

AMENDMENT AND RESTATEMENT AGREEMENT

dated 11 October 2018

for

ATOS SE

with

THE FINANCIAL INSTITUTIONS LISTED IN SCHEDULE 1

with

BNP PARIBAS

acting as Facility Agent

RELATING TO A MULTICURRENCY REVOLVING FACILITY AGREEMENT ORIGINALLY DATED 6  
NOVEMBER 2014

**Linklaters**

Ref: L-276002

Linklaters LLP

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THIS AGREEMENT is dated 11 October 2018 and made between:

- (1) ATOS SE, a company incorporated as a *société européenne* under the laws of France, the registered office of which is at River Ouest 80 quai Voltaire, 95870 Bezons, registered with the Trade and Companies Registry (*Registre du Commerce et des Sociétés*) of Pontoise under the number 323 623 603 (the "**Company**");
- (2) THE ENTITIES listed in Part I (*The Borrowers*) of Schedule 1 (*The Parties*) as borrowers (together with the Company, the "**Borrowers**");
- (3) THE FINANCIAL INSTITUTIONS listed in Part II (*New Lenders and Commitments Increased and Maintained as at the Effective Date*) of Schedule 1 (*The Parties*) as Lenders having increased their Commitments or maintained their Commitments;
- (4) THE FINANCIAL INSTITUTIONS listed in Part II (*New Lenders and Commitments Increased and Maintained as at the Effective Date*) of Schedule 1 (*The Parties*) as new Lenders having assumed Commitments;
- (5) BNP PARIBAS as agent of the other Finance Parties (the "**Facility Agent**").

IT IS AGREED as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement:

**"Amended Agreement"** means the Original Revolving Facility Agreement, as amended and restated in the form set out in Schedule 4 (*Form of Amended Agreement*).

**"Amendment Agreement Signing Date"** means the date of signature of this Agreement.

**"Consenting Increased Lender"** means a Lender party to the Original Revolving Facility Agreement immediately prior to the Amendment Agreement Signing Date that has agreed to this Agreement and to increase its Commitment under the Amended Agreement to an amount as set out in Part II (*New Lenders and Commitments Increased and Maintained as at the Effective Date*) of Schedule 1 (*The Parties*) to this Agreement.

**"Consenting Lender"** means together the Consenting Increased Lender and the Consenting Non-Increased Lender.

**"Consenting Non-Increased Lender"** means a Lender party to the Original Revolving Facility Agreement immediately prior to the Amendment Agreement Signing Date that has agreed to this Agreement and does not increase but maintains its Commitment under the Amended Agreement as set out in Part II (*New Lenders and Commitments Increased and Maintained as at the Effective Date*) of Schedule 1 (*The Parties*) to this Agreement.

**"Consent Request Letter"** means the consent request letter dated 28 August 2018 issued by the Company to the Facility Agent under the Original Revolving Facility Agreement in order to request consent to certain amendments to the Original Revolving Facility Agreement and to invite Lenders

to participate in the Extended & Increased RCF (as defined in the Consent Request Letter), all as more fully described in such Consent Request Letter.

**"Effective Date"** means the date on which the Facility Agent notifies the Company and the Lenders that it has received (or waived) all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Facility Agent, provided that such date cannot occur after 31 October 2018.

**"New Lenders"** means the financial institutions listed in Part II (*New Lenders and Commitments Increased and Maintained as at the Effective Date*) of Schedule 1 (*The Parties*) as new Lenders having assumed Commitments under the Amended Agreement.

**"Original Revolving Facility Agreement"** means the € 1,800,000,000 multicurrency revolving facility agreement dated 6 November 2014 between, amongst others, the Company, the Facility Agent, the Mandated Lead Arrangers, Arrangers, Bookrunners and Lenders named in it.

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

## 1.2 **Incorporation of defined terms**

- (a) Unless a contrary indication appears, terms defined in the Amended Agreement have the same meaning in this Agreement.
- (b) The principles of construction set out in the Amended Agreement shall have effect as if set out in this Agreement.

## 1.3 **Designation**

In accordance with the Original Revolving Facility Agreement, each of the Company and the Facility Agent designate this Agreement as a Finance Document.

## 2. **REPRESENTATIONS**

Each Obligor makes the Repeating Representations, and the representations and warranties in clause 19.10 (*No stamp duties*) and clause 19.11 (*Deduction of tax*) of the Original Revolving Facility Agreement, by reference to the facts and circumstances then existing:

- (a) on the date of this Agreement; and
- (b) on the Effective Date,

but as if references in clause 19 (*Representations*) of the Original Revolving Facility Agreement to "the Finance Documents" were instead to this Agreement and, on the Effective Date, to the Amended Agreement.

## 3. **AMENDMENT**

### 3.1 **Amendment**

With effect from the Effective Date the Original Revolving Facility Agreement shall be amended and restated in the form set out in Schedule 4 (*Form of Amended Agreement*).

### 3.2 **Continuing obligations**

- (a) The provisions of the Original Revolving Facility Agreement and the other Finance Documents shall, save as amended or terminated or replaced by this Agreement, continue in full force and effect.

- (b) With effect from the Effective Date and notwithstanding any provision to the contrary in the Finance Documents, the Guarantee dated 6 November 2014 and entered into between the Company and the Finance Parties represented by the Facility Agent shall be unconditionally and irrevocably terminated and replaced with the Guarantee issued by the Company to the Finance Parties represented by Facility Agent and delivered under Schedule 2 (*Conditions Precedent*) of this Agreement.

### 3.3 **Effective Global rate (*Taux effectif Global*)**

In respect of the Amended Agreement:

- (a) for the purposes of articles L.314-1 to L.314-5 and R.314-1 et seq. of the French Code *de la consommation* and article L. 313-4 of the French *Code Monétaire et Financier*, and given the floating nature of the interest rate applicable to Utilisations, the Parties acknowledge that the *taux effectif global* ("**TEG**") needs to be calculated on the basis of the Screen Rates prevailing at the Amendment Agreement Signing Date and on the basis of certain assumptions regarding the duration of the Interest Periods and the amount of other costs included in the calculation of the TEG; and
- (b) each Borrower acknowledges that it has received (on the Amendment Agreement Signing Date), from the Facility Agent a letter containing an indicative calculation of the *taux effectif global*, calculated on the basis described above. The Parties acknowledge that such TEG letter forms an integral part of this Agreement and the Amended Agreement.

## 4. **COMMITMENTS AS AT THE EFFECTIVE DATE**

### 4.1 **Increased Commitments**

The Parties agree that, as from the Effective Date, the Commitment of those Lenders listed in Part II (*New Lenders and Commitments Increased and Maintained as at the Effective Date*) of Schedule 1 (*The Parties*) to this Agreement as Consenting Lenders having increased Commitments shall be increased by the amount expressed next to its name in the column headed 'Amount of Increase to Commitments €' of that schedule, and those Consenting Increased Lenders agree to assume and will assume all of the obligations corresponding to that increased Commitment.

### 4.2 **New Commitments**

- (a) The Parties agree that, as from the Effective Date, each New Lender shall become a party to the Finance Documents as a Lender and shall assume the Commitment corresponding to the amount expressed next to its name in the column headed 'New Commitments € (assumed by a New Lender)' of Part II (*New Lenders and Commitments Increased and Maintained as at the Effective Date*) of Schedule 1 (*The Parties*) to this Agreement. The New Lender agrees to assume and will assume all of the obligations corresponding to these Commitments.
- (b) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of clause 31.2 (*Addresses*) of the Original Revolving Facility Agreement have been communicated to the Facility Agent.

- (c) Each New Lender acknowledges the limitations on existing Lender liabilities set out in paragraphs (a), (b) and (c) of clause 24.4 (*Limitation of responsibility of Existing Lenders*) of the Original Revolving Facility Agreement as if references in that clause to an “**Existing Lender**” were references to all the Lenders immediately prior to the Effective Date.
- (d) Each New Lender confirms to the other Finance Parties represented by the Facility Agent that it has become entitled to the same rights and it will assume the same obligations to those Parties as it would have been under if it was an Original Lender.
- (e) Each New Lender represents that, on the Effective Date, it has the tax status expressed next to its name in Schedule 3 (*Tax Status*) to this Agreement (confirming that it is either a Qualifying Lender (other than a Treaty Lender), a Treaty Lender, or it is not a Qualifying Lender).
- (f) Each New Lender represents that, on the Effective Date, it is not incorporated, domiciled, established or acting through a Facility Office situated in a Non-Cooperative Jurisdiction.

#### 4.3 **Total Commitments as from the Effective Date**

The Parties agree that, further to Clause 4.1 (*Increased Commitments*) to Clause 4.2 (*New Commitments*) above, immediately following the Effective Date the Total Commitments under the Facility Agreement shall amount accordingly to €2,400,000,000, as set out in Part III (*Lenders and Commitments as at the Effective Date*) of Schedule 1 (*The Parties*).

### 5. **TRANSACTION EXPENSES**

The Company shall within three Business Days of demand reimburse the Facility Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Facility Agent in connection with the negotiation, preparation, printing and execution of this Agreement and any other documents referred to in this Agreement, up to a cap agreed upon between the Company and the Facility Agent.

### 6. **FEES**

Subject to the occurrence of the Effective Date, the Company shall pay to the Facility Agent (for the account of each Consenting Lender) the Consent Fees (as that term is defined in the Consent Request Letter) in accordance with the Consent Request Letter.

### 7. **MISCELLANEOUS**

#### 7.1 **Incorporation of terms**

The provisions of clause 31 (*Notices*) and clause 38 (*Enforcement*) of the Amended Agreement shall be incorporated into this Agreement as if set out in full in this Agreement and as if references in those clauses to "this Agreement" are references to this Agreement.

#### 7.2 **No hardship**

Save as otherwise provided for in the Agreement, each Party hereby agrees to bear the risk of the occurrence of any unforeseeable change in circumstances which will render the performance of its obligations under this Agreement excessively onerous. As a result, each Party hereby acknowledges that the provisions of article 1195 of the French *Code civil* shall never apply to it with respect to its obligations under this Agreement and that it shall not be entitled to make any

claim (whether to renegotiate and/or request the courts to revise or terminate this Agreement) under article 1195 of the French *Code civil*.

8. **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by French law.

**This Agreement has been entered into on the date stated at the beginning of this Agreement.**

Made in 5 (five) originals.

Pursuant to the provisions of Article 1375 of the French Code Civil, only one original copy of this Agreement will be executed for each of the following category of executors: (i) the Borrowers (their original copy being held by Atos), (ii) the Consenting Lenders (their original copy being held by the Facility Agent), and (iii) the new Lenders (their original copy being held by the Facility Agent).

**SCHEDULE 1**  
**THE PARTIES**  
**PART I**  
**THE BORROWERS**

<b>Name of Borrower</b>	<b>Registration number (or equivalent, if any)</b>
ATOS SE	323 623 603 R.C.S. Pontoise
ATOS TELCO SERVICES B.V.	02073950
ATOS INTERNATIONAL B.V.	17091364



**PART II**

**NEW LENDERS AND COMMITMENTS INCREASED AND MAINTAINED AS AT THE EFFECTIVE DATE**

<b>Name of Lender</b>	<b>Amount of Increase to Commitments €</b>	<b>Commitments assumed by a New Lender €</b>	<b>Maintained Commitments €</b>
Banca IMI S.P.A., London Branch	-	34,000,000	-
Banco Bilbao Vizcaya Argentaria S.A., Paris Branch	-	65,000,000	-
Banco Santander S.A., Paris branch	-	35,000,000	-
Bank of America Merrill Lynch International Limited	5,000,000	-	60,000,000
Barclays Bank PLC	-	-	162,000,000
BNP Paribas	-	-	162,000,000
Caisse Régionale de Crédit Agricole Mutuel de Paris et d'Ile de France	-	-	50,000,000
Citibank Europe plc	-	65,000,000	-
Commerzbank Aktiengesellschaft, Filiale Luxemburg	-	-	192,000,000
Crédit Agricole Corporate and Investment Bank	-	-	82,000,000
Crédit du Nord	-	-	54,000,000
Crédit Industriel et Commercial	-	-	162,000,000
Crédit Lyonnais	-	-	40,000,000
Deutsche Bank Luxembourg S.A.	102,000,000	-	60,000,000
HSBC France	-	35,000,000	-
ING Bank N.V., French Branch	-	-	162,000,000
J.P. Morgan Securities PLC	-	65,000,000	-
KBC Bank N.V. (Succursale Française)	15,000,000	-	20,000,000
Landesbank Hessen-Thüringen Girozentrale	-	65,000,000	-
Mizuho Bank, Ltd.	-	34,000,000	-
MUFG Bank, Ltd.	-	-	162,000,000
Natixis	-	-	112,000,000
Société Générale	-	-	108,000,000
Sumitomo Mitsui Banking Corporation Europe Limited, Paris Branch	15,000,000	-	50,000,000
UniCredit Bank AG	-	-	162,000,000
Wells Fargo Bank International UC	-	65,000,000	-
<b>Total Commitments €</b>	<b>137,000,000</b>	<b>463,000,000</b>	<b>1,800,000,000</b>

**PART III**

**LENDERS AND COMMITMENTS AS AT THE EFFECTIVE DATE**

Name of Lender	Total Commitments as at the Effective Date €
Banca IMI S.P.A., London Branch	34,000,000
Banco Bilbao Vizcaya Argentaria S.A., Paris Branch	65,000,000
Banco Santander S.A., Paris branch	35,000,000
Bank of America Merrill Lynch International Limited	65,000,000
Barclays Bank PLC	162,000,000
BNP Paribas	162,000,000
Caisse Régionale de Crédit Agricole Mutuel de Paris et d'Ile de France	50,000,000
Citibank Europe plc	65,000,000
Commerzbank Aktiengesellschaft, Filiale Luxemburg	192,000,000
Crédit Agricole Corporate and Investment Bank	82,000,000
Crédit du Nord	54,000,000
Crédit Industriel et Commercial	162,000,000
Crédit Lyonnais	40,000,000
Deutsche Bank Luxembourg S.A.	162,000,000
HSBC France	35,000,000
ING Bank N.V., French Branch	162,000,000
J.P. Morgan Securities PLC	65,000,000
KBC Bank N.V. (Succursale Française)	35,000,000
Landesbank Hessen-Thüringen Girozentrale	65,000,000
Mizuho Bank, Ltd.	34,000,000
MUFG Bank, Ltd.	162,000,000
Natixis	112,000,000
Société Générale	108,000,000
Sumitomo Mitsui Banking Corporation Europe Limited, Paris Branch	65,000,000
UniCredit Bank AG	162,000,000
Wells Fargo Bank International UC	65,000,000
<b>Total Commitments €</b>	<b>2,400,000,000</b>

**SCHEDULE 2**  
**CONDITIONS PRECEDENT**

**1. Obligors**

**1.1 The Company**

- (a) A K-bis extract and a non-bankruptcy certificate (as the case may be in electronic form) for the Company, not more than one month old.
- (b) A copy of the constitutive documents for the Company.
- (c) Evidence that the person(s) who has signed this Agreement and any related Finance Documents on behalf of the Company was duly authorised to sign.
- (d) A copy of a resolution of the *Conseil d'Administration* (board of directors) of the Company, approving the terms of this Agreement and authorising a specified person or persons to execute this Agreement and any related Finance Documents on its behalf.
- (e) A specimen of the signature of each person referred to in paragraph (c) above and of each person authorised by the resolution referred to in paragraph (d) above.
- (f) A certificate of an authorised signatory of the Company certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the Amendment Agreement Signing Date.

**1.2 Atos Telco Services B.V. and Atos International B.V.**

- (a) An up-to-date extract from the trade register (*handelsregister*) of the Chamber of Commerce of Atos Telco Services B.V. and Atos International B.V. not more than one month old.
- (b) A copy of the constitutive documents for each of Atos Telco Services B.V. and Atos International B.V.
- (c) Evidence that the person(s) who has signed this Agreement on behalf of Atos Telco Services B.V. and Atos International B.V., as the case may be, was duly authorised to sign.
- (d) A copy of a resolution of, as required or reasonably requested by the Facility Agent, the managing board, supervisory board (if any), and the general meeting of shareholders, of each of Atos Telco Services B.V. and Atos International B.V., inter alia, approving its execution and the terms of, and the transactions contemplated by, this Agreement.
- (e) A specimen of the signature of each person referred to in paragraph (c) above and of each person authorised by the resolution referred to in paragraph (d) above.
- (f) A certificate of an authorised signatory of each of Atos Telco Services B.V. and Atos International B.V. certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the Amendment Agreement Signing Date.

## 2. **Legal opinions**

- (a) A legal opinion of Linklaters LLP, legal advisers to the Mandated Lead Arrangers and Bookrunners and the Facility Agent, substantially in the form distributed to the Lenders prior to signing this Agreement.
- (b) A Dutch legal opinion of Linklaters LLP, legal adviser to the Mandated Lead Arrangers and Bookrunners and the Facility Agent, substantially in the form distributed to the Lenders prior to signing this Agreement.
- (c) A legal opinion of Weil, Gotshal & Manges, legal adviser to the Company, substantially in the form distributed to the Lenders prior to signing this Agreement.
- (d) A legal opinion of Atos Telco Services B.V. and Atos International B.V.'s internal legal counsel, substantially in the form distributed to the Lenders prior to signing this Agreement.

## 3. **Other documents and evidence**

- (a) A copy of the Fee Letters duly countersigned by the Company.
- (b) A copy of the TEG letter duly countersigned by each Borrower.
- (c) A certificate issued by a representative of the Company detailing the identity, on the Amendment Agreement Signing Date, of all the Material Subsidiaries.
- (d) Evidence satisfactory to the Facility Agent that:
  - (i) the requisite consents and aggregate Commitments have been obtained pursuant to the Consent Request Letter and that the Facility Agent is therefore authorised to execute this Agreement on behalf of the Finance Parties; and
  - (ii) any transfer of Commitment, transfer of an existing participation in outstanding Loans, prepayment of existing participations and cancellation of existing Commitments under the Original Revolving Facility Agreement for the purpose of Clause 4 (*Commitments as at the Effective Date*) of this Agreement will occur on the Effective Date.
- (e) A copy of any other Authorisation, "know your customer" documentation, or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable (if it has notified the Company accordingly) in connection with the entry into and performance of the transactions contemplated by this Agreement or for the validity and enforceability of this Agreement.
- (f) The Original Financial Statements (as defined in the Amended Agreement) and the most recent financial statements of each Obligor.
- (g) Evidence that the fees, costs and expenses then due from the Company pursuant to Clause 5 (*Transaction expenses*) and Clause 6 (*Fees*) of this Agreement have been paid or will be paid within 7 Business Days from the Effective Date.
- (h) The Guarantee duly executed by the Company.

**SCHEDULE 3****TAX STATUS**

<b>Name of New Lender</b>	<b>Tax Status</b>
Banca IMI S.P.A., London Branch	Qualifying Lender
Banco Bilbao Vizcaya Argentaria S.A., Paris Branch	Qualifying Lender
Banco Santander S.A., Paris Branch	Qualifying Lender
Citibank Europe plc	Treaty Lender
HSBC France	Qualifying Lender
J.P. Morgan Securities PLC	Qualifying lender (other than a Treaty Lender)
Landesbank Hessen-Thüringen Girozentrale	Treaty Lender
Mizuho Bank, Ltd.	Treaty Lender
Wells Fargo Bank International UC	Treaty Lender

**SCHEDULE 4**  
**AMENDED AND RESTATED REVOLVING FACILITY AGREEMENT**

€ 2,400,000,000

MULTICURRENCY REVOLVING FACILITY AGREEMENT

dated 6 November 2014

as amended and restated on the Amendment and Restatement Effective Date

for

ATOS SE

with

BARCLAYS BANK PLC

BNP PARIBAS

COMMERZBANK AKTIENGESELLSCHAFT, FILIALE LUXEMBURG

CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK

CRÉDIT INDUSTRIEL ET COMMERCIAL

ING BANK N.V., FRENCH BRANCH

MUFG BANK, LTD.

NATIXIS

SOCIETE GENERALE CORPORATE AND INVESTMENT BANKING (THE  
CORPORATE AND INVESTMENT BANK DIVISION OF SOCIETE GENERALE)

UNICREDIT BANK AG

J.P. MORGAN SECURITIES PLC

acting as Mandated Lead Arrangers and Bookrunners

with

BANK OF AMERICA MERRILL LYNCH INTERNATIONAL LIMITED

DEUTSCHE BANK LUXEMBOURG S.A.

GOLDMAN SACHS INTERNATIONAL

acting as Arrangers

with

BNP PARIBAS

acting as Facility Agent

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THIS AGREEMENT is dated 6 November 2014, as amended and restated on the Amendment and Restatement Effective Date and made between:

- (1) ATOS SE, a company incorporated as a *société européenne* under the laws of France, the registered office of which is at River Ouest 80 quai Voltaire, 95870 Bezons, registered with the Trade and Companies Registry (*Registre du Commerce et des Sociétés*) of Pontoise under the number 323 623 603 (the "**Company**");
- (2) ATOS TELCO SERVICES B.V., a private company with limited liability incorporated under the laws of The Netherlands (*besloten vennootschap met beperkte aansprakelijkheid*) having its official seat (*statutaire zetel*) in Groningen, The Netherlands and its office at Papendorpseweg 93, 3528 BJ Utrecht, The Netherlands, registered with the Dutch Trade Register of the Chambers of Commerce, under number 02073950;
- (3) ATOS INTERNATIONAL B.V., a private company with limited liability incorporated under the laws of The Netherlands (*besloten vennootschap met beperkte aansprakelijkheid*) having its official seat (*statutaire zetel*) in Eindhoven, The Netherlands, and its office at Papendorpseweg 93, 3528 BJ Utrecht, The Netherlands, registered with the Dutch Trade Register of the Chambers of Commerce under number 17091364;
- (4) BARCLAYS BANK PLC, BNP PARIBAS, COMMERZBANK AKTIENGESELLSCHAFT, FILIALE LUXEMBURG, CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK, CREDIT INDUSTRIEL ET COMMERCIAL, ING BANK N.V., FRENCH BRANCH, NATIXIS, MUFG BANK, LTD. SOCIETE GENERALE CORPORATE AND INVESTMENT BANKING (THE CORPORATE AND INVESTMENT BANK DIVISION OF SOCIETE GENERALE), UNICREDIT BANK AG and J.P MORGAN SECURITIES PLC as mandated lead arrangers and bookrunners (whether acting individually or together the "**Mandated Lead Arrangers and Bookrunners**");
- (5) BANK OF AMERICA MERRILL LYNCH INTERNATIONAL LIMITED, DEUTSCHE BANK LUXEMBOURG S.A. and GOLDMAN SACHS INTERNATIONAL as arrangers (the "**Arrangers**");
- (6) THE FINANCIAL INSTITUTIONS listed in Part II of 0 (*The Original Lenders*) as lenders (the "**Original Lenders**"); and
- (7) BNP PARIBAS SA as Facility Agent of the other Finance Parties (the "**Facility Agent**").

IT IS AGREED as follows:

## SECTION 1 INTERPRETATION

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Agreement:

**"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 Baa1 or higher by Moody's Investor Services Limited or a comparable rating from an internationally recognised credit rating agency; or

(b) any other bank or financial institution approved by the Facility Agent and the Company.

**"Accession Letter"** means a document substantially in the form set out in Schedule 9 (*Form of Accession Letter*).

**"Acquisition"** means the acquisition of Syntel Inc. by a wholly owned Subsidiary of the Company by way of a merger agreement.

**"Acquisition Closing Date"** means the date the Acquisition is consummated in accordance with the provisions of the merger agreement dated 20 July 2018 between *inter alios* the Company and Syntel Inc. relating to the Acquisition.

**"Additional Borrower"** means any limited liability entity which becomes a Borrower in accordance with Clause 25 (*Changes to the Obligors*).

**"Affiliate"** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company. Notwithstanding the foregoing, in relation to (i) Natixis, the term Affiliate shall include any member of the Banque Populaire and Caisse d'Épargne networks within the meaning of Articles L.512-11, L.512-86 and L.512-106 of the French Monetary and Financial Code, (ii) Crédit Industriel et Commercial it includes (A) all the entities owning directly or indirectly part of the shares of Caisse Centrale du Crédit Mutuel, (B) all the entities owned directly or indirectly by Caisse Centrale du Crédit Mutuel and (C) all the entities owned directly or indirectly by an entity owning directly or indirectly part of the shares of Caisse Centrale du Crédit Mutuel, and (iii) Crédit Agricole Corporate and Investment Bank and Caisse Régionale de Crédit Mutuel de Paris et d'Île de France, the term Affiliate shall include any Caisse Régionale de Crédit Agricole Mutuel or Crédit Lyonnais (LCL).

**"Agent's Spot Rate of Exchange"** means:

- (a) the Facility Agent's spot rate of exchange; or
- (b) (if the Facility Agent does not have an available spot rate of exchange) any other publicly available spot rate of exchange selected by the Facility Agent (acting reasonably),

for the purchase of the relevant currency with the Base Currency in the Paris foreign exchange market at or about 11:00 a.m. on a particular day.

**"Amendment and Restatement Agreement"** means the Amendment and Restatement Agreement dated 11 October 2018 and entered into by, amongst others, the Company and the Facility Agent.

**"Amendment and Restatement Effective Date"** means the date the Amendment and Restatement Agreement takes effect in accordance with its terms.

**"Annual Financial Statements"** has the meaning given to such term in paragraph (a) of Clause 20.1 (*Financial statements*).

**"Annual Testing Date"** means 31 December in each year.

**"Anti-Corruption Laws"** means all laws, rules, and regulations of any jurisdiction applicable to the Company or any other member of the Group from time to time concerning or relating to bribery or corruption.

**"Authorisation"** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

**"Availability Period"** means:

- (a) for each Lender, the Initial Availability Period;
- (b) for each First Extension Lender, the First Extended Availability Period; and
- (c) for each Second Extension Lender, the Second Extended Availability Period.

**"Available Commitment"** means a Lender's Commitment minus:

- (a) the Base Currency Amount of its participation in any outstanding Loans; and
- (b) in relation to any proposed Utilisation, the Base Currency Amount of its participation in any Loans that are due to be made on or before the proposed Utilisation Date,

other than that Lender's participation in any Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date.

**"Available Facility"** means the aggregate for the time being of each Lender's Available Commitment.

**"Base Currency"** or "€" means euro.

**"Base Currency Amount"** means, in relation to a Loan, the amount specified in the Utilisation Request delivered by a Borrower for that Loan (or, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is five Business Days before the Utilisation Date or, if later, on the date the Facility Agent receives the Utilisation Request) adjusted to reflect any repayment or prepayment of the Loan.

**"Borrower Facility Limit"** means:

- (a) €400,000,000 for Atos Telco Services B.V.; and
- (b) €200,000,000 for Atos International B.V..

**"Borrowers"** means the Company, Atos Telco Services B.V., Atos International B.V. and any Additional Borrower, and **"Borrower"** means any one of them.

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

- (a) the interest (excluding the Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Paris and:

- (a) (in relation to any date for payment or purchase of a currency other than euro) the principal financial centre of the country of that currency; or
- (b) (in relation to any date for payment or purchase of euro) any TARGET Day.

**"Code"** means the US Internal Revenue Code of 1986.

**"Commitment"** means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Commitment" in Part II of 0 (*The Original Parties*) and the amount of any other Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 (*Increase*) or the Amendment and Restatement Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Commitment transferred to it under this Agreement or assumed by it in accordance with the Amendment and Restatement Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement. The Commitments as at the Amendment and Restatement Effective Date are set out in Part III of 0 (The Original Lenders).

**"Compliance Certificate"** means a certificate substantially in the form set out in Schedule 6 (*Form of Compliance Certificate*).

**"Confidential Information"** means all information of any nature relating to the Company, a Borrower, the Group, the Finance Documents or a Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under the Finance Documents or a Facility from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information (including reports, analyses, compilations, studies or other material or documents) which contains, is based on or is derived or copied from such information but excludes:

- (i) information that:

- (A) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 36 (*Confidentiality*); or
  - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
  - (C) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; and
- (ii) any Reference Bank Rate.

**"Confidentiality Undertaking"** means a confidentiality undertaking substantially in a recommended form of the LMA or in any other form agreed between the Company and the Facility Agent.

