
FINANCING FOR COMPANIES

EURO PP CHARTER

INDUSTRY GUIDANCE DOCUMENT

Introduction

This "Euro PP Charter" summarises the cross-market work carried out by various actors (borrowers, investors, arrangers and other stakeholders), to produce a non-binding framework of best practices to raise the Euro PP (Euro Private Placement) as a benchmark market for companies' financing in Europe.

A Euro PP is a medium or long-term financing transaction between a company and a limited number of institutional investors, based on ad hoc documentation negotiated between the borrower and the investors, generally with the participation of an arranger.

Drafted in its first version in February 2014, the Euro PP Charter was updated in September 2019 in order to consider market developments and strengthen its efficiency. The Euro PP Charter remains an evolving document and may be subject to further modifications.

This document, which is intended for educational purposes, does not constitute a contractual documentation. In particular, attention is drawn to the importance for each party to negotiate the contractual terms, which vary according to the type of transaction, the Borrower's situation and market conditions.

In this charter, the terms "Borrower", "Investor" and "Arranger" are capitalised to designate these market participants.

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List of professional associations that support the Euro PP Charter, drafted as part of an initiative of the Paris Chamber of Commerce and Industry IDF under the auspices of the Banque de France and the General Directorate of the Treasury



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A. ISSUES AND OBJECTIVES

A.1 Euro PP Market Issues

Providing financing for companies - Capital markets and banks provide a significant share of corporate financing. In addition, the Euro PP allows listed and unlisted companies to diversify their sources of financing from Investors with whom long and lasting relationships can be established.

Initially intended for mid-cap companies, the Euro PP has been extended to companies of all sizes. Such a widening of the market is welcome as long as (i) companies have the size, financial strength and ability to manage this type of financing and (ii) investors create the means to measure and monitor the risks related to this activity.

Since it does not require a public announcement at the time of its implementation, the Euro PP allows the Borrower to exchange with the Arrangers and Investors in complete confidentiality.

Meeting investors' needs - The Euro PP offers an investment framework that serves as a reference for investors to achieve their risk diversification and financial return objectives, in compliance with their prudential and regulatory requirements and investment criteria.

A.2 The objectives of the Euro PP Charter

Determining a specific execution framework - The Euro PP Charter promotes best practices in international credit markets and, where possible, self-regulation and adoption of industry practices. It proposes a common working basis for Borrowers, Arrangers and Investors to adequately meet their respective needs.

The Euro PP Charter aims at improving access to credit for companies, raising awareness of the Euro PP among investors and making the market more fluid.

Contributing to the development of a European capital markets Union - The development of the Euro PP market is in line with the European Union's objective, expressed by the European Commission in its action plan for the establishment of a Capital Markets Union (September 2015) and reaffirmed during the review of this action plan (June 2017).

B. DEFINITION, CHARACTERISTICS AND EXECUTION PERIOD

B.1. Definition

A Euro PP is a **medium or long-term financing** transaction between a listed or unlisted company and a **limited number of institutional investors**, based on **ad hoc documentation**, negotiated between the Borrower and the Investors, generally with the participation of an Arranger

Negotiation of contractual terms and conditions is an important feature of Euro PP transactions.

In most cases, the Euro PP is held until maturity by Investors ("**buy and hold**"), which have the requirement and ability to internally analyse and monitor credit and contractual obligations. While a Euro PP is generally transferable, its secondary liquidity is in practice limited due to the limited number of Investors and their "*buy and hold*" strategy.

The Euro PP allows great flexibility in terms of financing sizes and choice of format (bond or loan). Most often redeemable at maturity, with maturities generally longer than bank financing, bearing interest at fixed or floating interest rates, it may be denominated in Euro or in any other currency, to suit the parties.

Subject to exceptions related to the context of a particular operation, the Euro PP generally:

- ranges from about 10 million euros to several hundred million euros,
- aims at financing or refinancing the Borrower's development, and
- maintains the Borrower's leverage ratio at a reasonable level (less than approximately 4x, with variations depending on the industry).

The Euro PP is complementary to other financing solutions, such as:

- A syndicated public bond issue, such as Eurobonds: this market, which involves very large volumes (over €300 billion in 2018), is the subject of an active secondary market, based on large issues (at least €300 million) placed with a very large number of investors. Eurobond are generally rated by a rating agency. Unlike a Euro PP, the characteristics of Eurobond issues are pre-negotiated, without the investor being able to participate in their negotiation.
- An issue in the form of a private placement under a Medium Term Note programme (EMTN in particular), of negotiable debt instruments (NEU CP and NEU MTN) or other commercial papers.
- A bond investment by way of a public offering offered in particular to individuals (for example, the "IBO" initiative or crowdlending participatory financing solutions).
- Quasi-equity or mezzanine financings, which may give access to the share capital of the issuing company.
- Bank financing, short and medium term, syndicated or bilateral, allocated or unallocated, generally amortizable, the basis of the commercial relationship with banks.

B.2. Characteristics

Existing formats The Euro PP can be carried out in the form of a bond issue or a loan¹.

Use of funds. The Euro PP allows the Borrower to finance both general needs and specific purposes (investments, acquisitions, projects, innovations, etc.).

The Euro PP can be labelled "green", "social" or "sustainable" when justified by the use of the proceeds. The nature of the projects or assets financed or refinanced, the precise use of the funds and the Borrower's communication commitments must then be described. Environmental, social and/or sustainable development criteria may be certified by third party experts².

Pari passu. Whatever the format chosen, a *pari passu* treatment between all senior creditors must be sought. In this context, Investors generally prefer an alignment of contractual commitments among financings of similar nature entered into by the Borrower, a sharing of security interests if any and the absence of any structural subordination.

Listing. In most cases, the Euro PP is not listed. However, to meet the investment criteria of certain investors, a Euro PP in bond format may be listed on a regulated market³ or on a multilateral trading facility⁴. In the case of a listed Euro PP or if the Borrower has also issued other listed securities, particular attention must be paid to the possible consequences of the application of Regulation (EU) No. 596/2014 of April 16, 2014 on market abuse (as amended), Directive 2004/109/EC of December 15, 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (as amended) and the rules applicable on the relevant market.

In summary, the main characteristics of the different Euro PP formats are as follows:

Format		Listing	Confidentiality	Transferability
Bonds	Bonds traded on a regulated market	Euronext Paris, Luxembourg Stock Exchange, etc.	No	Yes No limitation allowed
	Bonds traded on a multilateral trading facility	Euronext Growth, Euronext Access, Euro MTF, etc.	No ⁵	Yes No limitation allowed
	Unlisted bonds	None	Yes ⁶	Yes Limitations may be set out in a transfer approval clause (without prohibiting any transferability)
Loans		None	Yes	Yes, but only to the extent permitted by the loan agreement

¹ For this reason, we use the term "Borrower" in this document both in the case of a Euro PP in the form of a bond issue or a loan (borrowing for the Borrower). This term can refer either to a company or a public authority.

² See in particular the work of the International Capital Market Association (ICMA) on Green Bond Principles, Social Bond Principles and Sustainability Bond Guidelines and of the Loan Market Association (LMA) regarding Green Loan Principles and Sustainability Linked Loan Principles.

³ Regulated market, as defined in Article L. 421-1 of the French Monetary and Financial Code.

⁴ Multilateral Trading Facility (also often referred to by the acronym MTF), as defined in Article L. 424-1 of the French Monetary and Financial Code.

⁵ However, some multilateral trading facilities, such as the Euronext Access market, do not require the publication of an Information Memorandum.

⁶ To a certain extent only if the bonds are admitted for clearing to Euroclear France (see point of attention in Appendix 6: Article 2 of Appendix 1).

B.3. Completion timeframe

Depending on the quality of the information available, the degree of preparation of the Borrower (for example, if the Borrower has already carried out a Euro PP) and the structuring of the transaction, some Euro PPs may benefit from an accelerated procedure, with a timetable of approximately 6 weeks between its launch and the payment of funds (see illustrative Timetable below).

The execution period may be longer in the event of a parallel negotiation of a bank financing, the taking of security interests, listing of the securities to be issued (reviewed by the market authority) or other constraints specific to the Borrower (e.g. compliance with black-out periods).

Illustrative timetable (accelerated procedure)

	WEEK 1	WEEK 2	WEEK 3	WEEK 4	WEEK 5	WEEK 6
UPSTREAM PHASE						
Signature of the Mandate	■					
Designation of legal counsel		■				
Profile and preliminary analysis of the Borrower's credit	■	■	■	■	■	■
Sending and signature of the Non-Disclosure Agreement			■			
Indicative marketing term sheet approved and sent						■
Assistance in drafting the Borrower's Presentation File	■	■	■	■	■	■
DOCUMENTATION						
Drafting/negotiation of the contractual documentation			■	■	■	■
Due diligence session					■	
Designation of other service providers						■
MARKETING PHASE						
Sending the Borrower Presentation File						■
Preliminary list of Investors' questions to the Borrower			■	■	■	■
Borrower and Investor Meetings			■	■	■	■
Press release (regulation)						■
CREATION OF THE ORDER BOOK / FINALISATION						
Investor feedback / subscription intentions				■	■	
Investor Investment Committee					■	■
Final subscription agreement and order confirmation - Pricing					■	■
Signature of the documentation (Signing)						■
Payment (= pricing date + 5 business days on average)						■

C. PARTIES, DOCUMENTATION AND RECOMMENDATIONS

C.1. Parties

Good practices. Each party to a Euro PP must adhere to good practices, comply with applicable legislative, regulatory and professional standards and act with integrity to ensure high standards of execution and appropriate credit risk management in the Euro PP market both in the initial analysis and, for Investors, in the monitoring of this risk throughout the life of the instrument. The possibility for Investors to rely on a third-party opinion is not a substitute for an internal analysis conducted at the time of the transaction and of its monitoring.

Roles of the different parties. The table below summarises the role usually assigned to each of the participants in a Euro PP. However, other arrangements may be agreed between the parties concerned.

	Arranging the Euro PP	During the term of the Euro PP
Borrower	<ul style="list-style-type: none"> • Signing of the Non-Disclosure Agreement with the Potential Investors and/or the Arranger⁷ as soon as a Mandate⁸ is signed between the Borrower and the Arranger (if any) • Preparation and provision of a Borrower's Presentation File⁹ with the help of the Arranger if necessary • Presentation of the Borrower by its managers to potential Investors, in bilateral or group meetings, with the participation of the Arranger, if applicable • Delivery of "Know Your Customer" (KYC) documents¹⁰ and ESG questionnaires¹¹ • Preparation of the Term Sheet¹² • Review and negotiation of the contractual documentation¹³ with the assistance of its legal counsel 	<ul style="list-style-type: none"> • Payment of interest and redemption • Compliance with financial commitments and other covenants
Investor(s)	<ul style="list-style-type: none"> • Signature of the Non-Disclosure Agreement with the Borrower and/or the Arranger¹⁴ as soon as a Mandate¹⁵ is signed between the Borrower and the Arranger (if any) • Management of the resulting confidential and privileged information, where applicable 	<ul style="list-style-type: none"> • Receipt of contractual information and annual meeting with the Borrower if necessary. • Monitoring of the credit profile and compliance with financial commitments and other covenants • Managing any renegotiations of terms

⁷ See C.2. and Appendix 2

⁸ See C.2.

⁹ See C.2. and Appendix 1

¹⁰ See Appendix 3

¹¹ See Appendix 4

¹² See C.2. and Appendix 5

¹³ See C.2. and Appendices 6 and 7

¹⁴ See C.2. and Appendix 2

¹⁵ See C.2.

	<ul style="list-style-type: none"> • Analysis of the information received (including the Borrower's Presentation File¹⁶), in particular credit risk and all available contractual undertakings¹⁷, and request of additional information if necessary • Meeting with the Borrower at a restricted committee meeting • Review and negotiation of the Term Sheet¹⁸ • Processing "Know Your Customer" (KYC) documents¹⁹ and ESG questionnaires²⁰ • Transition to the investment committee • Review and negotiation of the contractual documentation²¹ • Release of funds 	
<p>Arranger(s)²² (credit institution or investment firm authorised to make investments)</p>	<ul style="list-style-type: none"> • Origin - Identification of potential Borrowers • Negotiation and signature of an Engagement Letter with the Borrower²³ with an undertaking of confidentiality if necessary • Selection of potential investors • Preparation of estimates, if necessary, on behalf of the Borrower (legal counsel, financial agent, bondholders' representative) • Negotiation and signature of the Non-Disclosure Agreement, if any, with the Investors and/or the Borrower²⁴ • Assistance to the Borrower in the preparation of a Borrower's Presentation File²⁵ • Organisation of information exchanges between potential Investors and the Borrower • Preparation of the Term Sheet²⁶ • Assistance to the Borrower on the pricing • Participation to a Due Diligence session, in the form of a conference call (or otherwise) with the Borrower's managers, on the basis of a questionnaire previously sent to the Borrower by the Arranger • Execution - Monitoring and assistance in the drafting and negotiation of contractual documentation and verification of prerequisites (with the Arranger's legal counsel) 	<ul style="list-style-type: none"> • Periodic valuation of listed bonds, where appropriate

¹⁶ See C.2. and Appendix 1

¹⁷ In May 2017, a working group set up by the Euro PP Committee published a collection of best practices, "Financial Analysis and Risk Management for Euro PPs", available on the Euro PP website: www.euro-privateplacement.com.

¹⁸ See C.2. and Appendix 5

¹⁹ See Appendix 3

²⁰ See Appendix 4

²¹ See C.2. and Appendices 6 and 7

²² On January 13, 2016, the French Financial Markets Association (AMAFI) published a "Code of best practices for Euro PP arrangers" aimed at standardising the good professional practices of Euro PP arranging institutions via a market standard, available on the AMAFI (www.amafi.fr) and Euro PP websites (www.euro-privateplacement.com).

²³ See C.2.

²⁴ See C.2. and Appendix 2

²⁵ See C.2. and Appendix 1

²⁶ See C.2. and Appendix 5

	<ul style="list-style-type: none"> • Securities settlement and delivery (bonds) 	
Legal counsel	<ul style="list-style-type: none"> • Borrower's Counsel: information coordination, assistance to the Borrower in the preparation of the Information Memorandum or Prospectus and negotiation of contractual documentation. issuance of a legal opinion to the benefit of the Arranger (bond) and/or initial lenders (loan), and, where appropriate, to the identified secondary lenders acceding to the loan within 15 days after signature (loan) • Arranger's Counsel: drafting the legal sections of the Information Memorandum or Prospectus and drafting and negotiation of contractual documentation. issuance of a legal opinion to for the benefit of the Arranger (bond) and/or initial lenders (loan), and, where appropriate, to the identified secondary lenders acceding to the loan within 15 days after signature (loan) • Investors' Counsel: analysis of all documentation 	<ul style="list-style-type: none"> • Borrower's / Arranger's Counsel: ad hoc advice on any issue during the life of the Euro PP (particularly in the event of renegotiation, waiver, amendment, default, etc.)
Statutory Auditors	<ul style="list-style-type: none"> • Review of financial data in the Prospectus or Information Memorandum and delivery of a comfort letter to the Arranger (in the case of a Prospectus or Information Memorandum)²⁷ 	<ul style="list-style-type: none"> • Certifying compliance with financial covenants, where appropriate
Financial Agent (bond)	<ul style="list-style-type: none"> • Review of administrative procedures • Review and negotiation of the financial service contract • Where appropriate, securities settlement and delivery (bonds) 	<ul style="list-style-type: none"> • Management of the payment of interest and redemption payments
Bondholders' representative (bond)²⁸	<ul style="list-style-type: none"> • Review of administrative procedures • In the case of a Euro PP with security interests, the Bondholders' representative may also have the task of obtaining the security interests 	<ul style="list-style-type: none"> • Missions defined contractually according to the characteristics of the Euro PP²⁹ • Transmission of information received for monitoring the Borrower's contractual commitments, if any • General duty to investor representation • In the case of a Euro PP with security interests, the Bondholders' representative may also have the task of managing the security interests • Acts as a liaison between the Investors and the Borrower for action in the event of renegotiation, waiver, amendment, default, etc.
Facility Agent (loan)	<ul style="list-style-type: none"> • Review of the Loan Agreement and negotiation • Signing of the Loan Agreement • In the case of a Euro PP with security interests, the Facility Agent may also have the task of obtaining the security interests • Call for funds from Investors. • Release of funds to the Borrower 	<ul style="list-style-type: none"> • Missions defined contractually according to the characteristics of the Euro PP³⁰ • Management of interest calculations and payments • Transmission of information received for monitoring the Borrower's contractual commitments (ratios, accounts) • In the case of a Euro PP with security interests, the Facility Agent may also have the task of managing the security interests

²⁷ See C.2.

²⁸ If the bonds have a nominal value of at least €100,000, it is possible to replace the *Masse* regime with a purely contractual representation system without a *Masse* or a Bondholders' Representative

²⁹ Depending on the tasks entrusted to the Bondholders' Representative, his remuneration will be adjusted.

³⁰ Depending on the tasks entrusted to the Facility Agent, his remuneration will be adjusted.

		<ul style="list-style-type: none"> • Acts as a liaison between the Investors and the Borrower in the event of renegotiation, waiver, amendment, default, etc.
Electronic platform (if applicable)	<ul style="list-style-type: none"> • Allows Borrowers, Arrangers, Investors and legal counsel to smoothen the exchanges, in particular for the various documents (non-disclosure agreements, Borrower's Presentation File, Term Sheet and contractual documentation), from the beginning of the transaction to its settlement 	<ul style="list-style-type: none"> • Technical communication channel between the Borrower and its Investors, in accordance with contractual commitments (communication of financial information, certificates relating to financial commitments, etc.)

C.2. Documentation

Main elements. The Euro PP documentation consists mainly of the following elements:

- **Mandate:** an engagement letter entered into between the Borrower and the Arranger which sets out the terms and conditions of the Arranger's intervention.
- **Non-Disclosure Agreement** (see Appendix 2): the transmission of confidential information (any non-public information), some of which may be privileged, is managed through the Non-Disclosure Agreement signed between the Borrower and/or the Arranger and the Investors, a form of which is set forth in Appendix 2, and in compliance with applicable laws and regulations, regardless of the format of the Euro PP (bond, listed or not, or loan).
- **Indicative marketing term sheet** (see Appendix 5): prepared by the Borrower and the Arranger at the beginning of the process, the indicative marketing Term Sheet provides Investors with a summary of the main financial and legal arrangements envisaged for the Euro PP taking the Borrower's credit risk into account.
- **Final Term Sheet:** this detailed Term Sheet is the result of negotiations between the Borrower, the Arranger, if any, and the Investors.
- **Borrower's Presentation File** (see Appendix 1): it is recommended that the Borrower, with the assistance of the Arranger, if any, gather all information regarding the Borrower in a Presentation File given to each potential Investor as soon as possible, a template of which is provided in Appendix 1.

The Borrower's Presentation File may consist of a set of documents or a single document containing all the required information.

For Euro PPs in the form of unlisted bonds, the Borrower's Presentation File containing the information described in Appendix 1 is sufficient.

For Euro PPs in the form of listed bonds, the Prospectus or Information Document serves as the Borrower's Presentation File:

- *In the case of bonds admitted to trading on a regulated market:* the **Prospectus** describes the Borrower (business, financial information, risk factors), the bonds issued (terms and conditions of the bonds and risk factors related to the bonds) and the investment terms, in accordance with the format applicable to the regulated market (Prospectus Regulation); an **admission file**

with the competent authority and an **admission file** with the market operator must also be prepared.

- *In the case of bonds admitted to trading on a multilateral trading facility such as Euronext Growth or Euro MTF: the **Information Document** describes the Borrower (business, financial information, risk factors), the bonds issued (terms and conditions of the bonds and risk factors related to the bonds) and the investment terms, in accordance with the format required by the rules of the relevant market; an **admission file** with the market operator must also be prepared.*
- ⇒ *In the case of a Prospectus or Information Document: **Comfort letter** from the Borrower's statutory auditors delivered to the Arranger or Investors, in which the statutory auditors give their opinion on any changes in certain financial information since the date of the Borrower's last audited or reviewed financial statements.*
- *For the bond format: Arranger's **due diligence questionnaire** addressed to the Borrower to complete or confirm, as the case may be, the Borrower's representations and warranties contained in the placement agreement or the subscription agreement³¹.*
- *For the bond format: **Placement or subscription agreement** (see Appendix 6) entered into between the Borrower and the Arranger or the Investors, pursuant to which the Borrower undertakes to issue the bonds, the Arranger undertakes to do its best efforts to place the bonds and/or the Investors undertake to subscribe to the bonds, based on a number of representations, warranties and undertakings made by the Borrower.*
- *For the bond format: the **terms and conditions of the bonds** (attached to the placement or subscription agreement (see Appendix 6) or, in the event of a listing, incorporated in the Prospectus or Information Document) define the characteristics of the bonds and in particular the following information: form, maturity, interest rate, issue and redemption terms, early maturity, financial and other commitments, protection and exercise of Investors' rights.*
- *For the bond format: **Financial service contract** entered into between the Borrower and the Financial Agent (if any), for the purposes of organising the financial flows during the lifetime of the bond (interest payments, redemption and methods of calculation of the amounts due, as the case may be).*
- *For the loan format: **Loan agreement** (see Appendix 7) and its appendices, signed between the Borrower and the initial lenders.*
- *In the event of security interests: **Documentation of the security interests** and, where applicable, **inter-creditor agreements***
- **Legal opinion of the** Borrower's and Arranger's legal counsel

³¹ For the loan format, these aspects are covered in the loan agreement.

Model Documentation. Within the framework of the Market work, contract templates have been drawn up to provide a practical illustration of the documentation of each type of Euro PP:

- for Euro PPs in the form of a bond issue: model form of subscription agreement, to which is attached a form of the terms and conditions of the bonds (see Appendix 6);
- for Euro PPs in the form of a loan: model form of loan agreement (see Appendix 7).

These model forms have been developed through a consensual approach to take into account the interests and constraints of each party³². It is based on market practices developed since 2012 and on the principles defined in this Charter. This documentation is also available in French, English and Italian on the Euro PP website: www.euro-privateplacement.com.

The contract templates are provided for information purposes only. In particular, attention is drawn to the importance for each party to negotiate the contractual terms of each Euro PP, to adapt it according to the type of transaction, the Borrower's situation and market conditions.

C.3 Recommendations

Digitisation. The digitisation of processes such as the validation of non-disclosure agreements or the exchange of information between Borrowers, Arrangers and Investors, during the structuring of the Euro PP and during the life of the Euro PP, enhances the efficiency of the Euro PP market for the benefit of Borrowers, Arrangers and Investors, and should be encouraged.

Financial analysis and credit risk management. Credit risk analysis and monitoring are essential for investors and market resilience. A collection of best practices in financial analysis and risk management for Euro PPs "Financial analysis and risk management for Euro PPs" is available on the website www.euro-privateplacement.com.

Dissemination of information during the life of the Euro PP. Regardless of the format chosen and whether or not there is a Facility Agent or a Bondholders' Representative, regular exchanges between the Borrower and the Investors ensure the proper conduct of the Euro PP, and in particular the smooth running of any renegotiations. It is important for the Borrower to ensure that Investors are provided with a simple and rapid method of disseminating contractual information through the Bondholders' Representative, the Facility Agent and/or an electronic platform. In all cases, financial information must be published, transmitted or made available at the same frequency and within the same time frame as to the lending banks, if any, and subject to compliance with applicable inside information rules, if any.

Communications on transactions carried out. For market monitoring, it is important to organise a certain transparency of the Euro PPs carried out: this makes it possible in particular to promote the market, to have references for the structuring and pricing of new operations and to facilitate the supervision of financial stability authorities. In any event, a Borrower may choose to keep all or part of the terms of the transaction confidential and to refuse such disclosure. Article 8 of the subscription agreement template (bond format,

³² Representatives of the various participating professional associations and stakeholders in the Euro PP market (Borrowers, Investors and Arrangers) contributed to the drafting of these templates with the help of CMS Francis Lefebvre Avocats, Gide Loyrette Nouel and Kramer Levin Naftalis & Frankel.

see Appendix 6) and Article 27.3 of the loan agreement template (loan format, see Appendix 7) are intended to allow this communication.

APPENDIX 1

Borrower's Presentation File

(subject, where appropriate, to compliance with the applicable rules on inside information)

I. Executive summary

- a. Summary description of the Company
 - (1) History, activities and markets
 - (2) Group strategy
 - (3) Organisational structure / shareholding
- b. Summary of financial performance
 - (1) Simplified financial statements
 - (2) Overview of credit ratios and group financing and financial targets
- c. Financing requirements

II. Detailed description of the Company

- a. History
- b. Management and shareholding
- c. Activities and key markets
 - (1) Diversification (market, sector, geography, etc.)
 - (2) Competitive position
 - (3) Brand
 - (4) Customer (main customers, counterparty risk management) and Suppliers
 - (5) Raw materials
 - (6) Technological developments
 - (7) Regulation
 - (8) Environmental aspects
- d. Historical financial performance
 - (1) Consolidated and company financial statements
 - (2) Cashflows
 - (3) Credit metrics
 - (4) Financing structure/liquidity/financial commitments and bank relationship
 - (5) Off-balance sheet commitments (where appropriate)
- e. Other information
 - (1) Legal matters/disputes
 - (2) Other (socially responsible investment, intellectual property, research and development, insurance, etc.)

III. Main investment considerations

- a. Strategy
 - (1) Long-term priorities and objectives
 - (2) External vs organic growth opportunity
 - (3) Social and environmental commitments
- b. Provisional elements (where appropriate³³)

³³ Borrowers considering a listing of their securities or already having listed securities must pay attention to the applicable rules on inside information, in particular regarding equal treatment and access to information for investors.

APPENDIX 2

Form of Non-Disclosure Agreement

[Borrower / Investor] / [Arranger / Investor]³⁴

Attn: []

[DATE]

RE: Confidentiality Undertaking

Dear Sirs,

In connection with a proposed private placement (the “**Transaction**”), in which [Name of potential investor] [,acting as a management company on behalf of one or more clients and/or investment vehicles under management] (“you” or the “**Recipient**”) may decide to participate, [Name of company] (the “**Company**”) [has engaged [Name of arranger] (the “**Arranger**”) and the Company and/or the Arranger] may disclose from time to time in the future to the Recipient or any Recipient affiliate or any of their respective directors, employees or legal advisers³⁵ (each a “**Representative**”) certain information concerning the Transaction, the Company or other parties involved in the Transaction which is confidential and/or proprietary in nature.

In consideration of [the Arranger or] the Company making available any such information, by signing and returning to us an executed copy of this confidentiality undertaking (the “**Undertaking**”) you agree and undertake towards [the Arranger and] the Company as set forth here below.

1. Confidential Information

For the purposes hereof, Confidential Information means any information of whatever nature, (whether financial, commercial, technical or other)³⁶, in whatever form and on whatever medium (whether in writing, in electronic form, orally or otherwise) relating to the Company, the Transaction or the parties involved in the Transaction, disclosed to or obtained by the Recipient or any Representative from [the Arranger,] the Company, [any other potential investor in the Transaction notified to the Recipient by the Company in writing (“Potential Investor”)]³⁷, or their respective Representatives, (whether or not marked as confidential or private), together with any analyses, compilations, forecasts, opinions or studies contained in any document transmitted to or prepared by the Recipient, [any other Potential Investor] or any of [its/their respective] Representative[s] and which is derived from or which reflects any such information, including the existence and contents of this Undertaking as well as the fact that any such information is being or has been

³⁴ The Non-disclosure agreement can be bilateral (between the Company and the Investor or between the Arranger and the Investor), or tripartite (among the Company, the Arranger and the Investor). In the event of a bilateral agreement between the Company and the Investor, bracketed references to the Arranger throughout the document should be deleted. Note that, in this case, confidentiality obligations of the Arranger would generally be addressed in the engagement letter entered into with the Company.

³⁵ As the case maybe, agents and financial advisers may be added. In addition, certain Investors may request to add named/unnamed individuals acting as agents on behalf of underlying investors and participating on the Recipient's investment committee.

³⁶ Depending on the type of transaction and Company and the needs of the Recipient, some or all of the following information can be disclosed by the Company to the Recipient at its sole discretion: main terms of its existing indebtedness (covenants, security interest, credit events, events of default...); Cash flow; Balance sheet; Investment policy; Dividend policy; Business plan, any other relevant information which could impact the credit quality of the Transaction etc.

³⁷ If the option of a discussion between Potential Investors is not applicable, bracketed references to the Potential Investor throughout the document should be deleted.

transmitted or that discussions or negotiations are taking place concerning the Transaction, but excluding information which:

- (i) is in the public domain at the time of its disclosure hereunder;
- (ii) thereafter comes into the public domain otherwise than through a breach of this Undertaking;
- (iii) is already lawfully in the possession of the Recipient prior to its disclosure hereunder;
- (iv) comes into the possession of the Recipient from a source which to the best of the Recipient's knowledge is not bound by a duty of confidentiality with respect to that information.

2. Non-disclosure

The Confidential Information will be treated and kept strictly confidential and will not be disclosed in whole or in part in any manner whatsoever without [the Arranger and] the Company's prior written consent or save as permitted hereunder.

3. Permitted disclosure

The Confidential Information may be disclosed by the Recipient hereunder without the prior consent of [the Arranger and] the Company:

- (i) to the Representatives of the Recipient and affiliates of the Recipient who need to know the Confidential Information for the Permitted Use (as defined hereafter) [and to investors on whose behalf the Recipient would have concluded the Transaction either *via* a management mandate or *via* an investment vehicle managed by the Recipient, provided that such disclosure is made solely for information purposes in accordance with the rules and regulations applicable to such mandate or vehicle] [and to any other Potential Investor] provided that (a) they are previously informed of the confidential nature of the Confidential Information and of the contents of this Undertaking and, (b) the Recipient has ensured that [(x)] for the Recipient's Representatives and affiliates³⁸ [and to investors on whose behalf the Recipient would have concluded the Transaction] any such Representative or affiliate agrees to observe the obligations contained herein as if it were a party to this Undertaking or is bound by obligations similar to the obligations contained hereunder either legally, statutorily or contractually towards the Recipient [or (y) for any Potential Investors, they have previously executed a similar Undertaking with the Company [and the Company has approved, in writing, both the type of Confidential Information disclosed (which should not include pricing terms) and the timing of such disclosure]] ;
- (ii) if required by law or a court order of any competent jurisdiction or pursuant to any request of any regulatory or other authority provided that, to the extent permitted by law, the Recipient notifies [the Arranger and] the Company of such requirement as soon as becoming aware of such requirement.

³⁸ As the case maybe, agents and financial advisers may be added. In addition, certain investors may request to add individuals, named or not, acting as agents on behalf of underlying investors and participating on the Recipient's investment committee.

4. Preservation of Confidentiality

The Recipient shall maintain [and shall procure that each person to whom the Confidential Information has been disclosed maintains] the confidential nature of the Confidential Information and establishes and maintains effective security measures to safeguard the Confidential Information from unauthorised access, use, copying, disclosure or which a prudent person would employ to protect that person's own confidential information.

5. Permitted Use

The Recipient agrees and undertakes and shall procure that each person to whom the Confidential Information has been disclosed agrees and undertakes to use the Confidential Information only for a Permitted Use.

For the purposes hereof, "**Permitted Use**" means the consideration, evaluation, negotiation, and monitoring of the Transaction by the Recipient or any of the Recipient's affiliates or providing advices and services in relation thereto

6. Inside Information³⁹

The Recipient agrees and acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation relating to insider dealing and the Recipient undertakes not to use such Confidential Information for any unlawful purpose in contravention of such legislation.

7. Remedies

It is agreed and acknowledged that, without prejudice to any rights or remedies (including monetary damages) that any party may have, damages may not be an adequate remedy for any breach of the provisions of this Undertaking and that, in addition to any other remedies, the Arranger and the Company shall be entitled to any remedies or injunction and specific performance (execution in specie) available under the relevant jurisdiction (or their equivalent in any jurisdiction) for any threatened or actual breach of this Undertaking.

8. Return or destruction of copies

In the event that the Recipient decides not to join the Transaction or if the Transaction is not completed for whatever reason, upon written request of [the Arranger and] the Company, the Recipient shall return to the extent practicable all originals and destroy or permanently erase all copies of Confidential Information and procure that anyone to whom the Recipient may have disclosed Confidential Information do likewise save that one copy of any such Confidential Information may however be retained if required by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or pursuant to internal proceedings, provided that, in each case, necessary measures are taken to preserve

³⁹ This article applies only if the bonds and/or the shares of the Company are listed on a regulated market or a multilateral trading facility.

the confidential nature of the Confidential Information. Any Confidential Information that is not returned or destroyed, as the case may be, shall remain subject to the obligations set forth hereunder.

9. Limitation on use

Nothing contained herein shall be construed as granting or conferring any rights by licence or otherwise in any Confidential Information, except for the right to use Confidential Information strictly in accordance with the provisions hereof.

10. Duration

The undertakings contained hereunder shall survive the termination of any discussions or negotiations between the Recipient[, the Arranger] and the Company regarding the Transaction. [Notwithstanding the above, the obligations contained hereunder shall terminate [one year] after the date all parties have executed this Confidentiality Agreement.]

[11. No warranties

It is agreed and acknowledged that the [Company and] Arranger makes no representations or warranties, express or implied, as to the quality, accuracy, reliability or completeness of the Confidential Information, will have no responsibility in connection therewith and shall be under no obligation to update or correct any such Confidential Information.]

12. Preservation of rights

Any failure by any party to exercise any right, power and privilege hereunder shall not constitute a waiver hereunder, nor shall any single or partial exercise thereof preclude any further exercise of any right, power and privilege.

13. Invalidity - Enforceability

The invalidity or unenforceability of any provision of this Confidentiality Agreement shall not affect the validity or enforceability of any other provision of this Confidentiality Agreement which shall remain in full force and effect.

14. Cumulative rights

The rights, powers and remedies provided in this Confidentiality Agreement are cumulative with and not exclusive of the rights, powers, or remedies provided by law.

15. Governing law

This Undertaking shall be governed by and construed in accordance with French Law.

16. Jurisdiction

Any dispute arising out of this Undertaking shall be submitted to the jurisdiction of the Commercial Court (Tribunal de Commerce) of Paris.

Please confirm your acceptance of the terms of this Undertaking by signing the enclosed copy and returning it via fax with hard copy to follow to:

[Name of Company]

[address]

[contact name]

Tel: + [telephone number]

Fax: + [facsimile number]

Yours faithfully,

[For and on behalf of the Company]

[For and on behalf of the Arranger]

Acknowledgement

We agree to the above

For and on behalf of [Name of Recipient]

Date:

APPENDIX 3

List of "Know your customer" (KYC) documents

(without prejudice to any other request required for the analysis)

	Documents	Requested under KYC (Investors / Arranger)	Requested as legal conditions precedent (lawyers)
Borrower and, where applicable, Guarantor	K-bis dated less than 3 months (original)	✓	✓
	Up to date by-laws (certified true and up to date)	✓	✓
	Audited annual statutory financial statements and statutory auditors' report (last financial year)	✓	✗
	Complete shareholder structure (+10%) (direct and indirect)	✓	✗
	Corporate authorisations authorising the issue (or the guarantee, as the case may be), delegating the power to issue and, where applicable, deciding on the issue (certified true)	✗	✓
	Legal representatives		
	- Identity document (identity card, passport)	✓	✗
	- List	✓	✗
	Managers /officers		
	- Identity document (identity card, passport)	✓	✗
	- List and exact function	✓	✗
	Additional document(s) depending on the complexity of the case	✓	✓
Beneficial owners	List of beneficial owners (certified true)	✓	✗
	Identity document (identity card, passport)	✓	✗
	Additional document(s) depending on the complexity of the case	✓	✗
Corporate shareholders (+10%)	K-bis dated less than 3 months (original)	✓	✗
	Up to date by-laws (certified true and up to date)	✓	✗
	Audited annual statutory financial statements and statutory auditors' report (last financial year)	✓	✗
	List of beneficial owners	✓	✗
	Legal representatives		
	- Identity document (identity card, passport)	✓	✗
	- List	✓	✗
	Managers /officers		
	- Identity document (identity card, passport)	✓	✗
Additional document(s) depending on the complexity of the case	✓	✓	

	Documents	Requested under KYC (Investors / Arranger)	Requested as legal conditions precedent (lawyers)
Undertakings for Collective Investment (UCI) shareholders	UCI		
	- UCI's rules	✓	✗
	- Certificate listing the UCI's investments	✓	✗
	- Certificate of compliance with KYC legislation applicable to the UCI's shareholders	✓	✗
	- AML-CFT / OFAC certification	✓	✗
	- AMF approval	✓	✗
	- If unregulated UCI, request of the same documents as for the issuer / borrower	✓	✗
	Management company		
	- Management company approval	✓	✗
	- Certification that the UCI is managed by the management company	✓	✗
	- AMF certificate	✓	✗
	- Audited annual statutory financial statements and statutory auditors' report (last financial year)	✓	✗
	- K-bis dated less than 3 months	✓	✗
	- Identity document (identity card, passport) of authorised signatories	✓	✗
	Additional document(s) depending on the complexity of the case	✓	✓

APPENDIX 4

ESG Borrower Questionnaire

Investors generally submit an ESG (Environment, Social, Governance) questionnaire to the Borrower before making their investment decision⁴⁰, with respect to an Euro PP as well as for their other investments. This questionnaire contains the main questions usually processed.

