**”).
- 3.3 The Borrower will obtain from VDA Group a pledge over the shares held by it in TKOI, this pledge will become effective upon expiration of the Lock-up Period and subject to any provisions of the SPA and US law (the “**TKOI Share Pledge Agreement**”).

### 4. SUBORDINATION

a) The Lender has agreed to make available to the Borrower the Investor Senior Loan Amount on the condition that all the debts due by the Borrower to the creditors listed below are

subordinated – without prejudice to letter b) below - to the Investor Senior Loan (including the principal amount, interest, costs and fees), including but not limited to the debts listed below:

- 1) Debt to METI HOLDING SARM amounting to EUR 511,500.00 as at October 18, 2021.
- 2) Debt to DISTRESS TO VALUE SA amounting to EUR 2,100,000.00 as principal and EUR 278,238.85 as interest, as at October 18, 2021.
- 3) Debt to Multimedia S.r.l. amounting to EUR 1,260,562.19 as at 18 October 2021.

The above figures are from the interim accounts of the Borrower dated 18 October 2021.

A draft of the subordination agreement relating to all the debts towards the creditors listed above is attached hereto under Appendix 1 (the “**Subordination Agreement**”).

b) All current and future debts of the Borrower save for debt incurred during the ordinary course of business must also be subordinated to the Investor Senior Loan (including the principal amount, interest, costs and fees).

c) The Parties agree that no payment whatsoever and in whatever form may be made by the Borrower in respect of the above subordinated liabilities (Article 4 a) + Article 4 b)) until (1) the Lender converts the Investor Senior Loan Amount into shares as specified in Article 9, (2) the Borrower reimburses the Investor Senior Loan in full (the Loan and the Residual Proceeds), including the principal amount, and accrued interest in accordance with the terms of the Agreement or (3) with the written authorisation from the Lender.

d) As an exception to Article 4 c), the Parties agree that the Debt to METI HOLDING SARM amounting to EUR 511,500.00 (please see above Article 4 a)1)) will be payable out of the Investor Senior Loan proceeds provided that (1) the Borrower will provide to the Lender the precise details of all amounts covered by this debt and all supporting documents and that (2) the Lender will approve these amounts. It is understood by the Parties that the remaining balance of the Investor Senior Loan cannot be used for expenses such as debt repayments or dividend distributions.

In addition, to the extent that the Multimedia S.r.l. debt (EUR 1,260,562.19) is an amount that has been verified to be a debt that must be paid to a taxing authority, NMX’s consent to pay this debt will not be unreasonably withheld.

### 5. CONDITIONS PRECEDENT

#### 5.1 Conditions precedent for the Investor Senior Loan

- 5.1.1 Each Party shall obtain the approval of its board of directors relating to the Transaction;
- 5.1.2 If applicable/necessary, each Party shall obtain the approval of its respective shareholder(s) relating to the Transaction;
- 5.1.3 If applicable/necessary, each Party shall obtain the approval of governmental bodies, lenders, lessors and other third parties relating to the Transaction.

#### 5.2 Conditions precedent

The payment of the Residual Proceeds amount is subject to the following conditions precedent (the “**Conditions Precedent**”):

- 5.2.1 Due execution of the Subordination Agreement;
- 5.2.2 Due execution and perfection of the VDA Holding Share Pledge Agreement;
- 5.2.3 Due execution and perfection of the VDA Group Share Pledge Agreement and execution of the depositary agreement with the Depositary;
- 5.2.4 Delivery to the Depositary of the notice pursuant to the form set forth in the Schedule 2 of the VDA Group Share Pledge Agreement;
- 5.2.5 Delivery to the Lender of a draft of TKOI Share Pledge Agreement;
- 5.2.6 Due execution of the Shareholders' Agreement. The Shareholders' Agreement will only enter in force in case of conversion of the Senior Loan into new shares of the Borrower as specified in Clause 9. In the case of non-conversion, the Shareholders' Agreement will be null and void. A draft of the Shareholders' Agreement and its schedules are attached hereto under Appendix 4;
- 5.2.7 Due amendment of the articles of associations of VDA Group per requests of the Lender.

## **6. REPAYMENT AND PREPAYMENT**

### **6.1 Repayment**

Except as otherwise provided herein, the Borrower shall repay the Investor Senior Loan in full (the Loan and the Residual Proceeds), including the principal amount, and accrued interest at the expiration of the Investor Senior Loan Term ("**Repayment Date**").

### **6.2 Prepayment**

Until expiry of the Conversion Period, the Borrower may not voluntarily prepay the Investor Senior Loan in whole or in part unless mutually agreed by the Parties.

After the date falling thirty-one (31) calendar months from the Effective Date, the Borrower may prepay in whole the Investor Senior Loan, by giving the Lender 5 Business Days' notice, as well as any amount of interest accrued until the date of early repayment and any amount of interest that would have accrued, pursuant to the provisions under Clause 7 (INTEREST) below, until the Repayment Date.

## **7. INTEREST**

The Applicable Interest Rate to be applied on the Investor Senior Loan as from each Drawdown Date shall be 6% per annum, payable quarterly on each Interest Payment Date, with no refunds in case of conversion.

## **8. PAYMENTS – GROSS-UP, SET-OFF OR COUNTERCLAIM**

The Borrower shall indemnify the Lender against any increase in lending costs which might occur due to withholding tax.

All payments to be made by the Borrower to the Lender under this Agreement shall be made in full without set-off or counterclaim and (except to the extent required by law) free and clear of, and without deduction for, or on account of, any Taxes. If the Borrower shall be required by applicable law to make any deduction or withholding from any payment under this Agreement, it shall increase any payment due hereunder to such amount as may be necessary to ensure that the Lender receives a net amount equal to the full amount which it would have received had payment not been made subject to such Taxes or any other deduction. In the event that any of these taxes or other levies will be refundable, the Lender and Borrower will cooperate to get them refunded.

## **9. CONVERSION OPTION**

9.1 During the Conversion Period, the Lender may, at its sole discretion and upon 30 days' written notice to the Borrower, elect to convert the outstanding Investor Senior Loan Amount by requiring the Borrower to terminate the Investor Senior Loan in exchange for issuance of 159,480 (one hundred fifty-nine thousand four hundred eighty) additional shares with a nominal value of one euro (EUR 1) each of the Borrower allowing the Lender to be holder of a fully diluted 38,30% of the share capital of the Borrower (the "**Conversion Shares**").

9.2 Any shares arising as a result of a conversion pursuant to this clause shall, as from conversion, rank *pari passu* in all respects with the other issued ordinary shares of the Borrower save that any entitlement to dividends attributable to such new ordinary shares in respect of the financial year of the Borrower in which the conversion date falls shall accrue on a daily basis as from (but excluding) the conversion date. Upon conversion, each of the VDA Group Share Pledge Agreement, the VDA Holding Share Pledge Agreement and the TKOI Share Pledge Agreement shall terminate forthwith and any shares pledged thereunder released from pledge, and the Subordination Agreement shall immediately terminate. The Lender undertakes to enter into any documents and carry out any formalities which may be necessary or expedient – as may be requested by the Borrower – in order to duly perfect the termination of the agreements as described herein, provided that all expenses and costs are borne by the Borrower.

## **10. BORROWER COVENANTS**

### **10.1 Negative pledge**

- (a) The Borrower shall not create or permit to subsist any security interest over any of its assets and shall procure that the Guarantor does not create any new security interest.
- (b) The Borrower shall not:
  - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Borrower;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

- (iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising financing for its operations or of financing the acquisition of an asset.

(c) Paragraphs (a) and (b) above do not apply to any security, listed below:

- (i) the Security Documents;
- (ii) any statutory lien existing as of the date hereof;
- (iii) any lien arising in the ordinary course of business;
- (iv) any security that is released prior to the Drawdown;
- (v) any lien arising by operation of law.

#### **10.2. Disposals**

Unless the Borrower obtained the formal approval from the Lender, it is understood that:

- (a) The Borrower shall not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to dispose of all or any part of any material asset.
- (b) Without prejudice to the provisions under paragraph (b) above, paragraph (a) above does not apply to any disposal made in the ordinary course of business, and/or on arm's length terms to an unrelated third party.
- (c) Without prejudice to the provisions under paragraph (b) above, the Borrower specifically undertakes not to sell, transfer, pledge, encumber or otherwise dispose of any shares of capital stock or any other instruments representing the capital or giving access to the shares of VDA Group, save for the VDA Group Share Pledge Agreement.
- (d) VDA Group specifically undertakes not to sell, transfer, pledge, encumber or otherwise dispose of any shares of capital stock or any warrants issued by TKOI.

#### **10.3 Financial Indebtedness**

- (a) The Borrower may not incur or permit to be outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
  - (i) any Financial Indebtedness incurred under the Investor Senior Loan;
  - (ii) any debt subordinated under the Subordination Agreement;
  - (iii) any Financial Indebtedness repaid prior to the First Drawdown;
  - (iv) any Financial Indebtedness existing as of the 30 April 2022 listed in **Appendix 3**;
  - (v) "Ordinary Course Indebtedness" which means (i) accounts payable incurred in the ordinary course of business; (ii) unsecured indebtedness not to exceed, in the aggregate, \$50,000; and (iii) leases or other financing or the acquisition of equipment or property incurred in the ordinary course of business not to exceed, in the aggregate, \$250,000 during the term of the Loan Agreement. Ordinary Course Indebtedness will not be used to finance inorganic growth of VDA Parties and TKOI;
  - (vi) any Financial Indebtedness of VDA Group to the Borrower in relation to the Investor Senior Loan Amount lent by Borrower to VDA Group.

#### **10.4 Lending and guarantees**

The Borrower shall not give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person relating to Financial Indebtedness or enter into any document under which the Borrower assumes any liability of any other person other than any guarantee or indemnity given under the Investor Senior Loan or the Security Documents.

#### **10.5 Merger**

The Borrower shall not enter into any amalgamation, merger, demerger, or corporate reconstruction other than on terms approved by the Lender (acting reasonably).

#### **10.6 Change of business**

- (a) The Borrower may not carry on any material business other than its current activities exercised in the normal course of business.
- (b) The Borrower may not acquire, incorporate or create any new subsidiary or branch without approval by the Lender (acting reasonably).

#### **10.7 Acquisitions**

The Borrower may not make any acquisition or investment other than as permitted under this Agreement or the acquisition of any other assets in connection with the ordinary course of its business.

#### **10.8 Other agreements**

The Borrower may not enter into any Material Agreement other than:

- (a) the Investor Senior Loan and the documents contemplated therein;
- (b) any other agreement expressly allowed under any other term of this Agreement; or
- (c) any other agreement entered into by the Borrower in the ordinary course of its business.

#### **10.9 Shares, dividends and share redemption**

- (a) The Borrower shall not issue any further shares unless provided for in this Agreement or amend any rights attaching to its issued shares in a manner which could be reasonably expected to be materially prejudicial to the Lender.
- (b) The Borrower shall not:
  - (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
  - (ii) repay or distribute any dividend or share premium reserve;
  - (iii) pay any management, advisory or other fee to the shareholders of the Borrower; or
  - (iv) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.

#### **10.10 Taxes**

- (a) The Borrower must pay all taxes due and payable by it prior to the accrual of any fine or penalty for late payment, unless (and only to the extent that):
  - (i) payment of those taxes is being contested in good faith and adequate reserves are being maintained for those taxes and the costs required to contest them; or
  - (ii) such payment can be lawfully withheld and failure to pay those taxes is not reasonably likely to have a Material Adverse Effect and provided that the Borrower shall take all reasonable steps to ensure that such taxes are paid and discharged as soon as reasonably practicable.
- (b) The Borrower must ensure that its residence for tax purposes is in its jurisdiction and that it does not have a branch, agency or permanent establishment or permanent representative in any other jurisdiction.
- (c) The Borrower must comply with all tax filing and reporting obligations.

#### **10.11 Information**

From the date of this Agreement and for so long as any amount is outstanding under this Agreement:

- (a) the Borrower shall provide the Lender, out of its own initiative and promptly upon becoming aware of it, with information on all material events related to the Borrower, its assets or its business, that are likely to affect its capacity to discharge its obligations towards the Lender, or that are likely to have another Material Adverse Effect for the Lender, and in particular the details of any litigation, arbitration or administrative proceedings or investigations which are current or threatened in writing against the Borrower, the Guarantor and TKOI;
- (b) the Borrower shall provide the Lender with a copy of its statutory and customary filings and reports, including in particular its financial statements, intermediary balance sheets, quarterly reports etc., and at the same time as they are dispatched, copies of all documents dispatched by the Borrower to its shareholders generally or its creditors generally (or any class of them);
- (c) the Borrower shall promptly provide the Lender with all information and documents reasonably requested by the Lender regarding the financial condition, business and operations of the Borrower or any member of the Borrower's group;
- (d) the Borrower shall allow the Lender to have any information provided by or on behalf of it to the Lender verified, as the case may be on location, by an independent auditor sworn to professional secrecy and shall provide such auditor with full access to its premises, books, records and data, in any event at the expenses of the Lender;
- (e) The Borrower shall provide by 17 May, 2022 the Lender with a copy (certified by a director) of (i) the agreement executed between the Borrower and the Guarantor in respect of the Investor Senior Loan amount lent by the Borrower to VDA Group and (ii) the resolution of the board of directors of the Guarantor held on 13 May, 2022;
- (j) the Borrower shall inform the Lender of any board of directors' meetings of VDA Group and of the relevant agenda. At the latest five (5) days after any board of directors' meeting of VDA Group, the Borrower must provide a copy of the minutes of the meeting to the Lender;
- (k) the Borrower shall inform the Lender of any board of directors' meetings of the Borrower and of the relevant agenda. This information must be provided to the Lender at least five (5) day before the board of directors' meetings of the Borrower;
- (l) the Borrower shall provide to the Lender: (a) the annual unaudited consolidated balance sheet and statements of income, changes in stockholders' equity and of cash flows of the Borrower as at the end of each fiscal year;
- (j) the Guarantor shall provide to the Lender: (a) the annual audited consolidated balance sheet and statements of income, changes in stockholders' equity and of cash flows of the Guarantor as at the end of each fiscal year; (b) the quarterly managerial reports on the consolidated position plus net financial position

## 10.12 Term Sheet

The Borrower shall respect the Binding Terms (as defined in the Term Sheet) of the Term Sheet, and any breach by the Borrower of the Binding Terms of the Term Sheet shall also be a breach of this Agreement.

## 10.13 TKOI

VDA Group will do its best effort:

- (a) to provide the right of the Lender to have (i) first right to debt offerings of TKOI and (ii) only until expiry of the Conversion Period, a first right to equity offerings of TKOI, subject in either case to any provision of the SPA and US law;
- (b) to support the Lender being granted one board seats on the TKOI's board of directors subject to any provision of the SPA and US law;
- (c) to support the Lender's subsidiaries Nomadix Inc, interTouch PTE and Global Reach Inc. to participate in joint sales and marketing initiatives at market terms and conditions with TKOI and VDA Group.

