

**BOND TERMS**

**FOR**

**Mutares SE & Co. KGaA FRN senior secured EUR 300,000,000 bonds  
2024/2029**

**ISIN NO0013325407**

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ATTACHMENT 1 COMPLIANCE CERTIFICATE

ATTACHMENT 2 RELEASE NOTICE – ESCROW ACCOUNT

ATTACHMENT 3 AGREED SECURITY PRINCIPLES

<b>BOND TERMS between:</b>	
ISSUER:	Mutares SE & Co. KGaA, a partnership limited by shares incorporated under the laws of Germany with company registration number HRB 250347 and LEI-code 391200NWMO6NLQFSCU64; and
BOND TRUSTEE:	Nordic Trustee AS, a company existing under the laws of Norway with registration number 963 342 624 and LEI-code 549300XAKTM2BMKIPT85.
DATED:	18 September 2024
These Bond Terms shall remain in effect for so long as any Bonds remain outstanding.	

## 1. INTERPRETATION

### 1.1 Definitions

The following terms will have the following meanings:

“**Acceptable Bank**” means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of BBB- or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody’s Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or
- (b) any other bank or financial institution approved by the Bond Trustee.

“**Accounting Standard**” means IFRS or, if and where explicitly stated, GAAP.

“**Additional Bonds**” means the debt instruments issued under a Tap Issue, including any Temporary Bonds.

“**Affiliate**” means, in relation to any person:

- (a) any person which is a Subsidiary of that person;
- (b) any person who has Decisive Influence (directly or indirectly) over that person; and
- (c) any person which is a Subsidiary of an entity who has Decisive Influence (directly or indirectly) over that person.

“**Agreed Security Principles**” means the security principles set out in Attachment 2 (*Agreed Security Principles*) hereto.

“**Annual Financial Statements**” means the audited unconsolidated and consolidated annual financial statements of the Issuer for each of its financial years, each of which shall include a balance sheet, profit and loss account and cashflow statement together with management commentary on the performance.

“**Attachment**” means any schedule, appendix or other attachment to these Bond Terms.

“**Bond Terms**” means these terms and conditions, including all Attachments which form an integrated part of these Bond Terms, in each case as amended and/or supplemented from time to time.

“**Bond Trustee**” means the company designated as such in the preamble to these Bond Terms, or any successor, acting for and on behalf of the Bondholders in accordance with these Bond Terms.

“**Bond Trustee Fee Agreement**” means the agreement entered into between the Issuer and the Bond Trustee relating among other things to the fees to be paid by the Issuer to the Bond Trustee for the services provided by the Bond Trustee relating to the Bonds.

“**Bondholder**” means a person who is registered in the CSD as directly registered owner or nominee holder of a Bond, subject however to Clause 3.3 (*Bondholders’ rights*).

“**Bondholders’ Meeting**” means a meeting of Bondholders as set out in Clause 15 (*Bondholders’ Decisions*).

“**Bonds**” means (a) the debt instruments issued by the Issuer under these Bond Terms (including any Additional Bonds), and (b) any overdue and unpaid principal which has been issued under a separate ISIN in accordance with the regulations of the CSD from time to time.

“**Bookrunners**” means Arctic Securities AS, Haakon VIIIs gate 5, 0161 Oslo, Norway and Pareto Securities AS, Frankfurt Branch, Gräfstraße 97, 60487 Frankfurt am Main, Germany.

“**Business Day**” means a day on which both the relevant CSD settlement system is open and which is a TARGET Day.

“**Business Day Convention**” means that if the last day of any Interest Period originally falls on a day that is not a Business Day, the Interest Period will be extended to include the first following Business Day unless that day falls in the next calendar month, in which case the Interest Period will be shortened to the first preceding Business Day (*Modified Following*).

“**Call Option**” has the meaning given to it in Clause 10.2 (*Voluntary early redemption – Call Option*).

“**Call Option Repayment Date**” means the settlement date for the Call Option determined by the Issuer pursuant to Clause 10.2 (*Voluntary early redemption – Call Option*), paragraph (e) of Clause 10.3 (*Mandatory repurchase due to a Put Option Event*), or a date agreed upon between the Bond Trustee and the Issuer in connection with such redemption of Bonds.

“**Call Price**” has the meaning given to it in Clause 10.2 (*Voluntary early redemption – Call Option*).

**“Change of Control”** means if at any time:

- (a) the shares of the Issuer are de-listed from the Frankfurt Stock Exchange (or any other reputable stock exchange in Europe immediately replacing the Frankfurt Stock Exchange as the place of listing of such shares);
- (b) any person or group of persons acting in concert (other than Robin Laik and any person or group of persons acting in concert with him) owns or controls (directly or indirectly) 50.00 per cent. or more of the shares or the voting rights in either the Issuer or the General Partner; or
- (c) any sale of all or substantially all of the assets of the Group whether in a single transaction or a series of related transactions is carried out.

**“Closing Procedure”** means any closing procedure in respect of the Bonds or otherwise referred to herein (in each case) agreed between, among others, the Issuer and the Bond Trustee.

**“Compliance Certificate”** means a statement substantially in the form as set out in Attachment 1 (*Compliance Certificate*) hereto.

**“CSD”** means the central securities depository in which the Bonds are registered, being Verdipapirsentralen ASA (VPS).

**“Decisive Influence”** means a person having, as a result of an agreement or through the ownership of shares or ownership interests in another person (directly or indirectly):

- (a) a majority of the voting rights in that other person; or
- (b) a right to elect or remove a majority of the members of the board of directors of that other person.

**“Default Notice”** means a written notice to the Issuer as described in Clause 14.2 (*Acceleration of the Bonds*).

**“Default Repayment Date”** means the settlement date set out by the Bond Trustee in a Default Notice requesting early redemption of the Bonds.

**“Disbursement”** means the disbursement of the Net Proceeds of the Initial Bond Issue from the Escrow Account to the Issuer as set out in paragraph (b) of Clause 6.1 (*Conditions precedent for disbursement to the Issuer*).

**“Distribution”** means, in respect of any Group Company:

- (a) any declaration, making or payment of any dividend, charge, fee or other distribution (or any interest on any unpaid dividend, charge, fee or other distribution) on or in respect of its share capital (or any class thereof);
- (b) any repayment or distribution of any dividend or share premium reserve;

- (c) any payment of any management, advisory or other fee to or to the order of any of its (direct or indirect) shareholders or any Affiliate thereof; and
- (d) any redemption, repurchase, defeasance, retirement or repayment of its share capital or the making of any resolution to do so.

“**Escrow Account**” means an account (with the Paying Agent, Nordic Trustee Services AS or a Norwegian bank acceptable to the Bond Trustee) in the name of the Issuer, blocked and pledged on first priority as security for the Issuer’s obligations under the Finance Documents.

“**Escrow Account Pledge**” means the pledge over the Escrow Account, where the bank operating the account has waived any set off-rights.

“**EUR**” means the single currency of the participating member states in accordance with the legislation of the European Community relating to Economic and Monetary Union.

“**Event of Default**” means any of the events or circumstances specified in Clause 14.1 (*Events of Default*).

“**Exchange**” means: Nordic ABM (being the Alternative Bond Market of Oslo Stock Exchange).

“**Existing Bond Terms**” means the bond terms dated 28 March 2023 between the Issuer and Nordic Trustee AS (as amended, restated and/or supplemented from time to time).

“**Existing Bonds**” means any bonds issued by the Issuer under and pursuant to the Existing Bond Terms.

“**Finance Documents**” means these Bond Terms, the Transaction Security Documents, the Intercreditor Agreement, any other subordination or intercreditor agreement or arrangement entered into pursuant to paragraph (g) and/or (h) of the definition of Permitted Financial Indebtedness, any Tap Issue Addendum, the Bond Trustee Fee Agreement and any other document designated as such by the Issuer and the Bond Trustee.

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

- (a) moneys borrowed (and debit balances at banks or other financial institutions);
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of any bonds, notes, debentures, loan stock or any similar instrument, including the Bonds;
- (d) the amount of any liability in respect of any finance lease or hire purchase contract which would, in accordance with the Accounting Standard, be capitalised as an asset and booked as a corresponding liability in the balance sheet;

- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis, provided that the requirements for de-recognition under the Accounting Standard are met);
- (f) any derivative transaction entered into and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that transaction, that amount shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability of an entity which is not a Group Company which liability would fall within one of the other paragraphs of this definition;
- (h) any amount raised by the issue of shares which are redeemable (other than at the option of the Issuer) before the Maturity Date or are otherwise classified as borrowings under the Accounting Standard;
- (i) any amount of any liability under an advance or deferred purchase agreement if
  - (i) the primary reason behind entering into the agreement is to raise finance; or
  - (ii) the agreement is in respect of the supply of assets or services and payment is due more than 120 calendar days after the date of supply;
- (j) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Standard; and
- (k) without double counting, the amount of any liability in respect of any guarantee for any of the items referred to in any of the preceding paragraphs.

“**Financial Reports**” means the Annual Financial Statements and the Interim Accounts.

“**Financial Support**” means any loans, guarantees, Security or other financial assistance (whether actual or contingent).

“**First Call Date**” means 19 March 2027 (being the Interest Payment Date falling 30 months after the Issue Date).

“**Frankfurt Open Market**” means the Open Market (*Freiverkehr*) of the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*).

“**GAAP**” means generally accepted accounting practices and principles in the country in which the Issuer is incorporated including, if applicable, IFRS.

“**General Partner**” means Mutares Management SE, being:

- (a) a company incorporated under the laws of Germany with company registration number HRB 242375; and

(b) the general partner of the Issuer.

“**Group**” means the Issuer and its Subsidiaries from time to time.

“**Group Company**” means any person which is a member of the Group.

“**IFRS**” means international accounting standards within the meaning of IAS Regulation 1606/2002.

“**Incurrence Test**” has the meaning given to it in Clause 13.21 (*Incurrence Test*).

“**Initial Bond Issue**” means the aggregate Nominal Amount of all Bonds to be issued on the Issue Date as set out in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

“**Initial Material Group Company**” has the meaning given to it in paragraph (b)(v) of Clause 6.1 (*Conditions precedent for disbursement to the Issuer*).

“**Initial Nominal Amount**” means the Nominal Amount of each Bond on the Issue Date as set out in paragraph (d) of Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

“**Insolvent**” means that a person:

- (a) is unable or admits inability to pay its debts as they fall due;
- (b) suspends making payments on any of its debts generally; or
- (c) is otherwise considered insolvent or bankrupt within the meaning of the relevant bankruptcy legislation of the jurisdiction which can be regarded as its centre of main interest as such term is understood pursuant to Regulation (EU) 2015/848 on insolvency proceedings (as amended from time to time).

“**Intercreditor Agreement**” means the intercreditor agreement dated on or about the date of these Bond Terms and made between, among others, the Issuer as company, Nordic Trustee AS as bond trustee and security agent, regulating the relationship between the parties in relation to, inter alia, the sharing of Transaction Security.

“**Interest Payment Date**” means the last day of each Interest Period, the first Interest Payment Date being 19 December 2024 and the last Interest Payment Date being the Maturity Date.

“**Interest Period**” means, subject to adjustment in accordance with the Business Day Convention, the period between 19 March, 19 June, 19 September and 19 December each year, provided however that an Interest Period shall not extend beyond the Maturity Date.

“**Interest Rate**” means the percentage rate per annum which is the aggregate of the Reference Rate for the relevant Interest Period plus the Margin.

“**Interest Quotation Day**” means, in relation to any period for which Interest Rate is to be determined, two Quotation Business Days before the first day of the relevant Interest Period.

“**Interim Accounts**” means the unaudited unconsolidated and consolidated quarterly financial statements of the Issuer for the financial quarter ending on 31 March, 30 June and 30 September in each of its financial years, each of which shall include a balance sheet, profit and loss account and cashflow statement, together with management commentary on the performance (provided that cashflow statements shall only be included in consolidated financial statements for the quarterly periods ending 30 June in each financial year).

“**Investment Vehicle**” means any limited liability company forming part of the Group (other than the Issuer), whose sole purpose is to acquire, own, manage, develop and dispose of other companies, businesses or undertakings.

“**IPO**” means an initial public offering of shares in a Group Company (other than the Issuer).

“**ISIN**” means International Securities Identification Number.

“**Issue Date**” means 19 September 2024.

“**Issuer**” means the company designated as such in the preamble to these Bond Terms.

“**Issuer’s Bonds**” means any Bonds which are owned by the Issuer or any Affiliate of the Issuer.

“**Liquidity Account**” means a bank account:

- (a) held by the Issuer with an Acceptable Bank in Germany or Norway; and
- (b) from which withdrawals may be made by the Issuer until an Event of Default has occurred and is continuing (provided (for the avoidance of doubt) that the Issuer, immediately after the making of any such withdrawal, will comply with the requirements set out in paragraph (a) of Clause 13.20 (*Financial Maintenance Covenants*)).

“**Listing Failure Event**” means if:

- (a) the Bonds have not been admitted to listing on the Exchange within six months of the Issue Date; or
- (b) in the case of a successful admission to listing of the Bonds on the Exchange, a period of six months has elapsed since the Bonds ceased to be listed on the Exchange.

“**Long Stop Date**” means the date falling 60 calendar days after the Issue Date.

“**Make Whole Amount**” means an amount equal to the sum of the present value on the applicable Repayment Date of:

- (a) 104.86 per cent. of the Nominal Amount of the redeemed Bonds as if such payment had taken place on the First Call Date; and
- (b) the remaining interest payments on the redeemed Bonds to the First Call Date (less any accrued and unpaid interest on the redeemed Bonds as at such Repayment Date),

where the present value shall be calculated by using a discount rate of 2.65 per cent. per annum and where the interest rate applied for the remaining interest payments shall equal the Interest Rate on the applicable Repayment Date.

“**Mandatory Redemption Event**” means the event that the conditions precedent set out in paragraph (b) of Clause 6.1 (*Conditions Precedent for Disbursement to the Issuer*) have not been fulfilled within the Long Stop Date.

“**Mandatory Redemption Repayment Date**” means the settlement date for the Mandatory Redemption Event pursuant to Clause 10.6 (Mandatory early redemption due to a Mandatory Redemption Event).

“**Margin**” means 6.25 per cent. per annum.

“**Material Adverse Effect**” means a material adverse effect on:

- (a) the ability of the Issuer to perform and comply with its obligations under any of the Finance Documents; or
- (b) the validity or enforceability of any of the Finance Documents.

“**Material Group Company**” means the Initial Material Group Companies and the Subsequent Material Group Companies, in each case confirmed or nominated by the Issuer as such in accordance with Clause 13.16 (*Designation of Material Group Companies*).

“**Material Intercompany Loan**” means any loan or credit made by the Issuer to any Material Group Company, where:

- (a) the loan or credit is (or is scheduled to be) outstanding for at least 6 months; and
- (b) the principal amount thereof is at least equal to EUR 2,000,000 (or its equivalent in other currencies).

“**Maturity Date**” means 19 September 2029, adjusted according to the Business Day Convention.

“**Maximum Issue Amount**” means the maximum amount that may be issued under these Bond Terms as set out in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

“**Net Proceeds**” means the proceeds from the issuance of any Bonds (net of fees and legal costs of the Managers and, if required by the Bond Trustee, the Bond Trustee’s fees, and any other costs and expenses incurred in connection with the issuance of such Bonds).

“**Nominal Amount**” means the nominal value of each Bond at any time, subject to any amendment pursuant to paragraph (j) of Clause 16.2 (*The duties and authority of the Bond Trustee*).

“**Nordic ABM**” means the Nordic ABM of the Oslo Stock Exchange (*Oslo Børs*).

“**Outstanding Bonds**” means any Bonds not redeemed or otherwise discharged.

“**Overdue Amount**” means any amount required to be paid by the Issuer under any of the Finance Documents but not made available to the Bondholders on the relevant Payment Date or otherwise not paid on its applicable due date.

“**Partial Payment**” means a payment that is insufficient to discharge all amounts then due and payable under the Finance Documents.

“**Paying Agent**” means the legal entity appointed by the Issuer to act as its paying agent with respect to the Bonds in the CSD.

“**Payment Date**” means any Interest Payment Date or any Repayment Date.

“**Permitted Distribution**” means any Distribution by:

- (a) the Issuer, provided that it, immediately after the making of such Distribution, will comply with the requirements set out in paragraph (a) of Clause 13.20 (*Financial Maintenance Covenants*);
- (b) any other Group Company having conducted an IPO permitted pursuant to Clause 13.15 (*IPO*); or
- (c) any other Group Company, provided that:
  - (i) such Distribution is made to another Group Company; or
  - (ii) if made by a Group Company which is not wholly-owned, is made *pro rata* to its shareholders on the basis of their respective ownership at the same time,

in each case, provided that no Event of Default is continuing or would result from the making of such Distribution.