The Borrower must respond to it to the extent of the information available to it, the impossibility to answer a particular question not preventing it from carrying out an operation, the answers given to the ESG questionnaire only being one of the elements of the investors' analysis.

GOVERNANCE

Brief presentation of the governance of the company and of the management and supervisory bodies.

Questions:

- Existence of monitoring mechanism of actions to be taken?
- Number of members in the decision-making bodies (Board of Directors, Supervisory Board, Executive Board or equivalent) and in the committees depending on the board
- Number of independent members in the decision-making bodies
- Percentage of independent members in the decision-making bodies (Board of Directors, Supervisory Board or equivalent)
- Gender representation in the Board of Directors, the Supervisory Board, the Executive Board or any equivalent body: number or percentage
- Gender representation in the committees depending on the Board, Executive Committee and Management Committee: number or percentage

More broadly

- Have you set up a non-corruption charter, a code of ethics, a code of conduct, etc.? If so, in which areas?
- Is the company a signatory of the United Nations Global Compact?
- Do you have a formalised purchasing approach adapted to the ESG risks identified in your value chain?
- Supplier clauses (current or future contractual commitments)?
- Customer clauses (current or future contractual commitments)?
- Social clauses (current or future contractual commitments)?
- Is there any other material initiative or project you would like to promote?

⁴⁰ Article L. 533-22-1 of the French *Code monétaire et financier* requires several categories of investors to provide information on how they consider, in their investment policy, criteria relating to the respect of social, environmental and governance quality objectives.

- What is the percentage of specific internal or external ESG due diligences performed on the purchases made during the current year?
- Has the company been involved in a dispute⁴¹ with one or more of its stakeholders (investors, employees, subsidiaries, interests, shareholders, etc.)? Indicate the amount of the penalties paid over the last 5 financial years. What response or corrective action has been brought or taken by the company?
- Is the company actively involved in professional or local associations, foundations, endowments or charities?

SOCIAL

Brief presentation of the company's HR policy.

Existence of monitoring mechanism of actions to be taken?

Beyond the indicators requested, what uses and interpretations of these indicators are made by the management? Do they constitute a decision-making aid? If so, how?

Number of employees in the permanent workforce as at 31 December of financial year Y-1

- Workforce growth in the short (1 year) and medium (3-5 years) term
- Percentage breakdown of the workforce by age group
- Breakdown of the workforce:
 - men / women
 - executives / supervisors / employees
- Total wages paid, including charges, and change over the last 3 financial years
- Distribution of this amount:
 - among men and women
 - among executives / supervisors / employees
 - fixed remuneration / variable remuneration
- Share of permanent employment contracts
- Training expenses and change over the last 3 financial years
 - Percentage breakdown among executives / supervisors / employees
 - How many employees have benefited from these expenses?
 - Average duration of training per employee in hours
- Absenteeism rate and change over the last 3 financial years
 - Percentage breakdown among executives / supervisors / employees

⁴¹ "Dispute" means a dispute between several parties giving rise to legal proceedings, mediation, conciliation or arbitration.

- Resignation rate and change over the last 3 financial years
 - Percentage breakdown among executives / supervisors / employees
- Work accident frequency rate, severity rate and change over the last 3 financial years
 - Percentage breakdown among executives / supervisors / employees
- Employment of disabled people rate and change over the last 3 financial years
 - Percentage breakdown among executives / supervisors / employees
- Existence of employee representative bodies (trade union delegates, works council, etc.)
- What value-added sharing arrangements have you put in place within the company or your group?
 - Incentives, profit-sharing, employee savings, employee stock ownership
 - Supplementary retirement savings (PERCO, article 83)
 - Other benefits
 - What do this sharing and additional assistance represent in percent of the wage bill, the turnover and of result?

ENVIRONMENT

- Existence of monitoring mechanism of actions to be taken?
- Does your company have a formalised environmental approach?
- What initiatives relating to your environmental strategy have you launched or continued during the current financial year or recently?
- What environmental commitments have you made for your company?

Examples:

- Water consumption:
- Energy consumption:
- Emission of greenhouse gases:
- Waste recycling:
- Biodiversity:
- Other (specify):

Indicators

- Monitoring of the carbon footprint over the last 3 financial years
- Ton of carbon equivalent (based on turnover and workforce)

* *

*

SCHEDULE: DEFINITIONS

These definitions are largely based on the work of the ESG Commission of France Invest entitled "Recommendations to facilitate the dialogue between GPs and LPs" published in October 2017.

In general, specify, for each question, whether the company's data are consolidated with those of its subsidiaries or equity interests. If not, mention separately the same data relating to the significant subsidiaries and equity interests.

GOVERNANCE

- **Independence of members in decision-making bodies: number and percentage of independent members**

Definition

Share of independent members on average on the Board of Directors or the Board of Supervisors.

Independence of the decision-making bodies: number of independent members on the Board of Directors or the Supervisory Board / number of members on the Board of Directors or the Supervisory Board.

Taking into account censors for unlisted companies only.

AFEP's definition of the independent director

A director is independent when he or she has no relationship of any kind whatsoever with the company, its group or its management, that may interfere with his or her freedom of judgment. Thus, independent directors are not just non-executive directors (i.e. directors who do not exercise management functions in the company or its group), but also ones who do not have any particular bonds of interest (e.g. significant shareholder, employee, other) with them.

- **Formalised purchasing approach adapted to the ESG risks identified in the value chain**

Definition

Number of ESG steps formalised within its value chain, particularly with regard to its suppliers and customers (e.g. Sustainable Purchasing Charter, policy, ESG criteria, due diligence, etc.).

SOCIAL

- **Permanent and non-permanent workforce**

Definition

The permanent workforce registered as at 31 December Y designates all employees who have permanent work contracts with the company.

In countries where such permanent work contracts do not exist, an employee is deemed to belong to the permanent workforce when he meets at least one of the following two criteria:

- *his fixed-term employment contract has a duration of at least **18 months**;*
- *he has been working continuously for the company for at least 18 months.*

An employee whose employment contract ends on the last day of the year is deemed to be still registered as at that date.

Are to be included:

- employees with permanent full-time or part-time employment contracts (part-time employees count as 1);
- employees absent due to illness or leave: paid leave, unpaid leave, parental leave, sabbatical leave, business start-up leave, long-term absence;
- salaried corporate officers with pay slips;
- employees with intermittent permanent employment contracts;
- employees whose permanent employment contract is suspended, pending the resumption of their professional activity (parental leave, sabbatical leave, business start-up leave, etc.);
- expatriate employees when the company is their home company.

Are to be excluded and recorded in a separate register:

- employees with full-time or part-time fixed-term employment contracts, including specific fixed-term contracts such as work experience contracts (professionalisation and apprenticeship), replacement contracts, seasonal contracts;
- extras and individual contractors, paid or unpaid interns (with internship agreements), VIEs, temporary employees, employees made available to the company by another company, expatriate employees when the company is their host company.

The non-permanent workforce registered as at 31 December Y designates all employees who have fixed-term employment contracts with the company. The main characteristic of fixed-term employment contracts is that they indicate an end date.

In countries where such fixed-term employment contracts do not exist, an employee is deemed to belong to the non-permanent workforce when he meets at least one of the following two criteria:

- *fixed-term employment contract with a duration of less than 18 months;*
- *accumulation of several successive fixed-term employment contracts with a total duration of less than 18 months.*

Are to be included:

- employees with full-time or part-time fixed-term employment contracts, including specific fixed-term employment contracts such as work experience contracts (professionalisation and apprenticeship), replacement contracts, seasonal contracts;
- employees whose fixed-term employment contracts are suspended, pending the resumption of their professional activity (parental leave, sabbatical leave, business start-up leave, etc.).

Are to be excluded:

- extras and individual contractors;
- paid or unpaid interns (with internship agreements);
- VIEs;
- temporary employees;
- employees made available to the company by another company.

- **Jobs creation: number of jobs created**

Definition

Total number of jobs created:

- Job creation: Total hires (in the workforce) – Total departures (from the workforce)

In the event of a closing on 31 December:

- Total hires: Total hires of permanent and non-permanent employees between 1 January and 31 December of year Y. These are hires external to the company.
- Total departures: Total departures of permanent and non-permanent employees between 1 January and 31 December of year Y whatever the reasons – retirement and early retirement, at the initiative of the employee, at the initiative of the employer, others.

- **Accident frequency rate monitoring: number and percentage of participations**

Definition

Number and percentage of participations with an annual follow-up of the accident frequency rate and the accident severity rate.

As a reminder:

- The frequency rate is the number of accidents resulting in work stoppages of more than one day, having occurred during a 12-month period, per million working hours
- Frequency rate (FR) = (number of accidents resulting in work stoppages/hours worked) x 1,000,000
- The severity rate is the number of compensated days per 1,000 hours worked (i.e. the number of days lost due to temporary incapacity per 1,000 hours worked)
- Severity rate (SR) = (number of days lost due to temporary incapacity/hours worked) x 1,000

Are to be included:

- work accidents resulting in work stoppages of at least 1 day;
- accidents occurring during travels for the company in working hours;
- accidents to employees who left the company during the year Y.

Are to be excluded:

- accidents sustained while travelling to or from work.

- **Absenteeism rate monitoring:**

Definition

Absenteeism rate: Number of hours of absence (paid or unpaid) on the permanent and non-permanent workforce

Number of actual hours worked on the permanent and non-permanent workforce

Are to be included:

- hours of absence of employees who left the company during the year Y
- hours of absence due to ordinary diseases
- hours of absence due to occupational diseases
- hours of absence following a work accident
- hours of absence following a commuting accident
- unjustified hours of absence
- hours of absence due to strikes and stoppages
- other hours of absence: layoffs, paid advance notice periods not worked in the event of dismissal, redeployment leave, etc.

Are to be excluded:

- paid leaves
- recovery days
- French *RTTs*
- maternity, paternity and adoption leaves
- parental leaves
- sabbatical leaves
- unpaid leaves
- business start-up leaves
- hours of absence due to training

- **Turnover monitoring:**

Definition

Turnover: Total departures from the permanent workforce during year Y / Permanent workforce as at 31 December Y

OR: [(total hires plus total departures Y-2)] / workforce as at 31 December Y-1.

- **Value-sharing:**

Existence of a mechanism for value-sharing beyond legal obligations.

Definition

Examples of value-sharing mechanisms: employee shareholders (excluding executive committee or equivalent), profit-sharing or collective bonus mechanism beyond the legal obligation corresponding to the remuneration of a collective performance, savings plans, etc.

ENVIRONMENT

- **Monitoring of the carbon footprint over the last 4 years:**

Definition

Greenhouse gas record or environmental footprint over the last 4 years (Scope 1 & 2 or Scope 1, 2 & 3).

Specify whether the subsidiaries have held the same records

- **Existence of a formalised environmental approach**

To be detailed

Specify whether the subsidiary(ies) or equity interests have formalised an environmental approach or policy.

Evolution per year and policy regarding water and paper consumption, recycling, etc.

APPENDIX 5

Indicative Marketing Term Sheet

Issuer / Borrower	[●]
Nationality of the Issuer / Borrower	[●]
Instrument	[Euro PP Bond] / [Euro PP Loan]
Use of proceeds	General corporate purposes / Refinancing / Acquisition financing, etc.
Status	Senior secured / Senior unsecured
[Guarantor]	[(if any)]
[Security package]	[(description of securities if any)]
Currency	[EUR]
Targeted Amount	[EUR] [●] million
Rating	[Financial/Extrajinancial/No external rating]
Listing	Yes / No (+ specify targeted market if Listing)
Targeted Maturity(ies)	[●] years
Reference Rate	[EUR Midswap] / [Euribor 6m] / ...
Indicative Spread	[●] bps p.a.
[Targeted Coupon]	[●] % p.a.
Amortizing profile	[100%, bullet repayment at maturity]
Reference documentation	[Euro PP Bond] / [Euro PP Loan] ⁴² (http://www.euro-privateplacement.com/index.htm)
Usual Clauses	<ul style="list-style-type: none"> • Information undertakings: Yes/No [Specificities if any] • Negative Pledge: Yes/No [Specificities if any] • Pari Passu: Yes [Specificities if any] • Cross Default: Yes/No [Specificities if any, i.e. threshold level] • Change of Control: Yes/No [Specificities if any] • Permitted Acquisitions: Yes/No [Specificities if any] • Permitted Distribution: Yes/No [Specificities if any] • Permitted Indebtedness: Yes/No [Specificities if any] • Make Whole / Early redemption clause: Yes/No [to be defined and specificities if any] • [...]

⁴² <http://www.euro-privateplacement.com>

Financial Covenants	<p>Examples of financial covenants:</p> <ul style="list-style-type: none"> • [Net Leverage [Yes/No] < [•]x] • [Net Gearing [Yes/No] < [•]x] • [Interest Cover [Yes/No] > [•]x] • [Loan to Value [Yes/No] < [•]x] <p>Each covenant will be tested [half-yearly] on [30/06] and [31/12] of each year</p>																
Joint Bookrunner(s)	[•]																
Governing Law	[•] Law																
Indicative Timetable	<table> <tr> <td>[•]/[•]/[•]</td> <td>Expected Launch of the transaction</td> </tr> <tr> <td>[•]/[•]/[•]</td> <td>Investor presentation sent to investors</td> </tr> <tr> <td>[•]/[•]/[•]</td> <td>Investor meetings / conference calls</td> </tr> <tr> <td>[•]/[•]/[•]</td> <td>Draft Legal Documentation sent to investors</td> </tr> <tr> <td>[•]/[•]/[•]</td> <td>Deadline for comments to the documentation</td> </tr> <tr> <td>[•]/[•]/[•]</td> <td>Close of order-book</td> </tr> <tr> <td>[•]/[•]/[•]</td> <td>Allocation / Pricing</td> </tr> <tr> <td>[•]/[•]/[•]</td> <td>Settlement</td> </tr> </table>	[•]/[•]/[•]	Expected Launch of the transaction	[•]/[•]/[•]	Investor presentation sent to investors	[•]/[•]/[•]	Investor meetings / conference calls	[•]/[•]/[•]	Draft Legal Documentation sent to investors	[•]/[•]/[•]	Deadline for comments to the documentation	[•]/[•]/[•]	Close of order-book	[•]/[•]/[•]	Allocation / Pricing	[•]/[•]/[•]	Settlement
[•]/[•]/[•]	Expected Launch of the transaction																
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[•]/[•]/[•]	Allocation / Pricing																
[•]/[•]/[•]	Settlement																
Specificities of the transaction	[•]																

APPENDIX 6

Sample Subscription Agreement and Bond Terms and Conditions (*bond format*)¹

SUBSCRIPTION AGREEMENT

Dated []

between

[]

As Issuer

and

[]

and

[]

As Subscriber[s]

In respect of

the issue by the Issuer of its € [] [] per cent. Notes
due []

Notice

This form documentation is provided solely for information purposes. It is intended to provide a practical illustration of the note documentation that can be used within the scope of the Euro PP Charter. It is designed to be adapted as per the negotiations between the Issuer and the Subscriber(s) in accordance with the terms of Article 1110 of the French Civil Code.

This form documentation was drafted for use in the context of an unlisted, unrated, unsecured issue of note(s), bearing interest at a fixed rate, in registered form and admitted to the operations of Euroclear France.

It will be necessary to adapt this documentation for any issue which may fall outside the scope of the aforementioned framework. Special attention is drawn to the importance for each party to negotiate the contractual terms of each transaction (particularly the information and undertakings clauses, for which the corresponding provisions of the form loan agreement may be used), which will vary based, inter alia, on the specific characteristics of the transaction in question, the Issuer's circumstances, and market conditions.

The relationship between the arranger(s) and/or the dealers of the transaction, if any, and the Issuer, are governed, at the choice of the parties, by a mandate agreement to be drawn up and negotiated separately or by this subscription agreement, which must be modified in this respect.

The need, if applicable, to ensure the confidentiality of the information communicated by the Issuer at the time of the preparation of the issue and/or during the life of the notes issue can be covered in the non-disclosure agreement, a form of which can be found in the Euro PP Charter, and/or within the scope of this documentation (in which case, such provisions should be supplemented).

None of the contributors (direct or indirect, authors or participants in the various working groups and market consultations) to the preparation of this documentation shall incur any liability due to its content.

This document has been produced in co-operation with the International Capital Market Association.

¹ Acknowledgements for their contribution to the drafting of this document to CMS Francis Lefebvre Avocats, Gide Loyrette Nouel and Kramer Levin Naftalis & Frankel.

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THIS SUBSCRIPTION AGREEMENT (THE "AGREEMENT") IS ENTERED INTO BETWEEN:

1. [], a [] company having its registered office at []
(the "**Issuer**"), on the first part, and
2. [], a [] company having its registered office at [],
[[], a [] company having its registered office at []],
(the "**Subscriber[s]**"), on the second part.

WHEREAS:

- (A) The Issuer proposes to issue [€] [] [] per cent. notes due [] (the "**Notes**"). The terms and conditions of the Notes (the "**Conditions**", "**Condition**" referring to a specific article of the Conditions) are set out in Schedule 1 of this Agreement.

If permitted by the context and unless otherwise set forth, the terms and expressions defined in the Conditions shall have the same meaning in this Agreement.
- (B) The issue of the Notes by the Issuer was authorised pursuant to a resolution of the [general meeting/of the shareholders/ of the associates / [board of directors/executive board/manager][manager's/ chairman's decision] of the Issuer dated []][and decided by the[] of the Issuer dated[]].
- (C) The Notes shall be issued in dematerialised registered form (*au nominatif*) in the denomination of [€] [100,000] each. Title to the Notes shall be evidenced by book-entries (*inscription en compte*), in accordance with Article L. 211-3 of the French Monetary and Financial Code. No physical document of title (including *certificats représentatifs* pursuant to article R. 211-7 of the French Monetary and Financial Code) will be issued in respect of the Notes.²
- (D) A fiscal agency agreement relating to the Notes (the "**Fiscal Agency Agreement**") shall be entered into between the Issuer and [], as fiscal agent, paying agent, [calculation agent] and registrar (the "**Fiscal Agent**") at the latest on the Settlement Date.

IT HAS BEEN DECIDED AND AGREED AS FOLLOWS:

1. SUBSCRIPTION

Subject to the provisions of this Agreement, the Issuer undertakes to issue the Notes and the Subscriber[s] [, severally and not jointly,] undertake[s] to subscribe and pay for [the Notes/the number of Notes as indicated for each of them in Schedule 2 of this Agreement (the "**Subscription Commitment**") on the Settlement Date (as defined in Article 2) at a price equal to [] % of the total nominal amount of the Notes (the "**Subscription Price**").

2. SETTLEMENT³

Subject to the satisfaction of all of the conditions precedent mentioned in Article 6, the Fiscal Agent shall pay the Issuer the Subscription Price at the latest by [11 a.m. (Paris time)] on [] or at any other time and/or date as may be agreed between the Issuer and the Fiscal Agent (the "**Settlement Date**") in immediately available funds by transfer to, or to the order of, the Issuer. Such payment shall be made subject to (i) the Issuer having taken all necessary steps for said payment and having obtained (or a representative acting in its name and on its behalf having obtained) confirmation by Euroclear France that the Notes are inscribed in the books of the Fiscal Agent on the Settlement Date, and (ii) the Fiscal Agent having received from the Subscriber[s] [, acting severally and not jointly,] the payment [of the Subscription Price/of their respective Subscription Commitments].

² To be adapted if the Notes are issued in different form (e.g. materialized notes) or are not subject to French law.

³ To be adapted for issues not subject to French law or for Notes settled in different clearing systems or outside of any clearing system.

The Issuer confirms that it has instructed the Fiscal Agent to deliver to Euroclear France in its name and on its behalf, in accordance with the DSD Forms (as defined below), an accounting letter (*lettre comptable*) relating to the Notes, at the latest one (1) Business Day prior to the Settlement Date. The Notes shall be held by Euroclear France to the order of the Issuer until payment of the Subscription Price by the Fiscal Agent.

On the Settlement Date, the Issuer shall cause the Notes to be credited to the account of the Fiscal Agent through Euroclear France. Upon settlement, the Fiscal Agent shall immediately credit the Notes on the account of the Subscriber[s] with the Registrar and/or the relevant Account Holder[s], as the case may be, through Euroclear France.

For the purposes hereof "DSD Forms" mean the forms published by Euroclear France within the detailed description of its services.

3. ISSUER'S UNDERTAKINGS

The Issuer undertakes to [the] Subscriber[s] that:

- (a) it will execute the Fiscal Agency Agreement at the latest on the Settlement Date;
- (b) it will bear and pay (i) any stamp or other duties or taxes, including interest and penalties, payable on or in connection with the issue of the Notes and the execution of this Agreement and the Fiscal Agency Agreement or the enforcement thereof, and (ii) any value added, turnover or similar tax payable in connection with any amount payable by it under this agreement referred to in (i) above or otherwise in connection with the envisaged transactions;
- (c) it will not, and will procure that no Subsidiary and none of their respective directors, executives or employees make, between the date of this Agreement and the Settlement Date (both dates inclusive), without the prior approval of the Subscriber[s], any announcement on the issue of the Notes, unless it is required to do so by law, and in such case, after consulting the Subscriber[s] on such announcement;
- (d) it will maintain the centre of its main interests (as such term is used in Article 3(1) of the Council of the European Union Regulation No. 1346/2000 of 29 May 2000 relating to insolvency proceedings or (ii) for the insolvency proceedings opened after 26 June 2017, in Article 3(1) of the Regulation (EU) No 2015/848 of the European Parliament and of the Council of 20 May 2015 relating to insolvency proceedings (recast) in a Member State of the European Union; ⁴ and
- (e) it will use the Subscription Price for the purposes of [__]⁵.

4. EXPENSES

The Issuer shall bear and pay for any and all fees, costs and expenses and reimburse the Subscriber[s] for any and all fees, costs and expenses that the latter may incur as a result of, or in connection with, the issue of the Notes, pursuant to the terms and conditions set out in the fee letter signed between the Issuer and [the] Subscriber[s] dated [__].

5. ISSUER'S REPRESENTATIONS AND WARRANTIES⁶

- (A) As a condition of the undertaking by the Subscriber[s] [acting severally and not jointly] to subscribe and pay for the Notes on the Settlement Date, the Issuer represents and warrants to the Subscriber[s], that:

⁴ This undertaking is particularly important if a Subscriber is a French "*fonds de prêt à l'économie*" ("FPE") [a type of fund enabling French insurers to finance non-financial sectors of the economy].

⁵ This commitment ensures that the granted financing corresponds to the planned and negotiated allocation; the structuring of the transaction and the drafting of the documentation will not be the same depending on the use of the funds (general needs, investments, acquisitions, projects, innovations, etc.). It can also be integrated into the Terms and Conditions by being adapted.

⁶ The representations and warranties contained in Article 5(A) are indicative and their content must be modified to reflect each transaction based on the Issuer's identity and activity. The parties must, in particular, agree on the scope of the representations and warranties made by the Issuer depending on whether they are made concerning only the Issuer, or regarding the Issuer and all of its Subsidiaries or, alternatively, with respect to the Issuer and the Material Subsidiaries.

(i) **Incorporation and authority**

- (a) The Issuer and each [of its Subsidiaries/Material Subsidiaries] are validly incorporated companies, duly registered and validly existing under French law (or, as the case may be, under the laws of the jurisdiction in which the relevant company is registered).
- (b) The Issuer and each [of its Subsidiaries/Material Subsidiaries] are the valid owners of their assets and have full power and authority to conduct their business as they currently do.
- (c) The Issuer has the capacity to enter into this Agreement and the Fiscal Agency Agreement and to perform its obligations thereunder; execution and performance of this Agreement and of the Fiscal Agency Agreement by the Issuer conform to its corporate purpose.

(ii) **Binding force**

The obligations of the Issuer under this Agreement, the Conditions and the Fiscal Agency Agreement comply with the laws of the country of its registered office, are valid, binding on it and capable of being enforced before a court.

(iii) **Relationship with other obligations**

The signing of this Agreement and the Fiscal Agency Agreement and the performance of the obligations resulting therefrom and from the Conditions for the Issuer do not conflict and will not conflict:

- (a) with any law or regulation that is applicable to it;
- (b) with any of its incorporation documents or with any of the incorporation documents of each [of its Subsidiaries/Material Subsidiaries] (or equivalent documents); or
- (c) with any agreement or other instrument having a binding effect on the Issuer or any [of its Subsidiaries/Material Subsidiaries], or by which any of their assets are bound.

(iv) **Authorisations and powers**

- (a) The entering into and performance of this Agreement and of the Fiscal Agency Agreement have been duly authorised by the Issuer's competent management bodies.
- (b) Each of the signatories of this Agreement and of the Fiscal Agency Agreement has full power and capacity to execute said agreements on behalf of the Issuer.

(v) **Authorised nominal amount**

The issue of the Notes on the Settlement Date shall not exceed the limit of the nominal amount authorised by the deliberation of the [general meeting/ of the shareholders/ of the associates]/[board of directors/executive board]/[of a manager's /chairman's decision] of the Issuer on [___].

(vi) **Validity and admissibility as proof**

All of the authorisations, approvals, deliberations, exemptions, registrations, notarised affidavits and all consents, permits or registrations necessary needed for:

- (a) the Issuer to be able to sign this Agreement and the Fiscal Agency Agreement to which it is a party, exercise the resulting rights and perform the resulting obligations and those that result from the Conditions; and
- (b) this Agreement and the Fiscal Agency Agreement to which the Issuer is a party to be admissible as proof before the courts of the country of its registered office,

have been obtained and are in force.

(vii) **Absence of court-ordered insolvency procedures**

No action the purpose of which is to announce the liquidation, dissolution [(other than, as regards a [Subsidiary/Material Subsidiary] of the Issuer, with respect to a solvent

restructuring not having or not likely to have a Material Adverse Effect)], receivership, safeguard (including accelerated safeguard and accelerated financial safeguard), the commencement of conciliation proceedings or the designation of an *ad hoc* administrator (or any equivalent proceedings in any competent jurisdiction, including an attachment procedure) concerning the Issuer or regarding one of [its Subsidiaries/Material Subsidiaries] is in progress, to the best of its knowledge, nor is one imminent or foreseeable.

(viii) **Tax deduction**

Pursuant to the regulations currently in force, the payments that will be made by the Issuer for the Notes to persons who have their tax domicile or their registered office outside France are not liable for any tax in France by deduction or withholding at the source to which the Issuer is bound or that the Issuer must carry out.

(ix) **Registration and stamp fees**

The law of the country of its registered office does not require the filing, registration or publicity of this Agreement or of the Fiscal Agency Agreement with any jurisdiction or authority nor the collection of a stamp or registration fee or similar tax concerning said agreements or for the transactions referred to in said documents.

(x) **Events of Default**

No Event of Default is continuing or is reasonably likely to occur, due to the issue of the Notes.

(xi) **Accuracy of the information and documents⁷**

(a) All of the information provided to the Subscriber[s] by the Issuer and [its Subsidiaries/Material Subsidiaries] is accurate, complete and up-to-date [in all of its significant aspects] on the date on which it was provided or, if applicable, on the date to which it relates and is not likely to mislead the Subscriber[s] on any [significant] point, due to an omission, the occurrence of new facts or as a result of information communicated or not disclosed.

(b) The documents (other than the financial documents mentioned in Article 5(A)(xii)) submitted to the Subscriber[s] and the information communicated to the Subscriber[s] by the Issuer in accordance with this Agreement and the Fiscal Agency Agreement, are accurate, complete and up-to-date on the date on which they were submitted.

(xii) **Financial statements – Accounting and financial documents**

(a) The Original Financial Statements (as such term is defined in the Conditions), prepared in accordance with GAAP (as such term is defined in the Conditions), are lawful and truthful and give a faithful image of the Issuer's assets, financial situation and earnings, as well as of the consolidated financial situation and the consolidated earnings of the Group (as such term is defined in the Conditions) for the tax year to which they refer.

(b) The accounting and financial documents submitted by the Issuer pursuant to this Agreement, prepared in accord with GAAP, are lawful and truthful and give a faithful image of the Issuer's assets, financial situation and earnings, as well as of the Group's consolidated financial situation and the Group's consolidated earnings for the tax year to which they refer.

(c) No event having had or that could potentially have a Material Adverse Effect has taken place since the date of the Issuer's most recent financial statements.

⁷ If an Information Memorandum is prepared, the representation should specifically refer to the Information Memorandum.

(xiii) **Pari passu**⁸

The Notes constitute direct, unconditional, unsubordinated and unsecured obligations of the Issuer, ranking equally between themselves and (with the exception of the mandatory provisions of French law) equally with all other present or future unsubordinated and unsecured obligations (with the exception of those benefiting from a preference in accordance with the law) of the Issuer.

(xiv) **Disputes**

No judicial, arbitral or administrative proceedings have been brought or, to the best of its knowledge, are likely to be brought against it or against one [of its Subsidiaries/of the Material Subsidiaries] before a court, an arbitration tribunal or any authority, the outcome of which, if it were unfavourable, would be likely to give rise to a disbursement (i) of a unit amount in excess of [] euros (EUR[]) (or the equivalent in euros of such amount in any other currency) or (ii) of a cumulative amount in excess of [] euros (EUR []) (or the equivalent in euros of such amount in any other currency).⁹

(xv) **Assets free of Security Interests**

Neither the Issuer nor any [of its Subsidiaries/of the Material Subsidiaries] has given a Security Interest affecting its assets other than the Security Interests authorised by the Conditions.¹⁰

(xvi) **Insurance**

The Issuer and [each of its Subsidiaries/each of its Material Subsidiaries] have taken out and are maintaining in effect insurance policies with leading insurers for amounts and coverage of risk and liabilities in accordance with the practices generally accepted in their area of activity.

(xvii) **Taxes and contributions**

- (a) The taxes or contributions (social security or those of any other type) notified or declared by the Issuer and [its Subsidiaries/the Material Subsidiaries] have been effectively paid within the time limits stipulated by the competent authority, in accordance with the applicable tax or social security legislation [except where challenged in good faith].¹¹
- (b) No claim by the competent tax authority is continuing against the Issuer or one [of its Subsidiaries/of the Material Subsidiaries] [(with the exception of claims contested in good faith)].

(xviii) **Centre of main interests**

The centre of main interests (as used in (i) Article 3(1) of Council Regulation No 1346/2000 of 29 May 2000 on insolvency proceedings or (ii) for insolvency proceedings opened after 26 June 2017, in Article 3(1) of Regulation (EU) No 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast)) of the Issuer is located in the state of its registered office.

(xix) **Sanctions**

Neither the Issuer nor, to the best of the Issuer's knowledge, any of its [Subsidiaries/Material Subsidiaries], or any of their respective representatives, agents, employees [or affiliates] is currently subject to any Sanction; and the Issuer shall not

⁸ In most cases, the Notes constitute an unsecured debt of the Issuer. The ranking of the Notes is *pari passu* with that of the Issuer's financial debt having equivalent characteristics, save for a duly documented exception (for example, the limitation of the security interests, which is covered in the Issuer's undertakings).

In the event that the Notes are secured, a ranking agreement (or inter-creditor agreement) can be entered into between the various creditors benefiting from the security interests.

⁹ This representation may possibly be qualified or limited based on the information, if any, already communicated to the Subscriber[s].

¹⁰ Insertion of a threshold to be discussed based on the economics of the transaction and of the Issuer's circumstances.

¹¹ Insertion of a threshold to be discussed based on the economics of the transaction and of the Issuer's circumstances.

allocate in any manner the proceeds of the issue of the Notes, nor will it lend, contribute or otherwise make available these proceeds, to a joint venture or to any other person or entity, for the purpose of financing the activities of any person currently subject to Sanctions.

[The representation and warranty referred to in this Article 5(A)(xix) is given only insofar as it does not involve any violation and/or conflict with Regulation (EC) No 2271/96 of the Council of the European Union dated 22 November 1996, as amended.]

For the purpose of the above representation:

"**Sanctions**" means the sanctions imposed by the European Union, the French Republic [and/or Her Majesty's Treasury and/or the OFAC Regulations (as defined below)]¹² or any other sanctions or equivalent measures (including any sanction or measure regarding any embargo) imposed by [the United States of America,]¹³ the United Nations or any other competent authority vis-a-vis the Issuer; and

"**OFAC Regulations**" means the regulations of the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**").¹⁴

(xx) **Anti-Corruption**

Neither the Issuer, nor any of its representatives, agents or employees or any other person associated with it or acting on its behalf, nor, to the best of the Issuer's knowledge, one [of its Subsidiaries/ of Material Subsidiaries], or any of their representatives, agents or employees or any other person associated with them, or acting on its behalf has (i) made [whether directly or indirectly] an unlawful payment to an employee or to an official representative of the French government or of a foreign government with the funds of the Issuer or of the [Subsidiary/Material Subsidiary] in question or (ii) violated, or is in violation of the applicable corruption laws and regulations (whether active or passive);

(xxi) **Anti-Money Laundering**

The operations of the Issuer and, to the best of the Issuer's knowledge, of its [Subsidiaries/Material Subsidiaries] are carried out in accordance with the requirements governing financial record keeping and monitoring and with money laundering prevention regulations applicable in France and in all jurisdictions in which the Issuer and its [Subsidiaries/Material Subsidiaries] have an activity, with the associated rules and regulations, and with all of the resulting rules, regulations [or recommendations], issued, managed or imposed by any governmental authority (collectively, the "**Anti-Money Laundering Laws**") [and the Issuer and its [Subsidiaries/Material Subsidiaries] are not parties to any court action, suit or proceedings open and continuing before any court or entity, government authority or agency or before any arbitrator concerning Anti-Money Laundering Laws and, to the best of the Issuer's knowledge, no such court action or proceedings are threatened;

(xxii) **[Directed Selling Efforts**

Neither the Issuer nor its affiliates as defined by Rule 405 implementing the U.S. Securities Act of 1933, as amended (the "**U.S. Securities Act**"), nor any person acting on its behalf or on behalf of such affiliated entities has engaged, or will engage in, any directed selling efforts, as defined by Regulation S ("**Regulation S**") of the U.S. Securities Act with respect to the Notes;

(xxiii) **Foreign Private Issuer**

The Issuer is a foreign private issuer as defined by Regulation S;

¹² The insertion in this stipulation of the US and/or UK regulation and of Regulation (EC) No. 2271/96 of the Council of the European Union dated 22 November 1986 (as amended) remains subject to negotiation between the parties and a case-by-case examination of the Issuer's circumstances.