## 10.15 The Borrower acting as guarantor

The Borrower irrevocably and unconditionally agrees to enforce and/or perform the obligations of VDA Group under the SPA, subject in any event to customary limitations existing under US law.

## 11. TERMINATION BY LENDER AND EVENTS OF DEFAULT

The Lender may terminate this Agreement upon one month's written notice to the Borrower in an Event of Default. Each of the following constitutes an "Event of Default" with respect to the in Investor Senior Loan. The Lender may accelerate the Investor Senior Loan during a continuation of any of the following events:

- 11.1 Failure to pay principal, and/ or interest when due, unless its failure to pay is caused by
  - (i) an administrative or technical error; or (ii) a Disruption Event; and payment is made within three (3) Business Days of its due date.
- 11.2 Failure by the Borrower or VDA Group to satisfy when due any material liens, claims, or judgments against the Borrower or VDA Group, in any event for an amount not lower than EUR 100,000.00 (One Hundred thousand euros) in aggregate, unless its failure to pay is caused by (i) an administrative or technical error; or (ii) a Disruption Event; and payment is made within three (3) Business Days of its due date.
- 11.3 Any material misrepresentation or material breach of any covenant in any documents or submissions made by the Borrower in this Agreement, in any Security Document or in the Subordination Agreement.
- 11.4 The Borrower defaults in the performance or observance of any of its obligations under or in respect of this Agreement (other than a payment obligation in respect to the principal and/or interest) and/or the Security Documents and/ or any other Finance Document and such default (if capable of being remedied) is not remedied within thirty (30) days.
- 11.5 Filing or action for VDA Group to be declared in a state of insolvency or any similar proceedings affecting the rights of creditors generally, including any proceedings provided for by Italian Royal Decree of 16 March 1942, No. 267, as amended, supplemented or replaced from time to time also by Italian Legislative Decree of 12 January 2019, No. 14, unless the filing or action is rejected or successfully challenged within 30 Business Days.

- 11.6 Filing or action against the Borrower to obtain the bankruptcy (*faillite*), insolvency, moratorium (*moratoire*), controlled management (*gestion contrôlée*), suspension of payments (*sursis de paiement*), court-ordered liquidation (*liquidation judiciaire*), voluntary liquidation (*liquidation volontaire*) or reorganization or any similar proceedings affecting the rights of creditors generally, unless the filing or action is rejected or successfully challenged within 30 Business Days.
- 11.7 If the Borrower or VDA Group (i) is unable or admits inability to pay its debts as they fall due; or (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law; or (iii) suspends or threatens to suspend making payments on any of its debts; or (iv) by reason of actual financial difficulties, commences negotiations with one or more of its creditors (excluding the Lender in its capacity as such) with a view to rescheduling any of its indebtedness.
- 11.8 Any attachment, sequestration, distress or execution or any analogous process for a debt amount no lower than EUR 100,000 (one hundred thousand) in any jurisdiction that affects any asset or assets of the Borrower or VDA Group and is not discharged within twenty (20) Business Days.
- 11.9 The Borrower or VDA Group ceases to carry on (or threatens to cease to carry on) all or a substantial part of its business except as a result of any disposal allowed under this Agreement.
- 11.10 It is or becomes unlawful for the Borrower or VDA Group to perform any of its obligations under this Agreement or a Security Document created or expressed to be created or any subordination created under the Subordination Agreement is or becomes unlawful.
- 11.11 Any obligation or obligations of the Lender or VDA Group under this Agreement or a Security Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lender.
- 11.12 The Investor Senior Loan or a Security Document ceases to be in full force and effect or any subordination created under the Subordination Agreement ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than the Lender) to be ineffective.
- 11.13 The Borrower or VDA Group rescinds or purports to rescind or repudiates or purports to repudiate all or part of this Agreement, a Security Agreement or the Subordination Agreement.
- 11.14 Any other material change that may adversely affect the Borrower's ability to fulfill its obligations under this Agreement.
- 11.15 If VDA Group fails to perform contractual obligations under the SPA.

## 12. ACCELERATION

At any time after the occurrence of an Event of Default which is continuing after the elapse of the time period described in Clause 11 above, the Lender may, by written notice to the Borrower:

- 12.1 declare all or part of the Investor Senior Loan, as well as all accrued interest thereon and any other sum then payable under this Agreement to be immediately due and payable, whereupon such amounts shall become so due and payable; and/or
- 12.2 declare all or part of the Investor Senior Loan to be payable on demand whereupon the same shall become payable on demand.

## 13. REPRESENTATIONS AND WARRANTIES

- 13.1 Each of the Parties hereby represents, warrants and undertakes to the other that:
  - a) it has the legal right, full power and authority to execute and deliver, and to exercise its rights and perform its obligations under this Agreement;
  - b) all corporate action required by it to validly and duly authorise the execution and delivery of, and the exercise of its rights and the performance of its obligations under this Agreement has been duly taken;
  - c) the execution and performance of this Agreement does not and will not breach its articles of incorporation or other constitutional documents or any agreement or obligation by which it is bound or violate any applicable law;
  - d) this Agreement (when executed) will constitute its valid and binding obligations, enforceable in accordance with its terms;
- 13.2 The Borrower further gives the Warranties and makes the Representations in Appendix 2 to this Agreement on the date of this Agreement and on any Interest Payment Date.
- 13.3 All the documents and information, which have been supplied in any form to, or in the interest or for the benefit of, the Lender by the Borrower and/or the Guarantor and/or their directors, officers, managers, employees, auditors, counsels, advisors and consultants, in connection with the preparation, negotiation and execution of this Investor Senior Loan Agreement and/or for the purpose of legal and tax due diligence are accurate, correct and complete.
- 13.4 Lender represents and warrants to, and agrees with, the Borrower that the following is true and complete as of the Closing:
  - a) Purchase for Own Account. The Lender understands that the Agreement has not been registered, and will not be registered, under the Securities Act of 1933, as amended (the “**Act**”) on the basis of the exemption provided by Section 4(a)(2) of the Act and Regulation D promulgated thereunder. The Lender represents that it is acquiring the Investor Senior Loan and as the case may be, the Conversion Shares solely for its own account and beneficial interest for investment and not for sale or with a view to distribution of the Investor Senior Loan or Conversion Shares or any part thereof.
  - b) Ability to Bear Economic Risk. The Lender acknowledges that investment in the Investor Senior Loan or Conversion Shares involves a degree of risk, and represents that it is able, without materially impairing its financial condition, and without being obliged to do so, to hold the Loan or Conversion Shares for an indefinite period of time.
  - c) Restricted Securities. The Lender is aware that the Investor Senior Loan and Conversion Shares or any portion thereof are deemed “restricted securities” (as defined under Rule 144(a)(3) under the Act) and may not be sold unless an applicable exemption exists under applicable US and/or non-US securities laws.
  - d) Accredited Investor Status. The Lender is an “Accredited Investor” as such term is defined in Rule 501(a) under the Act.
  - e) Further Limitations on Disposition. Without in any way limiting the representations set forth above, the Lender further agrees not to make any disposition of all or any portion of the Investor Senior Loan or Conversion Shares unless and until:
    - (i) There is then in effect a Registration Statement under the Act covering such proposed disposition and such disposition is made in accordance with such Registration Statement; or
    - (ii) The Lender shall have notified the Borrower of the proposed disposition and if reasonably requested by the Borrower, Lender shall have furnished the Borrower with an opinion of counsel, reasonably satisfactory to the Borrower, that such disposition will not require registration under the Act or any applicable state securities laws.

- f) No Bad Actor Disqualification. No “bad actor” disqualifying event described in Rule 506(d)(1)(i)-(viii) of the Act (a “Disqualification Event”) is applicable to the Lender or, to the Lender’s knowledge, any Lender Covered Person (as defined below), except for a Disqualification Event as to which Rule 506(d)(2)(ii-iv) or (d)(3), is applicable.

“**Lender Covered Person**” means, with respect to the Lender as an “issuer” for purposes of Rule 506 promulgated under the Act, any Person listed in the first paragraph of Rule 506(d)(1).

## 14. GUARANTEE:

- 14.1. VDA Group as Guarantor irrevocably and unconditionally, jointly and severally (*solidairement et indivisiblement*) as a principal obligor and not merely as a surety and on the basis of obligations directly enforceable against it:
  - a) guarantees to the Lender punctual performance by each other Obligor of all that Obligor’s obligations under this Agreement or any other Finance Document;

- b) undertakes with the Lender that whenever an Obligor does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it was the principal obligor; and
- c) agrees with the Lender that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Lender immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under a Finance Document on the date when it would have been due.

14.2 The Borrower agrees to enforce and/or perform the obligations of VDA Group under the SPA.

#### 14.4 Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under Finance Document regardless of any intermediate payment or discharge in whole or in part.

#### 14.5 Reinstatement

If any payment by any Obligor or any discharge, release or arrangement given by the Lender (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is avoided or reduced for any reason whatsoever (including, without limitation, as a result of insolvency, business rescue proceedings, administration, liquidation, winding-up or otherwise):

- a) the liability of each Obligor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- b) the Lender shall be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, avoidance or reduction had not occurred.

#### 14.6 Waiver of Defences

The obligations of the Guarantor under this Clause 14 will not be affected by any act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Clause 14 (without limitation and whether or not known to it or to the Lender) including:

- a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor;

- c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- f) any unenforceability, illegality, invalidity suspension or cancellation of any obligation of any person under any Finance Document or any other document or security;
- g) any insolvency, liquidation, winding-up, business rescue or similar proceedings (including, but not limited to, receipt of any distribution made under or in connection with those proceedings);
- h) this Agreement or any other Finance Document not being executed by or binding against any other Guarantor or any other party; or
- i) any other fact or circumstance arising on which a Guarantor might otherwise be able to rely on a defence based on prejudice, waiver or estoppel.

#### 14.7 Guarantor intent

Without prejudice to the generality of Clause 14.6 (*Waiver of defences*), the Guarantor - also in derogation to article 1956 of the Italian Civil Code - expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

#### 14.8 Immediate Recourse

The Guarantor waives any right it may have of first requiring the Lender to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 14. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

#### 14.9 Appropriations

Until the full discharge of the obligations of the Borrower and any other Obligor or Guarantor, the Lender may:

- a) refrain from applying or enforcing any other moneys, security or rights held or received by it in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall be not entitled to the benefit from the same; and
- b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this Clause 14.



#### 14.10 Deferral of Guarantors' Rights

Until the full discharge and unless the Lender otherwise directs, the Guarantor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 14:

to be indemnified by an Obligor;

- a) to claim any contribution from any other guarantor or provider of security for any Obligor's obligations under the Finance Documents;
- b) to take the benefit (in whole or in part and whether by way of subrogation, cession of action or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- c) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 14.1 (*Guarantee and Indemnity*);
- d) to exercise any right of set-off against any Obligor; and/or
- e) to claim, rank, prove or vote as a creditor or shareholder of any Obligor in competition with any Finance Party.
- f) If the Guarantor receives any benefit, payment or distribution in relation to such rights, it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Lender by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for, or otherwise for the benefit of, the Lender and shall promptly pay or transfer the same to the Lender.

#### 14.11 Additional Security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently granted to the benefit or held by the Lender.

#### 14.12 Limitation

- a) In any event and independent of provisions to the contrary in this Agreement, the Parties agree, including pursuant to Article 1938 of the Italian Civil Code, that the maximum amount that VDA Group must pay under its obligations as Guarantor pursuant to this Agreement shall not exceed the total of:
  - (i) the aggregate amount of any loan made available to the Guarantor by the Borrower on the basis of the on-lending referred to in Recital E;
  - (ii) any shareholder loan in favor of the Guarantor; and
  - (iii) any other credit granted from time to time under a documentary letter of credit, a guarantee, or any other transaction establishing a financial obligation by the Borrower or another member of its group from which the Guarantor or one of its subsidiaries receives a direct advantage;

PROVIDED THAT the maximum liability of the Guarantor pursuant to this Agreement shall not exceed, in any case, USD 6,700,000 (six million seven hundred thousand United States Dollars).

b) Obligations of the Guarantor shall not include, and shall not extend to any indebtedness (if any) incurred by the Borrower in respect of any amounts of the Investor Senior Loan the purpose or actual use of which is:

- (i) the acquisition of the Guarantor (and/or of any entity controlling it), including any related costs and expenses; or
- (ii) a subscription for any shares in the Guarantor (and/or any entity controlling it), including any related costs and expenses; or
- (iii) the refinancing thereof.

c) With respect to the fulfilment of mandatory requirements under Italian law, with reference to (A) the maximum allowable interest rate (namely Italian Law no. 108 of 7 March 1996, as amended, transposed, or supplemented from time to time, as well as Article 1815 of the Italian Civil Code) and (B) the capitalization of interest (namely Article 1283 of the Italian Civil Code and Article 120 of the Italian Legislative Decree No. 385 of 1 September 1993), the Parties agree that the obligations of the Guarantor under this section do not contain or include (1) any interest that, pursuant to Italian Law no. 108 of 7 March 1996, as amended, transposed, or supplemented from time to time, is to be classified as usurious and (2) any compound interest on amounts in arrears which violate the provisions of Article 1283 of the Italian Civil Code and Article 120 of the Italian Legislative Decree No. 385 of 1 September 1993 and any relevant implementing regulation, each as amended, supplemented or implemented from time to time.

