

## IMPORTANT NOTICE

### **You must read the following disclaimer before continuing**

THE CLASS S/B SUBORDINATED NOTES BEING ALLOCATED HEREBY HAVE NOT BEEN, AND WILL NOT BE, REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER RELEVANT JURISDICTION. THE ISSUER HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "INVESTMENT COMPANY ACT"). THE CLASS S/B SUBORDINATED NOTES ARE BEING ALLOCATED HEREBY OUTSIDE THE UNITED STATES TO PERSONS WHO ARE NOT U.S. PERSONS (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT) IN OFFSHORE TRANSACTIONS IN RELIANCE ON REGULATION S. EACH PURCHASER OF THE NOTES IN MAKING ITS PURCHASE WILL BE DEEMED TO HAVE MADE CERTAIN ACKNOWLEDGEMENTS, REPRESENTATIONS AND AGREEMENTS SET OUT IN THE ATTACHED LISTING PARTICULARS. THE CLASS S/B SUBORDINATED NOTES ARE SUBJECT TO OTHER RESTRICTIONS ON TRANSFERABILITY AND RESALE AS SET OUT IN THE ATTACHED LISTING PARTICULARS. THE CLASS S/B SUBORDINATED NOTES MAY NOT BE SUITABLE FOR ALL INVESTORS.

THE CLASS S/B SUBORDINATED NOTES CANNOT BE RESOLD IN THE UNITED STATES OR TO U.S. PERSONS UNLESS THEY ARE SUBSEQUENTLY REGISTERED OR AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT AND APPLICABLE STATE (AND OTHER JURISDICTION SECURITIES LAW) IS AVAILABLE.

**THESE LISTING PARTICULARS ARE NOT A PROSPECTUS FOR THE PURPOSES OF EU DIRECTIVE 2003/71/EC OR ANY IMPLEMENTING LEGISLATION OR RULES RELATING THERETO; IT IS AN ADVERTISEMENT AND ACCORDINGLY INVESTORS SHOULD NOT SUBSCRIBE FOR NOTES EXCEPT ON THE BASIS OF INFORMATION IN THESE LISTING PARTICULARS. COPIES OF THESE LISTING PARTICULARS WILL, FOLLOWING, PUBLICATION, BE AVAILABLE FROM ICG EOS LOAN FUND I LIMITED'S REGISTERED OFFICE.**

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Notwithstanding anything to the contrary contained in the document, all persons (and each employee, representative or other agent of such persons) may disclose to any and all persons, without limitation of any kind, the U.S. federal income tax treatment and U.S. federal income tax structure of any transaction contemplated in the document and all materials of any kind (including opinions or other tax analyses) that are provided to such person relating to such U.S. federal income tax treatment and U.S. federal income tax structure.

The document is not a prospectus for the purposes of Section 12(a)(2) or any other provision of or rule under the Securities Act.

# ICG EOS LOAN FUND I LIMITED

*(a private company with limited liability incorporated under the laws of Ireland)*

## €301,584,000 Class S/B Subordinated Notes due 2024

ICG EOS Loan Fund I Limited (the "**Issuer**") has issued the Class S/B Subordinated Notes (as defined herein).

In addition, the Issuer has previously authorised the creation and issue of €790,700,000 Class A Non-Deferrable Notes due 2024 (the "**Class A Notes**"), €49,500,000 Class B Deferrable Notes due 2024 (the "**Class B Notes**"), €14,620,000 Class S Preferred Notes due 2024 (the "**Class S Preferred Notes**") and €57,180,000 Class S Subordinated Notes due 2024 (the "**Class S Subordinated Notes**") and, together with the Class S Preferred Notes, (the "**Class S Notes**").

The Class A Notes, the Class B Notes, the Class S Notes and the Class S/B Notes are collectively referred to herein as the "**Notes**". The Class S/B Subordinated Notes are issued and secured pursuant to a trust deed (the "**Trust Deed**") originally dated on or about 25 August 2010 as amended and restated by a supplemental trust deed dated 7 November 2013 with effect from and including 4 December 2013 (the "**SP3 Issue Date**"), made between (amongst others) the Issuer and Citicorp Trustee Company Limited, in its capacity as trustee (the "**Trustee**").

The assets securing the Class S/B Subordinated Notes will consist primarily of a portfolio of Senior Secured Obligations but may also contain High Yield Bonds, Senior Unsecured Obligations, Second Lien Loans and Mezzanine Loans in respect of which Intermediate Capital Managers Limited is acting as investment manager (the "**Investment Manager**").



Interest Payments on the Class S/B Subordinated Notes will be made on the 30th of each month in each year (as adjusted for non-Business Days), commencing on 30 January 2014.

**See "Risk Factors" herein for a discussion of certain factors to be considered in connection with an investment in the Notes.**

These Listing Particulars do not constitute a prospectus for the purposes of Article 5 of Directive 2003/71/EC (as such directive may be amended from time to time, the "**Prospectus Directive**"). The Issuer is not offering the Notes in any jurisdiction in circumstances that would require a prospectus to be prepared pursuant to the Prospectus Directive. Application has been made to the Irish Stock Exchange for the Class S/B Subordinated Notes to be admitted to the Official List (the "**Official List**") and trading on the Global Exchange Market of the Irish Stock Exchange (the "**Global Exchange Market**"). There can be no assurance that any such listing will be maintained. These Listing Particulars constitute listing particulars for the purpose of such application and have been approved by the Irish Stock Exchange.

The Class S/B Subordinated Notes have not been, and will not be, registered under the United States Securities Act of 1933, as amended (the "**Securities Act**") or the securities laws of any state of the United States or any other relevant jurisdiction and will be subscribed for only outside the United States to non-U.S. Persons (as defined in Regulation S under the Securities Act ("**Regulation S**")) in reliance on Regulation S. The Issuer has not been and will not be registered under the United States Investment Company Act of 1940, as amended (the "**Investment Company Act**"). Interests in the Notes are subject to certain restrictions on transfer, and each recipient of Class S/B Subordinated Notes offered hereby in accepting its allotment will be deemed to have made certain acknowledgements, representations and agreements. Any resale or other transfer or attempted resale or other transfer, of any of the Class S/B Subordinated Notes that is not made in compliance with the applicable transfer restrictions will be void. See "*Allotment of Class S/B Subordinated Notes*". The Class S/B Subordinated Notes being offered hereby will not be rated.

**The date of these Listing Particulars is 16 January 2014**

## **NOTE DEFINITIONS**

The €790,700,000 Class A Notes due 2024 are referred to herein as the "**Class A Notes**". The €49,500,000 Class B Notes due 2024 are referred to herein as the "**Class B Notes**". The Class A Notes and the Class B Notes are collectively referred to herein as the "**Rated Notes**". The €14,620,000 Class S Preferred Notes due 2024 are referred to herein as the "**Class S Preferred Notes**". The €57,180,000 Class S Subordinated Notes due 2024 are referred to herein as the "**Class S Subordinated Notes**". The €301,584,000 Class S/B Subordinated Notes due 2024 are referred to herein as "**Class S/B Subordinated Notes**". The Class S Preferred Notes and the Class S Subordinated Notes are collectively referred to herein as the "**Class S Notes**".

## **LIMITED RECOURSE AND NON-PETITION**

The Class S/B Subordinated Notes are limited recourse obligations of the Issuer which are payable solely out of amounts received by or on behalf of the Issuer in respect of the Class S/B Collateral. The net proceeds of the realisation of the security over the Class S/B Collateral following an Event of Default or the aggregate proceeds of liquidation of the Class S/B Collateral may be insufficient to pay all amounts due to the Class S/B Subordinated Noteholders after making payments to other creditors of the Issuer ranking prior thereto or *pari passu* therewith. In the event of a shortfall in such proceeds, the Issuer will not be obliged to pay, and the other assets of the Issuer will not be available for payment of, such shortfall, all claims in respect of which shall be extinguished. See Condition 4 (*Security*).

## **RESPONSIBILITY**

The Issuer accepts responsibility for the information contained in this document save for the information contained in the sections of this document headed "*Description of the Investment Manager*" and "*Description of the Collateral Administrator*". To the best of the knowledge and belief of the Issuer (which has taken all reasonable care to ensure that such is the case), the information for which the Issuer is responsible is in accordance with the facts and does not omit anything likely to affect the import of such information.

The Investment Manager accepts responsibility for the information contained in the section of this document headed "*Description of the Investment Manager*". To the best of the knowledge and belief of the Investment Manager (which has taken all reasonable care to ensure that such is the case), such information is in accordance with the facts and does not omit anything likely to affect the import of such information. The Issuer does not accept responsibility for the accuracy, adequacy, reasonableness or completeness of the information contained therein.

The Collateral Administrator accepts responsibility for the information contained in the section of this document headed "*Description of the Collateral Administrator*". To the best of the knowledge and belief of the Collateral Administrator (which has taken all reasonable care to ensure that such is the case), such information is in accordance with the facts and does not omit anything likely to affect the import of such information. The Issuer does not accept responsibility for the accuracy, adequacy, reasonableness or completeness of the information contained therein.

## **DISCLAIMER**

None of the Trustee, the Investment Manager (save in respect of the section headed "*Description of the Investment Manager*"), the Collateral Administrator (save in respect of the section headed "*Description of the Collateral Administrator*"), any Agent, any Asset Swap Counterparty, the Administrator or any other party has separately verified the information contained in these Listing Particulars and, accordingly, none of the Trustee, the Investment Manager (save as specified above), the Collateral Administrator (save as specified above), any Agent, any Asset Swap Counterparty, the Administrator or any other party (save for the Issuer as specified above in relation to the acceptance of responsibility) makes any representation, recommendation or warranty, express or implied, regarding the accuracy, adequacy, reasonableness or completeness of the information contained in these Listing Particulars or in any further notice or other document which may at any time be supplied in connection with the Class S/B Subordinated Notes or their distribution or accepts any responsibility or liability therefor. None of the Trustee, the Investment Manager, the Collateral Administrator, any Agent, any Asset Swap

Counterparty or any other party undertakes to review the financial condition or affairs of the Issuer during the life of the arrangements contemplated by these Listing Particulars nor to advise any investor or potential investor in the Class S/B Subordinated Notes of any information coming to the attention of any of the aforementioned parties which is not included in these Listing Particulars.

#### **OFFER/INVITATION/DISTRIBUTION RESTRICTIONS**

THESE LISTING PARTICULARS DO NOT CONSTITUTE AN OFFER OF, OR AN INVITATION BY OR ON BEHALF OF THE ISSUER, THE TRUSTEE, THE INVESTMENT MANAGER, THE COLLATERAL ADMINISTRATOR, ANY AGENT, ANY ASSET SWAP COUNTERPARTY OR ANY OTHER PERSON TO SUBSCRIBE FOR OR PURCHASE ANY OF THE CLASS S/B SUBORDINATED NOTES. THE DISTRIBUTION OF THESE LISTING PARTICULARS AND THE OFFERING OF THE CLASS S/B SUBORDINATED NOTES IN CERTAIN JURISDICTIONS MAY BE RESTRICTED BY LAW. PERSONS INTO WHOSE POSSESSION THESE LISTING PARTICULARS COME ARE REQUIRED BY THE ISSUER TO INFORM THEMSELVES ABOUT AND TO OBSERVE ANY SUCH RESTRICTIONS. IN PARTICULAR, THE COMMUNICATION CONSTITUTED BY THESE LISTING PARTICULARS IS DIRECTED ONLY AT PERSONS WHO (I) ARE OUTSIDE THE UNITED KINGDOM AND ARE OFFERED AND ACCEPT THESE LISTING PARTICULARS IN COMPLIANCE WITH SUCH RESTRICTIONS OR (II) ARE PERSONS FALLING WITHIN ARTICLES 19 OR 49 OF THE FINANCIAL SERVICES AND MARKETS ACT 2000 (FINANCIAL PROMOTION) ORDER 2005 OR WHO OTHERWISE FALL WITHIN AN EXEMPTION SET FORTH IN SUCH ORDER SO THAT SECTION 21(1) OF THE FINANCIAL SERVICES AND MARKETS ACT 2000 DOES NOT APPLY TO THE ISSUER (ALL SUCH PERSONS TOGETHER BEING REFERRED TO AS "**RELEVANT PERSONS**"). THIS COMMUNICATION MUST NOT BE DISTRIBUTED TO, ACTED ON OR RELIED ON BY PERSONS WHO ARE NOT RELEVANT PERSONS. ANY INVESTMENT OR INVESTMENT ACTIVITY TO WHICH THIS COMMUNICATION RELATES IS AVAILABLE ONLY TO RELEVANT PERSONS AND WILL BE ENGAGED IN ONLY WITH RELEVANT PERSONS. FOR A DESCRIPTION OF CERTAIN FURTHER RESTRICTIONS ON OFFERS AND SALES OF NOTES AND DISTRIBUTION OF THESE LISTING PARTICULARS, SEE "*ALLOTMENT OF CLASS S/B SUBORDINATED NOTES*" BELOW.

#### **UNAUTHORISED INFORMATION**

IN CONNECTION WITH THE ISSUE AND SALE OF THE CLASS S/B SUBORDINATED NOTES, NO PERSON IS AUTHORISED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION NOT CONTAINED IN THESE LISTING PARTICULARS AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORISED BY OR ON BEHALF OF THE ISSUER, THE TRUSTEE, THE INVESTMENT MANAGER, THE COLLATERAL ADMINISTRATOR, ANY OF THE AGENTS OR ANY OTHER TRANSACTION PARTY. THE DELIVERY OF THESE LISTING PARTICULARS AT ANY TIME DOES NOT IMPLY THAT THE INFORMATION CONTAINED IN IT IS CORRECT AS AT ANY TIME SUBSEQUENT TO ITS DATE.

#### **GENERAL NOTICE**

EACH RECIPIENT OF THE CLASS S/B SUBORDINATED NOTES MUST COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS IN FORCE IN EACH JURISDICTION AT ANY TIME IN WHICH IT ACQUIRES, PURCHASES, OFFERS OR SELLS SUCH NOTES OR POSSESSES OR DISTRIBUTES THESE LISTING PARTICULARS AND MUST OBTAIN ANY CONSENT, APPROVAL OR PERMISSION REQUIRED FOR THE ACQUISITION PURCHASE, OFFER OR SALE BY IT OF SUCH CLASS S/B SUBORDINATED NOTES UNDER THE LAWS AND REGULATIONS IN FORCE IN ANY JURISDICTIONS TO WHICH IT IS SUBJECT OR IN WHICH IT MAKES SUCH ACQUISITIONS, PURCHASES, OFFERS OR SALES, AND NONE OF THE ISSUER, THE INVESTMENT MANAGER, THE TRUSTEE, THE COLLATERAL ADMINISTRATOR, ANY OF THE AGENTS OR ANY OTHER TRANSACTION PARTY SHALL HAVE ANY RESPONSIBILITY THEREFOR.

INVESTORS SHOULD BE AWARE THAT THEY ARE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT.

FOR A DISCUSSION OF CERTAIN FACTORS REGARDING THE ISSUER AND THE OFFERED CLASS S/B SUBORDINATED NOTES THAT SHOULD BE CONSIDERED BY PROSPECTIVE PURCHASERS OF THE OFFERED CLASS S/B SUBORDINATED NOTES, SEE *"RISK FACTORS"*.

SEE *"ALLOTMENT OF CLASS S/B SUBORDINATED NOTES"* FOR CERTAIN TERMS AND CONDITIONS OF THE OFFERING OF THE OFFERED CLASS S/B SUBORDINATED NOTES HEREUNDER.

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE NOTES AND THE OFFERING THEREOF DESCRIBED HEREIN, INCLUDING THE MERITS AND RISKS INVOLVED.

THESE LISTING PARTICULARS HAS BEEN PREPARED BY THE ISSUER SOLELY FOR USE IN CONNECTION WITH THE OFFERING OF THE CLASS S/B SUBORDINATED NOTES DESCRIBED HEREIN AND THE ADMISSION TO TRADING OF THE CLASS S/B SUBORDINATED NOTES ON THE REGULATED MARKET OF THE STOCK EXCHANGE. THESE LISTING PARTICULARS IS PERSONAL TO EACH OFFEREE TO WHOM IT HAS BEEN DELIVERED BY THE ISSUER, AND DOES NOT CONSTITUTE AN OFFER TO ANY OTHER PERSON OR TO THE PUBLIC GENERALLY TO SUBSCRIBE FOR OR OTHERWISE ACQUIRE THE CLASS S/B SUBORDINATED NOTES. DISTRIBUTION OF THESE LISTING PARTICULARS TO ANY PERSONS OTHER THAN THE OFFEREE AND THOSE PERSONS, IF ANY, RETAINED TO ADVISE SUCH OFFEREE WITH RESPECT THERETO IS UNAUTHORISED AND ANY DISCLOSURE OF ANY OF ITS CONTENTS, WITHOUT THE PRIOR WRITTEN CONSENT OF THE ISSUER, IS PROHIBITED.

**THE CLASS S/B SUBORDINATED NOTES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION OR OTHER REGULATORY AUTHORITY, AND NONE OF THE FOREGOING AUTHORITIES HAS CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THESE LISTING PARTICULARS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENCE.**

**THE CLASS S/B SUBORDINATED NOTES CANNOT BE OFFERED OR SOLD IN THE UNITED STATES OR TO U.S. PERSONS UNLESS THEY ARE SUBSEQUENTLY REGISTERED UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS OR AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE. FOR A DESCRIPTION OF CERTAIN RESTRICTIONS ON RESALE AND TRANSFER, SEE *"ALLOTMENT OF CLASS S/B SUBORDINATED NOTES"*.**

Neither the Issuer nor the Class S/B Portfolio has been registered as an "investment company" under the Investment Company Act, in reliance on the exclusion contained in Section 3(c)(7) thereof. No transfer of the Class S/B Subordinated Notes that would have the effect of requiring the Issuer or the Class S/B Portfolio to register as an investment company under the Investment Company Act will be permitted.

## **CURRENCIES**

In this document, unless otherwise specified or the context otherwise requires, all references to **"EUR"** and **"€"** are to the single currency introduced in January 1999 pursuant to the Treaty Establishing the European Community as amended.

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## OVERVIEW

*The following overview does not purport to be complete and is qualified in its entirety by reference to the detailed information appearing elsewhere in these Listing Particulars and related documents referred to herein. Capitalised terms not specifically defined in this Overview have the meanings set out in Condition 1 (Definitions) under "Terms and Conditions of the Notes" below or are defined elsewhere in these Listing Particulars. An index of defined terms appears at the back of these Listing Particulars. References to a "**Condition**" are to the specified Condition in the "Terms and Conditions of the Notes" below and references to "**Conditions of the Notes**" are to the "Terms and Conditions of the Notes" below.*

<b>Issuer</b>	ICG EOS Loan Fund I Limited, a private company with limited liability incorporated under the laws of Ireland
<b>Investment Manager</b>	Intermediate Capital Managers Limited
<b>Trustee</b>	Citicorp Trustee Company Limited
<b>Registrar</b>	Citigroup Global Markets Deutschland AG
<b>Collateral Administrator</b>	Virtus Group L.P.

### Notes

Class of Notes	Principal Amount	Stated Interest Rate	Fitch Ratings	Moody's Ratings	Stated Maturity
Class S/B Subordinated	€301,584,000	N/A	Not Rated	Not Rated	15 August 2024

<b>Eligible Purchasers</b>	The Class S/B Subordinated Notes have been offered outside the United States to Non-U.S. Persons in Offshore Transactions in reliance on Regulation S under the Securities Act.
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### Distributions on the Notes

<b>Class S/B Payment Dates</b>	30 January and on the 30th of each month thereafter in each year, commencing 30 January 2014 (subject to adjustment for non-Business Days in accordance with the Conditions of the Notes).
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<b>Principal Amount</b>	The aggregate principal amount outstanding of applicable Class S Notes validly submitted for exchange (plus accrued interest on such Class S Preferred Notes as at the Settlement Date) pursuant to an Exchange and Consent Acceptance Instruction as described in the Exchange Offer.
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<b>Redemption of the Class S/B Subordinated Notes</b>	On each Class S/B Payment Date on an available funds basis out of (i) (on 16 December 2013) SP3 Portfolio Sale Proceeds (following redemption of the Redemption Percentage of the Rated Notes); and (ii) commencing on 30 January 2014, (a) Principal Proceeds in respect of the Class S/B Portfolio; and (b) the SP3 Trust Account Amount and any Surplus Proceeds Amount to the extent the same is payable to the Issuer pursuant to the SP3 Forward Sale Agreement (in each case in accordance with the Conditions). See Condition 7(i) ( <i>Redemption and Exchange</i> ).
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<b>Redemption</b>	The Class S/B Subordinated Notes will be redeemed at the amount equal to their pro rata share of amounts attributable to the Class S/B Portfolio to be applied towards such redemption upon liquidation thereof (net of any Trustee Fees and Expenses and fees and expenses of the Agents in connection with such liquidation) on the Maturity Date without regard to the Priorities of
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Payments.

The Redemption Price for each Class S Subordinated Note will be its pro rata share (calculated in accordance with paragraph (Y) of Condition 3(c)(i) (*Interest Priority of Payments*), paragraph (J) of Condition 3(c)(ii) (*Principal Priority of Payments*), paragraph (D) of Condition 3(c)(iii) (*Collateral Enhancement Obligation Priority of Payments*) and paragraph (Q) of Condition 3(c)(iv) (*Post-Acceleration Priority of Payments*)) of the aggregate proceeds of liquidation of the Collateral, or realisation of the security thereover, remaining following application thereof in accordance with the Priorities of Payments.

## Security for the Notes

### *General*

The Class S/B Subordinated Notes will be secured in favour of the Trustee for the benefit of the Class S/B Subordinated Noteholders by security over the Class S/B Collateral.

### **Hedging Arrangements**

#### ***Non EUR Obligations and Asset Swap Transaction***

Asset Swap Transactions in respect of Collateral Debt Obligations contained in the Class S/B Portfolio shall be terminated on the SP3 Issue Date (and swap termination payments payable out of SP3 Portfolio Sale Proceeds shall be payable on such date).

Accordingly, the Issuer expects to be unhedged with respect to Non-EUR Obligations constituting Class S/B Collateral from the SP3 Issue Date to the Maturity Date or the date of the final redemption of the Class S/B Subordinated Notes, if earlier.

## Class S/B Portfolio

### ***Eligibility Criteria***

In order to qualify as a Collateral Debt Obligation, an obligation must satisfy certain specified Eligibility Criteria. See "Description of the Portfolio — Eligibility Criteria".

### ***The Subscription***

The Class S/B Subordinated Notes have been subscribed for outside the United States by persons that are not U.S. Persons in Offshore Transactions in reliance on Regulation S (such Notes, the "**Global Notes**") and, in each case, in accordance with any applicable securities laws of any state of the United States and any other relevant jurisdiction.

### ***Authorised Denominations***

The Class S/B Subordinated Notes have been issued in a minimum amount equal to the Minimum Denomination and integral multiples of €1,000 in excess thereof.

### ***Form, Registration and Transfer of the Notes***

The Class S/B Subordinated Notes have been issued in registered form (each a "**Class S/B Subordinated Registered Note**") and represented by a global note certificate (the "**Class S/B Subordinated Global Certificate**"). See "*Form of the Notes*" and "*Book-Entry Clearance Procedures*".

Except in the limited circumstances described herein, Class S/B Subordinated Notes in definitive, certificated, fully registered form ("**Definitive Certificates**") will not be issued in exchange for beneficial interests in the Class S/B Subordinated Global Certificate. See "*Form of the Notes— Exchange for Definitive Certificates*".

No Class S/B Subordinated Note (or any interest therein) may be transferred to a transferee acquiring an interest in a Class S/B Subordinated Note except (a) to a transferee that is acquiring such interest in an Offshore Transaction in accordance with Regulation S, (b) to a transferee that is not a U.S. Person, (c)

in compliance with the certification (if any) and other requirements set out in the Trust Deed and (d) if such transfer is made in accordance with any applicable securities laws of any state of the United States and any other relevant jurisdiction. See "*Allotment of Class S/B Subordinated Notes*" below.

No Class S/B Subordinated Note (or any interest therein) may be transferred unless (a) the transfer is made in a manner exempt from registration under the Securities Act, (b) such transfer is made in denominations equal to or greater than the minimum denomination therefor, (c) such transfer would not have the effect of requiring the Issuer or the pool of Class S/B Collateral to register as an investment company under the Investment Company Act and (d) the transferee is able to make all applicable certifications and representations required by the relevant transfer certificate attached as an exhibit to the Trust Deed (if the Trust Deed requires that a transfer certificate be delivered in connection with such a transfer).

***Governing Law***

The Class S/B Subordinated Notes, the Trust Deed, the Investment Management Agreement, the Collateral Administration and Agency Agreement and all other Transaction Documents (entered into on or about the Closing Date) and all non-contractual obligations arising out of or in connection with them (save for the Euroclear Pledge Agreement, which is governed by the laws of Belgium and the Administration Agreement, which is governed by the laws of Ireland) will be governed by English law.

***Listing***

Application has been made to the Irish Stock Exchange for the Class S/B Subordinated Notes to be admitted to the Official List and trading on its Global Exchange Market. References in these Listing Particulars to the Class S/B Subordinated Notes being "listed" (and all related references) shall mean that such Class S/B Subordinated Notes have been admitted to the Official List. See "*General Information*".

***Tax Status***

See "*Tax Considerations*".

***Withholding Tax***

No gross up of any payments to the Class S/B Subordinated Noteholders is required of the Issuer. See Condition 9 (*Taxation*).

***Selling Restrictions***

The Class S/B Subordinated Notes may not be sold or delivered, directly or indirectly, within the United States or its possessions or to U.S. Persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and the Investment Company Act. These restrictions and other restrictions on the sale and delivery of the Class S/B Subordinated Notes in various jurisdictions are specified under "*Allotment of Class S/B Subordinated Notes*" below.

## **RISK FACTORS**

*An investment in the Class S/B Subordinated Notes involves certain risks, including risks relating to the Class S/B Collateral securing the Class S/B Subordinated Notes and risks relating to the structure and rights of the Class S/B Subordinated Notes and the related arrangements. Prospective investors should carefully consider the following factors, in addition to the matters set forth elsewhere in these Listing Particulars, prior to investing in the Class S/B Subordinated Notes. Terms not defined in this section and not otherwise defined above have the meanings set out in Condition 1 of the "Terms and Conditions of the Class S/B Subordinated Notes".*

*The Issuer believes that the risks described below are the principal risks inherent in the transaction for Class S/B Subordinated Noteholders, but the inability of the Issuer to pay interest, principal or other amounts on or in connection with the Class S/B Subordinated Notes may occur for other reasons and the Issuer does not represent that the statements below regarding the risks relating to the Class S/B Subordinated Notes are exhaustive. Prospective Class S/B Subordinated Noteholders should read the detailed information set out in this document and reach their own views, together with their own professional advisers, prior to making any investment decision.*

### **1. GENERAL**

#### **1.1 General**

None of the Trustee, the Collateral Administrator or any Agent undertakes to review the financial condition or affairs of the Issuer or the Investment Manager at any time during the life of the arrangements contemplated by these Listing Particulars nor to advise any investor or potential investor in the Class S/B Subordinated Notes of any information coming to the attention of the Trustee, the Collateral Administrator or any Agent which is not included in these Listing Particulars.

#### **1.2 Suitability**

Prospective investors in the Class S/B Subordinated Notes should ensure that they understand the nature of the Class S/B Subordinated Notes and the extent of their exposure to risk, that they have sufficient knowledge, experience and access to professional advisers to make their own legal, tax, accounting, regulatory treatment and financial evaluation of the merits and risks of investment in such Class S/B Subordinated Notes and that they consider the suitability of the Class S/B Subordinated Notes as an investment in the light of their own circumstances and financial condition.

#### **1.3 Limited Sources of Funds to Pay Expenses of the Issuer**

The funds available to the Issuer to pay its expenses on any Class S/B Payment Date, or at any time in the preceding Due Period, are limited as provided in the Conditions. In the event that such funds are not sufficient to pay the expenses incurred by the Issuer, the ability of the Issuer to operate effectively may be impaired, and it may not be able to defend or prosecute legal proceedings brought against it or which it might otherwise bring to protect the interests of the Issuer or be able to pay the expenses of legal proceedings against persons whom the Issuer has indemnified.

#### **1.4 Projections, forecasts and estimates**

Any projections, forecasts and estimates contained herein are forward-looking statements and are based upon certain assumptions that the Issuer considers reasonable. Projections are necessarily speculative in nature and it can be expected that some or all of the assumptions underlying the projections will not materialise or will vary significantly from actual results. Accordingly, any projections are only an estimate. Actual results are likely to vary from the projections and the variations may be material.

Some important factors that could cause actual results to differ materially from those in any forward looking statements include changes in interest rates, market, financial or legal uncertainties, the timing of acquisitions of Collateral Debt Obligations, differences in the actual allocation of the Collateral Debt Obligations among asset categories from those

assumed, mismatches between the timing of accrual and receipt of Interest Proceeds and Principal Proceeds from the Collateral Debt Obligations, defaults under Collateral Debt Obligations and the effectiveness of the Asset Swap Agreements, among others.

## 1.5 Events in the CLO and Leveraged Finance Markets

European financial markets have experienced volatility and have been adversely affected by concerns over economic contraction in certain Member States, rising government debt levels, credit rating downgrades, and risk of default or restructuring of government debt. These events could cause bond yields and credit spreads to increase.

Many European economies continue to suffer from high rates of unemployment. This economic climate may have an adverse effect on the ability of consumers and businesses to repay or refinance their existing debt. Several countries have experienced or are currently experiencing a "double-dip" recession and there remains a risk of a "double-dip" recession in countries which have experienced modest growth over previous quarters and continued recession in countries which have not yet experienced positive growth since the onset of the global recession.

As discussed further in 1.6 (*Euro and Euro Zone Risk*) below, it is possible that countries that have adopted the Euro could return to a national currency. The effect on a national economy as a result of leaving the Euro is impossible to predict with certainty, but is likely to be negative. The exit of one or more countries from the Euro zone could have a destabilising effect on all European economies and possibly the global economy as well.

There exist significant risks for the Issuer and investors as a result of the current economic conditions. These risks could include, among others, (i) the likelihood that the Issuer will find it more difficult to sell any of its assets or to purchase new assets in the secondary market, (ii) the possibility that, on or after the Issue Date, the price at which assets can be sold by the Issuer will have deteriorated from their effective purchase price and (iii) the illiquidity of the Class S/B Subordinated Notes. These additional risks may affect the returns on the Class S/B Subordinated Notes to investors and/or the ability of investors to realise their investment in the Class S/B Subordinated Notes prior to their Maturity Date.

Difficult macro economic conditions may adversely affect the rating, performance and the realisation value of the Class S/B Collateral. Default rates on loans and other investments may continue to fluctuate and accordingly the performance of many collateralised loan obligation ("CLO") transactions and other types of investment funds may suffer as a result. It is also possible that the Class S/B Collateral will experience higher default rates than anticipated and that performance will suffer.

Many financial institutions including banks continue to suffer from capitalisation issues. The bankruptcy or insolvency of a major financial institution may have an adverse effect on the Issuer. The bankruptcy or insolvency of one or more additional financial institutions may trigger additional crises in the global credit markets and overall economy which could have a significant adverse effect on the Issuer, the Class S/B Collateral and the Class S/B Subordinated Notes.

One of the effects of the global credit crisis and the failure of financial institutions has been an introduction of a significantly more restrictive regulatory environment including the implementation of new accounting and capital adequacy rules in addition to further regulation of derivative or securitised instruments. Such additional rules and regulations could, among other things, adversely affect Class S/B Subordinated Noteholders as well as the flexibility of the Investment Manager in managing and administering the Class S/B Collateral.

While it is possible that current conditions may improve for certain sectors of the global economy, there can be no assurance that the CLO, leveraged finance or structured finance markets will recover at the same time or to the same degree as such other recovering sectors.

## 1.6 Euro and Euro Zone Risk

The deterioration of the sovereign debt of several countries together with the risk of contagion to other, more stable, countries, particularly France and Germany, has exacerbated the global economic crisis. This situation has also raised a number of uncertainties regarding the stability and overall standing of the European Economic and Monetary Union and may result in changes to the composition of the Euro zone.

As a result of the credit crisis in Europe, in particular in Cyprus, Greece, Italy, Ireland, Portugal and Spain, the European Commission created the European Financial Stability Facility (the "**EFSF**") and the European Financial Stability Mechanism (the "**EFSM**") to provide funding to Euro zone countries in financial difficulties that seek such support. In March 2011, the European Council agreed on the need for Euro zone countries to establish a permanent stability mechanism, the European Stability Mechanism (the "**ESM**"), which will be activated by mutual agreement, to assume the role of the EFSF and the EFSM in providing external financial assistance to Euro zone countries after June 2013.

Despite these measures, concerns persist regarding the growing risk that other Euro zone countries could be subject to an increase in borrowing costs and could face an economic crisis similar to that of Cyprus, Greece, Ireland, Italy, Spain and Portugal, together with the risk that some countries could leave the Euro zone (either voluntarily or involuntarily), and that the impact of these events on Europe and the global financial system could be severe which could have a negative impact on the Class S/B Collateral.