“**Permitted Financial Indebtedness**” means any Financial Indebtedness:

- (a) arising under the Finance Documents in respect of the Initial Bond Issue;
- (b) in the form of any Existing Bonds, subject to terms hereof and the Intercreditor Agreement;
- (c) arising under any loan or guarantee permitted by the definition of “Permitted Financial Support”, subject, in the case of the Issuer, to the terms of the Intercreditor Agreement;
- (d) incurred by the Issuer after the Issue Date by way of a Tap Issue, provided that:
  - (i) it complies with the Incurrence Test if tested *pro forma* immediately after the incurrence of such new Financial Indebtedness; and
  - (ii) no Event of Default is continuing or would result from the incurrence of such Financial Indebtedness;

- (e) incurred by the Issuer after the Issue Date (each, a “**Secured Pari Passu Debt**”), subject to the terms hereof and the Intercreditor Agreement provided that:
  - (i) it complies with the Incurrence Test if tested *pro forma* immediately after the incurrence of such new Financial Indebtedness;
  - (ii) such Financial Indebtedness:
    - (A) in right and priority of payments ranks *pari passu* with the obligations of the Issuer under the Finance Documents and any Existing Bonds in the manner and to the extent contemplated herein and in the Intercreditor Agreement and has a final maturity date (and, if applicable, instalment dates or early redemption dates) occurring no earlier than 6 months after the Maturity Date, and
    - (B) is secured on a *pari passu* basis with the Bonds and any Existing Bonds by the Transaction Security in the manner and to the extent set out herein and in the Intercreditor Agreement; and
  - (iii) Clause 13.17 (*Secured Pari Passu Debt and Second Lien Debt*) is complied with in respect thereof,

in each case, provided that no Event of Default is continuing or would result from the incurrence of any such Financial Indebtedness;

- (f) incurred by the Issuer after the Issue Date (each, a “**Second Lien Debt**”), subject to the terms hereof and the Intercreditor Agreement, provided that:
  - (i) it complies with the Incurrence Test if tested *pro forma* immediately after the incurrence of such new Financial Indebtedness;
  - (ii) such Financial Indebtedness:
    - (A) in right and priority of payment ranks after and is subordinated to the obligations of the Issuer under the Finance Documents, any Existing Bonds and any Secured Pari Passu Debt in the manner and extent contemplated herein and in the Intercreditor Agreement, and has a final maturity date (and, if applicable, instalment dates or early redemption dates) occurring no earlier than 6 months after the Maturity Date;
    - (B) is secured on a second lien basis and therefore with priority after the Bonds, any Existing Bonds and any Secured Pari Passu Debt by the Transaction Security in the manner and to the extent set out herein and in the Intercreditor Agreement; and
  - (iii) Clause 13.17 (*Secured Pari Passu Debt and Second Lien Debt*) is complied with in respect thereof,

in each case, provided that no Event of Default is continuing or would result from the incurrence of any such Financial Indebtedness;

- (g) incurred by the Issuer after the Issue Date, provided that:
    - (i) it complies with the Incurrence Test if tested *pro forma* immediately after the incurrence of such new Financial Indebtedness;
    - (ii) such Financial Indebtedness:
      - (A) is in the form of a loan or credit made to the Issuer by any person (other than any direct or indirect shareholder of the Issuer or a Group Company);
      - (B) is unsecured and subordinated to the obligations of the Issuer under the Finance Documents pursuant to the terms of the Intercreditor Agreement (or otherwise to an extent and in a manner acceptable to the Bond Trustee); and
      - (C) has a final maturity date (and, if applicable, instalment dates or early redemption dates) which occur no earlier than 6 months after the Maturity Date;

provided that no Event of Default is continuing or would result from the incurrence of any such Financial Indebtedness; and

  - (iii) notwithstanding paragraph (ii)(B) above, the Issuer shall be permitted to pay interest accrued in respect of such Financial Indebtedness (A) in cash, provided that it complies with the Incurrence Test if tested *pro forma* immediately after the paying of such cash interest and (B) by the way of capitalisation of interest.
- (h) incurred by the Issuer in the form of an unsecured debt financing from an investor that on its terms is expressly intended, within 12 months from the date of incurrence, to be converted into common equity in the Issuer and/or repaid with the proceeds of the issuance of common equity in the Issuer, and further provided that:
  - (i) from the date of incurrence, such debt financing is subordinated to the obligations of the Issuer under the Finance Documents (to an extent and in a manner acceptable to the Bond Trustee) with effect no later than the earlier of:
    - (A) 12 months from the date of incurrence;
    - (B) the Business Day falling immediately prior to the Maturity Date; and
    - (C) the occurrence of an Event of Default; and
  - (ii) the aggregate amount of all such debt financings permitted under this paragraph does not exceed an amount equal to the lower of:
    - (A) 10.00 per cent. of the Issuer's market capitalisation; and
    - (B) EUR 50,000,000,

- provided that no Event of Default is continuing or would result from the incurrence of any such Financial Indebtedness;
- (i) of any member of a Portfolio Group incurred prior to the Disbursement, provided that the Issuer, immediately after the incurrence of such Financial Indebtedness, on a pro forma basis will comply, with the requirements set out in paragraphs (b) and (c) of Clause 13.20 (*Financial Maintenance Covenants*);
  - (j) of any member of a Portfolio Group incurred on or after the Disbursement, provided that:
    - (i) no Event of Default is continuing or would result from the incurrence of such Financial Indebtedness; and
    - (ii) the Issuer, immediately after the incurrence of such Financial Indebtedness (and on a *pro forma* basis as if the proceeds thereof had been applied in full towards the relevant purpose(s)), will comply with the requirements set out in paragraphs (b) and (c) of Clause 13.20 (*Financial Maintenance Covenants*);
  - (k) of the Issuer in the form of a loan from a Strategic Investor for the purposes of investing the proceeds of such loan into a Portfolio Group, provided that the aggregate amount of all such loans permitted under this paragraph (k) does not exceed an amount equal to 1.00 per cent. of Total Assets in aggregate for the Group at any time;
  - (l) arising under any recourse factoring facility entered into on normal commercial terms by any member of a Portfolio Group;
  - (m) incurred under any advance or deferred purchase agreement on normal commercial terms by any Group Company towards any of its trading partners in the ordinary course of its trading activities;
  - (n) in the form of any counter-indemnity granted by any member of a Portfolio Group in respect of any guarantee, indemnity, bond, standby or documentary letter of credit or other instrument issued by a bank or financial institution in respect of liabilities incurred by another member of that Portfolio Group in its ordinary course of business;
  - (o) in the form of any finance lease or hire purchase contract entered into by the Issuer, provided that the aggregate capital value of all items so leased or hired does not exceed the higher of:
    - (i) EUR 7,500,000 (or its equivalent in other currencies); and
    - (ii) an amount equal to 0.25 per cent. of Total Assets, in each case, in aggregate at any time;
  - (p) arising under any hedging or other derivative transaction for the protection against or benefit from the fluctuation in any rate or price entered into in the ordinary course of business by a Group Company and not for speculative purposes;

- (q) in the form of any pension or tax liabilities incurred by a Group Company in the ordinary course of business;
- (r) the proceeds of which shall be applied towards a refinancing of the Bonds (together with any accrued interest and any other amounts payable under the Finance Documents) in full, provided that if such proceeds are received by the Issuer (or any other Group Company) prior to such refinancing takes place, such proceeds are held in a blocked escrow account which is not accessible to the Issuer (or any other Group Company) unless and until such refinancing takes place; or
- (s) not permitted by the preceding paragraphs and the outstanding amount of which does not exceed the higher of:
  - (i) EUR 5,000,000 (or its equivalent in other currencies); and
  - (ii) an amount equal to 0.20 per cent. of Total Assets,in each case, in aggregate for the Group at any time.

**“Permitted Financial Support”** means:

- (a) any guarantee or indemnity granted under the Finance Documents;
- (b) any indemnity granted on normal commercial terms and subject to customary limitations in respect of any Existing Bonds, any Secured Pari Passu Debt or any Second Lien Debt, in each case, subject to the terms hereof and the Intercreditor Agreement;
- (c) any guarantee explicitly permitted under the definition of “Permitted Financial Indebtedness”;
- (d) any guarantee provided by any member of a Portfolio Group in respect of any Financial Indebtedness of any other member of that Portfolio Group permitted under paragraphs (i) or (j) of the definition of “Permitted Financial Indebtedness”;
- (e) any guarantee or counter-indemnity provided by the Issuer in respect of any Financial Indebtedness of any member of a Portfolio Group permitted by the definition of “Permitted Financial Indebtedness”, provided that the aggregate amount of all such guarantees and counter-indemnities provided by the Issuer in respect of all members of all Portfolio Groups does not exceed the higher of:
  - (i) EUR 50,000,000 (or its equivalent in other currencies); and
  - (ii) an amount equal to 2.00 per cent. of Total Assets at any time;
- (f) any parent company guarantee or counter-indemnity provided by the Issuer in respect of any obligation (other than Financial Indebtedness) of any member of a Portfolio Group, provided that the aggregate maximum liability of the Issuer under all such parent company guarantees and counter-indemnities provided by the Issuer in respect of all members of all Portfolio Groups does not exceed the higher of:

- (i) EUR 50,000,000 (or its equivalent in other currencies); and
  - (ii) an amount equal to 2 per cent. of Total Assets at any time;
- (g) any loan or credit granted by the Issuer to any Investment Vehicle, the purpose of which is to finance any acquisition, management or development by that Investment Vehicle or any other member of the relevant Portfolio Group of any Portfolio Company to be acquired or owned by it;
- (h) any guarantee or indemnity given by the Issuer to the seller(s) as part of an acquisition of any Portfolio Company permitted by the terms hereof, which guarantee or indemnity is in a customary form and subject to customary limitations;
- (i) any loan or credit granted by a member of a Portfolio Group to another member of that Portfolio Group;
- (j) any loan or credit granted by any Group Company to the Issuer, provided that:
  - (i) the aggregate outstanding amount thereof does not exceed the higher of:
    - (A) EUR 50,000,000 (or its equivalent in other currencies); and
    - (B) an amount equal to 2 per cent. of Total Assets at any time; and
  - (ii) such loan or credit:
    - (A) is subordinated to the obligations of the Issuer under the Finance Documents pursuant to the terms of the Intercreditor Agreement; or
    - (B) is unsubordinated, and when aggregated with any other loan or credit permitted under this paragraph (B), does not exceed EUR 15,000,000 (or its equivalent in other currencies);
- (k) any performance or similar bond issued by a member of a Portfolio Group guaranteeing performance by another member of that Portfolio Group under any contract entered into in the ordinary course of business;
- (l) any guarantee or counter-indemnity provided by a member of a Portfolio Group on normal commercial terms in respect of any lease of real property entered into by another member of that Portfolio Group;
- (m) any indemnity given by a member of a Portfolio Group in the ordinary course of the documentation of an acquisition or disposal transaction permitted by the terms hereof made by it or another member of that Portfolio Group, which indemnity is in a customary form and subject to customary limitations;
- (n) any trade credit extended by any Group Company to its customers on normal commercial terms and in the ordinary course of its trading activities;

- (o) any guarantee given in respect of any netting or set-off arrangements permitted under paragraph (i) of the definition of “Permitted Security”; or
- (p) any loans, credits, guarantees or indemnities not permitted by the preceding paragraphs which do not (in total) exceed the higher of:
  - (i) EUR 5,000,000 (or its equivalent in other currencies); and
  - (ii) an amount equal to 0.20 per cent. of Total Assets, in each case, in aggregate for the Group at any time.

“**Permitted Security**” means any Security:

- (a) created under the Finance Documents;
- (b) created in respect of any Existing Bonds, any Secured Pari Passu Debt and/or any Second Lien Debt, in each case, in the form of:
  - (i) the Transaction Security; and/or
  - (ii) any security on customary terms and subject to customary limitations over any escrow account created by the Issuer solely for the purpose of facilitating the issue by it of any bonds forming part of any Secured Pari Passu Debt or any Second Lien Debt, and which security is discharged and released in full without undue delay after the (net) proceeds of such bonds have been disbursed to the Issuer,

in each case, subject to the terms hereof and the Intercreditor Agreement;

- (c) provided by any member of a Portfolio Group in respect of any Financial Indebtedness incurred by it or another member of that Portfolio Group, in each case permitted under paragraphs (i), (j) or (l) of the definition of “Permitted Financial Indebtedness”;
- (d) provided by or over the shares in any member of a Portfolio Group (in this paragraph (d), a “**Portfolio Group Company**”) to a Strategic Investor in respect of any Financial Indebtedness incurred by the Issuer under paragraph (k) of the definition of “Permitted Financial Indebtedness”, provided that the proceeds of such Financial Indebtedness are invested in the Portfolio Group of which such Portfolio Group Company is a member;
- (e) in the form of cash collateral provided by the Issuer in respect of:
  - (i) any guarantee or counter-indemnity permitted under paragraphs (e) or (f) of the definition of “Permitted Financial Support”; or
  - (ii) any counter-indemnity provided by the Issuer in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or other instrument issued by a bank or financial institution in respect of liabilities incurred by the Issuer in its ordinary course of business, provided that the provision of such counter-indemnity and incurrence of such liabilities are permitted by the definition of “Permitted Financial Support” and/or the definition of “Permitted Financial Indebtedness”,

securing indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness secured as permitted under this paragraph(e)) does not exceed the higher of:

- (A) EUR 20,000,000 (or its equivalent in other currencies); and
- (B) an amount equal to 0.75 per cent. of Total Assets,

in each case, in aggregate for the Group at any time;

- (f) in the form of rental deposits on normal commercial terms provided by any member of a Portfolio Group in respect of any lease of real property entered into by it or another member of that Portfolio Group;
- (g) created by any member of a Portfolio Group on normal commercial terms and subject to customary limitations in respect of any non-recourse or recourse factoring facility permitted under paragraph (c) of Clause 13.4 (*Disposals*), entered into by it or another member of that Portfolio Group;
- (h) arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any Group Company;
- (i) in the form of any netting or set-off arrangement entered into by any Group Company for the purpose of netting debit and credit balances of Group Companies in the ordinary course of its banking arrangements;
- (j) arising as a consequence of any finance lease or hire purchase contract permitted pursuant to paragraph (o) of the definition of “Permitted Financial Indebtedness”;
- (k) arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a Group Company in the ordinary course of trading and on the supplier’s standard or usual terms and not arising as a result of any default or omission by any Group Company;
- (l) affecting any asset (other than any company, business, undertaking, shares or securities) acquired by any Group Company after the Issue Date, provided that such security is discharged and released in full within 90 days of such acquisition;
- (m) in the form of:
  - (i) any payment or close out netting or set-off arrangement; or
  - (ii) any security established on normal commercial terms under any credit support arrangement, in each case, pursuant to any hedging or other derivative transaction permitted under paragraph (p) of the definition of “Permitted Financial Indebtedness”;
- (n) in the form of a pledge over any escrow account (or similar escrow arrangement) created in respect of such a refinancing in full of the Bonds as described in paragraph (r) of the definition of “Permitted Financial Indebtedness”;

- (o) given in relation to pension or part-time employment obligations to comply with the requirements in respect of pension or part-time employment set out in section 8a of the German Act on Partial Retirement (Ge.: *Altersteilzeitgesetz*) or section 7e of the German Social Security Code Part IV (Ge.: *Sozialgesetzbuch IV*) or any similar provisions;
- (p) any pledge of bank account created under or pursuant to the general terms and conditions (Ge.: *Allgemeine Geschäftsbedingungen*) of banks or saving banks (Ge.: *Sparkassen*) with whom any Group Company maintains a banking relationship in the ordinary course of business; or
- (q) securing indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of security given by any Group Company other than any permitted under the preceding paragraphs) does not exceed the higher of:
  - (i) EUR 6,500,000 (or its equivalent in other currencies); and
  - (ii) an amount equal to 0.25 per cent. of Total Assets, in each case, in aggregate for the Group at any time.

**“Portfolio Company”** means any company, business or undertaking acquired, owned (directly or indirectly) and managed by an Investment Vehicle.

**“Portfolio Group”** means any Investment Vehicle and each of its Portfolio Companies.

**“Post-Disbursement Security”** means the Security listed in paragraphs (a)(i) to (a)(ii) of Clause 2.5 (*Transaction Security*).

**“Pre-Disbursement Security”** means the Security listed in paragraphs (a)(i) to (a)(ii) of Clause 2.5 (*Transaction Security*).

**“Put Option”** has the meaning given to it in Clause 10.3 (*Mandatory repurchase due to a Put Option Event*).

**“Put Option Event”** means the occurrence of a Change of Control.

**“Put Option Repayment Date”** means the settlement date for the Put Option pursuant to Clause 10.3 (*Mandatory repurchase due to a Put Option Event*).

**“Quotation Business Day”** means a day which is a Target Day.

**“Reference Rate”** means EURIBOR (European Interbank Offered Rate) being:

- (a) the applicable percentage rate per annum displayed on Reuters screen EURIBOR01 (or through another system or website replacing it) as of or around 11.00 a.m. (Brussels time) on the Interest Quotation Day for the offering of deposits in EUR and for a period comparable to the relevant Interest Period;
- (b) if no screen rate is available for the relevant Interest Period:

- (i) the linear interpolation between the two closest relevant Interest Periods, and with the same number of decimals, quoted under paragraph (a) above; or
  - (ii) a rate for deposits in EUR for the relevant Interest Period as supplied to the Bond Trustee at its request quoted by a sufficient number of commercial banks reasonably selected by the Bond Trustee; or
- (c) if the screen rate under paragraph (a) is no longer available, the interest rate will be set by the Bond Trustee in consultation with the Issuer to:
- (i) any relevant replacement reference rate generally accepted in the market; or
  - (ii) such interest rate that best reflects the interest rate for deposits in EUR offered for the relevant Interest Period.

In each case, if any such rate is below zero, the Reference Rate will be deemed to be zero.

**“Relevant Jurisdiction”** means the country in which the Bonds are issued, being Norway.

**“Relevant Record Date”** means the date on which a Bondholder’s ownership of Bonds shall be recorded in the CSD as follows:

- (a) in relation to payments pursuant to these Bond Terms, the date designated as the Relevant Record Date in accordance with the rules of the CSD from time to time; or
- (b) for the purpose of casting a vote with regard to Clause 15 (*Bondholders’ Decisions*), the date falling on the immediate preceding Business Day to the date of that Bondholders’ decision being made, or another date as accepted by the Bond Trustee.