#### 14.13 Special Provisions

a) Financing Right of First Refusal. (a) Up until the date falling thirty-one (31) calendar months from the Effective Date, the Borrower and the Guarantor will use their best efforts to grant to the Lender a right of first refusal to provide any Additional Financing (as defined below) to be issued by TKOI and/or any of its subsidiaries, subject to the following terms and conditions. From and after the date hereof, prior to the incurrence of any additional indebtedness and/or the sale or issuance of any equity interests of TKOI and/or any of its subsidiaries ("**Additional Financing**"), the Borrower and/or the Guarantor shall notify the Lender of TKOI's intention to enter into such Additional Financing. In connection therewith, the Borrower and/or the Guarantor shall submit a fully executed term sheet (a "**Proposed Term Sheet**") to the Lender setting forth the terms, conditions and pricing of any such Additional Financing (such financing to be negotiated on "arm's length" terms and the terms thereof to be negotiated in good faith) proposed to be entered into by TKOI and/or any of its subsidiaries. The Lender shall have the right, but not the obligation, to deliver its own proposed term sheet (the "**Lender Term Sheet**") setting forth the terms and conditions upon which Lender would be willing to provide such Additional Financing to the Borrower and the Guarantor. The Lender Term Sheet shall contain terms no less favorable to TKOI than those outlined in Proposed Term Sheet. The Lender shall deliver such Lender Term Sheet within ten (10) business days of receipt of each such Proposed Term Sheet. If the provisions of the Lender Term Sheet are at least as favorable to TKOI, as the case may be, as the provisions of the Proposed Term Sheet, TKOI and/or such subsidiary shall enter into and consummate the Additional Financing transaction outlined in the Lender Term Sheet.

b) Board Seat. Within thirty (10) days of the execution of this Agreement, VDA Group will use its best efforts to ensure that TKOI appoints a representative of the

Lender a seat on the board of directors of TKOI (the “**Board Appointment**”), subject to mandatory provisions of US law and the SPA.

c) Financial Information Rights. VDA Group will use its best efforts to ensure that, upon request, TKOI delivers to the representative of the Lender: (a) the audited consolidated balance sheet and statements of income, changes in stockholders’ equity and of cash flows of TKOI as at the end of each fiscal year; (b) the unaudited consolidated balance sheet and statements of income, changes in stockholders’ equity and of cash flows of TKOI as at the end of each fiscal quarter; (c) the regularly prepared internal monthly financial statements; and (d) the annual operating budget of TKOI for the forthcoming fiscal year (collectively, “TKOI Financial Information”. If any TKOI Financial Information furnished to Lender is non- public or to be held confidentially, VDA Group shall so designate.

d) Financing Right of First Refusal. (a) The Borrower and/or the Guarantor hereby grant to the Lender a right of first refusal to provide any VDA Additional Financing (as defined below) to be issued by the Borrower and/or the Guarantor and/or any of their subsidiaries, subject to the following terms and conditions. From and after the date hereof, prior to the incurrence of any additional indebtedness and/or the sale or issuance of any equity interests of the Borrower and/or the Guarantor or any of their subsidiaries (“**VDA Additional Financing**”), the Borrower and/or the Guarantor and/or any of their subsidiaries, as the case may be, shall notify the Lender of its intention to enter into such VDA Additional Financing. In connection therewith, the Borrower and/or the Guarantor and/or the applicable subsidiary thereof shall submit a fully executed term sheet (a “**VDA Proposed Term Sheet**”) to the Lender setting forth the terms, conditions and pricing of any such VDA Additional Financing (such financing to be negotiated on “arm’s length” terms and the terms thereof to be negotiated in good faith) proposed to be entered into by the Borrower and/or the Guarantor and/or such subsidiary. To the extent permitted under applicable law, the Lender shall have the right, but not the obligation, to deliver its own proposed term sheet (the “**VDA Lender Term Sheet**”) setting forth the terms and conditions upon which Lender would be willing to provide such VDA Additional Financing to the Borrower and/or the Guarantor and/or such subsidiary. The Lender Term Sheet shall contain terms no less favorable to the Borrower and/or the Guarantor and/or such subsidiary than those outlined in VDA Proposed Term Sheet. The Lender shall deliver such Lender Term Sheet within ten (10) business days of receipt of each such VDA Proposed Term Sheet. If the provisions of the VDA Lender Term Sheet are at least as favorable to the Borrower and/or the Guarantor and/or such subsidiary as the case may be, as the provisions of the VDA Proposed Term Sheet, the Borrower and/or the Guarantor and/or such subsidiary shall enter into and consummate the VDA Additional Financing transaction outlined in the VDA Lender Term Sheet.

## 15. GENERAL

### 15.1 Waivers

No failure to exercise and no delay in exercising, on the part of the Lender or the Borrower, any right, power or privilege hereunder and no course of dealing between the Borrower and the Lender shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by applicable law.

### 15.2 Notices

All notices, requests, demands or other communication to or upon the respective parties hereto shall be given or made in the English language in writing and shall be deemed to have been duly given or made at the time of delivery, if delivered by hand or courier, or if sent by facsimile, at the time of transmission (in each case, if given during normal business hours of the recipient, and on the Business Day during which such normal business hours next occur if not given during such hours on any day), to the party to which such notice, request, demand or other communication is required or permitted to be given or made under this Agreement addressed as follows:

#### If to the Lender:

Address: NOMADIX HOLDINGS LLC, 1209 Orange St., New Castle, WILMINGTON, DE 19801

Email: jack@gatewh.com

Attention: Jack Brannelly

#### if to the Borrower:

Address: VDA HOLDING S.A., 26, Boulevard Royal, L-2449 LUXEMBOURG

Email: gbianchi@essedi.lu

Attention: Giorgio BIANCHI

#### If to the Guarantor:

Address: VDA GROUP S.P.A., Pordenone, Via Lino Zanussi 3, CAP 33170, Italy

Email: piercarlo.gramaglia@vdagroup.com

Attention: Piercarlo GRAMAGLIA

or to such other address or Email as any party may hereafter specify in writing to the other.

15.3. Any payment made by the Lender to the Borrower will be done to the following bank account:

Bank: Chase Bank Nomadix Holdings LLC

Account Number: 516328686

Routing Number: 021000021 (the “**Borrower Bank Account**”)

Any payment made by the Borrower or VDA Group to the Lender will be done to the following bank account:

Bank: \_Chase Bank Account #516328686 Routing #021000021 (Wire Transfers only) (the **Lender Bank Account**”).

Each Party may inform the other Parties on a different bank account opened in its name for payments under this Agreement by giving at least five (5) business days’ notice.

#### 15.4 Assignment

This Agreement shall inure to the benefit of and be binding upon the Parties, their respective successors and any permitted assignee or transferee of some or all of a party's rights or obligations under this Agreement. The Borrower shall not assign, novate or transfer all or any part of its rights or obligations hereunder to any other party. The Lender may freely assign its rights under this Agreement.

#### 15.5 Governing law

This Agreement and all matters arising from or connected with it are governed by, and shall be construed in accordance with, Luxembourg law.

#### 15.6 Luxembourg courts

The courts of Luxembourg City have exclusive jurisdiction to settle any dispute (a **Dispute**”) arising from or connected with this Agreement (including a Dispute regarding the existence, validity or termination of this Agreement) or the consequences of its nullity.

#### 15.7 Language

The language which governs the interpretation of this Agreement is the English language.

#### 15.8 Amendments

Save as otherwise provided herein, this Agreement may not be varied or otherwise modified except by an agreement in writing signed by both Parties.

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#### 15.9 Partial Invalidity

The illegality, invalidity or unenforceability to any extent of any provision of this Agreement under the law of any jurisdiction shall affect its legality, validity or enforceability in such jurisdiction to

such extent only and shall not affect its legality, validity or enforceability under the law of any other jurisdiction, nor the legality, validity or enforceability of any other provision.

#### 15.10 Costs

The Parties each agree to bear their own fees and costs with respect to the due diligence, formation and execution of both the Investor Loan Agreement and the CLA (**Total Transaction Fees and Costs**”), provided that in the event the Lender converts the debt as contemplated by the Agreement, the Lender shall be reimbursed its own share of Transaction Fees and Costs (including the fees and costs for preparing and negotiating the CLA) by the VDA Parties up to reasonable expenses.

[Signature page follows]

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IN WITNESS WHEREOF this Agreement has been executed on the date first mentioned above in three (3) originals, one for each Party.

For **NOMADIX HOLDINGS LLC**, as Lender



Name: Edward Linn HELVEY  
Title: Manager

For **VDA HOLDING S.A.**, as Borrower




Name: Giorgio BIANCHI  
Title: Director (*Administrateur*)



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Name: Tiffany HALSDORF  
Title: Director (*Administrateur*)

For **VDA GROUP S.P.A.**, as Guarantor



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Name: Piercarlo GRAMAGLIA  
Title: CEO (*Presidente del Consiglio di Amministrazione*)

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**LIST OF APPENDICES**

Appendix 1 – Subordination Agreement

Appendix 2 – Borrower Warranties and Representations

Appendix 3 – Financial Indebtedness at the date of this Agreement Appendix 4 – Shareholders' Agreement

Appendix 5 – Interests Payment Date and Amount

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**Appendix 1: Subordination Agreement**

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**Appendix 2: Borrower Warranties and Representations**

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**Appendix 3: Financial Indebtedness at the date of this Agreement**

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**Appendix 4: Shareholders' Agreement**

**Appendix 5 – Interests Payment Date and Amount**

Interest on the balance of \$5,000,000 from January 6, 2022 and \$6,500,000.00 from approximately May 21, 2022 will be calculated annually at a rate of 6% and paid quarterly on the below schedule. Interest is due on the date indicated and will be late and in breach of the Investor Loan Agreement Five (5) calendar days after the due date.

All interest payments will be paid in U.S. Dollars and wire transferred to the following account:

Nomadix Holdings LLC  
21600 Oxnard Street, Suite 1900  
Woodland Hills, CA 91367

Chase Bank Account Number: 516328686  
Routing Number: 021000021 (Wire Transfers only)

<b>Payment Number</b>	<b>Interest Period</b>	<b>Interest Amount Due (U.S. Dollars)</b>	<b>Payment Due Date</b>
1	January 6, 2022 through April, 30 2022	\$95,968	July 29, 2022
2	May 1, 2022 through May 20, 2022	\$16,129	July 29, 2022
3	May 21, 2022 through June 2022	\$44,032	July 29, 2022
4	July, August, September 2022	\$97,500	October 31, 2022
5	October, November, December 2022	\$97,500	January 31, 2023
6	January, February, March 2023	\$97,500	April 28, 2023
7	April, May, June 2023	\$97,500	July 31, 2023
8	July, August, September 2023	\$97,500	October 31, 2023
9	October, November, December 2023	\$97,500	January 31, 2024
10	January, February, March 2024	\$97,500	April 30, 2024
11	April, May, June 2024	\$97,500	July 31, 2024
12	July, August, September 2024	\$97,500	October 31, 2024
13	October, November, December 2024	\$97,500	January 31, 2025
14	January, February, March 2025	\$97,500	April 30, 2025
15	April, May, June 2025	\$97,500	July 31, 2025
16	July, August, 2025	\$45,024	August 29, 2025

All payment amounts and dates will be made on this schedule with the exception of payment number 3. Payment number 3 date will remain the same, however the final payment amount will be recalculated based on the date the \$1.5M wire is sent by Nomadix. The final amount of payment number 3 will be communicated to VDA by no later than July 1, 2021 by CBA.

Interest is calculated annually and paid quarterly. No interest on interest.

16 May 2022

PLEDGE OVER SHARES AGREEMENT

BETWEEN

(1) METI HOLDING S.à r.l.

As Pledgor 1

And

(2) Mr Arturo Iossa FASANO

As Pledgor 2

And

(3) NOMADIX HOLDINGS LLC

As pledgee

IN THE PRESENCE OF

(4) VDA Holding S.A.

The Company

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THIS PLEDGE AGREEMENT has been entered into on the 16th day of May 2022

BETWEEN

(1) **METI HOLDING S.à r.l.**, a private limited company (*société à responsabilité limitée*), incorporated and existing under the laws of Luxembourg, with registered office at 26, Boulevard Royal, L-2449 LUXEMBOURG, registered with the Register of Commerce and Companies of Luxembourg (*Registre de Commerce et des Sociétés, Luxembourg*) (“**RCSL**”), Section B under no. B217383, represented by Flavio DE PAULIS and Giorgio BIANCHI acting in their capacity as managers (*gérants*) with the right to joint signature (the “**Pledgor 1**”);

And

- (2) **Mr. Arturo Iossa FASANO**, with address at 15, Piazzale Segesta, I-20148 MILAN (the **"Pledgor 2"** and defined together with the Pledgor 1 as the **"Pledgors"**);

And

- (3) **NOMADIX HOLDINGS LLC**, a limited liability company duly organized and existing under the laws of Delaware (USA), with registered address at 1209 Orange St., New Castle, WILMINGTON, DE 19801, with File Number 7506079, represented by Edward Linn HELVEY, acting in his capacity as manager (the **"Pledgee"**);

**IN THE PRESENCE OF:**

- (4) **VDA Holding S.A.**, a public limited company (*société anonyme*) incorporated and existing under the laws of Luxembourg, with registered office at 26, Boulevard Royal, L-2449 LUXEMBOURG, registered with the RCSL, Section B under no. 239150, represented by Giorgio BIANCHI and Tiffany HALSDORF, acting in their capacity as directors (*administrateurs*) with the right to joint signature (the **"Company"**);

The Pledgors and the Pledgee being referred to as the **"Parties"**.

**RECITALS:**

- (A) On 6 January 2022, the Company acting as borrower and the Pledgee acting as lender entered into a convertible loan agreement (the **"Convertible Loan Agreement"**). This Convertible Loan Agreement provided that the Pledgee should lend to the Company a loan in the amount of US 5,000,000.00 (five million United States Dollars). As a condition precedent under the Convertible Loan Agreement, the Parties entered into a share pledge agreement (the **"Initial Share Pledge Agreement"**).
- (B) By an investor senior loan agreement dated 16 May 2022 (the **"Investor Senior Loan Agreement"**) made by and between the Company acting as borrower and the Pledgee acting as lender, it was agreed that the Pledgee shall lend to the Company a loan in the amount of 6,500,000.00 (six million five hundred thousand United States Dollars). The Investor Senior Loan Agreement replaces and supersedes the Convertible Loan Agreement in all aspects.
- (C) The Pledgor 1 and the Pledgor 2 are the sole shareholders of the Company. The Pledgor 1 is the holder of 212,637 (two hundred twelve thousand six hundred thirty-seven) shares with a nominal value of EUR 1 (one euro) each, representing approximately 82.76% of the outstanding shares of the Company. The Pledgor 2 is the holder of 44,295 (forty-four thousand two hundred ninety-five) shares with a nominal value of EUR 1 (one euro) each, representing approximately 17.24% of the outstanding shares of the Company.

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- (D) As a condition precedent under the Investor Senior Loan Agreement, the Pledgors have agreed, for the purpose of creating a security for the payment of all the Secured Obligations (as defined below), to enter into this Pledge Agreement which will replace the Initial Share Pledge Agreement.