Furthermore, concerns that the Euro zone sovereign debt crisis could worsen may lead to the reintroduction of national currencies in one or more Euro zone countries or, in more extreme circumstances, the possible dissolution of the Euro entirely. The departure or risk of departure from the Euro by one or more Euro zone countries and/or the abandonment of the Euro as a currency could have major negative effects on the Class S/B Collateral, the Issuer and the Class S/B Subordinated Notes. Should the Euro dissolve entirely, the legal and contractual consequences for holders of Euro-denominated obligations would be determined by laws in effect at such time. These potential developments, or market perceptions concerning these and related issues, could adversely affect the value of the Class S/B Subordinated Notes. It is difficult to predict the final outcome of the Euro zone crisis. Investors should carefully consider how changes to the Euro zone may affect their investment in the Class S/B Subordinated Notes.

## 1.7 Regulatory Initiatives

In Europe, the U.S. and elsewhere there is increased political and regulatory scrutiny of the banks, financial institutions and the asset-backed securities industry. This has resulted in a raft of measures for increased regulation which are currently at various stages of implementation and which may have an adverse impact on the regulatory capital charge to certain investors in securitisation exposures and/or the incentives for certain investors to hold asset-backed securities, and may thereby affect the liquidity of such securities. Investors in the Class S/B Subordinated Notes are responsible for analysing their own regulatory position and none of the Issuer, the Investment Manager, the Trustee nor any of their Affiliates makes any representation to any prospective investor or purchaser of the Class S/B Subordinated Notes regarding the regulatory capital treatment of their investment in the Class S/B Subordinated Notes on the Issue Date or at any time in the future.

## 1.8 Alternative Investment Fund Managers Directive

EU Directive 2011/61/EU on Alternative Investment Fund Managers ("**AIFMD**") became effective on 22 July 2013, although there are transitional provisions which expire one year later on 22 July 2014. AIFMD provides, among other things, that all alternative investment funds ("**AIFs**") must have a designated alternative investment fund manager ("**AIFM**") with responsibility for portfolio and risk management. There is an exemption provided in respect of "securitisation special purpose entities" (the "**SSPE Exemption**"). In addition, a number of national regulators have issued policy statements in relation to the implementation of AIFMD in their jurisdictions, including the Financial Conduct Authority (the "**FCA**") in the United

Kingdom. However in providing such guidance, the regulators have referred to the possibility that the European Securities and Markets Authority will, in due course, provide additional guidance on the types of structures which will be considered AIFs and the meaning of the SSPE Exemption under the AIFMD.

The European Securities and Markets Authority has not yet given any formal guidance on the application of the SSPE Exemption or whether a CLO would fall within the SSPE Exemption. If AIFMD were to apply to the Issuer, the Investment Manager would need to be appropriately regulated. The Issuer would also be classified as a "financial counterparty" under The European Market Infrastructure Regulation EU 648/2012 and may be required to comply with clearing obligations or other risk mitigation techniques with respect to Hedge Transactions including obligations to post margin to any central clearing counterparty or market counterparty. In addition, AIFMD would entail several consequences for the Issuer, notably:

- (a) the Issuer would have to appoint a duly licensed AIFM (the "**Issuer AIFM**");
- (b) the Issuer AIFM would have to implement procedures in order to identify, prevent, manage, monitor and disclose conflict of interests;
- (c) adequate risk management systems would need to be implemented by the Issuer AIFM to identify, measure, manage and monitor appropriately all risks relevant to the Issuer's investment strategy and to which the Issuer is or can be exposed (including appropriate stress testing procedures);
- (d) valuation procedures would need to be designed at the Issuer level;
- (e) a depositary would have to be appointed in relation to the Issuer's assets; and
- (f) the Issuer and the Issuer AIFM would be subject to certain reporting and disclosure obligations.

From the Issuer's perspective, if the Issuer were considered to be an AIF and could not benefit from the SSPE Exemption or any other exemption, the AIFMD would require the Investment Manager and/or the Issuer to seek authorisation to become an AIFM under the AIFMD. If the Investment Manager or the Issuer were to fail to, or be unable to, obtain such authorisation, the Investment Manager may not be able to continue to manage the Issuer's assets, or its ability to do so may be impaired. Any regulatory changes arising from implementation of the AIFMD (or otherwise) that impairs the ability of the Investment Manager to manage the Issuer's assets may adversely affect the Issuer's ability to carry out its investment strategy and achieve its investment objective.

The Conditions of the Notes allow the Trustee, without the consent of any of the Noteholders, to concur with the Issuer in the making of modifications to the Transaction Documents and/or the Conditions of the Notes to comply with the requirements of AIFMD which may become applicable at a future date.

## 1.9 **U.S. Dodd-Frank Act**

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "**Dodd-Frank Act**") was signed into law on 21 July 2010. The Dodd-Frank Act represents the most comprehensive change to financial regulation in the United States, and affects virtually every area of the capital markets. Implementation of the Dodd-Frank Act requires many lengthy rulemaking processes that will ultimately result in the adoption of a multitude of new regulations potentially applicable to the Investment Manager and its subsidiaries and affiliates and the Issuer that transact business in the U.S. or with U.S. persons outside the U.S. Once fully implemented, the Dodd-Frank Act will affect many aspects, in the U.S. and internationally, of the business of the Investment Manager, including securitisation, proprietary trading, investing, creation and management of investment funds, OTC derivatives and other activities. While certain regulations implementing various provisions of the Dodd-Frank Act have been finalised and adopted, many implementing regulations currently exist only in draft form and are subject to comment and revision, while other implementing regulations have not yet been proposed. It is therefore difficult to predict whether and to what extent the businesses of the

Investment Manager and its subsidiaries and affiliates and the Issuer, will be affected by the Dodd-Frank Act as implementing regulations are finalised over time and come into effect.

#### 1.10 **Volcker Rule**

Regarding section 619 of the Dodd-Frank Act (the "**Volcker Rule**"), in their proposed rulemaking, the agencies charged with drafting regulations under the Volcker Rule, including the U.S. Commodity Futures Trading Commission, construed the statutory definition therein of "hedge fund" and "private equity fund" as providing them with discretion to define the term "covered fund" to include any commodity pool as defined in the United States Commodity Exchange Act of 1936, without regard as to whether the commodity pool is in the nature of a hedge fund or a private equity fund. If the Issuer is deemed to be a commodity pool, and commodity pools are treated as "covered funds", then in the absence of regulatory relief, the provisions of the Volcker Rule, including the so-called "Super 23A" provisions, would generally prohibit U.S. banking institutions and other banking entities subject to the Volcker Rule from maintaining an ownership interest in the Issuer, extending credit to the Issuer, or entering into derivative transactions with the Issuer. Any entity that is a "banking entity" as defined under the Volcker Rule and is considering an investment in the Class S/B Subordinated Notes should consider the potential impact of the Volcker Rule in respect of such investment and on its portfolio generally.

#### 1.11 **FATCA**

New tax provisions, commonly known as the Foreign Account Tax Compliance Act provisions or FATCA, may impose a 30 per cent. withholding tax on payments of U.S. source interest and dividends made on or after 1 July 2014 and of gross proceeds from the sale of certain U.S. assets made on or after 1 January 2017 to a foreign financial institution (or "**FFI**") (such as the Issuer) that, unless exempted or deemed compliant, does not enter into, and comply with, an agreement with the U.S. Internal Revenue Service ("**IRS**") to provide certain information on its U.S. accountholders. Further, FATCA may impose a withholding tax of up to 30 per cent. on gross payments due under derivatives in certain circumstances.

The United States has recently concluded several intergovernmental agreements ("**IGAs**") with other jurisdictions in respect of FATCA. On 21 December 2012, the Governments of Ireland and the United States signed an Agreement to Improve International Tax Compliance and to Implement FATCA. This agreement (together with any implementing legislation) is referred to as the "**Ireland IGA**".

Under the Ireland IGA, an entity classified as an FFI that is treated as resident in Ireland is expected to provide the Irish tax authorities with certain information on U.S. holders of its securities. The information on such U.S. holders will be automatically exchanged with the U.S. Internal Revenue Service (the "**IRS**"). It is expected that the Issuer will be treated as an FFI and, provided it complies with the requirements of the Ireland IGA, it should not be subject to FATCA withholding on any payments it receives. Although the Issuer will attempt to satisfy any obligations imposed on it to avoid the imposition of the FATCA withholding tax, no assurance can be given that the Issuer will be able to satisfy these obligations.

The Ireland IGA will require the Issuer (or an intermediary financial institution, broker or agent (each, an "**Intermediary**") through which a beneficial owner holds its interest in a Class S/B Subordinated Note) to agree to obtain certain identifying information regarding the holder of such Class S/B Subordinated Note to determine whether the holder is a U.S. person or U.S. owned foreign entity and to periodically provide identifying information about the holder to the Irish tax authorities. In order to comply with its information reporting obligation under the Ireland IGA, the Issuer may be obliged to obtain information from all Class S/B Subordinated Noteholders. To the extent any payments in respect of the Class S/B Subordinated Notes are made to a Class S/B Subordinated Noteholder by an Intermediary, such Class S/B Subordinated Noteholder may be required to comply with the Intermediary's requests for identifying information that would permit the Intermediary to comply with any relevant IGA. Any Class S/B Subordinated Noteholder that fails to properly comply with the Issuer's or an Intermediary's requests for certifications and identifying information or, if applicable, a waiver

of non-U.S. law prohibiting the release of such information to a taxing authority, to enable the Issuer to comply with FATCA or the Ireland IGA will be treated as a Recalcitrant Holder.

An FFI that is not exempt from or deemed compliant with FATCA and is not party to an agreement with the IRS (an "**IRS Agreement**") will be considered a "**Non-Compliant FFI**". Payments received by a Non-Compliant FFI may be subject to withholding tax under FATCA and a Non-Compliant FFI may be required to deduct a withholding tax of up to 30 per cent. on payments (including gross proceeds and redemptions) made on or after 1 January 2017 to a Recalcitrant Holder or a Class S/B Subordinated Noteholder that itself is an FFI and, unless exempted or otherwise deemed to be compliant, does not have in place an effective IRS Agreement (i.e., the Class S/B Subordinated Noteholder is a Non-Compliant FFI). Neither the Issuer nor an Intermediary will make any additional payments to compensate a Class S/B Subordinated Noteholder or beneficial owner for any amounts deducted pursuant to FATCA.

In general, U.S. source obligations that are outstanding as of 30 June 2014 and non-U.S. source obligations that are outstanding on the later of 30 June 2014 and the date that is six months after the adoption of final U.S. Treasury regulations addressing withholding on "foreign passthru payments" and, in each case, that are not modified and treated as reissued, for U.S. federal income tax purposes, after the relevant date (such obligations, "**Grandfathered Obligations**") will not be subject to withholding. Obligations that are treated as equity for U.S. federal income tax purposes (e.g. the Class S/B Subordinated Notes) and certain debt obligations lacking a definitive term (such as saving and demand deposits), however, are not eligible for grandfathering.

There can be no assurance that payments to the Issuer in respect of its assets, including on a Collateral Debt Obligation, will not be subject to withholding under FATCA. In addition, even if a beneficial owner of a payment complies with requests for identifying information, the ultimate payment to such beneficial owner could be subject to withholding if an Intermediary is subject to withholding for its failure to comply with FATCA. Accordingly, a holder should consult its own tax advisors as to the potential implication of the U.S. withholding taxes on the Class S/B Subordinated Notes before investing. See also "*Tax Considerations – US Taxation*".

## 2. **RELATING TO THE CLASS S/B SUBORDINATED NOTES**

### 2.1 **Limited Liquidity and Restrictions on Transfer**

Although there is currently a very limited market for notes representing collateralised debt obligations similar to the Class S/B Subordinated Notes, there is currently no market for the Class S/B Subordinated Notes themselves. There can be no assurance that any secondary market for any of the Class S/B Subordinated Notes will develop or, if a secondary market does develop, that it will provide the Class S/B Subordinated Noteholders with liquidity of investment or that it will continue for the life of such Class S/B Subordinated Notes.

Investors should note that the market for the Class S/B Subordinated Notes will be affected by, amongst other things, supply and demand for the Class S/B Subordinated Notes, and that, accordingly, it should not be assumed that there will be a significant correlation between the market value of the Class S/B Subordinated Notes and the market value of the Class S/B Portfolio. Prospective investors should be aware that the market value of the Class S/B Subordinated Notes may be affected by events in the capital and credit markets which may have an effect on the market value of collateral debt obligations and similar structured securities generally, as well as events in the capital and credit markets that may affect the Class S/B Portfolio or the Issuer.

In addition, the liquidity of any trading market (should any develop) in the Class S/B Subordinated Notes may be adversely affected by changes in the overall market for investment and non-investment grade securities. If such a trading market were to develop, the Class S/B Subordinated Notes could trade at prices that may be higher or lower than the initial subscription price depending on many factors including prevailing interest rates and the market for similar securities.



Consequently, a purchaser must be prepared to hold such Class S/B Subordinated Notes for an indefinite period of time or until the applicable Maturity Date.

The Class S/B Subordinated Notes are subject to certain transfer restrictions and can be transferred only to certain transferees. See "*Allotment of Class S/B Subordinated Notes*". Such restrictions on the transfer of the Class S/B Subordinated Notes may further limit their liquidity.

## **2.2 Limited Recourse Obligations, Non-Petition and Related Risks**

The Notes are limited recourse obligations of the Issuer and are payable solely from amounts received in respect of the Collateral Debt Obligations in the Class S/B Portfolio, and other Class S/B Collateral securing the Class S/B Subordinated Notes. Payments on the Class S/B Subordinated Notes both prior to and following enforcement of the security over the Class S/B Collateral are subordinated to the prior payment of certain fees and expenses of, or payable by, the Issuer.

None of the Trustee, the Investment Manager, the Collateral Administrator, the Custodian, any Agent, any Asset Swap Counterparty or any of their respective Affiliates (collectively, the "**Transaction Parties**") or any other person or entity (other than the Issuer) will be obligated to make payments on the Class S/B Subordinated Notes. Consequently, the Class S/B Subordinated Noteholders must rely solely on distributions on the Collateral Debt Obligations in the Class S/B Portfolio and amounts received under other Class S/B Collateral securing the Class S/B Subordinated Notes for the payment of principal and interest.

In addition, at any time while the Class S/B Subordinated Notes are Outstanding, none of the Class S/B Subordinated Noteholders, the Trustee nor any other Secured Party (nor any other person acting on behalf of any of them) shall be entitled at any time to institute against the Issuer, or join in any institution against the Issuer of, any bankruptcy, reorganisation, arrangement, examinership, insolvency, winding-up or liquidation proceedings or any proceedings for the appointment of a liquidator, administrator or examiner or a similar official, or other proceedings under any applicable bankruptcy or similar law in connection with any obligations of the Issuer relating to the Class S/B Subordinated Notes, the Trust Deed or other Transaction Document or otherwise owed to the Class S/B Subordinated Noteholders, save for lodging a claim in the liquidation of the Issuer which is initiated by another party (which is not an Affiliate of such party) or taking proceedings to obtain a declaration or judgment as to the obligations of the Issuer nor shall any of them have a claim arising in respect of the share capital of the Issuer.

Class S/B Subordinated Noteholders should be aware that there are a number of risks associated with the purchase of the Class S/B Subordinated Notes, including the risk that the Issuer may become subject to claims or other liabilities including those from the applicable taxing authorities (whether in respect of the Class S/B Subordinated Notes or otherwise) which are not themselves subject to limited recourse or non-petition provisions).

## **2.3 Amount and Timing of Payments**

Investment in the Class S/B Subordinated Notes involves a degree of risk arising from fluctuations in the amount and timing of receipt of the principal and interest on the Collateral Debt Obligations in the Class S/B Portfolio by or on behalf of the Issuer and the amounts of the claims of creditors of the Issuer ranking in priority to, or *pari passu* with, the holders of the Class S/B Subordinated Notes. In particular, purchasers of such Class S/B Subordinated Notes should be aware that the amount and timing of payments of the principal and interest on the Collateral Debt Obligations in the Class S/B Portfolio will depend upon the detailed terms of the documentation relating to each of the Collateral Debt Obligations in the Class S/B Portfolio and on whether or not any Obligor thereunder defaults in its obligations.

## **2.4 Average Life and Prepayment Considerations**

The average life of the Class S/B Subordinated Notes is expected to be shorter than the number of years to their Maturity Date. No assurance can be made as regards the exact

average life. Average life refers to the average amount of time that will elapse from the date of issue of the Class S/B Subordinated Notes until the Principal Amount Outstanding of such Class S/B Subordinated Note will have been paid in full to the holder thereof.

The average lives of the Class S/B Subordinated Notes will be determined by the amount and frequency of principal repayments in respect of the Class S/B Subordinated Notes. The actual average lives and actual maturities of the Class S/B Subordinated Notes will be affected by the financial condition of each of the Obligors of the underlying Collateral Debt Obligations in the Class S/B Portfolio and the characteristics of such loans and securities, including the existence and frequency of exercise of any optional or mandatory redemption features, the prevailing level of interest rates, the redemption price, the actual default rate, the actual level of recoveries on any Defaulted Obligations in the Class S/B Portfolio and the frequency of tender or exchange offers for such Collateral Debt Obligations in the Class S/B Portfolio. Substantially all of the Collateral Debt Obligations in the Class S/B Portfolio are expected to be subject to optional redemption or prepayment by the Obligors of such loans and securities. Any disposition of a Collateral Debt Obligation in the Class S/B Portfolio may change the composition and characteristics of the Collateral Debt Obligations in the Class S/B Portfolio and the rate of payment thereon, and, accordingly, may affect the actual average lives of the Class S/B Subordinated Notes.

## **2.5 Redemption and Market Volatility**

The market value of the Collateral Debt Obligations in the Class S/B Portfolio may fluctuate with, among other things, changes in prevailing interest rates, general economic conditions, the conditions of financial markets (particularly the markets for Senior Obligations, Second Lien Loans and Mezzanine Loans), European and international political events, events in the home countries of the Obligors under the Collateral Debt Obligations in the Class S/B Portfolio or the countries in which their assets and operations are based, developments or trends in any particular industry and the financial condition of such Obligors. The secondary market for Senior Obligations, Second Lien Loans and Mezzanine Loans is still limited. A decrease in the market value of the Class S/B Portfolio would adversely affect the amount of proceeds which could be realised upon liquidation of the Class S/B Portfolio and ultimately the ability of the Issuer to redeem the Class S/B Subordinated Notes pursuant to the redemption provisions set out in Condition 7(i) (*Redemption and Exchange*).

## **2.6 Limited liquidity of the Notes**

There can be no assurance that any secondary market for any of the Class S/B Subordinated Notes will develop or, if it does, that it will provide the Class S/B Subordinated Noteholders with liquidity of investment or that it will continue for the life of such Class S/B Subordinated Notes. As a consequence a purchaser must be prepared to hold Notes until maturity.

## **2.7 Withholding Tax on the Notes**

Although no withholding tax is currently imposed on payments of interest or principal on the Class S/B Subordinated Notes, there can be no assurance that the law will not change and pursuant to Condition 9 (*Taxation*) the Issuer is able to withhold or deduct from any such payments any amounts on account of tax where so required by law or any relevant taxing authority.

In the event that any withholding tax or deduction for tax is imposed on payments of interest on the Class S/B Subordinated Notes, the holders of the Class S/B Subordinated Notes will not be entitled to receive grossed-up amounts to compensate for such withholding tax and no Event of Default shall occur as a result of any such withholding or deduction.

## **2.8 Security**

**Clearing Systems:** Any Collateral Debt Obligations in the Class S/B Portfolio or other assets forming part of the Class S/B Collateral which are in the form of securities (if any) will be held by the Custodian on behalf of the Issuer. The Custodian will hold such assets which can be cleared through Euroclear in an account with Euroclear (the "**Euroclear Account**") unless

the Trustee otherwise consents and will hold the other securities comprising the Class S/B Portfolio which cannot be so cleared (i) through its accounts with Clearstream, Luxembourg, and (ii) where necessary through its sub-custodians who will in turn hold such assets which are securities both directly and through any appropriate clearing system. Those assets held in clearing systems (and not held in the Euroclear Account) will not be held in special purpose accounts and will be fungible with other securities from the same issue held in the same accounts on behalf of the other customers of the Custodian or its sub custodian, as the case may be. A first fixed charge over the Class S/B Portfolio has been created under English law pursuant to the Trust Deed and will take effect as a security interest over the right of the Issuer to require delivery of equivalent securities from the Custodian in accordance with the terms of the Collateral Administration and Agency Agreement which may expose the Secured Parties to the insolvency of the Custodian or its sub-custodian.

In any event, the charge created pursuant to the Trust Deed may be insufficient or ineffective to secure the Collateral Debt Obligations in the Class S/B Portfolio which are securities for the benefit of Class S/B Subordinated Noteholders, particularly in the event of any insolvency or liquidation of the Custodian or any sub-custodian that has priority over the right of the Issuer to require delivery of such assets from the Custodian in accordance with the terms of the Collateral Administration and Agency Agreement. In addition, custody and clearance risks may be associated with Collateral Debt Obligations in the Class S/B Portfolio or other assets comprising the Class S/B Portfolio which are securities that do not clear through Euroclear or Clearstream, Luxembourg. There is a risk, for example, that such securities could be counterfeit, or subject to a defect in title or claims to ownership by other parties.

Any risk of loss arising from any insufficiency or ineffectiveness of the security for the Class S/B Subordinated Notes or the custody and clearance risks which may be associated with assets comprising the Class S/B Portfolio will be borne by the Class S/B Subordinated Noteholders without recourse to Issuer or any of the Transaction Parties.

## **2.9 Noteholders' Resolutions**

The Trust Deed includes provisions for the passing of Resolutions (whether at a Noteholders' meeting by way of vote or by Written Resolution) of the Noteholders in respect of (among any other matters) amendments to the Conditions of the Notes and/or the Transaction Documents. Such provisions include, among other things, (i) quorum requirements for the holding of Noteholders' meetings and (ii) voting thresholds required to pass Resolutions at such meetings (or through Written Resolutions). The quorum required for a meeting of Noteholders (other than an adjourned meeting or a meeting of a particular Class or Classes) to pass an Ordinary Resolution or an Extraordinary Resolution is two or more persons holding or representing not less than, respectively, 50 per cent. or 66⅔ per cent. of the aggregate of the Principal Amount Outstanding of each Class of Notes. In both cases, the quorum is less at an adjourned meeting. The voting threshold at any Noteholders' meeting in respect of an Ordinary Resolution or an Extraordinary Resolution of all Noteholders is, respectively, more than 50 per cent. or at least 66⅔ per cent. of the aggregate of the Principal Amount Outstanding of the Notes of each Class of those Notes represented at the meeting. Accordingly, it is likely that, at any meeting of the Noteholders, an Ordinary Resolution or an Extraordinary Resolution may be passed with less than 50 per cent. or 66⅔ per cent., respectively, of all the Noteholders of each Class represented. See Condition 14 (*Meetings of Noteholders, Modification, Waiver and Substitution*).

## **2.10 Resolutions, Amendments and Waivers**

Decisions may be taken by Noteholders by way of Ordinary Resolution or Extraordinary Resolution, in each case, either acting together or, to the extent specified in any applicable Transaction Document, as a Class of Noteholders acting independently. Such Resolutions can be effected either at a duly convened meeting of the applicable Noteholders or by the applicable Noteholders resolving in writing. Meetings of the Noteholders may be convened by the Issuer, the Trustee or by one or more Noteholders holding not less than ten per cent. in aggregate Principal Amount Outstanding of the Notes of a particular Class, subject to certain conditions including minimum notice periods.

The Trustee may, in its discretion and subject to being indemnified and/or secured to its satisfaction, determine that any proposed Ordinary Resolution or Extraordinary Resolution affects only the holders of one or more Classes of Notes, in which event the required quorum and minimum percentage voting requirements of such Ordinary Resolution or Extraordinary Resolution may be determined by reference only to the holders of that Class or Classes of Notes.

In the event that a meeting of Noteholders is called to consider a Resolution, the determination as to whether the requisite number of Notes have been voted in favour of such Resolution will be determined by reference to the percentage which the Notes voted in favour represent of the total amount of Notes held or represented by any person or persons entitled to vote which are present at such meeting and not by the aggregate Principal Amount Outstanding of all such Notes which are entitled to be voted in respect of such Resolution. This means that a lower percentage of Noteholders may pass a Resolution which is put to a meeting of Noteholders than would be required for a Written Resolution in respect of the same matter. There are however quorum provisions which provide that a minimum number of Noteholders representing a minimum amount of the Principal Amount Outstanding of the applicable Class or Classes of Notes be present at any meeting to consider an Extraordinary Resolution or Ordinary Resolution. In the case of an Extraordinary Resolution, this is one or more persons holding or representing not less than 66⅔ per cent. of the aggregate Principal Amount Outstanding of each Class of Notes (or the relevant Class or Classes only, if applicable) and in the case of an Ordinary Resolution this is one or more persons holding or representing not less than 50 per cent. of the aggregate Principal Amount Outstanding of each Class of Notes (or the relevant Class or Classes only, if applicable). Such quorum provisions still, however, require considerably lower thresholds than would be required for a Written Resolution. In addition, in the event that a quorum requirement is not satisfied at any meeting, lower quorum thresholds will apply at any meeting previously adjourned for want of quorum as set out in Condition 14(b) (*Decisions and Meetings of Noteholders*) and in the Trust Deed.

Certain entrenched rights relating to the Conditions of the Notes including the currency thereof, Payment Dates applicable thereto, the Priorities of Payments, the provisions relating to quorums and the percentages of votes required for the passing of an Extraordinary Resolution, cannot be amended or waived by Ordinary Resolution but require an Extraordinary Resolution. It should however be noted that amendments may still be effected and waivers may still be granted in respect of such provisions in circumstances where not all Noteholders agree with the terms thereof and any amendments or waivers once passed in accordance with the provisions of the Conditions of the Notes and the provisions of the Trust Deed will be binding on all such dissenting Noteholders. In addition to the Trustee's right to agree to changes to the Transaction Documents to correct a manifest error, or to changes which, in its opinion, are not materially prejudicial to the interests of the Noteholders of any Class without the consent of the Noteholders, modifications may also be made and waivers granted in respect of certain other matters, subject to the prior consent of the Trustee but without the consent of the Noteholders as set out in Condition 14(c) (*Modification and Waiver*).

## **2.11 Event of Default**

If an Event of Default occurs in respect of the Class S/B Subordinated Notes, the Class S/B Collateral may be liquidated. The net proceeds derived from the realisation of the mortgaged property will be applied solely in redemption of the Class S/B Subordinated Notes on a *pro rata* and *pari passu* basis pursuant to the Conditions of the Notes and without regard to the Priorities of Payment.

## **2.12 Enforcement Rights Following an Event of Default**

If an Event of Default occurs and is continuing, the Trustee may, at its discretion, and shall, at the request of the Controlling Class acting by Extraordinary Resolution and having been indemnified and/or secured to its satisfaction, give notice to the Issuer that all the Notes are to be immediately due and payable following which the security over the Collateral shall become enforceable and may be enforced either by the Trustee, at its discretion, or if so directed by the

Controlling Class acting by Extraordinary Resolution and having been indemnified and/or secured to its satisfaction.

**2.13 Restriction on ability to petition for bankruptcy**

Investors in the Class S/B Subordinated Notes will have no right at any time to institute against the Issuer, or join in any institution against the Issuer of, any bankruptcy, reorganisation, arrangement, insolvency or liquidation proceedings or other proceedings under any applicable bankruptcy or similar law in connection with the Class S/B Subordinated Notes.

**3. RELATING TO THE CLASS S/B COLLATERAL**

**3.1 The Class S/B Portfolio**

The decision by any prospective holder of Class S/B Subordinated Notes to invest in such Class S/B Subordinated Notes should be based, among other things (including, without limitation, the identity of the Investment Manager), on the Eligibility Criteria which each Collateral Debt Obligation in the Class S/B Portfolio is required to satisfy, as disclosed in these Listing Particulars. Although the Investment Manager is required to determine in accordance with the Investment Management Agreement that each Collateral Debt Obligation satisfies the Eligibility Criteria, these Listing Particulars do not contain any information regarding the individual Collateral Debt Obligations on which the Class S/B Subordinated Notes will be secured from time to time. Purchasers of any of the Class S/B Subordinated Notes will not have an opportunity to evaluate for themselves the relevant economic, financial and other information regarding the investments to be made by the Investment Manager, acting on behalf of the Issuer and, accordingly, will be dependent upon the judgment and ability of the Investment Manager in acquiring investments for purchase on behalf of the Issuer over time. No assurance can be given that the Investment Manager, acting on behalf of the Issuer, will be successful in obtaining suitable investments or that, if such investments are made, the objectives of the Issuer will be achieved.

The Issuer has not made any investigation into the Obligors of the Collateral Debt Obligations. The value of the Class S/B Portfolio may fluctuate from time to time (as a result of substitution or otherwise) and none of the Issuer or any Transaction Party is under any obligation to maintain the value of the Collateral Debt Obligations in the Class S/B Portfolio at any particular level. None of the Transaction Parties has any liability to the Class S/B Subordinated Noteholders as to the amount or value of, or any decrease in the value of, the Collateral Debt Obligations in the Class S/B Portfolio from time to time.

**3.2 Nature of the Class S/B Collateral**

The Class S/B Portfolio will consist of Collateral Debt Obligations of predominantly Secured Senior Loans, Secured Senior Bonds, Corporate Rescue Loans, Unsecured Senior Obligations, Second Lien Loans, High Yield Bonds, Second Lien Loans and Mezzanine Obligations, as well as certain other investments, all of which will have greater credit and liquidity risk than investment grade sovereign or corporate bonds or loans. The Class S/B Collateral is subject to credit, liquidity and interest rate risks.

**3.3 Credit Risk**

Investment in the Class S/B Subordinated Notes involves a degree of risk arising from fluctuations in the amount and timing of receipt of the principal of and interest on the Collateral Debt Obligations in the Class S/B Portfolio by or on behalf of the Issuer and the amounts of the claims of creditors of the Issuer ranking in priority to the holders of the Class S/B Subordinated Notes. In particular, purchasers of such Notes should be aware that the amount and timing of payment of the principal of and interest on the Collateral Debt Obligations in the Class S/B Portfolio will depend upon the detailed terms of the documentation relating to each of the Collateral Debt Obligations in the Class S/B Portfolio and on whether or not any Obligor thereunder defaults in its obligations.

### ***Default and Concentration Risk***

The risk that payments on the Class S/B Subordinated Notes could be adversely affected by defaults on the related Collateral Debt Obligations in the Class S/B Portfolio is likely to be increased to the extent that the Class S/B Portfolio of Collateral Debt Obligations is concentrated in any one obligor, industry, region or country as a result of the increased potential for correlated defaults in respect of a single obligor or within a single industry, region or country as a result of downturns relating generally to such industry, region or country.

The Issuer may incur additional expenses to the extent it seeks recoveries upon the default of a Collateral Debt Obligation in the Class S/B Portfolio or participates in the restructuring of a Collateral Debt Obligation in the Class S/B Portfolio. Even in the absence of a default with respect to any of the Collateral Debt Obligations in the Class S/B Portfolio, the potential volatility and illiquidity of the European leverage loan market means that the market value of such Collateral Debt Obligations in the Class S/B Portfolio at any time will vary, and may vary substantially, from the price at which such Collateral Debt Obligations in the Class S/B Portfolio were initially purchased and from the principal amount of such Collateral Debt Obligations in the Class S/B Portfolio.

### **3.4 Characteristics of Senior Obligations, Mezzanine Loans and Second Lien Loans**

As a result of, among other things, the additional debt incurred by the Obligor in the course of such a transaction, the Obligor's creditworthiness is often judged by the rating agencies to be below investment grade. Senior Secured Obligations are typically at the most senior level of the capital structure with Mezzanine Loans, Second Lien Loans and/or Senior Unsecured Obligations being subordinated thereto. Senior Secured Obligations are generally secured on shares in certain group companies and may also be secured by specific collateral or guarantees, including but not limited to, trademarks, patents, accounts receivable, inventory, equipment, buildings, real estate, franchises and common and preferred stock of the Obligor and its subsidiaries although the security granted in respect of some Senior Secured Obligations may be limited to share security over the Obligor's group and some Senior Obligations may also be unsecured. In continental Europe, security is often limited to shares in certain group companies, accounts receivable, bank account balances and intellectual property rights. This security may not be perfected. Mezzanine Loans often have the benefit of a second (or, if second lien loans feature in the capital structure, third) charge over the assets on which more senior ranking obligations are secured. Senior Secured Obligations usually have shorter terms than more junior obligations and often require mandatory prepayments from excess cash flow, asset dispositions and offerings of debt and/or equity securities on a priority basis.

