
LOAN AGREEMENT

Dated: []

between

[]

As Borrower

[]

As Arranger¹

[]

As Agent²

and

[]

As Original Lender³

Notice

This form loan agreement is provided solely for information purposes. It is intended to provide a practical illustration of the loan 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.

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.

It will be necessary to adapt this form loan agreement for any issue which may fall outside the scope of the aforementioned framework. In particular, this form of loan agreement must be adjusted if the financing will be secured. Special attention is drawn to the importance for each party to negotiate the contractual terms of each transaction, which will vary based on, inter alia, the specific characteristics of the transaction in question, the Borrower's position and market conditions.

It is important to note that this form loan agreement does not include the concepts of "Defaulting Lender" or "Impaired Agent" and the associated stipulations, which can be added at the request of the parties, particularly if the facility involves several drawdowns.

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 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.

² 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.

³ This form provides that the Loan shall be made available by a single institution acting as Original Lender, which can then assign its receivable or transfer its rights and 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).

"**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.]⁴

"**Change of Control**" means any event following which [*Event of 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

⁴ To be deleted if the Agreement only contemplates payments in euros.

(b) as regards any other Lender, the amount of any Commitment assigned or transferred to it by an Existing Lender in accordance with the stipulations of the Agreement.

"Compliance Certificate" means a certificate regarding the Financial Ratios, substantially in the form contained in SCHEDULE 5 Form *OF Compliance Certificate*).

"Confidential Information" has the meaning given in the form of Confidentiality Undertaking contained in SCHEDULE 6 Form *OF Confidentiality Undertaking*).

"Confidentiality Undertaking" means a confidentiality undertaking in accordance with the form contained in SCHEDULE 6 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 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).

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 and transfers 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, 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 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); and
- (i) any personal guarantee granted over any indebtedness listed in sub-paragraphs (a) to (h) above.]⁵

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

"GAAP" means the accounting principles and practices generally accepted in France [(including the IFRS)].⁶

"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*).

"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 and transfers by the Lenders*),

⁵ 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.

⁶ To be modified if the Borrower is not registered in France.

insofar as it has not been terminated, reduced or transferred under 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: ⁷

- (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.

["Mandatory Costs" means, if applicable, the costs borne by the Lenders as a result of the fact that they are subject to all regulations regarding minimum reserves issued by any prudential supervisory authority (including the European Central Bank) regarding the making available by a Lender of its Participation through a branch subject to such regulations.]

"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 []. ⁸

"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. ⁹

"New Lender" has the meaning given in Article 18.1 (*Assignments and transfers 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. ¹⁰

⁷ Insertion of a principle of qualified majority for certain decisions to be discussed, if applicable, in the event of a co-investment.

⁸ 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.

⁹ 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.

¹⁰ 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. ¹¹

"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 [] ¹², 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] ¹³ (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 []]. ¹⁴

"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. ¹⁵

"Selection Notice" means a notice substantially in the form contained in *SCHEDULE 3 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.

¹¹ Definition to be modified if the concept of control must be assessed more broadly than based solely on French law.

¹² The Reference Banks are selected by the Agent in consultation with the Borrower.

¹³ 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.

¹⁴ Exceptions, if any, to the repeating of certain representations to be agreed between the Borrower and the Finance Parties.

¹⁵ Definition to be modified if the concept of control must be assessed more broadly than based solely on French law.

"**Subsidiary**" means a company directly or indirectly controlled by another according to the meaning of Article L. 233-3 of the Commercial Code.¹⁶

"**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.

"**Transfer Date**" means, for an assignment or a transfer made in accordance with the stipulations of Article 18.1 (*Assignments and transfers by the Lenders*), the later of the two following dates:

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

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

"**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.¹⁷

¹⁶ Definition to be modified, if applicable, if the concept of control should be assessed more broadly than on based on French law alone.

¹⁷ To be adjusted in the event that the Financial Ratios are tested more than once a year.

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) 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;
- (d) "**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;
- (e) 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;
- (f) "**regulation**" includes any law, decree, order and any other domestic or foreign rule-making legal instrument;
- (g) 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;
- (h) 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
- (i) 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*].¹⁸

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.