**IT IS AGREED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Terms defined in the Agreements shall bear the same meaning herein, unless the context requires otherwise or unless expressly provided to the contrary.
- 1.2 In this Pledge Agreement:

**"Convertible Loan Agreement"** has the meaning conferred to it in the Recitals point A.

**"Event of Default"** has the meaning ascribed to such term in the Investor Senior Loan Agreement;

**"Financial Collateral Law"** means the Luxembourg law of 5 August 2005 on financial collateral arrangements (*Loi du 5 août 2005 sur les contrats de garantie financière*), as amended from time to time;

**"Initial Share Pledge Agreement"** has the meaning conferred to it in the Recitals point A;

**"Investor Senior Loan Agreement"** has the meaning conferred to it in the Recitals point B;

**"Pledge"** means the pledge over the Pledged Shares as provided for by this Pledge Agreement;

**"Pledge Agreement"** means this pledge agreement;

**"Pledged Shares"** means the Shares and the Related Assets pertaining thereto;

**"Related Assets"** means all present and future dividends (the **"Dividends"**), interest and other monies payable in respect of the Shares and all other rights, benefits and proceeds (including the proceeds from any sale of the Shares following an enforcement of this Pledge and, in particular, any proceeds that may not immediately be used to discharge Secured Obligations) in respect of or derived from the Shares (whether by way of redemption, capital increase, withdrawal of a shareholder, liquidation, bonus, preference, option, substitution, conversion or otherwise) except to the extent these constitute Shares;

**"Rights of Recourse"** means all and any rights, actions and claims the Pledgors may have against any person having granted security or given a guarantee for the Secured Obligations, arising under or pursuant to the enforcement of the present Pledge including, in particular, the Pledgors' right of recourse against any such entity under the terms of Article 2028 *et seq.* of the Luxembourg Civil Code (including, for the avoidance of doubt, any right of recourse prior to enforcement), or any right of recourse by way of subrogation or any other similar right, action or claim under any applicable law;

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**"Secured Obligations"** means all obligations which the Company may at any time owe to the Pledgee under or pursuant to the Investor Senior Loan Agreement;

**"Shares"** means all of the shares (*actions*) in the share capital of the Company held by, to the order or on behalf of each of the Pledgors at any time, including for the avoidance of doubt any shares which shall be issued to the Pledgors from time to time, regardless of the reason of such issuance, whether by way of substitution,

replacement, dividend or in addition to the shares held on the date hereof, whether following an exchange, division, free attribution, contribution in kind or in cash or for any other reason (the **"Future Shares"**), in which case such Future Shares shall immediately be and become subject to the security interest created hereunder;

- 1.3 In this Pledge Agreement, any reference to (a) a "Clause" is, unless otherwise stated, a reference to a Clause hereof and (b) to any agreement (including this Pledge Agreement or any of the Agreements) is a reference to such agreement as amended, varied, modified or supplemented (however fundamentally) from time to time. Clause headings are for ease of reference only;
- 1.4 This Pledge Agreement may be executed in any number of counterparts and by way of facsimile exchange of executed signature pages, all of which together shall constitute one and the same Pledge Agreement.

## 2. PLEDGE OVER SHARES (*ACTIONS*)

- 2.1 The Pledgors pledge (*gage*) the Pledged Shares in favour of the Pledgee, who accepts, as a first ranking security interest (*ûreté de premier rang*) (the **"Pledge"**) for the due and full payment and discharge of all of the Secured Obligations.
- 2.2 The Pledgors and the Pledgee request the Company and the Company, by signing hereunder for acceptance, undertakes to register the Pledge in its register of shareholders and to provide to the Pledgee a certified copy of the register of shareholders evidencing such registration on the date hereof.
- 2.3 The following wording shall be used for the registration:
- "All shares owned from time to time by [METI HOLDING S.à r.l. / Mr. Arturo Iossa FASANO] (the 'Pledgor') and, in particular, the [212,637 (two hundred twelve thousand six hundred thirty-seven)] [44,295 (forty-four thousand two hundred ninety-five)] shares of VDA Holding S.A. (the 'Company') on the date of the present registration, have been pledged in favor of NOMADIX HOLDINGS LLC acting as pledgee (the 'Pledgee'), pursuant to a pledge agreement dated 16 May 2022 (the 'New Pledge Agreement'), between the Pledgor as pledgor, the Pledgee as pledgee and the Company as the Company. The New Pledge Agreement replaces and supersedes the pledge agreement signed by the Pledgor, the Pledgee and the Company on 6 January 2022."*
- 2.4 The Pledgors and the Pledgee hereby give power to any director of the Company with full power of substitution to register the Pledge in the register of shareholders of the Company.

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- 2.5 Without prejudice to the above provisions, the Pledgors hereby irrevocably authorise and empower the Pledgee to take, or to cause any formal steps to be taken, by the directors or other officers of the Company for the purpose of perfecting the Pledge and, for the avoidance of doubt, undertake to take any such steps themselves if so directed by the Pledgee. In particular, should any such steps be required in relation to Future Shares, the Pledgors undertake to take any such steps and procure that any such steps be taken simultaneously to the issuance or receipt of Future Shares.
- 2.6 The Pledgors undertake that during the subsistence of this Pledge Agreement it will not grant any lower ranking pledge without the prior approval of the Pledgee.
- ## 3. VOTING RIGHTS AND DIVIDENDS
- 3.1 Following the occurrence of an Event of Default which is continuing, the Pledgee shall be entitled to receive all Dividends and to apply them to the Secured Obligations at its discretion.
- 3.2 Until the occurrence of an Event of Default which is continuing, the Pledgors shall be entitled to exercise all voting rights attached to the Shares in a manner which, except as otherwise provided in the Investor Senior Loan Agreement, does not (i) adversely affect this Pledge, cause an Event of Default to occur, vary the rights attaching to or conferred by all or any part of the Pledged Shares; (ii) increase the issued share capital of the Company; or (iii) issue or permit the issuing of any security or instrument (in particular the issuing of any debt security or instrument and/ or any security or instrument directly or indirectly allowing for a subscription of shares in the Company). After the occurrence of an Event of Default, the Pledgors shall not, without the prior written consent of the Pledgee, exercise any voting or other rights in relation to the Shares.
- 3.3 After an Event of Default which is continuing has occurred, the Pledgee shall be entitled to exercise the voting rights attached to the Shares in accordance with Article 9 of the Financial Collateral Law in any manner the Pledgee deems fit. The Pledgors shall do whatever is necessary to ensure that the exercise of the voting rights in these circumstances is facilitated and becomes possible for the Pledgee, including the issuing of a written proxy in any form or any other document that the Pledgee may require for the purpose of exercising the voting rights.

## 4. PLEDGORS' REPRESENTATIONS AND UNDERTAKINGS

- 4.1 Each of the Pledgors hereby represents to the Pledgee that during the subsistence of this Pledge Agreement:
- 4.1.1 it is, and will be, the sole owner of the Pledged Shares free from any encumbrance (other than deriving from this Pledge Agreement);
- 4.1.2 the Shares represent the entire issued share capital of the Company;
- 4.1.3 the Company has not declared any dividends in respect of the Shares that are still unpaid at the date hereof;
- 4.1.4 it has not sold or disposed of all or any of its rights, title and interest in the Pledged Shares;

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- 4.1.5 it has the necessary power to enable it to enter into and perform its obligations under this Pledge Agreement;
- 4.1.6 this Pledge Agreement constitutes its legal, valid and binding obligations and the Pledge, once perfected in accordance with Clause 2 (*Pledge over Shares*), creates an effective first priority security over the Pledged Shares enforceable in accordance with its terms.
- 4.2 Without the Pledgee's prior written consent and in any event save as otherwise provided in the Investor Senior Loan Agreement, the Pledgors shall not:
- 4.2.1 sell or otherwise dispose of all or any of the Shares or of its rights, title and interest in the Pledged Shares;



- 4.2.2 create, grant or permit to exist any (a) encumbrance or security interest over, or (b) restriction on the ability to transfer or realise all or any part of the Pledged Shares (other than, for the avoidance of doubt, the Pledge); or
- 4.2.3 approve an increase of share capital unless the Pledgors subscribes for all such Future Shares.
- 4.3 Each of the Pledgors hereby undertakes that, during the subsistence of this Pledge Agreement:
- 4.3.1 it shall cooperate with the Pledgee and sign or cause to be signed all such further documents and take all such further action as the Pledgee may from time to time reasonably request to perfect and protect this Pledge or to exercise its rights under this Pledge Agreement;
- 4.3.2 as shareholder of the Company, it shall act in good faith to maintain and exercise its rights in the Company, and in particular shall neither knowingly take any steps nor do anything which could adversely affect the existence of the security interest created hereunder or the value thereof; and
- 4.3.3 without prejudice to Clause 3 (*Voting Rights and Dividends*), it shall inform the Pledgee at least five (5) business days prior to any resolution or meeting of the shareholders of the Company, as well as of the agenda thereof.

## 5. POWER OF ATTORNEY

- 5.1 Each of the Pledgors irrevocably appoints the Pledgee to be its attorney and in its name and on its behalf to execute, deliver and perfect all documents (including any share transfer forms and other instruments of transfer) and do all things that the Pledgee may consider to be requisite for (a) carrying out any obligation imposed on the Pledgors under this Pledge Agreement, or (b) exercising any of the rights conferred on the Pledgee by this Pledge Agreement or by law, it being understood that the enforcement of the pledge over the Pledged Shares must be carried out as described in Clause 6 (*Remedies upon Default*) hereunder.
- 5.2 The Pledgors shall ratify and confirm all things done and all documents executed by the Pledgee in the exercise of that power of attorney, provided that such power of attorney shall not be exercisable prior to the occurrence of an Event of Default which is continuing save for such power of attorney necessary for the perfection of this Pledge Agreement.

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## 6. REMEDIES UPON DEFAULT

Following the occurrence of an Event of Default if the Secured Obligations are due and payable and remain unpaid the Pledgee shall be entitled to realise the Pledged Shares in the most favourable manner provided for by Luxembourg law and may, in particular, but without limitation:

- 6.1 appropriate the Pledged Portfolio in which case the Pledged Portfolio will be valued at its market value, as determined by the Pledgee in its sole, commercially reasonable discretion. The Pledgee may, at its discretion, appoint a third party to make (or to assist the Pledgee in making) such valuation;
- 6.2 if applicable, appropriate the Pledged Shares at its list price (if the Pledged Shares is admitted to the official list of a stock exchange located in Luxembourg or abroad, or if it is traded on a regulated market functioning regularly, recognised and open to the public);
- 6.3 sell the Pledged Shares in a private sale on normal commercial terms, in a sale organised by a stock exchange (to be chosen by the Pledgee) or in a public sale (organised at the discretion of the Pledgee and which, for the avoidance of doubt, does not need to be made by or within a stock exchange);
- 6.4 request a judicial decision that the Pledged Shares be attributed to the Pledgee in discharge of the Secured Obligations following a valuation of the Pledged Shares made by a court- appointed expert; or
- 6.5 establish a set off between the Secured Obligations and the Pledged Shares.

The Pledgee shall apply the proceeds of the sale in paying the costs of that sale or disposal and in or towards the discharge of the Secured Obligations, in accordance with the terms of the Facility Agreement.

## 7. EFFECTIVENESS OF COLLATERAL

- 7.1 The Pledge shall be a continuing security and shall not be considered as satisfied or discharged or prejudiced by any intermediate payment, satisfaction or settlement of any part of the Secured Obligations and shall remain in full force and effect until it has been discharged by the express written release thereof granted by the Pledgee.
- 7.2 The Pledge shall be cumulative, in addition to, and independent of every other security which the Pledgee may at any time hold as security for the Secured Obligations or any rights, powers and remedies provided by law and shall not operate so as in any way to prejudice or affect or be prejudiced or affected by any security interest or other right or remedy which the Pledgee may now or at any time in the future have in respect of the Secured Obligations.
- 7.3 This Pledge shall not be prejudiced by any time or indulgence granted to any person, or any abstention or delay by the Pledgee in perfecting or enforcing any security interest or rights or remedies that the Pledgee may now or at any time in the future have from or against the Pledgors or any other person.

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- 7.4 No failure on the part of the Pledgee to exercise, or delay on its part in exercising, any of its rights under this Pledge Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any further or other exercise of that or any other rights.
- 7.5 For the avoidance of doubt, the Pledgors hereby waive any rights arising for it now or in the future (if any) under Article 2037 of the Luxembourg Civil Code.
- 7.6 The Pledgee or any of its agents shall not be liable by reason of (a) taking any action permitted by this Pledge Agreement; (b) any neglect or default in connection with the Pledged Shares; or (c) the realisation of all or any part of the Pledged Shares, except in the case of gross negligence or wilful misconduct on their part.

## 8. INDEMNITY

8.1 The Pledgee shall not be liable for any loss or damage suffered by the Pledgors, save in respect of such loss or damage which is suffered as a result of wilful misconduct or gross negligence.

8.2 The Pledgee shall be indemnified on first demand for any costs or damages of any nature whatsoever relating to the enforcement of the pledge over all or part of the Pledged Shares that are incurred by the Pledgee.

## **9. RIGHTS OF RECOURSE**

9.1 The Pledgors irrevocably agree to waive their Rights of Recourse if the relevant person against whom the Rights of Recourse are to be exercised has come under the direct or indirect control of the Pledgee or any third party following or in connection with, the enforcement of the Pledge.

9.2 Without prejudice to Clause 10.1 above, this Clause shall remain in full force and effect notwithstanding any discharge, release or termination of this Pledge (whether or not in accordance with Clause 8.1 of this Pledge Agreement).

## **10. PARTIAL ENFORCEMENT**

Subject to Clause 7 (*Remedies upon Default*), the Pledgee shall have the right, to request enforcement of all or part of the Pledged Shares in its most absolute discretion. No action, choice or absence of action in this respect, or partial enforcement, shall in any manner affect the Pledge created hereunder over the Pledged Shares, as it then shall be (and in particular those Shares which have not been subject to enforcement). The Pledge shall continue to remain in full and valid existence until enforcement, discharge or termination hereof, as the case may be.

## **11. ARTICLES OF ASSOCIATION OF THE COMPANY; WAIVER BY PLEDGORS**

The Pledgors agree that all restrictions, prohibitions, mechanisms concerning the transfer of shares of the Company, as stated in the articles 7, 8 and 9 of the articles of association of the Company will not apply to the Pledgee in the event of an enforcement of the Pledge so that the Pledgee became a new shareholder of the Company. In particular, to the extent necessary, the Pledgors hereby unconditionally and irrevocably waive any and all rights of preference, drag-along or tag along under the articles 7, 8 and 9 of the articles of association of the Company with respect of a transfer of shares of the Company to the Pledgee in an enforcement of the Pledge.

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## **12. COSTS AND EXPENSES**

All the Pledgee's reasonable costs and expenses (including legal fees, stamp duties and any value added tax) incurred in connection with (a) the execution of this Pledge Agreement or otherwise in relation to it; (b) the perfection of the collateral hereby constituted; or (c) the exercise of its rights, shall be reimbursed to the Pledgee.

## **13. CURRENCY CONVERSION**

For the purpose of, or pending the discharge of, any of the Secured Obligations the Pledgee may convert any money received, recovered or realised or subject to application by it under this Pledge Agreement from one currency to another, as the Pledgee may see fit and any such conversion shall be effected at the Pledgee's spot rate of exchange for the time being for obtaining such other currency with the first currency.