### ***Risks associated with Senior Obligations, Second Lien Loans and Mezzanine Loans***

Because of the provision of confidential information by the Obligor to its lenders, the unique and customised nature of the related loan agreement and the private syndication of the loan, loans are generally not as easily purchased or sold as a publicly traded security, and historically the trading volume in the loan market has been small relative to, for example, the high yield bond market. The unique nature of the loan documentation may also create a degree of complexity in negotiating a secondary market purchase or sale which may not exist, for example, in the high yield bond market. Risk of Collateral Debt Obligations in the Class S/B Portfolio may also include (among others): (i) limited liquidity and secondary market support, (ii) the possibility that earnings of the Obligor may be insufficient to meet its debt service and (iii) declining creditworthiness and potential for insolvency of the Obligor of such loans during periods of rising interest rates and economic downturn. An economic downturn could severely disrupt the market for such loans and adversely affect the value of the outstanding unsecured loans and the ability of the Obligors thereof to repay principal and interest. There can be no assurance that future levels of supply and demand in loan trading will provide the degree of liquidity which currently exists in the market. In addition, the availability in the market of firm bid quotations for defaulted obligations held by the Issuer following a default may be limited and, as a result, actual recovery rates achieved following a default may be lower than expected. This means that such assets will be subject to greater disposal risk in the event that such assets are sold following enforcement of the security over the Class S/B

Collateral or otherwise. In addition, the European market for Mezzanine Loans is also generally less liquid than that for Senior Obligations, resulting in increased disposal risk for Mezzanine Loans. The fact that Mezzanine Loans are generally subordinated to any Senior Obligations and potentially other indebtedness of the relevant Obligor thereunder, may have a longer maturity than such other indebtedness and will generally only have a second ranking security interest over any security granted in respect thereof, increases the risk of non-payment of Mezzanine Loans in an enforcement situation. Mezzanine Loans (and any other Collateral Debt Obligations in the Class S/B Portfolio which are Partial PIK Obligations) may provide that all or part of the interest accruing thereon will not be paid on a current basis but will be deferred. Mezzanine Loans also generally involve greater credit and liquidity risks than those associated with investment grade corporate obligations and Senior Obligations. There is limited historical data available as to the levels of defaults and/or recoveries that may be experienced on Collateral Debt Obligations in the Class S/B Portfolio and no assurance can be given as to the levels of default and/or recoveries that may apply to any Collateral Debt Obligations purchased by the Issuer. Recoveries on Collateral Debt Obligations in the Class S/B Portfolio may also be affected by the different bankruptcy regimes applicable in different jurisdictions and the enforceability of claims against the Obligors thereunder. Collateral Debt Obligations in the Class S/B Portfolio are generally prepayable in whole or in part at any time at the option of the obligor thereof at par plus accrued and unpaid interest thereon. Prepayments on loans may be caused by a variety of factors, which are difficult to predict. Accordingly, there exists a risk that loans purchased at a price greater than par may experience a capital loss as a result of such a prepayment. In addition, principal proceeds received upon such a prepayment are subject to reinvestment risk.

#### ***Limited Liquidity***

As referred to above, the Obligor under a leveraged loan often provides the lenders thereunder with extensive information about its business, which is not generally available to the public.

Given the provision of such confidential information, the unique and customised nature of a loan agreement, and the private syndication of the loan, leveraged loans are generally not as easily purchased or sold as publicly traded securities, and historically the trading volume in the loan market has been small relative to, for example, the high yield bond market.

Senior Obligations, Second Lien Loans and Mezzanine Loans also generally provide for restrictive covenants designed to limit the activities of the Obligor thereunder in an effort to protect the rights of lenders to receive timely payments of interest thereon, and repayment of, the principal of the loans. Such covenants may include restrictions on dividend payments, specific mandatory minimum financial ratios, limits on total debt and other financial tests. A breach of covenant (after giving effect to any cure period) under a Senior Obligation, Second Lien Loan or Mezzanine Loan which is not waived by the lending syndicate is normally an event of default which allows the syndicate to demand immediate repayment in full of the outstanding loan. The unique nature of the loan documentation may also create a degree of complexity in negotiating a secondary market purchase or sale which may not exist, for example, in the high yield bond market.

Historically, investors in or lenders under European Senior Obligations, Second Lien Loans and Mezzanine Loans have been predominantly commercial banks and investment banks. The range of investors for such loans has broadened to include money managers, insurance companies, arbitrageurs, bankruptcy investors and mutual funds seeking increased potential total returns and portfolio managers of trusts or special purpose companies issuing collateralised bond and loan obligations. As secondary market trading volumes increase, new loans are frequently adopting more standardised documentation to facilitate loan trading which may improve market liquidity. There can be no assurance, however, that future levels of supply and demand in loan trading will provide the degree of liquidity which currently exists in the market. This means that such assets will be subject to greater disposal risk in the event that such assets are sold following enforcement of the security over the Class S/B Collateral or otherwise.

### ***Increased Risks for Mezzanine Loans and Second Lien Loans***

Mezzanine Loans and Second Lien Loans are also often entered into in connection with leveraged acquisitions or recapitalisations in which the Obligor thereunder incur a substantially higher amount of indebtedness than the level at which they previously operated and, as referred to above, sit at a subordinated level in the capital structure of such companies. Mezzanine Loans and Second Lien Loans may provide that all or part of the interest accruing thereon will not be paid on a current basis but will be deferred.

### ***Defaults and Recoveries***

There is limited historical data available as to the levels of defaults and/or recoveries that may be experienced on Senior Obligations, Mezzanine Loans and Second Lien Loans and no assurance can be given as to the levels of default and/or recoveries that may apply to any Senior Obligations, Mezzanine Loans and Second Lien Loans purchased by the Issuer. Recoveries on Senior Obligations, Mezzanine Loans and Second Lien Loans may also be affected by the different bankruptcy regimes applicable in different jurisdictions and the enforceability of claims against the Obligor thereunder. See "*Insolvency of Obligors under Collateral Debt Obligations*" below.

The effect of an economic downturn on default rates and the ability of finance providers to protect their investment in a default situation is uncertain. Furthermore, the holders of Senior Loans and Mezzanine Obligations are more diverse than ever before, including not only banks and specialist finance providers but also alternative collateral managers, specialist debt and distressed debt investors and other financial institutions. The increasing diversification of the investor base has also been accompanied by an increase in the use of hedges, swaps and other derivative instruments to protect against or spread the economic risk of defaults. All of these developments may further increase the risk that historic recovery levels will not be realised. The returns on Senior Loans and/or Mezzanine Obligations therefore may not adequately reflect the risk of future defaults and the ultimate recovery rates.

A non-investment grade loan or debt obligation or an interest in a non-investment grade loan is generally considered speculative in nature and may become a Defaulted Obligation for a variety of reasons. Upon any Collateral Debt Obligation in the Class S/B Portfolio becoming a Defaulted Obligation, such Defaulted Obligation may become subject to either substantial workout negotiations or restructuring, which may entail, among other things, a substantial reduction in the interest rate, a substantial write-down of principal and a substantial change in the terms, conditions and covenants with respect of such Defaulted Obligation. In addition, such negotiations or restructuring may be quite extensive and protracted over time, and therefore may result in uncertainty with respect to ultimate recovery on such Defaulted Obligation. The liquidity for Defaulted Obligations may be limited, and to the extent that Defaulted Obligations are sold, it is highly unlikely that the proceeds from such sale will be equal to the amount of unpaid principal and interest thereon.

### ***Prepayment Risk***

Loans are generally repayable in whole or in part at any time at the option of the Obligor thereof at par plus accrued and unpaid interest thereon. Prepayments on loans may be caused by a variety of factors, which are difficult to predict. Accordingly, there exists a risk that loans purchased at a price greater than par may experience a capital loss as a result of such a prepayment.

### ***Credit Risk***

Risks applicable to Collateral Debt Obligations also include the possibility that earnings of the Obligor may be insufficient to meet its debt service obligations thereunder and the declining creditworthiness and potential for insolvency of the Obligor of such loans during periods of rising interest rates and economic downturn. An economic downturn could severely disrupt the market for leveraged loans and adversely affect the value thereof and the ability of the Obligor thereunder to repay principal and interest.



### ***High-Yield Bonds***

The Collateral Debt Obligations in the Class S/B Portfolio will include High Yield Bonds. High Yield Bonds rated below investment grade will have greater credit and liquidity risk than investment grade obligations. High Yield Bonds are generally unsecured and may be subordinated to other obligations of the issuer thereof. The lower ratings of obligations in the non-investment grade market reflect a greater possibility that adverse changes in the financial condition of an issuer of such obligation or in general economic conditions or both may impair the ability of such issuer to make payments of principal and interest.

High Yield Bonds have historically experienced greater default rates than have investment grade securities. Although studies have been made of historical default rates in the high yield market, such studies do not necessarily provide a basis for drawing definitive conclusions with respect to default rates and, in any event, do not necessarily provide a basis for predicting future default rates. Should increases in default rates occur with respect to this type of collateral, the actual default rates of the Collateral Debt Obligations in the Class S/B Portfolio may exceed the hypothetical default rates assumed by investors in determining whether to purchase any of the Class S/B Subordinated Notes.

Risks of High Yield Bonds may include (among others): (a) limited liquidity and secondary market support, (b) substantial market price volatility resulting from changes in prevailing interest rates, (c) subordination to the prior claims of banks and other senior lenders, (d) the operation of mandatory sinking fund or call/redemption provisions during periods of declining interest rates that could cause the Issuer to reinvest premature redemption proceeds in lower yielding Collateral Debt Obligations, (e) the possibility that earnings of the High Yield Bond issuer may be insufficient to meet its debt service and (f) the declining creditworthiness and potential for insolvency of the issuer of such High Yield Bond during periods of rising interest rates and economic downturn. An economic downturn or an increase in interest rates could severely disrupt the market for High Yield Bonds and adversely affect the value of outstanding High Yield Bonds and the ability of the issuers thereof to repay principal and interest.

Issuers of High Yield Bonds may be highly leveraged and may not have available to them more traditional methods of financing. The risk associated with acquiring the securities of such issuers generally is greater than is the case with highly rated securities. The prices of High Yield Bonds are likely to be more sensitive to adverse economic changes or individual corporate developments than higher rated securities. For example, during an economic downturn or a sustained period of rising interest rates, issuers of High Yield Bonds may be more likely to experience financial stress, especially if such issuers are highly leveraged. During such periods, timely service of debt obligations may also be adversely affected by specific issuer developments, the issuer's inability to meet specific projected business forecasts or the unavailability of additional financing. The risk of loss due to default by the issuer is significantly greater for the holders of High Yield Bonds because such securities may be unsecured and may be subordinated to other creditors of the issuer of such securities. In addition, the Issuer may incur additional expenses to the extent it is required to seek recovery upon a default on a High Yield Bond or participate in the restructuring of such obligation.

Downward movements in interest rates could also adversely affect the performance of High Yield Bonds. High Yield Bonds may have call or redemption features that would permit the issuer thereof to repurchase the securities from the Issuer. If a call were exercised by the issuer of a High Yield Bond during a period of declining interest rates, it would be likely that the Issuer would have to replace such called High Yield Bond with lower yielding Collateral Debt Obligations.

As a result of the limited liquidity of High Yield bonds, their prices have at times experienced significant and rapid decline. In addition, the Issuer may have difficulty disposing of certain High Yield Bonds because there may be a thin trading market for such securities. To the extent that a secondary trading market for non-investment grade High Yield Bonds does exist, it is generally not as liquid as the secondary market for highly rated securities. Under adverse market or economic conditions, the secondary market for High Yield Bonds could contract further, independent of any specific adverse changes in the condition of a particular issuer.

Reduced secondary market liquidity may have an adverse impact on market price and the Issuer's ability to dispose of particular securities when necessary to meet the Issuer's liquidity needs or in response to a specific economic event such as a deterioration in the creditworthiness of the issuer of such securities. Reduced secondary market liquidity for certain High Yield Bonds may also make it more difficult for the Issuer to obtain accurate market quotations for the purposes of valuing the Class S/B Portfolio. Market quotations are generally available on many High Yield Bonds only from a limited number of dealers and may not necessarily represent firm bids of such dealers of prices for actual sales.

Adverse publicity and investor perceptions, which may not be based on fundamental analysis, may also decrease the market value and liquidity of High Yield Bonds, particularly in a thinly traded market.

### 3.5 **Lender Liability Considerations; Equitable Subordination**

In recent years, a number of judicial decisions in the United States and other jurisdictions have upheld the right of borrowers to sue lenders or bondholders on the basis of various evolving legal theories (collectively termed "**lender liability**"). Generally, lender liability is founded upon the premise that an institutional lender or bondholder has violated a duty (whether implied or contractual) of good faith and fair dealing owed to the borrower or issuer or has assumed a degree of control over the borrower or issuer resulting in the creation of a fiduciary duty owed to the borrower or issuer or its other creditors or shareholders. Although it would be a novel application of the lender liability theories, the Issuer may be subject to allegations of lender liability. However, neither the Issuer nor the Investment Manager intends to engage in any conduct that would form the basis for a successful cause of action based upon lender liability.

In addition, under principles of United States federal and state laws that in some cases form the basis for lender liability claims, if a lender or bondholder (a) intentionally takes an action that results in the under-capitalisation of a borrower to the detriment of other creditors of such borrower, (b) engages in other inequitable conduct to the detriment of such other creditors, (c) engages in fraud with respect to, or makes misrepresentations to, such other creditors or (d) uses its influence as a stockholder to dominate or control a borrower to the detriment of other creditors of such borrower, a court may elect to subordinate the claim of the offending lender or bondholder to the claims of the disadvantaged creditor or creditors, a remedy called "*equitable subordination*". Because of the nature of the Collateral Debt Obligations in the Class S/B Portfolio, the Issuer may be subject to claims from creditors of an Obligor that Collateral Debt Obligations in the Class S/B Portfolio issued by such Obligor that are held by the Issuer should be equitably subordinated. However, neither the Issuer nor the Investment Manager intends to engage in any conduct that would form the basis for a successful cause of action based upon the equitable subordination doctrine described above.

The preceding discussion is based upon principles of United States federal and state laws. Insofar as Collateral Debt Obligations that are obligations of non-United States Obligors are concerned, the laws of certain foreign jurisdictions may impose liability upon lenders or bondholders under factual circumstances similar to those described above, with consequences that may or may not be analogous to those described above under United States federal and state laws.

### 3.6 **Insolvency of Obligors under Collateral Debt Obligations**

The Collateral Debt Obligations in the Class S/B Portfolio may be subject to various laws enacted for the protection of creditors in the jurisdictions of incorporation of the obligors thereunder and, if different, the jurisdictions from which the obligors conduct their business and in which they hold their assets, which may adversely affect such obligors' abilities to make payment on a full or timely basis. These insolvency considerations will differ depending on the country in which each Obligor or its assets is located and may differ depending on the legal status of the Obligor. In particular, it should be noted that a number of continental European and emerging market jurisdictions operate "debtor-friendly" insolvency regimes which could result in delays in payments under Collateral Debt Obligations in the Class S/B

Portfolio where obligations thereunder are subject to such regimes, in the event of their insolvency.

The different insolvency regimes applicable in the different European and emerging market jurisdictions result in a corresponding variability of recovery rates for Senior Obligations, Second Lien Loans and Mezzanine Loans entered into or issued by Obligor in such jurisdictions. No reliable historical data for such recovery rates is available.

### 3.7 **Investment Management Agreement and Investment Manager**

The Investment Manager is given authority in the Investment Management Agreement to administer the Class S/B Portfolio and act in specific circumstances in relation to the Class S/B Portfolio as agent of the Issuer pursuant to and in accordance with the parameters and criteria set out in the Investment Management Agreement. See "*Description of the Class S/B Portfolio*" and "*Description of the Investment Management Agreement*". The powers and duties of the Investment Manager in managing the Collateral Debt Obligations include the sale of certain of the securities in the Class S/B Portfolio, in accordance with the provisions of the Investment Management Agreement. See "*Description of the Class S/B Portfolio*".

The liability of the Investment Manager to the Issuer under the Investment Management Agreement is limited to damage caused by (i) acts or omissions constituting bad faith, wilful misconduct or negligence in the making of the representations under the Investment Management Agreement or in the performance of the Investment Manager of its obligations under the Investment Management Agreement or (ii) with respect to the information concerning the Investment Manager provided in writing by the Investment Manager for inclusion in these Listing Particulars if such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained in "*Risk Factors - Certain Conflicts of Interest*" (insofar such section related to the Investment Manager) and "*Description of the Investment Manager*", in the light of the circumstances under which they were made, not misleading.

Although the Investment Manager is required, pursuant to its entry into the Investment Management Agreement, to commit an appropriate amount of its business efforts to the management of the Class S/B Portfolio, the Investment Manager is not required to devote all of its time to such affairs and may continue to advise and manage other investment funds in the future.

The loss by the Investment Manager of a number of key individuals could have a material adverse effect on the ability of the Investment Manager to perform its obligations under the Investment Management Agreement. If the appointment of the Investment Manager is terminated under the Investment Management Agreement, the Issuer may not be able to find a replacement investment manager with similar skills or willing to act on equivalent terms.

### 3.8 **Limited provision of information**

Noteholders will not have the right to receive information regarding the Class S/B Collateral except for the data set out in the reports to be delivered by the Collateral Administrator and except as described in "*Investment Management Agreement*" above the Investment Manager will have no obligation to keep the Class S/B Subordinated Noteholders informed as to matters arising in relation to the Class S/B Collateral including whether or not circumstances exist under which there is a possibility of losses arising on any Collateral Debt Obligation in the Class S/B Portfolio.

### 3.9 **Credit exposure to the Class S/B Collateral**

Payments of principal and interest on the Class S/B Subordinated Notes will be dependent upon whether, and the extent to which, defaults have occurred in relation to the Class S/B Portfolio. The severity of losses incurred following any such default may impact the amounts available to the Issuer to pay principal and interest due on the Class S/B Subordinated Notes.

### 3.10 **Changes in Tax Law**

The Investment Manager has confirmed that, subject to its standard of care, it has selected Collateral Debt Obligations to comprise the Class S/B Portfolio on which payments either will not be subject to any withholding tax imposed by any jurisdiction (including pursuant to the operation of an applicable tax treaty and in some cases the completion of procedural formalities), or if and to the extent that any such withholding tax does apply, the relevant Obligor will be obliged to make gross-up payments to the Issuer that cover the full amount of such withholding tax. However, there can be no assurance that, as a result of any change in any applicable law, rule or regulation or interpretation thereof, the payments on the Collateral Debt Obligations in the Class S/B Portfolio will not in the future become subject to withholding tax or increased withholding rates in respect of which the relevant Obligor will not be obliged to "gross-up" payments to the Issuer for the tax deducted or withheld. In such circumstances, the Issuer may be able, but will not be obliged, to take advantage of (a) a double taxation treaty between Ireland and the jurisdiction from which the relevant payment is made, or (b) the current applicable law in the jurisdiction of the relevant Obligor. In the event that the Issuer receives any payments on any Collateral Debt Obligation in the Class S/B Portfolio net of any applicable withholding tax (to the extent there is no corresponding "gross-up" payment), such tax would also reduce the amounts available to make payments on the Class S/B Subordinated Notes. There can be no assurance that remaining payments on the Collateral Debt Obligations would be sufficient to make timely payments of interest, principal on the Maturity Date and other amounts payable in respect of the Class S/B Subordinated Notes.

## 4. **CERTAIN CONFLICTS OF INTEREST**

With respect to the Class S/B Subordinated Notes, conflicts of interest may arise as a result of various factors involving the Investment Manager, the Collateral Administrator, their Affiliates and others. The following briefly summarises some of these conflicts, but is not intended to be an exhaustive list of all such potential conflicts.

The Investment Manager and/or its Affiliates and its clients may invest in securities that would be appropriate as security for the Class S/B Subordinated Notes. Such investments may be different from those made on behalf of the Issuer. The Investment Manager and its Affiliates may also have ongoing relationships with, render services to or engage in transactions with, companies whose securities are pledged to secure the Class S/B Subordinated Notes and may own equity or debt securities issued by issuers of and other obligors on Collateral Debt Obligations in the Class S/B Portfolio. As a result, individuals or Affiliates of the Investment Manager may possess information relating to Obligor under Collateral Debt Obligations in the Class S/B Portfolio which is not known to the individuals at the Investment Manager responsible for monitoring the Collateral Debt Obligations in the Class S/B Portfolio and performing the other obligations under the Investment Management Agreement. In addition, Affiliates and clients of the Investment Manager may invest in loans and securities that are senior to, or have interests different from or adverse to, the Collateral Debt Obligations in the Class S/B Portfolio that are pledged to secure the Notes. The Investment Manager and/or its Affiliates may at certain times be simultaneously seeking to purchase or dispose of investments for its or their own account, for the Issuer, for any similar entity for which it serves as manager or adviser and for its clients or Affiliates. The Investment Manager and/or its Affiliates may make an investment on behalf of any account that they manage or advise without offering the investment opportunity to or making any investment on behalf of the Issuer. The Investment Manager and/or its Affiliates have no affirmative obligation to offer any investments to the Issuer or to inform the Issuer of any investments before offering any investments to other funds or accounts that the Investment Manager and/or its Affiliates manage or advise. Furthermore, Affiliates of the Investment Manager may make an investment on their own behalf without offering the investment opportunity to, or the Investment Manager making any investment on behalf of, the Issuer. Affirmative obligations may exist or may arise in the future, whereby Affiliates of the Investment Manager are obliged to offer certain investments to funds or accounts that such Affiliates manage or advise before or without the Investment Manager offering those investments to the Issuer. Affiliates of the Investment Manager have no affirmative obligation to offer any investments to the Issuer or to inform the Issuer of any investments before engaging in any investments for themselves. The

Investment Manager will endeavour to resolve conflicts with respect to investment opportunities in a manner which it deems equitable to the extent possible under the prevailing facts and circumstances. Although the professional staff of the Investment Manager will devote as much time to the Issuer as the Investment Manager deems appropriate to perform its duties in accordance with the Investment Management Agreement, those staff may have conflicts in allocating their time and services among the Issuer and the Investment Manager's other accounts.

The Investment Manager, on behalf of the Issuer, may conduct principal trades with itself and its Affiliates, subject to applicable law. The Investment Manager may also effect client cross transactions where the Investment Manager causes a transaction to be effected between the Issuer and another account advised by any of its Affiliates. Client cross transactions enable the Investment Manager to purchase or sell a block of securities for the Issuer at a set price and possibly avoid an unfavourable price movement that may be created through entrance into the market with such purchase or sell order. In addition, with the prior authorisation of the Issuer, which may be revoked at any time, the Investment Manager may enter into agency cross transactions where any of its Affiliates acts as broker for the Issuer and for the other party to the transaction, in which case any such Affiliate will receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding, both parties to the transaction.

There is no limitation or restriction on the Investment Manager or any of its Affiliates with regard to acting as Investment Manager (or in a similar role) to other parties or persons. This and other future activities of the Investment Manager, and/or its Affiliates may give rise to additional conflicts of interest.

The Issuer may from time to time invest in Eligible Investments issued by, arranged by or underwritten by the Investment Manager or its Affiliates.

Save as provided below, there will be no restriction on the ability of the Trustee, the Investment Manager, the Collateral Administrator, any Asset Swap Counterparty or any of their respective Affiliates or employees to purchase Class S/B Subordinated Notes and to exercise any voting rights to which such Class S/B Subordinated Notes are entitled. The interests of such holders may differ from those of other holders.

Upon any resignation or removal of the Investment Manager while any of the Class S/B Subordinated Notes are Outstanding, the Issuer shall appoint an established institution as replacement Investment Manager which: (a) has demonstrated an ability to professionally and competently perform duties similar to those failing to be performed by the Investment Manager and with a substantially similar (or better) level of expertise, (b) is legally qualified and has the regulatory capacity to act as manager under the Investment Management Agreement as successor to the Investment Manager in the assumption of all of the responsibilities, duties and obligations of the Investment Manager thereunder, (c) will perform its duties under the Investment Management Agreement without causing adverse tax consequences to the Issuer or any holder of the Class S Notes, and (d) has received Rating Agency Confirmation and been notified to Fitch and is approved by the holders of the Class S Notes, acting by Ordinary Resolution, subject to the holders of the Controlling Class acting independently by Ordinary Resolution, not disapproving of such institution within 30 days of notice of such appointment. See "*Description of the Investment Management Agreement*".

In relation to any vote on the appointment of a successor investment manager, Class S/B Subordinated Notes owned by or on behalf of the Investment Manager and/or one or more Affiliates thereof and/or any account for which the Investment Manager or any Affiliate thereof acts as investment adviser or manager and for which the Investment Manager or such Affiliate has discretionary authority shall be counted in a vote of the holders of the Class S/B Subordinated Notes in accordance with the Conditions of the Notes.

The Investment Manager or one or more of its Affiliates (including funds managed by the Investment Manager or one or more of its Affiliates) elected to exchange (in whole or in part) the Class S Notes held by it on the SP3 Issue Date for Class S/B Subordinated Notes pursuant to Condition 7(i) (*Redemption and Exchange*) of the Conditions and the Exchange Offer. In

certain circumstances, the interests of the Issuer and/or such Noteholders with respect to matters as to which the Investment Manager is acting as Investment Manager of the Issuer may conflict with the interests of the Investment Manager.

## **5. TAXATION OF THE ISSUER**

The Issuer intends to conduct its affairs in such a manner as to minimise, so far as it considers reasonably practicable, taxation suffered by it. This will include conducting the affairs of the Issuer so that, to the extent within the capacity of the Directors and the Issuer, the Issuer is at all times resident in Ireland for taxation purposes. There can be no assurance, however, that the Issuer's income (particularly any U.S. source income it may derive) will not become subject to net income or withholding taxes in the United States or other countries as a result of unanticipated activities by the Issuer, changes in law, contrary conclusions by relevant tax authorities or other causes.

## **6. RISKS RELATING TO THE ISSUER**

### **6.1 The Issuer is a special purpose entity**

The Issuer is a special purpose entity and during the term of the transaction (as described by these Listing Particulars, the Transaction Documents and the Class S/B Subordinated Notes) will not have any assets (excluding any share capital and minor transaction fees) other than the claims under the Class S/B Collateral. If the Issuer does not receive sufficient funds under such claims, it will not be in a position to meet its obligations under the Class S/B Subordinated Notes. In such case, the Class S/B Subordinated Noteholders will have no claims or other recourse against any Transaction Party.

### **6.2 Regulation of the Issuer by any regulatory authority**

The Issuer is not required to be licensed, registered or authorised under any current securities, commodities or banking laws of its jurisdiction of incorporation and will operate without supervision by any authority in any jurisdiction. There is no assurance, however, that regulatory authorities in one or more jurisdictions would not take a contrary view regarding the applicability of any such laws to the Issuer. The taking of a contrary view by such regulatory authority could have an adverse impact on the Issuer or the holders of the Class S/B Subordinated Notes.

Any investment in the Class S/B Subordinated Notes does not have the status of a bank deposit and is not within the scope of any deposit protection scheme or any client money protection scheme.

### **6.3 Preferred creditors under Irish law**

The Issuer is an Irish company. Under Irish law, upon an insolvency of an Irish company, when applying the proceeds of assets subject to fixed security which may have been realised in the course of a liquidation or receivership, the claims of a limited category of preferential creditors will take priority over the claims of creditors holding the relevant fixed security. These preferred claims include the remuneration, costs and expenses properly incurred by any examiner of the company (which may include any borrowings made by an examiner to fund the company's requirements for the duration of his appointment) which have been approved by the Irish courts (see "*Examinership*" below).

The holder of a fixed security over the book debts of an Irish tax resident company (which would include the Issuer) may be required by the Irish Revenue Commissioners (the "**Revenue**"), by notice in writing from the Revenue, to pay them sums equivalent to those that the holder received in payment of debts due to it by the company.

Where the holder of the security has given notice to the Revenue of the creation of the security within 21 calendar days of its creation, the holder's liability is limited to the amount of certain outstanding Irish tax liabilities of the company (including liabilities in respect of value added tax) arising after the issuance of the Revenue's notice to the holder of fixed security.

The Revenue may also attach any debt due to an Irish tax resident company by another person in order to discharge any liabilities of the company in respect of outstanding tax, whether the liabilities are due on its own account or as an agent or trustee. The scope of this right of the Revenue has not yet been considered by the Irish courts and it may override the rights of holders of security (whether fixed or floating) over the debt in question.

The essence of a fixed charge is that the person creating the charge does not have liberty to deal with the assets that are the subject matter of the security in the sense of disposing such assets or expending or appropriating the moneys or claims constituting such assets accordingly, if and to the extent that such liberty is given to the Issuer, any charge constituted by the Trust Deed or other security documents relating to the Class S/B Subordinated Notes may operate as a floating, rather than a fixed charge.

In particular, the Irish courts have held that in order to create a fixed charge on receivables, it is necessary to oblige the charger to pay the proceeds of collection of the receivables into a designated bank account and to prohibit the charger from withdrawing or otherwise dealing with the moneys standing to the credit of such account without the consent of the chargee.

Depending upon the level of control actually exercised by the chargor, there is therefore a possibility that the fixed security purported to be created by the Trust Deed or other security documents relating to Class S/B Subordinated Notes would be regarded by the Irish courts as a floating charge.

Floating charges have certain weaknesses, including the following:

- (a) they have weak priority against purchasers (who are not on notice of any negative pledge contained in the floating charge) and the chargees of the assets concerned and against lien holders, execution creditors and creditors with rights of set-off;
- (b) as discussed above, they rank after certain preferential creditors, such as claims of employees and certain taxes on winding-up;
- (c) they rank after certain insolvency remuneration expenses and liabilities;
- (d) the examiner of a company has certain rights to deal with the property covered by the floating charge; and
- (e) they rank after fixed charges (however, the Issuer has covenanted not to create any such subsequent security interests without the consent of the Trustee).

In relation to the disposal of assets of any Irish tax resident company which are subject to security, a person entitled to the benefit of the security may be liable for tax in relation to any capital gains made by the company on a disposal of those assets on exercise of the security in certain circumstances.

#### **6.4 Examinership**

Examinership is a court procedure available under the Irish Companies (Amendment) Act 1990, as amended to facilitate the survival of Irish companies in financial difficulties.

As the Issuer is an Irish company, the Issuer, the directors of the Issuer, a contingent, prospective or actual creditor of the Issuer, or shareholders of the Issuer holding, at the date of presentation of the petition, not less than one-tenth of the voting share capital of the Issuer are each entitled to petition the court for the appointment of an examiner. The examiner, once appointed, has the power to set aside contracts and arrangements entered into by the company after his appointment and, in certain circumstances, can avoid a negative pledge given by the company prior to his appointment. Furthermore, he may sell assets which are the subject of a fixed charge. However, if such power is exercised he must account to the holders of the fixed charge for the amount realised and discharge the amount due to them out of the proceeds of sale.

During the period of protection, the examiner will compile proposals for a compromise or scheme of arrangement to assist the survival of the company or the whole or any part of its undertaking as a going concern. A scheme of arrangement may be approved by the Irish High Court when at least one class of creditors has voted in favour of the proposals and the Irish High Court is satisfied that such proposals are fair and equitable in relation to any class of members or creditors who have not accepted the proposals and whose interests would be impaired by implementation of the scheme of arrangement.

In considering proposals by the examiner, it is likely that secured and unsecured creditors would form separate classes of creditors. In the case of the Issuer, if the Trustee represented the majority in number and value of claims within the secured creditor class (which would be likely given the restrictions agreed to by the Issuer in the Conditions), the Trustee would be in a position to reject any proposal not in favour of the Class S/B Subordinated Noteholders. The Trustee would also be entitled to argue at the Irish High Court hearing at which the proposed scheme of arrangement is considered that the proposals are unfair and inequitable in relation to the Class S/B Subordinated Noteholders, especially if such proposals included a writing down of the value of amounts due by the Issuer to the Class S/B Subordinated Noteholders. The primary risks to the holders of Class S/B Subordinated Notes if an examiner were to be appointed to the Issuer are as follows:

- the potential for a scheme of arrangement to be approved involving the writing down of the debt owed by the Issuer to the Class S/B Subordinated Noteholders as secured by the Trust Deed and the Euroclear Pledge Agreement;
- the potential for the examiner to seek to set aside any negative pledge in the Class S/B Subordinated Notes prohibiting the creation of security or the incurring of borrowings by the Issuer to enable the examiner to borrow to fund the Issuer during the protection period; and
- in the event that a scheme of arrangement is not approved and the Issuer subsequently goes into liquidation, the examiner's remuneration and expenses (including certain borrowings incurred by the examiner on behalf of the Issuer and approved by the Irish High Court) will take priority over the monies and liabilities which from time to time are or may become due, owing or payable by the Issuer to the Class S/B Subordinated Noteholders.



## TERMS AND CONDITIONS OF THE NOTES

*The following are the conditions of each of the Class A Notes, the Class B Notes, the Class S Notes and the Class S/B Subordinated Notes which will be incorporated by reference into each Note of each Class subject to the provisions of such Notes, some of which will modify the effect of these Terms and Conditions of the Notes. See "Summary of Provisions Relating to Notes in Global Form".*

The issue of €790,700,000 Class A Notes due 2024 (the "**Class A Notes**"), €49,500,000 Class B Notes due 2024 (the "**Class B Notes**", together with the Class A Notes, the "**Rated Notes**"), €14,620,000 Class S Preferred Notes due 2024 (the "**Class S Preferred Notes**") and €57,180,000 Class S Subordinated Notes due 2024 (the "**Class S Subordinated Notes**" together with the Class S Preferred Notes, the "**Class S Notes**", and the Class S Notes, together with the Rated Notes and the Class S/B Subordinated Notes as defined below, the "**Notes**") of ICG EOS Loan Fund I Limited (the "**Issuer**") was authorised by resolution of the board of directors of the Issuer dated 19 August 2010. The issue of €301,584,000 Class S/B Subordinated Notes due 2024 (the "**Class S/B Subordinated Notes**") was authorised by resolution of the board of directors of the Issuer dated on or about 21 October 2013.