¹⁸ 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.

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

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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.]¹⁹

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

¹⁹ Subject to approval by the Agent.

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Conditions precedent or concomitant conditions), the form and substance of which must be satisfactory 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.]²⁰

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]²¹ 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 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.²²

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 []²³.

²⁰ Subject to approval by the Agent.

²¹ Key point: verify the conditions of the Utilisation with the back office of the Agent/of the Original Lender.

²² Repayment conditions to be adjusted in the event that the Loan cannot be repaid through a bullet payment but is redeemable by instalments.

²³ 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.

4.3 **Mandatory early repayment** ²⁴

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:

- (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 transfer (and such Lender shall be required to transfer) in accordance with Article 18.1 (*Assignments and transfers 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 and 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

²⁴ Other mandatory early repayment scenarios can be agreed between the Parties depending on the economics of the transaction and the Borrower's circumstances.

- (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 standpoint²⁵, 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,

the Borrower shall be entitled, for as long as the situation resulting in such additional cost persists, indemnification or non-deductibility from a [French]²⁶ 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*)]²⁷.

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.

²⁵ To be adjusted if the Borrower is not registered in France.

²⁶ To be adjusted if the Borrower is not registered in France.

²⁷ To be inserted in the event that the payment of a penalty is required in case of voluntary early repayment.

- 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.

5. INTEREST

5.1 Calculation and payment of interest ²⁸

- 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;
- (b) of EURIBOR of the relevant Interest Period; and
- (c) [if applicable, of the applicable Mandatory Costs].

- 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] ²⁹

5.4 Capitalisation ³⁰

Without prejudice to the fact that they are due at any time, the remaining interest due by the Borrower during an entire year as of their due date shall be capitalised in accordance with Article 1154 of the French Code Civil and shall produce interest in the conditions defined in Article 5.2 (*Penalty interest*).

5.5 Effective global rate ³¹

- 5.5.1 To satisfy the obligations contained in Articles L. 313-4 of the French Monetary and Financial Code, L. 313-1 and L. 313-2, R. 313-1 and R. 313-2 of the French Consumer Code, the effective global rate (*taux effectif global*) of the Loan is provided on the Signing Date to the

²⁸ 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.

²⁹ 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.

³⁰ To be included if the Agreement is subject to French law.

³¹ To be included if the Agreement is subject to French law.

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 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, at the Borrower's choice, [] ([]) or [] ([]) months [(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 []]³².
- 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.

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;
- (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 to the Agent promptly and, in any case, prior to the Interest Payment Date of such Interest Period; and
- (c) [of the Mandatory Costs, if any, applicable to the Participation of the relevant Lender.]

³² 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).

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. **FEES** ³³

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] ³⁴ through a permanent establishment to which its Participation is in practice linked;
- (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

³³ Other fees to be specified by the Parties, if applicable (participation/commitment fee, etc.).

³⁴ To be adjusted if the Borrower is not registered in France.

can be exempted from Tax levied on interest by [France]³⁵, 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]³⁶ 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 Benefitting from a Tax Treaty.

"Signatory State" means a State having signed a double taxation agreement with [France]³⁷ (the **"Tax Treaty"**), which provides for a total exemption of Tax levied by [France]³⁸ 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]³⁹, 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 Benefitting from a Tax Treaty and the Borrower is able to demonstrate that the payment could have been made

³⁵ To be adjusted if the Borrower is not registered in France.

³⁶ To be adjusted if the Borrower is not registered in France.

³⁷ To be adjusted if the Borrower is not registered in France.

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

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

without Tax Deduction for a Tax levied by [France]⁴⁰ 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]⁴¹ 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 co-operate 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.

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

⁴¹ 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 Transfer 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 Transfer 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 Transfer 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 Transfer 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 Transfer 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;
- (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);
- (d) [are set off by the payment of Mandatory Costs;] or
- (e) 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*), [Mandatory 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 transfer 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** ⁴²

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.

⁴² 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 **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.