## **14. NOTICES**

Any notice or demand to be served by one person on another pursuant to this Pledge Agreement shall be served by registered mail with acknowledgement of receipt.

## **15. SUCCESSORS**

15.1 This Pledge Agreement shall remain in effect despite any amalgamation or merger (however effected) relating to the Pledgee, and references to the Pledgee shall be deemed to include any assignee or successor in title of the Pledgee and any person who, under any applicable law, has assumed the rights and obligations of the Pledgee hereunder or to which under such laws the same have been transferred or novated or assigned in any manner.

15.2 For the purpose of Articles 1278 *et seq.* of the Luxembourg Civil Code and any other relevant legal provisions, to the extent required under applicable law and without prejudice to any other terms hereof and in particular Clause 15.1 hereof, the Pledgee hereby expressly reserves and the Pledgors agree to the preservation and assignment of this Pledge and the security interest created thereunder in case of assignment, novation, amendment or any other transfer of the Secured Obligations or any other rights arising under the Facility Agreement.

15.3 To the extent a further notification or registration or any other step is required by law to give effect to the above, such further registration shall be made and the Pledgors hereby give power of attorney to the Pledgee to make any notifications and/or to require any required registrations to be made in the register of shareholders of the Company, or to take any other steps, and undertake to do so themselves if so requested by the Pledgee.

## **16. AMENDMENTS AND PARTIAL INVALIDITY**

16.1 Changes to this Pledge Agreement and any waiver of rights under this Pledge Agreement shall only be valid if made in writing.

16.2 If any provision of this Pledge Agreement is declared by any judicial or other competent authority to be void or otherwise unenforceable, that provision shall be severed from this Agreement and the remaining provisions of this Pledge Agreement shall remain in full force and effect. The Pledge Agreement shall, however, thereafter be amended by the Parties in such reasonable manner so as to achieve, without illegality, the intention of the parties with respect to that severed provision.

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## **17. GOVERNING LAW AND JURISDICTION**

17.1 This Pledge Agreement is governed by and shall be construed in accordance with the laws of Luxembourg.

- 17.2 The courts of Luxembourg have exclusive jurisdiction to settle any dispute arising from or connected with this Pledge Agreement including a dispute regarding the existence, validity or termination of this Pledge Agreement or the consequences of its nullity. The Parties agree that the courts of Luxembourg are the most appropriate and convenient courts to settle any dispute arising from or connected with this Pledge Agreement and, accordingly, that they will not argue to the contrary.

[Signature page to follow]

This Pledge Agreement has been duly executed by the Parties and the Company in four (4) originals on 16 May 2022, each Party and the Company declaring having received one original.

**For the Pledgee**

**NOMADIX HOLDINGS LLC**

/s/ Edward Linn HELVEY

Name: Edward Linn HELVEY

Title: Manager

**For the Pledgor 1**

**METI HOLDING S.à r.l.**

/s/ Flavio DE PAULIS

Name: Flavio DE PAULIS

Title: Manager (*gérant*)

/s/ Giorgio BIANCHI

Name: Giorgio BIANCHI

Title: Manager (*gérant*)

**The Pledgor 2**

/s/ Arturo Iossa FASANO

Name: Arturo Iossa FASANO

By signing hereunder for acceptance, the Company acknowledges and accepts the existence of this Pledge Agreement and security interest created hereunder over the Pledged Shares for the purposes of the Financial Collateral Law, takes notice of the terms thereof, undertakes to duly register forthwith this Pledge in its register of shareholders and to provide the Pledgee with a certified copy of the register, evidencing the registration of the present Pledge on the date hereof.

**For the Company VDA Holding S.A.**

/s/ Giorgio BIANCHI

Name: Giorgio BIANCHI

Title: Director (*administrateur*)

/s/ Tiffany HALSDORF

Name: Tiffany HALSDORF

Title: Director (*administrateur*)

**Exhibit 99.12**

To:

**VOA Group S.p.A.**

Viale Lino Zanussi,3 33170 Pordenone (Italy)

Attention: Piercarlo Gramaglia

Attention: Alberto Nogarotto

**VOA Holding S.A.**

26, Boulevard Royal

L-2449 Luxembourg

Attention: Giorgio Bianchi

16 May 2022

**Ref: VOA Group S.p.A. - Pledge over shares - acceptance**

Dear Sirs,

We hereby acknowledge receipt of the proposal of VOA Holding S.A. relating to entering into a deed of pledge over shares, which we reproduce herein below duly signed and initialized on each page for unconditional and irrevocable acknowledgement and acceptance.

"To:

**Nomadix Holdings LLC**

1209 Orange St., New Castle, WILMINGTON, DE 19801

USA

Attention: Jack Brannelly

**VOA Group S.p.A.**

Viale Lino Zanussi,3

33170 Pordenone (Italy)

Attention: Piercarlo Gramaglia

Attention: Alberto Nogarotto

16 May 2022

**Ref: VOA Group S.p.A. - Pledge over shares - proposal**

Dear Sirs,

Following our recent discussions, please find attached hereunder our proposal concerning the terms and conditions of the deed of pledge over shares:

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**THIS DEED OF PLEDGE OVER SHARES** is made between:

- (1) **VOA Holding S.A.**, a public limited company (*societe anonyme*) incorporated and existing under the laws of Luxembourg, with registered office at 26, Boulevard Royal, L-2449 Luxembourg', corporate capital Euro 256,932.00, registered with the Register of Commerce and Companies of Luxembourg (*Registre de Commerce et des Societes, Luxembourg*), Section B under no. 239150, represented by Giorgio Bianchi and Tiffany Halsdorf

hereinafter being referred to as the "**Pledgor**";

- on one side, and

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- (2) **NOMADIX HOLDINGS LLC**, a limited liability company duly organized and existing under the laws of Delaware (USA), with registered address at 1209 Orange St., New Castle, WILMINGTON, DE 19801, with the Delaware Business Registry File Number 7506079, represented by Edward L. Helvey, acting in his capacity as manager as secured creditor

hereinafter being referred to as the "**Pledgee**"; or as the "**Secured Creditor(s)**";

- on the other side, and

- (3) **VDA Group S.p.A.**, a company incorporated under the laws of Italy with registered office in Pordenone, Via Lino Zanussi 3, CAP 33170, corporate capital of Euro 172,233.50, registered under the Companies Registry of Pordenone under no. 00976420307, only for the purpose of acknowledgement and acceptance of the provisions set forth hereunder, represented by Piercarlo Gramaglia

hereinafter being referred to as the "**Company**"

The Pledgor and the Pledgee being hereinafter referred to as the "**Parties**" or, individually, a "**Party**".

**BACKGROUND:**

- (A) On or about the date hereof, the Pledgor as borrower and the Secured Creditors, as lender, entered into an investor senior loan agreement (the "**Loan Agreement**"), whereby the Secured Creditors undertook to grant a convertible loan facility amounting to US Dollar \$6,500,000 to the Pledgor (the "**Loan**"); a description of the main terms of the Loan is enclosed herewith in **Schedule 1 (Description of the Secured Obligations)**;
- (B) In relation to the above, the Pledgor is required, *inter alia*, to grant a pledge over the Shares (as defined below) in order to secure the fulfilment by the Pledgor of all the obligations *vis-a-vis* the Secured Creditors (as defined below) under the Loan;
- (C) At the date hereof, the Pledgor has full and unencumbered title to (*detiene, in piena e libera proprieta*) no. 6,499 ordinary shares of the Company, which are issued in book-entry form (*form dematerializzata*) and registered in the name of the Pledgor in the securities account no. LU55 2981 0000 0005 6707 opened by the Pledgor with the Depositary (as defined below) (the "**Securities Account**"), representing in aggregate a stake equal to 100% of the share capital of the Company (the "**Shares**");
- (D) The Pledgor hereby intends to secure all its obligations *vis-a-vis* the Secured Creditors under the Loan by granting a first ranking pledge, in favour of the Secured Creditors, over the Shares of the Company in accordance with the terms set forth below;

**IT IS AGREED** as follows.

## **1. INTERPRETATION**

### **1.1 Definitions**

- (a) Save as otherwise provided herein defined terms shall have the same meaning attributed to them in the Loan Agreement, as applicable.
- (b) Unless expressly provided to the contrary in this Deed, in this Deed:

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**"Bankruptcy Law"** means the Italian Royal Decree of 16 March 1942, No. 267, as amended, supplemented or replaced from time to time also by the New Bankruptcy Law.

**"Borrower"** means the Pledgor as borrower under the Loan. **"Business Day"** has the meaning ascribed to it in the Loan Agreement.

**"Collateral"** means the Shares and the Related Assets.

**"Deed"** means this deed of pledge over Shares.

**"Decree 170"** means Italian Legislative Decree No. 170 of 21 May 2004 (*Attuazione de/la direttiva 2002/47/CE, in materia di contratti di garanzia finanziaria*).

**"Depositary"** means BPER Bank Luxembourg SA.

**"Dividends"** means all the dividends (*dividendi*) and accounts on dividends (*acconti sui dividendi*) relating to the Shares.

**"Event of Acceleration"** means the occurrence of one or more Events of Default following which the Secured Creditors have given to the Borrower the notice set out in Clause 11 of the Loan Agreement.

**"Event of Default"** means the occurrence of any Event of Default under Clause 11 of the Loan Agreement.

**"Italian Civil Code"** means the Italian *codice civile*.

**"Law on Financial Collateral"** means Luxembourg Law of 5 August 2005 on financial collateral arrangements.

**"Italian Financial Act"** means the Italian Legislative Decree no. 58/1998, as amended from time to time.

**"New Bankruptcy Law"** means Legislative Decree of 12 January 2019, No. 14.

**"New Shares"** means all the shares in the Company, of any class (*categoria*), which the Pledgor may subscribe to or otherwise acquire after the execution of this Deed, including, without limitation, the shares subscribed to following a share capital increase of the Company, whether for consideration or without consideration (*aumento def capitale a titolo oneroso* or *aumento def capitale a titolo gratuito*).

**"Party"** means a party to this Deed.

**"Pledge"** means the security interests referred to in Clause 2 (Pledge), created for the benefit of the Secured Creditors in accordance with Italian law. It is understood that the term "Pledge" also includes any and all security interests pursuant to Clause 5 (Extension of the Pledge).

**"Related Administrative Rights"** means any and all administrative rights (*diritti amministrativi*) relating to the Shares referred to under article 2352, paragraph 6, of the Italian Civil Code, including, without limitation, the right to intervene in the meetings of the shareholders of the Company, the right to request the adjournment of the meeting, the right to challenge the resolution pursuant to article 2377 of the Italian Civil Code, the right to ask the directors to call the meeting pursuant to article 2367, paragraph 1, of the Italian Civil Code, and the right to withdraw from the Company pursuant to article 2437 of the Italian Civil Code.

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**"Related Assets"** means:

- (a) all securities, financial instruments (including, without limitation, warrants for the subscription or the purchase of shares, of any class (*categoria*), of the Company, as well as any bond convertible into shares of the Company, whether issued by the Company or by any other person) or negotiable instruments of any nature, distributed or to be distributed by the Company, or subscribed to or otherwise acquired by the Pledgor, in relation to the Shares or to the New Shares;

- (b) all the assets, securities or rights, of whatever nature, attributed or to be attributed to the Pledgor in relation to the Shares or to the New Shares following the winding-up (*liquidazione*) of the Company, transformation (*trasformazione*) of the Company, reduction in the share capital of the Company (including, without limitation, any reduction following the withdrawal, even in part, of the Pledgor or the demerger of the Company), merger by incorporation of the Company into another entity, or merger by amalgamation of the Company with another entity;
- (c) the consideration paid or to be paid to the Secured Creditors following any disposal, pursuant to article 2352, paragraph 2, of the Italian Civil Code, of the option rights (*diritti di opzione*) relating to the Shares or to the New Shares, which are not exercised by the Pledgor;
- (d) the consideration paid or to be paid to the Secured Creditors following any disposal, pursuant to article 2352, paragraph 4, of the Italian Civil Code, of the shares of the Company not entirely released (*non interamente liberate*) and pledged pursuant to this Deed; and
- (e) the consideration paid or to be paid to the Secured Creditors following the early sale (*vendita anticipata*), pursuant to article 2795 of the Italian Civil Code, of the Shares, of the New Shares or of any assets referred to in this definition.

**"Relevant Entity"** means any person that has made a payment to discharge the Secured Obligations;

**"Secured Creditor(s)"** means NOMADIX HOLDINGS LLC and any of its successors or assignees (*successori a titolo patrimoniale, successori a titolo universale or aventi causa*) under the Note.

**"Secured Obligations"** has the meaning given to it pursuant to Clause 3 (Secured Obligations).

**"Secured Period"** means the period included between the date of execution of this Deed and the date when:

- (a) any and all the Secured Obligations are fully discharged (including by complete conversion of the Loan) and each payment made by any Relevant Entity is not subject to the terms for claw back (*revoca*) or ineffectiveness (*inefficacia*) referred to under articles 65 and 67 of the Bankruptcy Law or pursuant to articles 164 and 166 of New Bankruptcy Code (as from its date of entry into force) or under any other law applicable to the Relevant Entity, it being understood that where a Relevant Entity is subject to insolvency proceedings before the expiry of the terms referred to above, the Secured Period shall be deemed to have been extended until the earlier date between:
  - (i) the date of closure of the insolvency proceedings;

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- (ii) the date of issue of a final judgment rejecting any action to revoke any payment (*azione revocatoria*) made to fulfil the Secured Obligations and/or any action under article 65 of the Bankruptcy Law or article 164 of the New Bankruptcy Code (as from the relevant date of entry into force) or other similar provision applicable in the jurisdiction in which the Relevant Entity has been subject to such insolvency proceedings, concerning any of the above payments; and
  - (iii) the date of prescription, pursuant to article 69-bis of the Bankruptcy Law or article 170 of the New Bankruptcy Code (as from the date of its entry into force), or other similar provision applicable in the jurisdiction in which the Relevant Entity has been subject to such insolvency proceedings, any revocatory action (*azione revocatoria*) concerning any payment made to fulfil the Secured Obligations and/or any action pursuant to article 65 of the Bankruptcy Law or Article 164 of the New Bankruptcy Code (as from the relevant date of entry into force) or any other similar provision applicable in the jurisdiction in which the Relevant Entity has been subject to such insolvency proceedings, concerning any of the above payments,
- or, in alternative to paragraph (a) above;
- (b) the following conditions have been fulfilled:
    - (i) any Secured Obligation is fully and unconditionally discharged;
    - (ii) no Event of Default has occurred and persists;
    - (iii) the Pledgor has provided the Secured Creditors, with reference to any Relevant Entity, with the documents indicated below that, with the sole exception of the documents under (A) below, shall not be dated earlier than 5 (five) Business Days prior to the date when the condition under paragraph (i) has occurred:
      - (A) copy of the last two yearly financial statements, evidencing that its corporate capital has not been reduced for losses according to article 2482-bis of the Italian Civil Code (or any corresponding law provision applicable in the jurisdiction where the Relevant Entity has its registered office);
      - (B) a certificate (*certificato di vigenza*) issued by the competent chamber of commerce that confirms that no insolvency proceedings have been initiated in relation to the Relevant Entity (or any corresponding document available in the jurisdiction where the Relevant Entity has its registered office, if existing);
      - (C) a declaration by the chairman of the board of directors or by the sole director (or other competent management body) of the Relevant Entity, confirming that:
        - (aa) as of the date of the declaration, no insolvency proceeding is pending in relation to the Relevant Entity, nor it has been requested by third parties or by the Relevant Entity itself that an insolvency proceeding is initiated;
        - (bb) as of the date of the declaration, the Relevant Entity is not insolvent, nor, as long as the Relevant Entity is aware of, is in a situation provided in articles 2482-bis or 2482-ter or 2446 or 2447 of the Italian Civil Code, as the case may be (or any corresponding law provisions applicable in the jurisdiction where the Relevant Entity has its registered office);

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(cc) the Relevant Entity has not become insolvent, nor it will become insolvent following the payment made under the Note;

(dd) as of the date of the declaration, the Relevant Entity is not in a situation of crisis, nor it has difficulties in fulfilling its payment obligations; and

- (D) a *visura protesti* confirming that the Relevant Entity is not subject to any legal proceeding for *aprotesto* (or the corresponding document, if any, available in the jurisdiction where the Relevant Entity has its registered office, if existing).