The Notes are constituted by, are subject to, and have the benefit of, a trust deed (together with any other security document entered into in respect of the Notes (including the Euroclear Pledge Agreement) as amended by a transfer and amendment deed between, amongst others, the Issuer and BNP Paribas Securities Services S.C.A, London Branch dated 13 December 2012 and as supplemented, amended and restated by a supplemental trust deed dated on or about 7 November 2013 between the Issuer and the Trustee, the "**Supplemental Trust Deed**", and all such documents together the "**Trust Deed**") dated 25 August 2010 (the "**Closing Date**") between (amongst others) the Issuer and Citicorp Trustee Company Limited in its capacity as trustee (the "**Trustee**", which expression shall include all persons for the time being the trustee or trustees under the Trust Deed) for the Secured Parties.

For the purposes of these Terms and Conditions of the Notes (as amended, the "**Conditions**" or the "**Conditions of the Notes**"), the Trust Deed, and all agreements entered into in connection therewith, references herein to the "Notes" or the Notes of any Class shall be to all Notes, or all Notes of that Class, as applicable, that are issued and Outstanding or deemed to be issued and Outstanding from time to time.

These Conditions of the Notes include summaries of, and are subject to, the detailed provisions of the Trust Deed (which includes the forms of the Notes). The following agreements have been entered into in relation to the Notes: (a) a collateral administration and agency agreement dated the Closing Date as amended by a transfer and amendment deed between, amongst others, the Issuer and BNP Paribas Securities Services S.C.A, London Branch dated 13 December 2012 (the "**Collateral Administration and Agency Agreement**") between, amongst others, the Issuer, BNP Paribas Securities Services S.C.A, London Branch as custodian and account bank, Citibank, N.A., London Branch as transfer agent, principal paying and calculation agent (respectively, the "**Custodian**", the "**Account Bank**", the "**Transfer Agent**", the "**Principal Paying Agent**" and the "**Calculation Agent**"), Citigroup Global Markets Deutschland AG as registrar (the "**Registrar**"), Virtus Group L.P. as collateral administrator (the "**Collateral Administrator**"); (b) an investment management agreement dated the Closing Date (the "**Investment Management Agreement**") between Intermediate Capital Managers Limited as investment manager in respect of the Portfolio (other than the SP3 Portfolio) (the "**Investment Manager**"), the Issuer, the Collateral Administrator and the Trustee, as amended and restated on or about 7 November 2013; (c) the Asset Swap Agreements each between the Issuer and an Asset Swap Counterparty entered into on or about the Closing Date and thereafter; (d) an incorporated terms memorandum dated the Closing Date between, amongst others, the Issuer and the Trustee as amended by a transfer and amendment deed dated 13 December 2012 between, amongst others, the Issuer and BNP Paribas Securities Services S.C.A, London Branch (the "**Incorporated Terms Memorandum**") and (e) an administration agreement between the Issuer and Maples Fiduciary Services (Ireland) Limited dated the Closing Date (the "**Administration Agreement**"). References to any Transaction Party shall include any successor thereto appointed pursuant to the terms of the relevant Transaction Document. Copies of the Trust Deed, the Collateral Administration and Agency Agreement and the Investment Management Agreement (including all amendment agreements relating thereto) are available for inspection on reasonable notice during usual business hours at the principal office of the Issuer. The holders of each Class of Notes (the "**Noteholders**") are entitled to the benefit of, are bound by and are deemed to have notice of all the provisions of the Trust Deed and are deemed to have notice

of all the provisions of the Transaction Documents (including all amendment agreements relating thereto) applicable to them.

1. **Definitions**

**"Accounts"** means the Principal Account, the Interest Account, the Payment Account, the Asset Swap Termination Account, each Asset Swap Account, each Counterparty Downgrade Collateral Account (for the purposes of holding cash collateral), the Collateral Enhancement Account, the Liquidity Reserve Account, the Expense Reserve Account, the Smoothing Account and the Unsettled Loans Account, each of which are held with the Account Bank, and the Custody Account and each Counterparty Downgrade Collateral Account (for the purposes of holding non- cash collateral) held with the Custodian, and any other accounts opened in the name of the Issuer with the consent of the Trustee and charged to the Trustee for the benefit of the Secured Parties.

**"Accrued Collateral Debt Obligation Interest"** means, in respect of any Determination Date, the amount which is equal to the aggregate of all accrued unpaid interest (other than such accrued unpaid interest which, by the terms of the relevant Collateral Debt Obligation, either must be capitalised as of the next payment date thereunder or may be capitalised as of such date) under Collateral Debt Obligations (excluding Purchased Accrued Interest and interest on any Defaulted Obligations), converted where applicable into EUR at the Applicable Exchange Rate, which is not payable to the Issuer on or prior to such Determination Date by the Obligors under the relevant Collateral Debt Obligations.

**"Additional Notes"** means Notes issued pursuant to Condition 17 (*Additional Issuances*).

**"Administrative Expenses"** means amounts due and payable by the Issuer:

- (a) to (i) the Custodian pursuant to the Collateral Administration and Agency Agreement; (ii) the Collateral Administrator pursuant to the Collateral Administration and Agency Agreement; and (iii) the remaining Agents pursuant to the Collateral Administration and Agency Agreement;
- (b) to the independent certified public accountants, agents and counsel of the Issuer;
- (c) to any Rating Agency which may from time to time be requested to assign (i) a rating to each of the Rated Notes, or (ii) a confidential credit estimate or shadow rating to any of the Collateral Debt Obligations, for fees and expenses (including surveillance fees) in connection with any such rating or confidential credit estimate including, in each case, the ongoing monitoring thereof and any other amounts due and payable to any Rating Agency under the terms of the Issuer's engagement with such Rating Agency;
- (d) to the Administrator pursuant to the Administration Agreement;
- (e) to the Investment Manager pursuant to the Investment Management Agreement (including without limitation indemnities provided for therein but excluding any Investment Management Fees, any Investment Manager Advances and interest thereon and any value added tax payable thereon);
- (f) to any other Person in respect of any governmental fee or charge (for the avoidance of doubt excluding any taxes) or any statutory indemnity;
- (g) to the Stock Exchange or such other stock exchange or exchanges upon which any of the Notes are listed from time to time and any listing agent;
- (h) to any other Person in respect of any fees, expenses or indemnities contemplated in these Conditions (other than Trustee Fees and Expenses) or in the Transaction Documents or any other documents;
- (i) to the payment of amounts due to an agent bank in relation to the performance of its duties under a Collateral Debt Obligation but excluding any amounts paid in respect of the acquisition or purchase price of such Collateral Debt Obligation;

- (j) to the payment of any amounts due and payable by the Issuer as a member of a loan syndicate for costs and expenses (including legal fees) incurred on account of any restructuring, insolvency work-out (including the payment of indemnities granted to a steering committee in relation to the restructuring of a Collateral Debt Obligation) up to an aggregate maximum amount paid under this clause of €25,000 multiplied by the number of days from the Closing Date to, but excluding the date of determination, divided by 360;
- (k) to the payment of any costs and expenses incurred by the Issuer in connection with the provision of ongoing reporting information required by any Noteholder in assisting in the preparation, provision or validation of data for purposes of that Noteholders tax jurisdiction from time to time;
- (l) to the payment of any amounts incurred by the Issuer which are expected to be payable with respect to the liquidation of the Issuer including the fees and disbursements of liquidators and auditors and any counsel appointed by the Issuer in connection with the liquidation or potential insolvency of the Issuer;
- (m) in respect of the formation of the Issuer and any return filings, registration and registered office fees;
- (n) to the payment of any unpaid applicable value added tax required to be paid by the Issuer in respect of any of the foregoing;
- (o) to the payment of €1,000 to the Issuer Irish Account on the first Payment Date only; and
- (p) to the Exchange and Tabulation Agent pursuant to the Exchange Agency Agreement (including without limitation indemnities provided for therein but excluding all fees, commission and expenses together with any VAT payable thereon pursuant to Clause 6 of the Exchange Agency Agreement, which shall be payable on the SP3 Issue Date out of the SP3 Portfolio Sale Proceeds (for the avoidance of doubt excluding the SP3 Trust Account Amount) in accordance with these Conditions),

provided that notwithstanding the foregoing or any other provision of these Conditions, (i) any costs and expenses (including legal fees and swap termination payments in respect of asset swaps relating to the SP3 Portfolio and the Class S/B Portfolio) incurred by the parties to the Amendment Documents in connection with the transactions contemplated thereby; and (ii) the Non-EOS Expenses Prepayment Amount, shall in each case be payable by the Issuer on the SP3 Issue Date (or the Redemption Date in respect of swap termination payments relating to the SP3 Portfolio) out of SP3 Portfolio Sale Proceeds (for the avoidance of doubt excluding the SP3 Trust Account Amount), in each case without regard to the Priorities of Payments and prior to any other payment or application thereof.

**"Administrator"** means Maples Fiduciary Services (Ireland) Limited in its capacity as administrator of the Issuer pursuant to the Administration Agreement.

**"Affiliate"** or **"Affiliated"** means with respect to a Person:

- (a) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such Person; or
- (b) any other Person who is a director, officer or employee:
  - (i) of such Person;
  - (ii) of any subsidiary or parent company of such Person; or
  - (iii) of any Person described in paragraph (a) above.

For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (A) to vote more than 50 per cent. of the securities having ordinary voting power for the

election of directors of such Person, or (B) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

**"Agent"** means each of the Registrar, the Principal Paying Agent, any other Paying Agent, the Transfer Agents, the Calculation Agent, the Account Bank, and the Custodian, and each of their permitted successors or assigns appointed as agents of the Issuer pursuant to the Collateral Administration and Agency Agreement and **"Agents"** shall be construed accordingly.

**"Aggregate Collateral Balance"** means, as at any Measurement Date, the amount equal to the aggregate of the following amounts (provided that for the purposes of the Percentage Limitations, Collateral Quality Tests, Coverage Tests, Reinvestment Tests, Par Value Event of Default Test, and the calculation of the Senior Expenses Cap, the Aggregate Collateral Balance shall be determined only with respect to the EOS Portfolio (including all receipts and Distributions received by the Issuer attributable thereto and standing to the credit of any Account) as at such Measurement Date):

- (a) the Aggregate Principal Balance of all Collateral Debt Obligations; and
- (b) the Balances standing to the credit of the Principal Account, the Unsettled Loans Account, and, to the extent any such Balances relate to principal, the Asset Swap Termination Account and Asset Swap Account provided that in the case of the Percentage Limitations and the Collateral Quality Tests (and the Coverage Tests and the Reinvestment Tests but only in respect of the Collateral Debt Obligations to be acquired by the Issuer from the Initial Sellers pursuant to the Portfolio Sale Agreement which have not settled), excluding in each case any such amounts which will be applied towards the acquisition of a Collateral Debt Obligation in respect of which the Issuer has entered into a binding commitment to acquire but which has not yet settled, plus, in the case of the Percentage Limitations and the Collateral Quality Tests, any amounts expected to be received on the settlement of Collateral Debt Obligations in respect of which a binding commitment to sell has been entered into (but which have not yet settled) and which will be paid into the Principal Account, in each case net of any related payments to be paid or received by the Issuer on the termination or entry into by the Issuer of related Asset Swap Transactions.

**"Aggregate Principal Balance"** means the aggregate of the Principal Balances of all the Collateral Debt Obligations and, when used with respect to some portion of the Collateral Debt Obligations, means the aggregate of the Principal Balances of such Collateral Debt Obligations, in each case, as at the date of determination (and provided that for the purposes of the Percentage Limitations, Collateral Quality Tests, Reinvestment Tests, Coverage Tests, Par Value Event of Default Tests and the calculation of the Investment Management Fees, the Aggregate Principal Balance shall be determined with respect to the EOS Portfolio only).

**"Alternative Obligation"** mean an alternative Collateral Debt Obligation, offered for sale by the Initial Sellers to the Issuer pursuant to the terms of the Portfolio Sale Agreement due to the failure to settle of another obligation intended to be transferred to the Issuer under the Portfolio Sale Agreement, which satisfies the Eligibility Criteria and will not cause the Percentage Limitations or the Collateral Quality Tests to be breached, or if already breached to be further from compliance.

**"Amendment Documents"** means each of the Supplemental Trust Deed and the Investment Management Agreement Amendment and Restatement Deed.

**"Annual Obligations"** means Collateral Debt Obligations which, at the relevant date of measurement, pay interest less frequently than semi-annually.

**"Applicable Exchange Rate"** means

- (a) in relation to any Asset Swap Obligation, the Asset Swap Transaction Exchange Rate;
- (b) in relation to any Unhedged Collateral Debt Obligation, the exchange rate in accordance with Method 1 or Method 2, as applicable; and

- (c) with respect to the Balance of any other Accounts, or if not otherwise specified, the Spot Rate.

**"Applicable Margin"** has the meaning given thereto in Condition 6 (Interest).

**"Arranger"** means The Royal Bank of Scotland plc as arranger of the issue of the Notes.

**"Asset Swap Account"** means each segregated currency account into which amounts due to the Issuer in respect of each Asset Swap Obligation and out of which amounts from the Issuer to each applicable Asset Swap Counterparty under each applicable Asset Swap Transaction are to be paid.

**"Asset Swap Agreement"** means a 1992 or 2002 ISDA Master Agreement (Multicurrency-Cross-Border) (or such other ISDA pro forma Master Agreement as may be published by ISDA from time to time), together with the schedule and confirmation relating thereto including any guarantee thereof and any credit support annex entered into pursuant to the terms thereof, each as amended or supplemented from time to time, and entered into by the Issuer with an Asset Swap Counterparty which shall govern one or more Asset Swap Transactions entered into by the Issuer and such Asset Swap Counterparty (including any Replacement Asset Swap Transaction) under which the Issuer swaps cash flows receivable on such Asset Swap Obligations for Euro denominated cash flows from each Asset Swap Counterparty.

**"Asset Swap Counterparty"** means any financial institution with which the Issuer enters into an Asset Swap Transaction, or any permitted assignee or successor thereof, under the terms of the related Asset Swap Transaction and, in each case, which satisfies, at the time of entry into the Asset Swap Transaction, the applicable Rating Requirement (or whose obligations are guaranteed by a guarantor which satisfies the applicable Rating Requirement).

**"Asset Swap Counterparty Principal Exchange Amount"** means each initial, interim and final exchange amount (whether expressed as such or otherwise) scheduled to be paid by the Asset Swap Counterparty to the Issuer under an Asset Swap Transaction and excluding any Scheduled Periodic Asset Swap Counterparty Payments but including any amounts described as termination payments in the relevant Asset Swap Agreement which relate to payments to be made as a result of the relevant Asset Swap Obligation being sold or becoming subject to a credit event or debt restructuring.

**"Asset Swap Issuer Principal Exchange Amount"** means each initial, interim and final exchange amount (whether expressed as such or otherwise) scheduled to be paid to the Asset Swap Counterparty by the Issuer under an Asset Swap Transaction and excluding any Scheduled Periodic Asset Swap Issuer Payments but including any amounts described as termination payments in the relevant Asset Swap Agreement which relate to payments to be made as a result of the relevant Asset Swap Obligation being sold or becoming subject to a credit event or debt restructuring.

**"Asset Swap Obligation"** means any Collateral Debt Obligation which is not denominated or drawn in EUR (or in one of the predecessor currencies of those EU member states which have adopted EUR as their currency) and which is, or the Investment Manager (acting on behalf of the Issuer) intends will as soon as practicable after the entry into of a binding commitment to purchase such obligation become, the subject of an Asset Swap Transaction.

**"Asset Swap Replacement Payment"** means any amount payable by the Issuer to a replacement Asset Swap Counterparty upon entry into a Replacement Asset Swap Transaction which is replacing an Asset Swap Transaction which was terminated.

**"Asset Swap Replacement Receipt"** means any amount payable to the Issuer by a replacement Asset Swap Counterparty upon entry into a Replacement Asset Swap Transaction which is replacing an Asset Swap Transaction which was terminated.

**"Asset Swap Termination Account"** means the interest bearing account of the Issuer with the Account Bank into which Asset Swap Termination Receipts and Asset Swap Replacement

Receipts shall be paid and which shall be in a separate account with the Account Bank in respect of each Asset Swap Transaction and individual currency received thereunder.

**"Asset Swap Termination Payment"** means the amount payable to an Asset Swap Counterparty by the Issuer upon termination or modification of an Asset Swap Transaction excluding any due and unpaid scheduled amounts payable thereunder and any Asset Swap Issuer Principal Exchange Amounts.

**"Asset Swap Termination Receipt"** means the amount payable by an Asset Swap Counterparty to the Issuer upon termination or modification of an Asset Swap Transaction excluding any due and unpaid scheduled amounts payable thereunder and any Asset Swap Counterparty Principal Exchange Amounts.

**"Asset Swap Transaction"** means each asset swap transaction entered into under an Asset Swap Agreement.

**"Asset Swap Transaction Exchange Rate"** means, in respect of an Asset Swap Transaction, the exchange rate set out in the relevant Asset Swap Transaction.

**"Assignment"** means an interest in a loan acquired directly by way of novation, assignment or assignment and assumption or other form of transfer.

**"Assumed Swap Rate"** means the prevailing mid-swap rate as determined by the Collateral Administrator, in the currency of denomination of the relevant fixed rate Collateral Debt Obligation, with a maturity (rounded up to the nearest quarter) equal to the weighted average life of such fixed rate Collateral Debt Obligations.

**"Authorised Denomination"** means, in respect of any Note, the Minimum Denomination thereof and any denomination equal to one or more multiples of the Authorised Integral Amount in excess of the Minimum Denomination thereof.

**"Authorised Integral Amount"** means for each Class of Notes, €1,000.

**"Authorised Officer"** means, with respect to the Issuer, any Director of the Issuer or person who is authorised to act for the Issuer in matters relating to, and binding upon, the Issuer.

**"Average Aggregate Principal Balance"** means, in respect of any Payment Date, the sum of the Aggregate Principal Balances of all Collateral Debt Obligations in the Portfolio (or, where the Aggregate Principal Balance relates, pursuant to the definition thereof, to the EOS Portfolio only, all Collateral Debt Obligations in the EOS Portfolio) as at the opening of each day in the relevant Due Period immediately preceding the Payment Date divided by the number of days in such Due Period.

**"Balance"** means on any date, with respect to any cash or Eligible Investments standing to the credit of an Account (or any sub-account thereof), the aggregate of:

- (a) the current balance of cash, demand deposits, time deposits, government-guaranteed funds and other investment funds;
- (b) the outstanding principal amount of interest-bearing corporate and government obligations and money market accounts and repurchase obligations; and
- (c) the purchase price, up to an amount not exceeding the face amount, of non interest-bearing government and corporate obligations, commercial paper and certificates of deposit,

provided that in the case of (a), (b) and (c) above, such amounts denominated in a currency other than Euro shall be converted to Euros at the Applicable Exchange Rate, and provided further that in the event that a default as to payment of principal and/or interest has occurred and is continuing (disregarding any grace periods provided for pursuant to the terms thereof) in respect of any Eligible Investment or any obligation of the obligor thereunder which is senior or equal in right of payment to such Eligible Investment such Eligible Investment shall

have a value equal to the lesser of its Fitch Collateral Value and its Moody's Collateral Value (determined as if such Eligible Investment were a Collateral Debt Obligation).

**"Business Day"** means (save to the extent otherwise defined) a day:

- (a) on which TARGET 2 is open for settlement of payments in Euro; and
- (b) on which commercial banks and foreign exchange markets settle payments in London (other than a Saturday or a Sunday).

**"Caa/CCC Haircut Amount"** means an amount equal to the product of:

- (a) the amount by which the Aggregate Principal Balance of Caa/CCC Obligations exceeds 7.5 per cent. of the Aggregate Collateral Balance; and
- (b) one minus the weighted average of the Market Values (each expressed as a percentage of and weighted by the outstanding principal amount of the applicable Caa/CCC Obligations) of the Caa/CCC Obligations (or portions thereof) which constitute the excess referred to in (a), provided that the Caa/CCC Obligations which constitute such excess will be those having the lowest Market Value (expressed as a percentage) and with non-euro amounts converted into euro at the Applicable Exchange Rate,

provided that such amount may not be less than zero.

**"Caa/CCC Obligation"** means each Collateral Debt Obligation (other than a Defaulted Obligation or, for the purposes of the Par Value Test Excess Adjustment Amount only, other than a Current Pay Obligation or an obligation which would be a Caa/CCC Obligation but which is deemed to instead be a Discount Obligation only pursuant to the **"Par Value Test Excess Adjustment Amount"** definition), with either (a) a Moody's Rating of **"Caa1"** or lower, or has a shadow or credit estimate rating by Moody's together with a Moody's Rating Factor higher than or equal to 4080; or (b) a Fitch Rating of **"CCC"** or lower.

**"Class A Coverage Tests"** means the Class A Interest Coverage Test and the Class A Par Value Test.

**"Class A Definitive Certificates"** means the registered notes in definitive form to be issued in respect of the Class A Notes pursuant to, and in the circumstances specified in, the Trust Deed, substantially in the form set out in the Trust Deed or, as the context may require, a specific number thereof and includes any replacements for Class A Definitive Certificates issued pursuant to the Conditions.

**"Class A Global Certificate"** means the new global note certificate to be issued by the Issuer pursuant to the Trust Deed representing the Class A Notes, substantially in the form set out in the Trust Deed.

**"Class A Interest Coverage Ratio"** means, as of any Measurement Date, the ratio (expressed as a percentage) obtained by dividing the Interest Coverage Amount by the scheduled interest payments due on the Class A Notes. For the purposes of calculating the Class A Interest Coverage Ratio, the expected interest income on Collateral Debt Obligations, Eligible Investments and the Accounts will be calculated using their individual applicable interest rates and the expected interest payable on the Class A Notes will be calculated, using the interest rate applicable to the Class A Notes in respect of the relevant Interest Period, as at the relevant Measurement Date.

**"Class A Interest Coverage Test"** means the test which will be satisfied if, as of any Measurement Date on or after the Effective Date, the Class A Interest Coverage Ratio is at least equal to the percentage specified in the definition of "Coverage Test".

**"Class A Noteholders"** means the holders of any Class A Notes from time to time.

**"Class A Par Value Ratio"** means, as of any Measurement Date, the ratio (expressed as a percentage) obtained by dividing (a) the amount equal to the Aggregate Collateral Balance

less the Par Value Test Excess Adjustment Amount by (b) the Principal Amount Outstanding of the Class A Notes.

**"Class A Par Value Test"** means the test which will be satisfied as of any Measurement Date if, on such Measurement Date, the Class A Par Value Ratio is at least equal to the percentage specified in the definition of **"Coverage Test"**.

**"Class B Coverage Tests"** means the Class B Interest Coverage Test and the Class B Par Value Test.

**"Class B Definitive Certificates"** means the registered notes in definitive form to be issued in respect of the Class B Notes pursuant to, and in the circumstances specified in, the Trust Deed and substantially in the form set out in the Trust Deed or, as the context may require, a specific number thereof and includes any replacements for Class B Definitive Certificates issued pursuant to the Conditions.

**"Class B Global Certificate"** means the new global note certificate to be issued by the Issuer pursuant to the Trust Deed representing the Class B Notes, substantially in the form set out in the Trust Deed.

**"Class B Interest Coverage Ratio"** means, as of any Measurement Date the ratio (expressed as a percentage) obtained by dividing the Interest Coverage Amount by the scheduled interest payments due on the Class A Notes and the Class B Notes (other than Deferred Interest on the Class B Notes but including interest on such Deferred Interest for the relevant Interest Period). For the purposes of calculating the Class B Interest Coverage Ratio, the expected interest income on Collateral Debt Obligations, Eligible Investments and the Accounts will be calculated using their individual applicable interest rates and the expected interest payable on the Class A Notes and the Class B Notes will be calculated, using the interest rate applicable to the Class A Notes and the Class B Notes in respect of the relevant Interest Period, as at the relevant Measurement Date.

**"Class B Interest Coverage Test"** means the test which will be satisfied if, as of any Measurement Date, the Class B Interest Coverage Ratio is at least equal to the percentage specified in the definition of **"Coverage Test"**.

**"Class B Noteholders"** means the holders of any Class B Notes from time to time.

**"Class B Par Value Ratio"** means, as of any Measurement Date, the ratio (expressed as a percentage) obtained by dividing (a) the amount equal to the Aggregate Collateral Balance less the Par Value Test Excess Adjustment Amount by (b) the sum of the Principal Amount Outstanding of the Class A Notes and the Class B Notes and any Deferred Interest on the Class B Notes in respect of any Payment Date which has not yet been paid.

**"Class B Par Value Test"** means the test which will be satisfied as of any Measurement Date if, on such Measurement Date, the Class B Par Value Ratio is at least equal to the percentage specified in the definition of **"Coverage Test"**.

**"Class of Notes"** means each of the Classes of Notes being:

- (a) the Class A Notes;
- (b) the Class B Notes;
- (c) the Class S Notes; and
- (d) the Class S/B Subordinated Notes.

**"Class S Definitive Certificates"** means the Class S Preferred Definitive Certificates and the Class S Subordinated Definitive Certificates.

**"Class S Global Certificate"** means the Class S Preferred Global Certificates and the Class S Subordinated Global Certificates.



**"Class S Noteholder Report"** means the report defined as such in the Investment Management Agreement which is prepared by the Collateral Administrator (in consultation with, and in part based upon information provided by, the Investment Manager) on behalf of the Issuer, is deliverable to the Issuer, the Trustee and the Investment Manager and, upon request therefor in accordance with Condition 4(f) (*Information Regarding the Collateral*), to any Class S Noteholder and which shall include information regarding the status of certain of the Collateral pursuant to the Investment Management Agreement.

**"Class S Noteholders"** means the holders of any Class S Notes from time to time.

**"Class S Preferred Definitive Certificates"** means the registered notes in definitive form to be issued in respect of the Class S Preferred Notes pursuant to, and in the circumstances specified in, the Trust Deed, substantially in the form set out in the Trust Deed or, as the context may require, a specific number thereof and includes any replacements for Class S Preferred Definitive Certificates issued pursuant to the Conditions.

**"Class S Preferred Global Certificate"** means the new global note to be issued by the Issuer pursuant to the Trust Deed representing the Class S Preferred Notes, substantially in the form set out in the Trust Deed.

**"Class S Subordinated Definitive Certificates"** means the registered notes in definitive form to be issued in respect of the Class S Subordinated Notes pursuant to, and in the circumstances specified in, the Trust Deed, substantially in the form set out in the Trust Deed or, as the context may require, a specific number thereof and includes any replacements for Class S Subordinated Definitive Certificates issued pursuant to the Conditions.

**"Class S Subordinated Global Certificate"** means the new global note to be issued by the Issuer pursuant to the Trust Deed representing the Class S Subordinated Notes, substantially in the form set out in the Trust Deed.

**"Class S/B Collateral"** means the property, assets, rights and benefits described in Condition 4(a)(ii) (*Class S/B Collateral*) which are charged and/or assigned to the Trustee from time to time for the benefit of the Class S/B Subordinated Noteholders pursuant to the Trust Deed.

**"Class S/B Interest Available Funds"** means, in respect of any Class S/B Payment Date following 16 December 2013, the amount of Interest Proceeds received by the Issuer attributable to the Class S/B Portfolio and standing to the credit of the Class S/B Portfolio Ledger of the Interest Account together with all other amounts (other than Principal Proceeds) standing to the credit of each Class S/B Portfolio Ledger in each case on the second Business Day prior to such Class S/B Payment Date.

**"Class S/B Payment Date"** means 30 January 2014 and the 30th day of each month thereafter (provided that if any such date would otherwise fall on a day which is not a Business Day, it shall be postponed to the next day that is a Business Day, unless it would thereby fall in the following month, in which case it shall be brought forward to the immediately preceding Business Day) and with respect to repayment of principal only out of SP3 Portfolio Sale Proceeds (other than the SP3 Trust Account Amount) pursuant to these Conditions, 16 December 2013; and ending on the Maturity Date.

**"Class S/B Portfolio"** means a portfolio consisting of a part of each Collateral Debt Obligation (including each Eligible Investment relating to the proceeds thereof) contained in the Portfolio on the Business Day immediately preceding the SP3 Issue Date that has been so designated by the Investment Manager and notified in writing to the Trustee (with a copy to the Collateral Administrator) on or before such date (and which for the avoidance of doubt shall not include any part of a Collateral Debt Obligation the Redemption Percentage of which is contained in the SP3 Portfolio) and a part of each Exchanged Equity Security, Collateral Enhancement Obligation and Special Situation Investment Obligation contained in the Portfolio as at such date, in each case equal to the Redemption Percentage of each such Collateral Debt Obligation, Exchanged Equity Security, Collateral Enhancement Obligation and Special Situation Investment Obligation as at the Business Day immediately preceding the SP3 Issue Date.

**"Class S/B Portfolio Ledger"** means each ledger maintained by the Investment Manager (in consultation with the Collateral Administrator) on behalf of the Issuer in respect of each applicable Account and to which the Investment Manager shall credit all amounts received by the Issuer that are attributable to the Class S/B Portfolio (including, without limitation, all Principal Proceeds and Interest Proceeds received by the Issuer in respect of the Class S/B Portfolio) and from which the Investment Manager shall debit all payments made by the Issuer to the Class S/B Subordinated Noteholders from the applicable Account in accordance with Condition 3(k) (*Accounts*) and otherwise in accordance with these Conditions, the Investment Management Agreement and the SP3 Forward Sale Agreement.

**"Class S/B Subordinated Definitive Certificate"** means the registered notes in definitive form to be issued in respect of the Class S/B Subordinated Notes pursuant to, and in the circumstances specified in the Trust Deed, substantially in the form set out in the Trust Deed or, as the context may require, a specific number thereof and includes any replacements for Class S/B Subordinated Definitive Certificates issued pursuant to these Conditions and the Trust Deed.

**"Class S/B Subordinated Global Certificate"** means the global note to be issued by the Issuer pursuant to the Trust Deed representing the Class S/B Subordinated Notes substantially in the form set out in the Trust Deed.

**"Class S/B Subordinated Noteholders"** means the holders of any Class S/B Subordinated Notes from time to time.

**"Collateral"** means the EOS Collateral, the Class S/B Collateral and the SP3 Collateral.

**"Collateral Acquisition Agreements"** means each of the agreements entered into by the Issuer in relation to the purchase by the Issuer of Collateral Debt Obligations from time to time, including the Portfolio Sale Agreement and the SP3 Forward Sale Agreement.

**"Collateral Debt Obligation"** means any debt obligation or debt security purchased and held by or on behalf of the Issuer (or if the context so requires to be purchased by or on behalf of the Issuer) from time to time, each of which the Investment Manager has determined in accordance with the Investment Management Agreement satisfies the Eligibility Criteria upon the Issuer, or the Investment Manager acting on behalf of the Issuer, entering into a binding commitment to purchase it (or in the case of the Initial Collateral Debt Obligations, as at the Collateral Determination Date). For the avoidance of doubt, the failure of any obligation to satisfy the Eligibility Criteria at any time after the Issuer, or the Investment Manager on behalf of the Issuer, has entered into a binding commitment to purchase it, shall not cause such obligation to cease to constitute a Collateral Debt Obligation. References to Collateral Debt Obligations shall not include Collateral Enhancement Obligations, Eligible Investments or Exchanged Equity Securities but will include Restructured Obligations. Obligations which are to constitute Collateral Debt Obligations in respect of which the Issuer has entered into a binding commitment to purchase but which have not yet settled shall from the date of such commitment be included as Collateral Debt Obligations in the calculation of the Percentage Limitations and the Collateral Quality Tests (and the Coverage Tests and the Reinvestment Tests but only in respect of the Collateral Debt Obligations to be acquired by the Issuer from the Initial Sellers pursuant to the Portfolio Sale Agreement). Collateral Debt Obligations in respect of which the Issuer has entered into a binding commitment to sell but which have not yet settled shall not from the date of such commitment be included as Collateral Debt Obligations in the calculation of the Percentage Limitations and the Collateral Quality Tests. In respect of the Coverage Tests and the Reinvestment Tests, Collateral Debt Obligations will be included (except in the case of the Collateral Debt Obligations to be acquired by the Issuer from the Initial Sellers pursuant to the Portfolio Sale Agreement as stated above) and excluded (in the case of all Collateral Debt Obligations), as applicable, from the relevant settlement date of such purchase or sale by the Issuer.

**"Collateral Enhancement Account"** means an interest-bearing account in the name of the Issuer, held with the Account Bank, which shall be a separate account with the Account Bank in respect of each individual currency received, the amounts standing to the credit of which

from time to time may be applied in the acquisition of Collateral Enhancement Obligations by or on behalf of the Issuer in accordance with the Investment Management Agreement.