¹³ *Idem.*

¹⁴ *Idem.*

(xxiv) **Substantial U.S. Market Interest**

There is no substantial U.S. market interest (as such expression is defined by Regulation S) in the Issuer's debt securities;]¹⁵

(xxv) **Selling restrictions regarding the United Kingdom**

Neither the Issuer, nor any person acting on its behalf has communicated or caused to be communicated, and shall not communicate or cause to be communicated, any inducement or invitation to engage in investment activities (as defined in section 21 of the Financial Services and Markets Act 2000 ("FSMA")) received by it in connection with the issue or sale of the Notes, except in circumstances in which section 21(1) of the FSMA does not apply to the Issuer; and the Issuer and any person acting on its behalf has complied with and will comply with, all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes in, from or otherwise involving the United Kingdom;

(xxvi) **Selling restrictions regarding France**

Neither the Issuer nor any person acting on its behalf has offered or sold or will offer or sell, directly or indirectly any Notes, to the public in France, or has distributed or caused to be distributed, or will distribute or cause to be distributed to the public in France the Conditions or any other offering document concerning the Notes, except to (i) qualified investors and/or (ii) less than 150 individuals or legal persons, other than qualified investors, in the context of an offer exempt from the obligation to publish a prospectus, all as defined, and in accordance with, Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market; and

(xxvii) **Others**

To the best of its knowledge, no measure has been or will be taken in any country or territory by the Issuer, that would make possible an offering to the public of the Notes, or the holding or distribution of the Conditions or of any other promotional document concerning the Notes, in a country or territory in which measures are necessary to do so and the Notes must not be offered or sold, directly or indirectly, and neither the Conditions, nor any other document, advertisement, or any other promotional document concerning the Notes, can be distributed in or from, or published in, any country or any jurisdiction except in compliance with any applicable law or regulation.

- (B) The undertaking by the Subscriber[s] [,acting severally and not jointly,] to subscribe and pay for the Notes on the Settlement Date having been made on the basis of the aforementioned representations, warranties and undertakings and with the certainty that the latter shall remain true and accurate up to and including the Settlement Date, the Issuer undertakes to hold harmless the Subscriber[s] as well as [its/their] affiliates, representatives, directors, executives and employees, each as concerns it, (the "**Indemnified Person**") against any loss, liability, claim, court action, proceedings, demand, damages, expenditures and any expenses and costs duly evidenced (including, but not limited to, any costs and expenses incurred or borne for the defence of the above) that the Indemnified Person may incur or sustain as a result of or due to any false representation or any violation or any breach of any one of the undertakings made, representations made or warranties given, or any inaccuracy or omission, actual or alleged, of this Agreement or of the Conditions, except in the case of gross negligence, bad faith, or wilful misconduct of such Indemnified Person. In the event that a claim or a court action shall be brought against an Indemnified Person in respect of which indemnification may be sought from the Issuer, pursuant to the terms of this Agreement, the Subscriber[s] shall promptly inform the Issuer of the progress of such claim or court action and shall consult it to the full extent possible concerning the manner in which to manage said situation. The Issuer undertakes vis-a-vis the Subscriber[s], each as concerns it, to immediately notify [it/them] of any substantial change that affects or that would or would be likely to affect, at any moment, up to the payment of the Issuer on the Settlement Date, any one of the above-mentioned undertakings, representations and warranties, and undertakes to take all measures that can be reasonably requested by the Subscriber[s] to remedy such situation.

¹⁵ Representations (xxi), (xxii) and (xxiii) are applicable to Category 1 issuers according to Regulation S.

- (C) The aforementioned representations, warranties and undertakings on the part of the Issuer, shall remain in full force and effect notwithstanding (i) the completion of the arrangements contained in this Agreement for the issue of the Notes or (ii) the enforcement of Articles 6 and 7 of this Agreement.

6. CONDITIONS PRECEDENT¹⁶

The undertaking by the Subscriber[s] [,acting severally and not jointly,] to subscribe and pay for the Notes on the Settlement Date is subject to satisfaction of the following conditions precedent:

- (a) (i) the absence, on the Settlement Date, of any event or change rendering any one of the undertakings made or any one of the representations made or warranties given, under the terms of Articles 3 and 5(A) of this Agreement untrue or incorrect, in the same terms as if they had been formulated, given or made on such Settlement Date, (ii) the absence, on the Settlement Date, of any event having or likely to have a Material Adverse Effect, and (iii) the performance by the Issuer of all of its obligations under this Agreement up to and including the Settlement Date;
- (b) the submission to the Subscriber[s], at the latest by the Settlement Date, of the following documents:
- (i) [a statement of the debts of the Issuer [and those of its Subsidiaries/Material Subsidiaries];]
 - (ii) [a list of the security interests and guarantees granted by the members of the Group on the Settlement Date;]
 - (iii) [a copy certified by an authorised representative of the Issuer, of an organisational chart of the Group up-to-date on the date of this Agreement;]
 - (iv) [a copy certified by an authorised representative of the Issuer, of the Original Financial Statements and of the related reports of the statutory auditors;]
 - (v) [a signed original of a legal opinion by the law firm [___], as counsel of the Subscriber[s], on the Settlement Date, drawn up in the form and with the content that can be reasonably requested by the Subscriber[s];]
 - (vi) [a signed original of a legal opinion by the law firm [___] as counsel of the Issuer, on the Settlement Date, drawn up in the form and with the content that can be reasonably requested by the Subscriber[s];]
 - (vii) a certificate signed by a duly authorised representative of the Issuer confirming the items mentioned in paragraph (a) of this Article; and
 - (viii) [___] ([___]) copies certified by a duly authorised representative of the Issuer, of the authorisations of the Issuer's management bodies regarding the issue of the Notes, [___] ([___]) copies certified by a duly authorised representative of the Issuer, and up-to-date on the Settlement Date of the by-laws of the Issuer and [___] ([___]) incorporation certificates issued less than [___] ([___]) calendar days preceding the Settlement Date; and
- (c) the execution of the Fiscal Agency Agreement.

If any one of the above-mentioned conditions is not satisfied on or before the Settlement Date, the Subscriber[s] shall be entitled, at [its/their] sole discretion, to terminate this Agreement, in which case the parties thereto shall be under no further liability arising out of this Agreement (except for any liability arising under Articles 3, 4 and 5(B) and except as otherwise specifically provided and except for any liability arising before or in relation to such termination); it is understood that the Subscriber[s] [shall have] the discretionary right to waive the total or partial satisfaction of any one of the above-mentioned conditions.

7. TERMINATION

Notwithstanding anything to the contrary contained in this Agreement, the Subscriber[s] may by simple notice to the Issuer, terminate this Agreement at any time prior to the payment of the net proceeds of the subscription of the Notes, (i) in the event that a condition precedent mentioned in Article 6 of this Agreement has not been satisfied on or before the Settlement Date and notwithstanding the fact that the non-

¹⁶ The conditions precedent listed below constitute an indicative list and their content must be adjusted to each transaction.

satisfaction of a condition precedent is, or is not, under the control of the Issuer or which could be under the control of the Issuer or (ii) in the event of a failure of the Issuer to perform any of its obligations pursuant to this Agreement, or (iii) if they are of the opinion, after consultation with the Issuer, if practicable under the circumstances, that there has been such a change in the national or international financial, political or economic situation, or in the currency exchange control regulation as would, in their view, prejudice or be likely to prejudice materially the issue of the Notes or their dealing on the secondary market.

As soon as such notification has been given, the parties to this Agreement shall be discharged from all of the obligations they respectively owe pursuant to this Agreement (except for any liability arising under Articles 3, 4 and 5(B) and except as otherwise specifically provided and except for any liability arising before or in relation to such termination).

8. [COMMUNICATION TO A SUPPLIER OF NUMBERING SERVICES

[[The/Each] Subscriber can, without prejudice to the provisions of Articles L. 511-33 and L. 511-34 of the French Monetary and Financial Code, as the case may be, communicate to any domestic or international supplier of numbering services designated by it in order to supply numbering and identification services as regards the Notes and/or the Issuer the following information necessary to such supplier of services:

- the company name of the Issuer (and of the guarantor, if applicable),
- the Issuer's country of registration,
- the Notes' settlement date and the modifications, if any, to the Conditions,
- the Note format of the transaction,
- the name of the arranger(s) and/or of the placement agent(s),
- additional information on the Issuer (date of incorporation, type of company according to the INSEE [France's National Institute of Economics and Statistical Studies], activity sector, turnover and credit profile),
- the amount and the currency,
- the maturity date,
- the interest rate,
- the ranking,
- the main legal conditions,
- and any other information agreed between such Subscriber and the Issuer.] ¹⁷

9. NOTIFICATIONS

All required notifications can be delivered in person or sent by letter, email or fax to the following addresses:

(a) For the Issuer:

[Name of the Issuer]

[Address]

Telephone: [xxx]

Fax: [xxx]

E-mail address: [xxx]

¹⁷ Within the scope of the work of the Charter, Euro PP market participants have highlighted the need to organise a certain degree of transparency of Euro PP transactions. In addition to the fact that doing so avoids the random communications that can be seen on certain private placements markets, transparency promotes the market and provides references for the structuring and pricing of new transactions; it also facilitates monitoring by financial stability authorities.

In any case, depending on its circumstances and its specific constraints, an Issuer can choose to maintain the confidentiality of all or some of the terms of the transaction and to reject this communication clause.

Except in certain cases (e.g., the publication of a press release by the Issuer), the communication by the arranger (or by the main Subscriber in the case of Euro PP without an arranger, or by the Issuer itself) of the authorised information must not take place prior to the Euro PP settlement date.

Attn.: [xxx]

(b) For the Subscriber[s]:

[Name of the Subscriber]

[Address]

Telephone: [xxx]

Fax: [xxx]

E-mail address: [xxx]

Attn: [xxx]

[Name of the Subscriber]

[Address]

Telephone: [xxx]

Fax: [xxx]

E-mail address: [xxx]

Attn.: [xxx]

or to any other address, fax number, or to the attention of another person, if any, indicated by one of the parties to the other parties for such purpose.

All notifications shall take effect (i) if they are delivered in person, at the time they are delivered, and (ii) if they are sent by mail, by email or fax, at the time they are sent.

10. GOVERNING LAW AND JURISDICTION¹⁸

This Agreement and its interpretation are governed by French law.

Any dispute arising out of this Agreement (including any dispute regarding the existence, validity or termination of this Agreement) shall be submitted to the exclusive jurisdiction of the [Paris] Commercial Court.

Signed in [Place], on [date], in [] ([]) originals.

The Issuer

Issuer

By: [name and title]

¹⁸ To be modified if the Agreement is not subject to French law

The Subscriber[s]

Subscriber
By: [*name and title*]

Subscriber
By: [*name and title*]

SCHEDULE 1 TO THE AGREEMENT TERMS AND CONDITIONS OF THE NOTES

The terms and conditions of the Notes (the "**Conditions**") are as follows:

The issue by [], [] with a share capital of [] [euros], having its registered office at [] [and registered at the *Registre du commerce et des sociétés* of [] under number []]¹⁹ (the "**Issuer**") of its [€] [] [] per cent. notes due [] (the "**Notes**") was authorised pursuant to a resolution [of the general meeting/the [board of directors/ of the shareholders/ of the associates]/[executive board/manager]/[of the manager's/ chairman's decision] of the Issuer dated [] and decided by [] of the Issuer on [].

A fiscal agency agreement relating to the Notes (the "**Fiscal Agency Agreement**") shall be entered into at the latest by [] between the Issuer and [], as fiscal agent, paying agent[, calculation agent] and registrar (the "**Fiscal Agent**", the "**Paying Agent**"[, the "**Calculation Agent**"] and the "**Registrar**", which expression shall, where the context so admits, include any successor for the time being as fiscal agent, paying agent[, calculation agent] or registrar). A copy of the Fiscal Agency Agreement will be available to the Noteholders at the registered office of the Issuer, [] and at the registered office of the Fiscal Agent, [].

Any reference in these Conditions (i) to the "**Noteholders**" refers to the holders of Notes and (ii) to the "**Articles**" refers to the numbered articles below.

1. DEFINITIONS

"**Account Holder**" has the meaning given in Article 2 (*Form, denomination and title*).

"**Alternate Representative of the Masse**"²⁰ has the meaning given in Article 11 (*Representation of the Noteholders*).

"**Benchmark Rate**" means, at the Make-Whole Redemption Date, the annual rate equivalent to the yield at maturity of the [sovereign bonds]²¹ bearing interest at a rate of []% *per annum* and maturing on [] (ISIN : []), as determined on the Calculation Date. If [the sovereign bonds] chosen as benchmark is no longer outstanding, a Similar Security shall be chosen by the Calculation Agent, acting independently.]

"**Business Day**" means a day (other than a Saturday or a Sunday) on which the banks are open in [Paris] and [:

- (a) in the case of a day on which a payment or a purchase must be made in a currency other than euro, a day on which the banks of the main financial center of the country of such currency are open; and
- (b) in the case of a day on which a payment or a purchase must be made in euros, a day on which Euroclear is operating and which is a TARGET Day.]²²

"**Calculation Date**" means the [] ([]) Business Day preceding the Make-Whole Redemption Date.

"**Change of Control**" means any event following which [*Definition of Change of Control to be determined based on the Issuer's shareholder structure and the applicable law*].

"**Change of Control Notice**" has the meaning given to it in Article 6.3 (*Early redemption at the option of the Noteholders following a Change of Control*).

"**Clearstream**" has the meaning given in Article 2 (*Form, denomination and title*).

"**Compliance Certificate**" means a certificate relating to the financial covenants referred to in Article 4.1 (*Financial covenants*),, substantially in the form as set out in Schedule 1 to the Conditions.

"**Early Redemption Date following a Change of Control**" has the meaning given in Article 6.3 (*Early redemption at the option of the Noteholders following a Change of Control*).

"**EBITDA**" means [].

"**Euroclear**" has the meaning given in Article 2 (*Form, denomination and title*).

¹⁹ For French issuers.

²⁰ To be adapted for issues not subject to French law.

²¹ To be determined on a case by case basis.

²² To be modified based on the payment currency.

"Euroclear France"²³ has the meaning given in Article 2 (*Form, denomination and title*).

"Event of Default" means any event referred to in Article 9 (*Events of default*).

"Exact/Exact ICMA" means [___].

"Financial Debt" means any debt regarding:

- (a) [borrowed monies;
- (b) funds raised by a third-party's acceptance of bills of exchange (*lettres de change*) (or any equivalent instrument in dematerialised form);
- (c) funds raised as a result of the purchase of promissory notes (*billets à ordre*) or raised by an issue of bonds, treasury bills (*bons de caisse*), commercial paper (*billets de trésorerie*) or other debt securities;
- (d) rental or leasing commitments qualified as financial leases (*location financière*) under GAAP;
- (e) receivables discounting (*escompte de créances*) or any other receivables mobilisation process (unless the discount or other process is without recourse);
- (f) funds raised under any other transaction (including forward sales and purchases, as well as all deferred payment obligations contracted to acquire any asset) qualified as a loan or as debt under GAAP;
- (g) derivative transactions entered into in order to hedge risk or benefit from fluctuations in rates or market prices (it being specified that only the market value of such a transaction will be taken into account in calculating the transaction's value);
- (h) any contingent liability with respect to the reimbursement as principal of any guarantee (*cautionnement* or *garantie*), any standby or documentary letter of credit (*lettre de crédit*) or any other signed commitment issued by a bank or a financial institution concerning one of the types of debt listed in sub-paragraphs (a) to (g) above; and
- (i) any personal guarantee granted over any indebtedness listed in sub-paragraphs (a) to (h) above.]²⁴

"Financial Covenants" means [Ratio [R1] and Ratio [R2]].

"GAAP" means the accounting principles generally accepted in France [(including IFRS standards)]²⁵.

"Group" means the Issuer and its Subsidiaries at a specified time and "member of the Group" means any of these entities.

"IFRS" means international accounting standards within the meaning of the Regulation (EC) No. 1606/2002 on IAS standards, as amended to the extent applicable to the relevant financial statements.]²⁶

"Interest Payment Date" has the meaning given in Article 5 (*Interest*).

"Interest Period" means the period beginning on (and including) the Issue Date and ending on (but excluding) the first Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the following Interest Payment Date.

"Interest Rate" has the meaning given in Article 5 (*Interest*).

"Issue Date" has the meaning given in Article 5 (*Interest*).

"Make-Whole Amount" means the amount in Euros calculated for each Note by the Calculation Agent, rounded to the nearest cent ([0.005] being rounded upwards) being the greater of (x) [___] per cent. of the nominal amount of such Note and (y) the sum of the remaining scheduled payments in principal and interest on such Note (excluding accrued interest up to the Make-Whole Redemption Date (excluded)), determined on the Make-Whole Redemption Date on an annual basis [(Exact/Exact ICMA)] at the Make-Whole

²³ To be adapted for issues not subject to French law.

²⁴ The definition of Financial Debt can vary depending on the type of Issuer and its situation. It must be modified on a case-by-case basis.

²⁵ To be modified if the Issuer is not French.

²⁶ To be inserted in accordance with the GAAP definition.

Redemption Rate plus, in each of the cases (x) and (y) above, interest accrued on such Note up to the Make-Whole Redemption Date (excluded).²⁷

"Make-Whole Redemption" has the meaning given in Article 6.4 (*Early redemption at the option of the Issuer at the Make-Whole Amount*).

"Make-Whole Redemption Rate" means the sum of the Benchmark Rate and the Make-Whole Redemption Margin.²⁸

"Make-Whole Redemption Margin" means []% *per annum*.]

"Material Adverse Effect" means a material adverse effect on [].²⁹

"Material Subsidiary" means, based on the Issuer's consolidated financial statements and on the non-consolidated financial statements of the members of the Group transmitted pursuant to Article 4.2.1 (*Financial Statements*), any Subsidiary (i) whose turnover exceeds []% of the consolidated turnover of the Group, (ii) whose EBITDA exceeds []% of the consolidated EBITDA of the Group or (iii) holding fixed assets whose net book value exceeds []% of the consolidated net book value of the Group's fixed assets, insofar as the sum of the turnover, EBITDA and/or the net book value of the fixed assets of all Material Subsidiaries represents at all times at least []% of the consolidated turnover of the Group, the consolidated EBITDA of the Group and the net book value of the Group's consolidated fixed assets. If the last condition is not satisfied, the Fiscal Agent and the Issuer will determine by joint agreement the Subsidiaries which will be considered as Material Subsidiaries such that this condition is satisfied.³⁰

"Maturity Date" has the meaning given in Article 5 (*Interest*).

"Notification of Exercise" has the meaning given in Article 6.3 (*Early redemption at the option of the Noteholders following a Change of Control*).

"Original Financial Statements" means [the audited consolidated financial statements and] the audited non-consolidated financial statements of the Issuer for the year ended [], as certified by its statutory auditors.

"Put Option following a Change of Control" has the meaning given in Article 6.3 (*Early redemption at the option of the Noteholders following a Change of Control*).

"Put Period" has the meaning given in Article 6.3 (*Early redemption at the option of the Noteholders following a Change of Control*).

"Quasi-Security Interest" has the meaning given in Article 3.2 (*Negative Pledge*).

"Ratio [R1]" means the ratio of [] over [].

"Ratio [R2]" means the ratio of [] over [].

"Representative of the Masse"³¹ has the meaning given in Article 11 (*Representation of the Noteholders*).

"Request for Early Redemption following a Change of Control" has the meaning given in Article 6.3 (*Early redemption at the option of the Noteholders following a Change of Control*).

"Security Interest" means any mortgage, charge, pledge, lien, trust by way of security, transfer of ownership as collateral and any other collateral, as well as any other agreement or accord having a similar effect.³²

²⁷ Definitions to be inserted in case of early redemption at the option of the Issuer at the Make Whole Amount.

²⁸ To be inserted in case of early redemption at the option of the Issuer at the Make Whole Amount.

²⁹ The existence and scope of the definition of "Material Adverse Effect" are to be negotiated and modified based on the economics of the transaction and on the Issuer's circumstances. This definition can, for example, refer to the Issuer's capacity to perform its obligations pursuant to the Conditions, the Subscription Agreement and the Fiscal Agency Agreement and/or only certain of these (for example, payment obligations and/or other obligations to comply with Financial Covenants) and/or to the Issuer's transactions, assets and economic or financial prospects.

³⁰ This definition is provided as an example. The determination criteria of the Material Subsidiaries must be established (if applicable) based on accounting and financial criteria (EBITDA, assets, turnover, etc.) in consideration of the composition of the Group and the economics of the transaction. The concept of "Material Subsidiary" is used to describe representations, commitments and Events of Default.

³¹ To be adapted for issues not subject to French law.

³² Definition to be modified, if applicable, if the concept of security interest must be assessed more broadly than based solely on French law.

["**Similar Security**" means one or more reference bonds issued by [the issuer of the withheld sovereign bond] having a maturity comparable with the remaining term of the Notes up to the Maturity Date of the Notes, that would be utilised, at the time of selection and in accordance with customary market practices, in pricing new issues of corporate debt securities of comparable maturity up to the Maturity Date of the Notes.]³³

"**Subsidiary**" means any company which is controlled directly or indirectly by another within the meaning of Article L. 233-3 of the French Commercial Code.³⁴

"**TARGET Day**" means any day on which the TARGET System, or any succeeding system, is operating.

"**Test Period**" means, for the calculation of the Financial Covenants, any period of [twelve (12)] months ending on [31 December] of each fiscal year, for which the Financial Covenants have to be tested.³⁵

"**The Noteholders**" has the meaning given in Article 11 (*Representation of the Noteholders*).

2. FORM, DENOMINATION AND TITLE³⁶

Key points:

- *The Bonds may be in either registered, pure or administered, or bearer form.*
- *The bearer form implies in principle the anonymity of the Bondholders for the Issuer. It implies the admission of the Bonds to Euroclear France's operations, which results in the assignment of an ISIN code and therefore makes available under certain conditions some basic characteristics of the Bonds, even unlisted (issuer, amount rate, maturity). It also requires the use of a Paying Agent and the dissemination of the Issuer's notifications through the settlement systems or by publication.*
- *The registered form allows the Issuer to know at any time the identity of the Bondholders, which facilitates their relations and allows the limitation of communication to solely the Bondholders. In the first case, the difference between pure registered shares and administered registered shares is that the security is recorded in an account held solely by the Issuer (or an agent designated by it for this purpose), while in the second case, the Bondholder designates an authorised intermediary in charge of administering its account opened with the Issuer. If need be, an ISIN code can also be obtained for the registered shares.*

The following drafting proposal applies to Bonds issued in registered, pure or administered form:

The Notes will be issued in dematerialised registered form in denominations of [€][100,000] each. Title to the Notes will be evidenced by book-entries (*inscription en compte*), in accordance with Articles L. 211-3 et seq. of the French Monetary and Financial Code.

The Noteholders' rights shall be evidenced by a book entry on a securities account open in their name in the books, at the option of the Noteholder:

- (a) of [the Registrar], acting on behalf of the Issuer, for Notes in fully registered form (*au nominatif pur*); or
- (b) of an authorised financial intermediary of their choice and of [the Registrar], acting on behalf of the Issuer, for Notes in administered registered form (*au nominatif administré*).

No physical document of title (including *certificats représentatifs* pursuant to Article R. 211-7 of the French Monetary and Financial Code) will be issued in respect of the Notes. The ISIN code of the Notes is FR [___].

The Notes will, upon issue, be inscribed in the books of Euroclear France ("**Euroclear France**") which will credit the account[s] [of the] Registrar [and/or [of the relevant] Account Holder[s]]. For the purposes hereof, "**Account Holder**" shall mean any intermediary entitled to hold, directly or indirectly, accounts on behalf of its customers with Euroclear France and includes Euroclear Bank S.A./N.V. ("**Euroclear**") and Clearstream Banking, *société anonyme* ("**Clearstream**").

³³ To be inserted in case of early redemption at the option of the Issuer at the Make Whole Amount.

³⁴ Definition to be modified, if applicable, if the concept of control must be assessed more broadly than based solely on French law.

³⁵ To be modified in the event that the Financial Covenants are tested more than once a year.

³⁶ For issues subject to French law; to be modified if the issue is subject to another law or is not cleared.

3. STATUS OF THE NOTES AND NEGATIVE PLEDGE³⁷

3.1. Status of the Notes

Key points:

- *Purpose of the clause: statement of the hierarchy of the receivable in the Issuer's liabilities.*
- *In most cases, the Bonds constitute unsecured debts of the Issuer.*
- *The ranking of the Bonds is pari passu with that of financial debt with equivalent characteristics, unless otherwise duly documented (the possible limitation of security interests thus being treated in a negative pledge).*
- *Possibility of having security interests in Euro PP, which may lead to the provision of (i) an additional provision describing the security interest(s) granted and the adjustment of other provisions, and (ii) a contract between the various creditors benefiting from the security interests (inter-creditor agreement and, where applicable, subordination agreement).*

The drafting proposal applies to unsecured bonds:

The Notes constitute direct, unconditional, unsubordinated and unsecured (subject to Article 3.2(a)) obligations of the Issuer and ranking equally between themselves and (with the exception of the mandatory provisions of French law) equally with all other present or future unsubordinated and unsecured obligations (with the exception of those benefitting from a preference in accordance with the law) of the Issuer.

3.2. Negative Pledge

Key points:

- *Purpose of the clause: to maintain the loan in its rank by limiting the Issuer's granting of security interests to guarantee another financial indebtedness, in order to treat the Bondholders in the same way as all its other creditors of the same rank (and of the same nature, if applicable).*
- *This clause must be drafted in light of the negative pledge clause used in the other financing documents to which the Issuer is a party (if applicable), in particular on exceptions and thresholds (acquisitions), so that the Bondholders benefit from the same protection as those of the Issuer's other financial debt(s) with equivalent characteristics.*
- *The wording of this clause can be adjusted according to different variables, the main ones being:*
 - *the entities concerned: Issuer, Issuer and Material Subsidiaries or Issuer and all its Subsidiaries;*
 - *the targeted debt: bond, bank or financial debt;*
 - *the security interests referred to: real and quasi-security interests (most often), personal security interests (rare), with the possibility of including a concept of "Authorized Security Interests" designated restrictively and/or legally, by maximum authorized amount and/or according to their formation date.*
- *The wording of this article regarding limitations on merely granting of security interests (negative pledge) is merely an example and must be examined on a case by case basis as a function of the Issuer's identity and activity.*

Drafting proposal:

- (a) So long as any of the Notes remains outstanding, the Issuer will not (and will ensure that none [of its Subsidiaries/of the Material Subsidiaries] will) grant or permit to subsist any Security Interest upon the whole or any part of the assets or its revenues, future or present, of the Issuer or [of its Subsidiaries/ Material Subsidiaries] for the purpose of guaranteeing any financial indebtedness, present or future, unless, at the same time or prior thereto, the Issuer's obligations under the Notes are equally and rateably secured therewith.

³⁷ To be adapted for issues not subject to French law.

- (b) So long as any of the Notes remains outstanding, the Issuer will not (and will ensure that none [of its Subsidiaries/of the Material Subsidiaries] will):
- (i) assign or dispose in any manner whatsoever, of assets intended, or that could potentially be intended, to be leased or acquired by the Issuer or any other member of the Group;
 - (ii) carry out any assignment of receivables with recourse;
 - (iii) consent to an amount of money, a bank account or any other account from being used for a special purpose, a merger or for setting off with other amounts; and
 - (iv) enter into a preferential agreement having an effect that is similar to the above;

if the agreement is entered into or the transaction is executed primarily in order to contract a Financial Debt or to finance the acquisition of an asset.
- (c) Paragraphs (a) and (b) above do not apply:
- (i) to Security Interests granted after the Issue Date with the prior consent of the Masse (as defined in Article 11 (Representation of the Noteholders)³⁸;
 - (ii) to any Security Interest and/or Quasi-Security Interest existing on the Issue Date, contained in the list set out in Schedule 2 to these Conditions, that are maintained or rolled over after the Issue Date, unless the principal amount they guarantee exceeds the amount indicated in such list or if such Security Interests or Quasi-Security Interests are not rolled over to guarantee the same obligations as those they guarantee on the Issue Date;
 - (iii) to the reservation of title clauses, rights of retention or merger or set off clauses resulting from the continuation of the activities or from the normal course of business of the relevant entity or in accordance with the standard terms and conditions of its suppliers; and ³⁹
 - (iv) to the statutory preferential rights regarding the management of the day-to-day business of the relevant entity.

In this Article 3.2 (*Negative Pledge*), "**Quasi-Security Interest**" means any agreement or transaction described in paragraph (b) above.

4. UNDERTAKINGS

So long as any of the Notes remains outstanding, the Issuer shall comply with the covenants described in this Article 4 (*Undertakings*).

4.1. Financial covenants⁴⁰

Key points:

- *Financial ratios (covenants) that the Issuer undertakes to comply with (example: gearing ratio, leverage ratio, interest cover ratio, etc.) by precisely defining each component of each ratio.*
- *Other financial debts (limitation of the Financial Indebtedness of the Issuer and its Subsidiaries/ Material Subsidiaries, investment limitations, external growth operations, etc.) may also be included.*
- *Frequency of verifying respect of financial debts (at least annually, or at a shorter frequency).*
- *Financial debts must be drafted in light of those used in other financing documents to which the Issuer is a party, where applicable. Care should be taken to provide them with a clear definition in order to avoid differences according to the documentation used.*

³⁸ To be adapted for issues not subject to French law.

³⁹ The scope of application of this exception must be worded based on the Issuer's circumstances (particularly, if applicable, in order to cover setting-off of derivatives pursuant to a master agreement).

⁴⁰ To be adapted if the issuer does not produce consolidated and/or semi-annual financial statements.

- *Deliverance by the Issuer of a Certificate of Compliance: compliance with financial debts must be validated at least once a year after the end of the financial year by a representative of the Issuer [and its auditors] and, for a less frequent period, solely by a representative of the Issuer (the Certificate of Compliance must in principle include details of the calculation of the Financial Ratios).*
- *The Issuer shall ensure the simple and prompt distribution of the Certificate of Compliance to Bondholders (or notification of the absence of delivery of a Certificate of Compliance) through the intermediary of the Representative of the Masse and/or an electronic platform.*
- *Need to appoint a Representative of the Masse with the required technical capacity, which implies a corresponding compensation.*

4.2. Information covenants

Key Points:

How information is communicated:

- *Need for fast, simple and secure access;*
- *The financial statements (corporate/consolidated) and other information likely to have an impact on the quality of the credit or securities must reach the Bondholders within the same time limits as those applicable to all creditors and must be determined in the light of existing practices in this area and the provisions of existing financing contracts;*
- *if the information is subject to a confidentiality agreement, its communication to the Bondholders may be made through the Representative of the Masse or directly by the Issuer; any communication to any new bondholders is then subject to the signature of a new confidentiality agreement.*

Transparency and equal treatment of information: Bondholders shall benefit from the same transparency and quality of information as what creditors receive under existing financing (bank or other), so that they are able to assess, at any time, their credit risk and their potential subordination situation.

Drafting proposal:

4.2.1 Financial statements⁴¹

- (a) The Issuer undertakes to deliver to [the Representative of the Masse and to]⁴² the Fiscal Agent, for transmission to the Noteholders, promptly after the same are available and in any event within [] ([]) calendar days after the end of the relevant fiscal year, a copy, certified by an authorised representative of the Issuer, of its consolidated annual financial statements certified by its statutory auditors regarding the relevant fiscal year, together with the related report of the statutory auditors.
- (b) The Issuer undertakes to deliver to [the Representative of the Masse and to]⁴³ the Fiscal Agent, for transmission to the Noteholders, promptly after the same are available and in any event within [] ([]) calendar days after the end of the relevant fiscal year, a copy, certified by an authorised representative of the relevant entity, of the annual non-consolidated financial statements of the Issuer and [of its Subsidiaries/of the Material Subsidiaries], certified by the statutory auditors, together with the related report(s) of the statutory auditors.
- (c) The Issuer undertakes to deliver to [the Representative of the Masse and to]⁴⁴ the Fiscal Agent, for transmission to the Noteholders, promptly after the same are available and in any event within [] ([]) calendar days after the end of the first

⁴¹ To be modified if the Issuer does not prepare consolidated financial statements and/or semi-annual financial statements.

⁴² To be adapted for issues not subject to French law.

⁴³ To be adapted for issues not subject to French law.

⁴⁴ To be adapted for issues not subject to French law.

sixth month-period of the relevant fiscal year, a copy, certified by an authorised representative of the Issuer, of its consolidated semi-annual financial statements of the relevant six-month period.

4.2.2 **Compliance Certificate**

The Issuer undertakes to deliver to [the Representative of the Masse]⁴⁵ and to the Fiscal Agent, for transmission to the Noteholders with the financial statements supplied in accordance with paragraph (a) of Article 4.2.1 (*Financial Statements*), a Compliance Certificate (signed by an authorised representative of the Issuer [and the Issuer's statutory auditors]) substantially in the form set out in Schedule 1 to these Conditions, presenting in a sufficiently detailed manner the calculations of the Financial Covenants for the relevant Test Period [and attesting to compliance or non-compliance with the other financial debts referred to in Article 4.1 (Financial Commitments)]. .

Upon receipt of the Compliance Certificate, the Representative of the Masse shall promptly deliver to the Noteholders, in accordance with Article 12 (*Notices*), (i) a copy of the Compliance Certificate or (ii) if for any reason whatsoever it did not receive the Compliance Certificate within the stipulated time limits, a notice to this effect, substantially in the form set out in a Schedule to the Fiscal Agency Agreement.

4.2.3 **[Subsidiaries/Material Subsidiaries**

The Issuer undertakes to deliver to [the Representative of the Masse and to]⁴⁶ the Fiscal Agent, for transmission to the Noteholders with the financial statements supplied in accordance with Article 4.2.1 (*Financial Statements*), a list [of its Subsidiaries/ of its Material Subsidiaries].]

4.2.4 **Form of financial statements**

- (a) The financial statements supplied in accordance with Article 4.2.1 (*Financial Statements*) must contain a balance sheet, a profit and loss account and explanatory notes to the financial statements.
- (b) The Issuer shall ensure that all of the financial statements delivered in accordance with Article 4.2.1 (*Financial Statements*) are prepared in accordance with GAAP and as regards reference periods similar to those used during the preparation of the Original Financial Statements, unless it informs [the Representative of the Masse and]⁴⁷ the Fiscal Agent, for notification to the Noteholders, of a change made to the GAAP or to the reference periods and that its statutory auditors submit to [the Representative of the Masse and to]⁴⁸ the Fiscal Agent, for transmission to the Noteholders:
 - (i) a description of the adjustments to be made in order for these financial statements to reflect the GAAP and the reference periods having been used as the basis for the preparation of the Original Financial Statements; and
 - (ii) any information necessary, consistent with the substance and form that [the Representative of the Masse]⁴⁹, on its own initiative or upon request by a Noteholder, can reasonably request, in order to enable the Noteholders to assess if the undertakings contained in Article 4.3 (*Other undertakings*) have been complied with and to accurately compare the financial situation of the Issuer or, as the case may be, of the Group, in accordance with these financial statements and with the financial situation indicated by the Original Financial Statements.

Any reference in the Conditions to the "**financial statements**" refers to the financial statements adjusted, as the case may be, in order to reflect the application of the principles applied for the preparation of the Original Financial Statements.

⁴⁵ To be adapted for issues not subject to French law.

⁴⁶ To be adapted for issues not subject to French law.

⁴⁷ To be adapted for issues not subject to French law.

⁴⁸ To be adapted for issues not subject to French law.

⁴⁹ To be adapted for issues not subject to French law.

4.2.5 [Information]

- (a) The Issuer undertakes to promptly deliver to [the Representative of the Masse and to]⁵⁰ the Fiscal Agent, for transmission to the Noteholders, upon request of [any Noteholder or] [the Representative of the Masse]⁵¹ acting at the request of any Noteholder, any information concerning the legal or financial situation, activity or operations of any member of the Group, [and, in particular, any information concerning [__]] or any judicial, arbitration or administrative proceedings against any member of the Group, which [the Representative of the Masse or]⁵² a Noteholder may reasonably require; and

[Note: Unless the economics of the transaction and/or the Issuer's circumstances do not justify this, it is conceivable to insert specific information undertakings concerning, in particular, but without limitation, compliance with laws and regulations applicable to the Issuer, compliance with or maintenance of regulatory authorisations, as well as certain types of transactions (restructuring, joint ventures and equivalent transactions, changes of activity, status or registered office, restrictions on disposals, derivatives, granting of loans, securities, guaranties and sureties, distribution of dividends, reduction or amortisation of share capital, repayment of current account advances and other shareholder loans, etc.)]