"**Securities Account**" has the meaning given to that term in Recital (C).

"**Shares**" has the meaning given to that term in Recital (C).

"**Voting Rights**" means the voting rights relating to the Shares.

## 1.2 Construction

In this Deed, a reference to a Recital and Schedule is to a recital and schedule of this Deed.

## 2. PLEDGE

The Pledgor grants herewith a first ranking pledge over the Shares in favour of the Secured Creditors (the "**Pledge**") as security for the full and unconditional performance of the Secured Obligations (as defined below) for a maximum amount equal to \$13,000,000.00 (thirteen million U.S. dollars).

## 3. SECURED OBLIGATIONS

3.1 The Pledge secures for its entire value, and without the obligation of prior enforcement of the principal obligation or any other guarantee securing the Secured Obligations all present and future obligations, monies and indemnities (whether direct or indirect, absolute or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Pledgor towards the Secured Creditors (or any of them) pursuant to the Loan, in each case whether on account of:

- (a) principal and interest (including default interests);
- (b) fees, indemnities, costs (including legal costs), charges, taxes, compensation for damages, expenses or otherwise;
- (c) the payment obligations and the commitments undertaken by the Pledgor pursuant to this Deed; and
- (d) reimbursement obligations arising from the invalidity, ineffectiveness or unenforceability of the obligations referred to under paragraph (a) to (c) or from clawback or revocation of any payment to discharge any of such obligations.

3.2 The credits and the rights of the Secured Creditors and the relative obligations of the Pledgor as specified in the Clause 3.1 above, in security of which the Pledge under this Deed is created, are defined collectively as "**Secured Obligations**".

3.3 It is understood that, if one or more of the Secured Obligations described in Clause 3.1 above is declared invalid or unenforceable for whatever reason, this shall not affect the validity and enforceability of this Deed, which shall continue to secure the full and unconditional performance of all the other Secured Obligations referred to in this Clause 3 (Secured Obligations).

## 4. FORMALITIES FOR THE CREATION OF THE PLEDGE

- (a) The Parties hereby acknowledge that the Shares are dematerialized and deposited in the Securities Account.
- (b) Upon execution of this Deed, the Parties shall jointly inform the Depositary, with a notice in the form set out in Schedule 2 (Notice to Depositary), that the Shares have been pledged to the benefit of the Secured Creditors, and that according to the agreement of the Parties the Depositary shall act in compliance with the Secured Creditors' instructions relating to the Shares and without any further agreement or confirmation by the Pledgor.
- (c) The Pledgor and the Pledge will execute an escrow agreement as requested by the Depositary.
- (d) By no later than 30 May 2022, the Pledgor shall ensure that the Depositary delivers to the Secured Creditors an account statement of the Securities Account in authentic form or under private seal (A) showing that the Shares are deposited therein, (B) showing that the formalities of registration of the Pledge in favour of the Secured Creditors have been duly carried out and (C) acknowledging the instructions contained in the Notice to Depositary.

## 5. EXTENSION OF THE PLEDGE

### 5.1 Extension

The Pledge shall extend to any New Shares and the Related Assets.

### 5.2 New Shares

- (a) With reference to any New Shares subscribed to by the Pledgor, the Pledgor shall:
  - (i) execute and deliver to the Secured Creditors, a deed substantially in the form of this Deed;
  - (ii) procure that the Company ensures that the Depositary:  
promptly carries out the formalities described under Article 4(a) above in relation to the New Shares;
- (b) delivers to the Secured Creditors the account statement set forth under Article 4(c) above in relation to the New Shares. In addition to the actions specified at paragraph (a) above, the Pledgor shall promptly take (and procure that the Company takes) all actions and shall execute (and procure that the Company executes) all documents reasonably requested by the Secured Creditors, for the valid and enforceable extension of the Pledge to the New Shares.

### 5.3 Related Assets

With reference to each of the Related Assets, the Pledgor shall promptly:

- (a) take all actions and execute all documents, including, without limitation, a deed substantially in the form of this Deed, requested by the Secured Creditors, for the valid and enforceable extension of the Pledge to each of the Related Assets; and
- (b) procure that the Company takes all actions and execute all documents requested by the Secured Creditors, in connection with the extension of the Pledge to each of the Related Assets.

### 5.4 Provisions governing the New Shares and the Related Assets

To the extent applicable and as this Deed may be supplemented by the documents referred to in Clause 5.2 (New Shares) or Clause 5.3 (Related Assets), the provisions of this Deed shall apply to the security created over any New Shares (and, for this purpose, references to the Shares in this Deed shall include the New Shares) and to the security created over each of the Related Assets (and, for this purpose and to the extent applicable, references to the Shares in this Deed shall include each of the Related Assets).

## 6. VOTING RIGHTS AND DIVIDENDS

### 6.1 Voting Rights and Related Administrative Rights

Except as set out in Clause 6.2 (Exercise of the Voting Rights and Related Administrative Rights by the Secured Creditors), the Pledgor shall be entitled to exercise the Voting Rights and the Related Administrative Rights, provided that the Pledgor undertakes not to exercise the Voting Rights and the Related Administrative Rights in a manner which could adversely affect the validity or enforceability of the Pledge.

The Pledgor undertakes to submit to the Secured Creditors in timely fashion - as reasonably practicable - a copy of any notice of calling of any shareholders' meeting or other notice which it receives with regard to the Shares and which may be considered relevant for the purposes of the security created herein, at least 5 (five) Business Days prior to the date established for the meeting, and in any case within 5 (five) Business Days of the receipt of the notice or communication; also copy of the minutes shall be delivered, within 7 (seven) Business Days of the meeting.

For so long that the Pledgor is entitled to exercise the Voting Rights and the Related Administrative Rights, the Secured Creditors, upon request of the Pledgor, shall do whatever may be reasonably expected by them to allow the Pledgor to exercise such rights.

### 6.2 Exercise of the Voting Rights and Related Administrative Rights by the Secured Creditors

- (a) If an Event of Default has occurred and is continuing, the Secured Creditors shall be entitled (but not obliged) to exercise the Voting Rights and the Related Administrative Rights.
- (b) For the purposes of paragraph (a) above, the Secured Creditors shall send a notice to the Company and the Pledgor informing the latter that the Secured Creditors intend to exercise the Voting Rights and the Related Administrative Rights and, as a result of such notice:
  - (i) the Pledgor shall automatically lose their right to exercise the Voting Rights and the Related Administrative Rights; and
  - (ii) only the Secured Creditors, also pursuant to article 2352, paragraph 1, of the Italian Civil Code, shall have the right to exercise the Voting Rights and the Related Administrative Rights.

### 6.3 Dividends

Except as set out in Clause 6.4 (Dividends to the Secured Creditors), the Pledgor shall have the right to collect and retain the Dividends.

### 6.4 Dividends to the Secured Creditors

- (a) Only if an Event of Default has occurred and is continuing, the Secured Creditors shall send a notice to the Company and the Pledgor informing them that an Event of Default has occurred and, as a result of such notice:
  - (i) the Pledgor shall automatically lose their right to receive the Dividends; and
  - (ii) only the Secured Creditors, pursuant to article 2791 of the Italian Civil Code, shall have the right to receive the Dividends.
- (b) Therefore, in any case the Pledgor shall have the right to collect and retain the Dividends, prior to receipt by the Pledgor of a notice sent by the Secured Creditors, under paragraph (a) above.

## 7. ENFORCEMENT OF THE PLEDGE

- (a) Upon occurrence of an Event of Acceleration and at any time thereafter, the Secured Creditors, without prejudice to any other right, action or power to which they may be entitled under the applicable provisions of law, may:
  - (i) pursuant to article 2797 of the Italian Civil Code, proceed to the sale of the Shares provided that after serving on the Pledgor an injunction (*intimazione*) requiring discharge of the Secured Obligations, no full and unconditional performance of the obligations which are the object of the injunction occurs within 5 (five) days of the serving of the injunction. In relation to the sale referred to under this paragraph (a)(i), the Parties expressly agree that the Secured Creditors may carry out the sale of the Shares, in whole or in part, in one lump or in several instalments, against payment in cash or in kind, by auction or by private agreement, against full payment or an advance of part of the price. The Secured Creditors shall pay the Pledgor any amount remaining and outstanding after the full discharge of the Secured Obligation; and
  - (ii) under article 4 of Decree 170:



- (A) seize (*appropriarsi de/le*) the Collateral up to the value of the Secured Obligations in accordance with article 4, paragraph 1(b), of Decree 170; and/or, at their sole discretion
  - (B) proceed to the sale of the Collateral in accordance with article 4, paragraph 1(a), of Decree 170 and apply the proceeds of such sale in satisfaction of the Secured Obligations.
- (b) In relation to any enforcement action taken by the Secured Creditors under paragraph (a)(ii) above, the Secured Creditors, under article 4, paragraph 2, of Decree 170, will promptly notify the Pledgor (or, if applicable, the competent bodies of the reorganisation or liquidation proceedings, as the case may be) of the enforcement actions actually taken and of the proceeds of any such enforcement action.

- (c) The Parties expressly acknowledge and agree that, in relation to the Pledge, any Event of Acceleration shall constitute an "*evento determinante l'escussione de/la garanzia*" under and for the purposes of Decree 170.
- (d) Nothing in this Clause 7 (Enforcement of the Pledge) shall prejudice any other form of enforcement of the Pledge provided by applicable law (including Luxembourg law), including, without limitation, the possibility for the Secured Creditors to request the assignment of the Shares, in whole or in part, in compliance with article 2798 of the Italian Civil Code or any corresponding Luxembourg law provision, provided that the Secured Creditors shall pay the Pledgor any amount remaining and outstanding after the full discharge of the Secured Obligations.

## 8. REPRESENTATIONS AND WARRANTIES

- (a) The Pledgor represents and warrants to the Secured Creditors as follows:
  - (i) the Pledgor is the only owner of the Shares, which are not subject to any security interest, *diritto reale di godimento*, or other personal or real right (*diritto di credito* or *diritto reale*) other than, and except for, the Pledge under this Deed;
  - (ii) the Shares have been issued, subscribed and fully paid-up, in full compliance with the applicable provisions of Italian law;
  - (iii) the Shares are not subject to attachment, seizure or to any other measure restraining the capacity to dispose of or benefit from them;
  - (iv) subject to the perfection of the formalities provided herein as well as under the applicable law and regulations, pursuant to this Deed the Pledgor creates over the Shares a first priority security interest (*causa /egittima di prelazione*) in favour of the Secured Creditors as security for the full and unconditional performance of the Secured Obligations;
  - (v) the creation of the Pledge is not in breach of the applicable law and does not violate any terms of the constitutional documents of the Pledgor or of the Company, and the Pledgor has duly complied with all the obligations provided for under the applicable law and its constitutional documents for the execution of this Deed;
  - (vi) the Company is a *società per azioni* duly incorporated and validly existing under the laws of Italy, is not subject to any insolvency proceedings (*procedure concorsuali*) or winding-up (*procedura di liquidazione*), and has not disposed or is going to dispose of its assets to its creditors pursuant to article 1977 of the Italian Civil Code. There is no ground for the dissolution (*scioglimento*) of the Company;
  - (vii) neither the Pledgor nor the Company are insolvent (*in stato di inso/venza*);
  - (viii) no circumstance exists which could legitimate the withdrawal (*recesso*) of the Pledgor from the Company, nor is the Company in the situation described, respectively, in articles 2446 and 2447 of the Italian Civil Code;
  - (ix) the execution by the Pledgor of this Deed complies with the Pledgor's interest and corporate benefit.

- (b) The representations and warranties made in paragraph (a) above are made on the date hereof and shall be understood as having been repeated, with reference to circumstances which may exist from time to time, on the last day of every calendar month.

## 9. UNDERTAKINGS

Until the date of release of the Shares from the Pledge and in any event save as otherwise provided in the Loan Agreement, the Pledgor shall:

- (a) promptly upon becoming aware of them, notify the Secured Creditors, of:
  - (i) any claim or legal action, by whoever it was brought and of whatever nature, whether in Italy or abroad, in relation to the Shares; and
  - (ii) the filing of a request or application aimed at subjecting the Company to an insolvency proceeding (*procedura concorsuale*) or at obtaining the invalidity (*nullità*) of the Company;
- (b) except as provided for in this Deed, not create, and not undertake to create, over the Shares, any security interest, *diritto reale di godimento* or other personal or real right (*diritto di credito* or *diritto reale*);
- (c) if it is entitled to exercise the Voting Rights, unless authorised in writing by the Secured Creditors, abstain from voting in favour of proposals for shareholders' resolutions (*proposte di delibere assembleari*) that relate to a capital increase in kind (*aumento del capitale in natura*) by the Company;
- (d) also pursuant to article 1379 of the Italian Civil Code refrain from selling, exchanging or in any way disposing of the Shares in any manner whatsoever, and refrain from undertaking to sell, exchange or in any way dispose of the Shares in any manner whatsoever;

- (e) execute (and procure that the Company executes) each deed, agreement, document, act or certificate, and take (and procure that the Company takes) all the actions, which, in the reasonable opinion of the Secured Creditors, are either necessary or useful for a valid and enforceable:
  - (i) creation of the Pledge, in compliance with the provisions of this Deed;
  - (ii) extension of the Pledge to the New Shares and to each of the Related Assets, in compliance with the provisions of this Deed; and
  - (iii) continuation of the Pledge upon the occurrence of one or more situations described in Clause 12 (Continuation of the Pledge), in compliance with the provisions of this Deed;
- (f) co-operate with the Secured Creditors in order to protect their rights in relation to the Shares against any claims made by any third parties;

- (g) promptly inform the Secured Creditors in relation to any event described in articles 2446 and 2447 of the Italian Civil Code;
- (h) obtain the prior written consent of the Secured Creditors in relation to the amendments to the by-laws (*statuto*) of the Company which could have a material adverse effect on the Pledge and promptly send to the Secured Creditors a copy of the by-laws (*statuto*) of the Company in force from time to time;
- (i) procure that the Company abstains from exercising the powers provided for under article 2447-bis, paragraph 1, sub-paragraphs (a) and (b), of the Italian Civil Code;
- (j) at its own expense, promptly send to the Secured Creditors copies of all the communications and any other documents received from or sent to the Company, or relating to the Collateral, which affect the Collateral or the rights of the Secured Creditors under this Deed;
- (k) procure that the Company does not amend and does not undertake to amend the rights and powers, whether of administrative or of financial nature, relating to the Shares, and does not issue or undertake to issue any shares of any other type (*azioni di altre categorie*) other than ordinary shares (*azioni ordinarie*) or any bonds (*obbligazioni*) or other financial instruments of any nature whatsoever.