**"Collateral Enhancement Obligation"** means any warrant or equity security, excluding any Exchanged Equity Securities, but including, without limitation, warrants relating to a Collateral Debt Obligation and any equity security received upon conversion or exchange of, or exercise of an option under, or otherwise in respect of a Collateral Debt Obligation; or any warrant or equity security purchased as part of a unit with a Collateral Debt Obligation (but in all cases, excluding, for the avoidance of doubt, the Collateral Debt Obligation), in each case, the acquisition of which will not result in the imposition of any present or future, actual or contingent liabilities or obligations on the Issuer other than those which may arise at its option.

**"Collateral Enhancement Obligation Proceeds"** means all Distributions and Sale Proceeds received in respect of any Collateral Enhancement Obligation.

**"Collateral Enhancement Obligation Proceeds Priority of Payments"** means the priority of payments in respect of Collateral Enhancement Obligation Proceeds as set out in Condition 3(c)(iii) (*Collateral Enhancement Obligation Priority of Payments*).

**"Collateral Quality Tests"** means the Collateral Quality Tests set out in the Investment Management Agreement being each of the following:

- (a) so long as any Notes rated by Moody's are Outstanding:
  - (i) the Moody's Minimum Diversity Test;
- (b) at all times in respect of Fitch and Moody's (as applicable):
  - (i) the Maximum Weighted Average Rating Factor Test; and
  - (ii) the Minimum Weighted Average Recovery Rate Test;
  - (iii) the Minimum Weighted Average Spread Test; and
  - (iv) the Weighted Average Life Test,

each as defined in the Investment Management Agreement.

**"Collateral Tax Event"** means at any time, as a result of the introduction of a new, or any change in, any home jurisdiction or foreign tax statute, treaty, regulation, rule, ruling, practice, procedure or judicial decision or interpretation (whether proposed, temporary or final), payments due from the Obligor of any Collateral Debt Obligations in relation to any Due Period becoming properly subject to the imposition of home jurisdiction or foreign withholding tax (other than where such withholding tax is compensated for by a "gross-up" provision in the terms of the Collateral Debt Obligation or such requirement to withhold is eliminated pursuant to a double taxation treaty so that the Issuer as holder thereof is held completely harmless from the full amount of such withholding tax on an after-tax basis) so that the aggregate amount of such withholding tax on all Collateral Debt Obligations in relation to such Due Period is equal to or in excess of six per cent. of the aggregate interest payments due (for the avoidance of doubt, excluding any additional interest arising as a result of the operation of any gross-up provision) on all Collateral Debt Obligations in relation to such Due Period.

**"Controlling Class"** means the holders of the Class A Notes so long as any Class A Notes are Outstanding and thereafter, the holders of the most senior-ranking Class of Notes Outstanding at the relevant time.

**"Corporate Family Rating"** means, with respect to any Collateral Debt Obligation and the issuer or obligor thereof, as of any date of determination, the **"corporate family rating"** as published by Moody's as of such date of determination, if applicable and available; or

otherwise, the "senior implied rating" as published by Moody's as of such date of determination.

**"Counterparty Downgrade Collateral"** means any cash and/or securities delivered to the Issuer as collateral for the obligations of an Asset Swap Counterparty under an Asset Swap Transaction.

**"Counterparty Downgrade Collateral Account"** means, in respect of each Asset Swap Counterparty, (i) a segregated account of the Issuer with the Custodian into which all Counterparty Downgrade Collateral (other than cash) transferred by such Asset Swap Counterparty to the Issuer is to be deposited and/or (as applicable) (ii) an interest bearing account of the Issuer with the Account Bank into which all Counterparty Downgrade Collateral (in the form of cash) transferred by such Asset Swap Counterparty to the Issuer is to be deposited and which shall be in a separate account with the Account Bank in respect of each individual currency received.

**"Coverage Test"** means each of the Class A Par Value Test, the Class A Interest Coverage Test, the Class B Par Value Test and the Class B Interest Coverage Test and each shall be satisfied on a Measurement Date if the corresponding Par Value Ratio or Interest Coverage Ratio (as the case may be) is at least equal to the percentage specified in the table below in relation to that Coverage Test.

#### **Coverage test and ratio**

##### **Percentage at which test is satisfied**

Class A Par Value Ratio.....	166.55%
Class A Interest Coverage Ratio .....	140%
Class B Par Value Ratio .....	157.55%
Class B Interest Coverage Ratio.....	125%

**"Credit Impaired Obligation"** means any Collateral Debt Obligation (excluding Defaulted Obligations):

- (a) which is subject to a restructuring or rescheduling of its debt; or
- (b) the Obligor for which has failed to meet its other financial obligations; or
- (c) in the Investment Manager's reasonable commercial judgement, has a significant risk of declining in credit quality and, with a lapse of time, becoming a Defaulted Obligation,

provided further that if the Moody's Initial Rating of the Class A Notes has been downgraded by at least one notch from the Moody's Initial Rating of the Class A Notes as of the Closing Date or has been withdrawn by Moody's, then the Moody's Rating of a Collateral Debt Obligation must have been downgraded by at least one notch or put on a watch list for possible downgrade since the date of acquisition thereof in order for such Collateral Debt Obligation to qualify as a Credit Impaired Obligation.

**"Current Pay Obligation"** means a Collateral Debt Obligation that would otherwise be a Defaulted Obligation as to which (i) all prior cash interest payments due were paid in cash and the Investment Manager reasonably expects that the next interest payment due will be paid in cash, (ii) the Moody's Rating of such Collateral Debt Obligation is at least "Caa2" and is based on a rating (either public or private) from Moody's (provided that, in the event that a rating is withdrawn or is otherwise unavailable with respect to a Current Pay Obligation, then the most recent public rating thereof from Moody's shall apply or such rating as is otherwise advised by Moody's, in each case until a credit estimate is provided by Moody's), (iii) the Market Value is at least 80 per cent. of the outstanding principal amount and (iv) if the Obligor of such Collateral Debt Obligation is subject to a bankruptcy proceeding, a bankruptcy court has authorised the payment of interest due and payable on such Collateral Debt Obligation; provided that the Aggregate Principal Balance of all Collateral Debt Obligations which constitute **"Current Pay Obligations"** may not exceed 5 per cent. of the Aggregate Collateral Balance and to the extent that the Aggregate Principal Balance of Collateral Debt Obligations

which constitute "Current Pay Obligations" are in excess of such amount, such Aggregate Principal Balance to the extent of such excess shall not constitute Current Pay Obligations but shall constitute Defaulted Obligations, provided further that where the Aggregate Principal Balance of any Collateral Debt Obligations which constitute "**Current Pay Obligations**" is in excess of such amount, the Investment Manager (acting on behalf of the Issuer) may, in its absolute discretion, select which Collateral Debt Obligations (the Aggregate Principal Balance of which constitutes such excess) comprise Current Pay Obligations for the purposes of this definition.

**"Custody Account"** means the custody account or accounts established on the books of the Custodian in accordance with the provisions of the Collateral Administration and Agency Agreement, which term shall include each securities account relating to each such Custody Account (if any).

**"Defaulted Asset Swap Termination Payment"** means any amount payable by the Issuer to an Asset Swap Counterparty upon termination of an Asset Swap Transaction in respect of which the Asset Swap Counterparty was the "**Defaulting Party**" or sole "**Affected Party**", respectively (each such term as defined therein).

**"Defaulted Deferring Mezzanine Loan"** means a Mezzanine Loan which by its contractual terms provides for the deferral of interest and is a Defaulted Obligation.

**"Defaulted Mezzanine Excess Amounts"** means the lesser of:

- (a) the greater of (i) zero and (ii) the aggregate of all amounts paid into the Principal Account in respect of each Mezzanine Loan for so long as it is a Defaulted Deferring Mezzanine Loan, minus the sum of (A) the principal amount of such Mezzanine Loan outstanding immediately prior to receipt of such amounts and (B) any Purchased Accrued Interest relating thereto; and
- (b) all deferred interest paid in respect of each such Mezzanine Loan for so long as it is a Defaulted Deferring Mezzanine Loan minus any Purchased Accrued Interest relating thereto.

**"Defaulted Obligation"** means a Collateral Debt Obligation:

- (a) in respect of which there has occurred and is continuing a default with respect to the payment of interest or principal, disregarding any grace periods set out in the Underlying Instrument applicable thereto unless the Investment Manager has certified to the Issuer in writing that, to the knowledge of the Investment Manager, such default has resulted from non-credit related causes in which case the Collateral Debt Obligation will not be a Defaulted Obligation until such default has been continuing for the lesser of three Business Days and any grace period applicable thereto, and in each case which default entitles the holders thereof, with notice or passage of time or both, to accelerate the maturity of all or a portion of the principal amount of such obligation, but only until such default has been cured or waived;
- (b) subject to paragraph (c) below, in respect of which any bankruptcy, insolvency or receivership proceeding has been initiated in connection with the relevant Obligor and has not been discharged and which in the Investment Manager's judgement as certified to the Trustee in writing is material to the creditworthiness of the Obligor of such Collateral Debt Obligation (provided that a Collateral Debt Obligation shall not constitute a Defaulted Obligation under this paragraph (b) if it is a Current Pay Obligation);
- (c) in respect of which the Investment Manager has actual knowledge that the Obligor thereunder is in default as to payment of principal and/or interest on another obligation, save for obligations constituting trade debts which the applicable Obligor is disputing in good faith, (and such default has not been cured), but only if one of the following conditions is satisfied: (i) both such other obligation and the Collateral Debt Obligation are full recourse, unsecured obligations and the other obligation is senior to, or *pari*

*passu* with, the Collateral Debt Obligation in right of payment; or (ii) if the following conditions are satisfied:

- (i) both such other obligation and the Collateral Debt Obligation are full recourse, secured obligations secured by identical collateral;
- (ii) the security interest securing the other obligation is senior to or *pari passu* with the security interest securing the Collateral Debt Obligation; and
- (iii) the other obligation is senior to or *pari passu* with the Collateral Debt Obligation in right of Payment,

except that a Collateral Debt Obligation shall not constitute a "**Defaulted Obligation**" under paragraph (b) or this paragraph (c) if the Investment Manager has notified the Rating Agencies in writing of its decision not to treat the Collateral Debt Obligation as a Defaulted Obligation; such Collateral Debt Obligation does not have a Fitch Rating of "D" or "RD" and provided that such Collateral Debt Obligation is a Current Pay Obligation;

- (d) which has a Fitch Rating of "D" or "RD";
- (e) which becomes a Restructured Obligation unless and until such time as the Restructured Obligation satisfies the Restructured Obligation Criteria;
- (f) which the Investment Manager, acting on behalf of the Issuer, determines in its reasonable business judgment should be treated as a Defaulted Obligation; or
- (g) which would be treated as a Current Pay Obligation except that such Collateral Debt Obligation would result in the Aggregate Principal Balance of all Collateral Debt Obligations which constitute Current Pay Obligations exceeding 5.0 per cent. of the Aggregate Collateral Balance.

"**Deferred Interest**" has the meaning given thereto in Condition 6(c)(i) (Deferred Interest).

"**Definitive Certificates**" means the Class A Definitive Certificates, the Class B Definitive Certificates, the Class S Definitive Certificates and the Class S/B Definitive Certificates, or (as the context may require) any of them.

"**Determination Date**" means the last Business Day of each Due Period, or in the event of any redemption of the Notes, following the occurrence of an Event of Default, eight Business Days prior to the applicable Redemption Date.

"**Directors**" means the directors from time to time of the Issuer.

"**Discount Obligation**" means any Collateral Debt Obligation acquired by, or on behalf of the Issuer, for a purchase price (excluding to the extent attributable to accrued interest) of less than 80 per cent. of the principal amount of such Collateral Debt Obligation, provided that:

- (a) such Collateral Debt Obligation shall cease to be a Discount Obligation where the Market Value (other than determined in accordance with paragraph (e) of the definition of "**Market Value**") thereof for any period of 30 consecutive days equals or exceeds 90 per cent. of the outstanding principal amount of such Collateral Debt Obligation (as certified by the Investment Manager to the Issuer, Trustee and Collateral Administrator);
- (b) no Collateral Debt Obligation (including Alternative Obligations) sold by the Initial Sellers to the Issuer pursuant to the Portfolio Sale Agreement shall be a Discount Obligation; and
- (c) no Collateral Debt Obligation shall be a Discount Obligation if:

- (i) acquired with the Sale Proceeds of a Collateral Debt Obligation which was not itself a Discount Obligation (the "Sold Collateral Debt Obligation");
- (ii) acquired for a purchase price (excluding to the extent attributable to accrued interest) which as a per cent. of the principal amount of such Collateral Debt Obligation, is not less than the per cent. which the sale price (excluding to the extent attributable to accrued interest) of the Sold Collateral Debt Obligation bears to the principal amount of such Sold Collateral Debt Obligation;
- (iii) acquired for a purchase price (excluding to the extent attributable to accrued interest) of not less than 50 per cent. of the principal amount of such Collateral Debt Obligation;
- (iv) both the Fitch Rating and the Moody's Rating of the acquired Collateral Debt Obligation are at least equal to the Fitch Rating and Moody's Rating (as applicable) of the Sold Collateral Debt Obligation at the time of its sale provided that if the Fitch Rating of such Collateral Debt Obligation is "**B-**" on the basis of item (e) of the definition of "**Fitch Rating**" or the Moody's Rating is "**B3**" on the basis of the proviso to item (b)(i) of the definition of "Moody's Rating" then this paragraph (iv) will be deemed to be satisfied in respect of such Fitch Rating and/or Moody's Rating (as applicable) until a Fitch Rating or a Moody's Rating (as applicable) is awarded to such Collateral Debt Obligation otherwise than pursuant to such provisions at which point in time compliance with this paragraph (iv) will be re-evaluated and failure to then satisfy it will result in the Collateral Debt Obligation being a Discount Obligation from such moment in time; and
- (v) the Aggregate Principal Balance of Collateral Debt Obligations falling within this paragraph (c) does not (A) at any time exceed 5 per cent. of the Target Par Amount, and (B) at any time since the Closing Date as a cumulative aggregate amount, exceed 10 per cent. of the Target Par Amount (for the purposes of (A) and (B) the Principal Balance of an obligation will be its outstanding principal amount, without applying any haircut pursuant to the definition of "**Principal Balance**", as at the date the Issuer entered into a binding commitment to acquire it, converted at the current Applicable Exchange Rate).

"**Dispute**" means a dispute arising out of or in connection with any Transaction Document or the Notes (including a dispute regarding the existence, validity or termination of any Transaction Document or the Notes or the consequences of its nullity).

"**Distribution**" means any payment of principal or interest or any dividend or premium or other amount or asset paid or delivered on or in respect of any Collateral Debt Obligation, Collateral Enhancement Obligation, Special Situation Investment Obligation or any Exchanged Equity Security, as applicable.

"**Due Period**" means, with respect to any Payment Date, the period commencing on and including the day immediately following the eighth Business Day prior to the preceding Payment Date (or on and including the Closing Date, in the case of the Due Period relating to the first Payment Date) and ending on and including the eighth Business Day prior to such Payment Date, provided that the last Due Period shall end on (but exclude) the Maturity Date.

"**Effective Date**" means the earlier of:

- (a) the date on which the Effective Date Requirements shall be satisfied, designated for such purpose by the Investment Manager by written notice to the Trustee, the Issuer, the Arranger, Fitch, Moody's and the Collateral Administrator pursuant to the Investment Management Agreement; and
- (b) 15 December 2010.

**"Effective Date Rating Event"** means:

- (a) the Effective Date Requirements are not satisfied on the Effective Date; and
- (b) as a result of a failure to satisfy the Effective Date Requirements the Initial Ratings of the Rated Notes are downgraded, suspended or withdrawn by Moody's provided that, if at any time after the occurrence of an Effective Date Rating Event, the Initial Ratings which have been downgraded, suspended or withdrawn in relation to an Effective Date Rating Event have been reinstated, any further downgrade, suspension or withdrawal shall not constitute an Effective Date Rating Event.

**"Effective Date Requirements"** means, as at the Effective Date and any date thereafter:

- (a) each of the Percentage Limitations, the Collateral Quality Tests and the Coverage Tests being satisfied on such date by the portfolio of Collateral Debt Obligations purchased and held by the Issuer, or for which the Issuer has entered into a binding commitment to purchase, assuming that in calculating compliance therewith, each Collateral Debt Obligation is deemed to have the relevant characteristics which it had upon the Issuer entering into a binding commitment to acquire it, except with respect to the Principal Balance thereof to the extent that it has been reduced as a result of a sale or repayment or prepayment and such Sale Proceeds and/or Principal Proceeds have been committed to be reinvested in the acquisition of a new obligation; and
- (b) the Issuer having acquired Collateral Debt Obligations with an Aggregate Principal Balance at least equal to the Target Par Amount provided that for the purposes of calculating the Aggregate Principal Balance only the following shall be taken into account in the calculation thereof (without double counting):
  - (i) Initial Collateral Debt Obligations and Alternative Obligations which have actually settled on or prior to such date provided that for the calculation of the Aggregate Principal Balance the Principal Balance of such Initial Collateral Debt Obligations (or Alternative Obligations) shall be the Principal Balance as of the Collateral Determination Date (or, in the case of Alternative Obligations, the date of entry by the Issuer into a binding commitment to acquire such) reduced only by the proportion (if any) of each such Initial Collateral Debt Obligation (or Alternative Obligation) which has repaid or prepaid or that the Issuer has sold, and received Sale Proceeds in relation to, prior to such date;
  - (ii) Substitute Collateral Debt Obligations (other than Alternative Obligations) for which the Issuer has purchased or entered into a binding commitment to purchase on or prior to such date, the Principal Balance of such Substitute Collateral Debt Obligations as of such date; and
  - (iii) any Principal Proceeds that the Issuer has not yet entered into a binding commitment to reinvest shall be deemed to represent Collateral Debt Obligations having an Aggregate Principal Balance equal to the amount of such Principal Proceeds.

**"Eligibility Criteria"** means the Eligibility Criteria specified in the Investment Management Agreement which the Investment Manager is required to determine in accordance with the Investment Management Agreement are satisfied in respect of each Collateral Debt Obligation acquired by the Investment Manager (on behalf of the Issuer) at the time of entering into a binding commitment to acquire such obligation.

**"Eligible Investments"** means any investment denominated in a Qualifying Currency (provided that each Eligible Investment shall be denominated in the same currency as the amounts to be so invested), the acquisition (including the manner of acquisition), ownership, enforcement or disposition of which will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes, that are acquired and held in a manner that does not violate the investment restrictions set out in the Investment Management Agreement and, in the event that it is an obligation of a company



incorporated in, or a sovereign issuer of, the United States, is in registered form at the time it is acquired, and is one or more of the following obligations or securities (other than obligations or securities which are zero-coupon obligations or securities), including, without limitation, any Eligible Investments for which the Custodian, the Trustee or the Investment Manager or an Affiliate of any of them provides services:

- (a) direct obligations of, and obligations the timely payment of principal of and interest under which is fully and expressly guaranteed by, a Qualifying Country or any agency or instrumentality of a Qualifying Country, the obligations of which are fully and expressly guaranteed by a Qualifying Country, in each case with a credit rating at least equal to the Eligible Investments Minimum Short-Term Rating and (if applicable) the Eligible Investments Minimum Long-Term Rating;
- (b) demand and time deposits in, certificates of deposit of and bankers' acceptances issued by any depository institution (including the Account Bank) or trust company incorporated under the laws of a Qualifying Country with, in each case, a maturity of no more than 90 days and subject to supervision and examination by governmental banking authorities so long as the commercial paper and/or the debt obligations of such depository institution or trust company (or, in the case of the principal depository institution in a holding company system, the commercial paper or debt obligations of such holding company) at the time of such investment or contractual commitment providing for such investment have:
  - (A) a short-term debt credit rating of at least "F1+" from Fitch and (unless such investment does not have a long-term rating) also a long-term senior unsecured debt or issuer (as applicable) credit rating of at least "AA-" from Fitch;
  - (B) where such commercial paper or debt obligations do not have a short term senior unsecured debt or issuer (as applicable) credit rating from Moody's, a long-term senior unsecured debt or issuer (as applicable) credit rating of at least "Aaa" from Moody's; and
  - (C) where such commercial paper or debt obligations have a short-term senior unsecured debt or issuer (as applicable) credit rating, such short-term rating is at least "P-1" and the long-term senior unsecured debt or issuer (as applicable) credit rating is at least "Aa3" from Moody's;

in each case, for so long as there are Rated Notes which are Outstanding which are rated by such Rating Agency; or

- (c) subject to notification to Fitch and receipt of Rating Agency Confirmation related thereto, unleveraged repurchase obligations with respect to:
  - (i) any obligation described in paragraph (a) above; or
  - (ii) any other security issued or guaranteed by an agency or instrumentality of a Qualifying Country, in either case entered into with a depository institution or trust company (acting as principal) described in paragraph (b) above or entered into with a corporation (acting as principal) whose long-term debt obligations are rated not less than the Eligible Investments Minimum Long-Term Rating or whose short-term debt obligations are rated not less than the Eligible Investments Minimum Short-Term Rating at the time of such investment provided that, if such security has a maturity of longer than 91 days, the issuer thereof must also have, at the time of such investment, a long-term credit rating of not less than the Eligible Investments Minimum Long-Term Rating;
- (d) securities bearing interest or sold at a discount to the face amount thereof issued by any corporation incorporated under the laws of a Qualifying Country that have a credit rating of not less than the Eligible Investments Short-Term Rating and (if applicable) the Eligible Investments Minimum Long-Term Rating at the time of such investment or contractual commitment providing for such investment;

- (e) commercial paper or other short-term obligations having, at the time of such investment, a credit rating of not less than the Eligible Investments Minimum Short-Term Rating and that either are bearing interest or are sold at a discount to the face amount thereof and have a maturity of not more than 183 days from their date of issuance; provided that if such security has a maturity of longer than 91 days, the issuer thereof must also have, at the time of such investment, a long-term credit rating of not less than the Eligible Investments Minimum Long-Term Rating;
- (f) off-shore funds investing in the money markets rated, at all times, "AAAmmf" by Fitch and "Aaa" and "MR1+" by Moody's; and
- (g) any other investment similar to those described in paragraphs (a) to (f) (inclusive) above:
  - (i) in respect of the EOS Portfolio only, in respect of which its inclusion has been notified to Fitch and Rating Agency Confirmation has been received as to its inclusion in such Portfolio as an Eligible Investment; and
  - (ii) which has, in the case of an investment with a maturity of longer than 91 days, a long-term credit rating not less than the Eligible Investments Minimum Long-Term Rating or, in the case of an investment with a maturity of 91 days or less, a short-term credit rating of not less than the Eligible Investments Minimum Short-Term Rating,

and, in each of (a) to (g) above, such instrument or investment provides for payment of a pre-determined fixed amount of principal on maturity that is not subject to change and either (A) has a Stated Maturity (giving effect to any applicable grace period) no later than the second Business Day immediately preceding the next following Payment Date or (B) may (and in the case of any Eligible Investment purchased from funds standing to the credit of the Asset Swap Account or the Unsettled Loans Account, must) be capable of being liquidated on demand at par without penalty, provided, however, that Eligible Investments shall not include any mortgage-backed security, interest-only security, security subject to withholding or similar taxes, security purchased at a price in excess of 100 per cent. of par or security whose repayment is subject to substantial non credit-related risk (as determined by the Investment Manager in its discretion).

**"Eligible Investments Minimum Long-Term Rating"** means a long-term issuer default rating of "AA" from Fitch and a long-term senior unsecured debt or issuer (as applicable) credit rating, of "Aaa" from Moody's.

**"Eligible Investments Minimum Short-Term Rating"** means a short-term issuer default rating of "F1+" from Fitch and a short-term senior unsecured debt or issuer (as applicable) credit rating, of "P-1" from Moody's.

**"Emerging Market Country"** means a country that is not a Qualifying Country.

**"Enforcement Action"** has the meaning given in Condition 11A(b) (*Enforcement*).

**"EOS Collateral"** means the property, assets, rights and benefits described in Condition 4(a)(i) (*EOS Collateral*) which are charged and/or assigned to the Trustee from time to time for the benefit of the Secured Parties (other than the Class S/B Subordinated Noteholders and other than SP3) pursuant to the Trust Deed.

**"EOS Percentage"** means the difference (expressed as a percentage) between 100 per cent. and the Redemption Percentage.

**"EOS Portfolio"** means a portfolio consisting of a part of each Collateral Debt Obligation (including each Eligible Investment relating to the proceeds thereof), Exchanged Equity Security, Collateral Enhancement Obligation and Special Situation Investment Obligation contained in the Portfolio on the Business Day immediately preceding the SP3 Issue Date, equal to the EOS Percentage of each such Collateral Debt Obligation, Exchanged Equity Security, Collateral Enhancement Obligation and Special Situation Investment Obligation as

at the Business Day immediately preceding the SP3 Issue Date (and which for the avoidance of doubt shall not include the Redemption Percentage of any such Collateral Debt Obligation, Exchanged Equity Security, Collateral Enhancement Obligation or Special Situation Investment Obligation which shall be contained in the SP3 Portfolio or the Class S/B Portfolio, as applicable).

**"EURIBOR"** means the rate determined in accordance with Condition 6(e) (*Floating Rate of Interest*) as applicable to three month Euro deposits (or, in the case of the initial Interest Period, as applicable to a straight-line interpolation of 5 and 6 month Euro deposits).

**"Euro", "EUR" and "€"** means the currency introduced at the start of the third stage of European economic and monetary union pursuant to the Treaty establishing the European Community, as amended from time to time.

**"Euroclear Pledge Agreement"** means a Euroclear pledge agreement dated on or about the Closing Date between the Issuer and the Trustee as amended pursuant to a transfer and amendment deed between, amongst others, the Issuer and the Custodian dated 13 December 2012.

**"Euro-zone"** means the region comprised of Member States of the European Union that have adopted the single currency in accordance with the Treaty establishing the European Community, as amended.

**"Event of Default"** means each of the events defined as such in Condition 10(a) (*Events of Default*).

**"Exchange Agency Agreement"** means the exchange agency agreement dated on or about 25 October 2013 between the Issuer and the Exchange and Tabulation Agent relating to the Exchange Offer.

**"Exchange and Consent Acceptance Instruction"** means an electronic instruction submitted by each Class S Noteholder as contemplated by Condition 7(i) (*Redemption and Exchange*) and in accordance with the terms of a notice addressed by the Issuer to the Noteholders dated on or about 25 October 2013.

**"Exchange and Tabulation Agent"** means Citibank, N.A.

**"Exchange Offer"** has the meaning given to it in Condition 7(i) (*Redemption and Exchange*).

**"Exchanged Equity Security"** is an equity security which is not a Collateral Enhancement Obligation and which is delivered to the Issuer upon acceptance of an Offer in respect of a Defaulted Obligation or received by the Issuer as a result of restructuring of the terms in effect as of the later of the Closing Date or date of issuance of the relevant Collateral Debt Obligation.

**"Expense Reserve Account"** means an interest-bearing account in the name of the Issuer, held with the Account Bank, and established on the Closing Date and from which the amounts standing to the credit thereof will be applied to pay upfront costs and ongoing costs of the Issuer.

**"Expense Reserve Required Balance"** means on any Payment Date an amount equal to €50,000 plus an amount (if any) equal to the sum of the upfront costs of the Issuer which the Investment Manager is aware of and which have not yet been paid in relation to the issuance of the Notes and the Transaction Documents.

**"Extraordinary Resolution"** means an Extraordinary Resolution as described in Condition 14 (Meetings of Noteholders, Modification, Waiver and Substitution) and as further described in, and as defined in, the Trust Deed.

**"FCA"** means the Financial Conduct Authority.

**"Financial Promotion Order"** means the Financial Services and Markets Act (Financial Promotion) Order 2005 (SI2005/1529) (as amended).

**"First Reinvestment Test"** means the test which will be satisfied on any date of determination if the Class B Par Value Ratio is greater than or equal to 159.30 per cent. on such date.

**"Fitch"** means Fitch Ratings Ltd, Fitch Inc., their subsidiaries and any successor or successors thereto.

**"Fitch Collateral Value"** means, in the case of any Collateral Debt Obligation or Eligible Investment the lower of:

- (a) its prevailing Market Value; and
- (b) the relevant Fitch Recovery Rate multiplied by its outstanding principal amount (converted, where applicable, into EUR at the Applicable Exchange Rate),

provided that if the Market Value cannot be determined for any reason, the Fitch Collateral Value shall be determined in accordance with paragraph (b) above.

**"Fitch Recovery Rate"** means, with respect to a Collateral Debt Obligation, (i) if such Collateral Debt Obligation is shadow rated by Fitch and Fitch has provided an asset-specific recovery rate for such Collateral Debt Obligation, the asset-specific recovery rate as specified by Fitch to the Investment Manager in respect of such Collateral Debt Obligation; or (ii) if such Collateral Debt Obligation is shadow rated by Fitch and has been provided to the Investment Manager by Fitch but Fitch has not provided an asset-specific recovery rate for such Collateral Debt Obligation, the standard Fitch recovery rates for a Collateral Debt Obligation having an obligor incorporated in the same jurisdiction and having the same ranking in the capital structure as the relevant Collateral Debt Obligation determined in accordance with the paper published by Fitch on 5 July 2010 entitled "Global Rating Criteria for Corporate CDOs" (as such paper may be updated from time to time provided that any such updates have been provided by Fitch to the Investment Manager) or (iii) in the event that neither (i) nor (ii) are applicable then by reference to such aforementioned paper published by Fitch using such jurisdiction and ranking in the capital structure as may be determined by the Investment Manager using its reasonable business judgement, provided that for any Cov-lite Loans the Fitch Recovery Rate determined in accordance with (ii) and (iii) only, will be multiplied by 90 per cent.

**"Form-Approved Asset Swap"** means an Asset Swap Transaction, the documentation for and structure of which conforms (save for the amount and timing of periodic payments, the name and financial aspects of the related Non-EUR Obligation, the notional amount, the effective date, the termination date and other related and/or immaterial changes) to a form approved by the Rating Agencies from time to time provided that such approval shall be deemed to have been so received in respect of any such form approved by Moody's and reviewed by Fitch prior to the Closing Date.

**"Global Certificates"** means the Class A Global Certificates, the Class B Global Certificates, the Class S Global Certificates or the Class S/B Global Certificates, or (as the context may require) any of them.

**"Hedging Arrangements"** means the hedging procedures applicable to the Issuer and the EOS Portfolio, as specified in Schedule 6 (*Hedging Arrangements*) to the Investment Management Agreement.

**"High Yield Bond"** means a subordinated debt security which, on acquisition by the Issuer, is either rated below investment grade by at least one internationally recognised credit rating agency (provided that, if such debt security is, at any time following acquisition by the Issuer, no longer rated by at least one internationally recognised credit rating agency as below investment grade it will not, as a result of such change in rating, fall outside this definition) or which is a high yielding debt security, in each case as determined by the Investment Manager, excluding any debt security which is secured directly on, or represents the ownership of, a pool of consumer receivables, auto loans, auto leases, equipment leases, home or commercial

mortgages, corporate debt or sovereign debt obligations or similar assets, including, without limitation, collateralised bond obligations, collateralised loan obligations or any similar security.

**"Initial Collateral Debt Obligations"** means Collateral Debt Obligations (other than Alternative Obligations) to be acquired by the Issuer from the Initial Sellers pursuant to the Portfolio Sale Agreement.

**"Initial Purchaser"** means The Royal Bank of Scotland plc as initial purchaser of the Notes. **"Initial Ratings"** means in respect of any Class of Notes and any Rating Agency, the ratings assigned to such Class of Notes by such Rating Agency as at the Closing Date (but excluding any rating assigned by Fitch in respect of loss severity) and **"Initial Rating"** means each such rating.

**"Initial Sellers"** means The Royal Bank of Scotland plc, The Royal Bank of Scotland N.V. and RBS Mezzanine Ltd.

**"Interest Account"** means any interest bearing account described as such in the name of the Issuer with the Account Bank into which Interest Proceeds are to be paid, which shall be in a separate account with the Account Bank in respect of each individual currency received.