**"Default"** means an Event of Default or any event or circumstance specified in Clause 23 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

**"Defaulting Lender"** means any Lender:

- (a) which has failed to make its participation in a Loan available or has notified the Facility Agent that it will not make its participation in a Loan available by the Utilisation Date of that Loan in accordance with Clause 5.4 (*Lenders' participation*); or
- (b) which has otherwise rescinded (other than in accordance with the Finance Documents) a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing.

unless in the case of paragraph (a) above

- (i) its failure to pay is caused by:
  - (A) administrative or technical error; or
  - (B) a Disruption Event; and

payment is made within four (4) Business Days of its due date; or

- (ii) the Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

**"Disposal"** means a sale, lease, license, transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions).

**"Disruption Event"** means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (otherwise in order for the relevant transaction(s) contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
  - (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

**"Dutch Financial Supervision Act"** means the Dutch Financial Supervision Act (*wet op het financieel toezicht*) dated 28 September 2006 published in the Dutch government gazette nr. 475 on 31 October 2006, as amended from time to time.

**"E.U."** means the European Union.

**"EURIBOR"** means, in relation to any Loan in euro:

- (a) the applicable Screen Rate as of the Specified Time for euro and for a period equal in length to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 12.1 (*Unavailability of Screen Rate*).

**"Event of Default"** means any event or circumstance specified as such in Clause 23 (*Events of Default*).

**"Existing Syndicated Facility"** means the €1,200,000,000 multicurrency revolving facility made available to certain of the Borrowers under a multicurrency revolving facility agreement dated 11 April 2011.

**"Facility"** means the revolving loan facility made available under this Agreement as described in Clause 2 (*The Facility*).

**"Facility Office"** means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement, provided that a Lender shall not nominate more than two Facility Offices unless it is necessary in order to receive payments due to it without withholding or deduction of or on account of Tax or to benefit from the provisions of Clause 14.2 (*Tax Gross-up*).

**"FATCA"** means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;

- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the IRS, the US government or any governmental or taxation authority in any other jurisdiction.

**"FATCA Application Date"** means:

- (a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (b) in relation to a "withholdable payment" described in section 1473(1)(A)(ii) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (c) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraph (a) or (b) above, 1 January 2019,
- (d) or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the Signing Date.

**"FATCA Deduction"** means a deduction or withholding from a payment under a Finance Document required by FATCA.

**"FATCA Exempt Party"** means a Party that is entitled to receive payments free from any FATCA Deduction.

**"Fee Letter"** means any letter or letters dated on or about the Signing Date between certain Finance Parties and the Company setting out any of the fees referred to in Clause 13 (*Fees*).

**"Finance Document"** means this Agreement, any Fee Letter, any Guarantee, a Resignation Letter, any Accession Letter, any Extension Request, each Transfer Agreement, each Compliance Certificate, the Amendment and Restatement Agreement and any other document agreed upon between the Facility Agent and the Company.

**"Finance Party"** means the Facility Agent, a Mandated Lead Arranger and Bookrunner, a Mandated Lead Arranger, an Arranger or a Lender.

**"First Extended Availability Period"** means the period from (but excluding) the last day of the Initial Availability Period to and including the date which is one month before the First Extended Final Maturity Date.

**"First Extended Final Maturity Date"** means 6 November 2024.

**"First Extension Lender"** has the meaning given to it in paragraph (c) of Clause 8 (*Extension*).

**"GAAP"** means generally accepted accounting principles.

**"Group"** means the Company and its Subsidiaries from time to time.



**"Guarantee"** means a guarantee given by the Company in the form set out in Schedule 5 (*Form of Guarantee*).

**"Half-Year Financial Statements"** has the meaning given to such term in paragraph (b)(i) of Clause 20.1 (*Financial Statements*).

**"Holding Company"** means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

**"IAS/IFRS GAAP"** means International Accounting Standards/International Financing Reporting Standards Generally Accepted Accounting Standards.

**"Impaired Agent"** means the Facility Agent at any time when:

- (a) it has failed to make (or has notified a party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;
- (b) the Facility Agent otherwise rescinds (other than in accordance with the Finance Documents) a Finance Document;
- (c) (if the Facility Agent is also a Lender) it is a Defaulting Lender under paragraph (a), (b) or (c) of the definition of "Defaulting Lender"; or
- (d) an Insolvency Event has occurred and is continuing with respect to the Facility Agent,

unless, in the case of paragraph (a) above:

- (i) its failure to pay is caused by:
  - (A) administrative or technical error; or
  - (B) a Disruption Event; and

payment is made within four (4) Business Days of its due date;

- (ii) the Facility Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

**"Increase Confirmation"** means a confirmation substantially in the form set out in Schedule 10 (*Form of Increase Confirmation*).

**"Increase Lender"** has the meaning given to that term in paragraph (a)(i) of Clause 2.2 (*Increase*).

**"Increased Costs"** means:

- (a) a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital;
- (b) an additional or increased cost; or
- (c) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing its obligations under any Finance Document.

**"Indebtedness for Borrowed Money"** means, without double counting, any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument (other than usual means of payment (i.e. "*billet à ordre*", "*lettre de change*", or letter of credit) issued in the ordinary course of trading);
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability (including without limitation, "*crédit-bail*" (other than any liability in respect of a lease or hire purchase contract which would, in accordance with GAAP in force prior to 1 January 2019, have been treated as an operating lease);
- (e) receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (g) for the purpose of Clause 23.5 (*Cross default*), Clause 23.6 (*Insolvency*) and Clause 23.7 (*Insolvency proceedings*), any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution, provided that in each case, those granted in the ordinary course of business, corporate guarantees and for the performance of commercial contracts shall not constitute Indebtedness for Borrowed Money as long as they are not funded or have not been called by the beneficiaries of such instrument,

but excluding indebtedness owing by a member of the Group to another member of the Group.

**"Information Package"** means the following documents:

- (a) the latest available version of the 2013 Registration Document filed with the AMF (*Autorité des Marchés Financiers*) on 2 April 2014; and
- (b) the presentation of the 2013 annual results.

**"Initial Availability Period"** means the period from and including the Signing Date to and including the Business Day one month prior to the Initial Termination Date.

**"Initial Facility Amount"** means prior to the Amendment and Restatement Effective Date, €1,800,000,000, and as from the Amendment and Restatement Effective Date, €2,400,000,000.

**“Initial Termination Date”** means prior to the Amendment and Restatement Effective Date, 6 November 2021, and as from the Amendment and Restatement Effective Date, 6 November 2023.

**"Insolvency Event"** in relation to a Finance Party, means that Finance Party:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent, is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due or, for the purposes of French law, is in a state of *cessation des paiements*;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding up or liquidation by it or such regulator, supervisor or similar official including any reorganisation or liquidation proceedings provided by Title III and Title IV of Book VI of the French *Code de Commerce* (as applicable, with the derogatory regime provided by Articles L.613-26 et seq. of the French Monetary and Financial Code for credit institutions) or any resolution measures provided by Title 1 (Chapter III, section 4) of Book VI of the French *Code monétaire et financier* where those measures affect creditors' rights and/or the ability to continue to carry out its agency functions or its lending activity;
- (e) is subject to any of the insolvency proceedings equivalent to reorganisation or liquidation proceedings referred to in Article 2(a) and Schedule A of Council regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings or any equivalent proceedings in any jurisdiction including for the purposes of French law, any reorganisation or liquidation proceedings provided by Title III and Title IV of Book VI of the French *Code de Commerce*;
- (f) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days thereafter; or
- (g) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (d) above,

provided that none of these events or circumstances above will constitute an Insolvency Event in relation to a Finance Party if the Finance Party concerned is able to continue to carry out its agency functions or its lending activity, as applicable.

It being specified that none of the events or circumstances which will be defined as an insolvency event will constitute an Insolvency Event in relation to a Finance Party if that Finance Party is able to continue to carry out its agency functions or lending activity as applicable.

**"Intellectual Property Rights"** means all patents, trademarks, designs, trading names, copyrights and other intellectual property rights (in each case whether registered or not and including all applications for the same) or any interests in any of the foregoing.

**"Interest Period"** means, in relation to a Loan, each period determined in accordance with Clause 11 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 10.3 (*Default interest*).

**"Interpolated Screen Rate"** means, in relation to EURIBOR or LIBOR, the rate (rounded to the same number of decimal places as to the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time on the Quotation Day for the currency of that Loan.

**"IRS"** means the US Internal Revenue Service.

**"Lender"** means:

- (a) any Original Lender; and
- (b) any bank or financial institution which has become a Party in accordance with Clause 2.2 (*Increase*), Clause 24 (*Changes to the Lenders*) or the Amendment and Restatement Agreement,

which in each case has not ceased to be a Party in accordance with the terms of this Agreement. The Lenders as at the Amendment and Restatement Effective Date are listed in Part III of 0 (*The Original Lenders*).

**"Leverage Ratio"** means, in respect of any Measurement Period, the ratio of Net Debt on the last day of the relevant Measurement Period to OMDA in respect of that Measurement Period.

**"LIBOR"** means, in relation to any Loan:

- (a) the applicable Screen Rate as of the Specified Time for U.S. dollars of that Loan and for a period equal in length to the Interest Period of that Loan; or
- (b) as otherwise determined pursuant to Clause 12.1 (*Unavailability of Screen Rate*).

**"LMA"** means the Loan Market Association.

**"Loan"** means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan.

**"Long Term Credit Rating"** means long-term unsecured and non credit-enhanced debt obligations ratings.

**"Major Disposal"** means any Disposal the cash proceeds of which are equal to or greater than €300,000,000 (or its equivalent in another currency).

**"Majority Lenders"** means, at any time, Lenders:

- (a) whose share in the outstanding Loans and whose undrawn Commitments then aggregate  $66\frac{2}{3}$  per cent. or more of the aggregate of all the outstanding Loans and the undrawn Commitments of all the Lenders;
- (b) if there is no Loan then outstanding, whose undrawn Commitments then aggregate  $66\frac{2}{3}$  per cent. or more of the Total Commitments; or
- (c) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, whose Commitments aggregated  $66\frac{2}{3}$  per cent. or more of the Total Commitments immediately before the reduction.

**"Margin"** means 0.40 per cent. per annum, subject to adjustment in accordance with Clause 12.7 (*Adjustment of Margin*).

**"Margin Adjustment Information"** means, for the purpose of paragraph (g) of Clause 12.7 (*Adjustment of Margin*), the information letter supplied by the Company to the Facility Agent with each set of Half Year Financial Statements supplied under paragraph (b)(i) of Clause 20.1 (*Financial statements*) and signed by the chief financial officer or any other senior officer, and setting out in reasonable detail the Leverage Ratio as at the date as at which those financial statements were drawn up.

**"Material Adverse Effect"** means a material adverse effect:

- (a) on the assets, business or financial condition of the Obligors taken together or the Group taken as a whole; and
- (b) which could reasonably prejudice the ability of an Obligor to perform and comply with its payment obligations under any of the Finance Documents.

**"Material Subsidiaries"** means the Borrowers (other than the Company) and at any time any Subsidiary of any Borrower whose turnover or net assets is or are equal to or greater than 5% of the consolidated net turnover or net assets of the Group.

For this purpose:

- (a) the turnover or net assets of a Subsidiary will be determined from its financial statements upon which the financial statements of the Group most recently delivered under this Agreement have been based;
- (b) if a company becomes a Subsidiary of any Borrower after the date on which the latest audited financial statements of the Group have been prepared, the turnover or net assets of that Subsidiary will be determined from its financial statements most recently prepared by that company;
- (c) the turnover or net assets of the Group will be determined from its financial statements most recently delivered under this Agreement, adjusted (where appropriate) to reflect the

gross assets or profits of any company or business subsequently acquired or disposed of;  
and

- (d) if a Material Subsidiary disposes of all or substantially all of its assets to another Subsidiary, it will immediately cease to be a Material Subsidiary and the other Subsidiary (if it is not already) will immediately become a Material Subsidiary; the subsequent financial statements of those Subsidiaries and the Group will be used to determine whether those Subsidiaries are Material Subsidiaries or not, and
- (e) if there is a dispute as to whether or not a company is a Material Subsidiary, a certificate of the auditors of the Company will be, in the absence of manifest error, conclusive.

**"Measurement Period"** means:

- (a) for the purpose of Clause 12.7 (*Adjustment of Margin*) each period of one year ending on 30 June or 31 December; and
- (b) for the purpose of Clause 21 (*Financial covenant*) each period of one year ending on 31 December.

**"Month"** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) subject to paragraph (c) below, if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period and shall be subject to the provisions of paragraph (b) of Clause 11.2 (*Non-Business Days*).

**"Net Debt"** means, as determined by reference to the relevant Annual Financial Statements and/or Half-Year Financial Statements:

- (a) the total borrowings (including bonds, finance leases, short term and long term bank loans, securitisation and other borrowings), short term financial assets and liabilities bearing interest with a maturity of less than 12 months, less
- (b) transferable securities, cash at bank and in hand ("*valeurs mobilières de placements et disponibilités*").

**"Non-Cooperative Jurisdiction"** means a "non-cooperative state or territory" (*Etat ou territoire non coopératif*) as set out in the list referred to in Article 238-0 A of the French *Code général des impôts*, as such list may be amended from time to time.

**"Obligor"** means the Company or any Borrower.

**"Obligor Financial Statements"** has the meaning given to such term in paragraph (a)(ii) of Clause 20.1 (*Financial statements*).

**"OFAC"** means the Office of Foreign Assets Control of the United States Department of the Treasury (or any successor thereto).

**"OMDA"** means, as determined by reference to the relevant Annual Financial Statements and/or Half-Year Financial Statements and otherwise on the basis of the pro forma adjustments set out in paragraph (c) of Clause 21 (*Financial covenant*), the Operating Margin, less:

- (a) depreciation of fixed assets;
- (b) operating net charge of provisions (composed of net charge for provisions for current assets and net charge for provisions for contingencies and losses); and
- (c) net charge of pensions provisions.

**"Operating Margin"** means, as determined by reference to the relevant Annual Financial Statements and/or Half-Year Financial Statements and otherwise on the basis of the pro forma adjustments set out in paragraph (c) of Clause 21 (*Financial covenant*), the consolidated operating income before major capital gains or losses on the disposal of assets, major reorganisation and rationalisation costs, impairment losses on long term assets, net charge to provisions for major litigations and the release of opening balance sheet provisions no longer needed.

**"Optional Currency"** means a currency (other than the Base Currency) which complies with the conditions set out in Clause 4.3 (*Conditions relating to Optional Currencies*).

**"Original Financial Statements"** means the audited consolidated financial statements of the Group for the financial year ended 31 December 2017.

**"Participating Member State"** means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

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

**"PMP"** means a professional market party (*professionele marktpartij*) within the meaning of the Dutch Financial Supervision Act.

**"Quotation Day"** means, in relation to any period for which an interest rate is to be determined, two TARGET Days before the first day of that period, unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Day will be determined by the Facility Agent in accordance with market practice in the Relevant Interbank Market (and if quotations for that currency and period would normally be given by leading banks in the Relevant Interbank Market on more than 1 (one) day, the Quotation Day will be the last of those days).

**"Reference Bank Quotations"** means any quotation supplied to the Facility Agent by a Reference Bank.

**"Reference Bank Rate"** means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Facility Agent at its request by the Reference Banks:

- (a) in relation to EURIBOR:

- (i) (other than where paragraph (ii) below applies) as the rate at which the relevant Reference Bank believes one prime bank is quoting to another prime bank for interbank term deposits in euro within the Participating Member States for the relevant period; or
  - (ii) if different, as the rate (if any and applied to the relevant Reference Bank and the relevant period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator.
- (b) in relation to LIBOR as either:
- (i) if:
    - (A) the Reference Bank is a contributor to the applicable Screen Rate; and
    - (B) it consists of a single figure,

the rate (applied to the relevant Reference Bank and the relevant currency and period) which contributors to the applicable Screen Rate are asked to submit to the relevant administrator; or
  - (ii) in any other case, the rate at which the relevant Reference Bank could fund itself in the relevant currency for the relevant period with reference to the unsecured wholesale funding market.

**"Reference Banks"** means such banks as may be appointed by the Facility Agent with the consent of the Company (such consent not to be unreasonably withheld) and in each case, with the consent of the relevant entity.

**"Relevant Interbank Market"** means in relation to euro, the European interbank market and, in relation to any other currency, the London interbank market.

**"Relevant Nominating Body"** means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

**"Repeating Representations"** means each of the representations set out in Clauses 19.1 (*Status*) to 19.9 (*Pari passu ranking*), 19.12 (*No event of default*) to 19.19 (*Centre of main interests and establishments*).

**"Replacement Benchmark"** means a benchmark rate which is:

- (a) formally designated, nominated or recommended as the replacement for a Screen Rate by:
  - (i) the administrator of that Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by that Screen Rate); or
  - (ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the "Replacement Benchmark" will be the replacement under paragraph (ii) above;



- (b) in the opinion of the Majority Lenders and the Obligors, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to that Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Obligors, an appropriate successor to a Screen Rate.

**"Resignation Letter"** means a letter substantially in the form set out in Schedule 7 (*Resignation Letter*).

**"Rollover Loan"** means one or more Loans:

- (a) made or to be made on the same day that one or more maturing Loans is or are due to be repaid;
- (b) the aggregate amount of which is equal to or less than the maturing Loan(s) (unless it is more than the maturing Loan(s) solely because it arose as a result of the operation of Clause 6.2 (*Unavailability of a currency*));
- (c) in the same currency as the maturing Loan(s) (unless it arose as a result of the operation of Clause 6.2 (*Unavailability of a currency*)); and
- (d) made or to be made to the same Borrower for the purpose of refinancing the maturing Loan(s).

**"Sanctioned Country"** means, at any time, a country, region or territory which is the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea, Sudan and Syria).

**"Sanctioned Person"** means, at any time:

- (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, by the United Nations Security Council, the European Union, any E.U. member state or Her Majesty's Treasury of the United Kingdom;
- (b) any Person operating, organised or resident in a Sanctioned Country; or
- (c) any Person owned or controlled by any such Person.

**"Sanctions"** means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union or Her Majesty's Treasury of the United Kingdom.

**"Screen Rate"** means

- (a) in relation to EURIBOR, the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate); and
- (b) in relation to LIBOR, the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed on pages LIBOR01 or LIBOR02 of the

Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate),

or, in each case, on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Facility Agent may specify another page or service displaying the relevant rate after consultation with the Company.

**"Screen Rate Replacement Event"** means, in relation to a Screen Rate:

- (a) the methodology, formula or other means of determining that Screen Rate has, in the opinion of the Majority Lenders, and the Obligors materially changed;
- (b)
  - (i)
    - (A) the administrator of that Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
    - (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of that Screen Rate is insolvent, provided that, in each case, at that time, there is no successor administrator to continue to provide that Screen Rate;
  - (ii) the administrator of that Screen Rate publicly announces that it has ceased or will cease, to provide that Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide that Screen Rate;
  - (iii) the supervisor of the administrator of that Screen Rate publicly announces that such Screen Rate has been or will be permanently or indefinitely discontinued; or
  - (iv) the administrator of that Screen Rate or its supervisor announces that that Screen Rate may no longer be used; or
- (c) the administrator of that Screen Rate determines that that Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
  - (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Obligors) temporary; or
  - (ii) that Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than the period opposite that Screen Rate in Schedule 11 (*Screen Rate contingency periods*); or
- (d) in the opinion of the Majority Lenders and the Obligors, that Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

**"Second Extended Availability Period"** means the period from (but excluding) the last day of the First Extended Availability Period to and including the date which is one month before the Second Extended Final Maturity Date.

**"Second Extended Final Maturity Date"** means 6 November 2025.

**"Second Extension Lender"** has the meaning given to it in paragraph (c) of Clause 8 (*Extension*).

**"Security"** means any "hypothèque", "nantissement", "privilège", "cession de créance par bordereau Dailly à titre de garantie", "gage-espèces", "sûreté réelle", "droit de rétention", "fiducie sûreté", gage, mortgage, charge, pledge, lien or other equivalent security interest securing any obligation of any person.

**"Signing Date"** means the date of this Agreement.

**"Specified Time"** means a time determined in accordance with Schedule 8 (*Timetables*).

**"Subsidiary"** means, in relation to any company, another company which is controlled by it within the meaning of article L.233-3 of the French *Code de Commerce*.

**"TARGET 2"** means Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

**"TARGET Day"** means any day on which TARGET 2 is open for the settlement of payments in euro.

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay by an Obligor or any delay by an Obligor in paying any of the same).

**"Tax Deduction"** means a deduction or withholding for or on account of Tax from a payment under a Finance Document other than a FATCA Deduction.

**"Tax Payment"** means a payment made by a Borrower to a Finance Party in any way relating to a Tax Deduction or under any indemnity given by that Borrower in respect of Tax under any Finance Document.

**"Term Facilities Agreement"** means the terms facilities agreement dated 31 July 2018 between, among others, the Company, BNP Paribas and J.P. Morgan Securities PLC as mandated lead arrangers and bookrunners and BNP Paribas as facility agent as amended or amended and restated from time to time.

**"Termination Date"** means the Initial Termination Date or, subject to Clause 8 (*Extension*), (i) in respect of a First Extension Lender, the First Extended Final Maturity Date or (ii) in respect of a Second Extension Lender, the Second Extended Final Maturity Date, as the case may be.

**"Total Commitments"** means the aggregate of the Commitments, being €1,800,000,000 at the Signing Date, and €2,400,000,000 at the Amendment and Restatement Effective Date.

**"Transfer Agreement"** means an agreement substantially in the form set out in Schedule 4 (*Form of Transfer Agreement*) or any other form agreed between the Facility Agent and the Company.

**"Transfer Date"** means, in relation to a transfer, the later of:

- (a) the proposed Transfer Date specified in the Transfer Agreement; and
- (b) the date on which the Facility Agent executes the Transfer Agreement.

**"Undisclosed Administration"** means, in relation to a Lender, the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender is subject to home jurisdiction supervision if applicable law requires that such appointment is not to be publicly disclosed.

**"Unpaid Sum"** means any sum due and payable but unpaid by an Obligor under the Finance Documents.

**"US"** means the United States of America.

**"USA Patriot Act"** means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 of the United States.

**"US Dollar"** denotes the lawful currency of the United States of America.

**"US Bankruptcy Law"** means the United States Bankruptcy Code of 1978 (Title 11 of the United States Code), any other United States federal or state bankruptcy, insolvency or similar law.

**"US Tax Obligor"** means:

- (a) a Borrower which is resident for tax purposes in the US; or
- (b) an Obligor some or all of whose payments under the Finance Documents are from sources within the US for US federal income tax purposes.

**"Utilisation"** means a utilisation of the Facility.

**"Utilisation Date"** means the date of a Utilisation, being the date on which the relevant Loan is to be made.

**"Utilisation Request"** means a notice substantially in the form set out in Schedule 3 (*Utilisation Request*).

**"VAT"** means any tax imposed in accordance with the council directive of 28 November 2006 on the common system of the value added tax (EC Directive 2006/112) and any other tax of a similar nature, whether imposed in a member state of the European Union, in substitution for or levied in addition to such tax, or imposed elsewhere.

## 1.2 Construction

(a) Unless a contrary indication appears, any reference in this Agreement to:

- (i) the **"Facility Agent"**, the **"Mandated Lead Arrangers and Bookrunners"**, the **"Arrangers"**, any **"Finance Party"**, any **"Lender"**, any **"Obligor"** or any **"Party"** shall be construed so as to include its successors in title and permitted transferees;
- (ii) **"assets"** includes properties, revenues and rights of every description;
- (iii) **"corporate reconstruction"** includes in relation to any company any contribution of part of its business in consideration of shares (*apport partiel d'actifs*) and any demerger

(*scission*) implemented in accordance with articles L.236-1 to L.236-24 of the French *Code de Commerce*;

- (iv) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended or novated;
  - (v) "**gross negligence**" means "*faute lourde*";
  - (vi) a "**guarantee**" includes any type of *sûreté personnelle*;
  - (vii) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (viii) "**merger**" includes any *fusion* implemented in accordance with articles L.236-1 to L.236-24 of the French *Code de Commerce*;
  - (ix) a "**person**" or "**Person**" includes any person, firm company, corporation, government, state or agency of a state or any grouping (whether or not having separate legal personality) or two or more of the foregoing;
  - (x) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, which is generally complied with by those to whom it is addressed) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
  - (xi) a "**security interest**" includes any type of security (*sûreté réelle*) and transfer by way of security;
  - (xii) a "**transfer**" includes any means of transfer of rights and/or obligations under French law;
  - (xiii) "**trustee, fiduciary and fiduciary duty**" has in each case the meaning given to such term under any applicable law;
  - (xiv) "**wilful misconduct**" means "*dol*";
  - (xv) a provision of law is a reference to that provision as amended or re-enacted; and
  - (xvi) unless a contrary indication appears, a time of day is a reference to Paris time.
- (b) Any reference in any Finance Document to "**Bank of America Merrill Lynch International Limited**" is a reference to its successor in title Bank of America Merrill Lynch International Designated Activity Company (including, without limitation, its branches) pursuant to and with effect from the merger between Bank of America Merrill Lynch International Limited and Bank of America Merrill Lynch International Designated Activity Company that takes effect in accordance with Chapter II, Title II of Directive (EU) 2017/1132 (which repeals and codifies the Cross Border Mergers Directive (2005/56/EC)) as implemented in the United Kingdom and Ireland. Notwithstanding anything to the contrary in any Finance Document, a transfer of rights and obligations from Bank of America Merrill Lynch International Limited to Bank of America Merrill Lynch International Designated Activity Company pursuant to such merger shall be permitted.

- (c) The determination of the extent to which a rate is “**for a period equal in length**” to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- (d) Section, Clause and Schedule headings are for ease of reference only.
- (e) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (f) A Default (other than an Event of Default) is “**continuing**” if it has not been remedied or waived and an Event of Default is “**continuing**” if it has not been remedied or waived.
- (g) In this Agreement, where it relates to a Dutch entity, a reference to:
  - (i) a winding up, administration or dissolution includes a Dutch entity being declared bankrupt (*failliet verklaard*) or dissolved (*ontbonden*);
  - (ii) a moratorium includes *surséance van betaling* and granted a moratorium includes *surséance verleend*;
  - (iii) insolvency includes a bankruptcy, moratorium and emergency regulation (*noodregeling*);
  - (iv) a trustee in bankruptcy includes a *curator*;
  - (v) an administrator includes a *bewindvoerder*;
  - (vi) “security interest” includes any mortgage (*hypotheek*), pledge (*pandrecht*), financial collateral agreement (*financiële zekerheidsovereenkomst*), retention of title arrangement (*eigendomsvoorbehoud*), right of retention (*recht van retentie*), right to reclaim goods (*recht van reclame*), and, in general, any right in rem (*beperkt recht*), created for the purpose of granting security (*goederenrechtelijke zekerheid*);
  - (vii) an attachment includes a *beslag*; and
  - (viii) a subsidiary includes a *dochtermaatschappij* as defined in Article 2:24a of the Dutch Civil Code.

### 1.3 Currency symbols and definitions

“€”, “EUR” and “euro” denote the single currency of the Participating Member States.

“\$”, “dollars”, “U.S. dollars”, “USD” and “U.S.\$” denote the lawful currency for the time being of the United States of America.

## SECTION 2 THE FACILITY

### 2. THE FACILITY

#### 2.1 The Facility

- (a) Subject to the terms of this Agreement, the Lenders make available to the Borrowers a multicurrency revolving loan facility in an aggregate amount equal to the Total Commitments.
- (b) Any Borrower may utilise the Facility provided that, the maximum amount outstanding to that Borrower under the Facility, does not at any time exceed in aggregate (as applicable), the Borrower Facility Limit relevant to that Borrower.
- (c) Any Additional Borrower may utilise the Facility provided that, the maximum amount outstanding to that Additional Borrower under the Facility, does not at any time exceed in aggregate, any Borrower Facility Limit relevant to that Additional Borrower.