- (b) The Issuer undertakes to promptly organise, if requested [by any Noteholder or] [the Representative of the Masse]⁵³ acting at the request of any Noteholder, an information meeting concerning any information referred to in paragraph (a) of this Article.]

4.2.6 Notification of an Event of Default

- (a) The Issuer shall notify [the Representative of the Masse and]⁵⁴ the Fiscal Agent of any Event of Default (and the steps, if any, to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon request made by [the Representative of the Masse]⁵⁵, acting on its own initiative or at the request of any Noteholder, the Issuer shall send a certificate from an authorised representative specifying that no Event of Default is continuing or, if an Event of Default is continuing, its nature and the steps, if any, to remedy its occurrence.

4.2.7 Material Adverse Effect

The Issuer undertakes to promptly notify [the Representative of the Masse and]⁵⁶ the Fiscal Agent, for notification to the Noteholders, of any fact or event having or that could possibly have a Material Adverse Effect.

⁵⁰ To be adapted for issues not subject to French law.

⁵¹ To be adapted for issues not subject to French law.

⁵² To be adapted for issues not subject to French law.

⁵³ To be adapted for issues not subject to French law.

⁵⁴ To be adapted for issues not subject to French law.

⁵⁵ To be adapted for issues not subject to French law.

⁵⁶ To be adapted for issues not subject to French law.

[Other undertakings]

Key point:

Based on the economics of the transaction and on the Issuer's circumstances, it is conceivable, though not automatic or mandatory, to consider inserting other undertakings concerning, in particular, but without limitation, compliance with laws and regulations applicable to the Issuer, compliance with or maintenance of regulatory authorisations, as well as restrictions (or even prohibitions) concerning several types of transactions (restructuring, joint ventures and the equivalent, changes of activity, status or registered office, restrictions on disposals, derivatives, granting of loans, securities, guaranties and sureties, distribution of dividends, reduction or amortisation of share capital, repayment of current account advances and other shareholder loans, etc.)⁵⁷

Key points applicable to all debts:

There may be fall away clauses (the purpose of which is to provide that some of the protections granted to the Bondholders will cease to apply in certain circumstances, thus allowing the Issuer to benefit from more favourable and less restrictive conditions during the life of the Euro PP, mainly due to an improvement in its credit quality).

5. INTEREST

Key point:

In addition to the usual interest terms, step-up / step-down clauses may be provided for in the event of certain events (non-compliance with Financial Ratios and/or other financial debts, non-compliance with an undertaking to release certain securities, loss/obtaining an investment grade rating, etc.).

Drafting proposal:

The Notes bear interest from (and including) [] (the "**Issue Date**") to (but excluding) [] (the "**Maturity Date**") at the rate of [] *per annum* (the "**Interest Rate**"), payable annually in arrears on [] in each year (each an "**Interest Payment Date**") and for the first time on [].

Each Note shall cease to bear interest from its due date for redemption, unless payment of principal is improperly refused or withheld. In such event, it shall continue to bear interest at the rate of [] (both before and after judgement) until the day (included) on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder.

The amount of interest due for each Note will be calculated by reference to the aggregate outstanding principal amount of the Notes held by each Noteholder; the amount of such payment being rounded to the nearest second (2nd) decimal (half-a cent being rounded upwards).

Where interest is to be calculated in respect of a period of less than one year, it shall be calculated on an [exact/exact] basis for each period, on the basis of the number of calendar days elapsed in the relevant Interest Period divided by [365 (or 366 in the case of a leap year)], such result being rounded to the nearest second (2nd) decimal (half-percent's being rounded upwards).

6. REDEMPTION AND PURCHASE

The Notes may not be redeemed otherwise than in accordance with the provisions of this Article 6 (*Redemption and purchase*), Article 8 (*Taxation*) or Article 9 (*Events of default*).

6.1. Redemption at maturity

Unless previously redeemed or purchased and cancelled in accordance with this Article 6 (*Redemption and purchase*), Article 8 (*Taxation*) or Article 9 (*Events of default*), the Notes will be redeemed at their nominal amount on the Maturity Date.

⁵⁷ In the event that there are plans to insert certain of these undertakings, an example of their wording is contained in Article 15.3 of the model Loan Agreement published by the Euro PP Working Group at the same time as this document and available on the website www.euro-privateplacement.com.

6.2. **Early redemption for taxation reasons**⁵⁸

The Notes may, and in certain circumstances shall, be redeemed prior to the Maturity Date in the event that certain French taxes are imposed, in accordance with Article 8 (*Taxation*).

6.3. **Early redemption at the option of the Noteholders following a Change of Control**

If a Change of Control occurs, each Noteholder will have the option during the Put Period to require the Issuer to redeem all or parts of its Notes (the "**Put Option following a Change of Control**"), at their nominal amount, together with interest accrued from (and including) the last Interest Payment Date (or, if applicable, from (and including) the Issue Date) to (but excluding) the date for redemption specified in the Change of Control Notice (the "**Early Redemption Date following a Change of Control**").

If a Change of Control occurs, the Issuer shall inform the Fiscal Agent, [the Representative of the Masse]⁵⁹ and the Noteholders (the "**Change of Control Notice**") in accordance with Article 12 (*Notices*), at the latest within [] ([]) calendar days following the effective Change of Control. The Change of Control Notice shall specify (i) the right of each Noteholder to request the early redemption of all or parts of its Notes, (ii) the Early Redemption Date following a Change of Control which must fall between the []th ([]th) and the []th ([]th) Business day following the delivery of the Change of Control Notice, (iii) the amount of the redemption and (iv) the period, of at least [] ([]) Business Days from the delivery of the Change of Control Notice, during which the requests for early redemption of the Notes and the related Notes shall reach the Fiscal Agent (the "**Put Period**").

To exercise the Put Option following a Change of Control, each Noteholder, at the latest by [4 pm (Paris time)] on the last day of the Put Period, shall transfer (or cause to be transferred) its Notes to be so redeemed to the account of the Fiscal Agent (details of which are specified in the Change of Control Notice), together with a duly signed and completed notice of exercise, substantially in the form as set out in a Schedule to the Fiscal Agency Agreement (a "**Notification of Exercise**") and in which the Noteholder may specify an account denominated in euro to which payment is to be made under this Article. Any Notification of Exercise shall be irrevocable from its receipt by the Fiscal Agent.

Payments on the Notes as a result of a valid exercise of the Put Option following a Change of Control shall be made in euros on the Early Redemption Date following a Change of Control on the account specified in the relevant Notification of Exercise.

6.4. **[Early redemption at the Make Whole Amount**

Possibility of permitting the Issuer to redeem the Bonds, if necessary within a predefined period before maturity, in the light of market practices, subject to indemnification of the Bondholders on the basis of a make whole amount corresponding to the principal and interest remaining due until the initial maturity, discounted on the basis of the yield rate of a benchmark bond, plus a profit margin.

Draft proposal:

The Issuer may, at any time prior to the Maturity Date and on giving (i) not less than [] ([]) calendar days nor more than ([] ([]) calendar days' prior notice to the Noteholders and (ii) not less than ([] ([]) calendar days before the giving of the notice referred to in (i) above, notice to the Fiscal Agent and the Calculation Agent (which notices shall be irrevocable and shall specify the date fixed for redemption (the "**Make-Whole Redemption Date**")), redeem the Notes, [in whole (and not in part)], then outstanding at their Make-Whole Amount. On the Calculation Date, the Calculation Agent shall calculate the Make-Whole Redemption Rate applicable on the relevant Make-Whole Redemption Date and determine the relevant Make-Whole Redemption Amount and, promptly on or not later than the Business Day immediately following the Calculation Date, the Calculation Agent shall notify the Issuer, the Fiscal Agent, the Noteholders.

In this respect, the determination of any rate or amount and the making of each determination or calculation by the Calculation Agent shall (in the absence of manifest error) be final and binding

⁵⁸ In the event that the gross up clause, option (or obligation in certain cases) of early repayment (tax call) for the Issuer is invoked.

⁵⁹ To be adapted for issues not subject to French law.

upon all parties. The Calculation Agent shall act as an independent expert and not as agent for the Issuer or the Noteholders.]⁶⁰

6.5. **Early redemption at the option of the Issuer**

The Issuer may, at any time from ([] ([])) months before the Maturity Date and on giving (i) not less than [] ([]) calendar days nor more than [] ([]) calendar days' prior notice to the Noteholders and (ii) not less than ([] ([]) calendar days before the giving of the notice referred to in (i) above, notice to the Fiscal Agent and the Calculation Agent (which notices shall be irrevocable and shall specify the date fixed for redemption), redeem the Notes, in whole but not in part, then outstanding at their nominal amount together with any accrued interest thereon from and including the last Interest Payment Date to, but excluding the date fixed for redemption.

6.6. **Purchases**

The Issuer may at any time purchase Notes, at any price, in accordance with applicable laws and regulations.

Bonds redeemed by or on behalf of the Issuer may, at the Issuer's option, be held and resold, in accordance with applicable laws and regulations, or cancelled in accordance with Article 6.7 below.

6.7. **Cancellation**

The Notes redeemed or purchased for their cancellation in accordance with this Article 6 (*Redemption and purchase*) will be cancelled and may neither be reissued nor resold. The Issuer shall be released from any obligations in respect of these Notes.

7. **PAYMENTS**⁶¹

7.1. **Payment method**

Payment of principal and/or interest in respect of the Notes will be made in euros by credit or transfer to a euro-denominated account (or any other account on which credits or transfers may be made in euros) open in the books of the relevant Account Holder[s] for administered registered Notes (*au nominatif administré*) or of a bank having access to the TARGET System designated by the relevant Noteholder for fully registered Notes (*au nominatif pur*).

Payments will be subject to any tax or other laws or regulations applicable thereto, but without prejudice to the provisions of Article 8 (*Taxation*). No commission or expenses shall be charged to the Noteholders in respect of such payments.

7.2. **Payments on Business Days**

If any due date for payment of principal or interest in respect of any Note is not a Business Day, then the Noteholder thereof shall not be entitled to payment of the amount due until the next following day which is a Business Day and shall not be entitled to any interest or other additional sums in respect of such postponed payment.

7.3. **Fiscal Agent, Paying Agent[, Calculation Agent], and Registrar**

The Fiscal Agent, the Paying Agent[, the Calculation Agent], the and the initial Registrar and their specified offices are as follows:

[Postal address and electronic address]

The Issuer reserves the right at any time to vary or terminate the appointment of the Fiscal Agent, the Paying Agent[, the Calculation Agent], and/or the Registrar and/or appoint another Fiscal Agent, Paying Agent[, Calculation Agent], or Registrar or additional Paying Agents subject to having given not more than [] ([]) nor less than [] ([]) calendar days' prior notice to the Noteholders, in accordance with Article 12 (*Notices*) and as long there will at all times be a Fiscal Agent having an office in a city of a Member State of the European Union.

Any change of Fiscal Agent shall be notified to the Noteholders in accordance with the provisions of Article 12 (*Notices*).

⁶⁰ To be inserted in the event of early redemption at the option of the Issuer at the Make Whole Amount.

⁶¹ Drafting to be adapted according to the form of the securities or for issues not subject to French law.

8. TAXATION

"Gross up" clause in the event of the application of a withholding tax on interest payments, subject to the usual exceptions. If the securities are not admitted to Euroclear France's transactions (and are neither admitted to trading on a regulated market or a MTN, nor offered to the public), the "gross up" clauses must be adapted (absence of a gross up for holders located in a non-cooperative state or territory).

Draft proposal:

- 8.1. All payments of principal and interest by or on behalf of the Issuer in respect of the Notes shall be made free and clear of, and without deduction or withholding for, any taxes of whatever nature imposed, levied or collected by or within any jurisdiction, unless such withholding or deduction is required by law.
- 8.2. If [French] law should require that any payment of interest or principal in respect of the Notes be subject to deduction or withholding with respect to any present or future taxes, duties or charges, the Issuer will, to the fullest extent then permitted by law, pay such additional amounts as may be necessary in order that the Noteholders, after such withholding or deduction, receive the full amount provided in such Notes to be then due and payable; provided, however, that if by reason of a change in any law or regulation of France or any change in the official application or interpretation of such law or regulation, becoming effective after the Issue Date, and if the Issuer would, on the occasion of the next payment of principal or interest due in respect of the Notes, not be able to make such payment without having to pay additional amounts (and such payments cannot be avoided by reasonable measures taken by the Issuer), the Issuer may at any time, but no earlier than [] ([]) calendar days prior to the effective date of the such change, redeem all of the Notes then outstanding, at their nominal amount, together with the interest accrued to the date fixed for redemption.

The provisions of the above paragraph do not apply where the holder of such Notes is subject to such taxes, duties or charges by reason of its having some connection with [France] other than the mere holding of such Notes.

- 8.3. If the Issuer is required to make additional payments in accordance with the provisions of Article 8.2 above and if the Issuer would be prevented by law from making payment to the Noteholders of the full amount then due and payable (and the obligation to make such additional payments cannot be avoided by reasonable measures taken by the Issuer), the Issuer shall redeem all of the then outstanding Notes, at their nominal amount, together with interest accrued to the date fixed for redemption, at the earliest [] ([]) calendar days prior to the effective date of the change referred to in Article 8.2 above and at the latest on the date on which the additional payments should have been made.
- 8.4. In the event of a redemption made in accordance with the provisions of Article 8.3 above, the Issuer will provide, or cause to be provided, notice of such redemption, pursuant to the provisions of Article 12 (*Notices*), at the earliest [] ([]) calendar days and at the latest [] ([]) calendar days prior to the date fixed for redemption. In the case of redemption made in accordance with the provisions of Article 8.3 above, the Issuer will provide, or cause to be provided, notice, of such redemption in the same manner, at the earliest [] ([]) calendar days and at the latest [] ([]) calendar days prior to the date fixed for redemption.

9. EVENTS OF DEFAULT

This clause must be drafted in light of what is provided for in the existing financing documents, in particular on exceptions and thresholds.

Standard draft proposal:

[Any Noteholder may, upon written notice sent to the Issuer by registered mail with return receipt (copy to the Fiscal Agent), given before all continuing event of defaults shall have been cured, cause all, but not some only, of the Notes held by such Noteholder]⁶² to become immediately due and payable, at their nominal amount together with any accrued interest thereon from the last Interest Payment Date (or, if

⁶² Events of Default may also be triggered by the Representative of the Masse on behalf of all Bondholders.

applicable, the Issue Date) until their actual redemption date if any of the following events (each an "Event of Default") shall have occurred:

9.1. **Non-Payment**

The Issuer defaults in any payment of any amount under the Conditions when the same shall become due and payable, unless [the non-payment results from an administrative or technical error and] the payment is made within [] ([]) Business Days following its due date.

9.2. **Breach of the financial covenants**

Default by the Issuer in the due performance of any one of the obligations set forth in Article 4.1 (*Financial covenants*).

9.3. **Breach of other obligations under the Conditions**

Default by the Issuer in the due performance of any of its obligations under the Conditions (other than those referred to in Article 9.1 (*Non-Payment*) and in Article 9.2 (*Breach of the financial covenants*) if, to the extent that such breach can be cured, it has not been cured within [] ([]) calendar days from the first of the following dates: (i) the date on which the Issuer becomes aware of this breach and (ii) the date on which any Noteholder notifies such breach to the Issuer, requesting that it be cured.

9.4. **Cross Default⁶³**

Key point (depending on the size and activity of the Issuer):

- *This clause may be adjusted based on different variables, the main ones being:*
- *A trigger event: cross default and/or cross acceleration;*
- *The entities concerned: Issuer, Issuer and its Material Subsidiaries or the Issuer and all its Subsidiaries, depending on the structure and complexity of the Issuer's group.*

The debt concerned: the same type of debt as that referred to in financial debt with equivalent characteristics (bond, bank or financial debt, such as leasing and factoring).

Draft proposal:

- (a) The Issuer or one [of its Subsidiaries/of the Material Subsidiaries] defaults in payment of any amount with respect to Financial Debt, on its due date, or after any applicable grace period; or fails to pay when due any amount payable by it under any guarantee in respect of such Financial Debt when such guarantee is called, provided that the amount of Financial Debt referred to above exceeds [] euros ([EUR] []).
- (b) Any Financial Debt of the Issuer or of one [of its Subsidiaries/of the Material Subsidiaries], as the case may be, is or becomes due and payable prior to its stated maturity by reason of occurrence of a default (howsoever described) thereunder, provided that the amount of Financial Debt referred to above exceeds [] euros ([EUR] []) ⁶⁴.
- (c) Any creditor from whom the Issuer or one [of its Subsidiaries/of the Material Subsidiaries] contracted a Financial Debt terminates or suspends its obligation thereunder by reason of occurrence of a default (howsoever described) thereunder, provided that the amount of Financial Debt referred to above exceeds [] euros ([EUR] []) ⁶⁵.
- (d) Any creditor of the Issuer or of one [of its Subsidiaries/of the Material Subsidiaries] is entitled to declare a Financial Debt of a member of the Group due prior to its due date, by reason of occurrence of a default (howsoever described) thereunder, provided that the amount of Financial Debt referred to above exceeds [] euros ([EUR] []).

9.5. **Insolvency**

- (a) The Issuer or one [of its Subsidiaries/of the Material Subsidiaries] is unable or recognises its inability to, pay its debts on a timely basis, suspends the payment of its debts or, due to

⁶³ Case of cross default to be examined on a case-by-case basis.

⁶⁴ Insertion of a threshold to be discussed.

⁶⁵ Insertion of a threshold to be discussed.

current or anticipated financial problems, initiates negotiations with one or more of its creditors with a view to rescheduling its debt.

- (b) The Issuer or one [of its Subsidiaries/of the Material Subsidiaries] is insolvent (*état de de cessation de paiement*), or any member of the Group becomes insolvent (*état de de cessation de paiement*) as defined by any applicable insolvency law.
- (c) A moratorium is declared on the debt of the Issuer or of one [of its Subsidiaries/of the Material Subsidiaries].

9.6. Court-ordered insolvency procedures⁶⁶

To the extent permitted by law:

- (a) a decision by a management body is taken or judicial proceedings or other measure is initiated with a view to:
 - (i) suspension of the payments, obtaining of a moratorium on all or some of the debts, dissolution, the initiation of safeguard proceedings (*procédure de sauvegarde*), accelerated safeguard proceedings (*procédure de sauvegarde accélérée*), accelerated financial safeguard proceedings (*procédure de sauvegarde financière accélérée*), judicial reorganisation (*redressement judiciaire*), judicial liquidation (*liquidation judiciaire*) or restructuring (in particular, within the scope of an ad hoc mandate (*mandat ad hoc*) or conciliation (*conciliation*)) of the Issuer [or of one of its Subsidiaries] [with the exception, however, of the liquidation or the amicable restructuring of one of the Issuer's Subsidiaries]; or
 - (ii) the entering into by the Issuer or one [of its Subsidiaries/of the Material Subsidiaries] an adjustment, assignment or rescheduling agreement with a creditor due to present or anticipated financial problems; or
 - (iii) the appointment vis-à-vis the Issuer or one [of its Subsidiaries/of the Material Subsidiaries] or all or some of their respective assets, of a liquidator, court-appointed administrator, receiver, provisional administrator, *ad hoc* administrator, conciliator or of any other person performing similar duties [with the exception, however, of the appointment of a liquidator within the scope of the amicable liquidation of one of the Issuer's Subsidiaries];
- (b) The Issuer or one [of its Subsidiaries/of the Material Subsidiaries] requests for the appointment of an *ad hoc* administrator (*administrateur ad hoc*) or the initiation of a conciliation procedure (*procédure de conciliation*) in accordance with Articles L. 611-3 to L. 611-15 of the French Commercial Code;
- (c) a judgment for the opening of a (*procédure de sauvegarde*), accelerated safeguard proceedings (*procédure de sauvegarde accélérée*), accelerated financial safeguard proceedings (*procédure de sauvegarde financière accélérée*), judicial reorganisation (*redressement judiciaire*), judicial liquidation (*liquidation judiciaire*) or for the judicial transfer of the whole of the business (*cession totale de l'entreprise*) or the partial transfer of the business (*cession partielle de l'entreprise*) is issued in respect of the Issuer or one [of its Subsidiaries/of Material Subsidiaries] pursuant to Articles L. 620-1 to L. 670-8 of the French Commercial Code; or
- (d) the Issuer or any [of its Subsidiaries/of the Material Subsidiaries] is subject to any proceeding or claim or any judgment issued which has an analogous effect to any of the proceedings referred to in paragraphs (a) or (b) above.

9.7. Cessation or suspension of activity

Any suspension or cessation by the Issuer or by one [of its Subsidiaries/of the Material Subsidiaries] of all or part of its business.⁶⁷

[Note.: Based on the economics of the transaction and on the Issuer's circumstances, it is possible, though not automatic or mandatory, to insert other Events of Default such as, in particular, but without limitation, the sale of all or of a substantial part of its assets by the Issuer]

⁶⁶ Clause to be modified if the Issuer is not French. Certain of these provisions may not be enforceable depending on the insolvency law applicable in the country in which the Issuer, its Subsidiaries and/or the Material Subsidiaries, as the case may be, are registered or have their centre of main interests.

⁶⁷ Wording of this Event of Default to be modified based on the structure of the Group.

or one [of its Subsidiaries/of the Material Subsidiaries], illegality, the occurrence of an event having or that could potentially have a Material Adverse Effect, the occurrence of judicial, arbitration or administrative proceedings concerning the Issuer or one [of its Subsidiaries/of the Material Subsidiaries], the implementation of a procedure involving the enforcement or realisation of security interests, or reservations regarding or a refusal to certify the financial statements by the statutory auditors, etc.]⁶⁸

10. PRESCRIPTION

All claims against the Issuer for the payment of principal or interest in respect of the Notes shall lapse after ten (10) years (in the case of principal) and five (5) years (in the case of interest) from the due date for payment thereof.

11. REPRESENTATION OF THE NOTEHOLDERS⁶⁹

The Noteholders will be grouped automatically for the defence of their common interests in a *masse* (the "**Masse**"). The *Masse* will be governed by the provisions of Articles L. 228-46 *et seq.* of the French Commercial Code, as amended or supplemented by this Article.

The *Masse* will be a separate legal entity and will act in part through a representative (the "**Representative of the Masse**")⁷⁰ and in part through the collective decisions of the Bondholders.

Collective decisions are adopted at a general meeting (the "**General Assembly**") or by unanimous decision following a written consultation (the "**Unanimous Written Decision**").

In accordance with the provisions of Article R. 228-71 of the French Commercial Code, the rights of each Noteholder to participate in the Collective Decisions will be evidenced by entries in the books of the Registrar and/or of the relevant Account Holder[s] in the name of such Noteholder at midnight [(Paris time)] on the second (2nd) Business Day preceding the date of the Collective Decision.

The General Meeting can only validly deliberate based on the first call if the Bondholders present or represented hold at least one-fifth (1/5) of the principal amount of the Bonds in circulation. On second notice, no quorum will be required. Decisions of the General Meeting shall be taken by a two-thirds (2/3) majority of the votes held by the Bondholders present or represented,

At the initiative of the Issuer or the Representative of the Mass, Collective Decisions may also be taken by Unanimous Written Decision. Such a Unanimous Written Decision shall be signed by or on behalf of all Bondholders without having to comply with the formalities and time limits provided for in the French Commercial Code. Any Unanimous Written Decision shall, for all intents and purposes, have the same effect as a resolution adopted at a General Assembly. Such a decision may be embodied in a single document or in several documents, signed by or on behalf of one or more Bondholders.

The name and contact information of the initial Representative of the Masse are:

[]

[Postal address and electronic address]

The name and contact information of the alternate Representative (the "**Alternate Representative of the Masse**") are:

[]

[Postal address and electronic address]

The Representative of the Mass will receive remuneration for the performance of its services in the amount of [] euros (before taxes) per year, payable on each Interest Payment Date, with a first payment on the Issue Date. He shall hold office until his death, resignation, dismissal by the General Assembly or by

⁶⁸ In the event that it is envisaged to insert certain of these Events of Default, an example of their wording is shown in Article 16.1 of the model Loan Agreement published by the Euro PP working group at the same time as this document and available on the web site www.euro-privateplacement.com.

⁶⁹ To be adapted according to the circumstances of the case or for issues not subject to French law.

⁷⁰ Key point: the representative of the Noteholders must be chosen based on its technical capacity to fulfil the assignments entrusted to it, in particular, if its assignment is to verify compliance with Financial Covenants and/or other commitments of the Issuer, which implies a corresponding remuneration.

unanimous written decision or the occurrence of an incapacity or incompatibility. His term of office shall automatically end on the day of the last redemption or general repayment, early or not, of the Bonds.

The Alternate Representative of the Masse shall replace the Initial Representative of the Masse if the latter were to resign or were unable to perform its duties. In the event of death, resignation or revocation of the Alternate Representative of the Masse, its replacement(s) will be elected by the General Assembly or by Unanimous Written Decision.

All interested Noteholders may at all times obtain the names and addresses of the Representative of the Masse and the Alternate Representative of the Masse at the registered office of the Issuer and the specified office of any Paying Agent.]

12. NOTICES

Any notice or notification to the Issuer shall be sent to the attention of [__],[__] of the Issuer at the following address: and by e-mail to the following address: [__].

[Any notice to the Representative of the Masse and/ or the Fiscal Agent shall be duly given if it is sent by regular postal mail or by e-mail. In such case it shall be deemed to have been given on the second (2nd) Business Day after it was sent.]⁷¹

Any notice to the Noteholders shall be duly given if [,as the case may be, (i) it has been issued to Euroclear France or any other clearing institutions through which the Bonds are held, or [(ii) it has been made available to the Bondholders on the [] platform (www.[]), or] [(i)ii)]⁷² sent by regular postal mail to their respective postal addresses. In such case it shall be deemed to have been given on the second (2nd) Business Day after it was sent.

Each Bondholder will be required to notify the Issuer and the Fiscal Agent of any change of address concerning it.

13. [FURTHER ISSUES

The Issuer may, without the consent of the Noteholders, issue further notes to be assimilated (*assimilables*) with the Notes, provided that such further notes and the Notes shall carry identical rights in all respects (or in all respects except for the issue price and the first payment of interest thereon) and that the terms of such further notes shall provide for such assimilation.

In the case of such assimilation, the holders of such further notes and the Noteholders will be grouped in a single masse. References in these Conditions to the Notes include any other notes issued pursuant to this Article and assimilated with the Notes.]⁷³

14. GOVERNING LAW AND JURISDICTION⁷⁴

The Notes are governed by French law.

Any action against the Issuer relating directly or indirectly to the Bonds will be submitted to the competent courts within the jurisdiction of the Issuer's registered office.

⁷¹ To be adapted for issues not subject to French law.

⁷² To be inserted if the Bonds may be in administered registered form and if the choice to use such a platform has been made.

⁷³ To be inserted in the event that the issue of assimilated (*assimilables*) Notes is not excluded. To be adapted for issues not subject to French law.

⁷⁴ To be adapted for issues not subject to French law

**SCHEDULE 1 TO THE TERMS AND CONDITIONS OF THE NOTES
FORM OF COMPLIANCE CERTIFICATE**

Compliance Certificate

From: [Issuer], as Issuer

To: [Representative of the Masse], as Representative of the Masse

Copy: [Fiscal Agent], as Fiscal Agent

Date: []

This certificate constitutes a Compliance Certificate issued in accordance with the provisions of Article 4.1 (*Financial covenants*). The terms defined in the Conditions have the same meaning in this Compliance Certificate.

This Compliance Certificate is issued in respect of the Test Period commencing on [] and ending on [].

For the Test Period covered by this Compliance Certificate, the level of each of the Financial Covenants is indicated in the table below:

Financial Covenants	Level
Ratio []	[]
Ratio []	[]

The Financial Covenants contained in the table above were calculated on the basis of the following figures, in accordance with the financial statements for the Test Period concerned by this Compliance Certificate:

[financial item]	EUR []
[financial item]	EUR []
[financial item]	EUR []
[financial item]	EUR []

[To be completed, if necessary, if other financial commitments are planned (limitation of the Financial Indebtedness of the Issuer and its Subsidiaries/Material Subsidiaries, investment limitations, external growth operations, etc.)].

In addition, we hereby inform you that, for the Test Period covered by this Compliance Certificate: [to be filled out if applicable, if the Issuer wishes to inform the Noteholders of any financial information].

We hereby confirm that no Event of Default is pending on the date hereof.

Yours sincerely,

.....

[Issuer]

By: []

[For certification, the statutory auditors:

.....
[The Issuer's statutory auditors]

By: [***]

**SCHEDULE 2 TO THE TERMS AND CONDITIONS OF THE NOTES
LIST OF SECURITY INTERESTS AND/OR QUASI-SECURITY INTERESTS EXISTING ON THE ISSUE
DATE**

**SCHEDULE 2 TO THE AGREEMENT
SUBSCRIPTION COMMITMENTS**

APPENDIX 7

Sample loan agreement (*loan format*)¹

LOAN AGREEMENT

Dated: []

between

[]

As Borrower

[]

As Arranger²

[]

As Agent³

and

[]

As Original Lender⁴**Notice**

This form loan agreement is provided solely for information purposes. It is intended to provide a practical illustration of the loan transaction documentation that can be used within the scope of the Euro PP Charter. It is designed to be adapted as per the negotiations between the Borrower, the Original Lender, the Arranger and the Agent in accordance with the terms of Article 1110 of the French Civil Code.

This form loan agreement was prepared for the setting up of a loan in euros (single-currency) on a non-revolving and unsecured basis, with a variable interest rate based on EURIBOR. This form of loan agreement is primarily intended for middle market companies (known in France under the acronym "ETIs") or SMEs.

None of the contributors (direct or indirect, authors or participants in the various working groups and market consultations) to the preparation of this form loan agreement shall incur any liability due to its content.

¹ Acknowledgements for their contribution to the drafting of this document to CMS Bureau Francis Lefebvre, Gide Loyrette Nouel et Kramer Levin Naftalis & Frankel.

² The Arranger (or the Arrangers, if applicable) is responsible for organising the syndicate of lenders and for defining the conditions of the Loan. Its mission terminates on the Signing Date.

³ The Agent is responsible for administering the Loan with respect to all matters concerning day-to-day acts of management (calculation and management of financial flows between the Borrower and the Lenders, receiving and transmitting of the documents and information transmitted between the parties to the Agreement, etc.) as of the Signing Date. The Agent's mission also consists of negotiating the documentation on behalf of the Lenders after the Signing Date.

⁴ This form provides that the Loan shall be made available by a single institution acting as Original Lender, which can then assign its rights and/ or obligations under the Loan to investors. It must therefore be modified in the event that several institutions act as Lenders as of the signing of the loan agreement.

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THIS AGREEMENT IS ENTERED INTO BETWEEN THE UNDERSIGNED:

- (A) [], a [] company having its registered office at [], registered at the [] Trade and Companies Register under unique identification No. [] (the "**Borrower**");
- (B) [], a [] company having its registered office at [], registered at the [] Trade and Companies Register under unique identification No. [] (the "**Arranger**");
- (C) [], a [] company having its registered office at [], registered at the [] Trade and Companies Register under unique identification No. [] (the "**Agent**"); and
- (D) [], a [] company having its registered office at [], registered at the [] Trade and Companies Register under unique identification No. [] (the "**Original Lender**").

IT HAS BEEN AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In the Agreement:

"**Affiliate**" means, with respect to a given company, its Subsidiary or its Parent Company or any other Subsidiary of its Parent Company.

"**Agreement**" means this agreement (including its Schedules, which are an integral part hereof).

"**Assignment Agreement**" means an agreement regarding the assignment of the rights and/or obligations of a Lender made in accordance with the stipulations of Article 18.1 (*Assignments by the Lenders*), drawn up substantially in the form contained in Schedule 4 to the Loan Agreement (*Form of Assignment Agreement*) or in any other form agreed between the Agent and the Borrower.

"**Assignment Date**" means, for an assignment made in accordance with the stipulations of Article 18.1 (*Assignments by the Lenders*), the later of:

- (a) the Assignment Date indicated in the relevant Assignment Agreement; and
- (b) the date on which the Agent signs the relevant Assignment Agreement.

"**Authorisation**" means an authorisation, consent, approval, deliberation, permit, exemption, filing, notarised affidavit or registration.

"**Availability Period**" means the period commencing on the Signing Date and ending on [] (inclusive), during which the Loan can be made available to the Borrower.

"**Break Costs**" means the amount (if it exists) by which:

- (a) the amount of the interest (excluding the Margin) that a Lender should have received for the period from the date of receipt of all or part of its Participation or an Unpaid Sum until the last day of the current Interest Period concerning the Loan or such Unpaid Sum if the amount in principal or the Unpaid Sum was received by it on the last day of the current Interest Period;

exceeds:

- (b) the sum that such Lender could receive by investing an amount equal to such amount in principal or to such Unpaid Sum at a leading bank on the European interbank market for a period running from the Business Day following the date on which it received such amounts until the last day of the current Interest Period.

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are open in [Paris], while being:

- (a) with respect to a day on which a payment or a purchase must be made in euros, a TARGET Day; and
- (b) [with respect to a day on which a payment or a purchase must be made in a currency other than euro, a day on which banks located in the main financial centre of the country of such currency are open.]⁵

⁵ To be deleted if the Agreement only contemplates payments in euros.

"Change of Control" means any event following which [*Change of Control to be determined based on the Borrower's shareholder structure*].

"Commitment" means:

- (a) as regards the Original Lender, the amount of its undertaking for the Loan on the Signing Date (i.e. the entire amount of the Loan in principal); and
- (b) as regards any other Lender, the amount of any Commitment assigned to it by an Existing Lender in accordance with the stipulations of the Agreement,

to the extent that it has not been terminated, reduced or assigned under the Agreement.

"Compliance Certificate" means a certificate regarding the Financial Ratios, substantially in the form contained in Schedule 5 to the Loan Agreement (*Form of Compliance Certificate*).

"Confidential Information" has the meaning given in the form of Confidentiality Undertaking contained in Schedule 6 to the Loan Agreement (*Form of Confidentiality Undertaking*).

"Confidentiality Undertaking" means a confidentiality undertaking in accordance with the form contained in Schedule 6 to the Loan Agreement (*Form of Confidentiality Undertaking*).

"Drawdown" means the making available of the Loan.

"Drawdown Date" means the date on which the Loan must be made available to the Borrower.

"Drawdown Request" means the request to be submitted by the Borrower to the Agent with a view to the Drawdown, substantially in the form contained in Schedule 2 to the Loan Agreement (*Form of Drawdown Request*).

"EURIBOR" means, as regards any Interest Period, the interbank offered rate in euros, expressed in the form of an annual rate on the basis of three hundred and sixty (360) days, as administered by the *European Money Markets Institute* (EMMI) (or any authority that replaces it) and currently disseminated on the EURIBOR01 page of the Thomson Reuters screen (or any page that replaces it on the Thomson Reuters screen), at approximately [__]([__]:00) (Brussels time) on the Quotation Day on which interbank deposits in euros are offered between leading banks within the euro zone for a period equal to that of such Interest Period (it being specified that if such rate is below zero, EURIBOR shall be deemed to be equal to zero). The impossibility of calculating such a rate will constitute a Market Disruption.

In the event that such rate is not disseminated on the Thomson Reuters screen, it shall be replaced by a rate calculated by the Agent, equal to the arithmetic average (rounded, if necessary, to the next highest fourth decimal) of the annual rates quoted at the request of the Agent by the Reference Banks at approximately [__] ([__]:00) (Brussels time) on the Quotation Day on which deposits in euros are offered by the Reference Banks to leading banks on the European interbank market for a period equal to that of the relevant Interest Period and commencing on the first day of that Interest Period and for an amount comparable to the amount to be financed.

In the event that the duration of an Interest Period does not correspond to a whole number of months, EURIBOR shall be determined by linear interpolation between the thus disseminated rate offered for the next highest whole number of months.

If EURIBOR ceases to exist or is replaced by a rate of the same type or by an equivalent rate, or in the event of a modification affecting the institution publishing it or the publication conditions, the rate resulting from such modification or such replacement shall apply by operation of law.

"Event of Default" means any event referred to in Article 16.1.

"Existing Lender" has the meaning given in Article 18.1 (*Assignments by the Lenders*).