**"Interest Amount"** has the meaning specified in Condition 6(e) (*Floating Rate of Interest*).

**"Interest Coverage Amount"** means, on any particular Measurement Date:

- (a) the Balances standing to the credit of the Interest Account and the Expense Reserve Account (excluding such amounts to the extent designated for the payment of initial costs and expenses related to the Notes and Transaction Documents);
- (b) plus the scheduled interest payments (not yet received) for the Due Period in which such Measurement Date occurs on the Collateral Debt Obligations, excluding:
  - (i) accrued and unpaid interest on Defaulted Obligations unless and until the principal on such Defaulted Obligation has been repaid in full;
  - (ii) interest on any Collateral Debt Obligation to the extent that such Collateral Debt Obligation does not provide for the scheduled payment of interest in cash;
  - (iii) any amounts, to the extent that such amounts if not paid, will not give rise to a default under the relevant Collateral Debt Obligation;
  - (iv) any amounts expected to be withheld at source or otherwise deducted in respect of taxes;
  - (v) interest on any Collateral Debt Obligation which has not paid cash interest on a current basis in respect of the lesser of (A) twelve months and (B) the two most recent interest periods;
  - (vi) any scheduled interest payments as to which the Issuer or the Investment Manager has actual knowledge that such payment will not be made; and
  - (vii) any Purchased Accrued Interest;
- (c) minus the amounts payable pursuant to paragraphs (A) to (G) of the Interest Priority of Payments on the following Payment Date;
- (d) minus any Scheduled Periodic Asset Swap Issuer Payments under any Asset Swap Transactions payable in the relevant Due Period (without double counting any amounts in (c) above);
- (e) plus any Scheduled Periodic Asset Swap Counterparty Payments under any Asset Swap Transactions payable in the relevant Due Period (to the extent not yet standing to the credit of the Interest Account);

- (f) plus/minus any other periodic payment (other than amounts attributable to principal) under an Asset Swap Transaction receivable and/or payable in the relevant Due Period (to the extent not yet standing to the credit of the Interest Account and without double counting any amounts covered elsewhere in the definition of "**Interest Coverage Amount**");
- (g) plus any scheduled interest payments due to the Issuer in the Due Period in which such Measurement Date occurs on the Accounts (to the extent not yet standing to the credit of the Interest Account), save in the case of each Counterparty Downgrade Collateral Account to the extent that interest accrued in respect thereof is contractually payable by the Issuer to a third party;
- (h) plus Accrued Collateral Debt Obligation Interest to the extent not scheduled to be paid on any Collateral Debt Obligation during the Due Period in which such Measurement Date falls up to an aggregate amount equal to the balance of the Liquidity Reserve Account;
- (i) minus any of the above amounts that would be payable into the Smoothing Account on the Business Day after the Determination Date at the end of the Due Period in which such Measurement Date falls;
- (j) plus any amounts that would be payable from the Smoothing Account to the Interest Account in the Due Period in which such Measurement Date falls (without double counting any such amounts which have already been transferred to the Interest Account);
- (k) plus (without double counting the amounts in paragraph (g) above) any scheduled interest payments on Eligible Investments during the Due Period in which such Measurement Date falls, to the extent not already received, with amounts in (a) to (k) above converted into EUR to the extent necessary at the Applicable Exchange Rate.

For the purposes of calculating any Interest Coverage Amount, the expected or scheduled interest income on Collateral Debt Obligations and Eligible Investments and the expected or scheduled interest payable on any Class of Notes and on any relevant Account shall be calculated using then current interest rates applicable thereto.

**"Interest Coverage Ratio"** means the Class A Interest Coverage Ratio and/or the Class B Interest Coverage Ratio (as applicable). For the purposes of calculating an Interest Coverage Ratio, the expected interest income on Collateral Debt Obligations, Eligible Investments and the Accounts will be calculated using their individual applicable interest rates and the expected interest payable on the relevant Rated Notes shall be calculated using then current interest rates applicable thereto in respect of the relevant Interest Period.

**"Interest Coverage Test"** means the Class A Interest Coverage Test and/or the Class B Interest Coverage Test (as applicable).

**"Interest Determination Date"** shall have the meaning given thereto in Condition 6(e)(i) (*Floating Rate of Interest*).

**"Interest Period"** means in relation to each Class of Notes, with respect to (a) the first Payment Date, the period from and including the Closing Date to but excluding such first Payment Date and (b) thereafter with respect to each Payment Date, the period from and including the immediately preceding Payment Date and ending on but excluding such Payment Date.

**"Interest Proceeds"** means all amounts paid or payable into the Interest Account from time to time and, with respect to any Payment Date, means the foregoing amounts received or receivable by the Issuer during the related Due Period to be disbursed pursuant to Condition 3(c)(i) (*Interest Priority of Payments*) on such Payment Date, together with any other amounts to be disbursed out of the Payment Account as Interest Proceeds on such Payment Date pursuant to Condition 3(k) (*Accounts*).

**"Interest Priority of Payments"** means the priority of payments in respect of Interest Proceeds set out in Condition 3(c)(i) (*Interest Priority of Payments*).

**"Investment Company Act"** means the United States Investment Company Act of 1940, as amended.

**"Investment Management Fee"** means each of the Senior Investment Management Fee and the Subordinated Investment Management Fee.

**"Investment Manager Advance"** means any amount which may be advanced by the Investment Manager to the Issuer pursuant to the Investment Management Agreement on the terms set out therein for the purpose of acquiring or exercising rights under any Collateral Enhancement Obligation provided that (1) Investment Manager Advances in aggregate together with the aggregate amount of funds withdrawn from the Interest Account and credited to the Collateral Enhancement Account, in each case during such Due Period may not in aggregate exceed €500,000 and (2) Investment Manager Advances in aggregate together with the aggregate amount of Interest Proceeds credited to the Collateral Enhancement Account (either directly from the Interest Account or pursuant to the Interest Priority of Payments) at any time since the Closing Date may not in aggregate exceed €5,000,000.

**"Investment Management Agreement Amendment and Restatement Deed"** means the amendment and restatement deed dated on or about 7 November 2013 between, amongst others, the Issuer and the Investment Manager.

**"Issuer Irish Account"** means the account in the name of the Issuer with The Governor and Company of the Bank of Ireland to which will be credited the Issuer's share capital plus any amounts received by way of fees for entering into the Transaction.

**"Liquidity Reserve Account"** means an interest-bearing account in the name of the Issuer, held with the Account Bank, the amounts standing to the credit of which will, on each Payment Date, be applied in accordance with the Interest Priority of Payments.

**"Liquidity Reserve Required Balance"** means:

- (a) on the Closing Date, an amount equal to €1,500,000;
- (b) on the first Payment Date an amount equal to the Liquidity Reserve Required Balance on the Closing Date plus €500,000;
- (c) thereafter on each Payment Date the Liquidity Reserve Required Balance on the preceding Payment Date plus €500,000 until and including the Payment Date on which an amount equal to €5,000,000 stands to the credit of the Liquidity Reserve Account; and
- (d) thereafter on each Payment Date an amount equal to €5,000,000 divided by the Principal Amount Outstanding of the Rated Notes as at the Closing Date multiplied by the Principal Amount Outstanding of the Rated Notes as at the relevant Payment Date and as such Principal Amount Outstanding is reduced following repayments of principal on the Rated Notes to be made on such Payment Date,

until such time as the Rated Notes are redeemed in whole, at which time the Liquidity Reserve Required Balance shall be zero.

**"Make Whole Amount"** means, following the end of the Non-Call Period but prior to and including the Payment Date falling in May 2014, upon the Redemption Date of the Rated Notes pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) otherwise than due to the occurrence of a Collateral Tax Event, an amount calculated by the Collateral Administrator on the Determination Date preceding such Redemption Date being the aggregate present cash value in euro (determined using the Euribor forward curve quoted by an internationally recognised investment bank selected at the absolute discretion of the Collateral Administrator) of the Applicable Margin that would have been payable for the

Payment Dates from but excluding the Redemption Date to and including the Payment Date falling in August 2014 on a notional Principal Amount Outstanding:

- (i) in respect of the Class A Notes:
  - (A) for the Interest Period immediately following such Redemption Date, equal to the Principal Amount Outstanding of the Class A Notes immediately prior to such Redemption Date reduced by (x) the amount of Principal Proceeds which would have been applied towards a redemption of the Class A Notes on such Payment Date in accordance with the Principal Priorities of Payments, and (y) if any of the Coverage Tests or Reinvestment Tests are not satisfied on the Determination Date preceding such Redemption Date, any Interest Proceeds which would have been applied towards a redemption of the Class A Notes on such Payment Date in accordance with the Interest Priorities of Payments, assuming in each case that the EOS Portfolio is not liquidated pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*); and
  - (B) for each of the following Interest Periods, equal to the amount calculated for the preceding Interest Period whether pursuant to (A) above or this paragraph (B), reduced by the notional amount of Principal Proceeds which would have been received by the Issuer from a portfolio identical to the EOS Portfolio held by the Issuer prior to the liquidation thereof pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) and would have been available to have been applied towards a redemption of the Class A Notes on such Payment Date in accordance with the Principal Priorities of Payments assuming (i) a 7.5% annual constant repayment rate of such portfolio, (ii) all Coverage Tests are satisfied, and (iii) there is no change in the status or characteristics of any of the Collateral Debt Obligations constituting the notional portfolio;
- (ii) in respect of the Class B Notes:
  - (A) for the Interest Period immediately following such Redemption Date, equal to the Principal Amount Outstanding of the Class B Notes immediately prior to such Redemption Date reduced by (x) the amount of Principal Proceeds which would have been applied towards a redemption of the Class B Notes on such Payment Date in accordance with the Principal Priorities of Payments, and (y) if any of the Coverage Tests or Reinvestment Tests are not satisfied on the Determination Date preceding such Redemption Date, taking into account any Interest Proceeds which would have been applied towards a redemption of the Class B Notes on such Payment Date in accordance with the Interest Priorities of Payments, assuming in each case that the EOS Portfolio is not liquidated pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*); and
  - (B) for each of the following Interest Periods, equal to the amount calculated for the preceding Interest Period whether pursuant to (A) above or this paragraph (B), reduced by the notional amount of Principal Proceeds which would have been received by the Issuer from a portfolio identical to the EOS Portfolio held by the Issuer prior to the liquidation thereof pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) and would have been available to have been applied towards a redemption of the Class B Notes on such Payment Date in accordance with the Principal Priorities of Payments assuming (i) a 7.5% annual constant repayment rate thereof, (ii) all Coverage Tests are satisfied, and (iii) there is no change in the status or characteristics of any of the Collateral Debt Obligations constituting the notional portfolio;

provided that if the Redemption Date of the Rated Notes pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) falls on or after August 2014, the "Make Whole Amount" will be zero.



**"Market Value"** means, on any date of determination an amount (and not a percentage unless the context so requires in which case it will be a percentage of the outstanding principal amount unless otherwise specified) equal to:

- (a) the bid price determined by an independent internationally recognised pricing service; or
- (b) if the determination in accordance with paragraph (a) above is not available, then the average of the bid side prices determined by three independent broker-dealers active in the trading of one or more Collateral Debt Obligations; or
- (c) if the determinations in accordance with paragraphs (a) and (b) above are not available, then the lower of the bid side prices determined by two independent broker dealers active in the trading of one or more Collateral Debt Obligations; or
- (d) if the determinations in accordance with paragraphs (a) and (b) and (c) above are not available, then a bid price from one independent broker active in the trading of one or more Collateral Debt Obligations; or
- (e) if such bid prices are not available, then the fair market value thereof determined by the Investment Manager (acting on behalf of the Issuer) on a best efforts basis in a manner consistent with reasonable and customary market practice provided that if the Market Value cannot be calculated pursuant to any of paragraphs (a) to (d) above for a period of 30 Business Days or more, then the **"Market Value"** in respect of:
  - (i) Defaulted Obligations and/or Current Pay Obligations meeting such aforementioned criteria, where the Aggregate Principal Balance of Defaulted Obligations and/or Current Pay Obligations which have met such aforementioned criteria at any time since the Closing Date on a cumulative aggregate basis equals or exceeds 5 per cent of the Target Par Amount; or
  - (ii) Caa/CCC Obligations meeting such aforementioned criteria, where the Aggregate Principal Balance of Caa/CCC Obligations which have met such aforementioned criteria at any time since the Closing Date on a cumulative aggregate basis equals or exceeds 15 per cent of the Target Par Amount,

(for such purposes the Principal Balance of any such obligation will be its outstanding principal amount as at the date such obligation first meets the aforementioned criteria, without applying any haircut pursuant to the definition of **"Principal Balance"**, converted at the current Applicable Exchange Rate) of all Defaulted Obligations, Current Pay Obligations or Caa/CCC Obligations, or parts thereof, meeting such aforementioned criteria and exceeding such limits (as applicable) shall be deemed to be zero (with later acquired obligations being deemed to have a zero **"Market Value"** before earlier acquired obligations). For the avoidance of doubt the proviso to this paragraph (e) only applies to Defaulted Obligations, Current Pay Obligations and Caa/CCC Obligations to the extent set out above, all other Collateral Debt Obligations falling within paragraph (e) will have a **"Market Value"** calculated in accordance with the beginning of this paragraph and not being subject to the proviso, in each case, as notified to the Collateral Administrator by the Investment Manager on the date of determination thereof, and where applicable, converted into EUR at the Applicable Exchange Rate.

**"Market Value Make Whole Amount"** has the meaning given to it in clause 1.2 (*Definitions*) of the SP3 Forward Sale Agreement.

**"Maturity Date"** means the Payment Date falling on or about 15 August 2024.

**"Maximum Weighted Average Rating Factor Test"** means the Moody's Maximum Weighted Average Rating Factor Test and the Fitch Maximum Weighted Average Rating Factor Test (as applicable).

**"Measurement Date"** means, provided that (with the exception of (a) below) such date shall not be prior to the first date required to be a **"Measurement Date"** for the preparation of the first Monthly Report:

- (a) the Closing Date;
- (b) for the purposes of determining satisfaction of the Reinvestment Criteria, any Business Day after the Closing Date on which such criteria are required to be determined;
- (c) the date of acquisition of any Substitute Collateral Debt Obligation following the Closing Date or of any Special Situation Investment Obligation or Collateral Enhancement Obligation at any time;
- (d) each Determination Date;
- (e) the date as at which any Report is prepared;
- (f) with reasonable (and not less than three Business Days') notice, any Business Day requested by holders of the majority of the Principal Amount Outstanding of the Notes of the Controlling Class or any Rating Agency; and
- (g) the Effective Date.

**"Method 1"** has the meaning given to it in the Investment Management Agreement.

**"Method 2"** has the meaning given to it in the Investment Management Agreement.

**"Mezzanine Loan"** means a mezzanine loan or other comparable debt obligation (including any such loan or debt obligation with attached warrants and including any such obligation which is evidenced by an issue of notes), as determined by the Investment Manager.

**"Minimum Denomination"** means €100,000 in the case of each Class of Rated Notes and the Class S/B Subordinated Notes and €50,000 in the case of the Class S Notes.

**"Minimum Weighted Average Recovery Rate Test"** means the Moody's Minimum Weighted Average Recovery Rate Test and the Fitch Minimum Weighted Average Recovery Rate Test (as applicable).

**"Monthly Report"** means any monthly report defined as such in the Investment Management Agreement which is prepared by the Collateral Administrator (in consultation with, and in part based on certain information provided by, the Investment Manager) on behalf of the Issuer on such dates as are set forth in the Investment Management Agreement, is made available via a secured website at <https://sf.citidirect.com> which shall be accessible to the Issuer, the Arranger, the Trustee, the Investment Manager and the Rating Agencies (in the case of Moody's this will be emailed to them at [monitor.cdo@moody.com](mailto:monitor.cdo@moody.com)) and, to any Noteholder by way of a unique password which in the case of each Noteholder may be obtained from the Collateral Administrator subject to receipt by the Collateral Administrator of certification that such holder is a holder of a beneficial interest in any Notes and which shall include information regarding the status of certain of the Collateral (excluding the SP3 Collateral) pursuant to the Investment Management Agreement.

**"Moody's"** means Moody's Investors Service, Inc. and any successor or successors thereto.

**"Moody's Collateral Value"** means, in the case of any applicable Collateral Debt Obligation or Eligible Investment, the lower of:

- (a) its prevailing Market Value; and
- (b) the relevant Moody's Recovery Rate multiplied by its outstanding principal amount (converted, where applicable, into EUR at the Applicable Exchange Rate),

provided that if the Market Value cannot be determined for any reason, the Moody's Collateral Value shall be determined in accordance with paragraph (b) above.

**"Moody's Recovery Rate"** means, in respect of each Collateral Debt Obligation, the recovery rate determined in accordance with the Investment Management Agreement or as so advised by Moody's.

**"Non-Call Period"** means the period from and including the Closing Date up to, and including, the Payment Date falling on 15 August 2012 or, if such day is not a Business Day, the immediately following Business Day.

**"Non-EOS Expenses Prepayment Amount"** means an amount equal to EUR 250,000 to be funded out of SP3 Portfolio Sale Proceeds (for the avoidance of doubt excluding the SP3 Trust Account Amount) on the SP3 Issue Date and to be distributed on such date to each of the Account Bank, the Collateral Administrator, the Custodian, the Trustee and/or the Investment Manager in such amounts as shall be separately agreed between the Issuer and all or any of such parties, in each case for the purposes of prepayment of pre-enforcement costs, expenses and other liabilities under any Transaction Document (including the Trustee Fees and Expenses) in connection with administering the Class S/B Collateral and the SP3 Collateral (but without limitation to any other right of payment, indemnity or lien in favour of such party).

**"Non-EUR Obligation"** means any Collateral Debt Obligation purchased by or on behalf of the Issuer which is not denominated or drawn in Euro (or in one of the predecessor currencies of those EU member states which have adopted the Euro as their currency).

**"Non-Euro Forward Settlement Date"** has the meaning given thereto in clause 1.2 (*Definitions*) of the SP3 Forward Sale Agreement.

**"Noteholders"** means the person(s) in whose name the Notes are registered for the time being. "Note Payment Sequence" means the application of Interest Proceeds in accordance with the Interest Priority of Payments or the application of Principal Proceeds in accordance with the Principal Priority of Payments, as applicable, in the following order:

- (a) to the repayment of the Class A Notes (on a pro rata basis) at the applicable Redemption Price in whole or in part until the Class A Notes have been fully redeemed; and
- (b) to the repayment of the Class B Notes and prior to such repayment the payment of any Deferred Interest thereon (in each case on a pro rata basis) at the applicable Redemption Price in whole or in part until the Class B Notes have been fully redeemed and any Deferred Interest has been repaid.

**"Note Tax Event"** means, at any time, (i) the introduction of a new, or any change in, any home jurisdiction or foreign tax statute, treaty, regulation, rule, ruling, practice, procedure or judicial decision or interpretation (whether proposed, temporary or final) which results in (or would on the next Payment Date result in) any payment of principal or interest on the Class A Notes, the Class B Notes and/or the Class S Notes becoming properly subject to any withholding tax; or (ii) United Kingdom tax authorities impose net income, profits or similar tax upon the Issuer.

**"Notes"** means the notes comprising, where the context permits, the Class A Notes, the Class B Notes, the Class S Notes and the Class S/B Subordinated Notes constituted by the Trust Deed or the Principal Amount Outstanding thereof for the time being or, as the context may require, a specific number thereof and includes any replacements for Notes issued pursuant to Condition 13 (*Replacement of Notes*) of the Notes and (except for the purposes of Clause 3 of the Trust Deed) each Global Certificate. References in these Conditions of the Notes to the "Notes" (unless the context requires otherwise) include any other notes issued pursuant to Condition 17 (*Additional Issuances*) and forming a single series with the Notes.

**"Obligor"** means, in respect of a Collateral Debt Obligation, the borrower thereunder or issuer thereof or, in either case, the guarantor thereof (as determined by the Investment Manager on behalf of the Issuer).

**"Offer"** means, with respect to any Collateral Debt Obligation, (a) any offer by the Obligor under such obligation or by any other Person made to all of the creditors of such Obligor in relation to such obligation to purchase or otherwise acquire such obligation (other than pursuant to any redemption in accordance with the terms of the related Underlying Instruments) or to convert or exchange such obligation into or for cash, securities or any other type of consideration or (b) any solicitation by the Obligor of such obligation or any other Person to amend, modify or waive any provision of such obligation or any related Underlying Instrument.

**"Ordinary Resolution"** means an Ordinary Resolution as described in Condition 14 (*Meetings of Noteholders, Modification, Waiver and Substitution*) and as further described in, and as defined in, the Trust Deed.

**"Outstanding"** means, in relation to the Notes, all the Notes other than:

- (a) those which have been redeemed in full and cancelled in accordance with Condition 7 (*Redemption*) and the Trust Deed;
- (b) those in respect of which the date for redemption in accordance with the provisions of the Conditions has occurred and for which the redemption monies (including all interest accrued thereon to the date for such redemption) have been duly paid to the Trustee or the Principal Paying Agent in the manner provided for in the Collateral Administration and Agency Agreement and the Trust Deed (and, where appropriate, notice to that effect has been given to the Noteholders in accordance with the Conditions) and which monies remain available for payment in accordance with the Conditions;
- (c) those which have been cancelled pursuant to the Collateral Administration and Agency Agreement;
- (d) those which have become void under the Conditions;
- (e) those mutilated or defaced Notes which have been surrendered or cancelled and in respect of which replacement Notes have been issued pursuant to the Conditions; and
- (f) (for the purpose only of ascertaining the amount of the Notes outstanding and without prejudice to the status for any other purpose of the relevant Notes) those Notes which are alleged to have been lost, stolen or destroyed and in respect of which replacements have been issued pursuant to the Conditions,

provided that for each of the following purposes, namely:

- (i) the right to attend and vote at any meeting of Noteholders;
- (ii) the determination of how many and which Notes are for the time being outstanding for the purposes of Clause 27 (*Waiver, Determination and Modification*), Clause 17 (*Trustee's Powers and Liability*) and Clause 25 (*Appointment, Retirement and Removal of Trustee*) of the Trust Deed and, Condition 11 (*Enforcement*) and Schedule 7 (*Provisions for Meetings of the Noteholders of Each Class*) of the Trust Deed;
- (iii) any discretion, power or authority, whether contained in the Trust Deed or provided by law which the Trustee is required to exercise in or by reference to the interests of the Noteholders or any of them; and
- (iv) the determination (where relevant) by the Trustee as to whether any event, circumstance, matter or thing is, in its opinion, materially prejudicial to the interests of the Noteholders or any class thereof,

those Notes (if any) which are for the time being held by any person for the benefit of, or on behalf of, the Issuer and are not cancelled shall (unless and until ceasing to be so held) be deemed not to remain outstanding. The Trustee shall be entitled to assume that there are no

such holdings except to the extent it otherwise has written notice and shall not be bound or concerned to make any enquiry.

**"Par Value Event of Default Test"** means the test which will be satisfied as of any date if the Class A Par Value Ratio is greater than 100 per cent. provided that in any calculation of the Class A Par Value Ratio for the purposes of this test, (i) the Par Value Test Excess Adjustment Amount shall be deemed to be zero, and (ii) the Principal Balance of Current Pay Obligations, Restructured Obligations and Unhedged Collateral Debt Obligations will be the outstanding principal amount thereof without implementing any haircut stipulated in paragraphs (b), (d) and (f) of the definition of **"Principal Balance"**, and with any non-euro amounts converted into euro at the Applicable Exchange Rate.

**"Par Value Ratio"** means the Class A Par Value Ratio and/or the Class B Par Value Ratio (as applicable).

**"Par Value Test"** means the Class A Par Value Test and/or the Class B Par Value Test (as applicable).

**"Par Value Test Excess Adjustment Amount"** means, on any date of determination, the sum of:

- (a) the Caa/CCC Haircut Amount; and
- (b) the amount for each Discount Obligation (excluding Defaulted Obligations) in the EOS Portfolio equal to (x) the outstanding principal amount of such Discount Obligation as of such date, minus (y) the purchase price (being an amount not a percentage) of such Discount Obligation, (in the case of a Discount Obligation which is a Non-EUR Obligation, its outstanding principal balance and purchase price shall be converted into Euro at the Applicable Exchange Rate),

provided that, in the event that any Collateral Debt Obligation is a Discount Obligation and falls within the definition of Caa/CCC Obligations, such Collateral Debt Obligation shall be included only in whichever of paragraphs (a) and (b) above would result in the higher Par Value Test Excess Adjustment Amount and not within the other paragraph.

**"Participated Portfolio Obligation"** has the meaning given thereto in clause 1.2 (*Definitions*) of the SP3 Forward Sale Agreement.

**"Paying Agents"** means the Principal Paying Agent and any other paying agent appointed from time to time pursuant to the Collateral Administration and Agency Agreement and **"Paying Agent"** means any of them.

**"Payment Account"** means the account, segregated into sub-accounts, in the name of the Issuer held with the Account Bank to which amounts shall be transferred by the Account Bank on the instructions of the Collateral Administrator on the second Business Day prior to each Payment Date out of certain of the other Accounts in accordance with Condition 3(k) (*Accounts*) or Condition 3(l) (*Payments to and from the Accounts*) and out of which the amounts required to be paid on each Payment Date pursuant to the Priorities of Payments and towards payment of principal or interest on the Class S/B Subordinated Notes and of certain other amounts (including SP3 Portfolio Sale Proceeds (excluding the SP3 Trust Account Amount) on the Redemption Date pursuant to Condition 7(i) (*Redemption and Exchange*)), without regard to the Priorities of Payments, shall be paid.

**"Payment Date"** means 15 February, 15 May, 15 August and 15 November in each year, commencing on 15 February 2011, the Maturity Date and any Redemption Date provided that if any Payment Date would otherwise fall on a day which is not a Business Day, it shall be postponed to the next day that is a Business Day (unless it would thereby fall in the following month, in which case it shall be brought forward to the immediately preceding Business Day).

**"Payment Date Report"** means the accounting report which is prepared by the Collateral Administrator (in consultation with, and in part based on certain information provided by, the Investment Manager) on behalf of the Issuer and is made available via a secured website at

<https://sf.citidirect.com> which shall be accessible, not later than 10.00 a.m. on the second Business Day before the relevant Payment Date, to the Issuer, the Arranger, the Trustee, the Investment Manager and the Rating Agencies (in the case of Moody's this will be emailed to them at [monitor.cdo@moody's.com](mailto:monitor.cdo@moody's.com)) and, to any Noteholder by way of a unique password which in the case of each Noteholder may be obtained from the Collateral Administrator subject to receipt by the Collateral Administrator of certification that such holder is a holder of a beneficial interest in any Notes.

**"Percentage Limitations"** means the Percentage Limitations each as defined in the Investment Management Agreement.

**"Person"** means an individual, corporation (including a business trust), partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated association or government or any agency or political subdivision thereof.

**"Portfolio"** means the Collateral Debt Obligations, Collateral Enhancement Obligations or Exchanged Equity Securities, Eligible Investments and Special Situation Investment Obligations held by or on behalf of the Issuer from time to time.

**"Portfolio Sale Agreement"** means the agreement so named entered into between the Issuer, the Initial Sellers and the Investment Manager on or about the Closing Date pursuant to which the Issuer agrees to purchase a portfolio of Collateral Debt Obligations from the Initial Sellers subject to the terms of such agreement.

**"Post-Acceleration Priority of Payments"** means the priority of payments set out in Condition 3(c)(iv) (*Post-Acceleration Priority of Payments*).

**"Pre-Settlement Interest Proceeds"** has the meaning given thereto in clause 1.2 (*Definitions*) of the SP3 Forward Sale Agreement.

**"Preliminary Prospectus"** means the preliminary prospectus in connection with a collateralised loan obligation transaction to be managed by the SP3 Investment Manager and relating to the portfolio of collateral debt obligations to be purchased by SP3 under the SP3 Forward Sale Agreement.

**"Primary Market"** means, in respect of the acquisition of a Collateral Debt Obligation, such Collateral Debt Obligation was acquired within three months of the date of issue or origination thereof.

**"Principal Account"** means the interest bearing account described as such in the name of the Issuer with the Account Bank into which Principal Proceeds are to be paid, which shall be in separate accounts of the Account Bank in respect of each individual currency received.

**"Principal Amount Outstanding"** means in relation to any Class of Notes and at any time, the aggregate principal amount Outstanding under such Class of Notes at that time.

**"Principal Balance"** means, with respect to any Collateral Debt Obligation (including a Restructured Obligation (or part thereof) which does not come within paragraph (d) below and is not a Defaulted Obligation), Eligible Investment or Exchanged Equity Security, as of any date of determination, the outstanding principal amount thereof (excluding any interest capitalised pursuant to the terms of such instrument other than, with respect to a Mezzanine Loan, any such interest capitalised pursuant to the terms thereof which is paid for on the date of acquisition of such Mezzanine Loan), provided, however that:

- (a) the Principal Balance of any Defaulted Obligation shall (i) for the purposes of the Percentage Limitations and the Collateral Quality Tests and if so specified elsewhere in such other circumstances also, be deemed to be zero, and (ii) for all purposes other than as set forth in (i) above, for the purpose of calculating the Aggregate Principal Balance, the Principal Balance of each Defaulted Obligation shall be the lower of its Fitch Collateral Value and its Moody's Collateral Value;

- (b) the Principal Balance of each Current Pay Obligation shall be the lesser of the Fitch Collateral Value and the Moody's Collateral Value of such Current Pay Obligation;
- (c) the Principal Balance of any Exchanged Equity Security shall be deemed to be zero;
- (d) the Principal Balance of a Restructured Obligation which is not a Defaulted Obligation but which as at the entry into by the Issuer of a binding commitment to accept such Restructured Obligation:
  - (A) causes a breach of any of the Percentage Limitations or if there was already a breach worsens such breach; or
  - (B) fails to satisfy any of items (e), (f) or (dd) of the Eligibility Criteria (provided that in the case of item (f) of the Eligibility Criteria if the Restructured Obligation consists entirely (or in part) of equity securities and/or warrants then it (or such part thereof) will be deemed to have a Principal Balance of zero) but only to the extent that the Aggregate Principal Balance of Restructured Obligations falling within this paragraph (B) exceeds 5 per cent. of the Aggregate Collateral Balance and only then the amount representing such excess,

shall until the failure to satisfy (A) and (B) (as applicable) are remedied in respect of such Restructured Obligation ((A) shall be deemed to have been remedied in respect of a Restructured Obligation if compliance with the Percentage Limitations is satisfied or is improved with the relevant Restructured Obligation in the EOS Portfolio as opposed to not in the EOS Portfolio), be deemed to be the lesser of the Fitch Collateral Value and the Moody's Collateral Value;

- (e) the Principal Balance of any Asset Swap Obligation shall be the EUR notional amount of the Asset Swap Transaction entered into in respect thereof (provided that for any Asset Swap Obligation which also comes within another paragraph of the proviso to the definition of "**Principal Balance**", its Principal Balance shall be determined in accordance with such paragraph and then exchanged into Euro at the relevant Asset Swap Transaction Exchange Rate);
- (f) the Principal Balance of any Unhedged Collateral Debt Obligations, will be determined by reference to either Method 1 or, as the case may be, Method 2 except that:
  - (i) the Principal Balance of an Unhedged Collateral Debt Obligation (A) which remains unhedged for over 6 months from the date of acquisition thereof or (B) where the Aggregate Principal Balance of Unhedged Collateral Debt Obligations exceeds 5.0 per cent. of the Aggregate Collateral Balance (without the implementation of any haircut pursuant to this paragraph (f) of the definition of "Principal Balance") (but in respect of (B) only to the extent of such excess and with the earliest in time acquired Unhedged Collateral Debt Obligation(s) being assigned a zero Principal Balance before those acquired later in time), shall be zero;
  - (ii) where any Unhedged Collateral Debt Obligations also comes within another paragraph of the proviso to the definition of "**Principal Balance**" (other than as a result of being a Restructured Obligation), its Principal Balance shall be determined in accordance with such paragraph and then be subject to a haircut pursuant to Method 1 or Method 2, at the discretion of the Investment Manager, using the then current exchange rate; and
  - (iii) where any Unhedged Collateral Debt Obligations is also a Restructured Obligation it will be deemed to only fall under whichever paragraph of the proviso to the definition of "**Principal Balance**" results in the determination of the lowest Principal Balance for such obligation and not subject to both a haircut for being an Unhedged Collateral Debt Obligation and a haircut for being a Restructured Obligation;

- (g) the Principal Balance of any cash shall be the amount of such cash with non-euro amounts converted into euro at the Spot Rate; and
- (h) the Principal Balance of any Eligible Investments denominated in a currency other than euro shall be the outstanding principal amount of such Eligible Investments with non-euro amounts converted into euro at the Spot Rate.

**"Principal Priority of Payments"** means the priority of payments in respect of Principal Proceeds set out in Condition 3(c)(ii) (*Principal Priority of Payments*).

**"Principal Proceeds"** means all amounts paid or payable into the Principal Account from time to time and, with respect to any Payment Date, means the foregoing amounts received or receivable by the Issuer during the related Due Period and any other amounts to be disbursed as Principal Proceeds on such Payment Date pursuant to Condition 3(c)(ii) (*Principal Priority of Payments*), together with any other amounts to be disbursed out of the Payment Account as Principal Proceeds on such Payment Date pursuant to Condition 3(k) (*Accounts*).

**"Priorities of Payments"** means, in the case of Interest Proceeds, the Interest Priority of Payments and, in the case of Principal Proceeds, the Principal Priority of Payments and, in the case of Collateral Enhancement Obligation Proceeds, the Collateral Enhancement Obligation Proceeds Priority of Payments, provided that in the case of any redemption of the Notes in whole pursuant to Condition 7 (*Redemption*) or Condition 10 (*Events of Default*), paragraph (A) of Condition 3(c)(i) (*Interest Priority of Payments*) shall be excluded and paragraph (C) of Condition 3(c)(i) (*Interest Priority of Payments*) shall be excluded only to the extent that the Administrative Expenses referred to in such paragraphs are amounts not payable to a Secured Party and, following the service of an Acceleration Notice, the Post-Acceleration Priority of Payments.