**“Repayment Date”** means any Call Option Repayment Date, the Default Repayment Date, any Put Option Repayment Date, the Tax Event Repayment Date, the Mandatory Redemption Repayment Date, the settlement date for any mandatory early redemption pursuant to Clause 10.5 (*Mandatory early redemption – minimum amount outstanding*), the Maturity Date or any other settlement date for any voluntary or mandatory redemption of the Bonds pursuant to the terms hereof or any repurchase or purchase of Bonds pursuant to the terms hereof.

**“Second Lien Debt”** has the meaning given to it in paragraph (f) of the definition of “Permitted Financial Indebtedness”.

**“Secured Pari Passu Debt”** has the meaning given to it in paragraph (e) of the definition of Permitted Financial Indebtedness.

**“Secured Parties”** has the meaning given to that term in the Intercreditor Agreement (which shall include the Security Agent, the Bond Trustee, the Bondholders, as well as the bond trustee and the bondholders in respect of any Existing Bonds, any creditor representative and creditor in respect of any Secured Pari Passu Debt and any creditor representative and creditor in respect of any Second Lien Debt).

**“Securities Trading Act”** means the Securities Trading Act of 2007 no.75 of the Relevant Jurisdiction.

“**Security**” means a mortgage, charge, pledge, lien, security assignment or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

“**Security Agent**” means the Bond Trustee or any successor Security Agent, acting for and on behalf of the Secured Parties in accordance with any Security Agent Agreement or any other Finance Document.

“**Security Agent Agreement**” means any agreement other than these Bond Terms whereby the Security Agent is appointed to act as such in the interest of the Bond Trustee (on behalf of itself and the Bondholders).

“**Shared Security**” has the meaning given to it in paragraph (c) of Clause 2.5 (*Transaction Security*).

“**Strategic Investor**” means, with respect to Financial Indebtedness incurred by the Issuer to be invested in a Portfolio Group as permitted under paragraph (k) of the definition of “Permitted Financial Indebtedness”, an investor with:

- (a) sector-specific expertise in relation to that Portfolio Group; and/or
- (b) in-depth knowledge of that Portfolio Group based on prior experience of or course of dealings with that Portfolio Group,

and further provided that obtaining the benefit of such expertise or knowledge shall form a material part of the Issuer’s rationale for incurring such Financial Indebtedness from that investor.

“**Subsequent Material Group Company**” has the meaning given to it in Clause 13.16 (*Designation of Material Group Companies*).

“**Subsidiary**” means a company over which another company has Decisive Influence.

“**Summons**” means the call for a Bondholders’ Meeting or a Written Resolution as the case may be.

“**Tap Issue**” has the meaning given to it in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

“**Tap Issue Addendum**” has the meaning given to it in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

“**TARGET Day**” means any day on which T2 is open for the settlement of payments in EUR.

“**Tax Event Repayment Date**” means the date set out in a notice from the Issuer to the Bondholders pursuant to Clause 10.4 (*Early redemption option due to a tax event*).

“**Temporary Bonds**” has the meaning given to it in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*).

“**Total Assets**” means, at the relevant time, the amount of the aggregate book value of all the assets of the Group Companies which, according to the Accounting Standard, shall be included as assets in a balance sheet at that time.

“**Total Equity**” means, at the relevant time, the amount of the aggregate recorded book equity of the Group Companies which, according to Accounting Standard, shall be recorded as equity in a balance sheet at that time.

“**Total Group Net Debt**” means, at the relevant time, the aggregate amount of all obligations of the Group Companies for or in respect of Financial Indebtedness (other than such referred to in paragraph (f) of the definition of “Financial Indebtedness”) but:

- (a) excluding any such obligations to any other Group Company;
- (b) excluding any Bonds held by the Issuer;
- (c) including, in the case of any finance lease or hire purchase contract, their capitalised value; and
- (d) deducting the aggregate amount of any cash (including funds held on the Liquidity Account but excluding any funds provided by way of cash collateral as permitted under paragraph (e) of the definition of “Permitted Security”), and cash equivalents held by any Group Company at the time,

and so that no amount shall be included or excluded more than once.

“**Total Issuer Net Debt**” means, at the relevant time, the aggregate amount of all obligations of the Issuer for or in respect of Financial Indebtedness (other than such referred to in paragraph (f) of the definition of “Financial Indebtedness”) but:

- (a) excluding any Bonds held by the Issuer;
- (b) including, in the case of any finance lease or hire purchase contract, their capitalised value; and
- (c) deducting the aggregate amount of any cash (including funds held on the Liquidity Account but excluding any funds provided by way of cash collateral as permitted under paragraph (e) of the definition of “Permitted Security”) and cash equivalents held by the Issuer at the time,

and so that no amount shall be included or excluded more than once.

“**Transaction Security**” has the meaning given to that term in the Intercreditor Agreement, which security shall include the Pre-Disbursement Security and the Post-Disbursement Security (but not the Escrow Account Pledge) and secure the liabilities due, owing or incurred by the Issuer to any Secured Party to the extent and in the manner contemplated hereby and the Intercreditor Agreement.

“**Transaction Security Documents**” means any document evidencing the terms of any security created or to be created by the Issuer pursuant to these Bond Terms.

“**T2**” means the real time gross settlement system operated by the Eurosystem or any successor system.

“**Voting Bonds**” means the Outstanding Bonds less the Issuer’s Bonds.

“**Written Resolution**” means a written (or electronic) solution for a decision making among the Bondholders, as set out in Clause 15.5 (*Written Resolutions*).

## 1.2 Construction

In these Bond Terms, unless the context otherwise requires:

- (a) headings are for ease of reference only;
- (b) words denoting the singular number will include the plural and vice versa;
- (c) references to Clauses are references to the Clauses of these Bond Terms;
- (d) references to a time are references to Central European time unless otherwise stated;
- (e) references to a provision of “**law**” are references to that provision as amended or re-enacted, and to any regulations made by the appropriate authority pursuant to such law;
- (f) references to a “**regulation**” includes any regulation, rule, official directive, request or guideline by any official body;
- (g) references to a “**person**” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, unincorporated organisation, government, or any agency or political subdivision thereof or any other entity, whether or not having a separate legal personality;
- (h) references to Bonds being “**redeemed**” means that such Bonds are cancelled and discharged in the CSD in a corresponding amount, and that any amounts so redeemed may not be subsequently re-issued under these Bond Terms;
- (i) references to Bonds being “**purchased**” or “**repurchased**” by the Issuer means that such Bonds may be dealt with by the Issuer as set out in Clause 11.1 (*Issuer’s purchase of Bonds*);
- (j) references to persons “**acting in concert**” shall be interpreted pursuant to the relevant provisions of the Securities Trading Act; and
- (k) an Event of Default is “**continuing**” if it has not been remedied or waived.

## 2. THE BONDS

### 2.1 Amount, denomination and ISIN of the Bonds

- (a) The Issuer has resolved to issue a series of Bonds up to the Maximum Issue Amount of EUR 300,000,000. The Bonds may be issued on different issue dates and the Initial Bond Issue will be in the amount of EUR 135,000,000.

- (b) The Issuer may, provided that the conditions set out in Clause 6.4 (*Tap Issues*) are met, at one or more occasions issue Additional Bonds (each a “**Tap Issue**”) until the Nominal Amount of all Additional Bonds equals in aggregate the Maximum Issue Amount less the Initial Bond Issue. Each Tap Issue will be subject to identical terms as the Bonds issued pursuant to the Initial Bond Issue in all respects as set out in these Bond Terms, except that Additional Bonds may be issued at a different price than for the Initial Bond Issue and which may be below or above the Nominal Amount. The Bond Trustee shall prepare an addendum to these Bond Terms evidencing the terms of each Tap Issue (a “**Tap Issue Addendum**”).
- (c) The Bonds are denominated in EUR.
- (d) The initial Nominal Amount of each Bond is EUR 1,000.
- (e) The ISIN of the Bonds is set out on the front page. These Bond Terms apply with identical terms and conditions to (i) all Bonds issued under this ISIN (ii) any Temporary Bonds and (iii) any Overdue Amounts issued under one or more separate ISIN in accordance with the regulations of the CSD from time to time.
- (f) Holders of Overdue Amounts related to interest claims will not have any other rights under these Bond Terms than their claim for payment of such interest claim which claim shall be subject to paragraph (b) of Clause 15.1 (*Authority of the Bondholders’ Meeting*).

## **2.2 Tenor of the Bonds**

The tenor of the Bonds is from and including the Issue Date to but excluding the Maturity Date.

## **2.3 Use of proceeds**

- (a) The proceeds of the Initial Bond Issue shall be applied towards financing:
  - (i) the general corporate and working capital purposes of the Group (other than any Distributions);
  - (ii) (and refinancing) any capital expenditure and acquisitions of companies, businesses or undertakings made by the Group;
  - (iii) the purchase and acquisition of any Existing Bonds; and
  - (iv) the payment of any interest, premiums, fees, costs and expenses incurred by the Group in respect of any such transactions or that part of the Bonds.
- (b) The purpose of the net proceeds of any Tap Issue shall be set out in the relevant Tap Issue Addendum.

## **2.4 Status of the Bonds**

The Bonds will constitute senior debt obligations of the Issuer and rank:

- (a) *pari passu* between themselves;

- (b) at least *pari passu* with all other obligations of the Issuer, save for such obligations which are preferred by bankruptcy, insolvency, liquidation or other similar laws of general application; and
- (c) ahead of any subordinated debt.

## 2.5 Transaction Security

- (a) All amounts owing to the Bond Trustee and the Bondholders under the Finance Documents, including (but not limited to) any principal amount and any interest, premiums, fees, costs and expenses accrued in respect of the Bonds, shall (subject to any mandatory limitations arising under any applicable law and the Agreed Security Principles) be secured by the following Transaction Security:

Pre-Settlement Security:

- (i) the Escrow Account Pledge;

Pre-Disbursement Security:

- (i) a first priority pledge by the Issuer of 100.00 per cent. of the shares in each Initial Material Group Company owned by it;
- (ii) a first priority security assignment by the Issuer of any Material Intercompany Loans made by it to any Initial Material Group Company;

Post-Disbursement Security:

- (i) a first priority pledge by the Issuer of 100.00 per cent. of the shares in each Subsequent Material Group Company owned by it; and
- (ii) a first priority security assignment by the Issuer of any Material Intercompany Loans made by it to any Subsequent Material Group Company,

and (where relevant) any Transaction Security Document creating any such security shall require that the relevant security provider promptly establishes similar security on substantially the same terms over any such future assets acquired by it.

- (b) The Transaction Security shall be established (or, if applicable, be shared with the Bond Trustee and the Bondholders as contemplated hereby and the Intercreditor Agreement) as follows:
  - (i) the Escrow Account Pledge, shall be established not later than two Business Days prior to the Issue Date;
  - (ii) the Pre-Disbursement Security shall, subject to any Closing Procedure, be established (or, if applicable, shared) no later than at the time of Disbursement; and
  - (iii) any Post-Disbursement Security shall be established (or, if applicable, shared) in accordance with Clause 13.16 (*Designation of Material Group Companies*).

- (c) The Pre-Disbursement Security and the Post-Disbursement Security (but not the Escrow Account Pledge) shall form part of the Transaction Security and may be shared with the other Secured Parties in the manner and to the extent set out herein and in the Intercreditor Agreement.
- (d) The granting and the requirements of the Shared Security shall be subject to the terms of any Intercreditor Agreement entered into in accordance with Clause 13.17 (*Secured Pari Passu Debt and Second Lien Debt*).
- (e) The Transaction Security Documents and any Intercreditor Agreement shall be entered into on such terms and conditions as the Bond Trustee in its discretion deems appropriate in order to create the intended benefit for the Secured Parties under the relevant document.
- (f) The Bond Trustee may (at its sole discretion and in each case) postpone the creation or perfection of, or to the extent provided for in the Agreed Security Principles, waive the creation or perfection of, one or more such Transaction Security.
- (g) The Security Agent is (and pursuant to the terms of any Intercreditor Agreement shall be) irrevocably authorised to discharge and release the Escrow Account Pledge once the Disbursement has taken place and any Transaction Security (i) created over or in respect of any asset (including, for the avoidance of doubt, any Material Group Company) being disposed of in accordance with the terms hereof; (ii) in connection with the enforcement of any Transaction Security in the manner and to the extent set out in the Intercreditor Agreement, and (iii) in connection with any change with respect to the Material Group Companies contemplated hereby.

### **3. THE BONDHOLDERS**

#### **3.1 Bond Terms binding on all Bondholders**

- (a) By virtue of being registered as a Bondholder (directly or indirectly) with the CSD, the Bondholders are bound by these Bond Terms and any other Finance Document, without any further action required to be taken or formalities to be complied with by the Bond Trustee, the Bondholders, the Issuer or any other party.
- (b) The Bond Trustee is always acting with binding effect on behalf of all the Bondholders.

#### **3.2 Limitation of rights of action**

- (a) No Bondholder is entitled to take any enforcement action, instigate any insolvency procedures, or take other legal action against the Issuer or any other party in relation to any of the liabilities of the Issuer or any other party under or in connection with the Finance Documents, other than through the Bond Trustee and in accordance with these Bond Terms, provided, however, that the Bondholders shall not be restricted from exercising any of their individual rights derived from these Bond Terms, including the right to exercise the Put Option.
- (b) Each Bondholder shall immediately upon request by the Bond Trustee provide the Bond Trustee with any such documents, including a written power of attorney (in form and substance satisfactory to the Bond Trustee), as the Bond Trustee deems necessary for the

purpose of exercising its rights and/or carrying out its duties under the Finance Documents. The Bond Trustee is under no obligation to represent a Bondholder which does not comply with such request.

### **3.3 Bondholders' rights**

- (a) If a beneficial owner of a Bond not being registered as a Bondholder wishes to exercise any rights under the Finance Documents, it must obtain proof of ownership of the Bonds, acceptable to the Bond Trustee.
- (b) A Bondholder (whether registered as such or proven to the Bond Trustee's satisfaction to be the beneficial owner of the Bond as set out in paragraph (a) above) may issue one or more powers of attorney to third parties to represent it in relation to some or all of the Bonds held or beneficially owned by such Bondholder. The Bond Trustee shall only have to examine the face of a power of attorney or similar evidence of authorisation that has been provided to it pursuant to this Clause 3.3 and may assume that it is in full force and effect, unless otherwise is apparent from its face or the Bond Trustee has actual knowledge to the contrary.

## **4. ADMISSION TO LISTING**

- (a) The Issuer shall:
  - (i) use reasonable endeavours to ensure that the Bonds are listed on the Open Market of the Frankfurt Stock Exchange as soon as practically possible and in any event within 30 days of the Issue Date; and
  - (ii) ensure that the Bonds are listed on the Exchange as soon as practically possible and in any event within 6 months of the Issue Date.

## **5. REGISTRATION OF THE BONDS**

### **5.1 Registration in the CSD**

The Bonds shall be registered in dematerialised form in the CSD according to the relevant securities registration legislation and the requirements of the CSD.

### **5.2 Obligation to ensure correct registration**

The Issuer will at all times ensure that the registration of the Bonds in the CSD is correct and shall immediately upon any amendment or variation of these Bond Terms give notice to the CSD of any such amendment or variation.

### **5.3 Country of issuance**

The Bonds have not been issued under any other country's legislation than that of the Relevant Jurisdiction. Save for the registration of the Bonds in the CSD, the Issuer is under no obligation to register, or cause the registration of, the Bonds in any other registry or under any other legislation than that of the Relevant Jurisdiction.