"Facility Office" means the office or offices by which a Lender will perform its obligations under the Agreement, the contact information of which it has notified to the Agent at the latest on the date on which it acquires the status of Lender, or, after such date, subject to notice of at least [__] ([__]) Business Days.

"FATCA Tax Deduction" has the meaning given in Article 9 (*Taxation*).

"Fee Letter" means any letter setting the amount and the conditions of the payment of the fees mentioned in Article 8 (*Fees*).

"Finance Document" means the Agreement (including the TEG Letter which forms an integral part thereof), any Fee Letter and any other document designated as such by the Agent and the Borrower.

"Finance Party" means the Agent, the Arranger or a Lender.

"Financial Debt" means any debt regarding:

- (a) [borrowed monies;
- (b) funds raised by a third-party's acceptance of bills of exchange (*lettres de change*) (or any equivalent instrument in dematerialised form);
- (c) funds raised as a result of the purchase of promissory notes (*billets à ordre*) or raised by an issue of bonds, treasury bills (*bons de caisse*), commercial paper (*billets de trésorerie*) or other debt securities;
- (d) rental or leasing commitments recorded as a liability in the balance sheet in accordance with the Applicable Accounting Principles [(other than commitments under an operating lease or leasing agreement that would have qualified as a financial lease (*location financière*) by itself in accordance with the Applicable Accounting principles in force [before 1 January 2019] / [before [•] / [•]]⁶]; receivables discounting (*escompte de créances*) or any other receivables mobilisation process (unless the discount or other process is without recourse);
- (e) funds raised under any other transaction (including forward sales and purchases, as well as all deferred payment obligations contracted to acquire any asset) qualified as a loan or as debt under GAAP;
- (f) derivative transactions entered into in order to hedge risk or benefit from fluctuations in rates or market prices (it being specified that only the market value of such a transaction will be taken into account in calculating the transaction's value);
- (g) any contingent liability with respect to the reimbursement as principal of any guarantee (*cautionnement* or *garantie*), any standby or documentary letter of credit (*lettre de crédit*) or any other signed commitment issued by a bank or a financial institution concerning one of the types of debt listed in sub-paragraphs (a) to (g); and
- (h) any personal guarantee granted over any indebtedness listed in sub-paragraphs (a) to (h) above.]⁸

"Former Lender" has the meaning given in Article 18.1 (*Assignments by the Lenders*).

"GAAP" means the accounting principles and practices generally accepted in France [(including the IFRS)].⁹

"Group" means the Borrower and its Subsidiaries at a given time and **"member of the Group"** means any one of these entities.

"IFRS" means international accounting standards according to EC regulation No. 1606/2002 on IAS standards, for the financial statements to which they are applicable.]

"Interest Payment Date" means, for the payment of the interest due for an Interest Period, the last day of such Interest Period.

"Interest Period" means each period determined in accordance with the stipulations of Article 6 (*Interest Periods*) and, for an Unpaid Sum, each period determined in accordance with the stipulations of Article 5.2 (*Penalty interest*).

⁶ Insert the appropriate reference date for the Applicable Accounting Principles (see the following note on IFRS 16).

⁷ IFRS 16 requires that most leases be recorded as liabilities in the balance sheets for accounting periods beginning on or after 1 January 2019. Similar changes are expected for other accounting regimes. Insert this exclusion if the commercial agreement between the parties is to ensure that previous operating leases are not included in the balance sheet liabilities and insert the appropriate reference date for the Applicable Accounting Principles (for example, 1 January 2019 is an appropriate reference date only if the Applicable Accounting Principles are the IFRS). If the Agreement is entered into before the accounting change under the Applicable Accounting Principles becomes effective, a reference to the Applicable Accounting Principles in effect "on the Signing Date" may constitute an appropriate reference date.

⁸ The definition of Financial Debt can vary depending on the type of Issuer and its situation. It must be modified on a case-by-case basis.

⁹ To be modified if the Borrower is not registered in France.

"Lender" means:

- (a) the Original Lender; and
- (b) as of the Signing Date, any entity that becomes a Lender pursuant to the Agreement in the conditions provided for in Article 18.1 (*Assignments by the Lenders*),

insofar as he or she has not ceased to be a Party in this capacity, in accordance with the Agreement.

"Lender Benefitting from a Tax Treaty" has the meaning given in Article 9 (*Taxation*).

"Loan" means the loan made available to the Borrower by the Lenders under the terms of the Agreement, as described in Article 2 (*The Loan*).

"Majority Lenders" means, at a given time, one or more Lenders, of which: ¹⁰

- (a) the sum of the Commitments represents at least 66²/₃% of the Total Commitment (or if the Total Commitment was reduced to zero, represented 66²/₃% of the Total Commitment prior to such reduction); and/or
- (b) the sum of the Participations represents at least 66²/₃% of the amount of the Outstanding Amount.

"Margin" means the rate of [__]% a year, subject to any adjustment in accordance with the stipulations of Article 5.3 (*Adjustment of the Margin*).

"Market Disruption" means any one of the following events:

- (a) EURIBOR must be determined by the Reference Banks at approximately [__] ([__]:00) on the Quotation Day for an Interest Period and no (or only one) Reference Bank has communicated to the Agent a rate for the determination of EURIBOR for such Interest Period; or
- (b) prior to the closing of offices in [Paris], on the Quotation Day of an Interest Period, one or more Lender(s), the sum of whose Participations exceeds [__]% of the Outstanding Amount, notify/ies the Agent that the cost of a secured financing would be greater than EURIBOR on the European interbank market.

"Material Adverse Effect" means a material adverse effect on [__]. ¹¹

"Material Subsidiary" means, based on the Borrower's consolidated financial statements and on the non-consolidated financial statements of the Group's companies submitted pursuant to Article 15.1.1 (*Financial statements*), any Subsidiary of the Borrower (i) the turnover of which represents more than [__]% of the Group's consolidated turnover, (ii) the EBITDA of which represents more than [__]% of the Group's consolidated EBITDA, or (iii) holding fixed assets, the net book value of which represents more than [__]% of the consolidated net book value of the Group's fixed assets, insofar as the sum of the turnover, EBITDA and/or net book value of the fixed assets of all of the Material Subsidiaries, represents at all times at least [__]% of the Group's consolidated turnover, the Group's consolidated EBITDA and the net book value of the Group's consolidated fixed assets. If the last condition is not satisfied, the Agent and the Borrower shall determine by joint agreement the Borrower's Subsidiaries that will be considered as Material Subsidiaries such that this condition is satisfied. ¹²

"New Lender" has the meaning given in Article 18.1 (*Assignments by the Lenders*).

"Non-Cooperative Jurisdiction" means a Non-Cooperative Jurisdiction referred to in the list in Article 238-0 A of the French General Tax Code [*Code général des impôts*], as such list may be updated. ¹³

¹⁰ Insertion of a principle of qualified majority for certain decisions to be discussed, if applicable, in the event of a co-investment.

¹¹ The existence and scope of the definition of "Material Adverse Effect" are to be negotiated and modified based on the economics of the transaction and on the Borrower's circumstances.

¹² This definition is provided as an example. The criteria for the determination of the Material Subsidiaries must be established (if applicable) based on accounting and financial criteria (EBITDA, assets, turnover, etc.) in consideration of the composition of the Group and on the economics of the transaction. The concept of "Material Subsidiary" is used to describe the representations, undertakings and Events of Default.

¹³ To be modified if the Borrower is not registered in France.

"Original Financial Statements" means [the audited consolidated financial statements and] the audited non-consolidated financial statements of the Borrower for the year ended [___], as certified by its statutory auditors.

"Outstanding Amount" means the amount in principal made available to the Borrower under the Loan and not yet repaid.

"Parent Company" means any company that controls another company as defined in **Article L. 233-3** of the French Commercial Code. ¹⁴

"Participation" means, at any time, concerning a Lender, the amount made available to the Borrower by such Lender pursuant to the Loan and not yet repaid.

"Party" means a party to the Agreement.

"Potential Event of Default" means any event referred to in Article 16.1 (*Events constituting an Event of Default*), which, as a result of the expiry of a grace period, the sending of a notification or a decision taken in accordance with the Finance Documents, would become an Event of Default.

"Protected Party" has the meaning given in Article 9 (*Taxation*).

"Qualifying Lender" has the meaning given in Article 9 (*Taxation*).

"Quasi-Security" has the meaning given in Article 15.3.7 (*Securities and Quasi-Securities*).

"Quotation Date" means, with respect to an Interest Period for which an interest rate must be set, the date falling [two (2)] TARGET days before the first day of such Interest Period.

"Reference Banks" means, for the determination of EURIBOR, the principal branch in [Paris] of [___], [___] and [___] ¹⁵, or any other banks designed by the Agent after consulting the Borrower (insofar, if the designated bank is a Lender, as such Lender has given its prior consent to such designation).

"Related Fund" means, as concerns a Lender or an entity satisfying the conditions to become Lender, (a) a fund or any other entity managed [or advised] ¹⁶ (i) by such Lender or such entity, or (ii) an Affiliate of such Lender or of such entity or (b) any other entity having the same manager [or adviser] as such Lender or such entity.

"Repeating Representations" means each of the representations made in Article 14 (*Borrower's representations*) [with the exception of [___]]. ¹⁷

"Representative" means any delegate, agent, manager, administrator, nominee, trustee or custodian.

"Security" means any mortgage, charge, pledge, lien, trust by way of security, transfer of ownership as collateral and any other collateral guaranteeing the obligations of a person, as well as any other agreement or accord having a similar effect. ¹⁸

"Selection Notice" means a notice substantially in the form contained in Schedule 3 to the Loan Agreement (*Form of Selection Notice*), to be submitted by the Borrower to the Agent in accordance with the provisions of Article 6 (*Interest Periods*).

"Signing Date" means the Agreement's signing date.

"Subsidiary" means a company directly or indirectly controlled by another according to the meaning of Article L. 233-3 of the French Commercial Code. ¹⁹

¹⁴ Definition to be modified if the concept of control must be assessed more broadly than based solely on French law.

¹⁵ The Reference Banks are selected by the Agent in consultation with the Borrower.

¹⁶ Certain collective management activities can give rise to the entering into of investment advisory mandates by management companies, either with other management companies, or with alternative investment funds (AIFs) such as, for example, securitisation bodies. In this scenario, the final investment decision is taken by the management company or by the AIF receiving the advice. Special attention must be paid in order to verify, in the case of "advised" entities, if the beneficiary of this advice is a fund or an entity linked to the Lender, for example, via the Lender's direct or indirect holding of all or some of the economic interests (units, shares) in such fund or such entity.

¹⁷ Exceptions, if any, to the repeating of certain representations to be agreed between the Borrower and the Finance Parties.

¹⁸ Definition to be modified if the concept of control must be assessed more broadly than based solely on French law.

¹⁹ Definition to be modified, if applicable, if the concept of control should be assessed more broadly than on based on French law alone.

"**TARGET Day**" means any day on which the TARGET2 (*Trans-European Automated Real Time Gross Settlement Express Transfer*) system, a Trans-European automated real-time gross settlement system that uses a single shared platform and was launched on 19 November 2007, is open for the settlement of payments in euros.

"**Tax**" means any tax, levy, duty or any charge or withholding of a similar nature (including the penalties and interest due in case of non-payment or delayed payment of one of these sums).

"**Tax Credit**" has the meaning given Article 9 (*Taxation*).

"**Tax Deduction**" has the meaning given in Article 9 (*Taxation*).

"**Tax Payment**" has the meaning given in Article 9 (*Taxation*).

"**TEG Letter**" has the meaning given in Article 5.5 (*Effective global rate*).

"**Termination Date**" means [the date of the []th anniversary of the [Signing Date/Drawdown Date] / on []].

"**Total Commitment**" means the sum of the Commitments of all of the Lenders.

"**Unpaid Sum**" means any sum due but not yet paid by the Borrower in accordance with the Finance Documents.

"**VAT**" means any tax due pursuant to the European Council Directive of 28 November 2006 regarding the common value added tax system (Directive 2006/112/EC) or any other similar tax, due in a Member State of the European Union or elsewhere, replacing or supplementing such tax.

1.2 Financial Definitions

[Financial Definitions to be inserted by the parties on the basis of the Borrower's financial statements]

"**EBITDA**" means [].

"**Financial Ratios**" means [Ratio [R1] and Ratio [R2]].

"**Ratio [R1]**" means the ratio of [] over [].

"**Ratio [R2]**" means the ratio of [] over [].

"**Test Period**" means, for the purposes of the calculation of the Financial Ratios, any period of [twelve (12)] months ending on [31 December] of each fiscal year, in which the Financial Ratios must be tested.²⁰

1.3 Interpretation

In the Agreement, unless otherwise indicated:

- (a) "**Schedule**", "**Article**" and "**paragraph**" mean (unless otherwise stipulated) a schedule, an article, or a paragraph of the Agreement;
- (b) any reference to the "**Agent**", the "**Arranger**", the "**Borrower**", a "**Finance Party**" or a "**Lender**" includes its successors, transferees, assignees and beneficiaries;
- (c) "**assignment**" refers to any mode of assignment of rights and/or obligations under French law;
- (d) the references to the "**rights**" or "**obligations**" of a Party, without further clarification, are understood as the rights or obligations of such Party under the Agreement;
- (e) "**month**" is understood as a period that commences on one day of a calendar month and ends on the corresponding date, either on the same day of the next calendar month, or (in the event that the next calendar month does not contain the same day) on the last day of such next calendar month;
- (f) the references to the "**payments**" that a Party must make or receive, without further clarification, are understood as payments that it must make or receive under the Agreement;

²⁰ To be adjusted in the event that the Financial Ratios are tested more than once a year.

- (g) "**regulation**" includes any law, decree, order and any other domestic or foreign rule-making legal instrument;
- (h) the references to an agreement (including the Agreement), to a contract or to any other document are understood as this agreement, this contract or this document as amended, if applicable;
- (i) the terms "**undertakes to ensure**", "**ensure**" or "**shall ensure**" used in the context of the undertakings made by the Borrower on behalf of one or more of its Subsidiaries are understood as an obligation for the Borrower to achieve a specific result; and
- (j) a Potential Event of Default is "**continuing**" if it has not been remedied or if the persons that can rely on it have not waived their right to do so and an Event of Default is "**continuing**" if the persons who can rely on it have not waived such right.

2. THE LOAN

2.1 Amount of the Loan

Subject to the stipulations of the Agreement, the Lenders shall make available to the Borrower a loan of a total amount in principal equal to [] euros (EUR []).

2.2 Purpose of the Loan and verification of the use of the Loan

2.2.1 The Loan is exclusively intended for [purpose of the Loan to be filled out].²¹

2.2.2 No Finance Party shall be bound to monitor or to verify the Borrower's use of the amounts borrowed under the Loan.

2.3 Rights and obligations of the Finance Parties

2.3.1 The obligations of the Finance Parties pursuant to the Finance Documents are several (*conjointes et non solidaires*). A breach by a Finance Party of its obligations in accordance with the Finance Documents shall not affect the obligations of another Party pursuant to these documents.

2.3.2 The rights of each Finance Party pursuant to the Finance Documents are distinct from and independent of those of the other Finance Parties and any obligation of the Borrower vis-a-vis a Finance Party pursuant to the Finance Documents is an obligation that is distinct from and independent of its obligations to the other Finance Parties.

3. CONDITIONS OF THE USE OF THE LOAN

3.1 Conditions precedent or concomitant conditions

3.1.1 Conditions concomitant to the signing of the Agreement

Concomitantly to the signing of the Agreement, the Borrower undertakes to submit to the Agent all of the documents listed in section 1 of Schedule 1 to the Loan Agreement (*Conditions precedent or concomitant conditions*), which must be satisfactory, in terms of both form and substance, to [the Agent, the Arranger and the Original Lender]. [The Agent undertakes to confirm promptly to the Borrower and to the Lenders that the form and substance of these documents are acceptable to it.]²²

3.1.2 Conditions precedent to the Drawdown

The Drawdown is subject to the submission by the Borrower to the Agent of all of the documents listed in section 2 of Schedule 1 to the Loan Agreement (*Conditions precedent or concomitant conditions*), the form and substance of which must be satisfactory to [the Agent, the Arranger and

²¹ The purpose of the Loan can be, in particular, to refinance existing debt. In this case, it is necessary to specify such purpose in the Purpose section of the Loan Agreement and to provide for the submission, as a condition precedent or as a condition concomitant to the Loan being made available, of any document establishing the refinancing of such debt and (if applicable) the concomitant cancellation of any security given as guarantee of such debt.

²² Subject to approval by the Agent.

the Original Lender]. [The Agent undertakes to confirm promptly to the Borrower and to the Lenders that the form and substance of these documents are acceptable to it.]²³

3.1.3 **Conditions precedent or concomitant in the exclusive interest of the Lenders**

The conditions precedent referred to in Article 3.1.1 (*Conditions concomitant to the signing of the Agreement*) and the conditions precedent referred to in Article 3.1.2 (*Conditions precedent to the Drawdown*) are stipulated in the exclusive interest of the Lenders.

3.2 **Drawdown Request and making available of the Loan**

3.2.1 The Loan shall be made available to the Borrower in one instalment, insofar (i) as the Borrower submits to the Agent a Drawdown Request duly prepared [at least [] ([]) Business Days prior to the Drawdown Date]²⁴ and (ii) if no Event of Default or any Potential Event of Default is continuing on the date of the Drawdown Request and on the Drawdown Date.

3.2.2 The Drawdown Request is irrevocable and shall only be considered as duly prepared if it conforms to the form contained in Schedule 2 to the Loan Agreement (*Form of Drawdown Request*), and if:

- (a) the requested Drawdown Date is a Business Day included in the Availability Period; and
- (b) the requested Interest Period conforms to the stipulations of Article 6 (*Interest Periods*).

3.2.3 If the conditions stipulated in the Agreement are satisfied, the Original Lender, its Facility Office, shall make the entire Loan available to the Borrower on the Drawdown Date.

3.2.4 In the event that the Borrower does not submit a Drawdown Request to the Agent at the latest by [] ([]) Business Days prior to the expiry of the Availability Period, the Total Commitment shall be immediately and permanently cancelled.

4. **REPAYMENT AND CANCELLATION OF THE LOAN**

4.1 **Normal repayment**

The Borrower shall repay the entire Outstanding Amount on the Termination Date.²⁵

4.2 **Early repayment**

4.2.1 **Voluntary early repayment**

- (a) The Borrower shall be entitled to repay in advance all or part of the Outstanding Amount (for a minimum amount of [] euros, EUR ([])) and, above this, by whole multiples of [] euros, (EUR [])), subject to prior notice to the Agent of at least [] ([]) Business Days (or any shorter period subject to the prior consent of the Majority Lenders).
- (b) No total or partial early voluntary repayment of the Outstanding Amount shall give rise to any indemnification, or to any expense, with the exception (i) of the Break Costs, if any, in the event that the Borrower were to make an early voluntary repayment on a date other than an Interest Payment Date and (ii) of a penalty of an amount equal to []²⁶.

4.3 **Mandatory early repayment**²⁷

4.3.1 **Illegality for a Lender**

If the performance by a Lender of any one of its obligations pursuant to the Agreement or if the making available or maintenance of its Participation were to become illegal pursuant to the law that is applicable to it:

²³ Subject to approval by the Agent.

²⁴ Key point: verify the conditions of the Utilisation with the back office of the Agent/of the Original Lender.

²⁵ Repayment conditions to be adjusted in the event that the Loan cannot be repaid through a bullet payment but is redeemable by instalments.

²⁶ A penalty must be paid in exchange for the Borrower's choice in favour of early repayment. The amount of such penalty may vary based on the nature of the applicable rate (fixed or variable), the residual maturity, the status of the Lenders participating in the transaction (insurer, bank, etc.), and, more generally, according to the economics of the transaction and the Borrower's circumstances.

²⁷ Other mandatory early repayment scenarios can be agreed between the Parties depending on the economics of the transaction and the Borrower's circumstances.

- (a) it must communicate such fact to the Agent promptly upon becoming aware of it;
- (b) as soon as the Agent has informed the Borrower, the Commitment of the relevant Lender shall be cancelled or, if the maintenance of the Commitment of such Lender is legally possible during a certain period, the Borrower shall be entitled, by notice sent to the Agent, either to announce its intention to cancel the Commitment of such Lender and to repay in advance the Participation of such Lender, or to announce its intention to replace such Lender; and
- (c) if the Borrower has announced its intention to repay in advance the Participation of the relevant Lender, such repayment must take place on the first of the following dates:
 - (i) the last day of the current Interest Period on the date of the notice mentioned in paragraph (a) above;
 - (ii) the date specified by the Borrower in the termination notice mentioned in paragraph (b) above; and
 - (iii) the date specified by the relevant Lender in the notice mentioned in paragraph (a) above,
 in each case, insofar as the date chosen does not precede the last day of the grace period, if any, provided for by law; or
- (d) if the Borrower has announced its intention to replace the relevant Lender, the Borrower shall be entitled, subject to notice of [__] ([__]) Business Days to the Agent and the relevant Lender, to replace such Lender, asking it to assign (and such Lender shall be required to assign) in accordance with Article 18.1 (*Assignments by the Lenders*) all (and not just some) of its rights and obligations pursuant to the Agreement to another Lender or to another bank or financial institution selected by the Borrower.

4.3.2 Change of Control

In case of a Change of Control:

- (a) the Borrower shall inform the Agent of such situation promptly upon becoming aware of it, and the Agent shall in turn inform the Lenders; and
- (b) unless otherwise agreed by the relevant Lender(s), the Commitment of the relevant Lender(s) shall be cancelled and the Borrower shall be required to repay the Participation of the relevant Lender(s) and to pay the associated interest and all other amounts due pursuant to the Finance Documents that will become immediately due, at the latest within a period of [__] ([__]) calendar days following the date of the occurrence of the Change of Control.

4.4 Replacement or voluntary early repayment and cancellation vis-à-vis only one Lender

- (a) If:
 - (i) a sum due to a Lender by the Borrower must be increased by applying the stipulations of paragraph (c) of Article 9.2 (*Payment increases*) or of any equivalent stipulation of the Finance Documents; or
 - (ii) a Lender asks the Borrower to indemnify it by application of the stipulations of Article 9.3 (*Tax indemnity*) or of Article 10.1 (*Additional costs*); or
 - (iii) an amount due to any one of the Lenders by the Borrower pursuant to a Finance Document is not, or will not be (at the time of the calculation of corporate tax) treated as a deductible charge or expenses of the Borrower from a [French] tax standpoint²⁸, solely on the ground that such amount is (1) paid or due to a Lender that is incorporated, domiciled, established or acting through a Facility Office located in a Non-Cooperative Jurisdiction, or (2) paid to an account open in the name of or on behalf of such Lender in a financial institution located in a Non-Cooperative Jurisdiction,

²⁸ To be adjusted if the Borrower is not registered in France.

the Borrower shall be entitled, for as long as the situation resulting in such additional cost persists, indemnification or non-deductibility from a [French] ²⁹ tax standpoint persists, by a notice sent to the Agent, either announce its intention to cancel the Commitment of such Lender and to repay in advance the Participation of such Lender in the conditions provided for in paragraph (c) of Article 4.3.1 (*Illegality for a Lender*), or announce its intention to replace such Lender in the conditions stipulated in paragraph (d) of Article 4.3.1 (*Illegality for a Lender*).

- (b) Upon receipt of the termination notice mentioned in paragraph (a) above, the Commitment of the relevant Lender shall be immediately and permanently cancelled and reduced to zero.

4.5 **Mandatory early repayment and cancellation vis-à-vis only one Lender**

4.5.1 If the Borrower's performance of its obligations to a Lender pursuant to paragraph (c) of Article 9.2 (*Payment increases*) or an equivalent stipulation of a Finance Document becomes illegal:

- (a) the Borrower shall notify the Agent promptly becoming aware of such fact;
- (b) as soon as the Agent notifies the relevant Lender, the latter's Commitment shall be cancelled or, if the maintenance of such Lender's Commitment is legally possible during a certain period of time, the Borrower shall be entitled, by a notice sent to the Agent, either to announce its intention to cancel the Commitment of such Lender and to repay in advance such Lender's Participation in the conditions contained in paragraph (c) of Article 4.3.1 (*Illegality for a Lender*), or to announce its intention to replace such Lender in the conditions defined in Article 4.3.1 (*Illegality for a Lender*).

4.5.2 In the absence of immediate termination if the maintenance of such Lender's Commitment is illegal on such date, the Commitment of the relevant Lender shall be immediately and permanently cancelled and reduced to zero upon receipt of the termination notice mentioned in Article 4.5.1.

4.6 **Repayment and cancellation conditions**

4.6.1 Any notice of cancellation or of early repayment submitted by a Party pursuant to this Article 4 (*Repayment and cancellation of the Loan*) shall be irrevocable and, unless otherwise stipulated in the Agreement, shall specify the repayment or cancellation date(s), as well as the amount repaid.

4.6.2 Any amount repaid in advance pursuant to this Article 4 (*Repayment and cancellation of the Loan*) cannot be used under any circumstances.

4.6.3 Any repayment pursuant to the Agreement (whether voluntary or mandatory, normal or or early, partial or complete) shall be accompanied by accrued and outstanding interest and any other expenses and ancillary amounts due in accordance with the Agreement (including, in particular, the Break Costs), but shall not give rise to the payment of any indemnification [(except for the stipulations of paragraph (b) of Article 4.2.1 (*Voluntary early repayment*)]³⁰.

4.6.4 The Borrower shall only be entitled to repay all or part of the Outstanding Amount or to cancel all or part of a Lender's Commitment on the dates and in accordance with the conditions stipulated in the Agreement.

4.6.5 Any cancellation of a Commitment shall be final.

4.6.6 Promptly after the Agent has received a notice in accordance with the stipulations of this Article 4 (*Repayment and cancellation of the Loan*), the Agent shall send a copy of it to the Borrower or, as the case may be, to the relevant Lender.

²⁹ To be adjusted if the Borrower is not registered in France.

³⁰ To be inserted in the event that the payment of a penalty is required in case of voluntary early repayment.

5. INTEREST

5.1 Calculation and payment of interest ³¹

5.1.1 The interest rate applicable to the Outstanding Amount for each Interest Period is the annual rate expressed as a percentage, which is the sum:

- (a) of the Margin; and
- (b) of EURIBOR of the relevant Interest Period.

5.1.2 After the determination of the EURIBOR applicable to each Interest Period, the Agent shall calculate the amount of the interest due for the relevant Interest Period and shall communicate it to the Borrower and to the Lenders promptly.

5.1.3 The interest due under the Loan shall be payable in arrears on each Interest Payment Date [(it being specified that, for any Interest Period longer than six (6) months, the interest due shall be payable the last day of each period of six (6) months following the first day of such Interest Period and for the last time, the last day of such Interest Period)].

5.2 Penalty interest

5.2.1 If the Borrower does not make timely payment of an amount due pursuant to any one of the Finance Documents, such amount shall accrue interest, by operation of law and without prior notice, within the limits authorised by law, during the period between its due date and the date of its effective payment [(both before and after a court decision, if any)] at a rate of [__] per cent ([__]%) a year above the rate that would have been due if the Unpaid Sum had constituted, during the payment delay period, an advance reasonably loaned by the Agent during successive Interest Periods of a fixed term.

5.2.2 The Borrower must pay the accrued and outstanding interest pursuant to this Article 5.2 (*Penalty interest*) as soon as requested by the Agent.

5.2.3 The perception of the Penalty interest mentioned in this Article 5.2 (*Penalty interest*) shall not, under any circumstances, constitute a granting of a payment period or a waiver of any right whatsoever of the Finance Parties pursuant to the Agreement.

5.3 Adjustment of the Margin

[Margin adjustment conditions to be specified by the Parties, if applicable] ³²

5.4 Capitalisation ³³

Without prejudice to the fact that they are due at any time, the interest due by the Borrower for an entire year shall be capitalised in accordance with Article 1343-2 of the French Code Civil and shall produce interest in the conditions defined in Article 5.2 (*Penalty interest*).

5.5 Effective global rate ³⁴

5.5.1 To satisfy the obligations contained in Articles L. 313-4 of the French Monetary and Financial Code, L. 314-1 and L. 314-5 and R. 314-1 *et seq.* of the French Consumer Code, the effective global rate (*taux effectif global*) of the Loan is provided on the Signing Date to the Borrower by the Agent in a separate letter, which the Parties acknowledge and accept as being an integral part of the Agreement (the "**TEG Letter**").

5.5.2 The Borrower expressly recognises that, as a result of the particularities of the stipulations of the Agreement and, in particular, the variability of the interest rate and the Borrower's right to select the duration of each Interest Period, it is impossible to determine in advance the effective global rate of the Loan and that the effective global rate indicated in the TEG Letter only constitutes an

³¹ The Agreement was drafted by assuming that the interest rate applicable to the Loan is a variable rate based on EURIBOR. Accordingly, it must be adjusted in the event that the interest rate is a fixed rate. The Agreement must also be adjusted in the event that the first Interest Period is shorter than a period during which a EURIBOR can be determined.

³² The wording of this clause regarding the adjustment of the Margin must be drawn up on a case-by-case basis depending on the identity of the Borrower and its activity and in accordance with the economics of the transaction. The adjustment can be upward or downward, or both. It can take place automatically based on the exceeding of certain ratios defined in this clause.

³³ To be included if the Agreement is subject to French law.

³⁴ To be included if the Agreement is subject to French law.

example prepared on the basis of certain assumptions that are not binding on the Lenders for the future.

- 5.5.3 The Borrower acknowledges having personally made any estimates it considered necessary to assess the total cost of the Loan and having obtained any necessary information from the Agent [and the Lenders] in such connection.

6. INTEREST PERIODS

- 6.1 Each Interest Period shall be [of a period of [] ([]) months/, at the Borrower's choice, [] ([]) or [] ([]) months]³⁵ [(or any other period agreed between the Borrower and the Agent (acting upon instructions from [the Majority/all of the] Lenders)] [it being specified that, by derogation to the above, the first Interest Period shall commence on the Drawdown Date and shall end on []]³⁶.
- 6.2 The Borrower can select each Interest Period in the Drawdown Request, and later, as of the Drawdown Date, in a Selection Notice.
- 6.3 The Borrower can send the Agent an irrevocable Selection Notice at the latest at [] ([]:00) [] ([]) Business Days prior to the first day of the relevant Interest Period.
- 6.4 [The Agent shall promptly notify the Lenders of the content of any Selection Notice received from the Borrower.]
- 6.5 [In the event that the Borrower does not submit to the Agent a Selection Notice or does not submit it within the stipulated time limit, the relevant Interest Period shall be a [three] ([3]) months period.]
- 6.6 Each Interest Period shall start on the last day (inclusive) of the previous Interest Period (with the exception of the first Interest Period, which shall start on the Drawdown Date) and shall end on the last day (exclusive) of the relevant Interest Period; it is hereby specified (i) that if such day is not a Business Day, such Interest Period shall end on the following Business Day, unless it results in a deferral to the following calendar month, in which case such Interest Period shall end on the previous Business Day, and (ii) that the same day cannot accrue interest for two (2) Interest Periods.
- 6.7 No Interest Period can have a duration that extends beyond the Termination Date.

7. CHANGES TO THE CALCULATION OF INTEREST

7.1 Absence of quotations

With the exception of the stipulations of Article 7.2 (*Market Disruption*), if, when EURIBOR must be determined by the Reference Banks, one of the Reference Banks does not indicate its rate at the latest by []:00 on the relevant Quotation Day, the applicable EURIBOR shall be determined on the basis of the rates communicated by the other Reference Banks. None of the Reference Banks may incur any liability whatsoever as a result of the communication of a rate or the failure to communicate such a rate when requested by the Agent, except in the case of gross negligence or fraud.

7.2 Market Disruption

If a Market Disruption affects an Interest Period, the interest rate applicable to the Participation of each Lender during such Interest Period shall be the sum:

- (a) of the [applicable] Margin; and
- (b) of the annual rate corresponding to the cost borne by such Lender to finance its Participation by any reasonable means it has selected; such rate must be communicated

³⁵ References to the selection of the duration of the Interest Periods and to the Selection Notices (Articles 6.2 to 6.5) to be inserted only if the Borrower can select the duration of the Interest Periods.

³⁶ To be inserted if the first Interest Period has a specific duration (for example, if it does not correspond to a whole number of months).

to the Agent promptly and, in any case, prior to the Interest Payment Date of such Interest Period.

7.3 **Alternative basis**

7.3.1 In the event of the occurrence of a Market Disruption and insofar as requested by the Agent and/or the Borrower, the Agent and the Borrower shall commence negotiations (of a duration not exceeding [thirty] ([30]) calendar days) in order to reach an agreement on an alternative basis for the calculation of the interest rate.

7.3.2 Any calculation basis having been agreed in accordance with Article 7.3.1 shall be imposed on all of the Parties, insofar as it has been approved beforehand by all of the Lenders; it is hereby specified that, in the event that the alternative calculation basis is not approved beforehand by all of the Lenders, the stipulations of Article 7.2 (*Market Disruption*) shall apply.

7.4 **Break Costs**

7.4.1 Within a period of [] ([]) Business Days following the request by the Agent, the Borrower must pay it, on behalf of the relevant Lenders, the Break Costs, if any, resulting from the repayment of all or part of their Participation on a date other than an Interest Payment Date.

7.4.2 Each Lender must, if requested by the Agent, provide it, within a reasonable period of time, an affidavit establishing the amount of the Break Costs that it has borne for the relevant Interest Period.

8. **FEES³⁷**

8.1 **Arrangement fee**

The Borrower must pay the Arranger an arrangement fee, the amount and payment conditions of which are defined in a Fee Letter.

8.2 **Agent Fee**

The Borrower must pay the Agent an Agent Fee, the amount and payment conditions of which are defined in a Fee Letter.

9. **TAXATION**

9.1 **Definitions**

"**FATCA**" means:

- (a) sections 1471 to 1474 of the 1986 American Tax Code (*US Internal Revenue Code of 1986*) and any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or an inter-governmental agreement between the United States of America and any other jurisdiction, which (in each case) facilitates the application of any law or regulation mentioned in paragraph (a) above; or any application agreement regarding any treaty, law or regulation mentioned in paragraphs (a) and (b) above entered into with the US Internal Revenue Service, the American government or any other governmental or tax authority of any other jurisdiction.

"**FATCA Tax Deduction**" means a deduction or a Tax Deduction applicable to a payment pursuant to a Finance Document in application of FATCA.

"**Lender Benefitting from a Tax Treaty**" means a Lender who:

- (a) is a resident of the Signatory State pursuant to the Tax Treaty;
- (b) does not engage in an activity [in France]³⁸ through a permanent establishment to which its Participation is in practice linked;

³⁷ Other fees to be specified by the Parties, if applicable (participation/commitment fee, etc.).

³⁸ To be adjusted if the Borrower is not registered in France.

- (c) acts from a Facility Office located in a State of its establishment;
- (d) satisfies all of the other conditions that must be satisfied in application of the Tax Treaty by the residents of the Signatory State such that the residents of such State can be exempted from Tax levied on interest by [France]³⁹, subject to the performance of all necessary formalities.

"**Protected Party**" means a Finance Party liable for Tax concerning a payment it received or will receive (or that, pursuant to a tax agreement, is considered as having been received or that will be received) pursuant to a Finance Document.

"**Qualifying Lender**" means:

- (a) a Lender that satisfies the conditions imposed by [French]⁴⁰ law for an interest payment not to be subject to a Tax Deduction or, if applicable, to be exempted from a Tax Deduction; or
- (b) a Lender Benefiting from a Tax Treaty.

"**Signatory State**" means a State having signed a double taxation agreement with [France]⁴¹ (the "**Tax Treaty**"), which provides for a total exemption of Tax levied by [France]⁴² on interest payments.

"**Tax Credit**" means a tax credit, exemption, rebate or refund.

"**Tax Deduction**" means a deduction or a withholding regarding a Tax, applicable to a payment pursuant to the Agreement, other than a FATCA Tax Deduction.

"**Tax Payment**" means an increased payment, made by the Borrower to a Finance Party in accordance with the stipulations of Article 9.2 (*Payment increases*), or a payment made in accordance with the stipulations of Article 9.3 (*Tax indemnity*).