**"Proceedings"** means any legal proceedings relating to a Dispute.

**"Purchased Accrued Interest"** means, with respect to any Collateral Debt Obligations, all payments of interest and proceeds of sale received in relation to any Collateral Debt Obligation, in each case, to the extent that such amounts represent accrued and/or capitalised interest in respect of such Collateral Debt Obligation, which was purchased at the time of acquisition thereof with Principal Proceeds and/or amounts paid out of the Unsettled Loans Account.

**"Qualifying Country"** means each of Australia, Bermuda, Canada, Denmark, Japan, Liechtenstein, New Zealand, Norway, Sweden, Switzerland, the United States and EU and EU accession countries having a foreign currency issuer credit rating, at the time of acquisition of the relevant Eligible Investment, of at least "AA" by Fitch or at least "Aa3" by Moody's or any other country which has been notified to Fitch and for which Rating Agency Confirmation has been obtained.

**"Qualifying Currency"** means Euro, Sterling, U.S. Dollars, Danish Krone, Norwegian Krone, Swedish Krone, Canadian Dollars, Swiss Francs, Australian Dollars, New Zealand Dollars, Japanese Yen or any other currency which has been notified to Fitch and in respect of which Rating Agency Confirmation has been received.

**"Rated Notes"** means, so long as any Notes of the relevant Class remain Outstanding, the Class A Notes and the Class B Notes.

**"Rated Noteholders"** means the person(s) in whose name the Rated Notes are registered for the time being.

**"Rating Agencies"** means Moody's and Fitch, provided that if at any time Moody's and/or Fitch ceases to provide rating services, any other nationally recognised investment rating agency or rating agencies (as applicable) selected by the Issuer and satisfactory to the Trustee and the Controlling Class acting by Extraordinary Resolution (a **"Replacement Rating Agency"**) and "Rating Agency" means any such rating agency. In the event that at any time a Rating Agency is replaced by a Replacement Rating Agency, references to rating categories of the original Rating Agency in these Conditions, the Trust Deed and the Investment



Management Agreement shall be deemed instead to be references to the equivalent categories of the relevant Replacement Rating Agency as of the most recent date on which such other rating agency published ratings for the type of security in respect of which such Replacement Rating Agency is used and all references herein to "Rating Agencies" shall be construed accordingly.

**"Rating Agency Confirmation"** means, with respect to any specified action or determination, receipt by either the Issuer and/or the Trustee of written confirmation by Moody's that such specified action, determination or appointment will not result in the reduction or withdrawal of any of the ratings currently assigned to the Rated Notes by Moody's.

**"Rating Requirement"** means:

- (a) in the case of the Account Bank and the Custodian (or any guarantor of their respective rated obligations), a short-term issuer default rating of at least "F1" by Fitch and a short-term senior unsecured debt rating of at least "P-1" by Moody's and a long-term issuer default rating of at least "A" by Fitch and a long-term senior unsecured debt rating by Moody's of at least "A1"; and
- (b) in the case of any Asset Swap Counterparty, (i) a short-term debt rating of at least "P-1" from Moody's and a long-term senior unsecured debt rating of at least "A1" from Moody's and (ii) such party has a short-term issuer default rating of at least "F1" by Fitch and a long-term issuer default rating of at least "A" by Fitch.

**"Record Date"** means the fifteenth day before the relevant due date for payment of principal and interest in respect of a Note.

**"Recovery Rate"** means the Moody's Recovery Rate and/or the Fitch Recovery Rate (as applicable).

**"Redemption Date"** means each date specified for a redemption of the Notes of a Class pursuant to Condition 7 (*Redemption*) including without limitation Condition 7(i) (*Redemption and Exchange*) or the date on which the Notes of such Class are accelerated pursuant to Condition 10 (*Events of Default*), or in each case, if such day is not a Business Day, the next following Business Day.

**"Redemption Determination Date"** has the meaning given thereto in Condition 7(g) (*Terms and Mechanics of Redemption at the Option of the Class S Noteholders or due to the occurrence of a Note Tax Event*).

**"Redemption Notice"** means a redemption notice in the form available from any of the Paying Agents which has been duly completed by a Noteholder and which specifies, amongst other things, the applicable Redemption Date.

**"Redemption Percentage"** has the meaning given thereto in Condition 7(i) (*Redemption and Exchange*).

**"Redemption Price"** means, when used with respect to:

- (a) any Class S Subordinated Note, such Class S Subordinated Note's pro rata share (calculated in accordance with paragraph (Y) of Condition 3(c)(i) (*Interest Priority of Payments*), paragraph (J) of Condition 3(c)(ii) (*Principal Priority of Payments*), paragraph (D) of Condition 3(c)(iii) (*Collateral Enhancement Obligation Priority of Payments*) and paragraph (Q) of Condition 3(c)(iv) (*Post-Acceleration Priority of Payments*)) of the aggregate proceeds of liquidation of the EOS Collateral, or realisation of the security thereover in such circumstances, remaining following application thereof in accordance with the Priorities of Payments; and
- (b) any Rated Note or Class S Preferred Note, 100 per cent. of the Principal Amount Outstanding thereof (if any), plus accrued and unpaid interest thereon (including any accrued and unpaid Deferred Interest thereon in respect of, and not paid on, any prior Payment Date, and interest on such Deferred Interest for the relevant Interest Period) to

the date of redemption plus (in respect of the Rated Notes and on any redemption pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) on or prior to the Payment Date falling in May 2014 otherwise than due to the occurrence of a Collateral Tax Event) payment of any Make Whole Amount,

provided that, in the event that the Notes become subject to redemption in whole (but not in part) pursuant to more than one Condition, the Redemption Price applicable upon redemption thereof shall be that which relates to the redemption of the Notes which would occur first in time pursuant to the relevant provisions thereof.

**"Redemption Proceeds"** has the meaning given thereto in clause 1.2 (*Definitions*) of the SP3 Forward Sale Agreement.

**"Redemption Threshold Amount"** means the aggregate of all amounts (including the Make Whole Amount if applicable) which would be due and payable on redemption of the Notes on the scheduled Redemption Date pursuant to Condition 3(c) (Priorities of Payments) which rank in priority to item (U) in the Interest Priority of Payments and item (H) in the Principal Priority of Payments (other than item (G) of the Principal Priority of Payments to the extent it refers to item (U) of the Interest Priority of Payments) as applicable (taking into account any termination payments payable under any Asset Swap Transaction upon termination thereof in such circumstances).

**"Reference Banks"** has the meaning given thereto in paragraph (B) of Condition 6(e)(i) (*Floating Rate of Interest*).

**"Register"** means the register of holders of the legal title to the Notes kept by the Registrar pursuant to the terms of the Collateral Administration and Agency Agreement.

**"Regulation S"** means Regulation S under the Securities Act.

**"Reinvestment Criteria"** has the meaning given to it in the Investment Management Agreement. **"Reinvestment Test"** means the First Reinvestment Test and the Second Reinvestment Test.

**"Reinvestment Period"** means the period from and including the Closing Date up to and including the earliest of (i) the end of the Due Period preceding the Payment Date falling in August 2012 or, if such day is not a Business Day, the immediately following Business Day, and (ii) the date of the acceleration of the Notes pursuant to Condition 10(b) (*Acceleration*).

**"Replacement Asset Swap Transaction"** means any Asset Swap Transaction entered into by the Issuer or the Investment Manager on its behalf, in accordance with the provisions of the Investment Management Agreement upon termination of an existing Asset Swap Transaction in full on substantially the same terms as such existing Asset Swap Transaction, that preserves for the Issuer the financial aspects of the terminated Asset Swap Transaction, subject to such amendments thereto as may be agreed by the Investment Manager, on behalf of the Issuer, and which have been notified to Fitch and in respect of which Rating Agency Confirmation is obtained unless such Replacement Asset Swap Transaction is a Form-Approved Asset Swap.

**"Replacement Asset Swap Agreement"** means any Asset Swap Agreement entered into by the Issuer upon termination of an existing Asset Swap Agreement on substantially the same terms as the original Asset Swap Agreement (including with respect to any Asset Swap Transactions entered into thereunder).

**"Report"** means each Monthly Report, Payment Date Report and/or Class S Noteholder Report.

**"Required Diversion Amount"** means an amount equal to the lesser of:

1. if:

- (x) both the First Reinvestment Test and the Second Reinvestment Test are not satisfied, 50 per cent. of the remaining Interest Proceeds available for payment (until the First Reinvestment Test is satisfied); and
  - (y) if only the Second Reinvestment Test is not satisfied (or following the satisfaction of the First Reinvestment Test pursuant to payments made under (x) above) 25 per cent. of the remaining Interest Proceeds, in each case available for payment following payment of items (A) to (Q) of the Interest Priority of Payments on such date; and
2. the amount required to cause the Second Reinvestment Test (as calculated by the Collateral Administrator) to be met if recalculated following such transfer.

**"Resolution"** means any Ordinary Resolution, Written Resolution or Extraordinary Resolution, as the context may require.

**"Restructured Obligation"** means a Collateral Debt Obligation which has been restructured for reasons primarily driven by credit underperformance (whether such restructuring has been effected by way of amendment to the terms of such Collateral Debt Obligation or by way of substitution of new obligations for such Collateral Debt Obligation).

**"Restructured Obligation Criteria"** means each of the Eligibility Criteria other than items (e), (f) and (dd) thereof.

**"Sale Proceeds"** means:

- (a) all proceeds received upon the sale of any Collateral Debt Obligation (save for any Asset Swap Obligation or any obligation which ceased to be an Asset Swap Obligation as a result of the Issuer entering into a binding commitment to sell such obligation), Exchanged Equity Security, Collateral Enhancement Obligation or any Special Situation Investment Obligation excluding any sale proceeds representing accrued interest designated as Interest Proceeds by the Investment Manager in accordance with the Investment Management Agreement and sale proceeds representing accreted interest received in respect of any Step-Up Coupon Securities, provided that no such designation as Interest Proceeds may be made in respect of:
  - (i) Purchased Accrued Interest; or
  - (ii) any such proceeds that represent deferred interest accrued in respect of any Defaulted Deferring Mezzanine Loan (other than Defaulted Mezzanine Excess Amounts which have not been designated for payment to the Principal Account by the Investment Manager (acting on behalf of the Issuer) in its discretion), or
  - (iii) proceeds representing accrued interest received in respect of any Defaulted Obligation (other than a Defaulted Deferring Mezzanine Loan) unless and until (x) the principal of such Defaulted Obligation has been repaid in full and (y) any Purchased Accrued Interest in relation to such Defaulted Obligation has been paid,

but including, any fees received upon such sale or other disposition and any recoveries received in respect of any Defaulted Obligation up to its principal amount outstanding (plus Purchased Accrued Interest thereon); and

- (b) in the case of any Asset Swap Obligation or any obligation which ceased to be an Asset Swap Obligation as a result of the Issuer entering into a binding commitment to sell such obligation:
  - (i) all amounts in EUR, payable to the Issuer by the applicable Asset Swap Counterparty in exchange for termination of the Asset Swap Transaction and payment by the Issuer of the sale proceeds of the related Asset Swap Obligation or other such obligation, as described in paragraph (a) above, under the related Asset Swap Transaction; plus

- (ii) any other proceeds of sale of the related Asset Swap Obligation or other such obligation not paid to such Asset Swap Counterparty,

in each case net of any amounts expended by or payable by, or on behalf of, the Issuer in connection with the sale, disposition or termination of such Collateral Debt Obligation including in relation to (b) any amounts payable by the Issuer upon termination of the applicable Asset Swap Transaction.

**"Scheduled and Unscheduled Principal Proceeds"** means:

- (a) in the case of any Collateral Debt Obligation, save for any Asset Swap Obligation, scheduled principal repayments received by the Issuer (including scheduled amortisation, instalment or sinking fund payments);
- (b) with respect to any Collateral Debt Obligation (save for any Asset Swap Obligation), principal proceeds received prior to the Stated Maturity thereof as a result of optional redemptions, prepayments (including any acceleration) or Offers (excluding any premiums or make whole amounts in excess of the principal amount of such Collateral Debt Obligation); and
- (c) in the case of any Asset Swap Obligation, the Asset Swap Counterparty Principal Exchange Amount receivable in exchange for the amounts referred to in (a) and (b) above pursuant to the related Asset Swap Transaction.

**"Scheduled Periodic Asset Swap Counterparty Payment"** means, with respect to any Asset Swap Transaction, the periodic amounts in the nature of coupon (and not principal) scheduled to be paid to the Issuer by the applicable Asset Swap Counterparty pursuant to the terms of such Asset Swap Transaction, excluding any Asset Swap Termination Receipts, any Asset Swap Replacement Receipts and any Asset Swap Counterparty Principal Exchange Amounts.

**"Scheduled Periodic Asset Swap Issuer Payment"** means, with respect to any Asset Swap Transaction, the periodic amounts in the nature of coupon (and not principal) scheduled to be paid to the applicable Asset Swap Counterparty by the Issuer pursuant to the terms of such Asset Swap Transaction, excluding any Asset Swap Termination Payments, any Asset Swap Replacement Payments and any Asset Swap Issuer Principal Exchange Amounts.

**"Second Lien Loan"** means a loan, note, bond or similar obligation (but not a High-Yield Bond):

- (a) which ranks for priority of application of security proceeds from enforcement of security after Senior Secured Obligations but before Mezzanine Loans or High-Yield Bonds (if any in the capital structure) and which may be documented in the same loan or other instrument which records the Senior Secured Obligations or in a separate loan or other instrument; or
- (b) (i) that is not (and cannot by its terms become) subordinated in right of payment to any unsecured obligation of the obligor in any bankruptcy reorganisation, arrangement, insolvency, oratorio, or liquidation proceeds; (ii) that is secured by a pledge of collateral that is not of first priority and (iii) with respect to which the Investment Manager determines in good faith that the value of the collateral securing the loan on or about the time of origination equals or exceeds the outstanding principal amount of the loan plus the aggregate outstanding principal amounts of all other loans of equal or higher seniority secured by the same collateral.

**"Second Reinvestment Test"** means the threshold which is met on any date of determination if the Class B Par Value Ratio is greater than or equal to 161.05 per cent.

**"Secured Party"** means each of the Class A Noteholders, the Class B Noteholders, the Class S Noteholders, the Class S/B Subordinated Noteholders, the Initial Sellers, the Arranger, the Investment Manager, the Collateral Administrator, the Trustee, each Agent, each Asset Swap Counterparty, the Administrator and SP3, and **"Secured Parties"** means any two or more of them as the context so requires.

"**Securities Act**" means the United States Securities Act of 1933, as amended.

"**Semi-Annual Obligations**" means Collateral Debt Obligations which, at the relevant date of measurement, pay interest less frequently than quarterly but which are not Annual Obligations.

"**Senior Expenses Cap**" means (i) €125,000 in respect of the first Due Period and (ii) thereafter €2,500 in respect of each Due Period plus in each case the sum of (a) 0.02 per cent. per annum (calculated on each Determination Date on the basis of a 360-day year and the actual number of days elapsed in such Due Period) of the Aggregate Collateral Balance (where for such purpose the Aggregate Collateral Balance shall be determined with respect to the EOS Portfolio only (including all receipts and Distributions received by the Issuer, attributable to the EOS Portfolio and standing to the credit of any Account) as at each relevant Determination Date), as at the Determination Date immediately preceding the Payment Date in respect of such Due Period and (b) any amount by which the Trustee Fee Cap exceeds the Trustee Fees and Expenses due and payable in such Due Period, if at all, provided that this cap shall not apply to any Administrative Expenses which are upfront expenses of the Issuer incurred in relation to the issuance of the Notes to be paid out of the amount of approximately €3,750,000 deposited in the Expense Reserve Account pursuant to Condition 3(l)(iii) (*Expense Reserve Account*) paragraph (A).

"**Senior Investment Management Fee**" means the fee payable to the Investment Manager in arrear on each Payment Date in respect of the immediately preceding Due Period pursuant to the Investment Management Agreement (which may be waived or deferred at the Investment Manager's discretion) in an amount, as determined by the Collateral Administrator, equal to 0.15 per cent. per annum (calculated on each Determination Date on the basis of a 360-day year and the actual number of days elapsed in such Due Period) of the Average Aggregate Principal Balance (where for such purpose the Aggregate Principal Balance shall be determined with respect to the EOS Portfolio only).

"**Senior Obligation**" means a Collateralised Debt Obligation that is a Senior Secured Obligation or a Senior Unsecured Obligation.

"**Senior Secured Obligation**" means a collateral debt obligation that is a senior secured obligation as determined by the Investment Manager in its reasonable business judgment provided that:

- (a) it is secured to the extent consistent with prevailing market practice and to the extent permitted under applicable law by all or some of the assets of the relevant Obligor or any Affiliate or sister companies of the Obligor or by the shares or other equity interests in that Obligor, Affiliate or sister company; and
- (b) other than as specifically permitted under its terms, no other obligation of the Obligor has any higher priority security interest in such fixed assets of stock referred to in (a) above except as mandatory preferred by law.

"**Senior Unsecured Obligation**" means a Collateral Debt Obligation that: (a) is an obligation senior to any unsecured, subordinated obligation of the Obligor as determined by the Investment Manager in its reasonable business judgment; and (b) is not secured on the shares and/or assets of one or more members of the group of which such Obligor forms part consistent with what the Investment Manager (in its reasonable opinion) considers to be market practice for senior secured loans.

"**Smoothing Account**" means the interest bearing account described as such in the name of the Issuer with the Account Bank operated in accordance with Condition 3(l)(xi) (*Smoothing Account*), which shall be in separate accounts of the Account Bank in respect of each individual currency received.

"**Smoothing Semi-Annual Interest Amount**" means for so long as any Rated Notes are outstanding, an amount (determined with respect to the EOS Portfolio only) equal to the excess, if any, of:

- (a) the sum of all payments of interest received during the related Due Period in respect of Semi-Annual Obligations; above
- (b) the product of (i) 0.5, and (ii) the sum of (A) EURIBOR (as of the relevant Determination Date) and (B) the Weighted Average Spread (provided that references in such definition to Collateral Debt Obligations, Asset Swap Obligations and Unhedged Collateral Debt Obligations shall be deemed to be to Semi-Annual Obligations to the extent they meet such criteria) on all the Semi-Annual Obligations, and (iii) the Aggregate Principal Balance of all Semi-Annual Obligations,

provided that (i) such amount may not be less than zero, and (ii) following redemption in full of the Rated Notes or if the Aggregate Principal Balance of the Semi-Annual Obligations is less than or equal to five per cent. of the Aggregate Collateral Balance, such amount will be zero.

**"Smoothing Annual Interest Amount"** means for so long as any Rated Notes are outstanding, an amount (determined with respect to the EOS Portfolio only) equal to the excess, if any, of:

- (a) the sum of all payments of interest received during the related Due Period in respect of Annual Obligations; above
- (b) the product of (i) 0.25, and (ii) the sum of (A) EURIBOR (as of the relevant Determination Date) and (B) the Weighted Average Spread (provided that references in such definition to Collateral Debt Obligations, Asset Swap Obligations and Unhedged Collateral Debt Obligations shall be deemed to be to Annual Obligations to the extent they meet such criteria) on all the Annual Obligations, and (iii) the Aggregate Principal Balance of all Annual Obligations,

provided that (i) such amount may not be less than zero, and (ii) following redemption in full of the Rated Notes, such amount will be zero.

**"Special Redemption"** has the meaning given to it in Condition 7(d) (*Special Redemption*).

**"Special Redemption Amount"** has the meaning given to it in Condition 7(d) (*Special Redemption*).

**"Special Redemption Date"** has the meaning given to it in Condition 7(d) (*Special Redemption*).

**"Special Situation Investment"** means an investment which the Investment Manager may make (acting within the discretionary authority granted to it under the Investment Management Agreement) from time to time during the Reinvestment Period using moneys on deposit in any of the Interest Account or the Principal Account (or any combination of such Accounts) for the purpose of providing additional capital to Obligors of any Collateral Debt Obligations held by the Issuer provided that:

- (a) in the event that the Investment Manager so directs the use of amounts from the Interest Account, (i) the Interest Coverage Tests will be satisfied immediately prior to such application and (ii) the Interest Coverage Tests, the Collateral Quality Tests and the Par Value Tests will be satisfied immediately following such application;
- (b) in the event that the Investment Manager so directs the use of amounts from the Principal Account, the Collateral Quality Tests will be satisfied and the Aggregate Collateral Balance equals or exceeds the Target Par Amount immediately following such application;
- (c) in the reasonable business judgement of the Investment Manager such additional lending will result in an improved financial condition for such Obligors;

- (d) the consideration for such additional lending will be evidenced in the form of a Special Situation Investment Obligation of equal or higher ranking to the corresponding Collateral Debt Obligation;
- (e) as soon as the Investment Manager has determined in accordance with the Investment Management Agreement that a Special Situation Investment Obligation satisfies the Eligibility Criteria it will be deemed to be a Collateral Debt Obligation for all purposes and shall no longer be classified as a Special Situation Investment Obligation;
- (f) prior to being classified as a Collateral Debt Obligation, all cash and non-cash distributions and sale proceeds in respect of such Special Situation Investment Obligations shall be treated in the same manner as distributions and sale proceeds in respect of Collateral Debt Obligations, as applicable;
- (g) the cumulative aggregate amounts of all investments in Special Situation Investment Obligations, shall not exceed €12,000,000; and
- (h) no Special Situation Investment may be made unless amounts standing to the credit of the Liquidity Reserve Account are at least equal to the Liquidity Reserve Required Balance determined as for the most recent Payment Date.

**"Special Situation Investment Obligation"** means a debt obligation of an Obligor received by the Issuer as consideration for a Special Situation Investment.

**"Spot Rate"** means, with respect to any conversion of any Qualifying Currency into Euro or vice versa:

- (a) the then current spot rate of exchange quoted by the Calculation Agent on the date of calculation, and each Measurement Date, and as approved by the Investment Manager; or
- (b) in respect of conversion of any such amounts which are hedged pursuant to an Asset Swap Transaction, the relevant Asset Swap Transaction Exchange Rate.

**"SP3"** means St. Paul's CLO III Limited.

**"SP3 Collateral"** means the property, assets, rights and benefits described in Condition 4(a)(iii) (*SP3 Collateral*) which are charged and/or assigned to the Trustee from time to time for the benefit of SP3 pursuant to the Trust Deed.

**"SP3 Event of Default"** means a breach by the Issuer of any of its obligations to SP3 under the SP3 Forward Sale Agreement or any other Transaction Document (as applicable).

**"SP3 Forward Sale Agreement"** means the agreement dated on or about 7 November 2013 between the Issuer, the Investment Manager and SP3 pursuant to which SP3 has agreed to purchase and the Issuer has agreed to sell, the SP3 Portfolio, on the SP3 Issue Date (or the Non-Euro Forward Settlement Date in respect of Non-EUR Obligations contained in the SP3 Portfolio) and pursuant to which the parties thereto have agreed that the SP3 Portfolio Unsettled Portion shall, without prejudice to the declaration of trust referred to below, be subject to the sub-participation arrangements granted by the Issuer in favour of SP3 pursuant thereto and all of the Issuer's rights, title and interest in and to the SP3 Collateral shall be subject to a declaration of trust in favour of SP3 thereunder.

**"SP3 Investment Manager"** means the investment manager of SP3 to be appointed pursuant to an investment management agreement to be dated on or about the SP3 Issue Date.

**"SP3 Issue Date"** means 4 December 2013.

**"SP3 Portfolio"** means a portfolio consisting of a part of each Collateral Debt Obligation contained in the Portfolio equal to the Redemption Percentage of each such Collateral Debt Obligation on the Business Day immediately preceding the SP3 Issue Date but excluding all Collateral Debt Obligations the Redemption Percentage of which is contained in the Class S/B

Portfolio (and which shall be comprised of the SP3 Portfolio Settled Portion and the SP3 Portfolio Unsettled Portion and each of which shall be listed in Schedule 1 (*Portfolio Obligations*) of the SP3 Forward Sale Agreement).

**"SP3 Portfolio Ledger"** means each ledger maintained by the Investment Manager (in consultation with the Collateral Administrator) on behalf of the Issuer in respect of each of the Principal Account and the Interest Account and to which the Investment Manager shall credit all amounts received by the Issuer that are attributable to the SP3 Portfolio (including, without limitation, all Principal Proceeds and Interest Proceeds received by the Issuer in respect of the SP3 Portfolio, but excluding any SP3 Portfolio Sale Proceeds) and from which the Investment Manager shall debit all payments made by the Issuer from the Principal Account and the Interest Account, as applicable, to SP3 in accordance with these Conditions and the SP3 Forward Sale Agreement and provided that all amounts received by the Issuer in respect of the SP3 Portfolio that are not Principal Proceeds shall be credited to the Interest Account and the SP3 Portfolio Ledger thereof regardless of whether such amounts constitute Interest Proceeds in respect thereof, such Principal Proceeds being credited to the Principal Account; no amounts received by the Issuer in respect of the SP3 Portfolio shall be credited to any Account other than the Principal Account or the Interest Account.

**"SP3 Portfolio Sale Proceeds"** means the Sale Proceeds received by the Issuer from SP3 on the SP3 Issue Date (or the Non-Euro Forward Settlement Date in respect of Non-EUR Obligations) in consideration of the sale of the SP3 Portfolio by the Issuer to SP3.

**"SP3 Portfolio Settled Portion"** means the portion of the SP3 Portfolio transferred to SP3 on the SP3 Issue Date (or on the Non-Euro Forward Settlement Date in respect of Non-EUR Obligations), and which for the avoidance of doubt shall include all such Collateral Debt Obligations that are bonds, in accordance with the SP3 Forward Sale Agreement.

**"SP3 Portfolio Unsettled Portion"** means the portion of the SP3 Portfolio that is required to be transferred to SP3 pursuant to the SP3 Forward Sale Agreement but which is not transferred on the SP3 Issue Date (or on the Non-Euro Forward Settlement Date in respect of Non-EUR Obligations) and which shall, until such time as each such obligation is so transferred in accordance with the SP3 Forward Sale Agreement, be subject to the sub-participation arrangements set out therein.

**"SP3 Trust Account Amount"** means EUR 5,000,000.

**"SP3 Trust Account"** means an interest-bearing account in the name of the Issuer, held with the Account Bank, the amounts standing to the credit of which shall be subject to a declaration of trust pursuant to the SP3 Forward Sale Agreement in favour of SP3 and shall be retained and applied as set out in the SP3 Forward Sale Agreement and these Conditions.

**"SP3 Trust Termination Date"** means the earlier to occur of (i) the date upon which settlement of the transfer of the final Participated Portfolio Obligation to SP3 is completed pursuant to the SP3 Forward Sale Agreement; and (ii) 5 May 2014.

**"SP3 Trustee"** means Citicorp Trustee Company Limited in its capacity as trustee for the holders of notes issued by SP3 on the SP3 Issue Date and in its capacity as security trustee for such holders and the other secured creditors of SP3.

**"St. Paul's III Notes"** means the notes to be issued by SP3 as described in the Preliminary Prospectus.

**"Stated Maturity"** means, with respect to any Collateral Debt Obligation or Eligible Investment the date specified in such obligation as the fixed date on which the final payment or repayment of principal of such obligation is due and payable.

**"Step-Up Coupon Security"** means a debt security or a loan that (a) does not pay interest over a specified period of time ending prior to its maturity, but which does provide for the payment of interest after the expiration of such specified period or (b) the interest rate of which increases over a specified period of time other than due to the increase of the index relating to a Underlying Instrument that bears interest at a floating rate.



"**Stock Exchange**" means the Irish stock exchange;

"**Subordinated Investment Management Fee**" means the fee payable to the Investment Manager in arrear on each Payment Date in respect of the immediately preceding Due Period pursuant to the Investment Management Agreement (which may be waived or deferred at the Investment Manager's discretion) in an amount, as determined by the Collateral Administrator, equal to 0.35 per cent. per annum (calculated on each Determination Date on the basis of a 360- day year and the actual number of days elapsed in such Due Period) of the Average Aggregate Principal Balance (where for such purpose the Aggregate Principal Balance shall be determined with respect to the EOS Portfolio only).

"**Subscription Agreement**" means the Subscription Agreement between the Issuer, the Initial Purchaser and the Arranger dated on or about 24 August 2010.

"**Substitute Collateral Debt Obligation**" means a Collateral Debt Obligation purchased in substitution for a previously held Collateral Debt Obligation or otherwise purchased with Principal Proceeds or an Alternative Obligation pursuant to the terms of the Investment Management Agreement and which satisfies both the Eligibility Criteria and the Reinvestment Criteria as at the date of the Issuer entering into a binding commitment to acquire such Collateral Debt Obligation.

"**Surplus Proceeds Amount**" has the meaning given to it in clause 1.2 (*Definitions*) of the SP3 Forward Sale Agreement.

"**Target Par Amount**" means €1,412,000,000.

"**TARGET2**" means the 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.

"**Tests Matrices**" means the Moody's Tests Matrix and the Fitch Tests Matrix.

"**Transaction**" means the issue of the Notes, the purchase of the applicable Collateral and the other actions contemplated in the Transaction Documents.

"**Transaction Documents**" means the Trust Deed, the Collateral Administration and Agency Agreement, the Subscription Agreement, the Euroclear Pledge Agreement, the Investment Management Agreement, any Asset Swap Agreement, the Collateral Acquisition Agreements, the Portfolio Sale Agreement, the Incorporated Terms Memorandum, the Administration Agreement, the SP3 Forward Sale Agreement and any document supplemental thereto or issued in connection therewith (in each case as the same may be amended and supplemented from time to time).

"**Transfer Agent**" means Citibank, N.A., London Branch which term shall include any successor or substitute transfer agent.

"**Trustee Fee Cap**" means, (i) in respect of the first Due Period, Trustee Fees and Expenses in an amount not exceeding €175,000 and (ii) thereafter, in respect of each Due Period, Trustee Fees and Expenses in an amount not exceeding €87,500.

"**Trustee Fees and Expenses**" means the fees, expenses, costs, claims, charges, indemnities, disbursements, liabilities and other amounts payable to the Trustee, any agent, delegate or other appointee of the Trustee under the Trust Deed and any receiver pursuant to the Trust Deed or any other Transaction Document from time to time plus any applicable value added tax thereon payable under the Trust Deed.

"**Underlying Instrument**" means the agreements or instruments pursuant to which a Collateral Debt Obligation has been issued or created and each other agreement that governs the terms of, or secures the obligations represented by, such Collateral Debt Obligation or under which the holders or creditors under such Collateral Debt Obligation are the beneficiaries.

**"Unhedged Collateral Debt Obligation"** means any Non-EUR Obligation (i) denominated and drawn in Sterling, U.S. Dollars, Danish Krone, Norwegian Krone, Swedish Krone or Swiss Francs, acquired by or on behalf of the Issuer in the Primary Market which is not an Asset Swap Obligation, or (ii) which was an Asset Swap Obligation but in respect of which the related Asset Swap Transaction has terminated pursuant to the terms thereof following a credit event or a debt restructuring and a resulting termination or principal exchange or for any other reason but only until a Replacement Asset Swap Transaction is entered into in respect of such Non-EUR Obligation.

**"Unredeemed Obligation Purchased Amount"** has the meaning given to it in clause 1.2 (*Definitions*) of the SP3 Forward Sale Agreement.

**"Unsettled Loans Account"** means an interest bearing account in the name of the Issuer with the Account Bank into which the Issuer will procure the deposit on the Closing Date of the Unsettled Loans Proceeds in accordance with Condition 3(l)(x) (*Unsettled Loans Account*).

**"Unsettled Loans Proceeds"** means an amount paid into the Unsettled Loans Account at least equal to the euro equivalent (converted at the Applicable Exchange Rate) of the aggregate purchase price of Initial Collateral Debt Obligations to be sold to the Issuer by the Initial Sellers pursuant to the Portfolio Sale Agreement.

**"Unsold Participated Portfolio Obligation"** has the meaning given to it in the SP3 Forward Sale Agreement.

**"Weighted Average Spread"** as of any Measurement Date will equal an amount (rounded up to the next 0.001 per cent.) determined by (a) multiplying the Principal Balance of each such Collateral Debt Obligation by:

- (a) in the case of Collateral Debt Obligations denominated in Euro which pay interest at a floating rate, the current per annum rate at which it pays interest in excess of Euribor or such other floating rate index upon which such Collateral Debt Obligation bears interest;
- (b) in the case of Collateral Debt Obligations denominated in Euro which pay interest at a fixed rate, the current per annum rate at which it pays interest in excess of the Assumed Swap Rate at such Measurement Date;
- (c) in the case of Asset Swap Obligations, the current per annum rate at which the related Asset Swap Transaction pays interest in excess of Euribor or such other floating rate index upon which the related Asset Swap Transaction pays interest (provided that in relation to a Non-EUR Obligation which is intended to be subject to an Asset Swap Transaction and which the Issuer has entered into a commitment to acquire but which has not yet settled, such obligation will be deemed to fall within this item (iii) and the Investment Manager in its reasonable business judgment, in consultation with the intended Asset Swap Counterparty, will determine the applicable rate of the intended Asset Swap Transaction);
- (d) in the case of Unhedged Collateral Debt Obligations which pay interest at a floating rate, the Relevant Percentage (as specified in either Method 1 or Method 2 as the case may be) of the current per annum rate at which it pays interest in excess of the floating rate index upon which such Unhedged Collateral Debt Obligation bears interest;
- (e) in the case of Unhedged Collateral Debt Obligations which pay interest at a fixed rate, the Relevant Percentage (as specified in either Method 1 or Method 2 as the case may be) of the current per annum rate at which it pays a fixed rate of interest in excess of the applicable Assumed Swap Rate at such Measurement Date; and
- (f) in the case of any Zero-Coupon Securities, zero minus the Applicable Swap Rate,

in each case adjusted for any withholding tax deducted in respect of the relevant obligation which is neither grossed up nor recoverable under any applicable double tax treaty and excluding any interest on Mezzanine Loans or Partial PIK Obligations which the Investment

Manager acting reasonably determines is likely to be deferred and/or paid in kind and/or capitalised on the next due date therefor, and (b) aggregating the amounts determined pursuant to paragraph (a) for all such Collateral Debt Obligations, and (c) dividing such amount by the aggregate of the Principal Balances of all such Collateral Debt Obligations.