#### 2.2 Increase

- (a) The Company (on behalf of the Borrowers) may by giving prior notice to the Facility Agent after the effective date of a cancellation of:
  - (i) the Available Commitments of a Defaulting Lender in accordance with paragraph (a) of Clause 9.8 (*Right of cancellation in relation to a Defaulting Lender*);
  - (ii) the Commitments of a Lender in accordance with:
    - (A) Clause 9.1 (*Mandatory Prepayment - Illegality*); or
    - (B) Clause 9.7 (*Right of repayment and cancellation in relation to a single Lender*); or
  - (iii) the Commitment of a Non-Consenting Lender in accordance with Clause 35.3 (*Replacement and/or prepayment of a Lender*),

request that the Commitments relating to the Facility be increased (and the Commitments relating to it shall be so increased) in an aggregate amount in the Base Currency of up to the amount of the Available Commitments or Commitments relating to that Facility so cancelled as follows:

- (i) the increased Commitments will be assumed by one or more Lenders, other banks or financial institutions (each an "**Increase Lender**") selected by the Company (each of which shall not be a member of the Group) and each of which confirms in writing (whether in the relevant Increase Confirmation or otherwise) its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender in respect of those Commitments;
- (ii) each of the Borrowers and any Increase Lender shall assume obligations towards one another and/or acquire rights against one another as the Borrowers and the Increase Lender would have assumed and/or acquired had the Increase Lender been an Original Lender in respect of that part of the Increased Commitments which it is to assume;
- (iii) each Increase Lender shall become a Party as a "Lender" and any Increase Lender and each of the other Finance Parties shall assume obligations towards one another

and acquire rights against one another as that Increase Lender and those Finance Parties would have assumed and/or acquired had the Increase Lender been an Original Lender in respect of that part of the Increased Commitments which it is to assume;

- (iv) the Commitments of the other Lenders shall continue in full force and effect;
  - (v) any increase in the Commitments relating to the Facility shall take effect on the date specified by the Company in the notice referred to above or any later date on which the conditions set out in paragraph (b) below are satisfied.
- (b) For the avoidance of doubt no Lender shall have any obligation to agree to increase its Commitment under this Clause 2.2 and each Lender may, in its absolute discretion decide whether or not it wishes to agree to such increase.
- (c) An increase in the Commitments relating to the Facility will only be effective on:
- (i) the execution by the Facility Agent of an Increase Confirmation from the relevant Increase Lender. The Facility Agent shall, subject to paragraph (ii) below, as soon as reasonably practicable after receipt by it of a duly completed Increase Confirmation appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Increase Confirmation; and
  - (ii) in relation to an Increase Lender which is not a Lender immediately prior to the relevant increase, the Facility Agent being satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Lender. The Facility Agent shall promptly notify the Company, the Increase Lender upon being so satisfied.
- (d) Each Increase Lender, by executing the Increase Confirmation, confirms (for the avoidance of doubt) that the Facility Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the increase becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as it would have been had it been an Original Lender.
- (e) The Company shall, promptly on demand, pay the Facility Agent the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with any increase in Commitments under this Clause 2.2.
- (f) The Increase Lender shall, on the date upon which the increase takes effect, pay to the Facility Agent (for its own account) a fee in an amount equal to the fee which would be payable under Clause 24.4 (*Transfer fee*) if the increase was a transfer pursuant to Clause 24.5 (*Procedure for transfer*) and if the Increase Lender was a New Lender.
- (g) The Company may pay to the Increase Lender a fee in the amount and at the times agreed between the Company and the Increase Lender in a letter between the Company and the Increase Lender setting out that fee. A reference in this Agreement to a Fee Letter shall include any letter referred to in this paragraph.



- (h) Clause 24.5 (*Limitation of responsibility of Existing Lenders*) shall apply *mutatis mutandis* in this Clause 2.2 in relation to the Increase Lender as if references in that Clause to:
- (i) An “**Existing Lender**” were references to all the Lenders immediately prior to the relevant increase;
  - (ii) The “**New Lender**” were references to that “**Increase Lender**”; and
  - (iii) A “**re-transfer**” were references to a “**transfer**”.
- (i) If an Extension Request has been delivered under Clause 8 (*Extension*), each Increase Confirmation will specify whether the relevant Lender is a First Extension Lender or, as the case may be, a Second Extension Lender.

### 2.3 **Finance Parties' rights and obligations**

- (a) The obligations of each Finance Party under the Finance Documents are several (*conjointes et non solidaires*). Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by a Borrower which relates to a Finance Party's participation in a Facility or its role under a Finance Document (including any such amount payable to the Facility Agent on its behalf) is a debt owing to that Finance Party by the relevant Borrower.
- (c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

## 3. **PURPOSE**

### 3.1 **Purpose**

Each Borrower shall apply all amounts borrowed by it under the Facility towards financing the general corporate purposes of all or part of the Group.

### 3.2 **Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

## 4. **CONDITIONS OF UTILISATION**

### 4.1 **Initial conditions precedent**

- (a) No Lender has any obligation to (i) accept a Utilisation Request unless the Facility Agent has received all of the documents and other evidence listed in Part I of Schedule 2 (*Conditions precedent*) prior to the Signing Date and (ii) participate in the first Utilisation under this Agreement unless the Facility Agent has received all the documents and other evidence listed in Part II of

Schedule 2 (*Conditions precedent*) prior to the first Utilisation Date, in each case in form and substance satisfactory to the Facility Agent (acting reasonably). The Facility Agent shall notify the Company and the Lenders promptly upon being so satisfied.

- (b) Other than to the extent that the Majority Lenders notify the Facility Agent in writing to the contrary before the Facility Agent gives the notifications described in paragraph (a) above, the Lenders authorise (but do not require) the Facility Agent to give these notifications. The Facility Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

#### 4.2 **Further conditions precedent**

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) in the case of a Rollover Loan, no Event of Default is continuing or would result from the proposed Loan and, in the case of any other Loan, no Default is continuing or would result from the proposed Loan; and
- (b) the Repeating Representations to be made by each Obligor are true in all material respects.

#### 4.3 **Conditions relating to Optional Currencies**

- (a) A currency will constitute an Optional Currency in relation to a Loan if:
  - (i) it is readily available in the amount required and freely convertible into the Base Currency in the Relevant Interbank Market on the Quotation Day and the Utilisation Date for that Loan; and
  - (ii) it is US Dollar or has been approved by the Facility Agent (acting on the instructions of all the Lenders) on or prior to receipt by the Facility Agent of the Utilisation Request for that Loan.
- (b) If by the Specified Time the Facility Agent has received a written request from the Company for a currency to be approved under paragraph (a)(ii) above (i.e. a currency other than US Dollar), the Facility Agent will notify the Lenders of that request by the Specified Time. Based on any responses received by the Facility Agent by the Specified Time, the Facility Agent will confirm to the Company by the Specified Time:
  - (i) whether or not the Lenders have granted their approval; and
  - (ii) if approval has been granted, the minimum amount (and, if required, integral multiples) for any subsequent Utilisation in that currency.

#### 4.4 **Maximum number of Loans**

- (a) A Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation more than six (6) Loans would be outstanding.
- (b) Any Loan made by a single Lender under Clause 6.2 (*Unavailability of a currency*) shall not be taken into account in this Clause 4.4.

## **SECTION 3**

### **UTILISATION**

#### **5. UTILISATION**

##### **5.1 Delivery of a Utilisation Request**

A Borrower may utilise the Facility by delivery to the Facility Agent of a duly completed Utilisation Request not later than the Specified Time.

##### **5.2 Completion of a Utilisation Request**

(a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

- (i) It identifies the relevant Borrower;
- (ii) the proposed Utilisation Date is a Business Day within the Availability Period;
- (iii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*);
- (iv) the proposed Interest Period complies with Clause 11 (*Interest Periods*); and
- (v) it specifies the account and bank (which must be in the principal financial centre of the country of the currency of the Utilisation or, in the case of euro, the principal financial centre of a Participating Member State in which banks are open for general business on that day or London) to which the proceeds of the Utilisation are to be credited. The account specified in the Utilisation Request shall be an account of the Borrower delivering such Utilisation Request.

(b) Only one Loan may be requested in each Utilisation Request.

##### **5.3 Currency and amount**

(a) The currency specified in a Utilisation Request must be the Base Currency or an Optional Currency.

(b) The amount of the proposed Loan must be a minimum of 20,000,000 euros (or equivalent in any other currency) and integral higher multiples of 5,000,000 euros (or equivalent in any other currency) or, if less, the Available Facility.

(c) The Loans may not be outstanding in more than 3 currencies at any one time.

(d) No Loan may be requested in US Dollars if the Base Currency Amount of such Loan together with the Base Currency Amount of all outstanding Loans denominated in US Dollars would exceed 20 per cent of the Total Commitments.

##### **5.4 Lenders' participation**

(a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.

(b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.

- (c) The Facility Agent shall determine the Base Currency Amount of each Loan which is to be made in an Optional Currency and shall notify each Lender of the amount, currency and the Base Currency Amount of each Loan and the amount of its participation in that Loan, in each case by the Specified Time.

## 6. OPTIONAL CURRENCIES

### 6.1 Selection of currency

A Borrower (or the Company on behalf of a Borrower) shall select the currency of a Loan in the Utilisation Request.

### 6.2 Unavailability of a currency

If before the Specified Time on any Quotation Day:

- (a) a Lender notifies the Facility Agent that the Optional Currency requested is not readily available to it in the amount required; or
- (b) a Lender notifies the Facility Agent that compliance with its obligation to participate in a Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

the Facility Agent will give notice to the relevant Borrower to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 6.2 will be required to participate in the Loan in the Base Currency (in an amount equal to that Lender's proportion of the Base Currency Amount or, in respect of a Rollover Loan, an amount equal to that Lender's proportion of the Base Currency Amount of the Rollover Loan that is due to be made) and its participation will be treated as a separate Loan denominated in the Base Currency during that Interest Period.

### 6.3 Participation in a Loan

Each Lender's participation in a Loan will be determined in accordance with paragraph (b) of Clause 5.4 (*Lenders' participation*).

**SECTION 4**  
**REPAYMENT, EXTENSION, PREPAYMENT AND CANCELLATION**

**7. REPAYMENT**

- (a) Each Borrower which has drawn a Loan shall repay that Loan on the last day of its Interest Period.
- (b) All outstanding Loans under the Facility shall be repaid no later than the Termination Date.

**8. EXTENSION**

- (a) The Company may, by notice in writing to the Facility Agent:
  - (i) no earlier than 90 days nor later than 45 days before 6 November 2019, request the extension of the Termination Date to the First Extended Final Maturity Date (the “**First Extension Request**”); and
  - (ii) no earlier than 90 days nor later than 45 days before 6 November 2020, request the extension of the Termination Date to the Second Extended Final Maturity Date (the “**Second Extension Request**”),  
  
(each such request being an “**Extension Request**”).
- (b) The Facility Agent shall promptly (and in any event within ten days) notify each Lender of an Extension Request and each Lender must notify the Facility Agent (which shall notify the Company) within 21 days of the Facility Agent’s notification whether or not it agrees to that Extension Request.
- (c) A Lender which agrees to the First Extension Request but not a Second Extension Request is a First Extension Lender and a Lender which agrees to the Second Extension Request (whether or not it has agreed to the First Extension Request) is a Second Extension Lender.
- (d) Subject to paragraph (e) below, if a Lender agrees to an Extension Request then (subject to any other provision of this Agreement):
  - (i) The Commitments of that Lender will not be automatically cancelled on the last day of the Initial Availability Period (in the case of a First Extension Lender and a Second Extension Lender) or the First Extended Availability Period (in the case of a Second Extension Lender).
  - (ii) With effect from 6 November 2019 or, in the case of the Second Extension Request, 6 November 2020, reference to the Termination Date shall refer, in relation to that Lender, to the First Extended Final Maturity Date (in the case of a First Extension Lender) or the Second Extended Final Maturity Date (in the case of a Second Extension Lender).
- (e) No extension of the Termination Date shall occur under this Clause 8 unless:
  - (i) no Event of Default is continuing on, or by reference to, 6 November 2019 or, in the case of the Second Extension Request, 6 November 2020; and

(ii) the Company pays:

(A) in respect of the First Extension Request, an extension fee of 0.025% flat on the amount of Commitment of each Lender which becomes a First Extension Lender payable on 6 November 2019; and

(B) in respect of the Second Extension Request, an extension fee of (i) 0.025% flat on the amount of Commitment of each First Extension Lender which becomes a Second Extension Lender and (ii) 0.05% flat on the amount of the Commitment of each other Lender which becomes a Second Extension Lender in each case, payable on 6 November 2020.

(f) Only one First Extension Request and one Second Extension Request may be given.

(g) It is in the discretion of each Lender as to whether or not it agrees to an Extension Request and failure to reply within the specified period in paragraph (b) above shall be deemed to be a refusal.

## 9. PREPAYMENT AND CANCELLATION

### 9.1 Mandatory Prepayment – Illegality

If it becomes unlawful in any applicable jurisdiction for a Lender or any of its Affiliates to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan:

- (a) that Lender shall promptly notify the Facility Agent upon becoming aware of that event;
- (b) upon the Facility Agent notifying the relevant Borrower and the Company, the Commitment of that Lender will be immediately cancelled; and/or
- (c) to the extent that the Lender's participation has not been transferred pursuant to paragraph (a) of Clause 35.3 (*Replacement and/or prepayment of a Lender*), each Borrower shall repay that Lender's participation in the Loans made to that Borrower on the last day of the Interest Period for each Loan occurring after the Facility Agent has notified the Company or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law).

### 9.2 Mandatory Prepayment - Change of control

#### 9.2.1 Change of Control

- (i) If any person or group of persons acting in concert gains control of the Company, has the ability to direct the votes or to nominate a new majority of the members of the board of directors ("*Conseil d'Administration*"):
  - (A) the Company shall promptly notify the Facility Agent upon becoming aware of that event,
  - (B) the Facility Agent (on behalf of, and after consultation with, all the Lenders) shall negotiate with the Company with a view to agreeing terms and conditions acceptable to the Company and all the Lenders for continuing the Facility. Any terms and conditions agreed in writing by the Facility Agent

(on behalf of, and with the consent of, all the Lenders) and the Company within 45 days of the occurrence of the change of control shall take effect in accordance with its terms, and

(C) if no such agreement is reached within that 45 days period, then each Lender may by notice to the Facility Agent cancel its Commitment under the Facility and the Borrowers shall prepay such Lender's participation in the outstanding Loans (together with accrued interest and all other amounts due by any Borrower to that Lender under the Finance Documents) within 45 Business Days after receipt by the Facility Agent of such notice (which shall promptly be communicated by the Facility Agent to the Company).

(ii) No amount so cancelled and prepaid may be subsequently reinstated in favour of the Obligors.

(iii) For the purpose of this subclause 9.2.1 "control" has the meaning given to it in article L.233-3 of the French *Code de Commerce* and (ii) "acting in concert" has the meaning given to it in article L.233-10 of the French *Code de Commerce*.

#### 9.2.2 Borrower's ownership

If a Borrower other than the Company is not or ceases to be a wholly owned Subsidiary of the Company, the Company shall promptly notify the Facility Agent of that event and:

(i) upon the Company notifying the Facility Agent or, if earlier, that Borrower ceasing to be a wholly owned Subsidiary of the Company, that Borrower shall no longer be able to deliver a Utilisation Request; and

(ii) within five days of that notification from the Company or, if earlier, of that Borrower ceasing to be a wholly owned Subsidiary of the Company, that Borrower shall repay all Loans made available to it with accrued interest thereon and shall pay all other amounts due by it under the Finance Documents, whereupon that Borrower shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents.

For the avoidance of doubt it being specified that, notwithstanding that Borrower ceasing to be a Borrower and having no further rights or obligations under the Finance Documents, the Total Commitments shall remain available for the Company and any other Borrowers.

#### 9.3 **Mandatory Prepayment – Disposal**

(a) For the purpose of this Clause 9.3:

**"Net Proceeds"** means any amount in cash received by a member of the Group as consideration for a Non Permitted Disposal, reduced (i) by third party commissions, costs and expenses reasonably incurred and required to be paid and Taxes, if any, associated with such disposal, (ii) by any amount required to be paid by the Group to any other shareholder or to a secured creditor in relation to any Security existing over the assets disposed of and any repayment of Indebtedness for Borrowed Money related to the assets subject to the disposal which are required to be repaid in order to effect the disposal; and (iii) less any amount kept in escrow pursuant to any warranty agreement; and

**“Non Permitted Disposal”** means any disposal to a person who is not a member of the Group, other than those permitted under paragraphs (b)(i) to (xvi)(xv) of Clause 22.5 (*Disposals*).

- (b) The Obligors must apply, or procure that there shall be applied, an amount equal to the Net Proceeds towards prepaying the Loans in accordance with the following provisions of this Clause 9.3.
- (c) Any prepayment under this Clause 9.3 must be made on or before the last day of the Interest Period of the relevant Loan to be prepaid in which the Non Permitted Disposal occurred.
- (d) No amount so prepaid may be subsequently reinstated in favour of the Obligors.

#### **9.4 Prepayment into a blocked account**

- (a) In this Clause 9.4 "blocked account" means an interest bearing blocked account in the name of, and held with, the Facility Agent as long as it is an Acceptable Bank. However, if the Facility Agent ceases to be an Acceptable Bank such bank account shall be an account opened with an Acceptable Bank, in the name of the Company, and pledged in favour of the Finance Parties.
- (b) When it is established that a Borrower will be required to prepay Loans pursuant to Clauses 9.1 (*Mandatory prepayment – Illegality*) to 9.3 (*Mandatory Prepayment – Disposal*) above that Borrower must promptly ensure that an amount equal to the amounts to be repaid is deposited in the blocked account over which no security may be created other than in favour of the Finance Parties.
- (c) Each Borrower irrevocably authorises the Facility Agent to apply any amount deposited with it under paragraph (b) above towards prepayment of the Loans on the last day of the relevant Interest Period(s) or earlier if the Company so directs or in accordance with Clause 9.1 (*Mandatory prepayment – Illegality*).
- (d) Amounts standing to the credit of a blocked account may only be used to repay or prepay Loans or any other amounts outstanding under the Finance Documents.

#### **9.5 Voluntary cancellation**

The Company may, if it gives the Facility Agent not less than 5 Business Days' prior written notice, without premium or penalty, cancel the whole or any part (being a minimum amount of 20,000,000 euros and integral higher multiples of 5,000,000 euros or, in each case, its equivalent in any other currency) of the Available Facility. Any cancellation under this Clause 9.5 shall reduce the Commitments of the Lenders rateably.

#### **9.6 Voluntary prepayment of Loans**

A Borrower to which a Loan has been made may, if it gives the Facility Agent not less than 5 Business Days' (or such shorter period as the Majority Lenders may agree) prior and written notice, without premium or penalty, but subject to Break Cost, prepay the whole or any part of a Loan (but if in part, being an amount that reduces the Base Currency Amount of the Loan by a minimum amount of 20,000,000 euros and integral higher multiples of 5,000,000 euros (or their equivalent in any other currency)).



## 9.7 **Right of repayment and cancellation in relation to a single Lender**

- (a) If:
- (i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 14.2 (*Tax gross-up*) or under an equivalent provision of any Finance Document;
  - (ii) any Lender claims indemnification from the Company under Clause 14.3 (*Tax indemnity*) or Clause 15.1 (*Increased Costs*); or
  - (iii) any amount payable to any Lender by an Obligor under a Finance Document is not, or will not be (when the relevant corporate income tax is calculated) treated as a deductible charge or expense for French tax purposes for that Borrower by reason of that amount being (i) paid or accrued to a Lender incorporated, domiciled, established or acting through a Facility Office situated in a Non-Cooperative Jurisdiction, or (ii) paid to an account opened in the name of or for the benefit of that Lender in a financial institution situated in a Non-Cooperative Jurisdiction.

the Company may, whilst the circumstance giving rise to the requirement, indemnification or non-deductibility for French tax purposes continues, give the Facility Agent notice of cancellation of the Commitment of that Lender and/or its intention to procure the repayment of that Lender's participation in the Loans.

- (b) On receipt of a notice referred to in paragraph (a) above, the Commitment of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Company has given notice under paragraph (a) above (or, if earlier, the date specified by the Company in that notice), each Borrower to which a Loan is outstanding shall repay that Lender's participation in that Loan.

## 9.8 **Right of cancellation in relation to a Defaulting Lender**

- (a) If any Lender becomes a Defaulting Lender, the Company may, to the extent permitted by applicable law, at any time whilst the Lender continues to be a Defaulting Lender, give the Facility Agent 10 (ten) Business Days' notice of cancellation of the Available Commitment of that Lender.
- (b) On the notice referred to in paragraph (a) above becoming effective, the Available Commitment of the Defaulting Lender shall immediately be reduced to zero.
- (c) The Facility Agent shall as soon as practicable after receipt of a notice referred to in paragraph (a) above, notify all the Lenders.

## 9.9 **Mandatory prepayment and cancellation in relation to a single Lender**

If it becomes unlawful for an Obligor to perform any of its obligations to any Lender under paragraph (c) of Clause 14.2 (*Tax gross-up*) or under an equivalent provision of any Finance Document,

- (a) the Company shall promptly notify the Facility Agent upon becoming aware of that event;
- (b) upon the Facility Agent notifying that Lender, its Commitment will be immediately cancelled; and

- (c) each Borrower shall repay that Lender's participation in the Loans made to that Borrower on the last day of that Interest Period for each Loan which ends after the Company has given notice under paragraph (a) above or, if earlier, the date specified by the Company in a notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law).

9.10 **Restrictions**

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 9 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- (c) Unless a contrary indication appears in this Agreement, any part of the Facility which is prepaid may be reborrowed in accordance with the terms of this Agreement.
- (d) The Borrowers shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
- (e) Subject to Clause 2.2 (*Increase*), no amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
- (f) If the Facility Agent receives a notice under this Clause 9 it shall promptly forward a copy of that notice to either the Company or the affected Lender, as appropriate.

**SECTION 5**  
**COSTS OF UTILISATION**

**10. INTEREST**

**10.1 Calculation of interest**

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (a) Margin; and
- (b) EURIBOR or, in relation to any Loan in any other currency, LIBOR,

provided that if that rate of interest is less than zero, the interest rate shall be deemed to be zero.

**10.2 Payment of interest**

The Borrower to which a Loan has been made shall pay accrued interest on that Loan on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the last day of each six month period falling during such Interest Period and on the last day of such Interest Period).

**10.3 Default interest**

- (a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue to the fullest extent permitted by law and without notice (*mise en demeure*) on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is at the per annum rate which is the sum of 1 per cent and the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Facility Agent (acting reasonably). Any interest accruing under this Clause 10.3 shall be immediately payable by the Obligor on demand by the Facility Agent.
- (b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan;
  - (i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
  - (ii) the rate of interest applying to the overdue amount during that first Interest Period shall be at the per annum rate which is the sum of 1 per cent, and the rate which would have applied if the overdue amount had not become due.
- (c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount only if, within the meaning of Article 1343-2 of the French *Code Civil*, such interest is due for a period of at least one year, but will remain immediately due and payable.

**10.4 Notification of rates of interest**

The Facility Agent shall promptly notify the Lenders and the relevant Borrower of the determination of a rate of interest under this Agreement.

## 10.5 **Effective Global rate (*Taux effectif Global*)**

- (a) For the purposes of Articles L.314-1 to L.314-5 and R.314-1 *et seq.* of the French *Code de la consommation* and article L. 313-4 of the French *Code Monétaire et Financier*, and given the floating nature of the interest rate applicable to Utilisations, the Parties acknowledge that the *taux effectif global* (TEG) needs to be calculated on the basis of the Screen Rates prevailing at the Signing Date and on the basis of certain assumptions regarding the duration of the Interest Periods and the amount of other costs included in the calculation of the TEG.
- (b) Each Borrower acknowledges that it has received (on the Signing Date or if later, on the date on which it became a Borrower), from the Facility Agent a letter containing an indicative calculation of the *taux effectif global*, calculated on the basis described above. The Parties acknowledge that such TEG Letter forms an integral part of this Agreement.

## 11. **INTEREST PERIODS**

### 11.1 **Selection of Interest Periods**

- (a) A Borrower (or the Company on behalf of a Borrower) may select an Interest Period for a Loan in the Utilisation Request for that Loan.
- (b) Subject to this Clause 11, a Borrower (or the Company) may select an Interest Period of one, two, three or six Months or any other period agreed between the Borrowers and the Facility Agent (acting on the instructions of all the Lenders).
- (c) An Interest Period for a Loan shall not extend beyond the Termination Date.
- (d) A Loan has one Interest Period only.
- (e) If a Borrower fails to select the Interest Period in accordance with this Clause 11.1, the relevant Interest Period will be one Month.

### 11.2 **Non-Business Days**

- (a) If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) If, in respect of any Rollover Loan, as a result of the last day of an Interest Period not being a Business Day, an Interest Period is extended to end on the next following Business Day, the following Interest Period will end on the day on which it would have ended if the previous Interest Period had not been so extended.

## 12. **CHANGES TO THE CALCULATION OF INTEREST**

### 12.1 **Unavailability of Screen Rate**

- (a) *Interpolated Screen Rate*: If no Screen Rate is available for EURIBOR or, if applicable, LIBOR, for the currency or Interest Period of a Loan, the applicable EURIBOR or LIBOR shall be the Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan.
- (b) *Reference Bank Rate*: If no Screen Rate is available for EURIBOR, or, if applicable, LIBOR for:
  - (i) the currency of a Loan; or

- (ii) the Interest Period of a Loan and it is not possible to calculate the Interpolated Screen Rate,

the applicable EURIBOR or LIBOR shall be the Reference Bank Rate as of the Specified Time for the currency of that Loan and for a period equal in length to the Interest Period of that Loan.

## 12.2 Calculation of Reference Bank Rate

Subject to Clause 12.3 (*Market disruption*):

- (a) Subject to paragraph (b) below, if EURIBOR or, if applicable, LIBOR is to be determined on the basis of a Reference Bank Rate but a Reference Bank does not supply a quotation by the Specified Time, the Reference Bank Rate shall be calculated on the basis of the quotations of the remaining Reference Banks; and
- (b) if at or about noon on the Quotation Day none or only one of the Reference Banks supplies a quotation, there shall be no Reference Bank Rate for the relevant Interest Period and Clause 12.4 (*Cost of funds*) shall apply.

## 12.3 Market disruption

- (a) If, before close of business in Paris on the Quotation Day for the relevant Interest Period, the Facility Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 30 per cent. of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of, EURIBOR or if applicable LIBOR (a "**market disruption event**"), then Clause 12.4 (*Cost of funds*) shall apply.
- (b) The Facility Agent must promptly notify the Company and the Lenders of a market disruption event and Clause 12.4 (*Cost of funds*) shall apply.

## 12.4 Cost of funds

If this Clause 12.4 applies, the rate of interest on each Lender's share of that Loan for the relevant Interest Period shall be the rate per annum which is the sum of:

- (i) the Margin; and
- (ii) the rate notified to the Facility Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its share in that Loan from whatever source it may reasonably select.

## 12.5 Alternative basis of interest or funding

- (a) If a market disruption event occurs and the Facility Agent or the Company so requires, the Company and the Facility Agent must enter into negotiations for a period of not more than 30 days with a view to agreeing an alternative basis for determining the rate of interest and/or funding for the affected Loan and any future Loan.
- (b) Any alternative basis agreed will be, with the prior consent of all the Lenders, binding on all the Parties.
- (c) For the avoidance of doubt, if no substitute basis for determining the rate of interest and/or funding for the affected Loan can be agreed upon between the Facility Agent and the Company within the aforementioned thirty (30) day period, Clause 12.3 (*Market disruption*) will continue to apply.

## 12.6 Break Costs

- (a) Each Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent, provide (for the sole benefit of the Facility Agent) a documented certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

## 12.7 Adjustment of Margin

- (a) Subject to paragraphs (b) to (d) below, the Margin applicable to each Utilisation shall be the rate per annum specified in the definition of Margin, adjusted by reference to the last published (and not withdrawn) Long Term Credit Ratings assigned to the Company, in accordance with the following table:

<b>Long Term Credit Rating (Moody's/S&amp;P Rating)</b>	<b>Margin (% p.a.)</b>
Baa1/BBB+	0.30
Baa2/BBB	0.40
Baa3/BBB-	0.50
Ba1/BB+ or below	0.80

- (b) If there is one Long Term Credit Rating, or two Long Term Credit Ratings which are the same, the applicable Margin will be that set out in the table above opposite such Long Term Credit Rating(s).
- (c) If there are two Long Term Credit Ratings and if Long Term Credit Ratings differ, the applicable Margin will be equal to the average margin between the two relevant Margin based on each Long Term Credit Rating as set out in the table above.
- (d) If there are no Long Term Credit Ratings, then the Margin will be the rate per annum determined by reference to the table below and to the Leverage Ratio as shown in the most recent Compliance Certificate or the relevant Margin Adjustment Information, as the case may be, in accordance with Clause 20.2 (*Compliance Certificate*) or Clause 1.1 (*Definitions – Margin Adjustment Information*) as the case may be.