Unless otherwise stipulated, a reference in this Article 9 (Taxation) to "determine" or to "has determined" is understood as the assessment by a person left to his/her entire discretion.

9.2 Payment increases

- (a) The Borrower must make all payments pursuant to the Finance Documents net of any Tax Deduction, unless a Tax Deduction is required by law.
- (b) Promptly becoming aware of the obligation to carry out a Tax Deduction or to modify the rate or base of a Tax Deduction, the Borrower shall inform the Agent. Similarly, a Lender shall inform the Agent, promptly upon becoming aware of such fact, of any Tax Deduction applicable to a payment to which it is entitled. Once a Lender has received such information, the Agent shall inform the Borrower.
- (c) If a Tax Deduction must be carried out by the Borrower, the amount of its payment must be increased to reach an amount equal, after deduction of the Tax Deduction, to the amount it would have been liable for if the payment had not undergone a Tax Deduction.
- (d) A payment shall not be increased pursuant to paragraph (c) above due to Tax Deduction for a Tax levied by [France]⁴³, if, on the date on which such payment becomes due:
 - (i) the payment could have been made to the relevant Lender without Tax Deduction if it were a Qualifying Lender, but on such date such Lender is not or is no longer a Qualifying Lender for a reason other than a modification, made after it became a Lender pursuant to the Agreement, the law or a tax agreement (or their interpretation or application) or a practice or a tolerance published by a competent tax authority; or
 - (ii) the relevant Lender is a Lender Benefiting from a Tax Treaty and the Borrower is able to demonstrate that the payment could have been made without Tax Deduction

³⁹ To be adjusted if the Borrower is not registered in France.

⁴⁰ To be adjusted if the Borrower is not registered in France.

⁴¹ To be adjusted if the Borrower is not registered in France.

⁴² To be adjusted if the Borrower is not registered in France.

⁴³ To be adjusted if the Borrower is not registered in France.

for a Tax levied by [France] ⁴⁴ if the Lender had performed its obligations pursuant to paragraph (g) below,

it being specified that the exclusion mentioned in paragraph (i) above in the event of a modification occurring after the date on which a Lender has become a Lender pursuant to the Agreement, shall not apply in the case of Tax Deduction for a Tax levied by [France] ⁴⁵ on a payment made to a Lender, if such Tax Deduction is due only because such payment is made to an account open in the name and on behalf of such Lender in a financial institution located in a Non-Cooperative Jurisdiction.

- (e) The Borrower must carry out any Tax Deduction to which its payments are subject and pay the competent tax authority the corresponding amount, within the time limits defined by law and within the limits of the minimum legal requirements.
- (f) At the latest thirty (30) days after having carried out a Tax Deduction or paid the competent tax authority the corresponding amount, the Borrower shall send the Agent, on behalf of the relevant Finance Party, the evidence enabling the latter to reasonably conclude that the Tax Deduction was carried out or, if applicable, that the corresponding payment was duly made to the competent tax authority.
- (g) A Lender Benefitting from a Tax Treaty and the Borrower that owes it a payment must cooperate in the performance of the formalities enabling the latter to make such payment without Tax Deduction.

9.3 Tax indemnity

- (a) The Borrower shall pay the Protected Party, within [three (3)] Business Days following the request made by the Agent, an amount equal, as determined by the Protected Party, to the loss that it sustained or that it may sustain (directly or indirectly) pursuant to a Finance Document as a result of a Tax, or to the amount of the Tax that it is required to pay pursuant to a Finance Document.
- (b) Paragraph (a) above shall not apply if:
 - (i) the Tax is paid by a Finance Party:
 - (A) pursuant to the laws of the country of its registered office or, if the latter is different, of the country/ies in which it is treated as a resident by tax regulations; or
 - (B) in relation to a payment that it receives or will receive in the country of its Facility Office, in accordance with the laws of such country,

if such Tax is based on the net revenue that it has effectively received or is supposed to effectively receive, or calculated by reference to such revenue (to the exclusion of any revenue that it is simply deemed to have received or is supposed to receive); or
 - (ii) if the loss or its obligation to pay the Tax:
 - (A) is compensated by a payment increased in accordance with Article 9.2 (*Payment increases*);
 - (B) should have been compensated by a payment increased in accordance with Article 9.2 (*Payment increases*) but was not solely as a result of one of the exceptions mentioned in paragraph (d) of Article 9.2 (*Payment increases*); or
 - (C) is related to a FATCA Tax Deduction to be made by a Party.
- (c) A Protected Party who relies, or who has the intention to rely, on the stipulations of paragraph (a) above, must indicate to the Agent promptly the cause of the claim. The Agent shall then inform the Borrower.
- (d) As soon as the Borrower has received a payment in accordance with the stipulations of this Article 9.3 (*Tax indemnity*), the relevant Protected Party shall inform the Agent.

⁴⁴ To be adjusted if the Borrower is not registered in France.

⁴⁵ To be adjusted if the Borrower is not registered in France.

9.4 **Tax Credit**

If the Borrower makes a Tax Payment and if the relevant Finance Party determines:

- (a) that such payment gives rise to the right to a Tax Credit with respect to an increased payment of which such Tax Payment is a part, as regards such Tax Payment or with respect to a Tax Deduction as a result of which such Tax Payment was required; and
- (b) that it obtained such Tax Credit and used it, without the latter being part of any challenge, the relevant Finance Party must pay the Borrower an amount such that, as determined by it, its situation after Taxes will be identical to that in which it would be if the Borrower had not been required to make the Tax Payment.

9.5 **Confirmation of the tax status of a New Lender**

9.5.1 Each New Lender must confirm, in the Assignment Agreement that it signs to become a Lender pursuant to the Agreement, in favour of the Agent and without incurring any liability to the Borrower:

- (a) that it is a Qualifying Lender (other than a Lender Benefitting from a Tax Treaty); or
- (b) that it is a Lender Benefitting from a Tax Treaty.

If a New Lender does not indicate its status in the relevant Assignment Agreement, such New Lender shall be treated for the purposes of the Agreement (including by the Borrower) as if it were not a Qualifying Lender until it notifies the Agent of the status that is applicable to it (and the Agent, upon receipt of such notification, must inform the Borrower). It is hereby stipulated that the relevant Assignment Agreement shall not be invalidated by a breach by the New Lender under this Article 9.5.1.

9.5.2 Each New Lender must also confirm, in the relevant Assignment Agreement, that it is incorporated in a Non-Cooperative Jurisdiction or that it acts through a Facility Office located in a Non-Cooperative Jurisdiction. It is hereby stipulated that the Assignment Agreement will not be invalidated by a breach by the New Lender pursuant to this Article 9.5.2.

9.6 **Value added tax**

The payments to be made to a Finance Party by another Party pursuant to the Finance Documents are expressed excluding VAT. If a service rendered by a Finance Party to another Party pursuant to a Finance Document is subject to VAT, the latter must pay the Finance Party an amount equal to the VAT due, over and above the amount due and at the same time as the latter.

10. **ADDITIONAL COSTS**

10.1 **Additional costs**

10.1.1 With the exception of the stipulations contained in Article 10.3 (*Exceptions*), the Borrower, within three (3) Business Days following the request by the Agent, shall pay the latter, for the account of a Finance Party, the Additional Costs borne by such Finance Party (or by any of its Affiliates or Related Funds) due to (i) the entry into force or the amendment of a regulation, or a change in the interpretation or application of a regulation after the Signing Date or (ii) compliance with a regulation that took effect after the Signing Date.

10.1.2 In the Agreement, "**Additional Costs**" means:

- (i) any reduction for a Finance Party (or any of its Affiliates or Related Funds) of the net remuneration that it receives from the Loan or the net remuneration of its capital, including as a result of its compliance with any minimum reserve regulations issued by any prudential supervisory authority in respect of its Participation;
- (ii) any additional cost; or
- (iii) any reduction of an amount due pursuant to a Finance Document,

incurred or borne by a Finance Party (or by any of its Affiliates or Related Funds) as a result of its Commitment or the financing of its Participation or the performance of its obligations pursuant to a Finance Document.

10.2 **Claims**

10.2.1 Any Finance Party that wishes to rely on the stipulations of Article 10.1 (*Additional costs*) shall inform the Agent as to the reason for its claim. The Agent shall notify the Borrower of such situation promptly.

10.2.2 Promptly upon request by the Agent, each Finance Party shall provide it with an affidavit confirming the amount of its Additional Costs.

10.3 **Exceptions**

The stipulations of Article 10.1 (*Additional costs*) do not apply if the Additional Costs:

- (a) result from a Tax Deduction imposed by law on the Borrower;
- (b) result from a FATCA Tax Deduction to be carried out by one Party;
- (c) are the subject of an indemnification in accordance with the stipulations of Article 9.3 (*Tax indemnity*) (or would have been the subject of such an indemnification if one of the exclusions mentioned in paragraph (b) of Article 9.3 (*Tax indemnity*) had not been applicable); or
- (d) result from an intentional breach by the relevant Finance Party (or by any of its Affiliates or Related Funds) of the applicable regulation.

11. **OTHER INDEMNITIES**

11.1 **Other indemnities**

The Borrower, within [three (3)] Business Days following the request by the Agent, shall indemnify each Finance Party, for all costs, losses or liabilities, incurred as a result:

- (a) of the occurrence of an Event of Default;
- (b) of the absence of timely payment of an amount due pursuant to the Finance Documents, including, in particular, all expenses, losses and liabilities sustained as a result of the application of the stipulations of Article 20 (*Sharing of payments*);
- (c) of having financed or taken measures to finance its Participation insofar as the making available of the Loan did not take place due to the application of a stipulation of the Agreement (except in the case of non-performance or fault attributable to only the relevant Finance Party); or
- (d) if all or part of the Loan was not repaid in advance, notwithstanding a notice of early repayment sent to the Agent by the Borrower.

12. **MITIGATION**

12.1 **Mitigation**

- (a) Each Finance Party, after consulting with the Borrower, shall be required to take reasonable measures to mitigate the effect of any event that could result in an amount becoming due or in the cancellation of a Commitment in accordance with Article 4.3.1 (*Illegality for a Lender*), Article 9 (*Taxation*), Article 10 (*Additional Costs*), or the non-deductibility of an amount due pursuant to a Finance Document by the Borrower from its taxable profits, only if such amount is (i) paid or due to a Finance Party incorporated, domiciled, established or acting through an Facility Office located in a Non-Cooperative Jurisdiction or (ii) paid to an account open in the name and on behalf of such Finance Party in a financial institution located in a Non-Cooperative Jurisdiction.

These measures can, in particular, include the assignment of the relevant Finance Party's rights and obligations pursuant to the Finance Documents to an Affiliate, a Related Fund or to another Facility Office, or the appointment by the Finance Parties of a new Agent acceptable to the Borrower.

- (b) [If a Finance Party notifies the Borrower of an additional payment or of the cancellation of a Commitment due to any one of the scenarios mentioned in paragraph (a) above, the Borrower and the Finance Parties undertake to negotiate in order to reach an agreement so as to avoid such additional payment or such cancellation.]

- (c) The stipulations of paragraph (a) above in no way affect the Borrower's obligations pursuant to the Finance Documents.

12.2 **Limitation of liability**

A Finance Party shall not be bound, pursuant to Article 12.1 (*Mitigation*) [(i)] to take measures that it reasonably believes could harm it [nor (ii) to continue the negotiations upon the expiry of a period of thirty (30) calendar days following the notification referred to in paragraph (b) of Article 12.1 (*Mitigation*)].

13. **MISCELLANEOUS COSTS AND FEES**

13.1 Any payment in principal, interest, fees and/or expenses and ancillary amounts due by the Borrower to the Finance Parties must be made net of any taxes of any type whatsoever applicable to such amounts, whether present or future, regardless of the collection method.

13.2 The Borrower shall, in particular, repay to the Finance Parties:

- (a) all stamp duties, registration fees and other similar charges or taxes to which the Finance Documents are subject;
- (b) all reasonable costs and expenses (including attorneys' fees) incurred with respect to the negotiation, preparation, printing and signing of the Finance Documents;
- (c) all reasonable costs and expenses (including attorneys' fees) incurred in accordance with the application of the Finance Documents;
- (d) all reasonable costs and expenses (including attorneys' fees) incurred as a result of a court action, in order to preserve or apply their rights under the Agreement.

13.3 The Borrower shall indemnify the Agent promptly for any cost, loss or liability incurred by the latter in the reasonable performance of its duties.

13.4 If the Borrower requests an amendment, a waiver or an agreement pursuant to the Finance Documents, the Borrower shall repay the Finance Parties all of the expenses (including attorneys' fees) reasonably incurred to reply to such request and to evaluate, negotiate or comply with it.

14. **BORROWER'S REPRESENTATIONS** ⁴⁶

14.1 **Representations**

On the Signing Date, the Borrower makes the representations stipulated in Article 14.1 (*Representations*) in favour of each Finance Party.

14.1.1 **Incorporation and authority**

- (a) The Borrower and its Subsidiaries are validly incorporated companies, duly registered and validly existing under [French] law (or, as the case may be, the laws of the jurisdiction in which the relevant company is registered).
- (b) The Borrower and its Subsidiaries are the valid owners of their assets and have full power and authority to conduct their business as they currently do.
- (c) The Borrower has the capacity to enter into the Finance Documents and to perform its obligations thereunder; execution and performance of the Finance Documents by the Borrower conform to its corporate purpose.

⁴⁶ The representations contained in Article 14.1 constitute an indicative list and their content must be adjusted to each transaction based on the Borrower's identity and activity. The parties must, in particular, agree on the scope of the representations made by the Borrower depending on whether these are made regarding only the Borrower, or concerning the Borrower and all of its Subsidiaries, or alternatively, concerning the Borrower and the Material Subsidiaries.

14.1.2 **Negotiations**

Prior to the conclusion of the Financing Documents, the Borrower received from the other Parties the information which was of decisive importance for their consent to the conclusion of the Agreement within the meaning of the provisions of Article 1112-1 of the French Civil Code.

14.1.3 **Binding force**

The obligations of the the Borrower under the Finance Documents comply with the laws of the country of its registered office, are valid, binding on it and capable of being enforced with a court.

14.1.4 **Relationship with other obligations**

The signing of the Finance Documents and the performance of the obligations resulting thereto for the Borrower do not conflict and will not conflict:

- (a) with any law or regulation that is applicable to it;
- (b) with any of its incorporation documents or with any of the incorporation documents of its Subsidiaries (or equivalent documents); or
- (c) with any agreement or other instrument having a binding effect on the Borrower or any one of its Subsidiaries, or by which any of their assets are bound.

14.1.5 **Authorisations and powers**

- (a) The entering into and performance of the Finance Documents have been duly authorised by the Borrower's competent management bodies.
- (b) Each of the signatories of the Finance Documents has full power and capacity to execute said documents on behalf of the Borrower.

14.1.6 **Validity and admissibility as proof**

All of the authorisations, approvals, deliberations, exemptions, registrations, notarised affidavits or all consents, permits or registrations necessary for:

- (a) the Borrower to be able to sign the Finance Documents to which it is a party, exercise the resulting rights and perform the resulting obligations;
- (b) the Finance Documents to which the Borrower is a party are admissible as proof before the courts of the country of its registered office,

have been obtained and are in force.

14.1.7 **Absence of court-ordered insolvency procedures**

No action the purpose of which is to declare the liquidation, dissolution [(other than, as regards a Subsidiary of the Borrower, with respect to a solvent restructuring not having or not likely to have a Material Adverse Effect)], receivership, safeguard proceedings (*procédure de sauvegarde*) (including accelerated safeguard proceedings (*procédure de sauvegarde accélérée*) and accelerated financial safeguard proceedings (*procédure de sauvegarde financière accélérée*), the commencement of conciliation proceedings (*procédure de conciliation*) or the designation of an *ad hoc* administrator (*mandataire ad hoc*) (or any equivalent proceedings in any competent jurisdiction, including an attachment procedure) concerning the Borrower or regarding one of its Subsidiaries is in progress, to the best of its knowledge, nor is one imminent or foreseeable.

14.1.8 **Tax Deduction**

None of the payments made in accordance with the Finance Documents could possibly be affected by a Tax Deduction as regards a Tax levied by [France]⁴⁷ in favour of a Lender who is a Qualifying Lender.

14.1.9 **Registration and stamp fees**

The law of the country of its registered office does not require the filing, registration or publicity of the Finance Documents with any jurisdiction or authority nor the collection of a stamp or

⁴⁷ To be modified if the Borrower is not registered in France.

registration fee or similar tax concerning the Finance Documents or for the transactions referred to in said documents.

14.1.10 Events of Default

No Event of Default is continuing or is reasonably likely to occur, due to the Drawdown.

14.1.11 Accuracy of the information and documents⁴⁸

- (a) All of the information provided to the Arranger by the Borrower and its Subsidiaries prior to the Signing Date was accurate, complete and up-to-date [in all of its significant aspects] on the date on which it was provided or, if applicable, on the date to which it relates and is not likely to mislead the Finance Parties on any [significant] point, due to an omission, the occurrence of new facts or as a result of information communicated or not disclosed.
- (b) The documents (other than the financial documents mentioned in Article 5(xii)) submitted to the Agent and/or to the Lenders and the information communicated to the Agent and/or to the Lenders by the Borrower in accordance with the Finance Documents, are accurate, complete and up-to-date on the date on which they were submitted.

14.1.12 Financial statements – Accounting and financial documents

- (a) The Original Financial Statements, prepared in accordance with GAAP, are lawful and truthful and give a faithful image of the Borrower's assets, financial situation and earnings, as well as of the consolidated financial situation and the consolidated earnings of the Group for the tax year to which they refer.
- (b) The accounting and financial documents submitted by the Borrower pursuant to this Agreement, prepared in accord with GAAP, are lawful and truthful and give a faithful image of the Borrower's assets, financial situation and earnings, as well as of the Group's consolidated financial situation and the Group's consolidated earnings for the tax year to which they refer.
- (c) No event having had or that could potentially have a Material Adverse Effect has taken place since the date of the Borrower's most recent financial statements.

14.1.13 *Pari passu* ⁴⁹

The Borrower's payment and repayment obligations in accordance with the Finance Documents are unconditional and have the same rank as the receivables of its other unsecured, unsubordinated creditors, with the exception of those that are preferred by law.

14.1.14 Disputes

No judicial, arbitral or administrative proceedings have been brought or, to the best of its knowledge, are likely to be brought against it or against one [of its Subsidiaries/of the Material Subsidiaries] before a court, an arbitration tribunal or any authority, the outcome of which, if it were unfavourable, would be likely to give rise to a disbursement (i) of a unit amount in excess of [] euros (EUR[]) (or the equivalent in euros of such amount in any other currency) or (ii) of a cumulative amount in excess of [] euros (EUR []) (or the equivalent in euros of such amount in any other currency).⁵⁰

⁴⁸ If an Information Memorandum is prepared, the representation should specifically refer to the Information Memorandum.

⁴⁹ Key Points :

- The Loan usually constitutes an unsecured undertaking by the Borrower.
- The rank of the Loan is *pari passu* with that of the debt of the Borrower having equivalent characteristics, save for a duly documented exception (for example, the limitation of securities, which is addressed in the Borrower's undertakings).
- In the case of securities granted to guarantee the Loan, an inter-creditor agreement) can be entered into between the various creditors that are beneficiaries of the securities.

⁵⁰ This representation may possibly be qualified or limited based on the information, if any, already communicated to the Lenders.

14.1.15 **Assets free of Security interest**

Neither the Borrower nor any [of its Subsidiaries/of the Material Subsidiaries] has given a Security interest affecting its assets other than the Security interests authorised by the Agreement.⁵¹

14.1.16 **Insurance**

The Borrower and [its Subsidiaries/the Material Subsidiaries] have taken out and are maintaining in effect insurance policies with leading insurers for amounts and coverage of risk and liabilities in accordance with the practices generally accepted in their area of activity.

14.1.17 **Taxes and contributions**

- (a) The taxes or contributions (social or those of any other type) notified or declared by the Borrower and [its Subsidiaries/the Material Subsidiaries] have been effectively paid within the time limits stipulated by the competent authority, in accordance with the applicable tax or social security legislation [except where challenges in good faith].⁵²
- (b) No claim by the competent tax authority is continuing against the Borrower or one [of its Subsidiaries/of the Material Subsidiaries] [(with the exception of claims contested in good faith)].

14.1.18 **Centre of main interests**⁵³

The centre of main interests (as this term is used in Article 3(1) of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 regarding insolvency proceedings (recast) of the Borrower is located in the State of its registered office.

14.1.19 **[Sanctions]**

[Neither the Borrower nor any [of its Subsidiaries/Main Subsidiaries], nor any of their respective representatives, agents, employees [or affiliates], is currently subject to a Sanction. The Borrower shall not use, lend, invest or otherwise make available the proceeds of the Loan to a joint venture or any other person or entity for the purpose of financing the activities of any person currently subject to Sanctions.]

[The representation and warranty referred to in this Article 14.1.19 is given only insofar as it does not involve any violation and/or conflict with Regulation (EC) No 2271/96 of the Council of the European Union dated 22 November 1996, as amended.]

[As defined in the above statement:]

["**Sanctions**" means sanctions provided by [the European Union, the French Republic [and/or Her Majesty's Treasury and/or the regulations of the Office of Foreign Assets Control of the United States Department of the Treasury]⁵⁴ or any other equivalent sanctions or measures (including any sanction or measure relating to any embargo) imposed by [the United States of America,]⁵⁵ the United Nations or any other authority having jurisdiction over the Borrower.]

14.1.20 **[Anti-corruption]**

[Neither the Borrower, nor any of its representatives, agents or employees or any other person related to or acting on its behalf, nor, to the Borrower's knowledge, any [of its Subsidiaries/Main Subsidiaries], nor any of their representatives, agents or employees or any other person related to them or acting on their behalf has not (i) made [directly or indirectly] an illegal payment to an employee or official representative of the French government or a foreign government with the funds of the Borrower or the [Subsidiary/Main Subsidiary] concerned or (ii) violated or is in

⁵¹ Insertion of a threshold to be discussed based on the economics of the transaction and on the Borrower's circumstances.

⁵² Insertion of a threshold to be discussed based on the economics of the transaction and on the Borrower's circumstances.

⁵³ This clause is particularly important if a Lender is a French fund making loans to the economy (i.e. a type of fund known by its French acronym "FPE").

⁵⁴ The inclusion in this stipulation of the US and/or UK regulations and of Regulation (EC) No. 2271/96 of the Council of the European Union dated 22 November 1986 (as amended) remains subject to negotiation between the Parties and to a case-by-case examination of the Borrower's circumstances.

⁵⁵ Idem.

violation of applicable laws and regulations on corruption (active or passive) in the professional context.]

14.1.21 **[Anti-money laundering]**

[The transactions of the Borrower and, to the Borrower's knowledge, [its Subsidiaries / Main Subsidiaries] are carried out in accordance with the registration and financial monitoring requirements and anti-money laundering regulations applicable in France and in all jurisdictions in which the Borrower and [its Subsidiaries / Main Subsidiaries] operate, the rules and regulations relating thereto and any rules, regulations [or recommendations] resulting therefrom issued, managed or imposed by any governmental entity (together, the "**Anti-Money Laundering Laws**").]

[The Borrower and [its Subsidiaries/Main Subsidiaries] are not parties to any legal action, suit or proceeding before any court or entity, governmental authority or agency or arbitrator with respect to the Anti-Money Laundering Acts and, to the best of the Borrower's knowledge, are not threatened by any such legal action, suit or proceeding].]

14.2 **Repetition**

The Repeating Representations shall be deemed to be repeated on the date of the sending of the Drawdown Request, on the Drawdown Date and on the first day of each Interest Period; it is hereby specified that the absence of a conflicting notice manifested by the Borrower shall be deemed to be implicit confirmation that such representations are accurate in every way.

15. **UNDERTAKINGS** ⁵⁶

From the Signing Date and until all of the amounts (in principal, interest, fees, expenses and ancillary amounts) due by the Borrower to the Finance Parties in accordance with the Finance Documents have been fully paid and repaid, the Borrower, on its own behalf and on behalf of its Subsidiaries, covenants as follows to the Finance Parties.

15.1 **Information covenants** ⁵⁷

15.1.1 **Financial statements** ⁵⁸

(a) The Borrower undertakes to deliver to the Agent, promptly after the same are available and in any event within [] ([]) calendar days after the end of the relevant fiscal year, a copy, certified by an authorised representative of the Borrower, of its consolidated annual financial statements certified by its statutory auditors regarding the relevant fiscal year, together with the related report of the statutory auditors.

⁵⁶ The undertakings contained in Article 15 constitute an indicative list and their content must be adjusted to each transaction based on the identity and activity of the Borrower. The parties must, in particular, agree on the scope of the undertakings made, depending on whether these undertakings must be made by the Borrower only, by the Borrower and all of its Subsidiaries, or by the Borrower and the Material Subsidiaries.

⁵⁷ Attention should be paid to the transparency of the information and equal processing of information:

- As creditors of the Borrower, the investors must have access to transparent, egalitarian information, in particular, as regards pre-existing financings (bank, bond or others), in order to carry out their credit risk analysis, including potential subordination.
- Examples of information to be communicated to the investors by the Borrower:
 - financial information (consolidated and non-consolidated financial statements, annual and, if applicable, semi-annual, with the associated statutory auditors' reports and a significant history (3/5 years), the list of existing securities and the business plan, if one exists;
 - a significant event that could have an impact on the shares and any information that the investors could reasonably request;
 - an event having an impact on indebtedness, such as: occurrence of a situation of accelerated repayment (special attention should be paid if the Borrower has listed shares), characteristics of new indebtedness, amendments and waivers, occurrence of an acquisition (if applicable, above the threshold to be determined) and allocation of a financing, application of an exception of the negative pledge for a significant amount, etc.);
 - a description of the debt, securities and guaranties and other specific characteristics needed to assess possible subordination.

⁵⁸ To be adjusted in the event that the Borrower does not prepare consolidated financial statements and/or semi-annual statements.

- (b) The Borrower undertakes to deliver to the Agent, promptly after the same are available and in any event within [] ([]) calendar days after the end of the relevant fiscal year, a copy, certified by an authorised representative of the relevant entity, of the annual non-consolidated financial statements of the Borrower and [of its Subsidiaries/of the Material Subsidiaries], certified by the statutory auditors, together with the related report(s) of the statutory auditors.
- (c) The Borrower undertakes to deliver to the Agent, promptly after the same are available and in any event within [] ([]) calendar days after the end of the first sixth month-period of the relevant fiscal year, a copy, certified by an authorised representative of the Borrower, of its consolidated semi-annual financial statements of the relevant six-month period.

15.1.2 **Compliance Certificate**

The Borrower undertakes to deliver to the Agent, with the financial statements supplied in accordance with paragraphs (a) and (c) of Article 15.1.1 (*Financial statements*), a Compliance Certificate (signed by an authorised representative of the Borrower [and the Borrower's statutory auditors]), presenting in a sufficiently detailed manner the calculations of the Financial Ratios for the relevant Test Period.

15.1.3 **Material Subsidiaries**

The Borrower undertakes to deliver to the Agent, with the financial statements supplied in accordance with paragraphs (a) and (c) of Article 15.1.1 (*Financial statements*), a list of the Material Subsidiaries.

15.1.4 **Form of financial statements**

- (a) The financial statements supplied in accordance with Article 15.1.1 (*Financial statements*) must contain a balance sheet, a profit and loss account and explanatory notes to the financial statements. .
- (b) The Borrower shall ensure that all of the financial statements delivered in accordance with Article 15.1.1 (*Financial statements*) are prepared in accordance with GAAP and as regards reference periods similar to those used during the preparation of the Original Financial Statements, unless it informs the Agent of a change made to GAAP or to the reference periods, and in such case, its statutory auditors submit to the Agent:
 - (i) a description of the adjustments to be made in order for these financial statements to reflect the GAAP and the reference periods having been used as the basis for the preparation of the Original Financial Statements; and
 - (ii) any information necessary, consistent with the substance and form that the Agent can reasonably request, in order to enable the Lenders to assess if the undertakings contained in Article 15.3 (*Other undertakings*) have been complied with and to accurately compare the financial situation of the Borrower or, as the case may be, of the Group, in accordance with these financial statements and with the financial situation indicated by the Original Financial Statements.

Any reference in the Agreement to the "**financial statements**" refers to the financial statements adjusted, as the case may be, in order to reflect the application of the principles applied for the preparation of the Original Financial Statements.

15.1.5 **Information: miscellaneous**

The Borrower undertakes to deliver to the Agent:

- (a) all of the documents distributed to its shareholders for the purposes of organising general meetings or to its creditors, simultaneously with the submission of such documents to such shareholders or creditors;
- (b) promptly upon becoming aware of them, the details of any judicial, arbitration or administrative proceedings initiated against any one member of the Group, whether continuing or imminent;⁵⁹

⁵⁹ Insertion of a threshold to be discussed based on the economics of the transaction and on the Borrower's circumstances. This undertaking may possibly be qualified or limited based on the information, if any, already communicated to the Lenders.

- (c) promptly, if requested by the Agent, any other information regarding the financial situation, activity or operations of any member of the Group, that the Agent or a Lender, through the Agent, can reasonably request of it; and
- (d) any [significant] planned change⁶⁰ in the distribution of the share capital of the Borrower or [of its Subsidiaries/of the Material Subsidiaries] [(with the exception, however, of any change of distribution made within the scope of a transaction to reclassify securities within the Group)].

15.1.6 Information meetings

- (a) The Borrower undertakes to organise, during each fiscal year, with its financial director, an information meeting with the Finance Parties on the Group's results (in particular, on the Group's financial situation and activity).
- (b) [The Borrower undertakes to organise, promptly, at the request of the Agent, an information meeting in the event of the occurrence of an Event of Default or a Potential Event of Default.]

15.1.7 Notification of an Event of Default or a Potential Event of Default

- (a) The Borrower shall notify the Agent of any Event of Default or Potential Event of Default (and the steps, if any, to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon a request by the Agent, the Borrower shall send an affidavit from an authorised representative specifying that no Event of Default or Potential Event of Default is continuing or, if an Event of Default or a Potential Event of Default is continuing, its nature and the steps, if any, to remedy its occurrence.

15.1.8 Material Adverse Effect

The Borrower undertakes to promptly notify the Agent of any fact or event having or that could possibly have a Material Adverse Effect.

15.1.9 Use of websites

- (a) The Borrower can satisfy its obligation to communicate information in accordance with the Agreement, to the Lenders who have accepted this method of communication, by making this information available to them on an electronic website designated by the Borrower and the Agent (the "**Designated Website**"), insofar as:
 - (i) the Agent has expressly agreed (after consulting with each Lender) to receive the information by this same method;
 - (ii) the Borrower and the Agent have had knowledge of the address of the Designated Website and of the passwords, if any, needed;
 - (iii) the information shall be communicated in a format agreed beforehand between the Borrower and the Agent.
- (b) The Borrower shall be required, promptly upon becoming aware of the fact, to inform the Agent in the event of technical problems or modifications of the method of operation of the Designated Website. It must then communicate the information in paper form in the event of an access problem exceeding [two (2)] calendar days.
- (c) In any event, the Borrower shall supply to the Agent at least one paper copy of the information that must be communicated to it pursuant to the Agreement. Similarly, any Lender can ask the Borrower to communicate this information to it in paper form.

15.1.10 Counterparty identification procedures

- (a) If:
 - (i) the entry into force or the amendment of a law or a regulation (or a change in the interpretation or the application of a law or regulation) subsequent to the Signing Date;

⁶⁰ Insertion of a threshold to be discussed based on the economics of the transaction and on the Borrower's circumstances.

- (ii) a change of status of the Borrower subsequent to the Signing Date; or
- (iii) an assignment contemplated by a Lender of its rights and/ or obligations in accordance with the Agreement to a party that is not an Existing Lender,

obligates the Agent or a Lender (or, in the case of paragraph (iii) above, the potential New Lender) to comply with the procedures for the identification of the counterparties and it does not already have the necessary information, the Borrower must, if requested by the Agent or the relevant Lender, supply promptly, or ensure that someone else supplies, any documentation or other information reasonably requested by the Agent (on its own behalf or on behalf of a Lender) or by this Lender (on its behalf or, in the scenario described in paragraph (iii) above, on behalf of the potential New Lender) in order for the Agent, the relevant Lender (or, in the scenario described in paragraph (iii) above, the potential New Lender), is able to execute and conclude that it has satisfactorily executed all of the procedures for the identification of the counterparties required in accordance with applicable laws and regulations, with respect to the transactions contemplated in the Finance Documents.

- (b) If requested by the Agent, each Lender must, promptly, supply or have others supply, any documentation or other information reasonably requested by the Agent (for its own behalf) such that the latter is able to perform and to conclude that it has satisfactorily performed all of the procedures to identify the counterparties required pursuant to applicable laws and regulations, with respect to the transactions contemplated in the Finance Documents.

15.2 Financial Covenants ⁶¹

[Financial Covenants (Financial Ratios, limitations of investments and acquisitions, etc.) to be determined between the Borrower, the Arranger and the Original Lender]

15.3 Other undertakings

15.3.1 Authorisations

The Borrower undertakes to obtain, comply with and do all that is necessary in order to maintain in full force any Authorisation required by any applicable regulation to enable it to perform its obligations in accordance with the Finance Documents or to ensure the legality, validity, enforceability or admissibility as evidence of the Finance Documents, and to submit, promptly upon a request by the Agent, a certified copy of any document regarding such Authorisation.

15.3.2 Compliance with laws

The Borrower undertakes to comply with (and to ensure compliance by each of its Subsidiaries) all laws and regulations that are applicable to it [insofar as non-compliance therewith could significantly affect its ability to perform its obligations in accordance with the Finance Documents].

⁶¹ Key Points:

- Ratios (covenants) that the Borrower undertakes to comply with, to be integrated (example: gearing ratio, leverage, interest rate cover, etc.) while precisely defining each component of each ratio.
- The ratios must be worded in light of those used in the other financing documentation to which the Borrower is a party, if applicable. It is important to ensure that these are clearly defined in order to avoid differences based on the documentation used.
- Ratio calculation frequency (at least annually, or more frequently based on the regulatory requirements applicable to investors).
- Provide here clarification on the calculation of the ratios in the event that they are calculated on the basis of restated accounts (for example, if a new standard such as IFRS 16 is implemented).
- Issuance by the Borrower of a Compliance Certificate:
 - The calculation of the ratios must be approved at least once a year after the closing of the year by a representative of the Borrower and its statutory auditors and, if more frequently, by a representative of the Borrower; the Compliance Certificate is sent to the Agent within a certain period of time (to be defined with the Borrower) following the close of the year. In principle, the Compliance Certificate must contain the breakdown of the calculation of the ratios.
 - If this task is not entrusted to the Agent by the documentation, the Lenders shall be responsible for verifying compliance with the ratios and can demand an early repayment of the Loan if these ratios are not complied with.

15.3.3 Restructuring transactions ⁶²

The Borrower undertakes not to enter into (and to ensure that none [of its Subsidiaries/of the Material Subsidiaries] enters into) any merger, demerger, absorption, any partial contribution of assets or any other similar restructuring transaction, with the exception:

- (a) of any restructuring transaction expressly authorised by the Majority Lenders; or
- (b) a restructuring transaction pursuant to which (i) the Borrower is the surviving entity or the beneficiary entity of the contributions, or (ii) one of the Subsidiaries of the Borrower is the surviving entity (if, in this case, the surviving entity is a Subsidiary of the Borrower) or the beneficiary entity of the contributions [insofar as such restructuring transaction does not have and is not likely to have a Material Adverse Effect or trigger an Event of Default].

15.3.4 Change of activity – Articles of Association – Registered office

- (a) The Borrower undertakes to ensure that the general nature of its activities or those of the Group (as it exists on the Signing Date) do not undergo any [significant] modification.
- (b) The Borrower undertakes not to [significantly] modify its business object, legal form or nature of its activity, as these exist on the Signing Date.
- (c) The Borrower undertakes to maintain its registered office in the State in which it is in on the Signing Date.