## **6. CONDITIONS FOR DISBURSEMENT**

### **6.1 Conditions precedent for disbursement to the Issuer**

- (a) The disbursement of the Net Proceeds of the Initial Bond Issue to the Escrow Account shall be subject to receipt by the Bond Trustee, no later than two Business Days prior to the Issue Date (or such later date as the Bond Trustee may agree), of the following documents and evidence (in form and content satisfactory to the Bond Trustee):
  - (i) these Bond Terms duly executed by all parties hereto;
  - (ii) copies of the constitutional documents of the Issuer;
  - (iii) copies of all corporate resolutions and authorisations of the Issuer required to issue the Bonds, establish the Escrow Account Pledge, establish (or, if applicable, share) the Transaction Security and execute the Finance Documents to which it is or shall become a party;
  - (iv) a copy of a register of the 10 largest shareholders of each of the Issuer and the General Partner (showing, in each case, their respective number of shares and percentage ownership of shares in the Issuer and/or the General Partner to evidence that no situation as referred to in paragraph (b) of the definition of “Change of Control” is prevailing);
  - (v) the Escrow Account Pledge duly executed by the parties thereto and perfected in accordance with applicable law;
  - (vi) copies of the Issuer’s latest Financial Reports (if any);
  - (vii) confirmation that the applicable prospectus requirements (ref. Regulation (EU) 2017/1129) concerning the issuance of the Bonds have been fulfilled;
  - (viii) copies of any necessary governmental approval, consent or waiver (as the case may be) required at such time to issue the Bonds;
  - (ix) confirmation that the Bonds are registered in CSD (by obtaining an ISIN for the Bonds);
  - (x) copies of any written documentation used in marketing the Bonds or made public by the Issuer or the Bookrunners in connection with the issuance of the Bonds;
  - (xi) the Bond Trustee Fee Agreement, duly executed by the parties thereto; and
  - (xii) legal opinions or other statements as may be required by the Bond Trustee (including in respect of corporate matters relating to the Issuer or any other relevant Group Company or the legality, validity and enforceability of any Finance Documents).
- (b) Disbursement of the Net Proceeds of the Initial Bond Issue credited to the Escrow Account to the Issuer shall be subject to receipt by the Bond Trustee, not later than at the time of the Disbursement (or such later date as the Bond Trustee may agree (and subject

to any Closing Procedure)), of the following documents and evidence (in form and content satisfactory to the Bond Trustee):

- (i) a duly executed release notice from the Issuer in respect thereof (containing, among other, a written confirmation from the Issuer that no Event of Default is continuing or would result from the Disbursement);
  - (ii) the Intercreditor Agreement, duly executed by the parties thereto;
  - (iii) to the extent not already delivered pursuant to the terms hereof (except if required in respect of any new legal opinion to be provided pursuant to the terms hereof), updated copies of the constitutional documents of the Issuer;
  - (iv) to the extent not already delivered pursuant to the terms hereof, copies of all corporate resolutions and authorisations of the Issuer required to establish (or, if applicable, share) the Transaction Security and execute the Finance Documents to which it is or shall become a party;
  - (v) a list of the Investment Vehicles (i) being confirmed and/or nominated as Material Group Companies to the extent required to comply with the coverage ratio set out in Clause 13.16 (*Designation of Material Group Companies*) below immediately after the Disbursement (each, an “**Initial Material Group Company**”), and (ii) with respect to which Transaction Security shall be created (or, if applicable, shared) in the manner and to the extent contemplated by the terms hereof and the Intercreditor Agreement not later than at the date set out in Clause 2.5 (*Transaction Security*);
  - (vi) copies of documents evidencing the terms of any Material Intercompany Loans existing or arising in connection with the Disbursement, each duly executed by the parties thereto;
  - (vii) the Transaction Security Documents for the provision (or, if applicable, sharing) of the Transaction Security to be provided by the Issuer as set out in Clause 2.5 (*Transaction Security*), each duly executed and perfected by the parties thereto together with any notices, acknowledgements, registers of shareholders and other documents which shall be supplied in respect thereof (in each case, subject to any Closing Procedure); and
  - (viii) legal opinions or other statements as may be required by the Bond Trustee (including in respect of corporate matters relating to the Issuer, any other relevant Group Company or the legality, validity and enforceability of any Finance Documents).
- (c) The Bond Trustee, acting in its sole discretion, may, regarding this Clause 6.1, waive or postpone the delivery of one or more such conditions precedent or decide that delivery of certain documents shall be made subject to an agreed Closing Procedure between the Bond Trustee and the Issuer.

## 6.2 Post-Disbursement conditions precedent

- (a) The Issuer shall deliver to the Bond Trustee, no later than on the date on which Transaction Security shall be created (or if applicable, shared) with respect to any Subsequent Material Group Company pursuant to Clause 13.16 (*Designation of Material Group Companies*) the following documents and evidence (in form and content satisfactory to the Bond Trustee):
- (i) to the extent not already delivered pursuant to the terms hereof (except if required in respect of any new legal opinion to be provided pursuant to the terms hereof), updated copies of the constitutional documents of the Issuer;
  - (ii) to the extent not already delivered pursuant to the terms hereof, copies of all corporate resolutions and authorisations of the Issuer required to establish (or, if applicable, share) the Transaction Security and execute the Finance Documents to which it is or shall become a party;
  - (iii) the Transaction Security Documents for the establishment (or, if applicable, sharing) of the security to be provided in respect of such Subsequent Material Group Company pursuant to the terms hereof, each duly executed and perfected by the parties thereto together with any notices, acknowledgements and other documents which shall be supplied in respect thereof; and
  - (iv) legal opinions or other statements as may be required by the Bond Trustee (including in respect of corporate matters relating to the Issuer or any other relevant Group Company or the legality, validity and enforceability of any Finance Documents (unless delivered under Clause 6.1 (*Conditions precedent for disbursement to the Issuer*) above)).
- (b) The Bond Trustee, acting in its sole discretion, may, regarding this Clause 6.2, waive or postpone the delivery of one or more such conditions precedent or decide that delivery of certain documents shall be made subject to an agreed Closing Procedure between the Bond Trustee and the Issuer.

## 6.3 Disbursement of the proceeds

Disbursement of the proceeds from the issuance of the Bonds is conditional on the Bond Trustee's confirmation to the Paying Agent that the conditions in Clause 6.1 (*Conditions precedent for disbursement to the Issuer*) have been either satisfied in the Bond Trustee's discretion or waived by the Bond Trustee pursuant to paragraph (c) of Clause 6.1 (*Conditions precedent for disbursement to the Issuer*) above.

## 6.4 Tap Issues

The Issuer may issue Additional Bonds if:

- (a) a Tap Issue Addendum is duly executed by all parties thereto;
- (b) the representations and warranties contained in Clause 7 (*Representations and Warranties*) of these Bond Terms are true and correct in all material respects and repeated by the Issuer as at the date of issuance of such Additional Bonds; and

- (c) the Issuer meets the Incurrence Test tested *pro forma* including the new Financial Indebtedness incurred as a result of issuing such Additional Bonds.

## **7. REPRESENTATIONS AND WARRANTIES**

The Issuer makes the representations and warranties set out in this Clause 7, in respect of itself and in respect of each other Group Company, to the Bond Trustee (on behalf of the Bondholders) at the following times and with reference to the facts and circumstances then existing:

- (a) at the date of these Bond Terms;
- (b) at the Issue Date;
- (c) at the date of Disbursement; and
- (d) at the date of issuance of any Additional Bonds:

### **7.1 Status**

It is a partnership limited by shares, stock corporation or a limited liability company (as applicable), duly incorporated and validly existing and registered under the laws of its jurisdiction of incorporation, and has the power to own its assets and carry on its business as it is being conducted.

### **7.2 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, these Bond Terms and any other Finance Document to which it is a party and the transactions contemplated by those Finance Documents.

### **7.3 Valid, binding and enforceable obligations**

These Bond Terms and each other Finance Document to which it is a party constitute (or will constitute, when executed by the respective parties thereto) its legal, valid and binding obligations, enforceable in accordance with their respective terms, and (save as provided for therein) no further registration, filing, payment of tax or fees or other formalities are necessary or desirable to render the said documents enforceable against it.

### **7.4 Non-conflict with other obligations**

The entry into and performance by it of these Bond Terms and any other Finance Document to which it is a party and the transactions contemplated thereby do not and will not conflict with (i) any law or regulation or judicial or official order; (ii) its constitutional documents; or (iii) any agreement or instrument which is binding upon it or any of its assets.

### **7.5 No Event of Default**

- (a) No Event of Default exists or is likely to result from the making of any drawdown under these Bond Terms or the entry into, the performance of, or any transaction contemplated by, any Finance Document.

- (b) No other event or circumstance has occurred which constitutes (or with the expiry of any grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which has or is likely to have a Material Adverse Effect.

#### **7.6 Authorisations and consents**

All authorisations, consents, approvals, resolutions, licences, exemptions, filings, notarisations or registrations required:

- (a) to enable it to enter into, exercise its rights and comply with its obligations under these Bond Terms or any other Finance Document to which it is a party; and
- (b) to carry on its business as presently conducted and as contemplated by these Bond Terms,

have been obtained or effected and are in full force and effect.

#### **7.7 Litigation**

No litigation, arbitration or administrative proceedings or investigations of or before any court, arbitral body or agency which, if adversely determined, is likely to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries.

#### **7.8 Financial Reports**

Its most recent Financial Reports fairly and accurately represent the assets and liabilities and financial condition as at their respective dates, and have been prepared in accordance with the Accounting Standard (which, in the case of unconsolidated financial statements, may be IFRS or GAAP) consistently applied.

#### **7.9 No Material Adverse Effect**

Since the date of the most recent Financial Reports, there has been no change in its business, assets or financial condition that is likely to have a Material Adverse Effect.

#### **7.10 No misleading information**

Any factual information provided by it to the Bondholders or the Bond Trustee for the purposes of the issuance of the Bonds was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.

#### **7.11 No withholdings**

The Issuer is not required to make any deduction or withholding from any payment which it may become obliged to make to the Bond Trustee or the Bondholders under the Finance Documents.

#### **7.12 Pari passu ranking**

Its payment obligations under these Bond Terms or any other Finance Document to which it is a party ranks as set out in Clause 2.4 (*Status of the Bonds*).

### **7.13 Security**

No Security exists over any of the present assets of any Group Company in conflict with these Bond Terms.

## **8. PAYMENTS IN RESPECT OF THE BONDS**

### **8.1 Covenant to pay**

- (a) The Issuer will unconditionally make available to or to the order of the Bond Trustee and/or the Paying Agent all amounts due on each Payment Date pursuant to the terms of these Bond Terms at such times and to such accounts as specified by the Bond Trustee and/or the Paying Agent in advance of each Payment Date or when other payments are due and payable pursuant to these Bond Terms.
- (b) All payments to the Bondholders in relation to the Bonds shall be made to each Bondholder registered as such in the CSD at the Relevant Record Date, by, if no specific order is made by the Bond Trustee, crediting the relevant amount to the bank account nominated by such Bondholder in connection with its securities account in the CSD.
- (c) Payment constituting good discharge of the Issuer's payment obligations to the Bondholders under these Bond Terms will be deemed to have been made to each Bondholder once the amount has been credited to the bank holding the bank account nominated by the Bondholder in connection with its securities account in the CSD. If the paying bank and the receiving bank are the same, payment shall be deemed to have been made once the amount has been credited to the bank account nominated by the Bondholder in question.
- (d) If a Payment Date or a date for other payments to the Bondholders pursuant to the Finance Documents falls on a day on which either of the relevant CSD settlement system or the relevant currency settlement system for the Bonds are not open, the payment shall be made on the first following possible day on which both of the said systems are open, unless any provision to the contrary has been set out for such payment in the relevant Finance Document.

### **8.2 Default interest**

- (a) Default interest will accrue on any Overdue Amount from and including the Payment Date on which it was first due to and excluding the date on which the payment is made at the Interest Rate plus 2.00 percentage points per annum.
- (b) Default interest accrued on any Overdue Amount pursuant to this Clause 8.2 will be added to the Overdue Amount on each Interest Payment Date until the Overdue Amount and default interest accrued thereon have been repaid in full.
- (c) Upon the occurrence of a Listing Failure Event and for as long as such Listing Failure Event is continuing, the interest on any principal amount outstanding under these Bonds Terms will accrue at the Interest Rate plus 1.00 percentage point.

### 8.3 Partial Payments

- (a) If the Paying Agent or the Bond Trustee receives a Partial Payment, such Partial Payment shall, in respect of the Issuer's debt under the Finance Documents be considered made for discharge of the debt of the Issuer in the following order of priority:
  - (i) firstly, towards any outstanding fees, liabilities and expenses of the Bond Trustee (and any Security Agent);
  - (ii) secondly, towards accrued interest due but unpaid; and
  - (iii) thirdly, towards any other outstanding amounts due but unpaid under the Finance Documents.
- (b) Notwithstanding paragraph (a) above, any Partial Payment which is distributed to the Bondholders, shall, after the above mentioned deduction of outstanding fees, liabilities and expenses, be applied (i) firstly towards any principal amount due but unpaid and (ii) secondly, towards accrued interest due but unpaid, in the following situations:
  - (i) the Bond Trustee has served a Default Notice in accordance with Clause 14.2 (*Acceleration of the Bonds*), or
  - (ii) as a result of a resolution according to Clause 15 (*Bondholders' decisions*).

### 8.4 Taxation

- (a) The Issuer is responsible for withholding any withholding tax imposed by applicable law on any payments to be made by it in relation to the Finance Documents.
- (b) The Issuer shall, if any tax is withheld in respect of the Bonds under the Finance Documents:
  - (i) gross up the amount of the payment due from it up to such amount which is necessary to ensure that the Bondholders or the Bond Trustee, as the case may be, receive a net amount which is (after making the required withholding) equal to the payment which would have been received if no withholding had been required; and
  - (ii) at the request of the Bond Trustee, deliver to the Bond Trustee evidence that the required tax deduction or withholding has been made.
- (c) Any public fees levied on the trade of Bonds in the secondary market shall be paid by the Bondholders, unless otherwise provided by law or regulation, and the Issuer shall not be responsible for reimbursing any such fees.
- (d) The Bond Trustee shall not have any responsibility to obtain information about the Bondholders relevant for the tax obligations pursuant to these Bond Terms.

### 8.5 Currency

- (a) All amounts payable under the Finance Documents shall be payable in the denomination of the Bonds set out in Clause 2.1 (*Amount, denomination and ISIN of the Bonds*). If,

however, the denomination differs from the currency of the bank account connected to the Bondholder's account in the CSD, any cash settlement may be exchanged and credited to this bank account.

- (b) Any specific payment instructions, including foreign exchange bank account details, to be connected to the Bondholder's account in the CSD must be provided by the relevant Bondholder to the Paying Agent (either directly or through its account manager in the CSD) within five Business Days prior to a Payment Date. Depending on any currency exchange settlement agreements between each Bondholder's bank and the Paying Agent, and opening hours of the receiving bank, cash settlement may be delayed, and payment shall be deemed to have been made once the cash settlement has taken place, provided, however, that no default interest or other penalty shall accrue for the account of the Issuer for such delay.

## **8.6 Set-off and counterclaims**

The Issuer may not apply or perform any counterclaims or set-off against any payment obligations pursuant to these Bond Terms or any other Finance Document.

## **9. INTEREST**

### **9.1 Calculation of interest**

- (a) Each Outstanding Bond will accrue interest at the Interest Rate on the Nominal Amount for each Interest Period, commencing on and including the first date of the Interest Period, and ending on but excluding the last date of the Interest Period.
- (b) Any Additional Bond will accrue interest at the Interest Rate on the Nominal Amount commencing on the first date of the Interest Period in which the Additional Bonds are issued and thereafter in accordance with paragraph (a) above.
- (c) Interest shall be calculated on the basis of the actual number of days in the Interest Period in respect of which payment is being made divided by 360 (actual/360-days basis). The Interest Rate will be reset at each Interest Quotation Day by the Bond Trustee, who will notify the Issuer and the Paying Agent and, if the Bonds are listed, the Exchange (or, if the Bonds are listed on Frankfurt Open Market, the Frankfurt Stock Exchange), of the new Interest Rate and the actual number of calendar days for the next Interest Period.

### **9.2 Payment of interest**

Interest shall fall due on each Interest Payment Date for the corresponding preceding Interest Period and, with respect to accrued interest on the principal amount then due and payable, on each Repayment Date.

## **10. REDEMPTION AND REPURCHASE OF BONDS**

### **10.1 Redemption of Bonds**

The Outstanding Bonds will mature in full on the Maturity Date and shall be redeemed by the Issuer on the Maturity Date at a price equal to 100.00 per cent. of the Nominal Amount.

## 10.2 Voluntary early redemption - Call Option

- (a) The Issuer may redeem all or part of the Outstanding Bonds (the “**Call Option**”) on any Business Day from and including:
- (i) the Issue Date to, but not including, the First Call Date at a price equal to the Make Whole Amount;
  - (ii) the First Call Date to, but not including, the Interest Payment Date in September 2027 at a price equal to 104.86 per cent. of the Nominal Amount for the redeemed Bonds;
  - (iii) the Interest Payment Date in September 2027 to, but not including, the Interest Payment Date in March 2028 at a price equal to 103.888 per cent. of the Nominal Amount for the redeemed Bonds;
  - (iv) the Interest Payment Date in March 2028 to, but not including, the Interest Payment Date in September 2028 at a price equal to 102.916 per cent. of the Nominal Amount for the redeemed Bonds;
  - (v) the Interest Payment Date in September 2028 to, but not including, the Interest Payment Date in March 2029 at a price equal to 101.944 per cent. of the Nominal Amount for the redeemed Bonds;
  - (vi) the Interest Payment Date in March 2029 to, but not including, the Interest Payment Date in June 2029 at a price equal to 100.972 per cent. of the Nominal Amount for the redeemed Bonds; and
  - (vii) the Interest Payment date in June 2029 to, but not including, the Maturity Date at a price equal to the Nominal Amount for each redeemed Bond,

and each of the respective call prices set out in the preceding paragraphs shall be referred to as a “**Call Price**”. Notwithstanding the foregoing, the Issuer may only redeem part of the Bonds as set out above if the aggregate Nominal Amount of the Bonds outstanding immediately after such redemption will be not less than EUR 75,000,000 or, if so, the Issuer complies with the terms set out in Clause 10.5 (*Mandatory early redemption – minimum amount outstanding*).

- (b) The applicable Call Price shall be determined based on the relevant Repayment Date and not on the date the Issuer exercised the relevant Call Option as described above.
- (c) The Call Option may be exercised by the Issuer by written notice to the Bond Trustee at least 10 Business Days prior to the Call Option Repayment Date. Any such notice sent (i) shall be irrevocable, (ii) shall specify the applicable Repayment Date and the aggregate Nominal Amount of the Bonds to be redeemed and (iii) may, at the Issuer’s discretion, be subject to the satisfaction of one or more conditions precedent which shall be satisfied at least three Business Days prior to such Call Option Repayment Date (and if any such conditions precedent have not been satisfied or waived within such time, such Call Option shall automatically be cancelled).

- (d) Unless the Make Whole Amount is set out in the written notice where the Issuer exercises the Call Option, the Issuer shall calculate the Make Whole Amount and provide such calculation by written notice to the Bond Trustee as soon as possible and at the latest within three Business Days from the date of the notice.
- (e) Any Call Option exercised in part will be used for pro rata payment to the Bondholders in accordance with the applicable regulations of the CSD.