<b>Leverage Ratio ("L")</b>	<b>Margin (% p.a.)</b>
Equal to or less than 0.5:1	0.30

<b>Leverage Ratio ("L")</b>	<b>Margin (% p.a.)</b>
Greater than 0.5:1 but equal to or less than 1.25:1	0.40
Greater than 1.25:1 but equal to or less than 2.00:1	0.50
Greater than 2.00:1	0.80

- (e) The Company must notify the Facility Agent promptly of any notification to the Company by the Rating Agency of a change in (or withdrawal of) any Long Term Credit Rating.
- (f) Any change in the Margin due to a change in (or absence of) such Long Term Credit Rating will, subject to paragraph (g) below, apply to each Loan five (5) Business Days (*pro rata temporis* in respect of Interest Periods current at that time) after the date on which the amended Long Term Credit Rating was published, or in respect of new Loans to the extent such change in or withdrawal of such Long Term Credit Rating was made prior to the Quotation Day, for the first Interest Period for that Loan.
- (g) If the Margin is determined by reference to the Leverage Ratio, any change in the Margin will, subject to paragraph (h) below, apply to each Loan five (5) Business Days (*pro rata temporis* in respect of Interest Periods current at that time) after the date on which the Compliance Certificate or the relevant Margin Adjustment Information, as the case may be, is received by the Facility Agent in accordance with Clause 20.2 (*Compliance Certificate*) or Clause 1.1 (*Definitions – Margin Adjustment Information*) as the case may be.
- (h) If the Company has failed to deliver a Compliance Certificate at the time required under this Agreement, the Margin shall be the highest applicable upon the date falling five (5) Business days after such Compliance Certificate should have been received.
- (i) Without prejudice to any other rights and remedies of the Finance Parties under this Agreement, for so long as an Event of Default is continuing, the Margin will be the highest rate set out above.
- (j) Without prejudice to the above, no other change of the Margin shall occur

### 13. FEES

#### 13.1 Commitment fee

- (a) The Company shall pay to the Facility Agent (for the account of each Lender) a fee in the Base Currency computed at the rate of 35 per cent. of the applicable Margin per annum on the undrawn and uncanceled amount of the relevant Lender's Commitment.
- (b) The accrued commitment fee is payable quarterly in arrear until the last day of the Availability Period and for the first time on the date following 3 months from the Signing Date, on the

Termination Date and on the cancelled amount of the Facility at the time the cancellation is effective.

- (c) No commitment fee is payable to the Facility Agent (for the account of a Lender) on any Available Commitment of that Lender for any day on which that Lender is a Defaulting Lender.

### 13.2 **Agency fee**

The Company shall pay to the Facility Agent (for its own account) an agency fee in the amount and at the time agreed in a separate Fee Letter unless and for so long as the Facility Agent is an Impaired Agent.

### 13.3 **Utilisation Fee**

The Company shall pay to the Facility Agent (for the account of the Lenders) a utilisation fee in the Base Currency computed at a rate of:

- (a) 0.10% per annum on the aggregate amount of the Loans in respect of any day on which that amount is lower than or equal to 33% of the Initial Facility Amount
- (b) 0.20% per annum on the aggregate amount of the Loans in respect of any day on which that amount is higher than 33% but lower than or equal to 66% of the Initial Facility Amount, and
- (c) 0.40% per annum on the aggregate amount of the Loans in respect of any day on which that amount exceeds 66% of the Initial Facility Amount.

The Utilisation Fee is payable by the Company quarterly in arrear until the last day of the Availability Period and for the first time on the date following 3 months from the Signing Date and on the Termination Date and on the prepaid or repaid amount of the relevant Loan on the date of any prepayment or repayment.

### 13.4 **Up Front Fees**

The Company shall pay to the Facility Agent (for the account of the Mandated Lead Arrangers and Bookrunners, the Arrangers and the Lenders) the up front fees in the amount and at the time agreed in separate Fee Letters.



**SECTION 6**  
**ADDITIONAL PAYMENT OBLIGATIONS**

**14. TAX GROSS UP AND INDEMNITIES**

**14.1 General**

In this Clause 14:

**"French Qualifying Lender"** means:

- (a) a Lender which, (on the date a payment falls due) in relation to an amount payable by a Borrower which, on the date of this Agreement, is incorporated in France, fulfils the conditions imposed by French Law in order for a payment of interest not to be subject to (or as the case may be, to be exempt from) any Tax Deduction; or
- (b) is a Treaty Lender.

**"Qualifying Lender"** means:

- (a) in respect of amounts paid or payable by the French Borrower, a French Qualifying Lender;
- (b) in respect of amounts paid or payable by any other Borrower which, on the date of this Agreement is incorporated in The Netherlands, any Lender.

**"Tax Credit"** means a credit against any Tax or any relief or remission for Tax (or its repayment).

**"Treaty Lender"** means a Lender which:

- (a) in relation to an amount payable by a Borrower which is incorporated in France:
  - (i) is treated as resident of a jurisdiction (the **"Treaty State"**) having a double taxation agreement with France (the **"French Treaty"**), which makes provision for full exemption from Tax imposed by France on interest payments for the purpose of the French Treaty;
  - (ii) does not carry on business in France through a permanent establishment with which that Lender's participation in the Loan is effectively connected;
  - (iii) is acting from a Facility Office situated in its jurisdiction of incorporation; and
  - (iv) fulfils any other conditions which must be fulfilled under the French Treaty by residents of the Treaty State for such residents to obtain exemption from Tax imposed on interest by France, subject to the completion of any necessary procedural formalities.
- (b) in relation to an amount payable by a Borrower which is incorporated in The Netherlands is entitled under the provisions imposed by Dutch law taking into account, the provisions of a double taxation treaty to receive payments from the relevant Borrower under the Finance Documents without a Tax Deduction (subject to the completion of any necessary procedural formalities).

Unless a contrary indication appears, in this Clause 14 a reference to "**determines**" or "**determined**" means a determination made in the absolute discretion of the person making the determination.

#### 14.2 **Tax gross-up**

- (a) Each Obligor must make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) If an Obligor or a Lender is aware that a Borrower must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction), it must promptly notify the Facility Agent. The Facility Agent must then promptly notify the affected Parties.
- (c) Except as otherwise provided herein, if a Tax Deduction is required by law to be made by or on behalf of an Obligor, the amount of the payment due from that Obligor will be increased to an amount which (after making the Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) A payment shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of a Tax imposed by France or The Netherlands unless the person entitled to the payment:
  - (i) is the Facility Agent or a Mandated Lead Arranger and Bookrunner (on its own behalf); or
  - (ii) is a Qualifying Lender, unless that Qualifying Lender is a Treaty Lender and a Borrower concerned is able to demonstrate the Tax Deduction is required to be made as a result of the failure of that Qualifying Lender to comply with paragraph (g) below; or
  - (iii) is not or has ceased to be a Qualifying Lender to the extent that (x) this altered status results from any change after the Signing Date in (or in the interpretation, administration, or application of) any law or double taxation agreement or any published practice or published concession of any relevant taxing authority and (y) the Tax Deduction referred to in paragraph (c) above is not made on account of a Tax imposed by France on a payment solely because this payment is made to an account opened in the name of or for the benefit of the relevant Lender in a financial institution situated in a Non-Cooperative Jurisdiction.
- (e) If an Obligor is required to make a Tax Deduction, it must make the minimum Tax Deduction and must make any payment required in connection with that Tax Deduction within the time allowed by law.
- (f) Within 30 days of making either a Tax Deduction or a payment required in connection with a Tax Deduction, the Obligor concerned making that Tax Deduction must deliver to the Facility Agent for the relevant Finance Party evidence satisfactory to that Finance Party (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.
- (g) Each Treaty Lender and each Borrower shall co-operate in completing any formalities necessary with respect to the relevant double taxation treaty for that Borrower to obtain authorisation to make payments to that Treaty Lender without a Tax Deduction (or with the minimum Tax Deduction permitted by the relevant double taxation treaty).

- (h) If a Borrower is, or becomes obliged, to make Tax Deductions in respect of payments to a Lender and is prevented by applicable law from making increased payments under this Clause:
- (i) the Lender may, by notice to the Company through the Facility Agent, require that Borrower to prepay its participations in the Loans; and
  - (ii) the Commitment of that Lender shall be cancelled forthwith and that Borrower shall prepay the participations of that Lender in each Loan on the date falling ten days after the date of the notice,

provided that notwithstanding such prepayment the Company shall be obliged to pay the increased payments to that Lender which it is prevented from paying as soon as it may lawfully do so and such obligation shall survive any cancellation or termination of this Agreement.

#### 14.3 Tax indemnity

- (a) Except as provided below, the Company must (within five Business Days of demand by the Facility Agent) indemnify a Finance Party against any loss or liability which that Finance Party determines has been suffered (directly or indirectly) by that Finance Party for or on account of Tax in relation to a payment received or receivable (or any payment deemed to be received or receivable) under a Finance Document.
- (b) Paragraph (a) above does not apply with respect to any Tax assessed on a Finance Party under the laws of the jurisdiction in which:
- (i) that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
  - (ii) that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party (and for these purposes net income is the amount of income on which the relevant Finance Party's liability to income Tax is actually assessed and payable) or is a franchise tax or branch profits tax; or

- (iii) to the extent a loss or liability:
    - (a) is compensated for by an increased payment under Clause 14.2 (*Tax gross-up*);
    - (b) would have been compensated for by an increased payment under Clause 14.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in paragraph (d) or (e) of Clause 14.2 (*Tax gross-up*) applied; or
    - (c) relates to a FATCA Deduction required to be made by a Party.
- (c) A Finance Party making, or intending to make, a claim under paragraph (a) above must promptly notify the Company of the event which has given, rise to the claim.

#### 14.4 Tax Credit

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable to that Tax Payment; and

(b) it has used that Tax Credit,

the Finance Party must pay an amount to the Obligor concerned which that Finance Party determines will leave it (after that payment) in the same after-tax position as it would have been if the Tax Payment had not been made by the Obligor.

#### 14.5 **Lenders Tax Status Confirmation**

(a) Each Lender which becomes a Party to this Agreement after the date of this Agreement shall indicate in the Transfer Agreement, or the Increase Confirmation, which it executes on becoming a Party, and for the benefit of the Facility Agent and without liability to any Obligor, which of the following categories it falls into, in respect of an advance to a Borrower:

- (i) not a Qualifying Lender;
- (ii) a Qualifying Lender (other than a Treaty Lender); or
- (iii) a Treaty Lender.

(b) If a New Lender or Increase Lender fails to indicate its status in accordance with this Clause 14.5 then such New Lender or Increase Lender shall be treated for the purposes of this Agreement (including by each Obligor) as if it is not a Qualifying Lender until such time as it notifies the Facility Agent which category applies (and the Facility Agent, upon receipt of such notification, shall inform the Company). For the avoidance of doubt, a Transfer Agreement, or Increase Confirmation shall not be invalidated by any failure of a Lender to comply with this Clause 14.5.

(c) Such New Lender shall also specify, in the Transfer Agreement or Increase Confirmation which it executes upon becoming a Party, whether it is incorporated or acting through a Facility Office situated in a Non-Cooperative Jurisdiction. For the avoidance of doubt, a Transfer Agreement or Increase Confirmation shall not be invalidated by any failure of a Lender to comply with this Clause 14.5.

#### 14.6 **Stamp taxes**

The Company must pay and, within five Business Days of demand, indemnify each Finance Party against any stamp duty, registration or other similar Tax payable in connection with the entry into, performance or enforcement of any Finance Document, except for any such Tax payable in connection with the entry into of a Transfer Agreement (other than a Transfer Agreement entered into in respect of a transfer made pursuant to Clause 17.1 (*Mitigation*)).

#### 14.7 **Value added taxes**

(a) Any amount (including costs and expenses) payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitutes the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply and accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).

- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
- (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and
  - (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

#### 14.8 **FATCA Information**

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
- (i) confirm to that other Party whether it is:
    - (a) a FATCA Exempt Party; or
    - (b) not a FATCA Exempt Party;
  - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
  - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation or exchange of information regime.

- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
  - (i) any law or regulation;
  - (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.
- (e) If the Facility Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten Business Days of:
  - (i) where a Borrower is a US Tax Obligor and the relevant Lender is an Original Lender, the date of this Agreement;
  - (ii) where a Borrower is a US Tax Obligor on a Transfer Date and the relevant Lender is a New Lender, the relevant Transfer Date; or
  - (iii) where a Borrower is not a US Tax Obligor, the date of a request from the Facility Agent, supply to the Facility Agent:
    - (A) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
    - (B) any withholding statement or other document, authorisation or waiver as the Facility Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Facility Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the relevant Borrower.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Facility Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Facility Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Facility Agent). The Facility Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the relevant Borrower.

- (h) The Facility Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Facility Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.

#### 14.9 **FATCA deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Company and the Facility Agent and the Facility Agent shall notify the other Finance Parties.

### 15. **INCREASED COSTS**

#### 15.1 **Increased Costs**

Except as provided below in this Clause, the Company must pay to a Finance Party, within 15 Business Days of a demand made in accordance with Clause 15.3 (*Claims*), the amount of any Increased Cost incurred by that Finance Party or any of its Affiliates as a result of:

- (a) the introduction of, coming into force of or any change in, or any change in the interpretation or application of, any law or regulation; or
- (b) compliance with any law or regulation,  
made after the Signing Date.

#### 15.2 **Exceptions**

The Company is not required to make any payment for an Increased Cost to the extent that the Increased Cost is:

- (a) compensated for under another Clause or would have been but for an exception to that Clause;
- (b) a tax on the overall net income of a Finance Party or any of its Affiliates;
- (c) attributable to a FATCA Deduction required to be made by a Party;
- (d) attributable to a Finance Party or its Affiliate wilfully failing to comply with any law or regulation, or the gross negligence of any of them; or
- (e) attributable to any day more than 6 months before the first date on which the relevant Finance Party became aware of the relevant Increased Cost.

#### 15.3 **Claims**

- (a) A Finance Party intending to make a claim for an Increased Cost must notify the Facility Agent with a copy to the Company promptly of the circumstances giving rise to, and the amount of, the claim.

- (b) Each Finance Party shall, together with its demand, provide a certificate setting out the amount and basis of calculation of its Increased Cost provided that no Finance Party shall be required to disclose confidential or sensitive information.

## 16. OTHER INDEMNITIES

### 16.1 Currency indemnity

- (a) The Company must, as an independent obligation, within seven Business Days of demand, indemnify each Finance Party against any loss or liability which that Finance Party incurs as a consequence of:
  - (i) that Finance Party receiving an amount in respect of a Borrower's liability under the Finance Documents; or
  - (ii) that liability being converted into a claim, proof, judgment or order,in a currency other than the currency in which the amount is expressed to be payable under the relevant Finance Document.
- (b) Unless otherwise required by law, each Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency other than that in which it is expressed to be payable.
- (c) Each Finance Party shall, together with its demand, provide a certificate setting out the amount and basis of calculation of its claim.

### 16.2 Other indemnities

- (a) The Company must, within seven Business Days of demand, indemnify each Finance Party against any loss or liability which that Finance Party incurs as a consequence of:
  - (i) the occurrence of any Event of Default;
  - (ii) any failure by a Borrower to pay any amount due under a Finance Document on its due date, including any amount resulting from any distribution or redistribution of any amount among the Lenders under this Agreement;
  - (iii) (other than by reason of negligence or default by that Finance Party) a Loan not being made after a Utilisation Request has been delivered for that Loan; or
  - (iv) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment.
- (b) The Company's liability (A) in each case other than paragraphs (iii) and (iv) above includes any loss or expense on account of funds borrowed, contracted for or utilised to fund any amount payable under any Finance Document, any amount repaid or prepaid or any Loan (collectively "**Financing Costs**"), and (B) in the case of paragraphs (iii) and (iv) above shall be limited to each Finance Party's Financing Costs (excluding any out of pocket expenses or disbursements).
- (c) Each Finance Party shall, together with its demand, provide a certificate setting out the amount and basis of calculation of its claim.



### 16.3 Indemnity to the Facility Agent

- (a) The Company must indemnify the Facility Agent against any external costs, disbursements, loss or liabilities directly and effectively incurred by the Facility Agent as a result of:
  - (i) investigating any event which the Facility Agent reasonably believes to be a Default; or
  - (ii) acting or relying on any notice, request or instruction which the Facility Agent reasonably believes to be genuine, correct and appropriately authorised; or
  - (iii) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement.

## 17. MITIGATION BY THE LENDERS

### 17.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Company, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 9.1 (*Mandatory Prepayment - Illegality*), Clause 14 (*Tax gross up and indemnities*) or Clause 15 (*Increased costs*) or in any amount payable under a Finance Document by any Borrower becoming not deductible from that Borrower's taxable income for French tax purposes by reason of that amount being (i) paid or accrued to a Finance Party incorporated, domiciled, established or acting through a Facility Office situated in a Non-Cooperative Jurisdiction or (ii) paid to an account opened in the name of or for the benefit of that Finance Party in a financial institution situated in a Non-Cooperative Jurisdiction including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.
- (c) For the avoidance of doubt, the Finance Parties shall be under no obligation to take any of the steps referred to in paragraph (a) above where the Company has not agreed to indemnify it in accordance with paragraph (a) of Clause 17.2 (*Limitation of liability*).

### 17.2 Limitation of liability

- (a) The Company shall indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 17.1 (*Mitigation*) to the extent the Company has agreed to such steps being taken by the relevant Finance Party.
- (b) A Finance Party is not obliged to take any steps under Clause 17.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably) to do so might be prejudicial to it.

## 18. COSTS AND EXPENSES

### 18.1 Transaction expenses

The Company shall promptly on demand pay the Facility Agent and the Mandated Lead Arrangers and Bookrunners, subject to any agreed caps, the amount of all costs and expenses (including legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution and syndication of:

- (a) this Agreement and any other Finance Documents referred to in this Agreement; and
- (b) any other Finance Documents executed after the Signing Date.

**18.2 Amendment costs**

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 29.10 (*Change of currency*), the Company shall, within three Business Days of demand, reimburse the Facility Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Facility Agent in responding to, evaluating, negotiating or complying with that request or requirement.

**18.3 Enforcement costs**

The Company shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document following the occurrence of a Default or an Event of Default.

**SECTION 7**  
**REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT**

**19. REPRESENTATIONS**

Each Obligor makes, on behalf of itself, and where relevant, each of its Material Subsidiaries or Subsidiaries, the representations and warranties set out in this Clause 19 to each Finance Party on the Signing Date, with the exception of those in Clauses 19.7 (*Financial statement*), 19.14 (*Insurance*), 19.16 (*Intellectual Property Rights*), 19.20 (*No misleading information*) and 19.21 (*No Material Adverse Effect*) which are made by the Company only.

**19.1 Status**

- (a) It is a limited liability company, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- (b) It and each of its Material Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

**19.2 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary actions to authorise its entry into, performance and delivery of, the Finance Documents and the transactions contemplated by the Finance Documents.

**19.3 Legal validity**

Each Finance Document to which it is or will be a party is its legal, valid and binding obligation, enforceable in accordance with its terms (subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered pursuant to Clause 4 (*Conditions of Utilisation*))

**19.4 Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

- (a) any law or regulation applicable to it;
  - (b) its constitutional documents; or
  - (c) any agreement or instrument binding upon it or any of its assets,
- in the case of paragraphs (a) and (c) to the extent such conflict is reasonably likely to have a Material Adverse Effect.

**19.5 Authorisations**

All authorisations required by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, the Finance Documents have been obtained or effected (as appropriate) and are in full force and effect.

**19.6 Anti-bribery, anti-corruption and anti-money laundering**

- (a) Each Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by it, its Subsidiaries and its respective directors, officers, employees and

agents with Anti-Corruption Laws and applicable Sanctions, and each Borrower, its Subsidiaries and its respective directors and officers and, to the best knowledge of each Borrower, its respective employees and agents are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in each Borrower being designated as a Sanctioned Person (in the case of paragraphs (b) and (c) of the definition of "Sanctioned Person", to the extent the same is prohibited by the Sanctions).

- (b) None of (i) the Borrowers, any Subsidiary or any of its respective directors or officers, or (ii) to the best knowledge of each Borrower, any employee or agent of each Borrower or any Subsidiary that will act in any capacity in connection with, or benefit from, the facilities established by this Agreement, is a Sanctioned Person (in the case of paragraphs (b) and (c) of the definition of "Sanctioned Person", to the extent the same is prohibited by the Sanctions).
- (c) No Utilisation, use of proceeds or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or applicable Sanctions.

#### **19.7 Financial statements**

- (a) The consolidated financial statements referred to in Clause 20.1 (*Financial statements*) of this Agreement are prepared in accordance with GAAP for listed companies in France (IAS/IFRS GAAP).
- (b) The Original Financial Statements fairly represent the consolidated financial condition and operations of the Group as at the end of and for the relevant financial year.
- (c) Save as publicly disclosed, there has been no change in the business or financial condition of the Borrowers or other members of the Group since the latest consolidated financial statements of the Company to the extent that such change is likely to have a Material Adverse Effect.

#### **19.8 Litigation**

Except as has been disclosed in writing in an up-to-date report by the Company to the Mandated Lead Arrangers and Bookrunners on or prior to the Signing Date:

- (a) No legal, arbitration or administrative proceedings are current or, to its knowledge, pending or threatened, which might, if adversely determined, have a Material Adverse Effect.
- (b) No proceedings of any nature are current or, to its knowledge, pending or threatened, for the winding up or dissolution of, or in respect of any insolvency proceedings of any nature relating to, any Borrower or Material Subsidiary which are reasonably likely to have a Material Adverse Effect.
- (c) No labour disputes are current, or to its knowledge, threatened which are reasonably likely to have a Material Adverse Effect.
- (d) No infringement of third party Intellectual Property Rights has occurred which is reasonably likely to have a Material Adverse Effect.

#### 19.9 ***Pari passu* ranking**

Its payment obligations under the Finance Documents rank and will rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

#### 19.10 **No stamp duties**

No stamp or registration duty or similar Tax or charge is payable in its country of incorporation in respect of any Finance Documents.

#### 19.11 **Deduction of tax**

It is not required under the laws of France or the Netherlands, as the case may be, to make any deduction for or on account of any Tax from any payment it may make under any Finance Document to the extent that the Lenders are Qualifying Lenders.

#### 19.12 **No Event of Default**

- (a) No Event of Default is continuing.
- (b) No Event of Default is continuing or would result from a Loan and no other event or circumstance is outstanding which constitutes a default under any other material agreement or instrument which is binding on it or any of its Subsidiaries to which it or the latter or their assets are subject, which is likely to have a Material Adverse Effect.

#### 19.13 **Securities encumbrances**

Save as permitted in the Finance Documents or disclosed by the Company, prior to the date of this Agreement, none of the assets of any Borrower or of any Material Subsidiary is affected by any Security.

#### 19.14 **Insurance**

Each member of the Group has in effect insurance in respect of its business and assets with insurance companies to such an extent and against such risks as companies engaged in similar business normally insure in accordance with prudent best practice.

#### 19.15 **Jurisdiction / governing law**

In the case of each Borrower its:

- (a) irrevocable submission under this Agreement to the jurisdiction of the courts of France;
  - (b) agreement that this Agreement is governed by French law and
  - (c) agreement not to claim any immunity to which it or its assets may be entitled,
- are legal, valid and binding under the laws of incorporation of that Borrower.

#### 19.16 **Intellectual Property Rights**

- (a) To the best of its knowledge, it and each member of the Group owns or has the legal right to use all the Intellectual Property Rights which are material to its business from time to time or are required in order for it to conduct its business in all material respects and no member of the Group does, in conducting its business, infringe any Intellectual Property Rights of any third party in any way which might reasonably be expected to have a Material Adverse Effect.

- (b) None of the Intellectual Property Rights which are material in the context of the business of any member of the Group is, to its knowledge, being infringed nor, to the best of its knowledge, is there any threatened infringement of those Intellectual Property Rights, by any third party which might reasonably be expected to have a Material Adverse Effect.
- (c) To the best of its knowledge, all registered Intellectual Property Rights owned by any member of the Group and which are material to the conduct of its business are subsisting and all actions (including payment of all fees) required to maintain the same in full force and effect have been taken, where lack of subsistence or failure to take any such action has or might reasonably be expected to have a Material Adverse Effect.

#### 19.17 **Ownership of assets**

It and each of its Subsidiaries has good title to or valid leases or licences of or is otherwise entitled to use and permit other members of the Group to use all material assets necessary to conduct its business substantially as it is conducted at the Signing Date.

#### 19.18 **No Insolvency**

The Obligors and all Material Subsidiaries are able to pay their debts as they fall due, have not suspended making payments on any of their debts except for valid counterclaims nor, by reason of actual or anticipated financial difficulties, have commenced any negotiations with one or more of their creditors with a view to rescheduling any of their indebtedness.

#### 19.19 **Centre of main interests and establishments**

Its centre of main interests (as that term is used in Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast)) is situated in its jurisdiction of incorporation.

#### 19.20 **No misleading information**

- (a) All information in respect of the Group contained in the Information Package was in all material respects accurate at the respective dates as of which that information speaks.
- (b) The Information Package as of its date was not misleading in any material respect in respect of the Group and did not omit to disclose any matter, failure to disclose which would result in any information contained in the Information Package in respect of the Group being misleading in any material respect.
- (c) Other than information publicly disclosed by the Company prior to the date of this Agreement, since the date on which information under paragraph (a) above was provided as stated, nothing has occurred that results in such information being untrue or misleading in any material respect.

#### 19.21 **No Material Adverse Effect**

To the best knowledge of the Company and given its internal reporting rules, since 1 January 2014, no event has occurred in respect of the assets, business or financial condition of the Group taken as a whole which has, or might reasonably be expected to have, a Material Adverse Effect.

#### 19.22 **Repetition**

The Repeating Representations are deemed to be made by each Borrower (save for the Repeating Representations set out in Clauses 19.7 (*Financial statements*), 19.14 (*Insurance*), and

19.16 (*Intellectual Property Rights*) which are made by the Company only) by reference to the facts and circumstances then existing on:

- (a) the date of each Utilisation Request and,
- (b) the first day of each Interest Period.

## 20. INFORMATION UNDERTAKINGS

The undertakings in this Clause 20 remain in force from the Signing Date for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

### 20.1 Financial statements

The Obligors shall supply to the Facility Agent in sufficient copies for all the Lenders:

- (a) as soon as the same become available, but in any event within 180 days after the end of each of their financial years and for the first time for the financial year ending on 31 December 2018 (the "**Annual Financial Statements**"):
  - (i) in respect of the Company, its audited statutory financial statements for that financial year and its audited consolidated financial statements for that financial year;
  - (ii) in respect of any Borrower (other than the Company), its audited statutory financial statements for that financial year (the "**Obligor Financial Statements**"); and
- (b) as soon as the same become available, but in any event within 120 days after the end of each first half year and for the first time for the half year ending on 30 June 2018:
  - (i) in respect of the Company, its consolidated financial statements for that financial half year (the "**Half-Year Financial Statements**");
  - (ii) in respect of any Borrower (other than the Company), its statutory financial statements for that financial half year.

### 20.2 Compliance Certificate

- (a) The Company shall supply to the Facility Agent, with each set of annual financial statements delivered pursuant to paragraph (a)(i) of Clause 20.1 (*Financial statements*), a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 21 (*Financial covenant*), as at the date as at which those annual financial statements were drawn up.
- (b) Each Compliance Certificate shall be signed by the Company's chief financial officer.

### 20.3 Requirements as to financial statements

- (a) The Company must ensure that each set of Annual Financial Statements and Half-Year Financial Statements supplied under Clause 20.1 (*Financial statements*) of this Agreement gives (if audited) a true and fair view ("donnent une image fidèle et sincère") of its or (as appropriate) the relevant Borrower's financial condition as at the date to which those financial statements were drawn up.
- (b) The Company shall procure that the Original Financial Statements and each set of consolidated financial statements delivered thereafter pursuant to Clause 20.1 (*Financial statements*) are prepared using GAAP for listed companies in France (IFRS as adopted by the European Union),

and financial reference periods are consistent with those applied in the preparation of the Original Financial Statements, and that its statutory accounts are prepared using French GAAP, and financial reference periods are consistent with those applied in the preparation of the Original Financial Statements; each other Borrower shall use GAAP as applied in its jurisdiction of incorporation, and financial reference periods are consistent with those applied in the preparation of its Obligor Financial Statements; provided however that, in relation to any set of financial statements, if the Company notifies the Facility Agent that there has been a change in the relevant GAAP, or reference periods then the Facility Agent may request sufficient information, in form and substance as may be reasonably required by the Facility Agent, to enable the Lenders to determine whether (in the case of the Company) Clause 21 (*Financial covenant*) has been complied with and to make an accurate comparison between the financial position indicated in those financial statements and the most recent audited consolidated financial statements of the Company or (as appropriate) a Borrower delivered to the Facility Agent under this Agreement.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the later accounts were prepared.