## 10. NOTICES

- (a) All the communications and notices relating to or in any way connected with this Deed or the Pledge shall be made by registered letter with return receipt, e-mail, *Piego Raccomandato*, (in such case, the relevant communication shall be made in the body of the certified email or attached thereto, as long as the attachment is autonomously bearing a certified date, pursuant to and in accordance with article 2800 of the Italian Civil Code) and, without prejudice to the provisions of paragraph (d) of this Clause 10 (Notices), shall be sent to the addresses specified in paragraph (b) below.
- (b) Without prejudice to the provisions of paragraph (d) of this Clause 10 (Notices), all the notices relating to or in any way connected with this Deed or the Pledge shall be sent as follows:
- (c) if to the Pledgor:

**VDA Holding S.A.**  
26, Boulevard Royal  
L-2449 Luxembourg  
Attn: Giorgio Bianchi  
Attn: Tiffany Halsdorf  
Email: qbianchi@essedi.lu  
Email: thalsdorf@essedi.lu

With a copy to:

**Moses & Singer LLP**  
405 Lexington Ave.  
New York, N.Y. 10174  
USA  
Attn: Allan Grauberd, Esq.  
Attn: Francesco DiPietro, Esq.  
Email: agrauberd@mosessinger.com  
Email: fdipietro@mosessinger.com

With a copy to:

**Gianni & Origoni**  
Via delle Quattro Fontane, 20  
I-00184 Roma (Italy)  
Attention of: Avv. Raimondo Premonte  
Email: rpremonte@gop.it

if to the Secured Creditors:

**Nomadix Holdings LLC**  
1209 Orange St., New Castle,

WILMINGTON, DE 19801 USA  
Email: jack@gatewh.com

With a copy to:

**CBA Studio Legale**  
Corso Europa 15  
1-20122 Milan  
Email: francesco.dialti@cbalex.com

With a copy to

**DSM Avocats à la Cour**  
55-57, rue de Merl  
L-2146 Luxembourg  
Attn: Mario Di Stefano  
Email: mdistefano@dsm.legal

if to the Company:

**VDA Group S.p.A.**  
Viale Lino Zanussi,3  
33170 Pordenone {Italy}  
Attn: Piercarlo Gramaglia  
Attn: Alberto Nogarotto  
Email: piercarlo.gramaglia@vdagroup.com Email:  
alberto.nogarotto@vdagroup.com

With a copy to:

**Moses & Singer LLP**  
405 Lexington Ave.  
New York, N.Y. 10174  
Attn: Allan Grauberd, Esq.  
Attn: Francesco DiPietro, Esq.  
Email: agrauberd@mosessinger.com  
Email: fdipietro@mosessinger.com

With a copy to:

**Gianni & Origoni**  
Via delle Quattro Fontane, 20  
00184 Roma {Italy}  
Attention of: Avv. Raimondo Premonte  
Email: rpremonte@gop.it

- (d) Each Party and as the case may be the Company may notify the other Party and as the case may be the Company, with at least a 5 (five) Business Days' advance notice, of the different address where it wishes to receive all the communications and notices relating to or in any way connected with this Deed or the Pledge, provided that, for the purpose of any notices and communications to be served in the context of judicial proceedings in Italy relating to the Pledge, the Pledgor hereby irrevocably elects its domicile at the registered office of the Company at Viale Lino Zanussi, 3, 33170 Pordenone (Italy).

## 11. EXPENSES AND INDEMNITIES

- (a) All the reasonable expenses, charges and costs of whatever nature, including, without limitation, legal and notarial expenses (if any) (up to a pre-agreed cap, other than (i) those fees related only to the creation of the Pledge and (ii) in case of enforcement of the Pledge), relating to or in any way connected with this Deed or the Pledge shall solely be borne by the Pledgor.
- (b) The Secured Creditors, when exercising their rights or powers pursuant to each provision of this Deed, as well as when performing its obligations pursuant to each provision of this Deed, shall be liable towards the Pledgor for any liability or costs that are unjustly caused to the Pledgor only in case of wilful misconduct or gross negligence.
- (c) Since it has been executed as an exchange of commercial correspondence, this Agreement is not subject to registration tax in Italy upon execution and a registration tax shall be due only
- (i) "in caso d'uso" event pursuant to the provisions of Article 6 of Presidential Decree No. 131 of 26 April 1986 ("**Decree No. 131**"), (ii) in case of "enunciazione" pursuant to the provisions of Article 22 of Decree No. 131 or (iii) in case of voluntary submission to the Italian tax authorities for registration. Such being the cases the registration tax will be borne by the Pledgor.

## 12. CONTINUATION OF THE PLEDGE

- (a) In case of *successione a titolo particolare* into the Secured Obligations in accordance with the terms and the conditions of the Loan Agreement, at the request of the Secured Creditors and at costs and expenses of the Secured Creditors and in the manner and at the time specified by the Secured Creditors, the Pledgor shall execute (and procure that the Company and the Depositary- as applicable - execute) any deed, agreement, document, act or certificate, and shall take (and procure that the Company takes) all the steps and actions, which are necessary or appropriate, in the opinion of the Secured Creditors, to maintain the Pledge, including, without limitation:
- (A) procuring that the Depositary carries out the formalities described under Article 4(a) above for the valid perfection and continuation of the Pledge in favour of the Secured Creditors; and

(B) procuring that the Depositary delivers to the Secured Creditors, within 10 (ten) Business Days of the formalities set out in paragraph (A) above, an account statement as set forth under Article 4(b) above.

- (b) In the event of one or more changes, of whatever nature and for whatever reason, in one or more terms of the Secured Obligations, including in case of execution of Long-Form Agreement(s), if the Secured Creditors deem it appropriate, the Pledgor shall execute at its own costs and expenses (and procure that the Company executes) any deed, agreement, document, act or certificate, and shall take at its own costs and expenses (and procure that the Company takes) all the steps and actions, which are necessary or appropriate, in the reasonable opinion of the Secured Creditors, to preserve the rights of the Secured Creditors under this Deed.

### 13. RELEASE OF THE PLEDGE

- (a) The Pledge which will be established under this Deed, as well as any and all rights and faculties of the Secured Creditor arising out of this Deed, shall remain in existence until the expiration of the Secured Period. For such purposes, upon the expiration of the Secured Period, the Pledge shall be released by the Secured Creditors, at the request and at the cost and expenses of the Pledgor.
- (b) On the date of release of the Shares from the Pledge, the Secured Creditors shall immediately authorise and instruct the Depositary to carry out the formalities for the cancellation of the Pledge in favour of the Secured Creditors and, in general, agree on and execute any deed, agreement, document, act or certificate, and take all steps and actions, which are necessary or proper, in the Pledgor's reasonable opinion, to cancel the Pledge.

### 14. MISCELLANEA

- (a) Any waiver by the Secured Creditors of their rights and powers provided herein shall produce no effect, unless such waiver is made by the Secured Creditors in writing.
- (b) The rights and powers provided in this Deed for the benefit of the Secured Creditors are in addition to, and do not exclude, any further rights or powers which the Secured Creditors have or might become entitled to under the law.
- (c) The security interests referred to in this Deed have and shall have full effect irrespective of any other security or guarantee granted by the Pledgor or by any third parties in relation to the Secured Obligations or any of them, and are in addition and without prejudice to any further security interests or guarantees which the Secured Creditors already have or to which they shall become entitled in relation to each of the Secured Obligations.
- (d) The invalidity or the unenforceability of one of the provisions contained in this Deed shall not affect, to the extent allowed by the law, the validity and the enforceability of the other provisions of this Deed. The Parties hereby undertake to conduct negotiations in good faith so as to reach an agreement on the terms of a provision which would be acceptable to all the Parties and which would have a commercial effect as similar as possible to that of the invalid or unenforceable provision to be replaced.
- (e) The Parties acknowledge that this Deed has been specifically negotiated (*costituisce oggetto di trattativa individuale*) between the Pledgor and the Secured Creditors and therefore is not subject to the requirements set out under Section II of the "*Disposizioni in materia di trasparenza de/le operazioni e dei servizi bancari e finanziari. Correttezza de/le relazioni tra intermediari e clienti*" issued by the Governor of the Bank of Italy on 9 February 2011, as amended from time to time.

### 15. GOVERNING LAW AND JURISDICTION

- (a) This Deed (save for Clause 4 (Formalities for the creation of the Pledge) is governed by Italian law and shall be construed in compliance with it. Clause 4 (*Formalities for the creation of the Pledge*) is governed by Luxembourg law and shall be construed in compliance with it, as the Securities Account is opened with **BPER** Bank Luxembourg S.A..
- (b) The Courts of Milan have jurisdiction to settle any dispute arising from this Deed, without prejudice to the fulfilment of the preventive tentative of reconciliation (*preventivo tentativo di conciliazione*) pursuant to article 5 of the Italian Legislative Decree No. 28 of 4th March, 2010 (*Attuazione dell'articolo 60 de/la legge 18 giugno 2009, n. 69, in materia di mediazione finalizzata al/a conciliazione de/le controversie civili e commerciali*), if applicable, and to the right of the Secured Creditors to seek interim measures (*provvedimenti cautelari*) or the enforcement (*esecuzione*) before any other competent court, including the Luxembourg courts.

## SCHEDULE 1

### DESCRIPTION OF THE SECURED OBLIGATIONS

Save as otherwise provided herein defined terms shall have the same meaning attributed to them in the Loan Agreement, as applicable.

**Loan Amount:** USD 6,500,000.00 (United States Dollars six million five hundred thousand/00).

**Purpose of the Loan:** funding for USD 5,000,000.00 (United States Dollars five million/00), of the purchase of TKOI Shares by VDA Group and financing for USD 1,500,000.00 (United States Dollars one million five hundred thousand/00) working capital and general corporate purposes.

**Repayment:** the Borrower shall repay the Loan in full, including the principal amount and any outstanding interest, at the expiration of the Loan Term.

**Expiration of Loan:** 6 July 2025.

**Interest:** six (6) % p.a. payable on quarterly basis on 31 March, 30 June, 30 September, 31 December of each year.

## SCHEDULE 2

## NOTICE TO DEPOSITARY

[Details of Depositary]

(the "**Depositary**")

[•], [•] 2022

Dear Sirs,

**VDA Group S.p.A. - Notice of Pledge**

We hereby give you notice that all of the shares of VOA Group S.p.A. owned by VOA Holding S.A. and deposited in the name of VOA Holding S.A. with you in the account LUSS 2981 0000 0005 6707 (the "**Account**"), have been pledged in favour of **Nomadix Holdings LLC** pursuant to a share pledge agreement entered into by exchange of commercial correspondence on [•] 2022 between **Nomadix Holdings LLC** on the one part, and **VDA Holding S.A.**, on the other part (the "**Pledge Agreement**"). The Pledge Agreement is hereby attached for your ease of reference.

The full data of the beneficiary of the pledge (the "**Pledgee**") for your records are as follows:

- Nomadix Holdings LLC, a limited liability company duly organized and existing under the laws of Delaware (USA), with registered address at 1209 Orange St., New Castle, WILMINGTON, DE 19801, with the Delaware Business Registry File Number 7506079.

We hereby irrevocably instruct you to proceed with the update of your records and, also in accordance with Article 5 of the Law on Financial Collateral, make all and every registration on the Account and in relation to the shares in order to perfect the pledge.

We irrevocably instruct you, in accordance with Article 5 of the Law on Financial Collateral, to act in compliance with the Pledgee's instructions relating to the Shares and without any further agreement or confirmation by the Pledgor.

The pledge secures the Secured Obligations (as defined in the above mentioned Pledge Agreement).

The rights to vote and receive dividends are regulated by Clause 6 (*Voting Rights and Dividends*) of the abovementioned Pledge Agreement. In particular, until the occurrence of an Event of Default (as notified by the Pledgee), the voting rights relating to the pledged shares in the shareholders' meetings of the Company and the rights to dividends, to distribution and to interests relative to the above shares shall continue to be vested into the Pledgor, all pursuant to Clause 6 (*Voting Rights and Dividends*) of the Pledge Agreement. Occurrence of an Event of Default will be promptly notified in writing to you by email from the following address: jack@gatewh.com by the Pledgee, in the person of Mr. Jack Brannelly in his capacity as General Counsel of the Pledgee, or by any other person(s) indicated to you from time to time by the Pledgee as its authorized representative(s). It remains agreed that a written communication by the Pledgee shall be considered conclusive as between the Pledgor and the Depositary.

Upon notification of an Event of Default by the Pledgee, any rights to dividends, to distribution and to interests relative to the above shares shall be paid exclusively to the pledgee, on that bank account that the Pledgee shall indicate for such purpose.

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We may dispose of the shares only by written consent of the Pledgee. As a consequence, failing such consent shown to you, no order for the sale of the shares may be carried out by you. Please acknowledge receipt of this notice confirming that the pledge over the mentioned shares in VOA Group S.p.A. has been duly noted in your records and over the Account and please provide the Pledgee an excerpt therefrom.

Best regards,

\_\_\_\_\_  
VOA Holding S.A.

\_\_\_\_\_  
**Nomadix Holdings LLC**

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We would be grateful if you could please copy the text of this letter on your letterhead and return it back to us duly executed by you in sign of full acceptance.