15.3.5 Pari passu

The Borrower undertakes to ensure that its payment obligations in accordance with the Finance Documents have and continue to have the same rank as all of the receivables of its other unsecured, unsubordinated creditors, with the exception of those receivables that are more senior pursuant to the law.

15.3.6 Joint-venture

The Borrower undertakes not to enter into (and to ensure that none [of its Subsidiaries/of the Material Subsidiaries] enters into) any joint venture agreement or any agreement concerning a consortia or undisclosed partnership or any other similar agreement giving rise to the unlimited joint and several liability of the Borrower or of one [of its Subsidiaries/ of the Material Subsidiaries], with the exception of the taking of interests in economic interest groupings or consortia necessary to the engaging in their activities and consistent with the standard practice of the companies engaged in an activity that is similar or comparable to that of the Borrower or of its Subsidiaries.

15.3.7 Securities and Quasi-Securities ⁶³

In this Article 15.3.7 (*Securities and Quasi-Securities*), "**Quasi-Security**" means an agreement or a transaction described in paragraph (b) below.

- (a) The Borrower shall refrain (and shall ensure that each [of its Subsidiaries/of the Material Subsidiaries] refrains) from granting or allowing to persist a Security on all or some of its assets or its revenues.
- (b) The Borrower shall refrain (and shall ensure that each [of its Subsidiaries/of the Material Subsidiaries] refrains):

⁶² To be modified, if applicable, based on the Group's structure and on the restructuring transactions contemplated by the Borrower and its Subsidiaries.

⁶³ The wording of this clause regarding the limitations to the granting of securities (*negative pledge*) merely constitutes an example and must be examined on a case-by-case basis depending on the Borrower's identity and its activity.

This clause must be worded in light of the negative pledge clause used in the other finance documentation to which the Borrower is a party (if applicable), in particular, as regards exceptions and thresholds (acquisitions), in order for the investors to benefit from the same protections as those of the Borrower's other financial debt having equivalent characteristics. Alternatively, it is possible, to provide for a negative pledge clause that differs from that of the other finance contracts, for example, by limiting the granting of securities to a certain percentage of the value of the assets, excluding any other exception.

The Material Subsidiaries or all of the Subsidiaries can be covered by the negative pledge clause.

The Borrower can prepare a statement of the existing securities, which it can submit to the Agent (unless it is already mentioned in the conditions precedent or in the concomitant conditions).

The negative pledge clause can concern, as the case may be, all or some of the debt (bond, bank or financial, such as leasing and factoring), with, if applicable, a list of the authorised securities and exceptions.

- (i) from assigning or disposing in any manner whatsoever of assets, intended, or likely to be intended, to be leased or acquired by the Borrower or any other member of the Group;
 - (ii) from making any assignment of receivables with recourse;
 - (iii) from agreeing that an amount of money, a bank account or any other account is the subject of a special allocation, merger or setting off; and
 - (iv) from entering into a preferential agreement having an effect similar to the above; if the agreement is entered into or if the transaction is executed primarily in order to take out a Financial Debt or to finance the acquisition of an asset.
- (c) Paragraphs (a) and (b) above do not apply:
- (i) to the Securities given after the Signing Date with the consent of the Majority Lenders;
 - (ii) to any Security and/or Quasi-Security existing on the Signing Date contained on the list submitted by the Borrower to the Agent pursuant to Article 3.1.1 (*Conditions concomitant to the signing of the Agreement*) maintained or renewed after the Signing Date, unless the principal amount that it guarantees exceeds the amount indicated in such list or if such Security or Quasi-Security is not rolled over to guarantee the same obligations as those it guarantees on the Signing Date;
 - (iii) to the reservation of title clauses, rights of retention or merger or set off clauses resulting from the continuation of the activities or from the normal course of business of the relevant entity or in accordance with the standard terms and conditions of its suppliers; and ⁶⁴
 - (iv) to the preferential rights granted solely as a result of the law regarding the management of the day-to-day business of the relevant entity.

15.3.8 [Assignments of assets ⁶⁵

- (a) The Borrower shall refrain (and shall ensure that each [of its Subsidiaries/of the Material Subsidiaries] refrains), with respect to isolated or linked transactions, from selling, transferring and, more generally, from assigning or disposing of any asset, in any manner whatsoever.
- (b) [Paragraph (a) above does not apply [sales, transfers or other acts of disposal or assignment:
 - (i) authorised in accordance with the Finance Documents;
 - (ii) carried out during the normal course of the assignor's activities; or
 - (iii) carried out with the consent of the Majority Lenders.]

15.3.9 Transactions involving derivatives ⁶⁶

The Borrower undertakes not to enter into (and shall ensure that none of its Subsidiaries enter into) interest rate or foreign currency hedging contracts, interest rate or foreign currency options or any other contract involving derivatives, except (i) as regards standard commercial transactions, (ii) for interest rate and/or foreign currency hedging regarding components of Financial Debt and within the limits of the amounts of the relevant Financial Debt and (iii) in

⁶⁴ The scope of application of this exception must be worded based on the Borrower's circumstances (particularly, if applicable, to cover setting-off of derivatives pursuant to a master agreement).

⁶⁵ The wording of this clause regarding the limitations to assignments of assets is merely an example and must be examined on a case-by-case basis in view of the Borrower's identity and activity. This clause must be worded in light of the clause limiting assignments of assets used in the other finance documentation to which the Borrower is a party (if applicable), in particular, as regards exceptions and thresholds, so that the investors benefit from the same protections as those of the Borrower's other financial debts having equivalent characteristics.

⁶⁶ The wording of this clause regarding transactions involving derivative products is only an example and must be reviewed on a case-by-case basis in view of the Borrower's identity and activity. This clause must be drafted in light of the clause limiting transactions involving derivative products used in the other finance documentation to which the Borrower is a party (if any), in particular, as regards exceptions and thresholds, in order for investors to benefit from the same protections as those of the Borrower's other financial debts having equivalent characteristics.

accordance with contracts entered into on an arm's length basis for the purposes of the standard activity of the Borrower and/or of the members of the Group.

15.3.10 Granting of loans, securities, guaranties and sureties⁶⁷

- (a) The Borrower undertakes not to grant (and to ensure that none [of its Subsidiaries/ of the Material Subsidiaries] grants) credits or loans, in any form whatsoever, with the exception:⁶⁸
- (i) [of the credits, payment advances and time limits granted to their co-contracting parties by the members of the Group when they engage in their professional activity and in the normal course of business;]
 - (ii) [current account or cash advances to other members of the Group;]
 - (iii) [of the intra-group loans or credits (including for transactions involving the cash pooling and of intra-group loans between the members of the Group);] or
 - (iv) [of loans granted to employees of the Group's companies, within the limits authorised by law.]
- (b) The Borrower undertakes not to grant (and to ensure that none [of its Subsidiaries/of the Material Subsidiaries] grants) securities, guaranties and sureties in favour of third parties, with the exception:⁶⁹
- (i) [of the securities, guaranties and sureties existing on the Signing Date, the list of which was submitted by the Borrower to the Agent in accordance with Article 3.1.1 (*Conditions concomitant to the signing of the Agreement*) that are maintained or rolled over after the Signing Date, unless the principal amount guaranteed exceeds the amount indicated in such list or unless these securities, guaranties or sureties are rolled over in order to guarantee the same obligations as those they guarantee on the Signing Date;]
 - (ii) [of the securities, guaranties and sureties granted during the normal course of its activity or granted within the scope of authorised asset transfers (and for an amount not exceeding the transfer price);] or
 - (iii) [of the securities, guaranties and sureties granted to guarantee undertakings of other members of the Group or with respect to joint venture agreements authorised by the Agreement].

15.3.11 Allocation of the Loan

The Borrower undertakes to allocate all of the amounts made available to it under the Loan in accordance with the subject matter of the Loan, as indicated in Article 2.2.1 .

15.3.12 Other Financial Covenants

[Note: Depending on the economics of the transaction and on the Borrower's circumstances, it is possible to insert other financial undertakings, such as a limitation/prohibition, for the Borrower, to carry out certain form of distributions of dividends or to carry out a reduction or an amortisation of its share capital or the repayment of current account advances and other shareholder loans.

⁶⁷ The wording of this clause regarding the granting of loans, securities, guaranties and sureties is only an example and must be reviewed on a case-by-case basis in view of the Borrower's identity and activity. This clause must be drafted in light of the clause limiting the granting of loans, securities, guaranties and sureties used in the other finance documentation to which the Borrower is a party (if any), in particular, as regards exceptions and thresholds, in order for investors to benefit from the same protections as those of the Borrower's other financial debts having the same characteristics.

⁶⁸ List of the exceptions to be examined and adjusted, if applicable, based on the Group's policy. Insertion of a threshold to be discussed based on the economics of the transaction and on the situation of the Borrower and the Group.

⁶⁹ List of the exceptions to be examined and adjusted, if applicable, based on the Group's policy. Insertion of a threshold to be discussed based on the economics of the transaction and on the situation of the Borrower and the Group.

16. EVENTS OF DEFAULT ⁷⁰

16.1 Events constituting an Event of Default

16.1.1 Non-Payment

The Borrower defaults of any payment or any amount under the Finance Document when the same shall become due and payable, unless [the non-payment results from an administrative or technical error and] the payment is made within [] ([]) Business Days following its due date.

16.1.2 Breach of the Financial Covenants

Default by the Borrower's in the due performance of any one of the obligations set forth in Article 15.2 (*Financial Covenants*).

16.1.3 Non-performance of undertakings contained in the Finance Documents

The Borrower's non-performance of any one of its undertakings contained in the Finance Documents (other than the undertakings mentioned in Article 16.1.1 (*Non-Payment*) and Article 16.1.2 (*Breach of the financial covenants*)) if, insofar as such non-performance can be remedied, it is not remedied within a period of [] ([]) calendar days from the first of the dates between (i) the date on which the Borrower will become aware of such non-performance and (ii) the date on which the Agent will notify such non-performance to the Borrower, asking that it be remedied.

16.1.4 Inaccurate representation

Any representation made or deemed made or repeated by the Borrower in the Finance Documents or in any other document submitted by the Borrower (or in the name and on behalf of the Borrower) in accordance with or concerning the Finance Documents, is or is shown to have been, inaccurate or misleading on the date on which it was made or repeated [if, insofar as such inaccuracy can be remedied, it is not remedied within [] ([]) calendar days from the first of the following dates: (i) the date on which the Borrower will become aware of such breach and (ii) the date on which the Agent will notify such breach to the Borrower, requesting that it be cured].

16.1.5 Cross default ⁷¹

- (a) The Borrower or one [of its Subsidiaries/of the Material Subsidiaries] default in payment of any amount with respect to Financial Debt, on its due date, or after any applicable grace period; or fails to pay when due any amount payable by it under any guarantee in respect of such Financial Debt when such guarantee is called, provided that the amount of the Financial Debt referred to above exceeds [] euros ([EUR] []).
- (b) Any Financial Debt of the Borrower or of one [of its Subsidiaries/of the Material Subsidiaries], as the case may be, is or becomes due and payable prior to its stated maturity by reason of occurrence of a default (howsoever described) thereunder, provided that (the amount of Financial Debt referred to above exceeds [] euros ([EUR] [])). ⁷²
- (c) Any creditor from whom the Borrower or one [of its Subsidiaries/of the Material Subsidiaries] contracted a Financial Debt terminates or suspends its obligation thereunder by reason of occurrence of a default (howsoever described) thereunder, provided that the amount of Financial Debt referred to above exceeds [] euros ([EUR] [])). ⁷³
- (d) Any creditor of the Borrower or of one [of its Subsidiaries/of the Material Subsidiaries] is entitled to declare a Financial Debt of a member of the Group due prior to its due date, by reason of occurrence of a default (howsoever described) thereunder, provided that the amount of Financial Debt referred to above exceeds [] euros ([EUR] []).

⁷⁰ The Events of Default contained in Article 16 constitute an indicative list and their content must be adjusted to each transaction based on the Borrower's identity and activity. The parties shall be required, in particular, to agree on the scope of the Events of Default used, depending on whether these Events of Default must be applied to only the Borrower, to the Borrower and all of its Subsidiaries or, alternatively, to the Borrower and to the Material Subsidiaries.

⁷¹ Case of cross default to be examined on a case-by-case basis.

⁷² Insertion of a threshold to be discussed.

⁷³ Insertion of a threshold to be discussed, if applicable.

16.1.6 Insolvency

- (a) The Borrower or one [of its Subsidiaries/of the Material Subsidiaries] is unable or recognises its inability to, pay its debts on a timely basis, suspends the payment of its debts or, due to current or anticipated financial problems, initiates negotiations with one or more of its creditors with a view to rescheduling its debt.
- (b) The Borrower or one [of its Subsidiaries/of the Material Subsidiaries] is insolvent (*état de cessation des paiements*), or any member of the Group becomes insolvent (*état de cessation des paiements*) as defined by any applicable insolvency law.
- (c) A moratorium is declared on the debt of the Borrower or of one [of its Subsidiaries/of the Material Subsidiaries].

16.1.7 Court-ordered insolvency procedures ⁷⁴

To the extent permitted by law:

- (a) a decision by a management body is taken or judicial proceedings or other measure is initiated with a view to:
 - (i) suspension of the payments, obtaining of a moratorium on all or some of the debts, dissolution, the initiation of safeguard proceedings (*procédure de sauvegarde*), accelerated safeguard proceedings (*procédure de sauvegarde accélérée*), accelerated financial safeguard proceedings (*procédure de sauvegarde financière accélérée*), judicial reorganisation (*redressement judiciaire*), judicial liquidation (*liquidation judiciaire*) or restructuring (in particular, within the scope of an *ad hoc* mandate (*mandat ad hoc*) or conciliation (*conciliation*)) of the Borrower [or of one of its Subsidiaries] [with the exception, however, of the liquidation or the amicable restructuring of one of the Borrower's Subsidiaries]; or
 - (ii) the entering into, by the Borrower or one [of its Subsidiaries/of the Material Subsidiaries] an adjustment, assignment or rescheduling agreement with a creditor due to present or anticipated financial problems; or
 - (iii) the appointment vis-à-vis the Borrower or one [of its Subsidiaries/of the Material Subsidiaries] or all or some of their respective assets, of a liquidator, court-appointed administrator, receiver, provisional administrator, *ad hoc* administrator, conciliator or of any other person performing similar duties [with the exception, however, of the appointment of a liquidator within the scope of the amicable liquidation of one of the Borrower's Subsidiaries];
- (b) the Borrower or one [of its Subsidiaries/of the Material Subsidiaries] requests for the appointment of an *ad hoc* administrator (*administrateur ad hoc*) or the initiation of a conciliation procedure (*procédure de conciliation*) in accordance with Articles L. 611-3 to L. 611-15 of the French Commercial Code;
- (c) a judgment for the opening of a safeguard proceedings (*procédure de sauvegarde*), accelerated safeguard proceedings (*procédure de sauvegarde accélérée*), accelerated financial safeguard proceedings (*procédure de sauvegarde financière accélérée*), judicial reorganisation (*redressement judiciaire*), judicial liquidation (*liquidation judiciaire*) or for the judicial transfer of the whole of the business (*cessation totale de l'entreprise*) or the partial transfer of the business (*cession partielle de l'entreprise*) is issued in respect of the Borrower or one [of its Subsidiaries/of Material Subsidiaries] pursuant to Articles L. 620-1 to L. 670-8 of the French Commercial Code; or
- (d) the Borrower or any [of its Subsidiaries/of the Material Subsidiaries] is subject to any proceeding or claim or any judgment issued which has an analogous effect to any of the proceedings referred to in paragraphs (a) to (c) above.

⁷⁴ Clause to be adjusted if the Borrower is not registered in France. Certain of these provisions may not be enforceable depending on the insolvency law applicable in the country in which the Borrower and/or its Subsidiaries and/or the Main Subsidiaries, as the case may be, are registered or have their centre of main interests.

16.1.8 **Attachments** ⁷⁵

An enforcement procedure provided for by the French Code of Civil Enforcement Procedures or any procedure involving the realisation of a Security [(with the exception of the Securities and Quasi-Securities authorised by Article 15.3.7 (*Securities and Quasi-Securities*))], placing under compulsory administration or any other means of enforcement is implemented on one or more asset(s) of the Borrower or one [of its Subsidiaries/of the Material Subsidiaries], the cumulative value of which exceeds [__] euros (EUR [__]) (or the equivalent in euros of such amount in any other currency).

16.1.9 **Reservations or refusal to certify the financial statements**

The Borrower's statutory auditors refuse to certify or express one or more reservations regarding the annual consolidated financial statements or the annual non-consolidated financial statements of the Borrower (other than purely technical reservations not having a significant impact on the truthfulness or accuracy of the financial statements).

16.1.10 **Cessation or suspension of activity**

Any suspension or cessation by the Borrower or by one [of its Subsidiaries/of the Material Subsidiaries] of the engaging in all or part of its activity. ⁷⁶

16.1.11 **Illegality**

Except in the situations stipulated in Article 4.5 (*Mandatory early repayment and cancellation vis-à-vis only one Lender*), it is illegal or becomes illegal for the Borrower to perform any one of its obligations in accordance with the Finance Documents.

16.1.12 **Disputes**

The occurrence of judicial, arbitral or administrative proceedings concerning the Borrower or one [of its Subsidiaries/of the Material Subsidiaries] [which, in the event of a court ruling against it, could reasonably have a Material Adverse Effect].⁷⁷

16.1.13 **Occurrence of an event having a Material Adverse Effect**

The occurrence of any event or fact (other than those referred to above) having a Material Adverse Effect.

16.1.14 **Payment incident** ⁷⁸

A payment incident affecting the Borrower or one [of its Subsidiaries/of the Material Subsidiaries] is declared to the French Central Bank and has not been remedied within [__] ([__]) calendar days.

16.2 **Consequence of the occurrence of an Event of Default**

At any time as of the occurrence of an Event of Default and as long as such Event of Default is continuing, the Agent can and, if requested by the Majority Lenders, must, without notice or any other judicial or extrajudicial measure, by notification to the Borrower (but without prejudice to the mandatory provisions of Articles L. 611-16 and L.620-1 to L. 670-8 of the French Commercial Code):

- (a) cancel the Total Commitment, which shall then be immediately and permanently reduced to zero; and/or
- (b) declare immediately due all or part of the Outstanding Amount, plus the accrued and outstanding interest and any amounts due in accordance with the Finance Documents, in such case, such amounts shall become due immediately; and/or

⁷⁵ Clause to be adjusted if the Borrower is not registered in France.

⁷⁶ Wording of this Event of Default to be adjusted based on the structure of the Group.

⁷⁶ Wording of this Event of Default to be adjusted based on the structure of the Group.

⁷⁷ This event of default may possibly be limited based on the information, if any, already communicated to the Lenders.

⁷⁸ Clause to be adjusted or deleted if the Borrower is not registered in France.

(c) exercise all rights, actions and recourse in accordance with the Finance Documents.

17. CHANGE TO THE BORROWER

The Borrower cannot assign (in any manner whatsoever) all or some of its rights and/or obligations in accordance with the Finance Documents.

18. CHANGES TO THE LENDERS

18.1 Assignments by the Lenders

18.1.1 Subject to this Article 18.1 (*Assignments by the Lenders*), a Lender (the "**Existing Lender**" and, after assignment of all or some of its rights and/ or obligations under the Agreement, the "**Former Lender**") can (i) assign all or some of its rights (including those relating to its Participation) or its rights and obligations under the Agreement, to any credit institution, any financing company, any collective investment undertaking, insurance body (governed by the French Insurance Code, the French Code of Mutual Insurance Societies [or the French Social Security Code]) or any equivalent entity in the European Union (including any Fund linked to such entities), or, in general, to any entity, directly or indirectly authorised to grant loans, acquire or invest in loans, securities or other financial assets or in the case of a securitisation (the "**New Lender**").⁷⁹

18.1.2 The Finance Parties hereby give their consent to any assignment made by an Existing Lender to a New Lender.

18.2 Assignment conditions⁸⁰

18.2.1 The Borrower's consent is required for any assignment by an Existing Lender. However, it is agreed that such consent shall not be required if:⁸¹

- (a) the New Lender is (i) a Qualifying Lender and (ii) an Affiliate of the Existing Lender or a Related Fund to the Existing Lender; or
- (b) an Event of Default is continuing,

if, for each of the situations referred to in paragraphs (a) and (b) above, the Existing Lender has first informed the Borrower within a reasonable period of time; which the Borrower accepts under the terms of the Agreement, in accordance with Article 1216 of the French Civil Code

18.2.2 Notwithstanding the above, no assignment can be made to a New Lender incorporated, domiciled, established or acting through a Facility Office located in a Non-Cooperative Jurisdiction without the Borrower's prior consent.

18.2.3 The Borrower's consent to an assignment cannot be refused without legitimate grounds; in the absence of a reply from the Borrower to a request for an assignment within [__] ([__]) Business Days, the Borrower shall be deemed to have given its consent to such assignment. If the Borrower rejects an assignment, the Borrower and the relevant Existing Lender undertake to negotiate in good faith to seek out another assignee who is acceptable to the Borrower and the Existing Lender.

18.2.4 Without prejudice to the provisions of Article L. 214-169 of the French Monetary and Financial Code, the beneficiary of an assignment of all or some of the rights and/or obligations of an Existing Lender under the Agreement shall only become a Party to the Agreement as Lender if the procedure described in Article 18.3 (*Assignment procedure*) has been complied with.

18.2.5 Each New Lender, by its signing of the relevant Assignment Agreement, confirms that the Agent is authorised to enter into or grant, in its name and on its behalf, any amendment or waiver having been approved by or on behalf of the Lenders in accordance with the Agreement, at the latest by the Assignment Date, and that it acknowledges that it is bound by such amendment or waiver in the same manner as the Former Lender would have been if it had remained a Lender under the Agreement.

18.2.6 Unless otherwise stipulated, a Former Lender does not make any representations and does not guarantee or assume any liability to the New Lender.

⁷⁹ Clause to be adapted if the Agreement is not subject to French law.

⁸⁰ Clause be adapted if the Agreement is not subject to French law.

⁸¹ If applicable, other exceptions can be negotiated.

18.3 **Assignment procedure**

- 18.3.1 Subject to the conditions mentioned in Article 18.2 (*Assignment conditions*) and without prejudice to the provisions of Article L. 214-169 of the French Monetary and Financial Code, a New Lender shall become Party to the Agreement as Lender when the Agent will sign the Assignment Agreement duly filled out by the Former Lender and the New Lender.
- 18.3.2 The Agent shall be required to sign the Assignment Agreement promptly upon its receipt if it is duly filled out and if the Agent believes that it conforms to the terms of the Agreement.
- 18.3.3 [The Agent shall be required, within [__] ([__]) Business Days following the Assignment Date, to send a copy of the Assignment Agreement to the Borrower, except as regards the transfer of all or part of the Participation of the Original Lender that is supposed to occur on the Drawdown Date.]
- 18.3.4 The signing of the Assignment Agreement shall produce the following effects as of the Assignment Date:
- (a) insofar as the Former Lender intends, through the Assignment Agreement, to transfer its rights and obligations in accordance with the Finance Documents, in future, it shall be released from any obligation to the Borrower and the other Finance Parties in accordance with the Finance Documents, if stipulated by the Assignment Agreement (the Borrower and the other Finance Parties consent to this release);
 - (b) the rights and/ or obligations of the Former Lender in accordance with the Finance Documents referred to in the Assignment Agreement shall be assigned to the New Lender to the extent provided by the Assignment Agreement;
 - (c) the mutual rights and/ or obligations of the Agent, the Arranger, the New Lender and the other Lenders shall be identical to those they would have received if the New Lender had been a Lender as of the Signing Date, holder of the rights and/or obligations defined in the Assignment Agreement;
 - (d) the Agent, the Arranger and the Former Lender shall be released from any mutual obligation in accordance with the Finance Documents to the extent provided for by the Assignment Agreement; and
 - (e) the New Lender shall become party to the Agreement as "Lender".

18.4 **Refinancing the debts of the Lenders** ⁸²

- 18.4.1 In addition to the rights granted to the Lenders by this Article 18 (*Changes to the Lenders*), each Lender shall be entitled, without having to consult or to obtain the consent of the Borrower, to pledge, assign as guarantee or give a Security encumbering all or some of its receivables in accordance with the Finance Documents, so as to guarantee its obligations, including, in particular, any pledge, any assignment as guarantee or other Security guaranteeing its obligations vis-a-vis a federal reserve, the European Central Bank, the Bank of France, or any central bank or any other financial institution (including the ESNI (*Euro Secured Notes Issuer*)).
- 18.4.2 The stipulations of Articles 18.2 (*Assignment conditions*) and 18.3 (*Assignment procedure*) shall not apply to the assignments or giving of Securities made in accordance with Article 18.4.1, it being specified that any Security encumbering the receivables of a Lender in accordance with the Finance Documents can be realised without the need to consult or obtain the consent of the Borrower.

19. **AGENT AND FINANCE PARTIES** ⁸³

19.1 **Role of the Agent** ⁸⁴

- 19.1.1 Each of the other Finance Parties appoints the Agent as its representative for the purposes of the Finance Documents and authorises the Agent to exercise the rights, powers and discretionary

⁸² To be adjusted if the Borrower is not registered in France.

⁸³ The role of the Arranger and the associated liability regime are, in general, defined in the mandate entered into with the Borrower.

⁸⁴ Stipulations regarding the role of the Agent to be re-examined and approved by the bank that acts as Agent.

powers of assessment expressly reserved for the Agent in accordance with the Finance Documents as well as any right, prerogative and power that is ancillary to such mission.

- 19.1.2 The duties of the Agent in accordance with the Finance Documents are exclusively of a technical and administrative nature.
- 19.1.3 No stipulation of the Agreement grants the Agent status as trustee or fiduciary.
- 19.1.4 The Agent can hire and remunerate legal counsels, accountants, analysts and other experts, and take decisions based on their opinions or on the results of their expert examinations.
- 19.1.5 The Agent cannot incur liability (including its liability for fault or on any other basis) for those acts it carries out pursuant to a Finance Document or concerning a Finance Document, except for gross negligence or intentional fault.
- 19.1.6 Within three (3) Business Days of the Agent's request to do so, each Lender shall indemnify the Agent for all costs, losses or liabilities (including its liability for fault or on any other basis), borne by it in its capacity as Agent.
- 19.1.7 The Agent undertakes to supply to the Borrower, within [__] ([__]) calendar days following the Borrower's request [(but not more than once a month)], a list (in paper or electronic format) containing the names of the Lenders on the date of the request, their respective Participations, address and fax number (and the department and manager, if applicable, to which all communications must be sent) of each Lender for any communication required or any document that must be submitted in accordance with (or relating to the) Finance Documents, the e-mail address and/or any other information required to enable the sending and receipt of information by e-mail or other electronic methods to each Lender to whom a communication in accordance with (or relating to the) Finance Documents can be sent by these methods, as well as the bank account information of the Lender for any payment to be distributed by the Agent to such Lender in accordance with the Finance Documents.
- 19.2 Resignation, replacement and succession of the Agent**
- 19.2.1 The Agent may, in exchange for notice to the other Finance Parties and to the Borrower, resign or be replaced with the prior consent of the Borrower (such consent not be refused without legitimate grounds) by one of its Affiliates acting through its office located [in France]⁸⁵.
- 19.2.2 The Agent may also, subject to at least thirty (30) calendar days' prior notice, inform the other Finance Parties and the Borrower of its intention to resign, without, however, designating a successor, in which case the Majority Lenders, with the Borrower's consent, may name its successor, which must not be incorporated, domiciled, established or act through an office located in a Non-Cooperative Jurisdiction.
- 19.2.3 The Borrower may, upon at least thirty (30) calendar day's prior notice sent to the Agent, ask the Lenders to replace the Agent and to designate a replacement Agent, if an amount due in accordance with a Finance Document by the Borrower becomes non-deductible from the Borrower's taxable income from a [French] tax standpoint⁸⁶ on the ground that such amount is (i) paid or due to an Agent incorporated, domiciled, established or acting through an office located in a Non-Cooperative State or Territory or (ii) paid to an account open in the name of the Agent at a financial institution located in a Non-Cooperative Jurisdiction. In such case, the Agent shall resign, and a replacement Agent shall be designated by the Majority Lenders (after consulting the Borrower) within thirty (30) calendar days following the notification of such replacement.
- 19.2.4 If, within twenty (20) calendar days after the Agent has informed the Lenders of its intention to resign, the Majority Lenders have not appointed a successor in accordance with Article 19.2.2, the resigning Agent may, with the Borrower's consent, appoint its successor (provided that such successor will perform its duties through an office located [in France]⁸⁷).
- 19.2.5 The resigning Agent shall keep available to its successor, at its own expense, all documents and books and shall provide any assistance that the latter could reasonably request in order to perform its duties as Agent in accordance with the Finance Documents.
- 19.2.6 The Agent's resignation shall only take effect as of the appointment of its successor.

⁸⁵ To be adjusted if the Borrower is not registered in France.

⁸⁶ To be adjusted if the Borrower is not registered in France.

⁸⁷ To be adjusted if the Borrower is not registered in France.

19.2.7 As of the appointment of its successor, the resigning Agent shall be released from all obligations in accordance with the Finance Documents but may still rely on the stipulations of this Article 19 (*Agent and Finance Parties*). The mutual rights and obligations between its successor and each of the other Parties shall be identical to those that would have existed if the successor Agent had been a Party as of the Signing Date.

19.2.8 After consulting the Borrower, the Majority Lenders may ask the Agent to resign pursuant to the provisions set out in Article 19.2.2. Upon receipt of such request, the Agent shall so resign, in accordance with Article 19.2.2.

19.3 **Business relations with the Group**

The Agent may accept deposits from a member of the Group, grant it loans and, more generally, maintain any banking relationship or other business relationship with the members of the Group.

19.4 **Instructions of the Majority Lenders**

19.4.1 Unless otherwise stipulated in the Finance Documents, the Agent:

(a) shall exercise the rights, powers, prerogatives and powers of assessment that are granted to it as Agent in accordance with the instructions of the Majority Lenders (or, if so requested by the Majority Lenders, it shall refrain from exercising the rights, powers, prerogatives and powers of assessment granted to it in such capacity); and

(b) shall not incur liability as a result of an act (or an omission) if it acts (or refrains from acting) on an instruction from the Majority Lenders.

19.4.2 Unless otherwise stipulated in the Finance Documents, an instruction given by the Majority Lenders shall be binding on all of the Finance Parties.

19.4.3 The Agent can refrain from acting in accordance with the instructions of the Majority Lenders (or, if applicable, of all of the Lenders) until it has received assurances that it will be able to hold it harmless from any cost, loss or liability (plus VAT, if any, due) that it could incur by following these instructions.

19.4.4 In the absence of instructions from the Majority Lenders (or, if applicable, from all of the Lenders), the Agent is entitled to act (or to refrain from acting) according to what it deems is in the interest of the Lenders.

19.4.5 The Agent shall not be authorised to act in the name and on behalf of a Lender within the scope of judicial or arbitration proceedings regarding a Finance Document without having first received power to do so from such Lender.

19.5 **Deductions made by the Agent**

The Agent shall be entitled, after notification to a Party, to deduct any amount owed by it in accordance with the Finance Documents from any amount owed by it to such Party in accordance with the Finance Documents, and allocate the amount thus deducted to the payment of the amount due to it. For the purposes of the Finance Documents, the other Party shall be considered as having received the entire amount deducted.

19.6 **Responsibility of the Agent in accordance with the documentation**

19.6.1 The Agent is not responsible (i) for the accuracy or exhaustiveness of the information received from the Borrower and transmitted by the Agent in accordance with (or with respect to the) Finance Documents or (ii) the validity or enforceability of the Finance Documents or for any associated act or document.

19.6.2 The Agent shall not be required to determine if information supplied or supposed to be supplied to a Finance Party constitutes non-public information the use or transmission of which can be regulated or prohibited by any regulation applicable to insider trading or any other equivalent regulation.

19.7 **Analysis of the risks by the Lenders**

Without prejudice to the Borrower's responsibility for any information or document communicated in accordance with the Finance Documents, each Lender declares and confirms to the Agent:

- (a) that its decision to become a party to the Agreement and to the other Finance Documents was taken on the basis of its own judgement;
- (b) that it has carried out, using its own resources, its own credit analysis and made an assessment of the financial situation, activities and solvency of the Borrower and of the other members of the Group, the structure of the contemplated transaction and the financing arrangement that is the subject of the Agreement;
- (c) that it has carried out, independently, its own analysis of the legality, validity and enforceability of the Finance Documents and of any associated legal instrument or document, as well as the rights and remedies available to it in accordance with the Finance Documents; and
- (d) that the Agent cannot be held responsible for the information and documents that it will transmit or communicate to such Lender.

19.8 **Role of the Arranger**

Each Lender acknowledges that the Arranger has only played an organisational role, the purpose of which was to facilitate the setting up of the Agreement and of the Loan and that the Arranger is not responsible:

- (a) for the appropriateness, accuracy or exhaustiveness and reasonableness of any representation, warranty, undertaking, agreement or information contained in the Agreement or in any information supplied as required by the Finance Documents or concerning the Loan; or
- (b) for the nature and relevancy of any tax, legal or accounting questions regarding the Finance Documents and the Loan or any other documentation regarding the Loan.

20. **SHARING OF PAYMENTS**

20.1 **Payments to the Finance Parties**

If a Finance Party (the "**Recovering Finance Party**") after having received or recovered an amount from the Borrower, other than pursuant to Article 21 (*Payment mechanisms*) (a "**Recovered Amount**"), allocates it to the payment of an amount due in accordance with the Finance Documents, in such case:

- (a) the Recovering Finance Party shall inform the Agent within three (3) Business Days following the receipt or recovery of the Recovered Amount;
- (b) the Agent shall determine whether such payment exceeds the amount that the Recovering Finance Party would have received if the amount paid had been received by the Agent and distributed in accordance with the stipulations of Article 21 (*Payment mechanisms*) without, however, taking account of the Tax to which the latter could possibly be subject in such case; and
- (c) the Recovering Finance Party shall pay the Agent, within three (3) Business Days of the latter's request, an amount (the "**Excess Payment**") equal to the Recovered Amount, less the amount that, in accordance with the Agent's determination, the Recovering Finance Party is entitled to keep as its share of any payment to be made, in accordance with the stipulations of Article 21.5 (*Partial payments*).

20.2 **Redistribution of the payments**

The Agent shall distribute the Excess Payment between the Finance Parties (other than the Recovering Finance Party) (the "**Other Finance Parties**") in accordance with the stipulations of Article 21.5 (*Partial payments*), as if the Agent had received it directly from the Borrower.

20.3 **Rights of the Recovering Finance Party**

- 20.3.1 In case payments are redistributed as described in Article 20.2 (*Redistribution of the payments*), the Recovering Finance Party shall assume the rights of the Other Finance Parties, which, in such connection, waive the benefit of Article 1346-3 of the Code Civil.

20.3.2 In the event that the Recovering Finance Party cannot rely on its rights as stated in Article 20.3.1, the Borrower shall owe the Recovering Finance Party an amount equal to the Excess Payment, which shall then become immediately due.

20.4 **Restitution of redistributed amounts**

In the event that a Recovering Finance Party repays part of the Excess Payment that it received or recovered:

- (a) each Finance Party having received a part of the Excess Payment in accordance with the stipulations of Article 20.2 (*Redistribution of the payments*), shall, upon request of the Agent, repay the latter (on behalf of the Recovering Finance Party), an amount equal to the corresponding part of the Excess Payment (plus the amount needed to repay to the Recovering Finance Party the share of any interest owed by the Recovering Finance Party on the amount of the Excess Payment); and
- (b) the right of subrogation of the Recovering Finance Party as regards any repayment shall be eliminated and the Borrower shall owe, to the Finance Party having made such repayment, the amount thus repaid by such Finance Party.

20.5 **Exceptions**

20.5.1 This Article 20 (*Sharing of payments*) does not apply if the Recovering Finance Party, after having made a payment pursuant to this Article 20 (*Sharing of payments*), does not have a valid and enforceable receivable against the Borrower.

20.5.2 A Recovering Finance Party is not required to share with another Finance Party an amount received or recovered pursuant to judicial or arbitration proceedings, if:

- (a) it informed such other Finance Party of these proceedings; and
- (b) the latter had the opportunity to intervene in these proceedings, but did not intervene within a reasonable period of time following such information and did not initiate separate judicial or arbitration proceedings.