14.1.3 **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.

14.1.4 **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.

14.1.5 **Validity and admissibility as proof**

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

14.1.6 **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.

14.1.7 **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]⁴³ in favour of a Lender who is a Qualifying Lender.

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

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

14.1.9 Events of Default

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

14.1.10 Accuracy of the information and documents⁴⁴

- (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 14.1.11) 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.

14.1.11 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.

14.1.12 *Pari passu* ⁴⁵

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.

14.1.13 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).⁴⁶

14.1.14 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.⁴⁷

⁴⁴ If an Information Memorandum is prepared, the representation should specifically refer to the Information Memorandum.

⁴⁵ 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 agreement on the rank (or inter-creditor agreement) can be entered into between the various creditors that are beneficiaries of the securities.

⁴⁶ This representation may possibly be qualified or limited based on the information, if any, already communicated to the Lenders.

⁴⁷ Insertion of a threshold to be discussed based on the economics of the transaction and on the Borrower's circumstances.

14.1.15 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.

14.1.16 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].⁴⁸
- (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)].

14.1.17 Centre of main interests⁴⁹

The centre of main interests (as this term is used in Article 3(1) of Regulation No. 1346/2000 of 29 May 2000 of the Council of the European Union regarding insolvency proceedings) of the Borrower is located in the State of its registered office.

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. UNDERTAKINGS⁵⁰

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.

⁴⁸ Insertion of a threshold to be discussed based on the economics of the transaction and on the Borrower's circumstances.

⁴⁹ 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").

⁵⁰ 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.

15.1 Information covenants ⁵¹

15.1.1 Financial statements ⁵²

- (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.
- (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:

⁵¹ 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.

⁵² To be adjusted in the event that the Borrower does not prepare consolidated financial statements and/or semi-annual statements.

- (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 **[French Central Bank Rating]**⁵³

The Borrower undertakes to communicate to the Agent:

- (a) any change of its internal rating at the French Central Bank; and
- (b) if requested by the Agent, its internal rating at the French Central Bank.

15.1.6 **Information: miscellaneous**

The Borrower undertakes to supply 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;⁵⁴
- (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 change⁵⁵ 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)].

15.1.7 **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.]

15.1.8 **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

⁵³ To be adjusted or deleted if the Borrower is not registered in France.

⁵⁴ 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.

⁵⁵ Insertion of a threshold to be discussed based on the economics of the transaction and on the Borrower's circumstances.

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.

15.1.9 **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.

15.1.10 **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.

15.1.11 **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;
 - (ii) a change of status of the Borrower subsequent to the Signing Date; or
 - (iii) an assignment or transfer contemplated by a Lender of its rights and 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 ⁵⁶

[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].

15.3.3 Restructuring transactions ⁵⁷

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.

⁵⁶ 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).
- 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.

⁵⁷ To be modified, if applicable, based on the Group's structure and on the restructuring transactions contemplated by the Borrower and its Subsidiaries.

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** ⁵⁸

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):
 - (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

⁵⁸ 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.

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 ⁵⁹
- (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 ⁶⁰

- (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 to sales, transfers and 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 ⁶¹

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 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 sureties ⁶²

- (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: ⁶³
 - (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;]

⁵⁹ 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).

⁶⁰ 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.

⁶¹ 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.

⁶² 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.

⁶³ 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.

- (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: ⁶⁴
- (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. This type of clause is unusual in corporate financing transactions or acquisition financing transactions that do not significantly modify leverage, but may be important for leveraged financing transactions (LBO transactions).]

16. EVENTS OF DEFAULT ⁶⁵

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

⁶⁴ 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.

⁶⁵ 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.

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**⁶⁶

- (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] [])).⁶⁷
- (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] []).⁶⁸
- (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] []).

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 debt 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].

⁶⁶ Case of cross default to be examined on a case-by-case basis.

⁶⁷ Insertion of a threshold to be discussed.

⁶⁸ Insertion of a threshold to be discussed, if applicable.

16.1.7 Court-ordered insolvency procedures ⁶⁹

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.