### **10.3 Mandatory repurchase due to a Put Option Event**

- (a) The Issuer shall promptly inform the Bond Trustee in writing after becoming aware that a Put Option Event has occurred.
- (b) Upon the occurrence of a Put Option Event, each Bondholder will have the right (the “**Put Option**”) to require that the Issuer purchases all or some of the Bonds held by that Bondholder at a price equal to 101.00 per cent. of the Nominal Amount.
- (c) The Put Option must be exercised within 15 Business Days after the Issuer has given notice to the Bond Trustee and the Bondholders that a Put Option Event has occurred pursuant to Clause 12.3 (*Put Option Event*). Once notified, the Bondholders’ right to exercise the Put Option is irrevocable.
- (d) Each Bondholder may exercise its Put Option by written notice to its account manager for the CSD, who will notify the Paying Agent of the exercise of the Put Option. The Put Option Repayment Date will be the fifth Business Day after the end of the 15 Business Days exercise period referred to in paragraph (c) above. However, the settlement of the Put Option will be based on each Bondholders holding of Bonds at the Put Option Repayment Date.
- (e) If Bonds representing more than 90 per cent. of the Outstanding Bonds have been purchased pursuant to this Clause 10.3, the Issuer shall be entitled to purchase all the remaining Outstanding Bonds at the price stated in paragraph (b) above by notifying the remaining Bondholders of its intention to do so no later than 10 Business Days after the Put Option Repayment Date. Any such notice sent by the Issuer shall be irrevocable and shall specify the Call Option Repayment Date.

### **10.4 Early redemption option due to a tax event**

If the Issuer is or will be required to gross up any withheld tax imposed by law from any payment in respect of the Bonds under the Finance Documents pursuant to Clause 8.4 (*Taxation*) as a result of a change in applicable law implemented after the date of these Bond Terms, the Issuer will have the right to redeem all, but not only some, of the Outstanding Bonds at a price equal to 100 per cent. of the Nominal Amount. The Issuer shall give written notice of such redemption to the Bond Trustee and the Bondholders at least 20 Business Days prior to the Tax Event Repayment Date, provided that no such notice shall be given earlier than 40 Business Days prior to the earliest date on which the Issuer would be obliged to withhold such tax were a payment in respect of the Bonds then due.

**10.5 Mandatory early redemption – minimum amount outstanding**

Notwithstanding any other provision set out herein, if the aggregate Nominal Amount of the Bonds outstanding at any time (which, for the avoidance of doubt, shall include any outstanding Bonds held by the Issuer or any other Group Company at such time) becomes less than EUR 75,000,000, the Issuer shall promptly, and in any event not later than at the date occurring five Business Days after the occurrence of such an event, redeem all the Bonds at a price equal to the Call Price that would have applied if such redemption had taken place by way of a Call Option at such time.

**10.6 Mandatory early redemption due to a Mandatory Redemption Event**

Upon a Mandatory Redemption Event, the Issuer shall promptly, and in any event not later than on the date occurring five Business Days after the Long Stop Date, redeem all the Bonds at a price equal to 101.00 per cent. of the Nominal Amount thereof. The Issuer may apply the funds deposited in the Escrow Account towards settlement of such redemption.

**11. PURCHASE AND TRANSFER OF BONDS**

**11.1 Issuer’s purchase of Bonds**

- (a) The Issuer may purchase or otherwise acquire and hold Bonds and such Bonds may be retained or sold (but not cancelled other than by way of a redemption of Bonds permitted by, and carried out pursuant to, the terms hereof) in the Issuer’s sole discretion, including with respect to Bonds purchased pursuant to Clause 10.3 (*Mandatory repurchase due to a Put Option Event*).
- (b) Notwithstanding the foregoing, the Issuer may in any event redeem and discharge such Bonds, provided that the aggregate Nominal Amount of the Bonds outstanding immediately after such redemption and discharge will be not less than EUR 75,000,000 or, if so, the Issuer complies with the terms set out in Clause 10.5 (*Mandatory early redemption – minimum amount outstanding*).

**11.2 Restrictions**

- (a) Certain purchase or selling restrictions may apply to Bondholders under applicable local laws and regulations from time to time. Neither the Issuer nor the Bond Trustee shall be responsible for ensuring compliance with such laws and regulations and each Bondholder is responsible for ensuring compliance with the relevant laws and regulations at its own cost and expense.
- (b) A Bondholder who has purchased Bonds in breach of applicable restrictions may, notwithstanding such breach, benefit from the rights attached to the Bonds pursuant to these Bond Terms (including, but not limited to, voting rights), provided that the Issuer shall not incur any additional liability by complying with its obligations to such Bondholder.

**12. INFORMATION UNDERTAKINGS**

**12.1 Financial Reports**

The Issuer shall prepare:

- (a) Annual Financial Statements and make them available as soon as they become available and, in any event, not later than four months after the end of each of its financial years; and
- (b) Interim Accounts and make them available as soon as they become available and, in any event, not later than two months after the end of the relevant quarter of each of its financial years, for the first time for the quarter ending on 30 September 2024,

in each case, in the English language and make them available on its website or another relevant information platform.

## 12.2 Requirements as to Financial Reports

- (a) The Issuer shall supply a Compliance Certificate signed by the chief executive officer or the chief financial officer of the Issuer to the Bond Trustee:
  - (i) in respect of each Financial Report to be made available pursuant to the terms hereof, promptly upon the making available of such Financial Report (which shall contain figures and calculations evidencing (in reasonable detail) compliance with the requirements set out in Clause 13.20 (*Financial Maintenance Covenants*) in respect of the applicable accounting period); and
  - (ii) in respect of each Incurrence Test to be made pursuant to the terms hereof, promptly upon the making of that Incurrence Test (which shall contain figures and calculations evidencing (in reasonable detail) compliance with the relevant Incurrence Test),

each of which shall list or nominate (as the case may be) the Investment Vehicles being Material Group Companies at the time (other than where the Compliance Certificate is supplied only in respect of an Incurrence Test referred to in paragraph (ii) above).

- (b) Each Compliance Certificate supplied in respect of the Issuer making available Annual Financial Statements under paragraph (a)(i) above shall be co-signed by (or accompanied by a statement of) an independent reputable auditor appointed by the Issuer confirming that the list or nominations of Material Group Companies therein comply with the terms hereof.
- (c) The Issuer shall procure that the Financial Reports delivered pursuant to Clause 12.1 (*Financial Reports*) are prepared using the Accounting Standard (which, in the case of unconsolidated financial statements, may be IFRS or GAAP) consistently applied (unless expressly disclosed to the Bond Trustee in writing to the contrary).
- (d) The Bond Trustee may make any such Compliance Certificate available to the Bondholders.

## 12.3 Put Option Event

The Issuer shall promptly inform the Bond Trustee in writing after becoming aware that a Put Option Event has occurred.

#### 12.4 Listing Failure Event

The Issuer shall promptly inform the Bond Trustee in writing if a Listing Failure Event has occurred. However, no Event of Default shall occur if the Issuer fails to (i) list the Bonds in accordance with Clause 4 (*Admission to Listing*) or (ii) inform of such Listing Failure Event, only default interest in accordance with paragraph (c) of Clause 8.2 (*Default interest*) will accrue as long as such Listing Failure Event is continuing.

#### 12.5 Information: Miscellaneous

The Issuer shall:

- (a) promptly inform the Bond Trustee in writing of any Event of Default or any event or circumstance which the Issuer understands or could reasonably be expected to understand may lead to an Event of Default and the steps, if any, being taken to remedy it;
- (b) at the request of the Bond Trustee, report the balance of the Issuer's Bonds (to the best of its knowledge, having made due and appropriate enquiries);
- (c) send the Bond Trustee copies of any statutory notifications of the Issuer, including but not limited to in connection with mergers, de-mergers and reduction of the Issuer's share capital or equity;
- (d) if the Bonds are listed on an Exchange, send a copy to the Bond Trustee of its notices to the Exchange (or, if the Bonds are listed on Frankfurt Open Market, to the Frankfurt Stock Exchange);
- (e) if the Issuer and/or the Bonds are rated, inform the Bond Trustee of its and/or the rating of the Bonds, and any changes to such rating;
- (f) inform the Bond Trustee of changes in the registration of the Bonds in the CSD; and
- (g) within a reasonable time, provide such information about the Issuer's and the Group's business, assets and financial condition as the Bond Trustee may reasonably request.

### 13. GENERAL AND FINANCIAL UNDERTAKINGS

The Issuer undertakes to (and shall, where applicable, procure that the other Group Companies will) comply with the undertakings set forth in this Clause 13.

#### 13.1 Distributions

The Issuer shall not, and it shall ensure that no other Group Company will, make any Distribution other than any Permitted Distribution.

#### 13.2 Mergers and de-mergers

The Issuer shall not, and it shall ensure that no other Group Company will, enter into any amalgamation, merger, demerger, consolidation or other corporate reconstruction (for the purpose of this Clause 13.2 only, each a "**reorganisation**") other than:

- (a) any sale, transfer or other disposal permitted pursuant to Clause 13.4 (*Disposals*); or

- (b) any solvent reorganisation of any Group Company (other than the Issuer), provided that:
  - (i) it is carried out at fair market value and would not have a Material Adverse Effect; and
  - (ii) if made by any Material Group Company any payments or assets distributed as a result of such reorganisation are distributed to another Material Group Company.

### 13.3 Acquisitions

The Issuer shall not, and it shall ensure that no other Group Company will, acquire any company, business, undertaking, shares or securities (or any interest in any of the foregoing) unless it is made at fair market value and would not have a Material Adverse Effect.

### 13.4 Disposals

The Issuer shall not, and it shall ensure that no other Group Company will, sell, transfer or otherwise dispose of any asset (for the purpose of this Clause 13.4 only, each a “**disposal**”) other than:

- (a) any disposal of products, services or current assets in the ordinary course of business of the disposing Group Company;
- (b) any disposal of obsolete or redundant vehicles, plant and equipment for cash;
- (c) in the form of any non-recourse or recourse factoring facility entered into on normal commercial terms by any member of a Portfolio Group;
- (d) in the form of an IPO permitted pursuant to Clause 13.15 (*IPO*); or
- (e) any other disposal (including, for the avoidance of doubt, of any Group Company (other than the Issuer)) which:
  - (i) is carried out at fair market value and would not have a Material Adverse Effect; and
  - (ii) if made to any person not being another Group Company, where:
    - (A) at least 60.00 per cent. of the total consideration payable to the Group in respect of such disposal is paid in cash (or cash equivalents) at the date of disposal; and
    - (B) an amount equal to at least 33.00 per cent. of the net proceeds received by the Group from such disposal is applied within 12 months of receipt towards:
      - (1) the acquisition of any non-current assets (from any third party) required to uphold or develop the business or operations of the Group (and, to the extent the disposed assets were subject to Transaction Security prior to such disposal, Transaction Security shall be created over the acquired assets at the closing date of the acquisition); or

(2) the redemption of Bonds at a price equal to:

- I. if such redemption takes place during the period commencing on the Issue Date and ending on the last date to occur before the First Call Date, the Call Price that would have applied if such redemption had taken place by way of a Call Option on the First Call Date; and
- II. if such redemption takes place after such period, the Call Price that would have applied if such redemption had taken place by way of a Call Option at such time,

in each case, of the Nominal Amount thereof (plus accrued and unpaid interest on the redeemed Bonds), and in the case of any partial redemption of the Bonds, such redemption shall be applied pro rata between the Bondholders in accordance with the applicable regulations of CSD.

### **13.5 Financial Indebtedness**

The Issuer shall not, and it shall ensure that no other Group Company will, incur or maintain any Financial Indebtedness other than Permitted Financial Indebtedness.

### **13.6 Negative pledge**

The Issuer shall not, and it shall ensure that no other Group Company will, create or allow to subsist any security over any of its assets other than Permitted Security.

### **13.7 Financial Support**

The Issuer shall not, and it shall ensure that no other Group Company will, grant or allow to subsist (a) any loans or credits to any other person or (b) any guarantees or indemnities in respect of any obligation of any other person, in each case other than Permitted Financial Support.

### **13.8 Share issues**

The Issuer shall ensure that no Group Company (other than the Issuer or any other Group Company having conducted an IPO permitted pursuant to Clause 13.15 (*IPO*)) will issue any shares, other than:

- (a) to another Group Company;
- (b) to any existing minority shareholders of that Group Company, provided that such shares are issued *pro rata* to the shareholders of that Group Company on the basis of their respective ownership prior to such share issue; or
- (c) as part of an IPO permitted pursuant to Clause 13.15 (*IPO*),

in each case, provided that to the extent that the existing shares in that Group Company were subject to Transaction Security, equivalent Transaction Security shall be created over the new shares on or prior to the completion of that share issue.

**13.9 Continuation of business**

The Issuer shall procure that no substantial change is made to the general nature of the business from that carried on by it as of the Issue Date.

**13.10 Corporate status**

The Issuer shall not, and it shall ensure that no Material Group Company will, change its type of organisation or jurisdiction of incorporation.

**13.11 Authorisations**

The Issuer shall, and shall procure that each other Group Company will, obtain, renew and in all material respects comply with, and do all that is necessary to maintain in full force and effect, any licence, authorisation or other consent required to enable it to carry on its business where failure to do so would have a Material Adverse Effect.

**13.12 Insurances**

The Issuer shall, and it shall ensure that each other Group Company will, maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.

**13.13 Arm's length transactions**

Notwithstanding any other provision set out herein, the Issuer shall not, and it shall ensure that no other Group Company will, enter into any transaction with any other person other than on arm's length terms.

**13.14 Compliance with laws**

The Issuer shall, and shall procure that each other Group Company will, comply in all material respects with all laws and regulations to which it may be subject from time to time.

**13.15 IPO**

Any Group Company (other than the Issuer) may conduct an IPO, provided that:

- (a) it is carried out at fair market value and would not have a Material Adverse Effect; and
- (b) an amount equal to at least 33.00 per cent. of the net proceeds received by the Group as part of such IPO is applied within 12 months of receipt towards:
  - (i) the acquisition of any non-current assets (from any third party) required to uphold or develop the business or operations of the Group; or
  - (ii) the redemption of Bonds at a price equal to:
    - (A) if such redemption takes place during the period commencing on the Issue Date and ending on the last date to occur before the First Call Date, the Call Price that would have applied if such redemption had taken place on the First Call Date; and
    - (B) if such redemption takes place after such period, the then applicable Call Price,

in each case, of the Nominal Amount thereof (plus accrued and unpaid interest on the redeemed Bonds), and in the case of any partial redemption of the Bonds, such redemption shall be applied pro rata between the Bondholders in accordance with the applicable regulations of CSD.

**13.16 Designation of Material Group Companies**

The Issuer shall for the first time, at the Disbursement, and then subsequently, at the time of the incurrence by it of any Financial Indebtedness in the form of any Secured Pari Passu Debt or Second Lien Debt and, in any event, in connection with the delivery by the Issuer to the Bond Trustee of the Compliance Certificate relating to each of its (i) Annual Financial Statements and (ii) Interim Accounts (and may in its discretion at any time):

- (a) confirm which Investment Vehicles constitute Material Group Companies at the time; and
- (b) nominate such other Investment Vehicles as Material Group Companies as is necessary to ensure that each of:
  - (i) the aggregate gross assets; and
  - (ii) the aggregate revenues,

in each case, of the Material Group Companies (in each case, calculated on a consolidated basis and excluding all intra-group items) equals or exceeds an amount equal to 4 times the aggregate of the nominal amount of: (A) the Bonds outstanding at the time (which, for the avoidance of doubt, includes any Outstanding Bonds held by the Issuer or any other Group Company at that time) and (B) any Secured Pari Passu Debt,

in each case, determined by reference to the most recent Annual Financial Statements or, where relevant, Interim Accounts (and any Compliance Certificate relating thereto) or (as the case may be) the equivalent financial statements of the relevant Investment Vehicles (each Investment Vehicle being nominated as a Material Group Company after the Disbursement, a “**Subsequent Material Group Company**”), and adjusted so that the gross assets and revenues of any company, business or undertaking incorporated, acquired, disposed of or otherwise discontinued by the Group during the relevant 12-month accounting period, shall be included or excluded (as applicable) pro forma for the entire period; and

- (c) ensure that Transaction Security (to the extent not already created) is created (or, if applicable, shared) in the manner and to the extent contemplated by the terms hereof and the Intercreditor Agreement with respect to each such Material Group Company for the first time at Disbursement, and then subsequently no later than 45 days after such Investment Vehicle being confirmed or nominated as such as set out above.

**13.17 Secured Pari Passu Debt and Second Lien Debt**

- (a) If the Issuer at any time incurs any Secured Pari Passu Debt or Second Lien Debt in accordance with the terms hereof, the Issuer shall deliver to the Bond Trustee, no later than on date on which such Secured Pari Passu Debt or Second Lien Debt is incurred,

the following documents and evidence (in form and content satisfactory to the Bond Trustee):

- (i) copies of documents evidencing the terms of such Secured Pari Passu Debt or Second Lien Debt, duly executed by the parties thereto;
  - (ii) such instruments and documents, including any new and/or amended or supplemented Transaction Security Documents, as the Bond Trustee may deem necessary or desirable to ensure that the Security (A) has, and will be, shared with such Secured Pari Passu Debt or Second Lien Debt in the manner and to the extent set out herein and in the Intercreditor Agreement and (B) is, and will remain, legally valid and binding, duly perfected and in full force and effect upon and after such incurrence and sharing;
  - (iii) evidence (A) that the relevant parties in respect of such Secured Pari Passu Debt or Second Lien Debt are, or have become, parties to the Intercreditor Agreement in the relevant capacities and (B) that such Secured Pari Passu Debt or Second Lien Debt is, or has become, the subject of the Intercreditor Agreement in the manner and to the extent contemplated hereby; and
  - (iv) legal opinions or other statements as may be required by the Bond Trustee (including in respect of corporate matters relating to the Issuer, any other relevant Group Company or the legality, validity and enforceability of any Finance Documents).
- (b) The Bond Trustee, acting in its sole discretion, may, regarding this Clause 13.17, waive or postpone the delivery of one or more such conditions precedent or decide that delivery of certain documents shall be made subject to an agreed Closing Procedure between the Bond Trustee and the Issuer.