Yours sincerely,

**VDA Holding S.A.**

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

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Name:  
Title:

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In sign of our full and irrevocable acknowledgement and acceptance. Yours sincerely,

**Nomadix Holdings LLC**

/s/ Edward L. Helvey

Name: Edward L. Helvey

Title: Manager

BPER Bank Luxembourg S.A.

30, Boulevard Royal,

L-2449 LUXEMBOURG

(the “**Depository**”) 16 May 2022

Dear Sirs,

**VDA Group S.p.A. – Notice of Pledge**

We hereby give you notice that all of the shares of VDA Group S.p.A. owned by VDA Holding S.A. and deposited in the name of VDA Holding S.A. with you in the account LU55 2981 0000 0005 6707 (the “**Account**”), have been pledged in favour of **Nomadix Holdings LLC** pursuant to a share pledge agreement entered into by exchange of commercial correspondence on 16 May 2022 between **Nomadix Holdings LLC** on the one part, and **VDA Holding S.A.**, on the other part (the “**Pledge Agreement**”). The Pledge Agreement is hereby attached for your ease of reference.

The full data of the beneficiary of the pledge (the “**Pledgee**”) for your records are as follows:

- Nomadix Holdings LLC, a limited liability company duly organized and existing under the laws of Delaware (USA), with registered address at 1209 Orange St., New Castle, WILMINGTON, DE 19801, with the Delaware Business Registry File Number 7506079.

We hereby irrevocably instruct you to proceed with the update of your records and, also in accordance with Article 5 of the Law on Financial Collateral, make all and every registration on the Account and in relation to the shares in order to perfect the pledge.

We irrevocably instruct you, in accordance with Article 5 of the Law on Financial Collateral, to act in compliance with the Pledgee’s instructions relating to the Shares and without any further agreement or confirmation by the Pledgor.

The pledge secures the Secured Obligations (as defined in the above mentioned Pledge Agreement).

The rights to vote and receive dividends are regulated by Clause 6 (*Voting Rights and Dividends*) of the abovementioned Pledge Agreement. In particular, until the occurrence of an Event of Default (as notified by the Pledgee), the voting rights relating to the pledged shares in the shareholders’ meetings of the Company and the rights to dividends, to distribution and to interests relative to the above shares shall continue to be vested into the Pledgor, all pursuant to Clause 6 (*Voting Rights and Dividends*) of the Pledge Agreement. Occurrence of an Event of Default will be promptly notified in writing to you by email from the following address: jack@gatewh.com by the Pledgee, in the person of Mr. Jack Brannelly in his capacity as General Counsel of the Pledgee, or by any other person(s) indicated to you from time to time by the Pledgee as its authorized representative(s). It remains agreed that a written communication by the Pledgee shall be considered conclusive as between the Pledgor and the Depository.

Upon notification of an Event of Default by the Pledgee, any rights to dividends, to distribution and to interests relative to the above shares shall be paid exclusively to the pledgee, on that bank account that the Pledgee shall indicate for such purpose.

We may dispose of the shares only by written consent of the Pledgee. As a consequence, failing such consent shown to you, no order for the sale of the shares may be carried out by you. Please acknowledge receipt of this notice confirming that the pledge over the mentioned shares in VDA Group S.p.A. has been duly noted in your records and over the Account and please provide the Pledgee an excerpt therefrom.

Best regards,

For VDA Holding S.A.



Name: Giorgio BIANCHI

Title: Director



Name: Tiffany HALSDORF

Title: Director

For Nomadix Holdings LLC



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Name: Edward Linn HELVEY

Title: Manager



To: VDA Holding S.A.  
26, Boulevard Royal, L-2449 LUXEMBOURG  
To the kind attention of: Giorgio BIANCHI and Marco GOSTOLI

Luxembourg, May 16, 2022

Dear Sirs,

We have received your proposal dated on or about the date hereof regarding a subordination agreement to be entered into with You and transcribe in full the text of your proposal and return it to You, signed by a duly authorised representative as a sign of full, unconditional and irrevocable acceptance.

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Luxembourg, May 16, 2022

TO: METI HOLDING S.À R.L.,  
26, boulevard Royal,  
L-2449 Luxembourg

DISTRESS TO VALUE S.A.  
26, boulevard Royal,  
L-2449 Luxembourg

MULTIMEDIA SRL.  
Viale Lino Zanussi  
I-33170 Pordenone

NOMADIX HOLDINGS LLC,  
1209 Orange St.,  
New Castle, WILMINGTON  
DE 19801, USA

Dear Sirs,

Following our discussions please find here below the terms and conditions of our proposal relating to a subordination agreement (the **Proposal**).

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#### SUBORDINATION AGREEMENT

by and between

- (1) **METI HOLDING S.À R.L.**, a company incorporated and existing under the laws of the Grand Duchy of Luxembourg, with registered offices at 26, boulevard Royal, L-2449 Luxembourg, registered with the Register of Commerce and Companies of Luxembourg (*Registre de Commerce et des Sociétés, Luxembourg*) (“**RCSL**”), Section B under number 217383, represented by Flavio DE PAULIS and Giorgio BIANCHI, acting in their capacity as managers (*gérants*) with the right to joint signature (the “**Shareholder**”);
- (2) **DISTRESS TO VALUE S.A. -SOCIÉTÉ DE TITRISATION**, a company incorporated and existing under the laws of the Grand Duchy of Luxembourg and qualifying as a securitization company, with registered offices at 26, boulevard Royal, L-2449 Luxembourg, registered with the RCSL, Section B under number 143523, acting with respect to its compartment “G”, represented by Alberto BERDUSCO and by Natale CAPULA, acting in their capacity as directors (*administrateurs*) with the right to joint signature (“**Distress**”);
- (3) **MULTIMEDIA SRL** (formerly VDA Multimedia SpA), a company incorporated under the laws of Italy, with registered offices at Pordenone (Italy), Viale Lino Zanussi, 3, share capital of Euro 50,000 fully paid in, registered with the Companies’ Registry of Pordenone under No. 00632290938 represented by Franco DE PAULIS acting in his capacity as sole manager (*amministratore unico*) (“**MM**” and, together with the Shareholder and Distress, the “**Junior Creditors**”);

- (4) **VDA HOLDING S.A.**, a company incorporated and exist under the laws of Luxembourg, with registered offices at 26, boulevard Royal L-2449 Luxembourg, registered with the RCSL, Section B under number 239150, represented by Giorgio BIANCHI and Tiffany HALSDORF, acting in their capacity as directors (*administrateurs*) with the right to joint signature (the “**Company**”);
- (5) **NOMADIX HOLDINGS LLC**, a limited liability company duly organized and existing under the laws of Delaware (USA), with registered address at 1209 Orange St., New Castle, WILMINGTON, DE 19801, USA, with File Number 7506079, represented by Edward Linn HELVEY, acting in his capacity as Manager with the right to individual signature (the “**Senior Lender**”);

The Junior Creditor, the Company and the Senior lender are collectively defined as the “Parties”.

#### WHEREAS

- (A) On 6 January 2022, the Company and the Senior Lender entered into a convertible loan agreement (the “**CLA**”) for an amount of USD 5,000,000.00 (five million United States Dollars) (the “**Initial Loan**”). As a condition precedent under the CLA, the Junior Creditors, the Company and the Senior Lender entered into a subordination agreement (the “**Initial Subordination Agreement**”).
- (B) On 16 May 2022, the Company and the Senior Lender entered into an investor senior loan agreement (the “**Investor Senior Loan Agreement**”) for an amount of USD 6,500,000.00 (six million five hundred thousand United States Dollars) (the “**Loan**”). The Investor Senior Loan Agreement replaces and supersedes the CLA in all aspects.
- (C) As of today, the Shareholder holds 212,637 shares representing 82.76% of the Company’s corporate capital and owns certain receivables vis-à-vis the Company for an amount equal to EUR 511,500.00.
- (D) As of today, Distress owns certain receivables vis-à-vis the Company for an amount equal to EUR 2,100,000.00 as principal and EUR 278,238.85 as interests arising out of two non-convertible bonds dated 1 April 2021.

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- (E) As of today, MM owns certain receivables vis-à-vis the Company for an amount equal to EUR 1,260,562.19 arising out of the consideration for the sale of certain assets.
- (F) Each of the Junior Creditors is aware of and agrees with the terms and conditions (“**Conditions**”) of the Loan.
- (G) The Parties intend to subordinate any and all Junior Liabilities (as defined below) and in particular, but not limited to, payment to be made by the Company to each of the Junior Creditors in connection with the receivables under Recitals (C), (D) and (E) above, respectively, (the “**Junior Receivables**”) to the complete fulfilment of any obligation and full discharge of any liability of the Company under the Loan, including principal, Premium (as defined in the Conditions), interest, costs, fees and all other aggregate rights under the Loan.
- (H) The Subordination Agreement (as defined below) will replace and supersede the Initial Subordination Agreement in all aspects.

#### Now, therefore, the Parties agree as follows:

##### 1. Recitals

- 1.1 The recitals above constitute a substantial part of this agreement (the “**Subordination Agreement**”).
- 1.2 Except as otherwise expressly provided, words and expressions defined in the Conditions shall bear the same meaning herein.
- 1.3 In this letter:

“**Discharge Date**” means the date on which any and all present and future sums, liabilities and obligations whatsoever (actual or contingent) payable, owing, due or incurred by the Company under the Loan have been fully and unconditionally satisfied and discharged (including by way of complete conversion), whether or not as a result of an enforcement, and the Senior Lender is under no further obligation to provide financial accommodation to the Company and that all security granted under the Loan has been released.

“**Encumbrance**” means any mortgage, pledge, lien, hypothecation, assignment, cession *in securitatem debiti*, deposit by way of security or agreement or arrangement having a similar effect and any transfer of title by way of security; or any other agreement or arrangement (whether conditional or not and whether relating to existing or to future assets), having the effect of providing a security interest to a creditor or any agreement or arrangement to give any form of a secured claim to a creditor but excluding statutory preferences and any security interest arising by operation of law.

“**Junior Liabilities**” means any and all present and future liabilities and obligations at any time payable, owing, due or incurred by the Company to the Junior Creditors, both actual and contingent and whether incurred alone or jointly or severally or in any other capacity, and whether originally incurred by the Company or by some other person, of the Company to the Junior Creditors (or any of them).

“**Senior Liabilities**” means any and all present and future liabilities and obligations at any time payable, owing, due or incurred by the Company to the Senior Lender of any nature whatsoever and howsoever arising under or in connection with the Loan.

“**Subordinated Liabilities**” means the Junior Liabilities owed by the Company to the Junior Creditors or by any assignee or successor in right of a Junior Creditor.

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## 2. Subordination

- 2.1 With effect from the date of this Agreement, the Senior Liabilities will rank in priority to the Subordinated Liabilities, and each Junior Creditor hereby irrevocably and unconditionally subordinates its Junior Liabilities to the obligations owing by the Company to the Senior Lender.
- 2.2 The Parties agree that no payment whatsoever and in whatever form may be made by the Company in respect of the Subordinated Liabilities until after the Discharge Date, except to the extent contemplated in the Investor Senior Loan Agreement.
- 2.3 No Junior Creditor shall take, accept or receive the benefit of any Encumbrance from the Company or any direct or indirect affiliate of the Company in relation to the Subordinated Liabilities and no Junior Creditor has or shall allow any Encumbrance to arise or be created over or in respect of the Subordinated Liabilities owed to it in favour of any person.
- 2.4 Also in light of what stated under paragraph 2.1 above:
- (a) Each of the Junior Creditors undertakes not to take any action to sue, commence or join any legal proceedings against the Company in order to recover any amount due by the Company pursuant to the Subordinated Liabilities; and
  - (b) the Company and the Junior Creditors each respectively undertake that they will not exercise any rights of set-off with respect to any amount due by the Company to the relevant Junior Creditor until after the Discharge Date.
- 2.5 The subordination effected by, and the obligations of each Junior Creditor to the Senior Lender under this Agreement will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release, prejudice or otherwise exonerate all or any of the Junior Creditors from their respective obligations under this Agreement or affect such obligations including, without limitation, and whether or not known by any Junior Creditor or any other person:
- (a) any security or right of any party in respect of the Loan;
  - (b) the winding-up, bankruptcy (*faillite*), controlled management (*gestion contrôlée*), suspension of payments (*sursis de paiement*), composition with creditors (*concordat*), dissolution, administration or reorganization, or any other similar procedure generally affecting the rights of creditors, under Luxembourg or any other law, of any Junior Creditor or any other person or any change in its status, function, control or ownership;
  - (c) any of the obligations of any Junior Creditor or any other person under the Loan or under any other security relating to the Loan being or becoming illegal, invalid, unenforceable or ineffective in any respect;
  - (d) any time, waiver or other indulgence being granted or agreed to be granted to any Junior Creditor or any other person in respect of any of its obligations under the Loan or under any security arrangement relating thereto;

- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise), restatement (in each case however fundamental and of whatsoever nature and whether or not more onerous) or replacement of the Loan or any other document or security arrangement including, without limitation, any change in the purpose of, any extension of or any variation or increase in any facility or amount made available under any facility or the addition of any new facility under the Loan or other document or any variation, waiver or release of, any obligation of any Junior Creditor or any other person under the Loan or under any other security arrangement.

## 3. Governing law and jurisdiction

This Subordination Agreement shall be governed and construed in accordance with the laws of Luxembourg and any disputes concerning this Agreement, including in respect of existence, effectiveness, interpretation, performance and/or termination shall be submitted to the exclusive jurisdiction of the Courts of the City of Luxembourg.

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Should you be willing to accept the Proposal as set out above, please transcribe in full the text of this letter and return it to us and to the other addressees of this letter signed by duly authorised representatives of yours as a sign of full, unconditional and irrevocable acceptance.

Yours faithfully.

For VDA Holding S.A.

Name: Giorgio BIANCHI

Title: Director (*administrateur*)

Date : 16 May 2022



Name: Tiffany HALSDORF

Title: Director (*administrateur*)

Date : 16 May 2022

  
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We hereby confirm full, unconditional and irrevocable acceptance of the Proposal. Yours faithfully.

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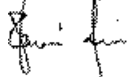
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For **METI HOLDING S.À R.L.**

Name: Flavio DE PAULIS

Title: Manager (*gérant*)

Date : 16 May 20



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Name: Giorgio BIANCHI

Title: Manager (*gérant*)

Date : 16 May 2022



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For **DISTRESS TO VALUE S.A.**

Name: Alberto BERDUSCO

Title: Director (*administrateur*)

Date : 16 May 2022



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Name: Natale CAPULA

Title: Director (*administrateur*)

Date : 16 May 2022



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For **MULTIMEDIA SRL**

Name: Franco DE PAULIS

Title: sole manager (*amministratore unico*)

Date : 16 May 2022



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For **NOMADIX HOLDINGS LLC**

Name: Edward Linn HELVEY Title: Manager

Date : 16 May 2022