16.1.8 Attachments ⁷⁰

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

⁶⁹ 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.

⁷⁰ Clause to be adjusted if the Borrower is not registered in France.

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.⁷¹

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].⁷²

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**⁷³

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. 620-1 to L. 670-8 of the 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
- (c) exercise all rights, actions and recourse in accordance with the Finance Documents.

17. **CHANGE TO THE BORROWER**

The Borrower cannot assign or transfer (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 and transfers by the Lenders**

18.1.1 Subject to this Article 18.1 (*Assignments and transfers by the Lenders*), a Lender (the "**Existing Lender**") and, after assignment of its rights or transfer of all or some of its rights and obligations under the Agreement, the "**Former Lender**") can (i) assign certain of its rights or (ii) transfer all or some of its rights (including those relating to its Participation) and its 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

⁷¹ Wording of this Event of Default to be adjusted based on the structure of the Group.

⁷¹ Wording of this Event of Default to be adjusted based on the structure of the Group.

⁷² This event of default may possibly be limited based on the information, if any, already communicated to the Lenders.

⁷³ Clause to be adjusted or deleted if the Borrower is not registered in France.

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**").⁷⁴

18.1.2 The Finance Parties hereby give their consent to any transfer or assignment made by an Existing Lender to a New Lender.

18.2 **Assignment or transfer conditions** ⁷⁵

18.2.1 The Borrower's consent is required for any assignment or any transfer by an Existing Lender. However, it is agreed that such consent shall not be required if: ⁷⁶

(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.

18.2.2 Notwithstanding the above, no assignment or transfer 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 or a transfer cannot be refused without legitimate grounds; in the absence of a reply from the Borrower to a request for an assignment or transfer within [] ([]) Business Days, the Borrower shall be deemed to have given its consent to such assignment or transfer. If the Borrower rejects an assignment or a transfer, 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 or a transfer 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 or transfer procedure*) has been complied with.

18.2.5 Each New Lender, by its signing of the relevant Transfer 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 Transfer 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.

18.3 **Assignment or transfer procedure**

18.3.1 Subject to the conditions mentioned in Article 18.2 (*Assignment or transfer conditions*) and without prejudice to the provisions of Article L. 214-169 of the Monetary and Financial Code, a New Lender shall become Party to the Agreement as Lender when the Agent will sign the Transfer Agreement duly filled out by the Former Lender and the New Lender.

18.3.2 The Agent shall be required to sign the Transfer 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 Transfer Date, to send a copy of the Transfer 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.]

⁷⁴ Clause to be adapted if the Agreement is not subject to French law.

⁷⁵ Clause be adapted if the Agreement is not subject to French law.

⁷⁶ If applicable, other exceptions can be negotiated.

- 18.3.4 The signing of the Transfer Agreement shall produce the following effects as of the Transfer Date:
- (a) insofar as the Former Lender intends, through the Transfer 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 Transfer Agreement;
 - (b) the rights and obligations of the Former Lender in accordance with the Finance Documents referred to in the Transfer Agreement shall be transferred to the New Lender to the extent provided by the Transfer Agreement;
 - (c) the mutual rights and 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 Transfer 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 Transfer Agreement; and
 - (e) the New Lender shall become party to the Agreement as "Lender".

18.4 **Granting of Securities on the rights of the Lenders** ⁷⁷

- 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 financial institution.
- 18.4.2 The stipulations of Articles 18.2 (*Assignment or transfer conditions*) and 18.3 (*Assignment or transfer procedure*) shall not apply to the assignments, transfers 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** ⁷⁸

19.1 **Role of the Agent** ⁷⁹

- 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 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.

⁷⁷ To be adjusted if the Borrower is not registered in France.

⁷⁸ The role of the Arranger and the associated liability regime are, in general, defined in the mandate entered into with the Borrower.

⁷⁹ Stipulations regarding the role of the Agent to be re-examined and approved by the bank that acts as Agent.

- 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]⁸⁰.
- 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 standpoint⁸¹ 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]⁸²).
- 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.
- 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.

⁸⁰ To be adjusted if the Borrower is not registered in France.