### **13.18 Investment Vehicles**

- (a) An Investment Vehicle may only acquire and own (directly or indirectly) companies, businesses or undertakings whose businesses and operations are similar, supplementary or complementary to each other (and the acquisition of which therefore constitutes a group of related acquisitions).
- (b) The Issuer shall be the (direct or indirect) owner of more than 85.00 per cent. of all the shares in each Investment Vehicle.

### **13.19 Subsidiary Distribution**

The Issuer shall ensure that no other Group Company creates or permits to subsist any contractual restriction on its right to declare, make or pay dividends or other Distributions to its shareholders, other than such restrictions which are not reasonably likely to prevent the Issuer from complying with its payment obligations under the Finance Documents.

### **13.20 Financial Maintenance Covenants**

The Issuer shall ensure that:

- (a) an amount of not less than the higher of:
  - (i) 12.50 per cent. of Total Issuer Net Debt; and
  - (ii) EUR 10,000,000,is credited to the Liquidity Account at all times;
- (b) the ratio of Total Issuer Net Debt to Total Assets at all times is less than 15.00 per cent; and
- (c) the ratio of Total Group Net Debt to Total Equity at all times is less than 1.50:1.

### 13.21 Incurrence Test

The Incurrence Test is met at any relevant testing date if:

- (a) the ratio of Total Issuer Net Debt to Total Assets at that time is less than 10.00 per cent; and
- (b) the ratio of Total Group Net Debt to Total Equity at that time is less than 1.25:1.

### 13.22 Calculations and adjustments to the ratios

- (a) The ratios forming part of:
  - (i) the requirements set out in Clause 13.20 (*Financial Maintenance Covenants*) shall be calculated and tested at the last day of each quarter of each of the Issuer's financial years;
  - (ii) any Incurrence Test shall be calculated by the Issuer:
    - (A) in respect of any Incurrence Test to be applied in the period between:
      - (1) the date falling two months after the end of the fourth quarter of a financial year of the Issuer; and
      - (2) the next date on which Annual Financial Statements are to be provided under and pursuant to these Bond Terms,at a testing date to be determined by the Issuer falling no earlier than 45 days prior to the event for which the Incurrence Test is applied; and
    - (B) in respect of any other Incurrence Test to be applied, at the date of its most recent Interim Accounts provided under and pursuant to these Bond Terms; and
  - (iii) both the requirements set out in Clause 13.20 (*Financial Maintenance Covenants*) and any Incurrence Test shall (unless otherwise set out below) be calculated in accordance with the Accounting Standard, accounting practices and financial reference periods consistent with those applied in its first set of Financial Reports published (or delivered) pursuant to the terms hereof (unless, there has been a

change in the Accounting Standard or those accounting practices, and the Issuer delivers to the Bond Trustee a statement (in form and content satisfactory to the Bond Trustee) (i) describing in reasonable detail any change necessary for those financial statements to reflect the Accounting Standard or accounting practices upon which such first set of Financial Reports were prepared, and (ii) confirming that the relevant requirements set out in Clause 13.20 (*Financial Maintenance Covenants*) or Incurrence Test would still have been complied with had such changes not been made).

- (b) For the purpose of calculating the ratios forming part of any Incurrence Test:
- (i) each of the Total Issuer Net Debt and the Total Group Net Debt shall be calculated as at the relevant testing date with the following adjustments:
- (A) the full (*i.e.* unutilised and utilised) commitment of:
- (1) any new Financial Indebtedness in respect of which the Incurrence Test shall be made; and
- (2) any other Financial Indebtedness incurred since the date set out in paragraph (a)(ii) above, to the extent such incurrence was subject to the Incurrence Test;
- (collectively, the “**New Financial Indebtedness**”) (after deducting any Financial Indebtedness which shall be refinanced at the time of incurrence of such new Financial Indebtedness) shall be added to each of the Total Issuer Net Debt and the Total Group Net Debt; and
- (B) any cash balance resulting from the incurrence of such New Financial Indebtedness shall not reduce either of the Total Issuer Net Debt or the Total Group Net Debt;
- (ii) Total Assets shall be calculated as at the relevant testing date with the adjustment that the total assets (calculated in the same manner as Total Assets) of any company, business or undertaking:
- (A) to be acquired with the proceeds from the New Financial Indebtedness shall be included, *pro forma*, at the relevant testing date; and
- (B) sold or otherwise disposed of since the date set out in paragraph (a)(ii) above shall be excluded, *pro forma*, at the relevant testing date,
- (where no amount shall be included or excluded more than once); and
- (iii) Total Equity shall be calculated as at the relevant testing date with the adjustment that the total equity (calculated in the same manner as Total Equity) of any company, business or undertaking:
- (A) to be acquired with the proceeds from the New Financial Indebtedness shall be included, *pro forma*, at the relevant testing date; and

- (B) sold or otherwise disposed of since the date set out in paragraph (a)(ii) above shall be excluded, *pro forma*, at the relevant testing date,

(where no amount shall be included or excluded more than once).

## **14. EVENTS OF DEFAULT AND ACCELERATION OF THE BONDS**

### **14.1 Events of Default**

Each of the events or circumstances set out in this Clause 14.1 shall constitute an Event of Default:

*(a) Non-payment*

The Issuer fails to pay any amount payable by it under the Finance Documents when such amount is due for payment, unless:

- (i) its failure to pay is caused by administrative or technical error in payment systems or the CSD and payment is made within five Business Days following the original due date; or
- (ii) in the discretion of the Bond Trustee, the Issuer has substantiated that it is likely that such payment will be made in full within five Business Days following the original due date.

*(b) Breach of other obligations*

The Issuer or any other Group Company does not comply with any provision of the Finance Documents other than set out under paragraph (a) (*Non-payment*) above, unless such failure is capable of being remedied and is remedied within 20 Business Days after the earlier of the Issuer's or such other Group Company's actual knowledge thereof, or notice thereof is given to the Issuer or such other Group Company by the Bond Trustee.

*(c) Misrepresentation*

Any representation, warranty or statement (including statements in Compliance Certificates) made under or in connection with any Finance Documents is or proves to have been incorrect, inaccurate or misleading in any material respect when made or deemed to have been made, unless the circumstances giving rise to the misrepresentation are capable of remedy and are remedied within 20 Business Days of the earlier of the Bond Trustee giving notice to the Issuer or the Issuer becoming aware of such misrepresentation.

*(d) Cross default*

There will be a cross default if:

- (i) any Financial Indebtedness of the Issuer or any Material Group Company or, if guaranteed or secured by the Issuer or any Material Group Company, of any other Group Company is (i) not paid when due (nor within any applicable grace period)

or (ii) declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described); or

- (ii) any commitment for any Financial Indebtedness of the Issuer or any Material Group Company or, if guaranteed or secured by the Issuer or any Material Group Company, of any other Group Company is cancelled or suspended by a creditor as a result of an event of default (however described),

provided that:

- (A) no Event of Default will occur under this cross default provision if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (i) and (ii) above is less than EUR 7,500,000 (or its equivalent in other currencies) in total for the Issuer, the Material Group Companies and the other Group Companies in respect of which such guarantees or security have been provided by the Issuer or any Material Group Companies;
- (B) with respect to any Financial Indebtedness or commitment for Financial Indebtedness of a Material Group Company referred to in paragraphs (i) and (ii) above, no Event of Default will occur under this cross default provision if the coverage ratio set out in paragraph (b) of Clause 13.16 (*Designation of Material Group Companies*) is satisfied when tested excluding such Material Group Company, and further provided that neither the Issuer nor any other Material Group Company has provided any Financial Support in respect of such Financial Indebtedness or commitment for Financial Indebtedness; and
- (C) this cross default provision shall not apply to (1) any Financial Indebtedness owed by a Group Company to another Group Company or (2) any seller's credit granted by a seller to a Group Company as part of an acquisition (in each case) permitted by the terms hereof.

(e) *Insolvency and insolvency proceedings*

The Issuer or any Material Group Company:

- (i) is Insolvent; or
- (ii) is the object of any corporate action or any legal proceedings is taken in relation to:
  - (A) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) other than a solvent liquidation or reorganisation;

- (B) a composition, compromise, assignment or arrangement with any creditor which may materially impair its ability to perform its payment obligations under these Bond Terms;
- (C) the appointment of a liquidator (other than in respect of a solvent liquidation), receiver, administrative receiver, administrator, compulsory manager or other similar officer of any of its assets;
- (D) enforcement of any Security over any of its or their assets having an aggregate value exceeding the threshold amount set out in paragraph (d) (*Cross default*) above; or
- (E) for paragraphs (A) - (D) above, any analogous procedure or step is taken in any jurisdiction in respect of the Issuer or any such Material Group Company,

however this shall not apply (1) to any petition which is frivolous or vexatious and is discharged, stayed or dismissed within 20 Business Days of commencement, or (2) with respect to a Material Group Company, if the coverage ratio set out in paragraph (b) of Clause 13.16 (*Designation of Material Group Companies*) is satisfied when tested excluding such Material Group Company.

(f) *Creditor's process*

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of the Issuer or any Material Group Company having an aggregate value exceeding EUR 7,500,000 and is not discharged within 20 Business Days, however this shall not apply with respect to a Material Group Company if the coverage ratio set out in paragraph (b) of Clause 13.16 (*Designation of Material Group Companies*) is satisfied when tested excluding such Material Group Company.

(g) *Unlawfulness*

It is or becomes unlawful for the Issuer to perform or comply with any of its obligations under the Finance Documents to the extent this may materially impair:

- (i) the ability of the Issuer to perform its obligations under these Bond Terms; or
- (ii) the ability of the Bond Trustee or any Security Agent to exercise any material right or power vested to it under the Finance Documents.

## 14.2 Acceleration of the Bonds

If an Event of Default has occurred and is continuing, the Bond Trustee may, in its discretion in order to protect the interests of the Bondholders, or upon instruction received from the Bondholders pursuant to Clause 14.3 (*Bondholders' instructions*) below, by serving a Default Notice:

- (a) declare that the Outstanding Bonds, together with accrued interest and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable; and/or
- (b) exercise (or direct the Security Agent to exercise) any or all of its rights, remedies, powers or discretions under the Finance Documents or take such further measures as are necessary to recover the amounts outstanding under the Finance Documents.

#### **14.3 Bondholders' instructions**

The Bond Trustee shall serve a Default Notice pursuant to Clause 14.2 (*Acceleration of the Bonds*) if:

- (a) the Bond Trustee receives a demand in writing from Bondholders representing a simple majority of the Voting Bonds, that an Event of Default shall be declared, and a Bondholders' Meeting has not made a resolution to the contrary; or
- (b) the Bondholders' Meeting, by a simple majority decision, has approved the declaration of an Event of Default.

#### **14.4 Calculation of claim**

The claim derived from the Outstanding Bonds due for payment as a result of the serving of a Default Notice will be calculated at the Call Prices set out in Clause 10.2 (*Voluntary early redemption – Call Option*), as applicable at the following dates (and regardless of the Default Repayment Date);

- (a) for any Event of Default arising out of a breach of paragraph (a) (*Non-payment*) of Clause 14.1 (*Events of Default*), the claim will be calculated at the Call Price applicable at the date when such Event of Default occurred; and
- (b) for any other Event of Default, the claim will be calculated at the Call Price applicable at the date when the Default Notice was served by the Bond Trustee.

However, if the situations described in paragraphs (a) or (b) above takes place prior to the First Call Date, the calculation shall be based on the Call Price applicable on the First Call Date.

### **15. BONDHOLDERS' DECISIONS**

#### **15.1 Authority of the Bondholders' Meeting**

- (a) A Bondholders' Meeting may, on behalf of the Bondholders, resolve to alter any of these Bond Terms, including, but not limited to, any reduction of principal or interest and any conversion of the Bonds into other capital classes.
- (b) The Bondholders' Meeting cannot resolve that any overdue payment of any instalment shall be reduced unless there is a *pro rata* reduction of the principal that has not fallen due, but may resolve that accrued interest (whether overdue or not) shall be reduced without a corresponding reduction of principal.
- (c) The Bondholders' Meeting may not adopt resolutions which will give certain Bondholders an unreasonable advantage at the expense of other Bondholders.

- (d) Subject to the power of the Bond Trustee to take certain action as set out in Clause 16.1 (*Power to represent the Bondholders*), if a resolution by, or an approval of, the Bondholders is required, such resolution may be passed at a Bondholders' Meeting. Resolutions passed at any Bondholders' Meeting will be binding upon all Bondholders.
- (e) At least 50.00 per cent. of the Voting Bonds must be represented at a Bondholders' Meeting for a quorum to be present.
- (f) Resolutions will be passed by simple majority of the Voting Bonds represented at the Bondholders' Meeting, unless otherwise set out in paragraph (g) below.
- (g) Save for any amendments or waivers which can be made without resolution pursuant to paragraph (a)(i) and (ii) of Clause 17.1 (*Procedure for amendments and waivers*), a majority of at least 2/3 of the Voting Bonds represented at the Bondholders' Meeting is required for approval of any waiver or amendment of these Bond Terms.

## **15.2 Procedure for arranging a Bondholders' Meeting**

- (a) A Bondholders' Meeting shall be convened by the Bond Trustee upon the request in writing of:
  - (i) the Issuer;
  - (ii) Bondholders representing at least 1/10 of the Voting Bonds;
  - (iii) the Frankfurt Stock Exchange, if the Bonds are listed on Frankfurt Open Market and the Frankfurt Stock Exchange entitled to do so pursuant to its general rules and regulations;
  - (iv) any Exchange, if the Bonds are listed on that Exchange and that Exchange is entitled to do so pursuant to the general rules and regulations of that Exchange; or
  - (v) the Bond Trustee.

The request shall clearly state the matters to be discussed and resolved.

- (b) If the Bond Trustee has not convened a Bondholders' Meeting within 10 Business Days after having received a valid request for calling a Bondholders' Meeting pursuant to paragraph (a) above, then the requesting party may call the Bondholders' Meeting itself.
- (c) Summons to a Bondholders' Meeting must be sent no later than 10 Business Days prior to the proposed date of the Bondholders' Meeting. The Summons shall be sent to all Bondholders registered in the CSD at the time the Summons is sent from the CSD. If the Bonds are listed, the Issuer shall ensure that the Summons is published in accordance with the applicable regulations of the Exchange (or, if the Bonds are listed on Frankfurt Open Market, the Frankfurt Stock Exchange). The Summons shall also be published on the website of the Bond Trustee (alternatively by press release or other relevant information platform).

- (d) Any Summons for a Bondholders' Meeting must clearly state the agenda for the Bondholders' Meeting and the matters to be resolved. The Bond Trustee may include additional agenda items to those requested by the person calling for the Bondholders' Meeting in the Summons. If the Summons contains proposed amendments to these Bond Terms, a description of the proposed amendments must be set out in the Summons.
- (e) Items which have not been included in the Summons may not be put to a vote at the Bondholders' Meeting.
- (f) By written notice to the Issuer, the Bond Trustee may prohibit the Issuer from acquiring or dispose of Bonds during the period from the date of the Summons until the date of the Bondholders' Meeting, unless the acquisition of Bonds is made by the Issuer pursuant to Clause 10 (*Redemption and Repurchase of Bonds*).
- (g) A Bondholders' Meeting may be held on premises selected by the Bond Trustee, or if paragraph (b) above applies, by the person convening the Bondholders' Meeting (however to be held in the capital of the Relevant Jurisdiction). The Bondholders' Meeting will be opened and, unless otherwise decided by the Bondholders' Meeting, chaired by the Bond Trustee. If the Bond Trustee is not present, the Bondholders' Meeting will be opened by a Bondholder and be chaired by a representative elected by the Bondholders' Meeting (the Bond Trustee or such other representative, the "**Chairperson**").
- (h) Each Bondholder, the Bond Trustee and, if the Bonds are listed on an Exchange, representatives of the Exchange (or, if the Bonds are listed on Frankfurt Open Market, representatives of Frankfurt Stock Exchange), or any person or persons acting under a power of attorney for a Bondholder, shall have the right to attend the Bondholders' Meeting (each a "**Representative**"). The Chairperson may grant access to the meeting to other persons not being Representatives, unless the Bondholders' Meeting decides otherwise. In addition, each Representative has the right to be accompanied by an advisor. In case of dispute or doubt with regard to whether a person is a Representative or entitled to vote, the Chairperson will decide who may attend the Bondholders' Meeting and exercise voting rights.
- (i) Representatives of the Issuer have the right to attend the Bondholders' Meeting. The Bondholders Meeting may resolve to exclude the Issuer's representatives and/or any person holding only Issuer's Bonds (or any representative of such person) from participating in the meeting at certain times, however, the Issuer's representative and any such other person shall have the right to be present during the voting.
- (j) Minutes of the Bondholders' Meeting must be recorded by, or by someone acting at the instruction of, the Chairperson. The minutes must state the number of Voting Bonds represented at the Bondholders' Meeting, the resolutions passed at the meeting, and the results of the vote on the matters to be decided at the Bondholders' Meeting. The minutes shall be signed by the Chairperson and at least one other person. The minutes will be deposited with the Bond Trustee who shall make available a copy to the Bondholders and the Issuer upon request.