21. **PAYMENT MECHANISMS**

21.1 **Payments to the Agent**

21.1.1 On each date on which the Borrower or a Lender is required to pay an amount pursuant to a Finance Document, that Borrower or Lender shall make such amount available to the Agent (unless otherwise stipulated in a Finance Document) at the time and in the form that the Agent shall specify as conforming, on the due date of the relevant payment, to the practices in force in the place of payment for payments made in the relevant currency.

21.1.2 Any payment to the Agent shall be made to a bank account specified by the Agent at a bank specified by the Agent, which must not be established in a Non-Cooperative Jurisdiction.

21.2 **Distributions by the Agent**

With the exception of the stipulations contained in Articles 21.3 (*Distributions to the Borrower*) and 21.4 (*Restitution*), any payment received by the Agent in accordance with the Finance Documents on behalf of another Party shall be made available to the latter by the Agent as soon as practicable after receipt (in the case of a Lender, on behalf of its Facility Office), by crediting the account that the latter will indicate to the Agent with notice of at least five (5) Business Days.

21.3 **Distributions to the Borrower**

With the consent of the Borrower or pursuant to Article 22 (*Set-off*), the Agent shall be entitled to allocate an amount it receives for the Borrower to the payment of the corresponding amount (on the date, in the currency of the payment and in immediately available funds) of any amount due by the latter in accordance with the Finance Documents.

21.4 **Restitution**

21.4.1 If an amount is required to be paid to the Agent on behalf of another Party in accordance with the Finance Documents, the Agent shall only be required to pay it (or to enter into or perform a

contract relating thereto) after it has verified to its satisfaction that it has effectively received that amount.

- 21.4.2 If the Agent has paid a Party an amount before having received that amount itself, it shall be required, if requested by the Agent, to repay it that amount (or if the Agent paid it the proceeds of a currency contract, it shall be required to repay it the amount of these proceeds). The repayment shall be increased by the interest due for the period lapsed between the initial payment date and the repayment date, calculated at a rate that corresponds to the cost of the Agent's refinancing.

21.5 Partial payments

- 21.5.1 If the Agent receives from the Borrower a payment that is below the amounts due at the time in accordance with the Finance Documents, it shall allocate its amount to the satisfaction of the Borrower's obligations in accordance with the Finance Documents in the following order:

- (a) firstly, to the payment of the Agent's fees, expenses and costs due and unpaid in accordance with the Agreement;
- (b) secondly, to the payment of the interest and fees due and unpaid in accordance with the Agreement;
- (c) thirdly, to the payment of any amount in principal due and unpaid in accordance with the Agreement; and
- (d) fourthly, to the payment of any other Unpaid Sum.

- 21.5.2 If the Majority Lenders instruct the Agent to do so, the latter shall be required to modify the order of allocation of the payments described in paragraphs (b) to (d) of Article 21.5.1.

- 21.5.3 Articles 21.5.1 and 21.5.2 shall prevail over any payment allocation made by the Borrower.

21.6 No set-off by the Borrower

Unless otherwise stipulated, all of the payments to be made by the Borrower in accordance with the Finance Documents shall be calculated without taking account of a Set-off, if any, which, moreover, the Borrower undertakes not to carry out.

21.7 Business Days

- 21.7.1 Any payment that becomes due on a day other than a Business Day must be made on the next Business Day of the same month; in the absence of the next Business Day during the same month, the payment shall become due on the previous Business Day.

- 21.7.2 Without prejudice to the stipulations of Article 5.2 (*Penalty interest*), if the due date of an amount in principal or of an Unpaid Sum in accordance with the Agreement is deferred, such amount shall accrue interest during the period of deferral at the rate applicable on the initial due date.

22. SET-OFF

In the event of the occurrence of an Event of Default or a Potential Event of Default, each Finance Party shall be entitled to set off any amount due by the Borrower to such Finance Party in accordance with the Finance Documents with any amount due by such Finance Party to the Borrower, regardless of the place of payment, the custodian branch or the currency in which these amounts are denominated. If such amounts are denominated in different currencies, the relevant Finance Party may, for the purposes of the set-off, convert an amount into the currency of the other, insofar as it does so at a market rate and in conformity with its customary practices.

23. NOTIFICATIONS

- 23.1 Any notification, communication or request that must be made in accordance with the Agreement must be made by registered mail with return receipt, by messenger with return receipt or by e-mail (with the exception of the Drawdown Request which must be submitted [by messenger or e-mail] ⁸⁸).

⁸⁸ Utilisation Request transmission conditions to be confirmed by the Agent.

- 23.2 [In certain circumstances and if expressly requested by the Borrower, the Agent or the Lenders will be able to accept communications or requests made by telephone, insofar as these are confirmed by postal mail or by e-mail] ⁸⁹.
- 23.3 Any communication made or any document sent by one person to another in accordance with or concerning the Agreement shall take effect:
- (a) as regards an electronic communication, if it has been received in a legible form; or
 - (b) with respect to a letter, if it has been delivered to the correct address or [five (5)] Business Days after having been dropped off at the post office, postage paid, in an envelope bearing the correct address; and
 - (c) and, in the event that it was specified in this Article 8 (*Notifications*), a department or a manager, insofar as the communication was addressed to such department or to such manager.
- 23.4 Any communication or request that must be made and any document that must be delivered to or by one of the Parties to the other in accordance with the Agreement, shall be made and delivered to the following addresses:
- (a) as regards the Borrower:
[Name of the Borrower]
Attention: [xxx]
Address: [xxx]
E-mail: [xxx]
 - (b) as regards the Agent:
[Name of the Agent]
Attention: [xxx]
Address: [xxx]
E-mail: [xxx]
 - (c) as regards the Original Lender:
[Name of the Original Lender]
Attention: [xxx]
Address: [xxx]
E-mail: [xxx]
- or, as regards both the Borrower and the Finance Parties, to any other address that one of the Parties will indicate to the other Parties, the other, subject to notice of at least [five (5)] Business Days.

24. CALCULATIONS AND CERTIFICATES

24.1 Financial statements

In any judicial or arbitration proceedings concerning a Finance Document, the entries recorded in its financial statements by a Finance Party shall constitute *prima facie* evidence of the matters to which they relate.

24.2 Certificates and calculations

Any affidavit or determination by a Finance Party of a rate or amount in accordance with a Finance Document shall, in the absence of manifest error, constitute evidence of the matters to which it relates.

⁸⁹ To be confirmed.

24.3 **Calculation of the number of days**

All interest, fees, or expenses due in accordance with a Finance Document shall be calculated on the basis of the number of days effectively elapsed and a year of three hundred and sixty (360) days, or if the practices of the European interbank market differ, in accordance with such practice.

25. **AMENDMENTS AND WAIVERS**

25.1 **Principle**

25.1.1 With the exception of Article 25.2 (*Exceptions*), no stipulation of the Finance Documents can be amended or waived without the consent of the Majority Lenders and of the Borrower. Such amendment or waiver shall be binding on all the Parties.

25.1.2 The Agent shall be entitled, in the name and on behalf of a Finance Party, to make any amendment or waiver permitted by this Article 25 (*Amendments and waivers*).

25.2 **Exceptions**

25.2.1 Any amendment or waiver regarding:

- (a) the definition of the term "Majority Lenders" contained in Article 1.1 (*Definitions*);
- (b) the modification of the Loan's repayment conditions;
- (c) the extension of the due date of an amount due in accordance with the Finance Documents;
- (d) the reduction of the Margin or of any amount due in principal, interest, fees or expenses in accordance with the Finance Documents;
- (e) the increase or extension of a Commitment;
- (f) the Borrower's identity;
- (g) a stipulation regarding the majority rules applicable to the Lenders' decisions;
- (h) a stipulation pursuant to which the consent of all of the Lenders is expressly required; or
- (i) Article 2.3 (*Rights and obligations of the Finance Parties*), Article 18 (*Changes to the Lenders*) or this Article 25 (*Amendments and waivers*),

shall require the prior consent of all the Lenders.

25.2.2 Any amendment or waiver of the rights and obligations of the Agent or of the Arranger (each in such capacity) shall require the consent of the Agent or of the Arranger, as the case may be.

26. **ABSENCE OF UNPREDICTABILITY**

Each of the Parties agrees under the terms of the Agreement that the stipulations of Article 1195 of the French Civil Code shall not apply to its obligations under the Financing Documents and acknowledges that it shall not be entitled to avail itself of the provisions of Article 1195 of the French Civil Code.

27. **CONFIDENTIALITY⁹⁰**

27.1 **Confidential Information**

Each Finance Party agrees to keep all any Confidential Information, not to disclose any Confidential Information to anyone whatsoever unless permitted by Article 27.2 (*Disclosure of Confidential Information*) [and by Article 8 (*Communication to a Supplier of NUMBERING SERVICESnumbering services*)], and to ensure that any Confidential Information is protected by security measures and a degree of care that would apply to its own Confidential Information.

⁹⁰ To be adapted if the Agreement is not subject to French law.

27.2 Disclosure of Confidential Information

A Finance Party may, without prejudice to the provisions of Article L. 511-33 of the French Monetary and Financial Code, disclose:

- (a) to its Affiliates, its Related Funds or to any entity authorised to grant loans, acquire or invest in loans, securities or other financial assets, as well as to their directors, administrators, employees, professional advisers, statutory auditors, shareholders and Representatives any Confidential Information that such Finance Party considers appropriate, if any person to whom the Confidential Information is to be given in accordance with this paragraph (a) are informed in writing of its confidential nature and that all or some of such Confidential Information can constitute privileged information; it is hereby stipulated that there will not be any obligation to inform these persons in such manner if they are subject to professional secrecy or are otherwise bound by confidentiality obligations as regards Confidential Information;
- (b) to any person:
 - (i) to whom (or through whom) it assigns (or can potentially assign) all or some of its rights and/or obligations in accordance with one or more Finance Documents, as well as to the Affiliates, Related Funds, Representatives and to the professional advisers of such person;
 - (ii) with whom (or through whom) it enters into (or can potentially enter into), whether directly or indirectly, a sub-participation transaction with respect to one or more Finance Documents and/or the Borrower, or any other transaction pursuant to which payments must be made or can be made by reference to one or more Finance Documents and/or the Borrower, as well as to the Affiliates, the Related Funds, the Representatives and to the professional advisers of such person;
 - (iii) appointed by a Finance Party or by a person to whom paragraph (i) or (ii) above applies in order to receive the communications, notices, information or documents delivered in accordance with the Finance Documents on its behalf);
 - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (i) or (ii) above or who finances the Participation of a Lender;
 - (v) to whom specific information must be communicated in accordance with or at the request of a court or competent jurisdiction, or any governmental, banking, taxation or other regulatory authority or any other similar entity, the rules of any relevant stock exchange or in accordance with applicable laws or regulations;
 - (vi) to whom and to the benefit of whom such Finance Party grants (or may grant) a pledge, an assignment or any other Security in accordance with Article 18.4 (*Refinancing the debts of the Lenders*);
 - (vii) to whom the information must be disclosed in connection with or for the purposes of a litigation, arbitration, administrative or other investigation, proceedings or a dispute;
 - (viii) who is a Party;
 - (ix) to whom reference is made in Article L. 211-33 of the French Monetary and Financial Code; or
 - (x) with the Borrower's consent,

in each case, any Confidential Information that such Finance Party shall consider appropriate if:

- (1) in relation to paragraphs (i), (ii) and (iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or any other confidentiality undertaking of a nature similar to a Confidentiality Undertaking; it is hereby specified that it will not be bound to sign a Confidentiality Undertaking if it is a professional adviser and is subject to professional secrecy as regards the Confidential Information;
- (2) in relation to paragraph (iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound

by requirements of confidentiality in relation to Confidential Information that it has received and is informed that all or some of such Confidential Information may constitute privileged information;

- (3) in relation to paragraphs (v), (vi) and (vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that all or some of such Confidential Information may constitute privileged information; it is hereby specified that there will not be any obligation to inform these persons in such manner, if, in the opinion of such Finance Party, it is not possible to do so in such circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom paragraphs (b)(i) or (b)(ii) above applies in order to provide administration or settlement services with respect to one or more Finance Document(s), including, in particular, with respect to the trading of participations in respect of the Finance Documents, all Confidential Information that must be disclosed in order to enable such service provider to provide any one of the services referred to in this paragraph (c) if such service provider has signed a Confidentiality Undertaking in a form agreed between the Borrower and the relevant Finance Party;
- (d) to any ratings agency (as well as to its professional advisers) any Confidential Information that must be disclosed in order to enable such ratings agency to carry out its normal rating activities in relation to the Finance Documents and/or the Borrower if the ratings agency to whom the Confidential Information is to be given is informed of its confidential nature and that all or some of such Confidential Information may constitute privileged information.

27.3 Disclosure to a provider of numbering services ⁹¹

A Finance Party may, without prejudice, as the case may be, to the provisions of Articles L. 511-33 and L. 511-34 of the French Monetary and Financial Code, disclose to any national or international numbering services provider appointed by that Finance Party in order to provide identification numbering services in respect of the Agreement, the Loan and/or the Borrower the information needed by such services provider:

- the corporate name of the Borrower (and of the guarantor, if applicable),
- the Borrower's country of registration,
- the Signing Date (and the signing date of the amendments to the Agreement when these will be agreed,
- the legal format of the Agreement (loan),
- the name of the Arranger(s),
- additional information on the Borrower (incorporation date, type of company in accordance with the INSEE [France's National Institute of Statistics and Economic Studies], activity sector, turnover and credit profile),
- the number of tranches (in the event of a transaction involving several tranches),
- the amount and the currency,
- the maturity date,
- the interest rate,
- the rank,
- the main legal conditions,
- and any other information agreed between such Financial Party and the Borrower.

⁹¹ Within the scope of the work of the Charter, the participants on the Euro PP market have demonstrated the need to organise a certain degree of transparency of Euro PP transactions. In addition to the fact that it avoids the random communications that can be observed on certain Private Placements markets, transparency promotes the market and provides references for the structuring and pricing of new transactions; it also facilitates monitoring by financial stability authorities.

In any event, depending on its situation and its specific constraints, a Borrower can choose to maintain the confidentiality of all or some of the terms of the transaction and to reject this communications clause.

Except in certain circumstances (e.g., the publication of a Press Release by the Borrower), the communication by the Arranger (or by the main Investor in the case of Euro PP without an Arranger, or by the Borrower itself) of the authorised information should not take place prior to the Signing Date or the date of the disposal of the Loan.

27.4 **Disclosure to a provider of administration/settlement services**

Notwithstanding any other conflicting stipulation (express or tacit) of a Finance Document or of any other agreement entered into between the Parties, a Finance Party may, without prejudice, as the case may be, to the provisions of Articles L. 511-33 and L. 511-34 of the French Monetary and Financial Code, disclose to any person designated by:

- (a) such Finance Party;
- (b) a person to whom (or through whom) such Finance Party assigns (or could potentially assign) all or some of its rights and/or obligations in accordance with the Finance Documents, or that succeeds it (or that could potentially succeed it) as Agent under the Agreement; and/or
- (c) a person with whom (or through whom) such Finance Party enters into (or could enter into) a sub-participation transaction or any other transaction pursuant to which payments must or can be made, by reference to the Finance Documents,

in order to provide administration or settlement services as regards the Finance Documents, including, in particular, regarding assignments of Participations in accordance with the Finance Documents, the Confidential Information the communication of which can be necessary to enable these services providers to provide any of the services mentioned in this Article 27.4 (*Disclosure to a provider of administration/settlement services*) if the service provider to which the Confidential Information must be given has entered into a confidentiality agreement with the Borrower.

27.5 **All of the agreements**

Without prejudice to the provisions of Articles L. 511-33 and L. 511-34 of the French Monetary and Financial Code, this Article 27 (*Confidentiality*) represents all of the agreements between the Parties as regards the obligations of the Finance Parties regarding the Confidential Information in accordance with the Finance Documents and replaces any other express or tacit agreement regarding the Confidential Information.

27.6 **Privileged information**

Each Finance Party recognises that all or some of the Confidential Information could constitute privileged information and that the use of such information can be regulated or prohibited by applicable laws, including by the laws governing insider trading and market abuse.

27.7 **Notification of communication**

Each Finance Party agrees (within the limits authorised by law or regulations) to inform the Borrower:

- (a) of the circumstances of any communication of Confidential Information in accordance with paragraph (b)(v) of Article 27.2 (*Disclosure of Confidential Information*), unless such communication is made to one of the persons mentioned in this paragraph during the normal course of his/her monitoring or regulatory duties; and
- (b) promptly upon becoming aware of the fact that Confidential Information has been communicated in violation of this Article 27 (*Confidentiality*).

27.8 **Maintenance of obligations**

The obligations referred to in this Article 27 (*Confidentiality*) shall remain in force and shall survive for a period of [twelve (12)] months after the earliest of the two following dates and each Finance Party shall remain bound by such obligations throughout such period:

- (a) the date on which all of the amounts due by the Borrower in accordance with the Finance Documents have been paid in full and all of the Lenders' Commitments have been cancelled or have ceased being available; and
- (b) the date on which such Finance Party ceases being a Finance Party.

28. **PROTECTION OF PERSONAL DATA**

28.1 Each Party undertakes to comply with the regulations in force applicable to the processing of personal data on the Signing Date, in particular Law No. 78-17 of 6 January 1978, as amended and updated, and the General Data Protection Regulation (EU) 2016/679 of the European

Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and the free movement of such data, and repealing Directive 95/46/EC. The Parties agree that the personal data collected in the context of the conclusion of the Agreement are mandatory for the conclusion of the Agreement and all the contracts entered into under the Agreement and their performance and, as such, they will be processed by the Lenders, which is accepted by the persons to whom the data relates.

28.2 The signatories of the Agreement are also informed that that their personal data, thus transferred to a country of the European Union or outside the European Union, may be communicated, at their request, to official bodies and to local administrative or judicial authorities. In the context of a transfer to a country outside the European Union, rules ensuring the protection and security of information have been put in place.

28.3 The persons, to whom the above collected personal data, shall have the right to obtain communication from the Lenders, to demand, where appropriate, rectification and to object to their use for prospecting purposes, in particular for commercial purposes.

29. GOVERNING LAW – EXCLUSIVE JURISDICTION ⁹²

29.1 The Agreement is governed by French law.

29.2 The [Paris] Commercial Court shall have exclusive jurisdiction to settle any disputes arising out of or in connection with this Agreement.

⁹² To be adapted if the Agreement is not subject to French law.

SCHEDULE 1 TO THE LOAN AGREEMENT

CONDITIONS PRECEDENT OR CONCOMITANT CONDITIONS ⁹³

Part 1 – Conditions concomitant to the signing of the Agreement

- 1. Incorporation documents and documents issued by the trade and companies register**
 - 1.1. A copy, certified by a duly authorised representative of the Borrower, of the up-to-date articles of association of the Borrower.
 - 1.2. An original incorporation certificate [known in France as an “*extrait K-bis*”] for the Borrower, not more than fifteen (15) days old.
 - 1.3. An original certificate of non-bankruptcy for the Borrower, not more than fifteen (15) days old.
 - 1.4. An original list of the Borrower's liens and securities, not more than fifteen (15) days old.

- 2. Corporate authorisations, powers of attorney and signature specimens**
 - 2.1. A copy, certified by a duly authorised representative of the Borrower, of the deliberations of the Borrower's competent management body authorising the taking out of the Loan and the entering into and signing of the Finance Documents.
 - 2.2. If applicable, a copy, certified by a duly authorised representative of the Borrower, of the powers of attorney of the persons authorised to sign the Finance Documents in the name and on behalf of the Borrower, together with evidence of domicile and/or identity.
 - 2.3. A specimen of signatures of the persons authorised to sign the Finance Documents and the Compliance Certificates in the name and on behalf of the Borrower.

- 3. Finance Documents**
 - 3.1. An original of the TEG Letter, duly countersigned by a duly authorised representative of the Borrower.
 - 3.2. An original of any Fee Letter, duly countersigned by a duly authorised representative of the Borrower.

- 4. Financial statements and affidavits**
 - 4.1. A copy, certified by a duly authorised representative of the Borrower, of the Original Financial Statements and of the associated statutory auditors' reports.
 - 4.2. An affidavit, signed by a duly authorised representative of the Borrower:
 - (a) confirming that no Event of Default or Potential Event of Default is continuing on the Signing Date;
 - (b) confirming that each document regarding the Borrower listed in section 1 of Schedule 1 to the Loan Agreement (*Conditions precedent or concomitant conditions*) is accurate, complete and in force on the Signing Date
 - (c) containing the list of the real and personal securities granted by the members of the Group on the Signing Date, specifying the real and personal securities that the Borrower wishes to be able to maintain or roll over after the Signing Date.
 - 4.3. [A statement of indebtedness of the Borrower [and of its Subsidiaries/Material Subsidiaries].

- 5. Legal opinions**
 - 5.1. A signed original of a legal opinion of [___], counsel of the Arranger, confirming the validity and enforceability of the undertakings made by the Borrower in accordance with the Agreement.

⁹³ The conditions precedent and concomitant conditions listed below constitute an indicative list and their content must be adjusted to each transaction.

- 5.2. A signed original of a legal opinion by [___], counsel of the Borrower, confirming the existence of the Borrower, the absence of court-ordered insolvency proceedings vis-a-vis the Borrower and the Borrower's power and capacity to make an undertaking in accordance with the terms of the Agreement and to perform the undertakings resulting for it.

6. Other documents

- 6.1. A copy of all documents or other information concerning the Borrower and its shareholders that the Arranger and the Original Lender can request in order to comply with the counterparty identification procedures ("*know your customer*") required pursuant to the laws and regulations that are applicable to them.
- 6.2. A copy, certified by an authorised representative of the Borrower, of an up-to-date organisational chart of the Group on the Signing Date.
- 6.3. [A copy, certified by an authorised representative of the Borrower, of the list of the Borrower's shareholders on the Signing Date.]
- 6.4. Any supporting document attesting to the payment of the fees mentioned in Article 8 (*Fees*) and of the expenses mentioned in Article 13 (*Miscellaneous Costs and Fees*) due by the Borrower on the Signing Date (including all expenses and expenditures incurred up to such date).

Part 2 – Conditions precedent to the Drawdown

1. An affidavit, signed by a duly authorised representative of the Borrower:
- (d) confirming that no Event of Default or Potential Event of Default is continuing on the Drawdown Date or is likely to occur as a result of the making available of the Drawdown;
 - (e) confirming that all of the Repeating Representations are accurate in terms of the facts and circumstances existing on the Drawdown Date and shall continue to be accurate immediately after the making available of the Drawdown.
2. Any supporting document attesting to the payment of the fees mentioned in Article 8 (*Fees*) and of the expenses mentioned in Article 13 (*Miscellaneous Costs and Fees*) due by the Borrower on the Drawdown Date (including all advisory expenses and expenditures incurred up to such date).

**SCHEDULE 2 TO THE LOAN AGREEMENT
FORM OF DRAWDOWN REQUEST**

Drawdown Request

From: [Borrower], as Borrower

To: [Agent], as Agent

Date: []

Reference is made to the loan agreement entered into on [date] between, inter alia, [Borrower], as Borrower and [Agent], as Agent (the "**Loan Agreement**").

The terms defined in the Loan Agreement have the same meaning in this Drawdown Request.

In accordance with the stipulations of the Loan Agreement, we hereby notify you that we wish to carry out the Drawdown in the following conditions:

- Amount of the Drawdown: EUR []
- Drawdown Date: []
- Interest Period: []
- Recipient Account: []

Please make the Drawdown available to us in the conditions stipulated by the Loan Agreement.

We hereby confirm to you that on the date of this Drawdown Request (i) no Event of Default or Potential Event of Default is continuing, (ii) that the Repeating Representations remain accurate in all of their stipulations and (iii) that the proceeds of the Drawdown shall be used in accordance with the stipulations of the Loan Agreement regarding the subject matter of the Loan.

This Drawdown Request is irrevocable.

Yours sincerely,

.....
By: []

**SCHEDULE 3 TO THE LOAN AGREEMENT
FORM OF SELECTION NOTICE**

Selection Notice

From: [Borrower], as Borrower

To: [Agent], as Agent

Date: []

Reference is made to the Loan Agreement entered into on [date] between, inter alia, [Borrower], as Borrower and [Agent], as Agent (the "**Loan Agreement**").

The terms defined in the Loan Agreement have the same meaning in this Selection Notice.

We refer to the Drawdown the current Interest Period of which will end on [].

We hereby request that the next Interest Period for the Drawdown be of a duration of [] months.

This Selection Notice is irrevocable.

Yours sincerely,

.....

By: []

**SCHEDULE 4 TO THE LOAN AGREEMENT
FORM OF ASSIGNMENT AGREEMENT⁹⁴**

Assignment Agreement

This agreement is entered into between:

1. [], a [] company having its registered office at [], registered under No. [], duly represented for these purposes (the "**Existing Lender**"); and
2. [], a [] company having its registered office at [], registered under No. [], duly represented for these purposes (the "**New Lender**").

RECITALS:

- (A) The Existing Lender is party to a Loan Agreement entered into on [] between [*Borrower*], as Borrower, [*Arranger*], as Arranger, [*Agent*], as Agent and [*Original Lender*], as Original Lender (the "**Loan Agreement**").
- (B) Pursuant to the Loan Agreement, the Borrower is granted a loan of a total amount in principal of [] euros (EUR []) (the "**Loan**").
- (C) This agreement constitutes a Assignment Agreement. The terms defined in the Loan Agreement shall have the same meaning in this Assignment Agreement.
- (D) In accordance with the terms of this Assignment Agreement, the Existing Lender and the New Lender wish to express their agreement to replace the New Lender in [some of the/all of the] rights and obligations of the Existing Lender in accordance with the Loan Agreement.

WHEREFORE, IT HAS BEEN AGREED AS FOLLOWS:

1. Through this Assignment Agreement, the Existing Lender and the New Lender agree to replace the New Lender in [some of the/all of the] rights and obligations of the Existing Lender in accordance with the Loan Agreement, in the amount of the Participation assigned in the Loan as described in a schedule to this Assignment Agreement, in accordance with the stipulations of Article 18.1 (*Assignments by the Lenders*) of the Loan Agreement.
2. The bank contact information of the of the New Lender's Facility Office for the purposes of the payments in accordance with the Loan Agreement as well as its addresses for the purposes of the notifications in accordance with the Loan Agreement are indicated in a schedule to this Assignment Agreement.
3. The New Lender accepts the limitation of liability clauses stipulated in favour of the Existing Lender in Article 18.1 (*Assignments by the Lenders*) of the Loan Agreement.
4. The New Lender undertakes to assume as Lender all of the obligations that result from this status pursuant to the Loan Agreement.
5. The New Lender confirms, in favour of the Agent and without incurring any liability to the Borrower:
 - (i) that it is [a Qualifying Lender who is not a Lender Benefitting from a Tax Treaty/a Lender Benefitting from a Tax Treaty]; and
 - (ii) that it is not incorporated in a Non-Cooperative Jurisdiction and does not act through a Facility Office located in a Non-Cooperative Jurisdiction.
6. This assignment is granted by the Existing Lender to the New Lender for a price of [] euros (EUR []).
7. All of the expenses associated with this assignment shall be borne exclusively by the New Lender.
8. The parties to this Assignment Agreement expressly agree that this assignment shall take effect as of [] (the "**Assignment Date**").
9. This Assignment Agreement is governed by French law. The [Paris] Commercial Court shall have jurisdiction to hear any dispute regarding the entering into and performance of this document.

⁹⁴ To be adjusted if the Agreement is not subject to French law.

Signed in [], on [].

The Existing Lender:

[Existing Lender]
By: []

The New Lender:

[New Lender]
By: []

This Assignment Agreement is accepted by the Agent and the Assignment Date is confirmed as being on [].

The Agent:

[Agent]
By: []

*
* *

Schedule to the Assignment Agreement

- Amount of the Participation assigned in the Loan: [] euros (EUR [])
- Contact information of the New Lender:

Address: []

Attention: []

E-mail: []

Account: []

**SCHEDULE 5 TO THE LOAN AGREEMENT
FORM OF COMPLIANCE CERTIFICATE**

Compliance Certificate

From: [Borrower], as Borrower

To: [Agent], as Agent

Date: []

Reference is made to the Loan Agreement entered into on [date] between, inter alia, [Borrower], as Borrower and [Agent], as Agent (the "**Loan Agreement**").

This affidavit constitutes a Compliance Certificate. The terms defined in the Loan Agreement have the same meaning in this Compliance Certificate.

This Compliance Certificate is issued concerning the Test Period commencing on [] and ending on [].

For the Test Period covered by this Compliance Certificate, the level of each of the Financial Ratios appears in the table below:

Financial Ratio	Level
Ratio []	[]
Ratio []	[]

The Financial Ratios contained in the above table were calculated on the basis of the following information, based on the financial statements for the Test Period concerned by this Compliance Certificate:

[financial figure]	EUR []
[financial figure]	EUR []
[financial figure]	EUR []
[financial figure]	EUR []

Moreover, we hereby confirm to you that, for the Test Period covered by this Compliance Certificate: [to be filled out, if applicable, if there are financial figures that the Borrower wishes to communicate to the Lenders].

We confirm to you that, on the Signing Date of this Compliance Certificate, no Event of Default or Potential Event of Default is continuing.

Yours sincerely,

.....

[Borrower]

By: []

For certification, the statutory auditors:

.....

[The Borrower's statutory auditors]

By: []

**SCHEDULE 6 TO THE LOAN AGREEMENT
FORM OF CONFIDENTIALITY UNDERTAKING ⁹⁵**

Confidentiality Undertaking

From: [Finance Party wishing to transmit Confidential Information]

To: [Potential assignee or sub-participant] (the "Recipient")

Date: []

Reference is made to the Loan Agreement entered into on [date] between, inter alia, [Borrower], as Borrower and [Agent], as Agent (the "**Loan Agreement**"), pursuant to which the Borrower was granted a loan of an amount in principal of [] euros (EUR []) (the "**Loan**").

This document constitutes a Confidentiality Undertaking. Unless otherwise indicated, the terms defined in the Loan Agreement have the same meaning in this Confidentiality Undertaking.

It is our understanding that you intend to take a participation in the Loan. In accordance with the stipulations of the Loan Agreement, we agree to transmit to you certain information regarding the Borrower, the Group, the Loan Agreement and the Loan, insofar as you agree, under the terms of this Confidentiality Undertaking, to preserve the confidentiality of the information that is thus transmitted to you.

1. Definitions

For the purposes of this Confidentiality Undertaking:

"**Goal Pursued**" means the analysis by the Recipient of the interest for it to take a participation in the Loan and the associated risks.

"**Recipient Group**" means the Recipient, the Affiliates of the Recipient, the Funds Related to the Recipient, any Representative of the Recipient and the Recipient's professional advisers.

"**Confidential Information**" means any information regarding the Borrower, the Group, the Loan Agreement or the Loan that we send you for the purposes of the Goal Pursued, in any form whatsoever, whether orally or in writing, with the exception:

- (a) of any information that is or becomes public (other than as a result of the non-performance of the stipulations of this Confidentiality Undertaking);
- (b) of any information that is identified in writing, at the time of its communication by a member of the Group or one of its advisers, as not being confidential; or
- (c) of any information of which you were already aware on the date on which it was communicated to you, or that you obtained lawfully after such date from a source that, to the best of your knowledge, is not linked to the Group and that, in any case, was not obtained in violation of any confidentiality obligation.

2. The Recipient's undertakings

By signing this Confidentiality Undertaking, the Recipient undertakes:

- (a) to preserve the confidentiality of any Confidential Information that is transmitted to it and not to reveal its content or substance to any person, except in the cases referred to in paragraph 3 below;
- (b) to ensure that any Confidential Information that is transmitted to it shall be covered by the same protection and confidentiality measures as those that the Recipient would impose with respect to Confidential Information concerning it or concerning the Recipient Group;
- (c) to use the Confidential Information exclusively for the purposes of the Goal Pursued; and
- (d) to take all steps and all measures necessary to ensure that any person to whom it transmits any Confidential Information (except in the cases referred to in paragraph 3(b)) take formal note of the stipulations of this Confidentiality Undertaking and undertakes to comply with these as if it were a party to this Confidentiality Undertaking.

⁹⁵ To be adjusted if the Agreement is not subject to French law.

3. **Exceptions to the prohibition on the disclosing of Confidential Information**

The Recipient shall be authorised to disclose all or some of the Confidential Information:

- (a) to the members of the Recipient Group as well as their employees, directors, advisers and statutory auditors for the purposes of the Goal Pursued, insofar as such persons are themselves bound by a confidentiality obligation;
- (b) if so required or requested by any governmental, regulatory, administrative or tax authority or any other supervisory authority, pursuant to a court decision, or if required pursuant to the regulations applicable to any member of the Recipient Group; or
- (c) with our prior written consent and that of the Borrower.

It is hereby stipulated that, in any event, the Confidential Information the disclosure of which would violate any applicable regulations (particularly stock market and financial regulations) cannot be disclosed by the Recipient.

By signing this Confidentiality Undertaking, the Recipient accepts (to the extent permitted by the applicable regulation and with the exception of those disclosures made at the request of any competent supervisory authority) to keep us informed of the circumstances, if any, in which it will disclose any Confidential Information in accordance with paragraph (b) above, or promptly upon becoming aware of the disclosure of Confidential Information made in violation of the stipulations of this Confidentiality Undertaking.

4. **Restitution of Confidential Information**

In the event that the Recipient decides not to participate in the Loan, for any reason whatsoever, the Recipient undertakes:

- (a) to return to us without delay all of the Confidential Information transmitted by us;
- (b) to destroy or permanently delete (to the extent possible) any copy of the Confidential Information made by any member of the Recipient Group, and to take all reasonable measures to ensure that any person to whom it has transmitted any Confidential Information does the same, with the exception, however, of the Confidential Information that the Recipient or any other person to whom such information has been transferred are bound to keep (i) pursuant to any regulation that is applicable to it or any rule or decision from any governmental authority or competent supervisory authority, (ii) in accordance with its internal data retention rules, or (iii) in accordance with the stipulations of paragraph 3(b) above.

5. **Term**

This Confidentiality Undertaking and the obligations resulting for the Recipient shall remain in force until the first of the following dates (i) the date on which the Recipient takes a participation in the Loan or (ii) the date falling [] [months] after the Recipient has returned, destroyed or deleted all of the Confidential Information in accordance with the stipulations of paragraph 4 above.

6. **Exclusion of liability**

By signing this Confidentiality Undertaking, the Recipient accepts and recognises that neither us nor any of our employees or advisers (a "**Person Concerned**"):

- (a) make any representation or warranty, whether express or implicit, nor do we assume any liability as regards the accuracy or exhaustiveness of any of the Confidential Information or of any other information transmitted to the Recipient by us or by any member of the Group, or the assumptions on the basis of which such information was established; and
- (b) shall be bound to update or correct any of the components of the Confidential Information or any other information transmitted to the Recipient by us or by a member of the Group, and that no Person Concerned will incur any liability to the Recipient or any other person concerning such information.

7. Nature of the undertakings

By signing this Confidentiality Undertaking, the Recipient accepts and recognises that the undertakings resulting for it are assumed for our benefit and for the benefit of the Borrower and of all of the members of the Group.

8. Governing law – Assignment of jurisdiction

This Confidentiality Undertaking is governed by French law. The [Paris] Commercial Court shall have exclusive jurisdiction to hear any disputes regarding this Confidentiality Undertaking (including any dispute concerning its existence, validity or termination).

We would be grateful if you could please confirm to us your consent to all of the terms of this Confidentiality Undertaking and of the obligations that result from it for you by signing and returning to us a copy of this Confidentiality Undertaking duly countersigned by you.

.....
[Finance Party wishing to transmit Confidential Information]
By: []

For agreement, the Recipient:

.....
[Recipient]
By: []

Signed in [place], on [date], in [] ([]) originals.

The Borrower:

[Borrower]
By: []

The Arranger:

[Arranger]
By: []

The Agent:

[Agent]
By: []

The Original Lender:

[Original Lender]
By: []