⁸¹ To be adjusted if the Borrower is not registered in France.

⁸² To be adjusted if the Borrower is not registered in France.

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 and independently, 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 1252 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 (a) 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**

- (a) 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.
- (b) 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] ⁸³).

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] ⁸⁴.

⁸³ Utilisation Request transmission conditions to be confirmed by the Agent.

⁸⁴ To be confirmed.

- 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 23 (*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.

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. **CONFIDENTIALITY**⁸⁵

26.1 **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 26.2 (*Disclosure of Confidential Information*) [and by Article 26.3 (*Disclosure to a provider of numbering 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.

26.2 **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 transfers or assigns (or can potentially transfer or 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;

⁸⁵ To be adapted if the Agreement is not subject to French law.

- (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 (*Granting of Securities on the rights 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 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.

26.3 **Disclosure to a provider of numbering services** ⁸⁶

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 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 settlement date and the 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.

26.4 **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 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 transfers (or could potentially assign or transfer) 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,

⁸⁶ 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 Euro PP settlement date.

in order to provide administration or settlement services as regards the Finance Documents, including, in particular, regarding transfers 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 26.4 (*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.

26.5 All of the agreements

Without prejudice to the provisions of Articles L. 511-33 and L. 511-34 of the Monetary and Financial Code, this Article 26 (*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.

26.6 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.

26.7 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 26.2 (*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 26 (*CONFIDENTIALITY*).

26.8 Maintenance of obligations

The obligations referred to in this Article 26 (*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.

27. GOVERNING LAW – EXCLUSIVE JURISDICTION⁸⁷

27.1 The Agreement is governed by French law.

27.2 The [Paris] Commercial Court shall have exclusive jurisdiction to settle any disputes arising out of or in connection with this Agreement.

⁸⁷ To be adapted if the Agreement is not subject to French law.

SCHEDULE 1
CONDITIONS PRECEDENT OR CONCOMITANT CONDITIONS ⁸⁸

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

⁸⁸ The conditions precedent and concomitant conditions listed below constitute an indicative list and their content must be adjusted to each transaction.

- (c) SCHEDULE 1
Conditions precedent or concomitant conditions) is accurate, complete and in force on the Signing Date;
- (d) 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.

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:

- (a) 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;
- (b) 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
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
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
FORM OF TRANSFER AGREEMENT ⁸⁹

Transfer 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 Transfer Agreement. The terms defined in the Loan Agreement shall have the same meaning in this Transfer Agreement.
- (D) In accordance with the terms of this Transfer 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 Transfer 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 Transfer Agreement, in accordance with the stipulations of Article 18.1 (*Assignments and transfers 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 Transfer Agreement.
3. The New Lender accepts the limitation of liability clauses stipulated in favour of the Existing Lender in Article 18.1 (*Assignments and transfers 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. The New Lender shall be required to make enforceable against third parties the assignment by the Existing Lender of its rights in accordance with the Loan Agreement by a service to the Borrower in accordance with Article 1690 of the French Code Civil. This assignment does not entail novation.
8. All of the expenses associated with this assignment shall be borne exclusively by the New Lender.

⁸⁹ To be adjusted if the Agreement is not subject to French law.

9. The parties to this Transfer Agreement expressly agree that this assignment shall take effect as of [] (the "**Transfer Date**").
10. This Transfer 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.

Signed in [], on [].

The Existing Lender:

[Existing Lender]

By: []

The New Lender:

[New Lender]

By: []

This Transfer Agreement is accepted by the Agent and the Transfer Date is confirmed as being on [].

The Agent:

[Agent]

By: []

*
* * *

Schedule to the Transfer Agreement

- Amount of the Participation assigned in the Loan: [] euros (EUR [])
- Contact information of the New Lender:
 - Address: []
 - Attention: []
 - E-mail: []
 - Account: []

**SCHEDULE 5
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
FORM OF CONFIDENTIALITY UNDERTAKING ⁹⁰

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)

⁹⁰ To be adjusted if the Agreement is not subject to French law.

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.

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: []