- (k) The Bond Trustee will ensure that the Issuer, the Bondholders and the Exchange (or, if the Bonds are listed on Frankfurt Open Market, the Frankfurt Stock Exchange) are notified of resolutions passed at the Bondholders' Meeting and that the resolutions are published on the website of the Bond Trustee (or other relevant electronically platform or press release).
- (l) The Issuer shall bear the costs and expenses incurred in connection with convening a Bondholders' Meeting regardless of who has convened the Bondholders' Meeting, including any reasonable costs and fees incurred by the Bond Trustee.

### **15.3 Voting rules**

- (a) Each Bondholder (or person acting for a Bondholder under a power of attorney) may cast one vote for each Voting Bond owned on the Relevant Record Date, cf. Clause 3.3 (*Bondholders' rights*). The Chairperson may, in its sole discretion, decide on accepted evidence of ownership of Voting Bonds.
- (b) Issuer's Bonds shall not carry any voting rights. The Chairperson shall determine any question concerning whether any Bonds will be considered Issuer's Bonds.
- (c) For the purposes of this Clause 15, a Bondholder that has a Bond registered in the name of a nominee will, in accordance with Clause 3.3 (*Bondholders' rights*), be deemed to be the owner of the Bond rather than the nominee. No vote may be cast by any nominee if the Bondholder has presented relevant evidence to the Bond Trustee pursuant to Clause 3.3 (*Bondholders' rights*) stating that it is the owner of the Bonds voted for. If the Bondholder has voted directly for any of its nominee registered Bonds, the Bondholder's votes shall take precedence over votes submitted by the nominee for the same Bonds.
- (d) Any of the Issuer, the Bond Trustee and any Bondholder has the right to demand a vote by ballot. In case of parity of votes, the Chairperson will have the deciding vote.

### **15.4 Repeated Bondholders' Meeting**

- (a) Even if the necessary quorum set out in paragraph (e) of Clause 15.1 (*Authority of the Bondholders' Meeting*) is not achieved, the Bondholders' Meeting shall be held and voting completed for the purpose of recording the voting results in the minutes of the Bondholders' Meeting. The Bond Trustee or the person who convened the initial Bondholders' Meeting may, within 10 Business Days of that Bondholders' Meeting, convene a repeated meeting with the same agenda as the first meeting.
- (b) The provisions and procedures regarding Bondholders' Meetings as set out in Clause 15.1 (*Authority of the Bondholders' Meeting*), Clause 15.2 (*Procedure for arranging a Bondholders' Meeting*) and Clause 15.3 (*Voting rules*) shall apply *mutatis mutandis* to a repeated Bondholders' Meeting, with the exception that the quorum requirements set out in paragraph (e) of Clause 15.1 (*Authority of the Bondholders' Meeting*) shall not apply to a repeated Bondholders' Meeting. A Summons for a repeated Bondholders' Meeting shall also contain the voting results obtained in the initial Bondholders' Meeting.
- (c) A repeated Bondholders' Meeting may only be convened once for each original Bondholders' Meeting. A repeated Bondholders' Meeting may be convened pursuant to

the procedures of a Written Resolution in accordance with Clause 15.5 (*Written Resolutions*), even if the initial meeting was held pursuant to the procedures of a Bondholders' Meeting in accordance with Clause 15.2 (*Procedure for arranging a Bondholders' Meeting*) and vice versa.

## 15.5 Written Resolutions

- (a) Subject to these Bond Terms, anything which may be resolved by the Bondholders in a Bondholders' Meeting pursuant to Clause 15.1 (*Authority of the Bondholders' Meeting*) may also be resolved by way of a Written Resolution. A Written Resolution passed with the relevant majority is as valid as if it had been passed by the Bondholders in a Bondholders' Meeting, and any reference in any Finance Document to a Bondholders' Meeting shall be construed accordingly.
- (b) The person requesting a Bondholders' Meeting may instead request that the relevant matters are to be resolved by Written Resolution only, unless the Bond Trustee decides otherwise.
- (c) The Summons for the Written Resolution shall be sent to the Bondholders registered in the CSD at the time the Summons is sent from the CSD and published at the Bond Trustee's web site, or other relevant electronic platform or via press release.
- (d) The provisions set out in Clause 15.1 (*Authority of the Bondholders' Meeting*), 15.2 (*Procedure for arranging a Bondholders' Meeting*), Clause 15.3 (*Voting Rules*) and Clause 15.4 (*Repeated Bondholders' Meeting*) shall apply *mutatis mutandis* to a Written Resolution, except that:
  - (i) the provisions set out in paragraphs (g), (h) and (i) of Clause 15.2 (*Procedure for arranging Bondholders Meetings*); or
  - (ii) provisions which are otherwise in conflict with the requirements of this Clause 15.5,

shall not apply to a Written Resolution.
- (e) The Summons for a Written Resolution shall include:
  - (i) instructions as to how to vote to each separate item in the Summons (including instructions as to how voting can be done electronically if relevant); and
  - (ii) the time limit within which the Bond Trustee must have received all votes necessary in order for the Written Resolution to be passed with the requisite majority, which shall be at least 10 Business Days but not more than 15 Business Days from the date of the Summons (the "**Voting Period**").
- (f) Only Bondholders of Voting Bonds registered with the CSD on the Relevant Record Date, or the beneficial owner thereof having presented relevant evidence to the Bond Trustee pursuant to Clause 3.3 (*Bondholders' rights*), will be counted in the Written Resolution.

- (g) A Written Resolution is passed when the requisite majority set out in paragraph (f) or paragraph (g) of Clause 15.1 (*Authority of Bondholders' Meeting*) has been obtained, based on a quorum of the total number of Voting Bonds, even if the Voting Period has not yet expired. A Written Resolution will also be resolved if the sufficient numbers of negative votes are received prior to the expiry of the Voting Period.
- (h) The effective date of a Written Resolution passed prior to the expiry of the Voting Period is the date when the resolution is approved by the last Bondholder that results in the necessary voting majority being obtained.
- (i) If no resolution is passed prior to the expiry of the Voting Period, the number of votes shall be calculated at the time specified in the summons on the last day of the Voting Period, and a decision will be made based on the quorum and majority requirements set out in paragraphs (e) to (g) of Clause 15.1 (*Authority of Bondholders' Meeting*).

## **16. THE BOND TRUSTEE**

### **16.1 Power to represent the Bondholders**

- (a) The Bond Trustee has power and authority to act on behalf of, and/or represent, the Bondholders in all matters, including but not limited to taking any legal or other action, including enforcement of these Bond Terms, and the commencement of bankruptcy or other insolvency proceedings against the Issuer, or others.
- (b) The Issuer shall promptly upon request provide the Bond Trustee with any such documents, information and other assistance (in form and substance satisfactory to the Bond Trustee), that the Bond Trustee deems necessary for the purpose of exercising its and the Bondholders' rights and/or carrying out its duties under the Finance Documents.

### **16.2 The duties and authority of the Bond Trustee**

- (a) The Bond Trustee shall represent the Bondholders in accordance with the Finance Documents, including, *inter alia*, by following up on the delivery of any Compliance Certificates and such other documents which the Issuer is obliged to disclose or deliver to the Bond Trustee pursuant to the Finance Documents and, when relevant, in relation to accelerating and enforcing the Bonds on behalf of the Bondholders.
- (b) The Bond Trustee is not obligated to assess or monitor the financial condition of the Issuer unless to the extent expressly set out in these Bond Terms, or to take any steps to ascertain whether any Event of Default has occurred. Until it has actual knowledge to the contrary, the Bond Trustee is entitled to assume that no Event of Default has occurred. The Bond Trustee is not responsible for the valid execution or enforceability of the Finance Documents, or for any discrepancy between the indicative terms and conditions described in any marketing material presented to the Bondholders prior to issuance of the Bonds and the provisions of these Bond Terms.
- (c) The Bond Trustee is entitled to take such steps that it, in its sole discretion, considers necessary or advisable to protect the rights of the Bondholders in all matters pursuant to the terms of the Finance Documents. The Bond Trustee may submit any instructions received by it from the Bondholders to a Bondholders' Meeting before the Bond Trustee takes any action pursuant to the instruction.

- (d) The Bond Trustee is entitled to engage external experts when carrying out its duties under the Finance Documents.
- (e) The Bond Trustee shall hold all amounts recovered on behalf of the Bondholders on separated accounts.
- (f) The Bond Trustee shall facilitate that resolutions passed at the Bondholders' Meeting are properly implemented, provided, however, that the Bond Trustee may refuse to implement resolutions that may be in conflict with these Bond Terms, any other Finance Document, or any applicable law.
- (g) Notwithstanding any other provision of the Finance Documents to the contrary, the Bond Trustee is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation.
- (h) If the cost, loss or liability which the Bond Trustee may incur (including reasonable fees payable to the Bond Trustee itself) in:
  - (i) complying with instructions of the Bondholders; or
  - (ii) taking any action at its own initiative,

will not, in the reasonable opinion of the Bond Trustee, be covered by the Issuer or the relevant Bondholders pursuant to paragraphs (e) and (g) of Clause 16.4 (*Expenses, liability and indemnity*), the Bond Trustee may refrain from acting in accordance with such instructions, or refrain from taking such action, until it has received such funding or indemnities (or adequate security has been provided therefore) as it may reasonably require.

- (i) The Bond Trustee shall give a notice to the Bondholders before it ceases to perform its obligations under the Finance Documents by reason of the non-payment by the Issuer of any fee or indemnity due to the Bond Trustee under the Finance Documents.
- (j) The Bond Trustee may instruct the CSD to split the Bonds to a lower nominal value in order to facilitate partial redemptions, write-downs or restructurings of the Bonds or in other situations where such split is deemed necessary.

### **16.3 Equality and conflicts of interest**

- (a) The Bond Trustee shall not make decisions which will give certain Bondholders an unreasonable advantage at the expense of other Bondholders. The Bond Trustee shall, when acting pursuant to the Finance Documents, act with regard only to the interests of the Bondholders and shall not be required to have regard to the interests or to act upon or comply with any direction or request of any other person, other than as explicitly stated in the Finance Documents.
- (b) The Bond Trustee may act as agent, trustee, representative and/or security agent for several bond issues relating to the Issuer notwithstanding potential conflicts of interest. The Bond Trustee is entitled to delegate its duties to other professional parties.

**16.4 Expenses, liability and indemnity**

- (a) The Bond Trustee will not be liable to the Bondholders for damage or loss caused by any action taken or omitted by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct. The Bond Trustee shall not be responsible for any indirect or consequential loss. Irrespective of the foregoing, the Bond Trustee shall have no liability to the Bondholders for damage caused by the Bond Trustee acting in accordance with instructions given by the Bondholders in accordance with these Bond Terms.
- (b) The Bond Trustee will not be liable to the Issuer for damage or loss caused by any action taken or omitted by it under or in connection with any Finance Document, unless caused by its gross negligence or wilful misconduct. The Bond Trustee shall not be responsible for any indirect or consequential loss.
- (c) Any liability for the Bond Trustee for damage or loss is limited to the amount of the Outstanding Bonds. The Bond Trustee is not liable for the content of information provided to the Bondholders by or on behalf of the Issuer or any other person.
- (d) The Bond Trustee shall not be considered to have acted negligently in:
  - (i) acting in accordance with advice from or opinions of reputable external experts; or
  - (ii) taking, delaying or omitting any action if acting with reasonable care and provided the Bond Trustee considers that such action is in the interests of the Bondholders.
- (e) The Issuer is liable for, and will indemnify the Bond Trustee fully in respect of, all losses, expenses and liabilities incurred by the Bond Trustee as a result of negligence by the Issuer (including its directors, management, officers, employees and agents) in connection with the performance of the Bond Trustee's obligations under the Finance Documents, including losses incurred by the Bond Trustee as a result of the Bond Trustee's actions based on misrepresentations made by the Issuer in connection with the issuance of the Bonds, the entering into or performance under the Finance Documents, and for as long as any amounts are outstanding under or pursuant to the Finance Documents.
- (f) The Issuer shall cover all costs and expenses incurred by the Bond Trustee in connection with it fulfilling its obligations under the Finance Documents. The Bond Trustee is entitled to fees for its work and to be indemnified for costs, losses and liabilities on the terms set out in the Finance Documents. The Bond Trustee's obligations under the Finance Documents are conditioned upon the due payment of such fees and indemnifications. The fees of the Bond Trustee will be further set out in the Bond Trustee Fee Agreement.
- (g) The Issuer shall on demand by the Bond Trustee pay all costs incurred for external experts engaged after the occurrence of an Event of Default, or for the purpose of investigating or considering (i) an event or circumstance which the Bond Trustee reasonably believes is or may lead to an Event of Default or (ii) a matter relating to the Issuer or any of the Finance Documents which the Bond Trustee reasonably believes

may constitute or lead to a breach of any of the Finance Documents or otherwise be detrimental to the interests of the Bondholders under the Finance Documents.

- (h) Fees, costs and expenses payable to the Bond Trustee which are not reimbursed in any other way due to an Event of Default, the Issuer being Insolvent or similar circumstances pertaining to the Issuer, may be covered by making an equal reduction in the proceeds to the Bondholders hereunder of any costs and expenses incurred by the Bond Trustee or the Security Agent in connection therewith. The Bond Trustee may withhold funds from any escrow account (or similar arrangement) or from other funds received from the Issuer or any other person, irrespective of such funds being subject to Transaction Security, and to set-off and cover any such costs and expenses from those funds.
- (i) As a condition to effecting any instruction from the Bondholders (including, but not limited to, instructions set out in Clause 14.3 (*Bondholders' instructions*) or Clause 15.2 (*Procedure for arranging a Bondholders' Meeting*)), the Bond Trustee may require satisfactory Security, guarantees and/or indemnities for any possible liability and anticipated costs and expenses from those Bondholders who have given that instruction and/or who voted in favour of the decision to instruct the Bond Trustee.

#### **16.5 Replacement of the Bond Trustee**

- (a) The Bond Trustee may be replaced by a majority of 2/3 of Voting Bonds in accordance with the procedures set out in Clause 15 (*Bondholders' Decisions*), and the Bondholders may resolve to replace the Bond Trustee without the Issuer's approval.
- (b) The Bond Trustee may resign by giving notice to the Issuer and the Bondholders, in which case a successor Bond Trustee shall be elected pursuant to this Clause 16.5, initiated by the retiring Bond Trustee.
- (c) If the Bond Trustee is Insolvent, or otherwise is permanently unable to fulfil its obligations under these Bond Terms, the Bond Trustee shall be deemed to have resigned and a successor Bond Trustee shall be appointed in accordance with this Clause 16.5. The Issuer may appoint a temporary Bond Trustee until a new Bond Trustee is elected in accordance with paragraph (a) above.
- (d) The change of Bond Trustee shall only take effect upon execution of all necessary actions to effectively substitute the retiring Bond Trustee, and the retiring Bond Trustee undertakes to co-operate in all reasonable manners without delay to such effect. The retiring Bond Trustee shall be discharged from any further obligation in respect of the Finance Documents from the change takes effect, but shall remain liable under the Finance Documents in respect of any action which it took or failed to take whilst acting as Bond Trustee. The retiring Bond Trustee remains entitled to any benefits and any unpaid fees or expenses under the Finance Documents before the change has taken place.
- (e) Upon change of Bond Trustee the Issuer shall co-operate in all reasonable manners without delay to replace the retiring Bond Trustee with the successor Bond Trustee and release the retiring Bond Trustee from any future obligations under the Finance Documents and any other documents.

## 16.6 Security Agent

- (a) The Bond Trustee is appointed to act as Security Agent for the Bonds, unless any other person is appointed. The main functions of the Security Agent may include holding Transaction Security on behalf of the Secured Parties and monitoring compliance by the Issuer and other relevant parties of their respective obligations under the Transaction Security Documents with respect to the Transaction Security on the basis of information made available to it pursuant to the Finance Documents.
- (b) The Bond Trustee shall, when acting as Security Agent for the Bonds, at all times maintain and keep all certificates and other documents received by it, that are bearers of right relating to the Transaction Security in safe custody on behalf of the Bondholders. The Bond Trustee shall not be responsible for or required to insure against any loss incurred in connection with such safe custody.
- (c) Before the appointment of a Security Agent other than the Bond Trustee, the Issuer shall be given the opportunity to state its views on the proposed Security Agent, but the final decision as to appointment shall lie exclusively with the Bond Trustee.
- (d) The functions, rights and obligations of the Security Agent may be determined by a Security Agent Agreement to be entered into between the Bond Trustee and the Security Agent, which the Bond Trustee shall have the right to require the Issuer and any other party to a Finance Document to sign as a party, or, at the discretion of the Bond Trustee, to acknowledge. The Bond Trustee shall at all times retain the right to instruct the Security Agent in all matters, whether or not a separate Security Agent Agreement has been entered into.
- (e) The provisions set out in Clause 16.4 (*Expenses, liability and indemnity*) shall apply *mutatis mutandis* to any expenses and liabilities of the Security Agent in connection with the Finance Documents.