#### 20.4 **Information: miscellaneous**

The Company must supply to the Facility Agent:

- (a) all documents dispatched by it to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched (in sufficient copies for all the Lenders, if the Facility Agent so requests);
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it or any Material Subsidiary, and which would, if adversely determined, have a Material Adverse Effect (in sufficient copies for all the Lenders, if the Facility Agent so requests);
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any member of the Group and which is reasonably likely to have a Material Adverse Effect;
- (d) promptly, after its occurrence, with reasonable details, notification of any change in the ownership of an Obligor to the extent that such change results in such Obligor no longer being a member of the Group; and
- (e) promptly, such further information regarding its financial condition, business and operations or that of any Material Subsidiary as any Finance Party (through the Facility Agent) may reasonably request, except to the extent that disclosure of that information would breach any law, regulation, stock exchange requirement or duty of confidentiality of a customary nature.

#### 20.5 **Notification of default**

Each Borrower shall notify the Facility Agent of any Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.



## 20.6 Use of websites

The Company acknowledges and agrees that any information under this Agreement may be delivered to a Lender (through the Facility Agent) on to an electronic website if:

- (i) the Facility Agent and the Lender agree;
- (ii) the Facility Agent appoints a website provider and designates an electronic website for this purpose;
- (iii) the designated website is used for communication between the Facility Agent and the Lenders;
- (iv) the Facility Agent notifies the Lenders of the address and password for the website;
- (v) the information can only be posted on the website by the Facility Agent; and
- (vi) the information posted is in a format agreed between the Company and the Facility Agent.

The cost of the website shall be borne by the Company, subject to such cost being agreed by the Company before hand.

Any Website Lender may request, through the Facility Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Company shall at its own cost comply with any such request within ten Business Days.

## 20.7 "Know your customer" checks

(a) If:

- (i) the introduction of or any change in (or the interpretation, administration or application of) any law or regulation made after the Signing Date;
- (ii) any change in the status of an Obligor after the Signing Date; or
- (iii) a proposed transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such transfer,

obliges the Facility Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall promptly upon the request of the Facility Agent or of any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Facility Agent, such Lender or, in the case of the event described in paragraph (iii) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

(b) Each Lender shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself) in order for the Facility Agent to carry out and be satisfied it has complied with all necessary

"know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (c) Each Borrower confirms that it is acting for its own account and not for a third party (other than any member of the Group) (without prejudice of its right to use the proceeds of the Facility for loans to its Subsidiaries).

## 21. FINANCIAL COVENANT

- (a) The Company shall ensure that for each Measurement Period, the Leverage Ratio in respect of that Measurement Period shall not exceed 2.50:1.00, it being understood that after the entry into force of IFRS 16 as published by IASB on 1 January 2019, such Leverage Ratio shall be calculated without giving effect to IFRS 16; provided, however, that the Compliance Certificate shall, for purposes of the calculation of the Leverage Ratio, set forth the bridge between the application of IFRS 16 and the non-application of IFRS 16 in respect of the relevant financial statements, and be accompanied by a certificate of the auditors of the Company confirming that bridge.
- (b) The financial covenant will be tested on each Annual Testing Date on a 12 months basis by reference to the latest consolidated annual financial statements of the Company. If any set of financial statements to be delivered by the Company pursuant to paragraph (a) of Clause 20.1 (*Financial statements*) is not prepared on the same basis as was used in the preparation of (and using accounting practices and financial reference period consistent with those used in the preparation of) the Original Financial Statements, then, if the Company so requests, the Company and the Facility Agent shall enter in good faith into negotiations (for a period of not more than 45 days) with the view to agreeing amendments to the provisions of this Clause 21 as to (i) reflect the accounting principles, accounting practices and reference periods upon which such financial statements are prepared and (ii) provide for an amended Clause 21 which, to the extent possible, provides for economically the same financial tests as those provided in this Clause 21 in respect of the Original Financial Statements provided that the Facility Agent may not agree any such amendment without the prior consent of the Majority Lenders.
- (c) In respect of any Measurement Period:
  - (i) ending less than 12 months after the Acquisition Closing Date, the OMDA and/or the Operating Margin in respect of such Measurement Period shall be calculated giving pro forma effect to the Acquisition (on the basis of 100% ownership) had the Acquisition taken place on the first day of that Measurement Period;
  - (ii) during which a Major Disposal (whether or not the consideration of a Major Disposal is in cash) occurs, the OMDA and/or the Operating Margin in respect of such Measurement Period shall be calculated giving pro forma effect to such Major Disposal, as if such Major Disposal had taken place on the first day of that Measurement Period; or
  - (iii) during which an acquisition occurs, the OMDA and/or the Operating Margin in respect of such Measurement Period shall be calculated giving pro forma effect to such acquisition, as if such acquisition (on the basis of percentage of ownership) had taken place on the first day of that Measurement Period.

## 22. GENERAL UNDERTAKINGS

The undertakings in this Clause 22 remain in force from the Signing Date for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

### 22.1 Authorisations

Each Borrower must promptly obtain, maintain and comply with the terms of any authorisation (a) required under any law or regulation to enable it to perform its obligations under, or for the validity or enforceability of, any Finance Documents or (b) unless failure to do so would not reasonably be expected to have a Material Adverse Effect, required in order for it to carry on its business as it is now being conducted.

### 22.2 Insurance

Each Borrower and each Material Subsidiary will insure its business and assets with insurance companies to such an extent and against such risks as companies engaged in a similar business normally insure.

### 22.3 Compliance with laws

Each Borrower shall comply in all respects with all laws to which it may be subject (including, without limitation, the Dutch Financial Supervision Act and regulations thereunder), if failure so to comply would have a Material Adverse Effect.

### 22.4 Negative pledge

- (a) No Borrower shall (and the Company shall ensure that no Material Subsidiary will) create or permit to subsist any Security over any of its assets.
- (b) Paragraph (a) above does not apply to:
  - (i) any Security existing at the Signing Date and notified in writing to the Facility Agent provided that the aggregate principal amount secured by such Security is not subsequently increased;
  - (ii) any Security over or affecting any asset acquired by a Borrower or any Material Subsidiary after the Signing Date if such Security was not created or increased in contemplation of the acquisition of such asset;
  - (iii) any Security granted in respect of a netting or set-off arrangement entered into by a member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
  - (iv) any Security arising solely by operation of law;
  - (v) any Security over or affecting any asset of any company which becomes a Material Subsidiary after the Signing Date, where such Security is created prior to the date on which such company becomes a Material Subsidiary (provided that (i) the amount secured is not thereafter increased or (ii) if the amount secured is increased thereafter, it is done in compliance with other exceptions set out in this paragraph (b));
  - (vi) any Security over or affecting any asset acquired or developed by a Borrower or a Material Subsidiary created as security in favour of a bank or financial institution for indebtedness

- relating directly to the acquisition or development of such asset if the total amount secured by such Security does not exceed the cost of such acquisition or development;
- (vii) any Security created with the prior written consent of the Majority Lenders;
  - (viii) any Security created by (i) an Obligor or any Material Subsidiary in favour of the Company or (ii) any Material Subsidiary in favour of another Material Subsidiary or an Obligor;
  - (ix) any Security created in respect of any tax or social charges, the due date for payment of which has not yet occurred or payment in respect of which is being contested in good faith and by appropriate proceedings;
  - (x) any Security over goods, related title documents and/or other related documents arising out of or created in the normal course of business as security for indebtedness owed to a bank or financial institution directly relating to such goods or documents;
  - (xi) any Security relating to receivables in connection with a non-recourse securitisation programme entered into or to be entered into by any member of the Group, including any such securitisation programme accounted for in the consolidated financial statements of the Company as at 31 December 2017;
  - (xii) any Security over deposits of cash or cash equivalent investments (i) securing (directly or indirectly) Indebtedness for Borrowed Money under finance or structured tax lease arrangements or (ii) provided by way of cash collateral to effect repayment or prepayment of guarantee or indemnity obligations where the aggregate amount of all such cash deposits and cash equivalents does not at any time exceed 50,000,000 euros (or the equivalent in other currencies);
  - (xiii) any Security (other than a Security referred to in sub-paragraphs (i) to (xii) above) over or affecting any asset of a Borrower or of any Material Subsidiary created after the date hereof if the aggregate principal, capital or nominal amount secured by all Security so created does not exceed at any time 10% of the Company's consolidated total assets as shown in its most recent publicly available consolidated financial statements; or
  - (xiv) any renewal of any agreement or other arrangement relating to any Security or other type of security referred to in sub-paragraphs (i) to (xiii) above, provided that the amount secured is not thereafter increased.

## 22.5 Disposals

- (a) No Borrower shall (and the Company shall ensure that no Material Subsidiary will) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of all or any part of any asset.
- (b) Paragraph (a) above does not apply to:
  - (i) any disposal of any asset made in the normal course of business;
  - (ii) any disposal of obsolete assets;
  - (iii) any disposal of assets by a Borrower or any Material Subsidiary to any Subsidiary of a Borrower;

- (iv) any disposal of any asset made with the prior written consent of the Majority Lenders;
- (v) any disposal of any asset by (i) any Borrower (other than the Company) or any Material Subsidiary to the Company or (ii) any Material Subsidiary to another Material Subsidiary or (iii) the Company to any other Borrower or any Material Subsidiary;
- (vi) any disposal of any fixed asset (other than shares or other securities) conducted on an arm's length basis and on normal commercial terms, the proceeds of which are reinvested within 12 months of the date of receipt of the proceeds of such disposal in other fixed assets for the Group;
- (vii) any disposal of any shares or securities (other than pursuant to the "*contrat de liquidité*" if applicable), for fair market value provided that the proceeds are reinvested within 12 months of the date of receipt of the proceeds of such disposal or applied by any Borrower to repay Indebtedness for Borrowed Money of the Group;
- (viii) any disposal of any shares pursuant to a "*contrat de liquidité*";
- (ix) any disposal or grant, or transfer of any shares or options, or warrants to any eligible officer or employee of the Group;
- (x) any sale of any assets, including without limitation, any assignment of trade receivables, provided that any third party to any agreement or arrangement entered into in relation thereto shall have no recourse to any assets of any Borrower or any Material Subsidiary, except in relation to any credit enhancement provided by such Borrower or the Material Subsidiary in respect of any such assets or, as the case may be, trade receivables, including any such securitisation programme accounted for in the consolidated financial statements of the Company as at 31 December 2017;
- (xi) any disposals of short term investments in return for cash made in the ordinary course of business;
- (xii) any disposal for non-cash consideration required to be made solely by virtue of any applicable law or regulation or required by any governmental or supranational authority or agency;
- (xiii) any disposal of real property assets by way of a sale and lease-back transaction;
- (xiv) any disposal (other than a disposal mentioned in sub-paragraphs (i) to (xiii) above and sub-paragraph (xv)) of any assets, shares or securities of any sort for fair market value provided that the aggregate net book value, as reported in the Company's most recent publicly available consolidated financial statements, in respect of such disposals carried out from time to time as from the Signing Date until the Termination Date is not greater than 15% of the consolidated assets of the Company as shown in its most recent publicly available consolidated financial statements. For the purpose of this sub-paragraph the net book value should be reduced from third party commissions and costs and expenses reasonably incurred and required to be paid and Taxes, if any, associated with such disposal and after deduction of any amount required to be paid by the Group to any other shareholder or to a secured creditor in relation to any Security existing over the assets

- disposed of and any repayment of Indebtedness for Borrowed Money related to the assets subject to the disposal which are required to be repaid in order to effect the disposal;
- (xv) any disposal of assets required in order to comply with any ruling or request of, or any condition imposed by, any relevant authority in respect of the Acquisition provided that the proceeds of such disposal are applied in mandatory prepayment of the facilities under the Term Facilities Agreement pursuant to the terms thereof;
  - (xvi) any Target Asset Disposal (as defined in the Term Facilities Agreement) provided that the proceeds of such disposal are applied in mandatory prepayment of the facilities under the Term Facilities Agreement pursuant to the terms thereof; and
  - (xvii) any other disposal not falling within sub-paragraphs (i) to (xvi) above provided that the Net Proceeds (as defined in Clause 9.3 (*Mandatory Prepayment – Disposal*)) are applied in mandatory prepayment of the Facility.

## 22.6 Merger

- (a) No Borrower shall (and the Company shall ensure that no Material Subsidiary will) enter into any merger or corporate reconstruction except:
  - (i) any merger or corporate reconstruction between any Material Subsidiary (other than a Borrower) and the Company;
  - (ii) any merger or corporate reconstruction with or among any of its Subsidiaries (other than any merger or corporate reconstruction among two or more Borrowers);
  - (iii) any merger or corporate reconstruction between the Company and any company which is not a member of the Group, provided that such merger or corporate reconstruction does not at the time of its completion have a Material Adverse Effect; and
  - (iv) any merger or corporate reconstruction between any Material Subsidiary and any company which is not a member of the Group, provided that such merger or corporate reconstruction does not at the time of its completion have a Material Adverse Effect; andprovided in any event that:
  - (b) such merger or corporate reconstruction would not give rise to an Event of Default;
  - (c) in the case of sub-paragraphs (i) and (iii) above, the Company, or in the case of paragraph (ii) above, the relevant Borrower, would be the surviving entity following the completion of such merger or corporate reconstruction; and
  - (d) to the extent applicable and at the reasonable request of the Facility Agent, the relevant Borrower and/or the Company delivers to the Facility Agent a written confirmation from the legal advisers of the relevant company, that it continues to be bound by its obligations under the Finance Documents.

## 22.7 Change of business

No Borrower shall (and the Company shall procure that no Material Subsidiary will) enter into any transaction or do any act or thing whatsoever which would result in a substantial change being made to the general nature of the business of any Borrower or of the Group from the businesses carried on at the Signing Date.

## 22.8 Maintenance of *pari passu*

The Borrowers shall ensure that the claims of the Finance Parties against the Borrowers under the Finance Documents will, at all times, rank at least *pari passu* with the claims of all their other unsecured and unsubordinated creditors, save those whose claims are preferred solely by law.

## 22.9 Sanctions

- (a) The Company will maintain in effect and enforce policies and procedures designed to ensure compliance by it, the Borrowers, its Subsidiaries and their respective directors, officers, (to the best knowledge of the Company) employees and, its or their respective agents with Anti-Corruption Laws and applicable Sanctions.
- (b) No Borrower will request any Utilisation, and no Borrower shall use, and shall procure that its Subsidiaries and its or their respective directors, officers, (to the best knowledge of each Borrower), employees and, its or their respective agents shall not use, the proceeds of any Utilisation (A) in furtherance of an offer, payment, promise to pay, or authorisation of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, business or transaction would be prohibited by Sanctions if conducted by a corporation incorporated in the United States or in a European Union member state, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.
- (c) In relation to each Finance Party that notifies the Facility Agent to this effect (each a "**Restricted Finance Party**"), this Clause 22.9 or Clause 19.6 (*Anti-bribery, anti-corruption and anti-money laundering*) shall only apply for the benefit of that Restricted Finance Party to the extent that those clauses do not result in any violation of, conflict with or liability under (i) Council Regulation (EC) 2271/96, (ii) section 7 of the German Foreign Trade Rules (AWV) (*Außenwirtschaftsverordnung*) (in connection with section 4 paragraph 1 no. 3 of the German Foreign Trade Act (*Außenwirtschaftsgesetz*)) or (iii) a similar anti-boycott statute.
- (d) In connection with any amendment, waiver, determination, declaration, decision (including a decision to accelerate) or direction (each a "**Relevant Measure**") relating to any part of this Clause 22.9 or Clause 19.6 (*Anti-bribery, anti-corruption and anti-money laundering*):
- (i) the Commitments of a Lender that is a Restricted Finance Party; and
  - (ii) the vote of any other Restricted Finance Party which would be required to vote in accordance with the provisions of this Agreement,

will be excluded for the purpose of determining whether the consent of the requisite Finance Parties to approve such Relevant Measure has been obtained or whether the Relevant Measure by the requisite Finance Parties has been made unless the relevant Restricted Finance Party has (in its absolute discretion) notified the Facility Agent in writing that it does have, in the given circumstances, the benefit of the provision in respect of which the Relevant Measure is sought.

## 23. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 23 is an Event of Default.

### 23.1 **Non-payment**

A Borrower does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by administrative or technical error; and
- (b) payment is made within 4 Business Days of its due date.

### 23.2 **Financial covenant**

In respect of any Measurement Period, any requirements of Clause 21 (*Financial covenant*) is not satisfied.

### 23.3 **Other obligations**

- (a) A Borrower does not comply with any provision of the Finance Documents (other than those referred to in Clause 23.1 (*Non-payment*), Clause 23.2 (*Financial covenant*) and Clause 23.4 (*Misrepresentation*)).
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 20 Business Days of the earlier of (i) the Facility Agent giving notice to that Borrower and (ii) that Borrower becoming aware of the failure to comply.

### 23.4 **Misrepresentation**

Any representation or statement made or deemed to be made by a Borrower in the Finance Documents or any other document delivered by or on behalf of a Borrower under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made unless this misrepresentation has been corrected by notification to the Facility Agent within 20 Business Days from the date on which the representation or statement was made or deemed made.

### 23.5 **Cross default**

- (a) Any Indebtedness for Borrowed Money of a Borrower or of any Material Subsidiary is not paid when due nor within any originally applicable grace period.
- (b) Any Indebtedness for Borrowed Money of a Borrower or of any Material Subsidiary is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default.
- (c) Any commitment for any Indebtedness for Borrowed Money of a Borrower or of any Material Subsidiary is cancelled by a creditor of that Borrower or Material Subsidiary as a result of an event of default.
- (d) Any creditor of a Borrower or of any Material Subsidiary becomes entitled to declare any Indebtedness for Borrowed Money of that Borrower or Material Subsidiary due and payable prior to its specified maturity as a result of an event of default.
- (e) No Event of Default will occur under this Clause 23.5 unless and until the aggregate amount of Indebtedness for Borrowed Money or commitment for Indebtedness for Borrowed Money falling within paragraphs (a) to (d) above exceeds 20,000,000 euros (or its equivalent in any other currency or currencies).



### 23.6 **Insolvency**

- (a) A Borrower or any Material Subsidiary is unable or admits inability to pay any of its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors with a view to rescheduling any of its indebtedness.
- (b) A Borrower or any Material Subsidiary becomes insolvent for the purpose of any applicable insolvency law.
- (c) A moratorium is declared in respect of any Indebtedness for Borrowed Money of a Borrower or any Material Subsidiary.
- (d) Atos Telco Services B.V. or Atos International B.V. gives notice under section 36(2) of the Dutch 1990 Tax Collection Act (*Invorderingswet 1990*).

### 23.7 **Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other procedure or step is taken by a Borrower or a Material Subsidiary in relation to:
  - (i) the bankruptcy, suspension of payments, a moratorium of any Indebtedness for Borrowed Money, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) (including *sauvegarde* (including *sauvegarde accélérée* and *sauvegarde financière accélérée*), *redressement judiciaire* or *liquidation judiciaire* or reorganisation (in the context of a *mandat ad hoc* or of a *conciliation* or otherwise) of a Borrower or any Material Subsidiary, other than a solvent liquidation or reorganisation of any Material Subsidiary;
  - (ii) a composition, assignment or arrangement with any creditor of a Borrower or of any Material Subsidiary;
  - (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a Material Subsidiary), receiver, administrator, administrative receiver, compulsory manager, *mandataire ad hoc*, *conciliateur* or other similar officer in respect of a Borrower or any Material Subsidiary of its or any Material Subsidiary's assets;
  - (iv) the filing of an involuntary proceeding in a court of competent jurisdiction in the United States seeking relief under US Bankruptcy Law in respect of any Material Subsidiary and either such proceeding shall continue undismissed for 30 days or an order or decree approving or ordering any of the foregoing shall be entered or any Material Subsidiary shall consent to the institution of, or fail to contest in a timely and appropriate manner, any such involuntary proceeding;
  - (v) the filing of a voluntarily petition by any Material Subsidiary under US Bankruptcy Law; or
  - (vi) any analogous procedure or step is taken in any jurisdiction.
- (b) Any Borrower or any Material Subsidiary applies for the appointment of a *mandataire ad hoc* or for a *conciliation* in accordance with articles L. 611-3 to L. 611-15 of the French *Code de commerce*.

- (c) A judgment for *sauvegarde* (including *sauvegarde accélérée* and *sauvegarde financière accélérée*), *redressement judiciaire*, *cession totale ou partielle de l'entreprise* or *liquidation judiciaire* is entered in relation to a Borrower or any Material Subsidiary under articles L. 620-1 to L. 644-6 of the French Code de commerce.

#### 23.8 Creditors' process

Any of the enforcement proceedings provided for in the French *Code des procédures civiles d'exécution*, or any expropriation, attachment, sequestration, distress or execution (including by way of executory attachment (*executorial beslag*) or interlocutory attachment (*conservatoir beslag*)) affects any asset or assets of a Borrower or of any Material Subsidiary having an aggregate value of 20,000,000 euros (or its equivalent in any other currency or currencies) and is not discharged within seven days.

#### 23.9 Unlawfulness

It is or becomes unlawful for a Borrower to perform any of its material obligations under the Finance Documents.

#### 23.10 Cessation of business

A Borrower or any Material Subsidiary enters into any transaction or does any act or thing whatsoever which would result in a substantial change being made to the business of the Borrowers or of the Group as a whole from the business carried on at the date hereof, or any Borrower or any Material Subsidiary suspends or threatens to suspend a substantial part of the business operations which it now conducts, or enters into any unrelated business, or any governmental authority expropriates or threatens to expropriate all or a substantial part of its assets and the result of any of the foregoing would have a Material Adverse Effect.

#### 23.11 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing, the Facility Agent may by prior notice and shall, if so directed by the Majority Lenders, by notice to the Borrowers but subject to the mandatory provisions of articles L.611-16 and L.620-1 to L.670-8 of the French *Code de Commerce*:

- (a) cancel the Total Commitments whereupon they shall immediately be cancelled; and/or
- (b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable.

**SECTION 8**  
**CHANGES TO PARTIES**

**24. CHANGES TO THE LENDERS**

**24.1 Transfers by the Lenders**

- (a) Subject to this Clause 24, a Lender (the "Existing Lender") may transfer any of its rights (including such as relate to that Lender's participation in each Loan) and obligations to another bank or financial institution, provided that the amount transferred to a new lender (the "New Lender") is at least €10,000,000 (or its equivalent in other currencies) or, if less the whole of the Existing Lender's Commitments.
- (b) The consent of the Finance Parties is hereby given to a transfer by an Existing Lender to a New Lender.

**24.2 Conditions of transfer**

- (a) The prior consent of and notification to the Company is required for a transfer by an Existing Lender provided that the Company hereby consents to any transfer to another Lender or an Affiliate of a Lender and no prior notification shall be required for any such transfer.
- (b) No consent or prior notification of the Company to a transfer shall be required while an Event of Default is continuing.
- (c) Notwithstanding the above, no transfer in relation to a Utilisation by a Borrower established in France may be effected to a New Lender incorporated, or acting through a Facility Office situated in a Non-Cooperative Jurisdiction without the prior consent of the Company, which shall not be unreasonably withheld or delayed.
- (d) The consent of the Company to a transfer must not be unreasonably withheld or delayed. The Company will be deemed to have given its consent ten Business Days after the Existing Lender has requested it to the Company (with a copy to the Facility Agent) unless consent is expressly refused by the Company within that time.
- (e) A transfer will only be effective if the procedure set out in Clause 24.6 (*Procedure for transfer*) is complied with.
- (f) If:
  - (i) a Lender transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
  - (ii) as a result of circumstances existing at the date the transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 14 (*Tax gross-up and indemnities*) or Clause 15 (*Increased costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the transfer or change had not occurred.

The Facility Agent shall, as soon as reasonably practicable after a transfer to a permitted transferee has become effective, (i) notify the relevant Borrower of such transfer (including the details of the New Lender and the amount transferred to it) and (ii) send to the Company a copy of the Transfer Agreement.

#### 24.3 Lender Affiliates and Facility Office

- (a) In respect of a Loan to a particular Borrower ("**Designated Loan**") a Lender (a "**Designating Lender**") may at any time and from time to time designate (by written notice to the Facility Agent and the Company):
- (i) a substitute Facility Office from which it will make Designated Loan (a "**Substitute Facility Office**"); or
  - (ii) nominate an Affiliate to act as the Lender of Designated Loan (a "**Substitute Affiliate Lender**").
- (b) A notice to nominate a Substitute Affiliate Lender must be in the form set out in Schedule 12 (*Form of Substitute Affiliate Lender Designation Notice*) and be countersigned by the relevant Substitute Affiliate Lender confirming it will be bound as a Lender under this Agreement in respect of the Designated Loan in respect of which it acts as Lender.
- (c) The Designating Lender will act as the representative of any Substitute Affiliate Lender it nominates for all administrative purposes under this Agreement. The Obligors, the Facility Agent, and the other Finance Parties will be entitled to deal only with the Designating Lender, except that payments will be made in respect of Designated Loan to the Facility Office of the Substitute Affiliate Lender. In particular the Commitments of the Designating Lender will not be treated as reduced by the introduction of the Substitute Affiliate Lender for voting purposes under this Agreement or the other Finance Documents.
- (d) Save as mentioned in paragraph (c) above, a Substitute Affiliate Lender will be treated as a Lender for all purposes under the Finance Documents and having a Commitment equal to the principal amount of all Designated Loan in which it is participating if and for so long as it continues to be a Substitute Affiliate Lender under this Agreement.
- (e) A Designating Lender may revoke its designation of an Affiliate as a Substitute Affiliate Lender by notice in writing to the Facility Agent and the Company provided that such notice may only take effect when there are no Designated Loan outstanding to the Substitute Affiliate Lender. Upon such Substitute Affiliate Lender ceasing to be a Substitute Affiliate Lender the Designating Lender will automatically assume (and be deemed to assume without further action by any Party) all rights and obligations previously vested in the Substitute Affiliate Lender.
- (f) If a Designating Lender designates a Substitute Facility Office or Substitute Affiliate Lender in accordance with this Clause:
- (i) any Substitute Affiliate Lender shall be treated for the purposes of Clause 14.2 (*Tax gross-up*) as having become a Lender on the date the Designating Lender became a Lender under this Agreement; and
  - (ii) the provisions of Clause 24.2 (*Conditions of transfer*) other than Clause 24.2(d) shall not apply to or in respect of any Substitute Facility Office or Substitute Affiliate Lender.

#### 24.4 **Transfer fee**

The New Lender shall, on the date upon which a transfer takes effect pay to the Facility Agent (for its own account) a fee of €2,500.

#### 24.5 **Limitation of responsibility of Existing Lenders**

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
- (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
  - (ii) the financial condition of any Obligor;
  - (iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents;
  - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document; or
  - (v) the existence of any transferred rights or receivables or their accessories,
- and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
- (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and
  - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
- (i) accept a re-transfer from a New Lender of any of the rights and obligations transferred under this Clause 24; or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

#### 24.6 **Procedure for transfer**

- (a) Subject to the conditions set out in Clause 24.2 (*Conditions of transfer*) a transfer is effected in accordance with paragraph (b) below when the Facility Agent executes an otherwise duly completed Transfer Agreement delivered to it by the Existing Lender and the New Lender. The Facility Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Agreement. The Facility Agent shall, within 10 Business Days following execution by it of a Transfer Agreement, send an updated list of Lenders to the Company.

- (b) The Facility Agent shall only be obliged to execute a Transfer Agreement delivered to it by the Existing Lender and the New Lender once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) By virtue of the execution of a Transfer Agreement, as from the Transfer Date:
- (i) to the extent that in the Transfer Agreement the Existing Lender seeks to transfer its rights and obligations under the Finance Documents the Existing Lender shall be discharged to the extent provided for in the Transfer Agreement from further obligations towards each of the Obligors and the other Finance Parties under the Finance Documents and each Obligor and the other Finance Parties here by consent to such discharge;
  - (ii) the rights and obligations of the Existing Lender with respect to the Obligors shall be transferred to the New Lender, to the extent provided for in the Transfer Agreement;
  - (iii) the Facility Agent, the Mandated Lead Arrangers and Bookrunners, the New Lender and other Lenders shall have the same rights and obligations between themselves as they would have had had the New Lender been an Original Lender with the rights and/or obligations to which it is entitled and subject as a result of the transfer and to that extent the Facility Agent, the Mandated Lead Arrangers and Bookrunners and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
  - (iv) the New Lender shall become a Party as a "Lender".