## 16.7 German Security Documents

- (a) The Security Agent shall:
  - (i) hold (in its own name and on its own behalf including in its capacity as creditor of the Parallel Debt Claim), administer and realise (in its own name and on its own behalf and/or in the name and on behalf of any Bondholder) any Security on the Issuer's assets governed by German law (the "**German Security**"), which is pledged (*Verpfändung*) or otherwise granted under an accessory security right (*akzessorische Sicherheit*) to it as the creditor of the Parallel Debt Claim or any Bondholder; and
  - (ii) act in relation to such German Security in accordance with the terms of the Bond Terms and the respective Transaction Security Document governed by German law creating German Security (each a "**German Security Document**").
- (b) The Security Agent is authorised (whether or not by or through employees or agents) to:
  - (i) accept (including preparation, execution and perfection) as its representative any pledge (*Pfandrecht*) or other creation of any accessory security right

(*akzessorische Sicherheit*) made to the Bondholders in relation to the Bond Terms and to act and execute on their behalf as their representative, subject to the terms of the Bond Terms, amendments or releases of, accessions and alterations to, and to carry out similar dealings with regard to any German Security which creates a pledge (*Pfandrecht*) or any other accessory security right (*akzessorische Sicherheit*);

- (ii) execute (on its own behalf and on behalf of each of the Bondholders) without the need for any further referral to, or authority from, any other person all necessary releases or confirmations with respect to any German Security which is permitted under that German Security Document or consented to or agreed upon in accordance with the Bond Terms;
  - (iii) to exercise such other rights, remedies, powers and discretions as are specifically delegated to or conferred upon the Security Agent under a German Security Document together with such powers and discretions as are reasonably incidental thereto;
  - (iv) make and receive all declarations and statements which are necessary in connection with German Security; and
  - (v) to take such actions or measures as may from time to time be authorised under or in accordance with any German Security Document.
- (c) The Security Agent is, to the extent legally possible, released from any restrictions on representing several persons and self-dealing under any applicable law to make use of any authorisation granted under the Bond Terms and to perform its duties and obligations as Security Agent hereunder and under the German Security Documents. The Security Agent shall have the authority to sub-delegate the power of attorney granted hereunder and to grant an exemption from the restrictions imposed by such code provisions to any sub-delegate.

## 16.8 Parallel Debt

- (a) “**Principal Claim**” means all obligations and liabilities (whether present or future, actual or contingent, and whether incurred jointly or severally, and whether as principal, guarantor or in some other capacity) at any time owing or incurred by the Issuer to the Bondholders (or any of their successors, transferees or assigns) under or in connection with the Bond Terms or any other Finance Document as the same may be amended, supplemented, extended or restated from time to time (including by way of novation), however fundamental any amendment, supplement, extension or restatement may be, including (without affecting the generality of the foregoing) if the amendment, supplement, extension or restatement would result in (a) a change of the purpose, increase, extension or restructuring of any kind (in whole or in part and including as to its type) of the Bonds; and/or (b) an additional bonds being made available under the Bond Terms.

“**Parallel Debt Claim**” means any amount which the Issuer owes to the Security Agent pursuant to paragraph (b) below.

- (b) The Issuer must pay the Security Agent, as an independent and separate creditor, an amount equal the amount of each Principal Claim of which it is the debtor on its due date.
- (c) The Security Agent may enforce performance of any Parallel Debt Claim in its own name as an independent and separate right. This includes any suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding.
- (d) Each Bondholder must, at the request of the Security Agent, perform any act required in connection with the enforcement of any Parallel Debt Claim. This includes joining in any proceedings as co-claimant with the Security Agent. The Issuer irrevocably and unconditionally waives any right it may have to require a Bondholder to join in any proceedings as co-claimant with the Security Agent in respect of any Parallel Debt Claim.
- (e) Payment by the Issuer of a Principal Claim will discharge the corresponding Parallel Debt Claim in the same amount. Payment by the Issuer of a Parallel Debt Claim will discharge the corresponding Principal Claim in the same amount.
- (f) The aggregate amount of the Parallel Debt Claims will never exceed the aggregate amount of Principal Claims. A defect affecting a Parallel Debt Claim against the Issuer will not affect any Principal Claim.

## **17. AMENDMENTS AND WAIVERS**

### **17.1 Procedure for amendments and waivers**

- (a) The Issuer and the Bond Trustee (acting on behalf of the Bondholders) may agree to amend the Finance Documents or waive a past default or anticipated failure to comply with any provision in a Finance Document, provided that:
  - (i) such amendment or waiver is not detrimental to the rights and benefits of the Bondholders in any material respect, or is made solely for the purpose of rectifying obvious errors and mistakes;
  - (ii) such amendment or waiver is required by applicable law, a court ruling or a decision by a relevant authority; or
  - (iii) such amendment or waiver has been duly approved by the Bondholders in accordance with Clause 15 (*Bondholders' Decisions*).
- (b) Any changes to these Bond Terms necessary or appropriate in connection with the appointment of a Security Agent other than the Bond Trustee shall be documented in an amendment to these Bond Terms, signed by the Bond Trustee (in its discretion). If so desired by the Bond Trustee, any or all of the Transaction Security Documents shall be amended, assigned or re-issued, so that the Security Agent is the holder of the relevant Security (on behalf of the Bondholders). The costs incurred in connection with such amendment, assignment or re-issue shall be for the account of the Issuer.

**17.2 Authority with respect to documentation**

If the Bondholders have resolved the substance of an amendment to any Finance Document, without resolving on the specific or final form of such amendment, the Bond Trustee shall be considered authorised to draft, approve and/or finalise (as applicable) any required documentation or any outstanding matters in such documentation without any further approvals or involvement from the Bondholders being required.

**17.3 Notification of amendments or waivers**

- (a) The Bond Trustee shall as soon as possible notify the Bondholders of any amendments or waivers made in accordance with this Clause 17, setting out the date from which the amendment or waiver will be effective, unless such notice according to the Bond Trustee's sole discretion is unnecessary. The Issuer shall ensure that any amendment to these Bond Terms is duly registered with the CSD.
- (b) Prior to agreeing to an amendment or granting a waiver in accordance with paragraph (a)(i) of Clause 17.1 (*Procedure for amendments and waivers*), the Bond Trustee may inform the Bondholders of such waiver or amendment at a relevant information platform.

**18. MISCELLANEOUS**

**18.1 Limitation of claims**

All claims under the Finance Documents for payment, including interest and principal, will be subject to the legislation regarding time-bar provisions of the Relevant Jurisdiction.

**18.2 Access to information**

- (a) These Bond Terms will be made available to the public and copies may be obtained from the Bond Trustee or the Issuer. The Bond Trustee will not have any obligation to distribute any other information to the Bondholders or any other person, and the Bondholders have no right to obtain information from the Bond Trustee, other than as explicitly stated in these Bond Terms or pursuant to statutory provisions of law.
- (b) In order to carry out its functions and obligations under these Bond Terms, the Bond Trustee will have access to the relevant information regarding ownership of the Bonds, as recorded and regulated with the CSD.
- (c) The information referred to in paragraph (b) above may only be used for the purposes of carrying out their duties and exercising their rights in accordance with the Finance Documents and shall not disclose such information to any Bondholder or third party unless necessary for such purposes.

**18.3 Notices, contact information**

Written notices to the Bondholders made by the Bond Trustee will be sent to the Bondholders via the CSD with a copy to the Issuer and the Exchange (if the Bonds are listed on an Exchange) or the Frankfurt Stock Exchange (if the Bonds are listed on Frankfurt Open Market). Any such notice or communication will be deemed to be given or made via the CSD, when sent from the CSD.

- (a) The Issuer's written notifications to the Bondholders will be sent to the Bondholders via the Bond Trustee or through the CSD with a copy to the Bond Trustee and the Exchange (if the Bonds are listed on an Exchange) or the Frankfurt Stock Exchange (if the Bonds are listed on Frankfurt Open Market).
- (b) Notwithstanding paragraph (a) above and provided that such written notification does not require the Bondholders to take any action under the Finance Documents, the Issuer's written notifications to the Bondholders may be published by the Bond Trustee on a relevant information platform only.
- (c) Unless otherwise specifically provided, all notices or other communications under or in connection with these Bond Terms between the Bond Trustee and the Issuer will be given or made in writing, by letter or e-mail. Any such notice or communication will be deemed to be given or made as follows:
  - (i) if by letter, when delivered at the address of the relevant party;
  - (ii) if by e-mail, when received; and
  - (iii) if by publication on a relevant information platform, when published.
- (d) The Issuer and the Bond Trustee shall each ensure that the other party is kept informed of changes in postal address, e-mail address and telephone and contact persons.
- (e) When determining deadlines set out in these Bond Terms, the following will apply (unless otherwise stated):
  - (i) if the deadline is set out in days, the first day of the relevant period will not be included and the last day of the relevant period will be included;
  - (ii) if the deadline is set out in weeks, months or years, the deadline will end on the day in the last week or the last month which, according to its name or number, corresponds to the first day the deadline is in force. If such day is not a part of an actual month, the deadline will be the last day of such month; and
  - (iii) if a deadline ends on a day which is not a Business Day, the deadline is postponed to the next Business Day.

#### **18.4 Defeasance**

- (a) Subject to paragraph (b) below and provided that:
  - (i) an amount sufficient for the payment of principal and interest on the Outstanding Bonds to the relevant Repayment Date (including, to the extent applicable, any premium payable upon exercise of a Call Option), and always subject to paragraph (c) below (the "**Defeasance Amount**") is credited by the Issuer to an account in a financial institution acceptable to the Bond Trustee (the "**Defeasance Account**");

- (ii) the Defeasance Account is irrevocably pledged and blocked in favour of the Bond Trustee on such terms as the Bond Trustee shall request (the “**Defeasance Pledge**”); and
- (iii) the Bond Trustee has received such legal opinions and statements reasonably required by it, including (but not necessarily limited to) with respect to the validity and enforceability of the Defeasance Pledge,

then;

- (A) the Issuer will be relieved from its obligations under paragraph (a) of Clause 12.2 (*Requirements as to Financial Reports*), Clause 12.3 (*Put Option Event*), Clause 12.5 (*Information: Miscellaneous*) and Clause 13 (*General and financial undertakings*); and
  - (B) any Transaction Security shall be released and the Defeasance Pledge shall be considered replacement of the Transaction Security.
- (b) The Bond Trustee shall be authorised to apply any amount credited to the Defeasance Account towards any amount payable by the Issuer under any Finance Document on the due date for the relevant payment until all obligations of the Issuer and all amounts outstanding under the Finance Documents are repaid and discharged in full.
  - (c) The Bond Trustee may, if the Defeasance Amount cannot be finally and conclusively determined, decide the amount to be deposited to the Defeasance Account in its discretion, applying such buffer amount as it deems necessary.

A defeasance established according to this Clause 18.4 may not be reversed.

## **19. GOVERNING LAW AND JURISDICTION**

### **19.1 Governing law**

These Bond Terms are governed by the laws of the Relevant Jurisdiction, without regard to its conflict of law provisions.

### **19.2 Main jurisdiction**

The Bond Trustee and the Issuer agree for the benefit of the Bond Trustee and the Bondholders that the City Court of the capital of the Relevant Jurisdiction shall have jurisdiction with respect to any dispute arising out of or in connection with these Bond Terms. The Issuer agrees for the benefit of the Bond Trustee and the Bondholders that any legal action or proceedings arising out of or in connection with these Bond Terms against the Issuer or any of its assets may be brought in such court.

### **19.3 Alternative jurisdiction**

Clause 19 (*Governing law and jurisdiction*) is for the exclusive benefit of the Bond Trustee and the Bondholders and the Bond Trustee have the right:

- (a) to commence proceedings against the Issuer or any of its assets in any court in any jurisdiction; and

- (b) to commence such proceedings, including enforcement proceedings, in any competent jurisdiction concurrently.

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**ATTACHMENT 1  
COMPLIANCE CERTIFICATE**

[date]

**Mutares SE & Co. KGaA FRN senior secured EUR 300,000,000 bonds 2024/2029 – ISIN NO0013325407**

We refer to the Bond Terms for the above captioned Bonds made between Nordic Trustee AS as Bond Trustee on behalf of the Bondholders and the undersigned as Issuer. Pursuant to Clause 12.2 (*Requirements as to Financial Reports*) of the Bond Terms a Compliance Certificate shall be issued in connection with [each delivery of Financial Reports to the Bond Trustee/an Incurrence Test for the purpose of [issuing Additional Bonds/incurring Financial Indebtedness]].

This letter constitutes the Compliance Certificate for the period [•].

Capitalised terms used herein will have the same meaning as in the Bond Terms.

With reference to Clause 12.2 (*Requirements as to Financial Reports*) we hereby certify that all information delivered under cover of this Compliance Certificate is true and accurate and there has been no material adverse change to the financial condition of the Issuer since the date of the last accounts or the last Compliance Certificate submitted to you. Copies of our latest consolidated [Annual Financial Statements] / [Interim Accounts] are enclosed.

The financial maintenance covenants set out in Clause 13.20 (*Financial Maintenance Covenants*) are met, please see the calculations and figures in respect of the ratios attached hereto.

[We confirm that the following Group Companies constitute Material Group Companies: [•] and [•], of which [•] and [•] are nominated as Subsequent Material Group Companies in accordance with Clause 13.16 (*Designation of Material Group Companies*).]

We confirm that, to the best of our knowledge, no Event of Default has occurred or is likely to occur.

Yours faithfully,  
Mutares SE & Co. KGaA

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*Name of authorised person*

*Enclosure: Annual Financial Statements / Interim Accounts; [and any other written documentation]*

**ATTACHMENT 2**  
**RELEASE NOTICE – ESCROW ACCOUNT**

[date]

Dear Sirs,

**Mutares SE & Co. KGaA FRN senior secured EUR 300,000,000 bonds 2024/2029 – ISIN NO0013325407**

We refer to the Bond Terms for the above captioned Bonds made between Nordic Trustee AS as Bond Trustee on behalf of the Bondholders and the undersigned as Issuer.

Capitalised terms used herein will have the same meaning as in the Bond Terms.

We hereby give you notice that we on [date] wish to draw [Alt 1: the amount specified in Enclosure I (*Flow of Funds*)]/[Alt 2: all amounts] from the Escrow Account to be applied pursuant to the purpose set out in the Bond Terms, and request you to instruct the bank to release the above mentioned amount.

We hereby represent and warrant that (i) no Event of Default has occurred and is continuing or is likely to occur as a result of the release from the Escrow Account, and (ii) we confirm that the representations and warranties set out in the Bond Terms are true and accurate in all material respects at the date hereof.

Yours faithfully,

Mutares SE & Co. KGaA

\_\_\_\_\_

Name of authorised person

*Enclosure I: Flow of Funds*

### **ATTACHMENT 3 AGREED SECURITY PRINCIPLES**

Capitalised terms used below shall, unless the context otherwise requires, have the same meaning as given to them in the Intercreditor Agreement or, if not defined therein, the same meaning as given to them in these Bond Terms.

Any Transaction Security and Transaction Security Document shall be subject to the following principles:

- (a) where legally permissible, all Transaction Security shall be created in favour of the Security Agent and not the other Secured Parties individually. Parallel debt provisions shall be used where legally necessary;
- (b) subject to the other principles set out herein and to the extent legally permissible, each Transaction Security will be for all current and future liabilities owing by the Issuer to the Secured Parties under the Debt Documents;
- (c) to the extent legally permissible, Transaction Security will be first ranking;
- (d) where legally permissible, Transaction Security Documents shall automatically create security over future assets of the same type as those already subject to Transaction Security thereunder, and if such security may not be automatically created, Transaction Security over such future assets shall be created promptly upon the acquisition of such assets;
- (e) general statutory limitations (including, but not limited to, such relating to financial assistance, corporate benefit, fraudulent preference, “thin capitalisation” rules, capital maintenance, retention of title claims and similar principles) may limit the ability of the Issuer to provide any security or require that such security is limited by an amount or otherwise;
- (f) the Transaction Security and the extent of its perfection and scope shall take into account the costs and expenses (including, without limitation, any stamp duty, taxes, registration fees or similar), work and time of providing such security which must be proportionate to the benefit accruing to the Secured Parties with respect to such security;
- (g) the Issuer will not be required to provide Transaction Security if it would conflict with the fiduciary duties of its directors or officers or contravene any legal prohibition or result in a material risk of personal or criminal liability on the part of any director or officer, provided that the Issuer shall use reasonable endeavours to overcome any such obstacle;
- (h) Transaction Security Documents shall operate to create security rather than to impose any new commercial obligations and shall, accordingly, not contain additional or duplicate representations or undertakings (including, for the avoidance of doubt, reporting requirements) to those contained in the Debt Documents unless required for

the creation, perfection, preservation or enforcement of the Transaction Security and shall not be unduly burdensome on the Issuer or other Group Companies or interfere unreasonably with the operation of their business or operations;

- (i) the Issuer, after having created Transaction Security over the shares in a Group Company, shall be permitted to retain and exercise voting rights appertaining to such shares until an Event of Default has occurred and is continuing, and the Group Company whose shares have become subject to such Transaction Security shall be permitted to pay dividends and make other Distributions in respect of such shares (but only to the extent explicitly permitted by the terms of the Debt Documents) until an Event of Default has occurred and is continuing;
- (j) Transaction Security over Material Intercompany Loans shall permit the Issuer to deal with such receivables in the ordinary course of its business until an Event of Default has occurred and is continuing;
- (k) perfection of security will not be required if it would materially adversely affect the ability of the Issuer or any other Group Company to conduct its operations or business in the ordinary course;
- (l) no perfection action will be required in jurisdictions where Group Companies are not located;
- (m) Transaction Security will not be enforceable until an Event of Default has occurred and is continuing; and
- (n) the Security Agent shall only be able to exercise any powers of attorney granted under any Transaction Security Document if an Event of Default has occurred and is continuing, and any such power of attorney shall only be issued upon request.

**SIGNATURES:**

**The Issuer:**

**Mutares SE & Co. KGaA**

DocuSigned by:  
*Mark Friedrich*  
0DB3184347D04F5:.....

By: Mark Friedrich

Position: Member of the Management Board

**As Bond Trustee and Security Agent:**

**Nordic Trustee AS**

DocuSigned by:  
*Lars Erik Lærum*  
847A306461CB461:.....

By: Lars Erik Lærum

Position: p.p.

Signiert von:  
*Johannes Laumann*  
5D36952C24E1450:.....

By: Johannes Laumann

Position: Member of the Management Board