If any New Lender fails to pay any transfer fee payable by it hereunder on the due date therefore, the Facility Agent may at any time deduct an amount equal to such fee from any moneys from time to time held by the Facility Agent for the account of such New Lender.

#### 24.7 Security over Lenders' rights

- (a) In addition to the other rights provided to Lenders under this Clause 24, each Lender may without consulting with or obtaining consent from any Borrower, at any time (i) charge or transfer all or any of its rights under any Finance Documents to any *organisme de titrisation*, collateralised loan obligation or collateralised debt obligation vehicle or any other securities vehicle or (ii) charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender (a "**Securing Lender**") including, without limitation:
- (i) any charge, transfer or other Security to secure obligations to a federal reserve or central bank or equivalent body; and
  - (ii) any charge, transfer or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, transfer or Security shall:

- (A) release a Securing Lender from any of its obligations under the Finance Documents or (except following enforcement of the relevant charge or Security)

substitute the beneficiary of the relevant charge, transfer or Security for the Securing Lender as a party to any of the Finance Documents; or

- (B) require any payments to be made by an Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.
- (b) For the avoidance of doubt, the application of these provisions of this Clause 24.7 shall not result in any cost or fee becoming payable by any Obligor.
- (c) The Borrowers hereby consent to any charge, transfer or Security granted in accordance with this Clause 24.7 and to any transfer to the relevant beneficiary as part of the enforcement of such charge or Security.
- (d) For the avoidance of doubt, the provisions of Clause 24.2 (*Conditions of transfer*), 24.4 (*Transfer fee*) and 24.6 (*Procedure for transfer*) are not applicable to any transfer, charge or Security effected or created under this Clause 24.7.

#### 24.8 **Pro rata interest settlement**

If the Facility Agent has notified the Lenders that it is able to distribute interest payments on a "pro rata basis" to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 24.6 (*Procedure for transfer*)) the Transfer Date of which, in each case, is after the date of such notification and is not on the last day of an Interest Period):

- (a) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date ("**Accrued Amounts**") and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six Monthly intervals after the first day of that Interest Period); and
- (b) the rights transferred by the Existing Lender will not include the right to the Accrued Amounts, so that, for the avoidance of doubt:
  - (i) when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and
  - (ii) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 24.8, have been payable to it on that date, but after deduction of the Accrued Amounts.

In this Clause 24.8, references to "Interest Period" shall be construed to include a reference to any other period for accrual of fees.

## 25. **CHANGES TO THE OBLIGORS**

### 25.1 **Assignments and transfer by Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

## 25.2 Additional Borrowers

- (a) Subject to compliance with Clause 20.7 ("*Know your customer*" checks), the Company may request that any of its Subsidiaries becomes an Additional Borrower with the ability to utilise the Facility up to an amount agreed between all the Lenders and the Company, such amount not exceeding at all times the Total Commitments. That Subsidiary shall become a Borrower under a Facility if:
- (i) it is approved by all the Lenders;
  - (ii) the Company and that Subsidiary deliver to the Facility Agent a duly completed and executed Accession Letter;
  - (iii) the Company confirms that no Default is continuing or would occur as a result of that Subsidiary becoming an Additional Borrower; and
  - (iv) the Facility Agent has received all of the documents and other evidence set out in Part III of Schedule 2 (*Conditions precedent*) in relation to that Additional Borrower, each in form and substance satisfactory to the Facility Agent (acting reasonably).
- (b) The Facility Agent shall notify the Company and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory) to it (acting reasonably) all of the documents and other evidence set out in Part III of Schedule 2 (*Conditions precedent*) in relation to that Additional Borrower.
- (c) Upon the Facility Agent's confirmation to the Company that it has received all documents referred to in paragraph (a) above in respect of an Additional Borrower, such Additional Borrower, the other Obligors and the Finance Parties shall each assume such obligations towards one another and/or acquire such rights against each other party as they would have assumed or acquired had such Additional Borrower been an original Party to this Agreement and such Additional Borrower shall become a Party to this Agreement and thereto as a Borrower.

## 25.3 Resignation of a Borrower

- (a) The Company may request that a Borrower (other than the Company) ceases to be a Borrower by delivering to the Facility Agent a Resignation Letter.
- (b) The Facility Agent shall accept a Resignation Letter and notify the Company and the Lenders of its acceptance if:
- (i) no Default is continuing or would result from the acceptance of the Resignation Letter (and the Company has confirmed this is the case); and
  - (ii) that Borrower is under no actual or contingent obligations as a Borrower under any Finance Documents,

whereupon that company shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents.

## 25.4 Repetition of Representations

Delivery of an Accession Letter constitutes confirmation by the relevant Subsidiary that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.



**SECTION 9**  
**THE FINANCE PARTIES**

**26. ROLE OF THE FACILITY AGENT AND THE MANDATED LEAD ARRANGERS AND BOOKRUNNERS**

**26.1 Appointment of the Facility Agent**

- (a) Each other Finance Party appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each other Finance Party authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

**26.2 Duties of the Facility Agent**

- (a) The Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (b) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) If the Facility Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Finance Parties.
- (d) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Facility Agent or the Mandated Lead Arrangers and Bookrunners) under this Agreement it shall promptly notify the other Finance Parties.
- (e) The Facility Agent shall provide to the Company, within three Business Days of a request by the Company (but no more frequently than once per calendar month), a list (which may be in electronic form) setting out the names of the Lenders as at the date of that request, their respective Commitments, the address and fax number (and the department or officer, if any, for whose attention any communication is to be made) of each Lender for any communication to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the sending and receipt of information by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Lender for any payment to be distributed by the Facility Agent to that Lender under the Finance Documents.
- (f) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (g) The Facility Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

### 26.3 **Role of the Mandated Lead Arrangers and Bookrunners**

Except as specifically provided in the Finance Documents, the Mandated Lead Arrangers and Bookrunners have no obligations of any kind to any other Party under or in connection with any Finance Document.

### 26.4 **No fiduciary duties**

- (a) Nothing in this Agreement constitutes the Facility Agent or the Mandated Lead Arrangers and Bookrunners as a trustee or fiduciary of any other person.
- (b) Neither the Facility Agent nor the Mandated Lead Arrangers and Bookrunners shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

### 26.5 **Business with the Group**

The Facility Agent and the Mandated Lead Arrangers and Bookrunners may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

### 26.6 **Rights and discretions of the Facility Agent**

- (a) The Facility Agent may rely on:
  - (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and
  - (ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.
- (b) The Facility Agent may:
  - (i) assume that:
    - (A) any instructions received by it from the Majority Lenders, any Lender or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
    - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
  - (ii) rely on a certificate from any person:
    - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
    - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing, as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (c) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
  - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 23.1 (*Non-payment*));

- (ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and
  - (iii) any notice or request made by the Company (other than a Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligors.
- (d) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (e) Without prejudice to the generality of paragraph (d) above or paragraph (f) below, the Facility Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Facility Agent (and so separate from any lawyers instructed by the Lenders) if the Facility Agent in its reasonable opinion deems this to be necessary.
- (f) The Facility Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Facility Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (g) The Facility Agent shall:
  - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by:
    - (A) all Lenders, if the relevant Finance Document stipulates that the matter is an all Lender decision; and
    - (B) in all other cases, the Majority Lenders; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (h) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.
- (i) The Facility Agent may but shall not be required to disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (j) Without prejudice to the generality of paragraph (e) above, the Facility Agent may disclose the identity of a Defaulting Lender to the other Finance Parties and the Company, and shall disclose the same upon the written request of the Company or the Majority Lenders.
- (k) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor the Mandated Lead Arrangers and Bookrunners are obliged to do or omit to do anything if it would or might in their reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (l) Notwithstanding any provision of any Finance Document to the contrary, the Facility Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing that the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

## 26.7 **Majority Lenders' instructions**

- (a) The Facility Agent shall:
- (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by:
    - (A) all Lenders if the relevant Finance Document stipulates that the matter is an all Lender decision; and
    - (B) in all other cases, the Majority Lenders; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Facility Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion. The Facility Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested.
- (c) Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document, and unless a contrary indication appears in a Finance Document, any instructions given to the Facility Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties, and will be binding on all Finance Parties.
- (d) The Facility Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.
- (e) In the absence of instructions, the Facility Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (f) The Facility Agent is not authorised to act on behalf of a Lender in any legal or arbitration proceedings relating to any Finance Document, without having first obtained that Lender's authority to act on its behalf in those proceedings.

## 26.8 **Responsibility for documentation**

Neither the Facility Agent nor the Mandated Lead Arrangers and Bookrunners:

- (a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Facility Agent, the Mandated Lead Arrangers and Bookrunners, an Obligor or any other person given in or in connection with any Finance Document or the Information Package;
- (b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document; or

- (c) is responsible for any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

#### **26.9 No duty to monitor**

The Facility Agent shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

#### **26.10 Exclusion of liability**

- (a) Without limiting paragraph (b) below, the Facility Agent will not be liable for any action taken by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.
- (b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent, or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, and any officer, employee or agent of the Facility Agent may rely on this Clause.
- (c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent or the Mandated Lead Arrangers and Bookrunners to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Facility Agent and the Mandated Lead Arrangers and Bookrunners that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent or the Mandated Lead Arrangers and Bookrunners.

#### **26.11 Lenders' indemnity to the Facility Agent**

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by an Obligor pursuant to a Finance Document).

#### **26.12 Resignation of the Facility Agent**

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor, provided that such Affiliate may not be incorporated or acting through an office situated in a Non-Cooperative

Jurisdiction, by giving notice to the other Finance Parties and to the Company and with the prior written consent of the Company, such consent not to be unreasonably withheld or delayed.

- (b) Alternatively the Facility Agent may resign by giving notice to the other Finance Parties and to the Company, in which case the Majority Lenders may appoint a successor Facility Agent, which shall not be incorporated or acting through an office situated in a Non-Cooperative Jurisdiction, with the prior written consent of the Company, such consent not to be unreasonably withheld and delayed.
- (c) If the Majority Lenders have not designated a Facility Agent within 10 days after notice of resignation was given or, as the case may be, within 10 days after notice that the Company has not consented to the appointment of the proposed Facility Agent, the Facility Agent may appoint the successor Facility Agent, which shall not be incorporated or acting through an office situated in a Non-Cooperative Jurisdiction, with the consent of the Company.
- (d) The Company may, on not less than 30 days' prior notice to the Facility Agent, require the Lenders to appoint a replacement Facility Agent if any amount payable under a Finance Document by the Company becomes not deductible from the Company's taxable income for French tax purposes by reason of that amount (i) being paid or accrued to a Facility Agent incorporated, domiciled, established or acting through an office situated in a Non-Cooperative Jurisdiction or (ii) paid to an account opened in the name of that Facility Agent in a financial institution situated in a Non-Cooperative Jurisdiction. In this case, the Facility Agent shall resign and a replacement Facility Agent shall be appointed by the Majority Lenders (with the consent, not to be unreasonably withheld or delayed of the Company) within 30 days after notice of replacement was given.
- (e) If the Company withholds its consent to two or more successor Facility Agents proposed by the Majority Lenders in accordance with paragraph (b) above or, as the case may be, the Facility Agent in accordance with paragraphs (a) and (c) above, the Majority Lenders or, as the case may be, the Facility Agent may appoint a successor Facility Agent of their/its choice.
- (f) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (g) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.
- (h) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 26. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (i) The Majority Lenders may, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above and the Majority Lenders shall have the rights to designate the successor Facility Agent, after consultation with the Company.
- (j) The Facility Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Facility Agent pursuant to

paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:

- (i) the Facility Agent fails to respond to a request under Clause 14.8 (*FATCA Information*) and the Company or a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
- (ii) the information supplied by the Facility Agent pursuant to Clause 14.8 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (iii) the Facility Agent notifies the Company and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) the Company or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and the Company or that Lender, by notice to the Facility Agent, requires it to resign.

#### **26.13 Confidentiality**

- (a) In acting as agent for the Finance Parties, the Facility Agent shall be regarded as acting through its agency division, which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

#### **26.14 Relationship with the Lenders**

- (a) The Facility Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.
- (b) Any Lender may, by notice to the Facility Agent, appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 31.5 (*Electronic communication*)) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Lender for the purposes of Clause 31.2 (*Addresses*) and paragraph (a)(ii) of Clause 31.5 (*Electronic communication*), and the Facility Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

#### **26.15 Credit appraisal by the Lenders**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent and the

Mandated Lead Arrangers and Bookrunners that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (d) the adequacy, accuracy and/or completeness of the Information Package and any other information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

#### **26.16 Role of Reference Banks**

- (a) No Reference Bank is under any obligation to provide a quotation or any other information to the Facility Agent, but may do so at the Facility Agent's request.
- (b) No Reference Bank will be liable for any action taken by it under or in connection with any Finance Document, or for any quotation provided to the Facility Agent.
- (c) No Party (other than the relevant Reference Bank) may take any proceedings against any officer, employee or agent of any Reference Bank in respect of any claim it might have against that Reference Bank or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, or to any Reference Bank Quotation, and any officer, employee or agent of each Reference Bank may rely on this Clause 26.16.

#### **26.17 Confidentiality of Reference Bank Quotations**

- (a) The Facility Agent and each Borrower agree to keep each Reference Bank Quotation confidential and not to disclose it to anyone, save to the extent permitted by paragraphs (b), (c) and (d) below.
- (b) The Facility Agent may disclose any Reference Bank Quotation to any person appointed by it to provide administration services in respect of one or more of the Finance Documents to the extent necessary to enable such service provider to provide those services if the service provider to whom that information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers, or such other form of confidentiality undertaking agreed between the Facility Agent and the relevant Reference Bank.
- (c) The Facility Agent may disclose any Reference Bank Quotation to:



- (i) any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and representatives if any person to whom that Reference Bank Quotation is to be given pursuant to this paragraph (i) is informed in writing of its confidential nature and that it may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of that Reference Bank Quotation or is otherwise bound by requirements of confidentiality in relation to it;
  - (ii) any person to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation if the person to whom that Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower, as the case may be, it is not practicable to do so in the circumstances;
  - (iii) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes if the person to whom that Reference Bank Quotation is to be given is informed in writing of its confidential nature and that it may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Facility Agent or the Borrower as the case may be, it is not practicable to do so in the circumstances; and
  - (iv) any person with the consent of the relevant Reference Bank.
- (d) The Facility Agent's obligations in this Clause 26.17 relating to Reference Bank Quotations are without prejudice to its obligations to make notifications under Clause 10.4 (*Notification of rates of interest*) **provided that** the Facility Agent shall not include the details of any individual Reference Bank Quotation as part of any such notification.
- (e) The Facility Agent acknowledges that each Reference Bank Quotation is or may be price-sensitive information and that its use may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Facility Agent undertakes not to use any Reference Bank Quotation for any unlawful purpose.
- (f) The Facility Agent and the Borrower agree (to the extent permitted by law and regulation) to inform the relevant Reference Bank:
- (i) of the circumstances of any disclosure made pursuant to paragraph (c) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
  - (ii) upon becoming aware that any information has been disclosed in breach of this Clause 26.17.
- (g) No Event of Default will occur under Clause 23.3 (*Other obligations*) by reason only of an Obligor's failure to comply with this Clause 26.17.

#### 26.18 **Deduction from amounts payable by the Facility Agent**

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

#### 26.19 **Release of the Guarantee**

The Facility Agent shall, and all Finance Parties irrevocably authorise the Facility Agent to, deliver a notice of release of the Guarantee to the Company when (i) all sums under the Finance Documents have been fully paid and irrevocably discharged and all Commitments of the Finance Parties in respect of the Finance Documents have expired or been cancelled, or (ii) when the Borrowers (other than the Company) cease to be Borrowers and all amounts due by them under the Finance Documents have been repaid in accordance with paragraph (ii) of Clause 9.2.2 (*Borrower's Ownership*). It being specified that each such notice of release will be granted promptly after the occurrence of any of the event described in (i) to (iii) above.

### 27. **CONDUCT OF BUSINESS BY THE FINANCE PARTIES**

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

### 28. **SHARING AMONG THE FINANCE PARTIES**

#### 28.1 **Payments to Finance Parties**

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 29 (*Payment mechanics*) and applies that amount to a payment due under the Finance Documents, then such Recovering Finance Party shall be deemed to have been substituted (within the meaning of article 1994 of the French *Code civil*) for the Facility Agent for purposes of receiving or recovering a Sharing Payment (as defined below) and:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery to the Facility Agent;
- (b) the Facility Agent shall determine whether the receipt or recovery is in excess of the amount that the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with

Clause 29 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and

- (c) the Recovering Finance Party shall, within three Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 29.5 (*Partial payments*).

#### 28.2 **Redistribution of payments**

The Facility Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 29.5 (*Partial payments*).

#### 28.3 **Recovering Finance Party's rights**

- (a) On a distribution by the Facility Agent under Clause 28.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution which Finance Parties agree that they will in that connection waive the benefit of Article 1346-3 of the French *Code Civil*.
- (b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the relevant Obligor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

#### 28.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 28.2 (*Redistribution of payments*) shall, upon request of the Facility Agent, pay to the Facility Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and
- (b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Finance Party for the amount so reimbursed.

#### 28.5 **Exceptions**

- (a) This Clause 28 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified that other Finance Party of the legal or arbitration proceedings; and

- (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

**SECTION 10**  
**ADMINISTRATION**

**29. PAYMENT MECHANICS**

**29.1 Payments to the Facility Agent**

- (a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, that Obligor or Lender shall make the same available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre in a Participating Member State or London) other than a Non-Cooperative Jurisdiction with such bank as the Facility Agent specifies.

**29.2 Distributions by the Facility Agent**

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 29.3 (*Distributions to an Obligor*) and Clause 29.4 (*Clawback*), be made available by the Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London), other than a Non-Cooperative Jurisdiction.

**29.3 Distributions to an Obligor**

The Facility Agent may (with the consent of the Obligor or in accordance with Clause 30 (*Set-off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

**29.4 Clawback**

- (a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.
- (c) If the Facility Agent is willing to make available amounts for the account of a Borrower before receiving funds from the Lenders, then if and to the extent that the Facility Agent does so, but it

proves to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to a Borrower:

- (i) the Facility Agent shall notify the relevant Borrower of that Lender's identity and the Borrower to whom that sum was made available shall on demand refund it to the Facility Agent; and
- (ii) the Lender by whom those funds should have been made available or, if that Lender fails to do so, the Borrower to whom that sum was made available, shall on demand pay to the Facility Agent the amount (as certified by the Facility Agent) which will indemnify the Facility Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

#### 29.5 Partial payments

- (a) If the Facility Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Facility Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:
  - (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of the Facility Agent or the Mandated Lead Arrangers and Bookrunners under the Finance Documents;
  - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under this Agreement;
  - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement; and
  - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Facility Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

#### 29.6 Impaired Agent

- (a) If, at any time, the Facility Agent becomes an Impaired Agent, an Obligor or a Lender which is required to make a payment under the Finance Documents to the Facility Agent in accordance with Clause 29.1 (*Payments to the Facility Agent*) may instead either pay that amount direct to the required recipient or pay that amount to an interest-bearing account held with an Acceptable Bank within the meaning of paragraph (a) of the definition of "Acceptable Bank" and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Obligor or the Lender making the payment and held for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents. In each case such payments must be made on the due date for payment under the Finance Documents.
- (b) All interest accrued on the amount standing to the credit of the account shall be for the benefit of the beneficiaries of that account pro rata to their respective entitlements.

- (c) A Party which has made a payment in accordance with this Clause 29.6 shall be discharged of the relevant payment obligation under the Finance Documents and shall not bear any credit risk with respect to the amounts standing to the credit of the account.
- (d) Promptly upon the appointment of a successor Facility Agent in accordance with Clause 26.12 (*Resignation of the Facility Agent*), each Party which has made a payment to an account in accordance with this Clause 29.6 shall give all requisite instructions to the bank with whom the account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution in accordance with Clause 29.2 (*Distributions by the Facility Agent*).
- (e) If, at any time, the Facility Agent becomes an Impaired Agent, the Company may (and will, upon request by the Majority Lenders) for so long as the Facility Agent is an Impaired Agent provide directly to the Lenders a list of all the Lenders (provided that in no event shall the failure of that list to be correct and up to date be an Event of Default).
- (f) Any payment made by a Borrower to the Facility Agent:
  - (i) whilst not actually being aware of the fact that, at the time of such payment, the Facility Agent is an Impaired Agent, shall fully discharge the payment obligation of that Borrower up to an amount of such payment; and
  - (ii) whilst actually being aware of the fact that, at the time of such payment, the Facility Agent is an Impaired Agent, shall not discharge the payment obligation of that Borrower with respect to the amount of such payment unless and until any such amounts are actually received by the Finance Party (other than an Impaired Agent) to whom such amounts are payable (and any such discharge shall occur only to the extent of the amounts actually received by such Finance Party).
- (g) Any payment made by a Borrower to an Acceptable Bank pursuant to paragraph (a) above:
  - (i) whilst not actually being aware of the fact that, at the time of such payment, an Insolvency Event has occurred and is continuing in relation to such Acceptable Bank, shall fully discharge the payment obligation of that Borrower up to the amount of such payment; and
  - (ii) whilst actually being aware of the fact that, at the time of such payment, an Insolvency Event has occurred and is continuing in relation to such Acceptable Bank, shall not discharge the payment obligation of that Borrower with respect to the amount of such payment unless and until any such amounts are actually received by the Finance Party (other than, if applicable, such Acceptable Bank in its role as Acceptable Bank and not in its role as Finance Party) to whom such amounts are payable (and any such discharge shall occur only to the extent of the amounts actually received by such Finance Party).

#### **29.7 No set-off by Obligor**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

#### **29.8 Business Days**

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

#### 29.9 **Currency of account**

- (a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.
- (b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

#### 29.10 **Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (acting reasonably and after consultation with the Company); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Facility Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Company) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

#### 29.11 **Date of Payment**

If a Finance Document does not set out the due date of a payment, such payment will be deemed due 5 Business Days following a payment request delivered by the relevant Finance Party.

#### 30. **SET-OFF**

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the



purpose of the set-off. That Finance Party shall promptly notify that Obligor of any such set-off or conversion.

## 31. NOTICES

### 31.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

### 31.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Company, that identified with its name below;
- (b) in the case of each Lender or any other Obligor, that notified in writing to the Facility Agent on or prior to the date on which it becomes a Party; and
- (c) in the case of the Facility Agent, that identified with its name below,  
  
or any substitute address, fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five Business Days' notice.

### 31.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
  - (i) if by way of fax, when received in legible form; or
  - (ii) if by way of letter, when it has been left at the relevant address or five days after being deposited in the post postage prepaid in an envelope addressed to it at that address,and, if a particular department or officer is specified as part of its address details provided under Clause 31.2 (*Addresses*), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Facility Agent or an Obligor will be effective only when actually received by the Facility Agent or such Obligor and then only if it is expressly marked for the attention of the department or officer identified with the Facility Agent's or Obligor's signature below (or any substitute department or officer as the Facility Agent or such Obligor shall specify for this purpose).
- (c) All notices from or to an Obligor shall be sent through the Facility Agent.
- (d) Any communication or document made or delivered to the Company in accordance with this Clause 31 will be deemed to have been made or delivered to each of the Obligors.

### 31.4 Notification of address and fax number

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 31.2 (*Addresses*) or changing its own address or fax number, the Facility Agent shall notify the other Parties.

### 31.5 **Electronic communication**

- (a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Facility Agent only if it is addressed in such a manner as the Facility Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

### 31.6 **English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Facility Agent, accompanied by a certified English translation and, in this case, the English translation will prevail. It being specified however, that constitutional, statutory or other official documents will not have to be translated.

### 31.7 **Communication when Facility Agent is an Impaired Agent**

If the Facility Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Facility Agent, communicate with each other directly and (while the Facility Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Facility Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Facility Agent has been appointed.

### 31.8 **USA Patriot Act**

Each Lender that is subject to the requirements of the USA Patriot Act hereby notifies each Obligor that, pursuant to the requirements of the USA Patriot Act, such Lender is required to obtain, verify and record information that identifies such Obligor, which information includes the name and address of such Obligor and other information that will allow such Lender to identify such Obligor in accordance with the USA Patriot Act.

## 32. **CALCULATIONS AND CERTIFICATES**

### 32.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are prima facie evidence of the matters to which they relate.

### 32.2 **Certificates and Determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### 32.3 **Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

## 33. **PARTIAL INVALIDITY**

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## 34. **REMEDIES, WAIVERS AND HARDSHIP**

### 34.1 **Remedies and Waivers**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

### 34.2 **No hardship**

Save as otherwise provided for in this Agreement, each Party hereby agrees to bear the risk of the occurrence of any unforeseeable change in circumstances which will render the performance of its obligations under the Finance Documents excessively onerous. As a result, each Party hereby acknowledges that the provisions of article 1195 of the French *Code civil* shall never apply to it with respect to its obligations under the Finance Documents and that it shall not be entitled to make any claim (whether to renegotiate and/or request the courts to revise or terminate any Finance Document) under article 1195 of the French *Code civil*.

## 35. AMENDMENTS AND WAIVERS

### 35.1 Required consents

- (a) Subject to Clause 35.2 (*Exceptions*) any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Borrowers and any such amendment or waiver will be binding on all Parties.
- (b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause.

### 35.2 Exceptions

- (a) Subject to Clause 35.5 (*Replacement of Screen Rate*) and paragraph (b) below, an amendment or waiver that has the effect of changing or which relates to:
  - (i) the definition of "Majority Lenders";
  - (ii) an extension to the date of payment of any amount under the Finance Documents;
  - (iii) a reduction in the Margin (other than as contemplated in the definition of Margin) or a reduction in the amount of any payment of principal, interest, fees or commission payable to a Lender under the Finance Documents;
  - (iv) an increase in or an extension of the amount of any Commitment;
  - (v) a change to an Obligor or any release of the Guarantee;
  - (vi) any provision which expressly requires the consent of all the Lenders;
  - (vii) Clause 2.3 (*Finance Parties' rights and obligations*), Clause 9.1 (*Mandatory Prepayment – Illegality*), Clause 22.9 (*Sanctions*), Clause 24 (*Changes to the Lenders*), Clause 28 (*Sharing among the Finance Parties*), Clause 37 (*Governing law*), Clause 38 (*Enforcement*) or this Clause 35;
  - (viii) the Guarantee; or
  - (ix) any change in the currency of the principal amount or interest in respect of a Loan,shall not be made without the prior consent of all the Lenders.
- (b) An amendment or waiver which relates to the rights or obligations of the Facility Agent or the Mandated Lead Arrangers and Bookrunners may not be effected without the consent of the Facility Agent or the Mandated Lead Arrangers and Bookrunners.

### 35.3 Replacement and/or prepayment of a Lender

- (a) If:
  - (i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (f) below) or a Defaulting Lender;
  - (ii) a Borrower becomes obliged to repay any amount in accordance with Clause 9.1 (*Mandatory Prepayment – Illegality*) or to pay additional amounts pursuant to Clause 15.1 (*Increased Costs*), Clause 14.2 (*Tax gross-up*) or Clause 14.3 (*Tax Indemnity*) to any Lender; or

- (iii) any amount payable to any Lender by a Borrower under a Finance Document is not, or will not be (when the relevant corporate income tax is calculated) treated as a deductible charge or expense for French tax purposes for that Borrower by reason of that amount being (i) paid or accrued to a Lender incorporated, domiciled, established or acting through a Facility Office situated in a Non-Cooperative Jurisdiction, or (ii) paid to an account opened in the name of or for the benefit of that Lender in a financial institution situated in a Non-Cooperative Jurisdiction,

then the Company (on behalf of the other Obligors) may (to the extent permitted by applicable law), on 10 (ten) Business Days' prior written notice to the Facility Agent and such Lender:

- (iv) in the case of paragraph (i) above, prepay such Lender and/or cancel any Commitments of such Lender; or
  - (v) in the case of paragraphs (i) to (iii) above, replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 24 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under the Finance Documents to a Lender, another bank, financial institution, trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (a “**Replacement Lender**”) selected by the Company and which (unless the Facility Agent is an Impaired Agent) is acceptable to the Facility Agent (acting reasonably), which confirms its willingness to assume and does assume all the obligations of the transferring Lender (including without limitation the assumption of the transferring Lender’s participations or unfunded participations (as the case may be) on the same basis as the transferring Lenders) for a purchase price in cash payable at the time of transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Utilisations and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents. If a Lender is required to transfer rights and obligations pursuant to this Clause 35.3 but fails to do so within 10 Business Days of being required to do so that Lender's Commitment and/or participation shall not be included for the purpose of calculating the Total Commitments or participations under the Facility when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments and/or participations has been obtained in respect of a request for a consent, waiver, amendment of or in relation to any of the terms of any Finance Documents or other vote of Lenders under the terms of this Agreement.
- (b) The replacement of a Lender pursuant to this Clause 35.3 shall be subject to the following conditions:
- (i) the Company shall have no right to replace a Lender which is the Facility Agent;
  - (ii) neither the Facility Agent nor the Lender shall have any obligation to a Borrower to find a Replacement Lender;
  - (iii) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than 60 days after the date on which that Lender is deemed a Non-Consenting Lender;

- (iv) in no event shall the Lender replaced under Clause 35.3 be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents; and
  - (v) the Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to that transfer.
- (c) A Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Facility Agent and the Company when it is satisfied that it has complied with those checks.
- (d) On the notice referred to in paragraph (a) above becoming effective, each Available Commitment of the Defaulting Lender shall immediately be reduced to zero.
- (e) The Facility Agent shall as soon as practicable after receipt of a notice referred to in paragraph (a) above in respect of a Defaulting Lender, notify all the Lenders.
- (f) In the event that:
- (i) a Borrower or the Facility Agent (at the request of such Borrower) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents; and
  - (ii) the consent, waiver or amendment in question requires the approval of all the Lenders; and Lenders whose Commitments aggregate more than 90 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 90 per cent. of the Total Commitments prior to that reduction) have consented or agreed to such waiver or amendment,

then any Lender who does not, and continues not to, consent or agree to such waiver or amendment shall be deemed a **"Non-Consenting Lender"**.

#### 35.4 **Disenfranchisement of Defaulting Lenders**

For so long as a Defaulting Lender has any Available Commitment, in ascertaining the Majority Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents, that Defaulting Lender's Commitments will be reduced by the amount of its Available Commitments.

For the purposes hereof, the Facility Agent may assume that the following Lenders are Defaulting Lenders:

- (a) any Lender which has notified the Facility Agent that it has become a Defaulting Lender;
- (b) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a), (b) or (c) of the definition of "Defaulting Lender" has occurred,

unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Facility Agent) or the Facility Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

### 35.5 Replacement of Screen Rate

- (a) Subject to Clause 35.2 (*Exceptions*), if a Screen Rate Replacement Event has occurred in relation to any Screen Rate for a currency which can be selected for a Loan, any amendment or waiver which relates to:
- (i) providing for the use of a Replacement Benchmark in relation to that currency in place of (or in addition to) the affected Screen Rate; and
  - (ii)
    - (A) aligning any provision of any Finance Document to the use of that Replacement Benchmark;
    - (B) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
    - (C) implementing market conventions applicable to that Replacement Benchmark;
    - (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
    - (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),  
  
may be made with the consent of the Facility Agent (acting on the instructions of the Majority Lenders) and the Obligors.
- (b) If any Lender fails to respond to a request for an amendment or waiver described in paragraph (a) above within 15 Business Days (or such longer time period in relation to any request which the Company and the Facility Agent may agree) of that request being made:
- (i) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments under the relevant Facility/ies when ascertaining whether any relevant percentage of Total Commitments has been obtained to approve that request; and
  - (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

## 36. CONFIDENTIALITY

### 36.1 Confidential Information

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 36.2 (*Disclosure of Confidential Information*) and Clause 36.3 (*Disclosure to numbering service providers*), and to ensure that all Confidential

Information is protected with security measures and a degree of care that would apply to its own confidential information.

### 36.2 Disclosure of Confidential Information

Any Finance Party may, on a need to know basis and without prejudice to the provisions of Article L.511-33 of the *French Code Monétaire et Financier* disclose:

- (a) to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, and auditors, such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
  - (i) to (or through) whom it transfers (or may potentially transfer) all or any of its rights and/or obligations under one or more Finance Documents and to any of that person's Affiliates, and professional advisers;
  - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person's Affiliates and professional advisers;
  - (iii) appointed by any Finance Party or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including, without limitation, any person appointed under paragraph (b) of Clause 26.14 (*Relationship with the Lenders*));
  - (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
  - (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
  - (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
  - (vii) to whom or for whose benefit that Finance Party charges, transfers or otherwise creates Security (or may do so) pursuant to Clause 24.7 (*Security over Lenders' rights*) or effects an assignment or transfer as part of the enforcement of such



interest, including to a federal reserve or central bank (including, for the avoidance of doubt, the European Central Bank) to (or through) whom it creates Security pursuant to Clause 24.7 (*Security over Lenders' rights*), and any federal reserve or central bank (including, for the avoidance of doubt, the European Central Bank) may disclose such Confidential Information to a third party to whom it transfers (or may potentially transfer) rights under the Finance Documents or the securities issued by the special purpose vehicle in connection with the enforcement of such Security

- (viii) who is a Party; or
- (ix) with the prior written consent of the Company;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii) and (b)(iii) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
  - (B) in relation to paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
  - (C) in relation to paragraphs (b)(v), (b)(vi) and (b)(vii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Company and the relevant Finance Party;
  - (d) to any of Standard & Poor's Rating Services, Fitch Ratings Ltd and Moody's Investor Services Limited (including its professional advisers) such Confidential Information as may

be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

- (e) Any Lender may also disclose the size and term of the Facility and the name of any Obligor to any investor or a potential investor in a securitisation (or similar transaction of broadly equivalent economic effect) of that Lender's rights or obligations under the Finance Documents, subject to such investor or potential investor signing a Confidentiality Undertaking.

### 36.3 Disclosure to numbering service providers

- (a) Any Finance Party without prejudice to the provisions of article L. 511-33 of the French *Code monétaire et financier*, may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or one or more Obligors the following information:

- (i) names of the Obligors;
- (ii) country of domicile of the Obligors;
- (iii) place of incorporation of the Obligors;
- (iv) date of this Agreement;
- (v) the names of the Facility Agent and the Mandated lead Arrangers and Bookrunners;
- (vi) date of each amendment and restatement of this Agreement;
- (vii) amount of Total Commitments;
- (viii) currencies of the Facility;
- (ix) type of Facility;
- (x) ranking of Facility;
- (xi) Termination Date for Facility;
- (xii) changes to any of the information previously supplied pursuant to paragraphs (i) to (xi) above; and
- (xiii) such other information agreed between such Finance Party and the Company,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
- (c) The Company represents that none of the information set out in paragraphs (i) to (xiii) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.

- (d) The Facility Agent shall notify the Company and the other Finance Parties of:
- (i) the name of any numbering service provider appointed by the Facility Agent in respect of this Agreement, the Facility and/or one or more Obligors; and
  - (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facility and/or one or more Obligors by such numbering service provider.

#### **36.4 Entire agreement**

Without prejudice to the provisions of article L. 511-33 of the French *Code monétaire et financier*, this Clause 36 constitutes the entire agreement between the Parties in relation to the obligations of the Finance Parties under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

#### **36.5 Inside information**

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

#### **36.6 Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to promptly inform the Company:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 36.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 36.

#### **36.7 Continuing obligations**

The obligations in this Clause 36 are continuing and, in particular, shall survive and remain binding on each Finance Party for period of 24 months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

**SECTION 11**  
**GOVERNING LAW AND ENFORCEMENT**

**37. GOVERNING LAW**

This Agreement is governed by French law.

**38. ENFORCEMENT**

**38.1 Exclusive Jurisdiction**

The *Tribunal de Commerce* of Paris has exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement).

**39. ELECTION OF DOMICILE**

Without prejudice to any other mode of service allowed under any relevant law, each Borrower (other than a Borrower otherwise domiciled in Paris) irrevocably elects domicile at c/o Atos SE, River Ouest 80 quai Voltaire, 95870 Bezons, France for the purpose of serving any judicial or extra-judicial documents in relation to any action or proceedings referred to above.

**This Agreement has been entered into on the date stated at the beginning of this Agreement.**

**THE ORIGINAL PARTIES**

**PART I  
THE BORROWERS**

Name of Borrower	Registration number (or equivalent, if any)
ATOS SE	323 623 603 R.C.S. Pontoise
ATOS TELCO SERVICES B.V.	02073950
ATOS INTERNATIONAL B.V.	17091364

**PART II**  
**THE ORIGINAL LENDERS**

Name of Original Lender as at the Signing Date	Commitment (euros) as at the Signing Date
MUFG Bank, Ltd.	162,000,000
Bank of America Merrill Lynch International Limited	60,000,000
Barclays Bank PLC	162,000,000
BNP Paribas	162,000,000
Commerzbank Aktiengesellschaft, Filiale Luxemburg	162,000,000
Crédit Agricole Corporate and Investment Bank	162,000,000
Crédit du Nord	54,000,000
Crédit Industriel et Commercial	162,000,000
Deutsche Bank Luxembourg S.A.	60,000,000
Goldman Sachs International Bank	60,000,000
ING Bank France	162,000,000
Natixis	162,000,000
Société Générale	108,000,000
UniCredit Luxemburg S.A.	162,000,000

### PART III

#### THE LENDERS AS AT THE AMENDMENT AND RESTATEMENT EFFECTIVE DATE

Name of Lender as at the Amendment and Restatement Effective Date	Commitment (euros) as at the Amendment and Restatement Effective Date
Banca IMI S.P.A., London Branch	34,000,000
Banco Bilbao Vizcaya Argentaria S.A., Paris Branch	65,000,000
Banco Santander S.A., Paris branch	35,000,000
Bank of America Merrill Lynch International Limited	65,000,000
Barclays Bank PLC	162,000,000
BNP Paribas	162,000,000
Caisse Régionale de Crédit Agricole Mutuel de Paris et d'Ile de France	50,000,000
Citibank Europe plc	65,000,000
Commerzbank Aktiengesellschaft, Filiale Luxemburg	192,000,000
Crédit Agricole Corporate and Investment Bank	82,000,000
Crédit du Nord	54,000,000
Crédit Industriel et Commercial	162,000,000
Crédit Lyonnais	40,000,000
Deutsche Bank Luxembourg S.A.	162,000,000
HSBC France	35,000,000
ING Bank N.V., French Branch	162,000,000
J.P. Morgan Securities PLC	65,000,000
KBC Bank N.V. (Succursale Française)	35,000,000
Landesbank Hessen-Thüringen Girozentrale	65,000,000
Mizuho Bank, Ltd.	34,000,000
MUFG Bank, Ltd.	162,000,000
Natixis	112,000,000
Société Générale	108,000,000
Sumitomo Mitsui Banking Corporation Europe Limited, Paris Branch	65,000,000
UniCredit Bank AG	162,000,000
Wells Fargo Bank International UC	65,000,000
<b>Total Commitments €</b>	<b>2,400,000,000</b>

**SCHEDULE 2**  
**CONDITIONS PRECEDENT**

**PART I**

**CONDITIONS PRECEDENT TO SIGNING**

**1. Obligors**

**1.1 The Company**

- (a) A K-bis extract and a non-bankruptcy certificate (as the case may be in electronic form) for the Company, not more than one month old.
- (b) A copy of the constitutive documents for the Company.
- (c) Evidence that the person(s) who has signed the Finance Documents on behalf of the Company was duly authorised to sign.
- (d) A copy of a resolution of the *Conseil d'Administration* (board of directors) of the Company, approving the terms of the Finance Documents to which it is a party and authorising a specified person or persons to execute any Finance Document to which it is a party on its behalf.
- (e) A specimen of the signature of each person referred to in paragraph (c) above and of each person authorised by the resolution referred to in paragraph (d) above.
- (f) A certificate of an authorised signatory of the Company certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the Signing Date.

**1.2 Atos Telco Services B.V. and Atos International B.V.**

- (a) An extract from the trade register (*handelsregister*) of the Chamber of Commerce of Atos Telco Services B.V. and Atos International B.V. not more than one month old.
- (b) A copy of the constitutive documents for each of Atos Telco Services B.V. and Atos International B.V..
- (c) Evidence that the person(s) who has signed the Finance Documents on behalf of Atos Telco Services B.V. and Atos International B.V., as the case may be, was duly authorised to sign.
- (d) A copy of a resolution of, as required or reasonably requested by the Facility Agent, the managing board, supervisory board (if any), and the general meeting of shareholders, of each of Atos Telco Services B.V. and Atos International B.V., inter alia, approving its execution and the terms of, and the transactions contemplated by, the Finance Documents to which it is a party.
- (e) A specimen of the signature of each person referred to in paragraph (c) above and of each person authorised by the resolution referred to in paragraph (d) above.
- (f) A certificate of an authorised signatory of each of Atos Telco Services B.V. and Atos International B.V. certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the Signing Date.



## 2. **Legal opinions**

- (a) A legal opinion of Linklaters LLP, legal advisers to the Mandated Lead Arrangers and Bookrunners and the Facility Agent, substantially in the form distributed to the Original Lenders prior to signing this Agreement.
- (b) A Dutch legal opinion of Linklaters LLP, legal adviser to the Mandated Lead Arrangers and Bookrunners and the Facility Agent, substantially in the form distributed to the Original Lenders prior to signing this Agreement.
- (c) A legal opinion of Weil, Gotshal & Manges, legal adviser to the Company, substantially in the form distributed to the Original Lenders prior to signing this Agreement.
- (d) A legal opinion of Atos Telco Services B.V. and Atos International B.V.'s internal legal counsel, substantially in the form distributed to the Original Lenders prior to signing this Agreement.

## 3. **Other documents and evidence**

- (a) The Fee Letters duly executed by the Company.
- (b) A copy of the TEG letter duly countersigned by the Borrowers.
- (c) Evidence that the Company has issued a notice in respect of the Existing Syndicated Facility which gives revocable notice of the prepayment in full of the Existing Syndicated Facility and irrevocable cancellation of the available commitments under such facility.
- (d) A certificate issued by a representative of the Company detailing the identity, on the date the Agreement is signed, of all the Material Subsidiaries.
- (e) A copy of any other Authorisation, "know your customer" documentation, or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable (if it has notified the Company accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.
- (f) The financial statements for the Company for the year ended 31 December 2013 and the most recent financial statements of each Obligor.
- (g) Evidence that the fees, costs and expenses then due from the Company pursuant to Clause 13 (*Fees*) and Clause 18 (*Costs and expenses*) have been paid or will be paid within seven Business Days from the Signing Date or on the first Utilisation Date if earlier.
- (h) The Guarantee, duly executed by the Company.

## **PART II**

### **Conditions precedent to initial Utilisation**

Evidence that the Company has (subject only to funds being made available under the Facility) prepaid and cancelled in full the Existing Syndicated Facility.

### PART III

#### Conditions precedent to the accession of an Additional Borrower

- (a) A duly executed Accession Letter.
- (b) A copy of the certificate of incorporation and of a non-bankruptcy certificate (if applicable in the relevant jurisdiction and as the case may be in electronic form) of each Additional Borrower, not more than one month old.
- (c) A copy of the constitutive documents for each Additional Borrower.
- (d) Evidence that the person(s) who has signed the Finance Documents on behalf of the Additional Borrowers was duly authorised to sign.
- (e) A copy of all necessary authorisations (or which are customarily required in the relevant jurisdiction) approving its execution and the terms of, and the transactions contemplated by, the Finance Documents to which it is a party.
- (f) A specimen of the signature of each person referred to in paragraph (c) above and of each person authorised by the resolution referred to in paragraph (d) above.
- (g) A certificate of an authorised signatory of each Additional Borrower certifying that each copy document relating to it specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter and the first demand guarantee.
- (h) A legal opinion of the Additional Borrowers' internal legal counsel.
- (i) legal opinions of the legal adviser to the Mandated Lead Arrangers and Bookrunners and the Facility Agent under French law as regards the enforceability and validity of the Accession Letter and in the jurisdiction of the Additional Borrower regarding recognition of choice of law and enforcement of judgments.
- (j) A first demand guarantee substantially in the same form as the Guarantee executed by the Company in respect of the obligations of such Additional Borrower.
- (k) A copy of a resolution of the *Conseil d'Administration* (board of directors) of the Company, approving the terms of and authorising a specified person or persons to execute on its behalf the guarantee referred to in paragraph (j) above.
- (l) A legal opinion of the legal adviser to the Company as regard the capacity of the Company to execute the guarantee referred to in paragraph (j) above.
- (m) A legal opinion of the legal adviser to the Mandated Lead Arrangers and Bookrunners and the Facility Agent under French law as regards the enforceability and validity of the guarantee referred to in paragraph (j) above substantially in the form delivered to the Original Lenders prior to or on signing this Agreement.
- (n) A copy of any other Authorisation, "know your customer" documentation, or other document, opinion or assurance which the Facility Agent considers to be necessary or desirable (if it has

notified the Company accordingly) in connection with the entry into and performance of the transactions contemplated by the Accession Letter or for the validity and enforceability of the Accession Letter.

**SCHEDULE 3  
UTILISATION REQUEST**

From: [Borrower]  
To: [Facility Agent]  
[address]  
Att: [●]  
Fax number: [●]

Cc:  
[address]  
Fax number: [●]  
Att: [●]

Dated:

Dear Sirs

**Atos SE – € [●] Facility Agreement  
dated [●] 2014 as amended and restated on [●] (the "Agreement")**

1. We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
2. We wish to borrow a Loan on the following terms:  
Borrower [\_\_\_\_\_]   
Proposed Utilisation Date: [\_\_\_\_\_] (or, if that is not a Business Day, the next Business Day)   
Currency of Loan: [\_\_\_\_\_]   
Amount: [\_\_\_\_\_] or, if less, the Available Facility   
Interest Period: [\_\_\_\_\_]
3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Utilisation Request.

4. The proceeds of this Loan should be credited to [account].
5. This Utilisation Request is irrevocable.

Yours faithfully

.....  
authorised signatory for  
[*name of relevant Borrower*]

**SCHEDULE 4**  
**FORM OF TRANSFER AGREEMENT**

This Transfer Agreement is made on [ ]

**BETWEEN:**

(1) [ ] (the “**Existing Lender**”)

**AND**

(2) [ ] (the “**New Lender**”)

**WHEREAS:**

- (A) The Existing Lender has entered into a multicurrency revolving facility in an aggregate amount equal to [ ] (*figures and letters*) under a facility agreement dated [●] 2014, between *inter alios*, Atos SE as Borrower, the Financial Institutions listed in Part II of Schedule I to that Facility Agreement, [●],[●],[●] and [●] acting as Mandated Lead Arrangers and Bookrunners and [●] acting as Facility Agent of the Lenders (the “**Facility Agreement**”).
- (B) The Existing Lender wishes to transfer and the New Lender wishes to acquire [all] [the part specified in Schedule [●] of this Transfer Agreement] of the Existing Lender’s Commitment, rights and obligations referred to in Schedule to this Transfer Agreement.
- (C) Terms defined in the Facility Agreement have the same meaning when used in this Transfer Agreement.

**IT IS AGREED AS FOLLOWS:**

- 1. The Existing Lender and the New Lender agree to the transfer (*cession*) of [all] [the part specified in Schedule of this Transfer Agreement] of the Existing Lender’s Commitment, rights and obligations referred to in Schedule to this Transfer Agreement in accordance with Clause 24.6 (*Procedure for transfer*) of the Facility Agreement<sup>1</sup>.
- 2. The proposed Transfer Date is [\_\_\_\_\_].

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<sup>1</sup> The New Lender may, in the case of a transfer of rights by the Existing Lender under this Transfer Agreement, if it considers it necessary to make the transfer effective as against a French Obligor, arrange for it to be notified or acknowledged to such French Obligor in accordance with article 1324 of the French Code Civil

3. The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) are set out in Schedule of this Transfer Agreement.
4. The New Lender acknowledges the limitations on the Existing Lender's liabilities set out in paragraph (c) of Clause 24.5 (*Limitation of responsibility of Existing Lenders*) of the Facility Agreement.
5. The New Lender confirms, for the benefit of the Facility Agent and without liability to any Obligor, that it is [a Qualifying Lender falling within the paragraph [(a)/(b)] of the definition of Qualifying Lender]/[a Treaty Lender]/[not a Qualifying Lender] and that it is [not]<sup>2</sup> incorporated or acting through a Facility Office situated in a Non Cooperative Jurisdiction..
6. The New Lender confirms to the other Finance Parties represented by the Facility Agent that it will assume the same obligations to those Parties as it would have been under if it was an Original Lender.
7. This Transfer Agreement is governed by French law. The *Tribunal de Commerce de Paris* shall have jurisdiction in relation to any dispute concerning it.

---

<sup>2</sup> Delete as applicable. Each New Lender is required to confirm whether it falls within one of these categories or not.



**SCHEDULE**

**Commitment/rights and obligations to be transferred**

*[insert relevant details]*

*[Facility Office address, fax number and attention details for notices and account details for payments.]*

[Existing Lender]

[New Lender]

By:

By:

This Transfer Agreement is accepted by the Facility Agent and the Transfer Date is confirmed as

[\_\_\_\_\_].

[Facility Agent]

By:

**SCHEDULE 5**  
**FORM OF GUARANTEE (*GARANTIE À PREMIÈRE DEMANDE*)**

THIS FIRST DEMAND GUARANTEE is dated [            ] between:

- (1) **ATOS SE** a company incorporated as a French *société européenne* under the laws of France, the registered office of which is at River Ouest 80 quai Voltaire, 95870 Bezons registered with the Trade and Companies Registry (*Registre du Commerce et des Sociétés*) of Pontoise under the number 323 623 603 (the “**Guarantor**”).
- (2) **THE FINANCE PARTIES** party to the Agreement (as defined below) represented by [●] (“**Facility Agent**”) as agent for such Finance Parties at any time (the “**Beneficiaries**”).

**WHEREAS:**

It is a condition precedent to [●] relating to the multicurrency facility agreement between, *inter alios*, Atos SE and certain financial institutions listed as Lenders therein and [●] as Facility Agent originally dated 6 November 2014 (the “**Agreement**”) that the Guarantor executes and delivers this Guarantee.

**IT IS AGREED AS FOLLOWS:**

**1. INTERPRETATION**

**1.1 Definitions**

In this Guarantee, the following terms and expressions will, unless the context otherwise requires, have the following meanings:

“**Business Day**” means a day (other than a Saturday or a Sunday) on which banks are opened for business in Paris and London.

“**EONIA**” means the reference rate known as the "Euro Overnight Index Average" in the form of the rate listed under the aegis of the European Central Bank and published at approximately 7.00 p.m. (Brussels time) by TELERATE (page 247) or REUTERS (page EONIA) (or whatever page that may be substituted therefore) on each day on which interest has to be calculated or accrues in accordance with Clause 3.7 (*Late payment*).

“**Guarantee**” means this first demand guarantee entered into between the Guarantor and the Beneficiaries represented by the Facility Agent.

“**Maximum Amount**” means € [●] plus € [●] or its equivalent in any other freely convertible currency.

“**Obligor**” means:

- (i) ATOS TELCO SERVICES B.V., a company incorporated as a Dutch closely-held limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) under the laws of The Netherlands, the registered office of which is at Henri Dunantlaan 2, 9728 HD Groningen registered with the Trade Register of the Chamber of Commerce in Groningen, under the number 02073950; or

- (ii) ATOS INTERNATIONAL B.V. a company incorporated as a Dutch closely held limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) under the laws of The Netherlands, the registered office of which is at Papendorpseweg 93, 3528 BJ Utrecht, The Netherlands registered with the Trade Register of the Chamber of Commerce in Groningen under the number 17091364.

“**Party**” means a party to this Guarantee.

“**Payment Request**” means a request made by the Facility Agent to the Guarantor to pay on first demand any Requested Amount up to the Maximum Amount, substantially in the form of the Annex.

“**Requested Amount**” means the sums payable by the Guarantor under this Guarantee as set out in any Payment Request.

## 1.2 Construction

In this Guarantee:

- (a) a reference to a Clause or an Annex is a reference to a clause of, or an annex to, this Guarantee;
- (b) a reference to any person will include its respective successors and assigns;
- (c) all words importing the plural will imply the singular and vice versa; and
- (d) the index and the headings are for convenience only and are to be ignored in construing this Guarantee.

## 2. GUARANTEE

- (a) The Guarantor irrevocably and unconditionally undertakes to pay on first demand, in accordance with Article 2321 of the French Civil Code, of the Facility Agent, immediately upon receipt of any Payment Request, any and all Requested Amounts in accordance with the terms of this Guarantee, up to the Maximum Amount.
- (b) This Guarantee constitutes an autonomous, irrevocable and unconditional undertaking of the Guarantor and the obligations of the Guarantor under this Guarantee are independent of any obligation of the Obligor under the Agreement. Nothing in this Guarantee will be construed as creating a surety (*cautionnement*).
- (c) For the avoidance of doubt, the Guarantor will be liable under this Guarantee as a first demand guarantor and nothing in this Guarantee will be construed or referred to as limiting the first demand nature of this Guarantee.

## 3. PAYMENT REQUESTS AND PAYMENTS

- 3.1 The Facility Agent will send any Payment Request to the Guarantor not later than 5.00 p.m. on any Business Day.
- 3.2 Any Payment Request will indicate the Requested Amount. The Payment Request will also indicate the currency in which the Requested Amount has to be paid.
- 3.3 The aggregate sum of all Requested Amounts will not exceed the Maximum Amount.

- 3.4 The Guarantor will credit any Requested Amount to the bank account designated to it by the Facility Agent under the corresponding Payment Request.
- 3.5 All payments by the Guarantor pursuant to this Clause 3.5 will be made in immediately available funds and in the currency specified by the Facility Agent not later than 10.00 a.m. on the second Business Day following the date on which the corresponding Payment Request has been received by the Guarantor.
- 3.6 The right for the Facility Agent to issue and send Payment Requests to the Guarantor can be exercised as often as necessary, up to the Maximum Amount.

**3.7 Late payment**

If the Guarantor fails to pay any amount under this Guarantee when due, the unpaid amount will bear interest from the due date to the actual date of payment at an interest rate equal to:

- (a) if the Requested Amount is in Euro, arithmetic mean of the EONIA for each day comprised in the default period increased by a margin of 2% per annum, calculated on the basis of the actual number of days elapsed and a year of 360 days; and
- (b) if the Requested Amount is in a currency other than Euro, the arithmetic mean of the rates calculated on the basis of the actual number of days elapsed and a year of 360 or 365 days, in accordance with market practice, for each day comprised in the default period increased by a margin of 1% per annum notified to the Facility Agent by the Reference Banks (as defined in the Agreement) on that date as its overnight lending rate for such currency,

provided that this Clause 3.5 shall not have the effect of causing the Guarantor to pay late payment interest on late payment interest accruing and paid under the Agreement.

**3.8 Set-off and counterclaim**

All payments made by the Guarantor under this Guarantee will be made without set-off or counterclaim.

**3.9 Non-Business Days**

If a payment under this Guarantee is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day.

**3.10 Gross-up**

- (a) All payments by the Guarantor under this Guarantee will be made without any deduction and free and clear of and without deduction for or on account of any taxes, except to the extent that the Guarantor is required by law to make payment subject to any taxes.
- (b) If any tax or amounts in respect of tax must be deducted, or any other deductions must be made, from any amounts payable or paid by the Guarantor, the Guarantor will pay such additional amounts as may be necessary to ensure that the Facility Agent receives a net amount equal to the full amount which it would have received had payment not been made subject to tax or any other deduction, except where the amounts payable or paid by the Guarantor are made to an

account opened in the name of or for the benefit of the Facility Agent in a financial institution situated in a Non-Cooperative Jurisdiction.

- (c) All taxes required by law to be deducted or withheld by the Guarantor from any amounts paid or payable under this Guarantee will be paid by the Guarantor when due.

#### 4. **TERM**

This Guarantee will expire on:

- (a) [ ], unless the Parties agree in writing to extend the term of this Guarantee; or  
(b) if earlier, the date (if any) notified by the Facility Agent to the Guarantor as the date upon which the obligations of the Guarantor under this Guarantee are released,

from which date (the "**Termination Date**") no Payment Request will be sent by the Facility Agent. Any Payment Request sent prior to the Termination Date shall remain in full force and effect after the Termination Date, only to the extent such Payment Request has not already been fully discharged upon discharge of all liabilities under the Agreement in accordance with paragraphs (a) or (b) above.

#### 5. **WAIVER OF DEFENCES**

- 5.1 The obligations of the Guarantor under this Guarantee shall not be affected by any legal limitation, disability, incapacity or other circumstances relating to the Obligors or any other person, whether or not known to the Facility Agent, by any invalidity in or irregularity or unenforceability of the obligations of any Obligor under the Agreement or otherwise or by any change in the constitution of, or any merger (*fusion*), spin-off (*scission*) or other form of amalgamation or reconstruction, of the Obligor, the Guarantor or any Beneficiary. Likewise, the fact that the Guarantor may cease to control the Obligor within the meaning of Article L. 233.3 of the French Code de Commerce shall not affect its obligations under this Guarantee.
- 5.2 The benefit of this Guarantee will extend automatically and as a matter of law to any assignee or transferee of a Beneficiary.
- 5.3 The Guarantor hereby agrees to bear the risk of the occurrence of any unforeseeable change in circumstances which will render the performance of its obligations under the Guarantee excessively onerous. As a result, the Guarantor hereby acknowledges that the provisions of article 1195 of the French Code civil shall never apply to it with respect to its obligations under the Guarantee and that it shall not be entitled to make any claim (whether to renegotiate and/or request the courts to revise or terminate the Guarantee) under article 1195 of the French Code civil.

#### 6. **REPRESENTATIONS AND WARRANTIES**

##### 6.1 Representations and warranties

The Guarantor makes the representations and warranties set out in this Clause 6.1 to the Beneficiaries. Such representations and warranties constitute an essential element (*condition essentielle et déterminante*) of the decision of the Beneficiaries to accept the terms of this Guarantee.

## 6.2 Status

It is a limited liability company (*société européenne*), duly incorporated and validly existing under the laws of France and it has the power to own its assets and carry on its business as it is being conducted.

## 6.3 Powers and authority

It has the power to enter into and perform, and has taken all necessary action to authorise the entry into, performance and delivery of, this Guarantee and the transactions contemplated by this Guarantee.

## 6.4 Legal validity

This Guarantee constitutes its legal, valid and binding obligation enforceable in accordance with its terms.

## 6.5 Authorisations

All authorisations required or desirable in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, this Guarantee have been obtained or effected (as appropriate) and are in full force and effect.

## 6.6 *Pari passu* ranking

Its obligations under this Guarantee rank and will rank at least *pari passu* with all its other unsecured and unsubordinated obligations.

## 6.7 Taxes on payments

Subject to the provisions of Clause 3.10(a) and 3.10(b) above, all amounts payable by the Guarantor under this Guarantee will be made free and clear of, and without deduction for or on account of, any tax.

## 6.8 Stamp duties

No stamp or registration duty or similar taxes or charges are payable in France in respect of this Guarantee.

## 6.9 Immunity

The execution of this Guarantee by the Guarantor constitutes, and the exercise of its rights and performance of its obligations under this Guarantee will constitute, private and commercial acts done and performed for private and commercial purposes and the Guarantor will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in France in relation to this Guarantee.

## 6.10 Non-conflict

The entry into and performance by the Guarantor of, and the transactions contemplated by, this Guarantee do not and will not:

- (a) conflict with any law or regulation or judicial or official order; or
- (b) conflict with its constitutional documents; or

(c) conflict with any document which is binding upon it or any of its assets.

#### 6.11 **Times for making representations and warranties**

The representations and warranties set out in this Clause 6.11 are made on the date of this Guarantee and are deemed to be repeated continuously for so long as this Guarantee is in effect.

### 7. **CHANGES TO THE PARTIES**

#### 7.1 **Transfers by the Guarantor**

The Guarantor may not assign, transfer, novate or dispose of any of, or any interest in, its rights and/or obligations under this Guarantee.

#### 7.2 **Transfers by Beneficiary**

By derogation to paragraph 4 of article 2321 of the French Civil Code (*Code civil*), this Guarantee shall inure to the benefit of the Beneficiaries and to any person to whom it assigns or transfers any of its rights and/or obligations under the Agreement without any notice or carrying any formality.

The Guarantor hereby consents to any such assignment or transfer and agrees that it shall be bound hereunder vis-à-vis such assignee or transferee as if it was a Beneficiary.

### 8. **SET-OFF**

The Beneficiaries may set-off any matured payment obligation owed to them by the Guarantor, against any payment obligation (whether or not matured) owed by the Beneficiaries to the Guarantor regardless of the place of payment, booking branch or currency of either obligation at any of its offices anywhere and in any currency. If the payment of obligations is in different currencies, the Beneficiaries may convert either obligation at the market rate of exchange in its usual course of business for the purpose of the set-off.

### 9. **NOTICES**

#### 9.1 **Giving of notices**

All notices or other communications under or in connection with this Guarantee will be given in writing and, unless otherwise stated, may be made by letter, or facsimile. Any such notice will be deemed to be given as follows:

(a) if by letter, when delivered personally or on actual receipt; and

(b) if by facsimile, when received in legible form.

However, a notice given in accordance with the above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

#### 9.2 **Addresses for notices**

(a) The address and facsimile number of the Guarantor are:

Address: 80, Quai Voltaire River Ouest

95870 Bezons

Attention: Corporate Legal Department

Fax: +33 173 26 00 01

or such other as the Guarantor may notify to the Facility Agent by not less than five Business Days' notice.

(b) The address and facsimile number of the Facility Agent are:

Address: Fac Agent

35 Rue de la Gare

75019 Paris

Attention: Pierre Masse

E-mail: pierre.masse@bnpparibas.com

or such other as the Facility Agent may notify to the Guarantor by not less than five Business Days' notice.

#### 10. **COSTS AND EXPENSES**

The Guarantor will immediately reimburse the Beneficiaries and the Facility Agent of all costs and expenses (including all legal fees) in connection with the preservation or enforcement of any of their rights under this Guarantee.

#### 11. **REINSTATEMENT**

If any discharge, release or arrangement (in respect of the obligations of the Guarantor) is made by the Facility Agent in whole or in part on the basis of any payment or other disposition in respect of the obligations of the Guarantor which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Guarantor under this Guarantee will continue or be reinstated as if the discharge, release or arrangement had not occurred.

#### 12. **GOVERNING LAW AND JURISDICTION**

12.1 This Guarantee will be governed by, and construed in accordance with, French Law.

12.2 The Guarantor agrees that any court within the jurisdiction (*ressort*) of the *Tribunal de Commerce* of Paris shall have jurisdiction to settle any dispute in connection with this Guarantee.



Executed in [two (2)] originals

in

on \_\_\_\_\_.

---

**The Guarantor<sup>1</sup>**

By:

Name:

Title:

1. Signature must be preceded by the manuscript mention: "*Bon pour garantie à première demande*"

---

**BNP PARIBAS as Facility Agent<sup>2</sup>**

By:

Name:

Title:

2. Signature must be preceded by the manuscript mention: "*Bon pour acceptation de garantie à première demande*"

**ANNEX TO THE GUARANTEE  
FORM OF PAYMENT REQUEST**

To: ATOS SE (as Guarantor)

From: [●] (as Beneficiary)

Date: \_\_\_\_\_

**Atos SE – € [●] Facility Agreement  
Originally dated 6 November 2014 as amended and restated on [●] (the "Agreement")**

We refer to the first demand guarantee (*garantie à première demande*) granted by you on [date] in our favour (the "**Guarantee**").

We hereby make demand on you for payment in the amount of [\$/€][Requested Amount] to be made within two (2) Business Days from receipt of this Payment Request to the following account: [\_\_\_\_\_].

Failure to pay as demanded will give rise to late payment interest in accordance with the terms of the Guarantee.

We hereby indicate to you, but solely for your information and without affecting the scope or nature of your obligations and undertakings under the Guarantee, that an amount at least equivalent to the amount claimed from you hereunder is due and owing by the Obligor under the Agreement and remains unpaid at the time of this Payment Request.

All terms defined or used in the Guarantee have the same meaning for the purposes of this Payment Request.

This Payment Request will be governed by, and construed in accordance with, French Law.

Yours faithfully,

\_\_\_\_\_

The Facility Agent

By:

Name:

Title:

**SCHEDULE 6**  
**FORM OF COMPLIANCE CERTIFICATE**

To: [ ] as Facility Agent

From: ATOS SE

Dated:

Dear Sirs

**Atos SE – € [•]Facility Agreement**  
**dated [•] 2014 as amended and restated on [•](the "Agreement")**

1. We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
2. We confirm that on the Annual Testing Date of 31 December [ ]:
  - (a) Operating Margin is: [•]
  - (b) OMDA is: [•]
  - (c) the Net Debt is: [•]
  - (d) the Leverage Ratio is: [•]

We confirm that no Event of Default is outstanding as at such Annual Testing Date.

Signed: .....  
Chief Finance Officer  
of  
[Company]

*[insert applicable certification language]*

.....  
for and on behalf of  
*[name of auditors of the Company]*

**SCHEDULE 7**  
**RESIGNATION LETTER**

To: [ ] as Facility Agent

From: [resigning Obligor] and [Company]

Dated:

Dear Sirs

**Atos SE – € [•] Facility Agreement**  
**dated [•] 2014 as amended and restated on [•] (the "Agreement")**

1. [We refer to the Agreement. This is a Resignation Letter. Terms defined in the Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
2. Pursuant to Clause 25.3 (*Resignation of a Borrower*), we request that [name of the Borrower] be released from its obligations as a Borrower under the relevant Finance Document.
3. We confirm that:
  - (a) no Default is continuing or would result from the acceptance of this request; and
  - (b) the Borrower is under no actual or contingent obligations as a Borrower under any Finance Documents
4. This Resignation Letter is governed by French law.]

Company

By:

Borrower

By:

## SCHEDULE 8

### TIMETABLES

"D - " refers to the number of Business Days before the relevant Utilisation Date/the first day of the relevant Interest Period.

	Loans in euro	Loans in other currencies
Request for approval as an Optional Currency, if required (Clause 4.3 ( <i>Conditions relating to Optional Currencies</i> ))		D-5 10:00 a.m.
Delivery of a duly completed Utilisation Request (Clause 5.1 ( <i>Delivery of a Utilisation Request</i> ))	D-3 10:00 a.m.	D-3 10:00 a.m.
Facility Agent determines (in relation to a Utilisation) the Base Currency Amount of the Loan, if required under Clause 5.4 ( <i>Lenders' participation</i> ) and notifies the Lenders of the Loan in accordance with Clause 5.4 ( <i>Lenders' participation</i> )	D-3 4:00 p.m.	D-3 4:00 p.m.
Facility Agent notifies the Lenders of the request (Clause 4.3 ( <i>Conditions relating to Optional Currencies</i> ))	D-5 3:00 p.m.	D-5 3:00 p.m.
Responses by Lenders to the request (Clause 4.3 ( <i>Conditions relating to Optional Currencies</i> ))	D-4 1:00 p.m.	D-4 1:00 p.m.
Facility Agent notifies the Company if a currency is approved as an Optional Currency in accordance with Clause 4.3 ( <i>Conditions relating to Optional Currencies</i> )	D-4 5:00 p.m.	D-4 5:00 p.m.
LIBOR or EURIBOR is fixed	Quotation Day as of 11:00 a.m.	Quotation Day as of 11:00 a.m.
Facility Agent receives a notification from a Lender under Clause 6.2 ( <i>Unavailability of a currency</i> )	Quotation Day (as soon as practicable)	Quotation Day (as soon as practicable)
Facility Agent gives notice in accordance with Clause 6.2 ( <i>Unavailability of a currency</i> )	Quotation Day 5:00 p.m.	Quotation Day 5:00 p.m.
Reference Bank Quotations calculated in accordance with Clause 12.2 ( <i>Calculation of Reference bank Rate</i> )	Quotation Day Noon	Quotation Day Noon

**SCHEDULE 9**  
**FORM OF ACCESSION LETTER**

To: [●] as Facility Agent

From: [Subsidiary] and [Company]

Date:

Dears Sirs,

**Atos SE – € [●] Facility Agreement**  
**dated [●] 2014 as amended and restated on [●] (the "Facility Agreement")**

1. [We refer to the Facilities Agreement. This certificate (the "**Accession Letter**") shall take effect as an Accession Letter for the purposes of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.
2. [Subsidiary] agrees to become an Additional Borrower and to be bound by the terms of the Facility Agreement and the other Finance Documents as an Additional Borrower pursuant to Clause 25.2 (*Additional Borrowers*) of the Facility Agreement. [Subsidiary] is a company duly incorporated under the laws of [name of relevant jurisdiction] and registered number [●].
3. [Subsidiary's] administrative details for the purposes of the Facilities Agreement are as follows:  
Address: [●]  
Fax No.: [●]  
Attention: [●]
4. [Subsidiary] intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]:  
[Insert details (date, parties and description) of relevant documents]  
the "**Relevant Documents**".
5. The Company and the Subsidiary make the Repeating Representations to the Finance Parties on the date of this Accession Letter.
6. This Accession Letter is governed by French law.]

**Subsidiary**

SIGNED For and on behalf of

[•]

---

**The Company**

SIGNED For and on behalf of

[•]

---

**The Facility Agent**

SIGNED For and on behalf of

[•]

---

**SCHEDULE 10**  
**FORM OF INCREASE CONFIRMATION**

To: [•] as Facility Agent and [•] as the Company, for and on behalf of each Borrower

From: [the *Increase Lender*] (the "**Increase Lender**")

Dated:

**Atos SE – € [•] Facility Agreement**  
**dated [•] 2014 as amended and restated on [•] (the "Facility Agreement")**

1. We refer to the Facility Agreement. This is an Increase Confirmation. Terms defined in the Facility Agreement have the same meaning in this Increase Confirmation unless given a different meaning in this Increase Confirmation.
2. We refer to Clause 2.2 (*Increase*).
3. The Increase Lender agrees to assume and will assume all of the obligations corresponding to the Commitment specified in the Schedule (the "**Relevant Commitment**") as if it was an Original Lender under the Agreement.
4. The proposed date on which the increase in relation to the Increase Lender and the Relevant Commitment is to take effect (the "**Increase Date**") is [•].
5. On the Increase Date, the Increase Lender becomes party to the Finance Documents as a Lender [, a First Extension Lender/ a Second Extension Lender]<sup>3</sup>
6. The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 31.2 (*Addresses*) are set out in the Schedule.
7. The Increase Lender expressly acknowledges the limitations on the Lenders' obligations referred to in paragraph (g) of Clause 2.2 (*Increase*).
8. The Increase Lender confirms, for the benefit of the Facility Agent and without liability to any Borrower, that it is:

(a) [a Qualifying Lender (other than a Treaty Lender);]

(b) [a Treaty Lender;]

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<sup>3</sup> To include if increase occurs after the date of an Extension Request



(c) [not a Qualifying Lender,]<sup>4</sup>

and that it is not incorporated or acting through a Facility Office situated in a Non-Cooperative Jurisdiction.

9. This Increase Confirmation may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Increase Confirmation.
10. This Increase Confirmation is governed by French law. The *Tribunal de Commerce de Paris* shall have exclusive jurisdiction in relation to any dispute concerning it.
11. This Increase Confirmation has been entered into on the date stated at the beginning of this Increase Confirmation.

---

<sup>4</sup> Delete as applicable – each Increase Lender is required to confirm which of these three categories it falls within.

**The Schedule**

**Relevant Commitment/rights and obligations to be assumed by the Increase Lender**

*[insert relevant details]*

*[Facility office address, fax number and attention details for notices and account details for payments]*

[Increase Lender]

By:

This Increase Confirmation is accepted as an Increase Confirmation for the purposes of the Facility Agreement by the Facility Agent and the Increase Date is confirmed as [•].

Agent:

By:

**SCHEDULE 11**  
**SCREEN RATE CONTINGENCY PERIODS**

<b>Screen Rate</b>	<b>Period</b>
LIBOR	1 Month
EURIBOR	1 Month

**SCHEDULE 12**  
**FORM OF SUBSTITUTE AFFILIATE LENDER DESIGNATION NOTICE**

To: [ ] as Facility Agent

CC: [Company]

From: [Designating Lender] (the "Designating Lender")

Date:

Dears Sirs,

**Atos SE – [ ] Facility Agreement**  
**dated [ ] 2014 as amended and restated on [ ] (the "Agreement")**

1. We refer to the Agreement. Terms defined in the Agreement have the same meaning in this Designation Notice.
2. We hereby designate our Affiliate details of which are given below as a Substitute Affiliate Lender in respect of any Loans required to be advanced to [*specify name of borrower or refer to all borrowers in a particular jurisdiction etc*] ("**Designated Loan**").
3. The Substitute Affiliate Lender confirms, for the benefit of the Facility Agent and without liability to the Borrowers, that it is [a Qualifying Lender falling within paragraph [(a)/(b)] of the definition of "Qualifying Lender"/[a Treaty Lender]/[not a Qualifying Lender] and that it is [not] incorporated or acting through a Facility Office situated in a Non-Cooperative Jurisdiction.
4. The details of the Substitute Affiliate Lender are as follows:  
Name:  
Facility Office:  
Fax Number:  
Attention:  
Jurisdiction of Incorporation:
5. By countersigning this notice below the Substitute Affiliate Lender agrees to become a Substitute Affiliate Lender in respect of Designated Loan as indicated above and agrees to be bound by the terms of the Agreement accordingly.
6. This Designation Notice and any non-contractual obligations arising out of or in connection with it are governed by English law.

.....

For and on behalf of  
[Designating Lender]

We acknowledge and agree to the terms of the above.

.....

For and on behalf of  
[Substitute Affiliate Lender]

We acknowledge the terms of the above.

.....

For and on behalf of  
the Facility Agent  
Dated

## EXECUTION PAGES

*[Restated for notice details only (where applicable)]*

### **The Company**

#### **ATOS SE**

Address: River Ouest  
80 quai Voltaire  
95870 Bezons  
Fax No: +33 1 73 26 00 01  
Attention: Corporate Legal Department

### **The Additional Borrowers**

#### **ATOS TELCO SERVICES B.V.**

Address: Papendorpseweg 93,  
3528 BJ Utrecht, The Netherlands  
Fax No: +31(0)10-264 44 35  
Attention: Global Legal Department

#### **ATOS INTERNATIONAL B.V.**

Address: Papendorpseweg 93,  
3528 BJ Utrecht, The Netherlands  
Fax No: +31(0)10-264 44 35  
Attention: Global Legal Department

### **The Facility Agent**

BNP PARIBAS SA  
Registered No : 662 042 449 RCS Paris  
Address: 16, Place Hanovre  
75450 Paris Cedex 02  
Fax No: +33 1 42 98 43 17  
Attention:

AMENDMENT AND RESTATEMENT AGREEMENT EXECUTION PAGES

The Company

ATOS SE



By: NICOLAS DERUAZ

For and on behalf of

Atos SE

The Borrowers

ATOS SE

By: NICOLAS DERUAZ



For and on behalf of

Atos SE

**ATOS TELCO SERVICES B.V.**



By: **NICOLAS DERUAZ**

For and on behalf of  
**Atos Telco Services B.V.**

**ATOS INTERNATIONAL B.V.**



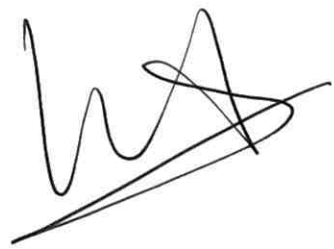
By: **NICOLAS DERUAZ**

For and on behalf of  
**Atos International B.V.**



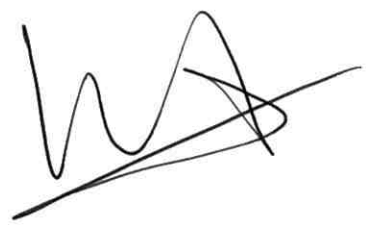
The Consenting Lenders

**BANK OF AMERICA MERRILL LYNCH INTERNATIONAL LIMITED**



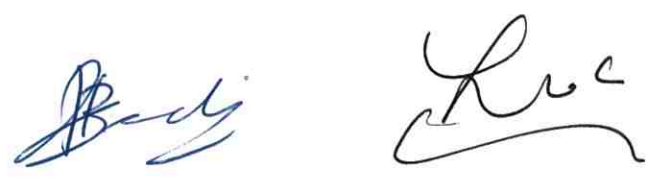
By: Jean Marc Pouchet, a duly authorised representative

**BARCLAYS BANK PLC**



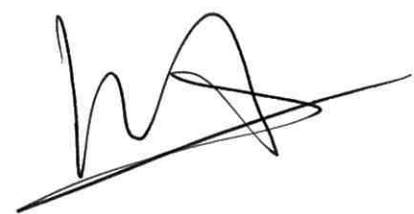
By: Jean Marc Pouchet, a duly authorised representative

**BNP PARIBAS**



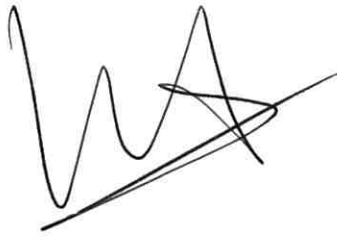
By: Philippe Beauchataud and/or Isabelle Loc

**CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D'ILE DE FRANCE**



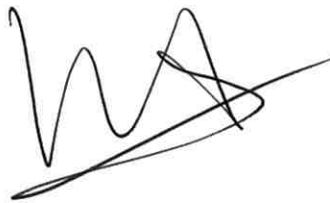
By: Jean Marc Pouchet, a duly authorised representative

**COMMERZBANK AKTIENGESELLSCHAFT, FILIALE LUXEMBURG**



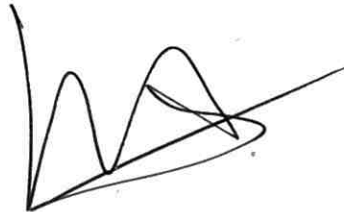
By: Jean Marc Pouchet, a duly authorised representative

**CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK**



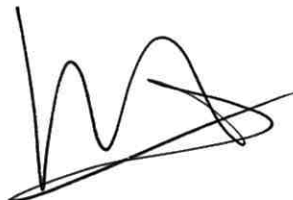
By: Jean Marc Pouchet, a duly authorised representative

**CRÉDIT DU NORD**



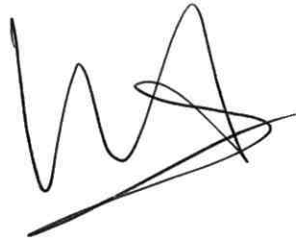
By: Jean Marc Pouchet, a duly authorised representative

**CREDIT INDUSTRIEL ET COMMERCIAL**



By: Jean Marc Pouchet, a duly authorised representative

**CREDIT LYONNAIS**



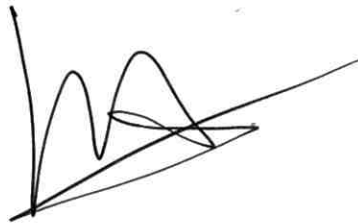
By: Jean Marc Pouchet, a duly authorised representative

**DEUTSCHE BANK LUXEMBOURG S.A.**



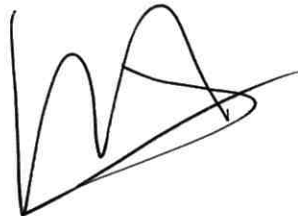
By: Jean Marc Pouchet, a duly authorised representative

**ING BANK N.V, FRENCH BRANCH**



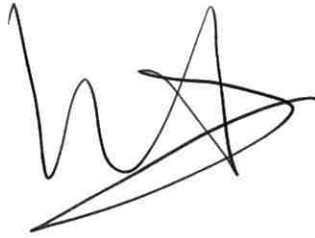
By: Jean Marc Pouchet, a duly authorised representative

**KBC BANK N.V. (SUCCURSALE FRANÇAISE)**



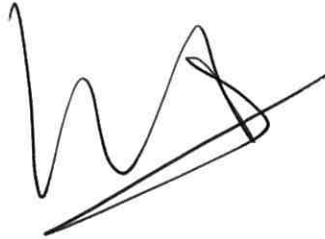
By: Jean Marc Pouchet, a duly authorised representative

**MUFG BANK, LTD.**



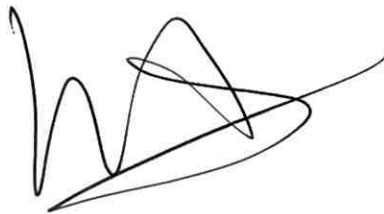
By: Jean Marc Pouchet, a duly authorised representative

**NATIXIS**



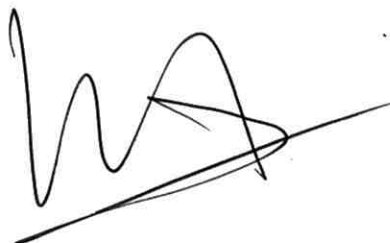
By: Jean Marc Pouchet, a duly authorised representative

**SOCIETE GENERALE**



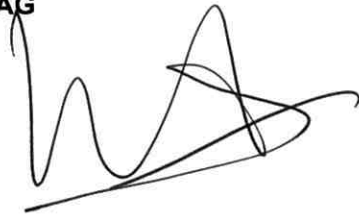
By: Jean Marc Pouchet, a duly authorised representative

**SUMITOMO MITSUI BANKING CORPORATION EUROPE LIMITED, PARIS BRANCH**



By: Jean Marc Pouchet, a duly authorised representative

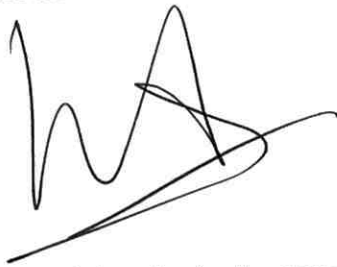
UNICREDIT BANK AG

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

By: Jean Marc Pouchet, a duly authorised representative

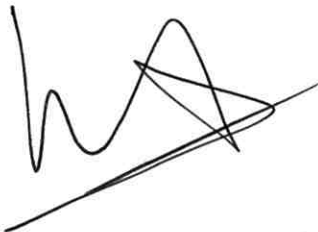
**New Lenders**

**BANCA IMI S.P.A., LONDON BRANCH**



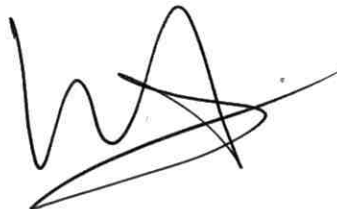
By: Jean Marc Pouchet, a duly authorised representative

**BANCO BILBAO VIZCAYA ARGENTARIA S.A., PARIS BRANCH**



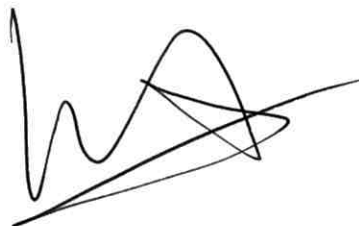
By: Jean Marc Pouchet, a duly authorised representative

**BANCO SANTANDER S.A., PARIS BRANCH**



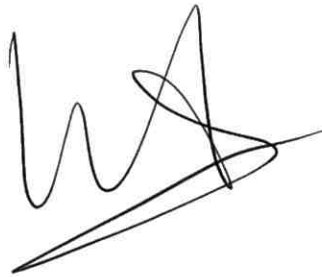
By: Jean Marc Pouchet, a duly authorised representative

**CITIBANK EUROPE PLC**



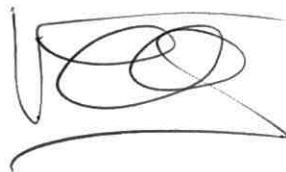
By: Jean Marc Pouchet, a duly authorised representative

**HSBC FRANCE**



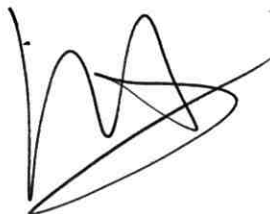
By: Jean Marc Pouchet, a duly authorised representative

**J.P. MORGAN SECURITIES PLC**



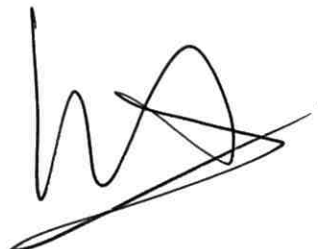
By: Romain Vernay

**LANDESBANK HESSEN-THÜRINGEN GIROZENTRALE**



By: Jean Marc Pouchet, a duly authorised representative

**MIZUHO BANK, LTD.**



By: Jean Marc Pouchet, a duly authorised representative

**WELLS FARGO BANK INTERNATIONAL UC**

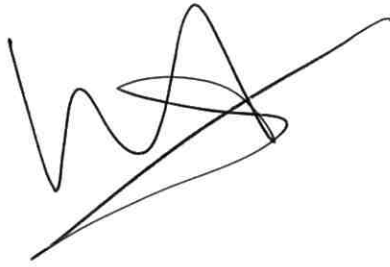
A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

By: Jean Marc Pouchet, a duly authorised representative



**The Facility Agent**

**BNP PARIBAS**

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

By: Jean Marc Pouchet