**"Written Resolution"** means any Resolution of the Noteholders in writing, as described in Condition 14 (*Meetings of Noteholders, Modification, Waiver and Substitution*) and as further described in, and as defined in, the Trust Deed.

**"Zero-Coupon Security"** means a security or a loan that, at the time of determination, does not make periodic payments of interest.

2. **Form, Denomination, Title and Transfer**

(a) **Form and Denomination**

The Notes are in definitive fully registered form, without interest coupons or principal receipts attached, in the Authorised Denomination. A Definitive Certificate will be issued to each Noteholder in respect of its registered holding or holdings of Notes. Each Definitive Certificate will be numbered serially with an identifying number which will be recorded in the Register which the Issuer shall procure to be kept by the Registrar.

(b) **Title to the Registered Notes**

Title to the Notes passes upon registration of transfers in respect thereof in the Register in accordance with the provisions of the Collateral Administration and Agency Agreement and the Trust Deed. Notes will be transferable only on the books of the Issuer and its agents. The registered holder of any Note will (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it, any writing on it, or its theft or loss) and no person will be liable for so treating the registered holder thereof.

(c) **Transfer**

One or more Notes may be transferred in whole or in part in nominal amounts equal to the Authorised Denomination only upon the surrender, at the specified office of the Registrar or any Transfer Agent, of the Definitive Certificate representing such Note(s) to be transferred, with the form of transfer endorsed on such Definitive Certificate duly completed and executed and together with such other evidence as the Registrar or Transfer Agent may reasonably require. In the case of a transfer of part only of a holding of Notes represented by one Definitive Certificate, a new Definitive Certificate will be issued to the transferee in respect of the part transferred and a further new Definitive Certificate in respect of the balance of the holding not transferred will be issued to the transferor.

(d) **Delivery of New Certificates**

Each new Definitive Certificate to be issued pursuant to Condition 2(c) (*Transfer*) will be available for delivery within five Business Days of receipt of such form of transfer and surrender of the relevant existing Definitive Certificate. Delivery of new Definitive Certificates shall be made at the specified office of the Transfer Agent or of the Registrar, as the case may be, to whom delivery or surrender shall have been made or, at the option of the holder making such delivery or surrender as aforesaid and as specified in the form of transfer or otherwise in writing, shall be mailed by pre-paid first class post, uninsured and at the risk of the holder entitled to the new Definitive Certificate to such address as may be so specified. In this Condition 2(d) (*Delivery of New Certificates*), **"Business Day"** means a day, other than a Saturday or Sunday, on which banks are open for business in the place of the specified office of the relevant Transfer Agent and the Registrar.

(e) **Transfer Free of Charge**

Transfers of Notes and Definitive Certificates representing such Notes in accordance with these Conditions on registration or transfer will be effected without charge by or on behalf of

the Issuer, the Registrar or the Transfer Agents, but upon payment (or the giving of such indemnity as the Issuer, the Registrar or the relevant Transfer Agent may require in respect thereof) of any tax or other governmental charges which may be imposed in relation to it.

(f) **Closed Periods**

No Noteholder may require the transfer of a Note to be registered (i) during the period of 15 calendar days ending on the due date for redemption (in full) of that Note or (ii) during the period of seven calendar days ending on any Record Date.

(g) **Regulations Concerning Transfer and Registration**

All transfers of Notes and entries on the Register will be made subject to the detailed regulations concerning the transfer of Notes scheduled to the Trust Deed, including without limitation, that a transfer of Notes in breach of certain of such regulations will result in such transfer being void *ab initio*. The regulations may be changed by the Issuer in any manner which is reasonably required by the Issuer (after consultation with the Trustee, the Registrar and any Transfer Agent) to reflect changes in legal requirements or in any other manner which, in the opinion of the Issuer (after consultation with the Trustee, the Registrar and any Transfer Agent), is not materially prejudicial to the interests of the holders of the relevant Class of Notes. A copy of the current regulations will be sent by the Registrar to any Noteholder who so requests.

3. **Status**

(a) **Status**

The Notes of each Class constitute direct, general, secured, limited recourse obligations of the Issuer, recourse in respect of which is limited in the manner described in Condition 4(c) (*Limited Recourse*). The Notes of each Class are secured in the manner described in Condition 4(a) (*Security*). Within each Class, the Notes shall at all times rank *pari passu* and without any preference amongst themselves.

(b) **Relationship Among the Classes**

Payments of interest on the Class A Notes will rank senior to payments of interest on each Payment Date in respect of the Class B Notes and the Class S Notes; payments of interest (including Deferred Interest and interest thereon) on the Class B Notes will be subordinated in right of payment to payments of interest in respect of the Class A Notes, but senior in right of payment to payments of amounts in respect of the Class S Notes.

No amount of principal (for the avoidance of doubt, excluding Deferred Interest) in respect of the Class B Notes shall become due and payable until redemption and payment in full of the Class A Notes.

Payments on the Class S Notes are subordinated to payments on the Rated Notes and other amounts described in the Priorities of Payments, and no payments will be made on the Class S Notes until the Rated Notes and other payments ranking prior to the Class S Notes in accordance with the Priorities of Payments are paid in full. Payments on the Class S Subordinated Notes will be subordinated to payments on the Class S Preferred Notes in accordance with the Priorities of Payments.

Payments of interest and principal on the Class S/B Subordinated Notes will be made solely out of (i) in respect of repayment of principal only, SP3 Portfolio Sale Proceeds (for the avoidance of doubt excluding the SP3 Trust Account Amount and any other amounts required to be deducted from such SP3 Portfolio Sale Proceeds pursuant to these Conditions or the SP3 Forward Sale Agreement) in redemption in part of such Notes on the Redemption Date pursuant to Condition 7(i) (*Redemption and Exchange*); (ii) Interest Proceeds, Principal Proceeds and certain other proceeds received by the Issuer in respect of the collection and/or liquidation of the Class S/B Portfolio; and (iii) in the circumstances described in the SP3 Forward Sale Agreement, amounts standing to the credit of the SP3 Trust Account and the Surplus Proceeds Amount.

Payments of interest and principal on the Class A Notes, the Class B Notes and the Class S Notes shall be made solely out of (i) in respect of repayment of Class A Note and Class B Note principal only, SP3 Portfolio Sale Proceeds (excluding the SP3 Trust Account Amount and any other amounts required to be deducted from such SP3 Portfolio Sale Proceeds pursuant to these Conditions or the SP3 Forward Sale Agreement) in redemption in part of such Notes on the Redemption Date pursuant to Condition 7(i) (*Redemption and Exchange*); and (ii) Interest Proceeds, Principal Proceeds and certain other proceeds received by the Issuer in respect of the collection and/or liquidation of the EOS Portfolio in accordance with these Conditions, the Trust Deed, the Investment Management Agreement and the Collateral Administration and Agency Agreement.

(c) **Priorities of Payments**

The Collateral Administrator shall (on the basis of the Payment Date Reports prepared by the Collateral Administrator in consultation with, and based in part upon information provided by, the Investment Manager pursuant to the terms of the Investment Management Agreement no later than two Business Days prior to each Payment Date), on behalf of the Issuer on each Payment Date cause the Account Bank to disburse Interest Proceeds, Principal Proceeds and Collateral Enhancement Obligation Proceeds transferred to the Payment Account on the second Business Day prior thereto (in each case with respect to this Condition 3(c) in respect of such proceeds as are attributable solely to the EOS Portfolio in accordance with these Conditions, the Trust Deed, the Investment Management Agreement, the Collateral Administration and Agency Agreement and any other Transaction Document (as applicable)) in accordance with the Priorities of Payments set out in this Condition 3(c) below and following conversion thereof into Euro or such other currency in which amounts are due (to the extent necessary) at the Spot Rate.

(i) **Interest Priority of Payments**

Interest Proceeds in respect of a Due Period shall, prior to the delivery of an Acceleration Notice, be applied on the Payment Date immediately following such Due Period in the following order of priority:

- (A) in payment of taxes owing by the Issuer as certified by an Authorised Officer of the Issuer to the Trustee (save for any value added tax payable in respect of the Investment Management Fee);
- (B) in payment of due and payable but unpaid Trustee Fees and Expenses up to (when aggregated with other Trustee Fees and Expenses paid from the Expense Reserve Account in the preceding Due Period) an amount equal to the Trustee Fee Cap (provided that for the avoidance of doubt the Trustee Fee Cap shall not apply following the occurrence of an Event of Default until such time as the Event of Default is cured or waived);
- (C) in payment on a pro rata basis of due and payable but unpaid Administrative Expenses in relation to each item thereof, on a pro rata and *pari passu* basis, up to (when aggregated with other Administrative Expenses paid from the Expense Reserve Account in the preceding Due Period) an amount equal to the Senior Expenses Cap in respect of the related Due Period (provided that, for the avoidance of doubt, the Senior Expenses Cap shall not apply following the occurrence of an Event of Default until such time as the Event of Default is cured or waived);
- (D) in crediting to the Expense Reserve Account in an amount necessary to ensure that the balance thereof is equal to the Expense Reserve Required Balance;
- (E) in payment on a pro rata and *pari passu* basis of any Scheduled Periodic Asset Swap Issuer Payment due and payable to any applicable Asset Swap Counterparty in each case to the extent these cannot be paid from funds available in the applicable Asset Swap Account;

- (F) in payment on a pro rata basis to the Investment Manager of the Senior Investment Management Fee due and payable on such Payment Date and any value added tax in respect thereon (whether payable to the Investment Manager or directly to the relevant taxing authority) and, thereafter, to the payment of any Senior Investment Management Fee due and payable but not paid pursuant to this paragraph (F) on any prior Payment Date (by reason of a decision by the Investment Manager to defer such amount or otherwise) and to the payment of any value added tax in respect thereof (whether payable to the Investment Manager or directly to the relevant taxing authority);
- (G) in payment on a pro rata and *pari passu* basis of any Asset Swap Termination Payments due and payable to any Asset Swap Counterparty (other than Defaulted Asset Swap Termination Payments), in each case to the extent these cannot be paid from funds available in the applicable Asset Swap Termination Account;
- (H) in payment on a pro rata and *pari passu* basis of the Interest Amounts due and payable on the Class A Notes;
- (I) for so long as there are Class A Notes outstanding, in crediting to the Liquidity Reserve Account an amount necessary to ensure that the balance thereof is equal to the Liquidity Reserve Required Balance;
- (J) in the event that either of the Class A Coverage Tests are not satisfied on the related Determination Date, to the payment on a pro rata and *pari passu* basis to the redemption of the Class A Notes to the extent necessary to cause each of the Class A Coverage Tests to be met following such payment;
- (K) in payment of (i) on a pro rata and *pari passu* basis the Interest Amounts due and payable on the Class B Notes and thereafter (ii) on a pro rata and *pari passu* basis any Deferred Interest thereon in respect of, and not paid on, any prior Payment Date;
- (L) following redemption in full of the Class A Notes, in crediting to the Liquidity Reserve Account an amount necessary to ensure that the balance thereof is equal to the Liquidity Reserve Required Balance;
- (M) in the event that either of the Class B Coverage Tests is not satisfied on the related Determination Date, to the repayment of the Rated Notes and any Deferred Interest thereon in accordance with the Note Payment Sequence, in each case, to the extent necessary to cause each of the Class B Coverage Tests to be met following such payment;
- (N) in payment on a pro rata and *pari passu* basis of any Asset Swap Replacement Payment due and payable to any replacement Asset Swap Counterparty, in each case, to the extent this cannot be paid from funds available in the applicable Asset Swap Termination Account;
- (O) on each Payment Date following the occurrence of an Effective Date Rating Event which is continuing, to redeem the Rated Notes in accordance with the Note Payment Sequence until redeemed in full or, if earlier, until and to the extent necessary to cause such Effective Date Rating Event to cease to be continuing;
- (P) in payment on a pro rata and *pari passu* basis of Trustee Fees and Expenses (if any) not paid by reason of the Trustee Fee Cap;
- (Q) in payment of Administrative Expenses (if any) not paid by reason of the Senior Expenses Cap, in relation to each item thereof, on a pro rata and *pari passu* basis;

- (R) in the event that, on any Payment Date during the Reinvestment Period, after giving effect to the payment of all amounts payable in respect of paragraphs (A) to (Q) (inclusive), immediately above, if either of the Reinvestment Tests have not been met, at the discretion of the Investment Manager (acting on behalf of the Issuer) (a) to transfer to the Principal Account pending reinvestment in Substitute Collateral Debt Obligations at a later date, in each case in accordance with and subject to the Eligibility Criteria and the Reinvestment Criteria; and/or (b) in repayment of the Rated Notes and any Deferred Interest thereon in accordance with the Note Payment Sequence, in aggregate in an amount equal to the Required Diversion Amount;
- (S) in payment of the Subordinated Investment Management Fee due and payable to the Investment Manager on such Payment Date, and any value added tax thereon (whether payable to the Investment Manager or directly to the relevant taxing authority) and, thereafter, to the payment of any Subordinated Investment Management Fee due and payable but not paid pursuant to this paragraph (S) on any prior Payment Date (by reason of a decision by the Investment Manager to defer such amount or otherwise) and to the payment of any value added tax in respect thereof (whether payable to the Investment Manager or directly to the relevant taxing authority);
- (T) in payment on a pro rata and *pari passu* basis of any Defaulted Asset Swap Termination Payments due and payable to any Asset Swap Counterparty, in each case, to the extent not paid from funds available in the Asset Swap Termination Account;
- (U) to the repayment of any Investment Manager Advances together with the interest accrued thereon, in accordance with the Investment Management Agreement;
- (V) in payment on a pro rata and *pari passu* basis of Interest Amounts due and payable on the Class S Preferred Notes (and thereafter any Deferred Interest thereon in respect of, and not paid on, any prior Payment Date);
- (W) at the discretion of the Investment Manager acting on behalf of the Issuer, save for upon the Payment Date on which the Class S Subordinated Notes are to be redeemed and paid in full to payment into the Collateral Enhancement Account of (i) up to (when aggregated with Investment Manager Advances and payments from the Interest Account to be credited to the Collateral Enhancement Account made in each case during the preceding Due Period) of €500,000 and (ii) up to (when aggregated with Investment Manager Advances and payments from the Interest Account credited to the Collateral Enhancement Account at any time since the Closing Date, and any payments made under this paragraph on prior Payment Dates) a maximum aggregate amount of €5,000,000;
- (X) save for upon the Payment Date on which the Class S Notes are to be redeemed and paid in full, at the discretion of the Investment Manager, to the payment to the Principal Account, for the acquisition of Substitute Collateral Debt Obligations, in accordance with the Eligibility Criteria and the Reinvestment Criteria; and
- (Y) in payment on a pro rata and *pari passu* basis to the Class S Subordinated Notes (apportioned, in the event that the Principal Amount Outstanding of Class S Subordinated Notes is reduced to EUR 1, by reference to the proportion that the Principal Amount Outstanding of Class S Subordinated Notes held by a Noteholder bore to the aggregate Principal Amount Outstanding of all Class S Subordinated Notes immediately prior to the Payment Date on which such reduction occurs).

(ii) **Principal Priority of Payments**

Principal Proceeds in respect of a Due Period shall, prior to the delivery of an Acceleration Notice, be applied on the Payment Date immediately following such Due Period, in the following order of priority:

- (A) in payment on a sequential basis of the amounts referred to in paragraphs (A) to (E) (inclusive) of the Interest Priority of Payments, but only to the extent not paid in full thereunder;
- (B) in payment on a *pari passu* and pro rata basis of any Asset Swap Issuer Principal Exchange Amount due and payable to any Asset Swap Counterparty, in each case to the extent this cannot be paid from funds available in the applicable Asset Swap Account;
- (C) to the payment on a sequential basis of the amounts referred to in paragraphs (F) to (N) (inclusive) (other than any Deferred Interest on the Class B Notes but including interest accrued thereon for the relevant Interest Period) of the Interest Priority of Payments, but only to the extent not paid in full thereunder;
- (D) during the Reinvestment Period, at the discretion of the Investment Manager either (a) to transfer to the Principal Account pending reinvestment in Substitute Collateral Debt Obligations at a later date, in each case in accordance with and subject to the Eligibility Criteria and the Reinvestment Criteria (provided that (a) does not apply to Principal Proceeds which the Investment Manager has failed to reinvest by entering into a binding commitment to acquire a Substitute Collateral Debt Obligation by the first Determination Date falling at least 90 days after receipt of such Principal Proceeds but provided further that in making such determination, Principal Proceeds meeting this criteria will be deemed to have been applied before other Principal Proceeds in making higher ranking payments under the Principal Priority of Payments on such Payment Date); or (b) repayment of the Rated Notes and any Deferred Interest thereon in accordance with the Note Payment Sequence in an amount equal to the Special Redemption Amount (if any) in accordance with Condition 7(d) (*Special Redemption*);
- (E) after the Reinvestment Period or upon any redemption of the Notes in full in accordance with Condition 7 (*Redemption*), in repayment of the Rated Notes and any Deferred Interest thereon in accordance with the Note Payment Sequence;
- (F) in payment on a sequential basis of the amounts referred to in paragraphs (P) and (Q) (inclusive) of the Interest Priority of Payments, but only to the extent not paid in full thereunder;
- (G) in payments on a sequential basis of the amounts referred to in paragraphs (S) to (U) (inclusive) of the Interest Priority of Payments, but only to the extent not paid in full thereunder;
- (H) in payment on a pro rata and *pari passu* basis of Interest Amounts due and payable on the Class S Preferred Notes (and thereafter any Deferred Interest thereon in respect of, and not paid on, any prior Payment Date), to the extent not paid pursuant to the Interest Priority of Payments;
- (I) in payment towards the redemption of the Class S Preferred Notes on a pro rata and *pari passu* basis; and
- (J) in payment on a pro rata and *pari passu* basis to the Class S Subordinated Notes (apportioned, in the event that the Principal Amount Outstanding of Class S Subordinated Notes is reduced to EUR 1, by reference to the proportion that the Principal Amount Outstanding of Class S Subordinated Notes held by a Noteholder bore to the aggregate Principal Amount Outstanding of all Class S



Subordinated Notes immediately prior to the Payment Date on which such reduction occurs).

In addition, no Principal Proceeds will be used to pay interest and/or principal in respect of a subordinated Class of Notes (determined by reference to the Priorities of Payments) on a Payment Date if, after giving effect to such payment, any Par Value Test of a more senior Class of Notes is failing on such Payment Date or would fail as a result of such application of the Principal Proceeds on such Payment Date.

(iii) **Collateral Enhancement Obligation Priority of Payments**

Any Collateral Enhancement Obligation Proceeds received by the Issuer during a Due Period, will prior to the delivery of an Acceleration Notice, on the Payment Date immediately following such Due Period be applied in the following order:

- (A) in repayment of any outstanding Investment Manager Advances together with interest accrued thereon not previously repaid on any prior Payment Date or pursuant to the Interest Priority of Payments on such Payment Date;
- (B) in payment on a pro rata and *pari passu* basis of Interest Amounts due and payable on the Class S Preferred Notes (and thereafter any Deferred Interest thereon in respect of, and not paid on, any prior Payment Date) to the extent not paid pursuant to the Interest Priority of Payments or the Principal Priority of Payments;
- (C) at the discretion of the Investment Manager to be (i) retained in the Collateral Enhancement Account for the purposes of acquiring Collateral Enhancement Obligations or (ii) paid into the Interest Account and/or the Principal Account, as the case may be; and
- (D) in payment on a pro rata and *pari passu* basis to the Class S Subordinated Notes (apportioned, in the event that the Principal Amount Outstanding of Class S Subordinated Notes is reduced to EUR 1, by reference to the proportion that the Principal Amount Outstanding of Class S Subordinated Notes held by a Noteholder bore to the aggregate Principal Amount Outstanding of all Class S Subordinated Notes immediately prior to the Payment Date on which such reduction occurs).

(iv) **Post-Acceleration Priority of Payments**

Following the delivery of an Acceleration Notice, all amounts received or recovered by the Issuer and/or the Trustee (including all amounts standing to the credit of the Accounts other than each Counterparty Downgrade Collateral Account), will be applied to pay the following amounts in the following order:

- (A) in payment of any amounts due and payable to the Initial Sellers pursuant to the Portfolio Sale Agreement;
- (B) in payment of due and payable Trustee Fees and Expenses;
- (C) in payment on a pro rata basis of Administrative Expenses due and payable to any of the Secured Parties in relation to each item thereof, on a pro rata and *pari passu* basis;
- (D) in payment on a pro rata and *pari passu* basis of any Scheduled Periodic Asset Swap Issuer Payments and Asset Swap Issuer Principal Exchange Amounts due and payable to any applicable Asset Swap Counterparty in each case to the extent not paid from funds available in the applicable Asset Swap Account or the applicable Counterparty Downgrade Collateral Account;
- (E) in payment on a pro rata and *pari passu* basis of any Asset Swap Termination Payments due and payable to any Asset Swap Counterparty (other than

- Defaulted Asset Swap Termination Payments), in each case to the extent not paid from funds available in the applicable Asset Swap Termination Account or the applicable Counterparty Downgrade Collateral Account;
- (F) in payment on a pro rata and *pari passu* basis of any Asset Swap Replacement Payment due and payable to any replacement Asset Swap Counterparty, in each case, to the extent not paid from funds available in the applicable Asset Swap Termination Account;
  - (G) in payment on a pro rata basis to the Investment Manager of the Senior Investment Management Fee due and payable and any value added tax in respect thereon (whether payable to the Investment Manager or directly to the relevant taxing authority) and, thereafter, to the payment of any Senior Investment Management Fee due and payable but not paid previously (by reason of a decision by the Investment Manager to defer such amount or otherwise) and to the payment of any value added tax in respect thereof (whether payable to the Investment Manager or directly to the relevant taxing authority);
  - (H) in payment on a pro rata and *pari passu* basis of the Interest Amounts due and payable on the Class A Notes;
  - (I) in payment on a pro rata and *pari passu* basis to the redemption of the Class A Notes;
  - (J) in payment of (i) on a pro rata and *pari passu* basis the Interest Amounts due and payable on the Class B Notes, and thereafter (ii) on a pro rata and *pari passu* basis any Deferred Interest thereon, not previously paid;
  - (K) in payment on a pro rata and *pari passu* basis to the redemption of the Class B Notes;
  - (L) in payment of the Subordinated Investment Management Fee due and payable to the Investment Manager, and any value added tax thereon (whether payable to the Investment Manager or directly to the relevant taxing authority) and, thereafter, to the payment of any Subordinated Investment Management Fee due and payable but not paid previously (by reason of a decision by the Investment Manager to defer such amount or otherwise) and to the payment of any value added tax in respect thereof (whether payable to the Investment Manager or directly to the relevant taxing authority);
  - (M) in payment on a pro rata and *pari passu* basis of any Defaulted Asset Swap Termination Payments due and payable to any Asset Swap Counterparty, in each case, to the extent not paid from funds available in the Asset Swap Termination Account or the applicable Counterparty Downgrade Collateral Account;
  - (N) to the repayment of any Investment Manager Advances together with the interest accrued thereon, in accordance with the Investment Management Agreement;
  - (O) in payment on a pro rata and *pari passu* basis of Interest Amounts due and payable on the Class S Preferred Notes (and thereafter any Deferred Interest thereon not paid previously);
  - (P) in payment towards the redemption of the Class S Preferred Notes on a pro rata and *pari passu* basis; and
  - (Q) in payment on a pro rata and *pari passu* basis to the Class S Subordinated Notes (apportioned, in the event that the Principal Amount Outstanding of Class S Subordinated Notes is reduced to EUR 1, by reference to the proportion that the Principal Amount Outstanding of Class S Subordinated Notes held by a Noteholder bore to the aggregate Principal Amount Outstanding of all Class S

Subordinated Notes immediately prior to the Payment Date on which such reduction occurs).

**(d) Payments in respect of Class S/B Portfolio**

The Collateral Administrator shall, in consultation with the Investment Manager, on behalf of the Issuer on the second Business Day prior to each Class S/B Payment Date cause the Account Bank to disburse Interest Proceeds, Principal Proceeds and all other proceeds transferred to the Payment Account attributable to the Class S/B Portfolio (i) (together with the SP3 Trust Account Amount to the extent not required to be paid to SP3 and any Surplus Proceeds Amount, in each case in accordance with the SP3 Forward Sale Agreement), in respect of any such Principal Proceeds (and, in respect of SP3 Portfolio Sale Proceeds (for the avoidance of doubt excluding the SP3 Trust Account Amount and any other amounts required to be deducted therefrom in accordance with these Conditions and the SP3 Forward Sale Agreement), on the Redemption Date in accordance with Condition 7(i) (*Redemption and Exchange*)), on a *pro rata* and *pari passu* basis toward redemption of the Class S/B Subordinated Notes; and (ii) (other than on the Redemption Date for the purposes of Condition 7(i) (*Redemption and Exchange*)) in respect of any such Interest Proceeds and all other amounts standing to the credit of the Class S/B Portfolio Ledgers and transferred to the Payment Account as described above, to the payment of interest on the Class S/B Subordinated Notes in accordance with Condition 6(a)(iii) (*Class S/B Subordinated Notes*) in each case without regard to the Priorities of Payments.

**(e) Payments in respect of SP3 Portfolio**

The Collateral Administrator shall (in consultation with the Investment Manager) on behalf of the Issuer cause the Account Bank to pay all amounts received by the Issuer attributable to the SP3 Portfolio (for the avoidance of doubt, other than any SP3 Portfolio Sale Proceeds) as soon as is reasonably practicable on the day such amounts are received by the Issuer (or if such day is not a Business Day, on the next following Business Day), to the account specified by SP3 (or the SP3 Trustee) in accordance with the SP3 Forward Sale Agreement (including, without limitation, any Market Value Make Whole Amount and/or other amounts standing to the credit of the SP3 Trust Account to the extent required to be paid to SP3 under the SP3 Forward Sale Agreement).

**(f) Non-payment of Amounts**

Failure on the part of the Issuer to pay the Interest Amounts or Deferred Interest due and payable on the Class B Notes or the Class S Preferred Notes or any amounts due on the Class S Subordinated Notes pursuant to Condition 6 (*Interest*) and the Priorities of Payments or any amounts due on the Class S/B Subordinated Notes in accordance with these Conditions by reason solely that there are insufficient funds standing to the credit of the Payment Account shall not be an Event of Default unless and until, in the case of the Class B Notes only (other than Deferred Interest outstanding at the time of redemption of the Class A Notes in full) (i) such failure continues for a period of least five Business Days and (ii) the Class A Notes have been redeemed in full, save as the result of any deduction therefrom or the imposition of withholding thereon as set forth in Condition 9 (*Taxation*).

**(g) Determination and Payment of Amounts**

The Collateral Administrator (on behalf of the Issuer) will, in consultation with the Investment Manager, on each Determination Date, calculate the amounts payable on the applicable Payment Date pursuant to the Priorities of Payments and otherwise pursuant to these Conditions including, without limitation, in respect of principal and interest due on the Class S/B Subordinated Notes and shall provide the Payment Date Report, determined as of such Determination Date, to the persons entitled thereto pursuant to the Collateral Administration and Agency Agreement not later than 10.00 a.m. (London time) on the second Business Day before the relevant Payment Date. The Account Bank (acting in accordance with the Payment Date Report compiled by the Collateral Administrator on behalf of the Issuer) shall, on behalf of the Issuer not later than 12.00 noon (London time) on the second Business Day preceding each Payment Date, cause the amounts standing to the credit of the Principal Account, and, if

applicable, the Interest Account and the Collateral Enhancement Proceeds Account (together with, to the extent applicable, amounts standing to the credit of any other Account) to the extent required to pay the amounts referred to in the Priorities of Payments which are payable on such Payment Date (or in respect of amounts attributable to the Class S/B Portfolio and certain other amounts in each case in accordance with these Conditions and without regard to the Priorities of Payments on such date), to be transferred to the Payment Account in accordance with Condition 3(l) (*Payments to and from the Accounts*). Payments due to SP3 in respect of amounts attributable to the SP3 Portfolio shall be determined and applied in accordance with Condition 3(e) (*Payments in respect of SP3 Portfolio*) above and otherwise in accordance with these Conditions, the Investment Management Agreement and the SP3 Forward Sale Agreement.

(h) **De Minimis Amounts**

The Collateral Administrator (on behalf of the Issuer) may, in consultation with the Investment Manager, adjust the amounts required to be applied in payment of principal on the Class A Notes, the Class B Notes, the Class S Preferred Notes and the Class S Subordinated Notes from time to time pursuant to the Priorities of Payments so that the amount to be so applied in respect of each Class A Note, Class B Note, Class S Preferred Note and the Class S Subordinated Note is a whole amount, not involving any fraction of a 0.01 Euro or, at the discretion of the Collateral Administrator, part of a Euro.

(i) **Publication of Amounts**

The Collateral Administrator will cause details as to the amounts of interest and principal to be paid, and any amounts of interest payable but which will not be paid, on each Payment Date in respect of the Notes to be notified at the expense of the Issuer to the Issuer, the Trustee, the Principal Paying Agent, the Registrar and the Stock Exchange by no later than 11.00 a.m. (London time) on the second Business Day following the applicable Determination Date and the Principal Paying Agent shall procure that details of such amounts are notified at the expense of the Issuer to the Noteholders of each Class, in accordance with Condition 16 (*Notices*) as soon as possible after notification thereof to the Principal Paying Agent in accordance with the above but in no event later than (to the extent applicable) the third Business Day after the applicable Determination Date.

(j) **Notifications to be Final**

All notifications, opinions, determinations, certificates, quotations and decisions given, expressed, made or obtained or discretions exercised for the purposes of the provisions of this Condition will (in the absence of manifest error) be binding on the Issuer, the Investment Manager, the Collateral Administrator, the Trustee, the Registrar, the Principal Paying Agent, the Paying Agents, the Transfer Agents and all Noteholders and (in the absence of fraud, negligence or wilful default) no liability to the Issuer or the Noteholders shall attach to the Collateral Administrator or Account Bank in connection with the exercise or non-exercise of powers, duties and discretions under this Condition.

(k) **Accounts**

The Issuer shall, prior to the Closing Date, establish the following accounts with the Account Bank or (as the case may be) with the Custodian:

- the Interest Account;
- the Principal Account;
- the Payment Account;
- the Asset Swap Termination Account;
- each Asset Swap Account;
- the Counterparty Downgrade Collateral Account(s);

- the Collateral Enhancement Account;
- the Liquidity Reserve Account;
- the Expense Reserve Account;
- the Unsettled Loans Account;
- the Smoothing Account; and
- the Custody Account.

Each of the Account Bank and the Custodian shall at all times be a financial institution satisfying the Rating Requirement applicable thereto (or whose obligations are guaranteed by an entity satisfying the Rating Requirement applicable thereto) which has the necessary regulatory capacity and licences to perform the services required by the Account Bank or Custodian (as applicable). In the event that the Account Bank or the Custodian at any time fails to satisfy the Rating Requirement, the Issuer shall use reasonable endeavours to procure that a replacement Account Bank or Custodian (as applicable) acceptable to the Trustee, which satisfies the Rating Requirement, is appointed in accordance with the provisions of the Collateral Administration and Agency Agreement.

Amounts standing to the credit of the Accounts (other than the Payment Account and each Counterparty Downgrade Collateral Account) from time to time may be invested by the Investment Manager on behalf of the Issuer in Eligible Investments.

All interest accrued on any of the Accounts from time to time shall be paid into the Interest Account, save to the extent that the Issuer is contractually bound to pay such amounts to a third party. All principal amounts and sale proceeds received in respect of Eligible Investments standing to the credit of any Account from time to time shall be credited to that Account upon maturity, save to the extent that the Issuer is contractually bound to pay such amounts to a third party. All interest accrued on such Eligible Investments (including capitalised interest received upon the sale, maturity or termination of any such investment) shall be paid to the Interest Account as, and to the extent provided, above.

To the extent that any amounts required to be paid into any Account pursuant to the provisions of this Condition are denominated in a currency which is not that in which the Account is denominated, the Investment Manager, acting on behalf of the Issuer, may convert such amounts into the currency of the Account at the Spot Rate of exchange as determined by the Calculation Agent at the direction of the Investment Manager.

Notwithstanding any other provisions of this Condition 3(k) (*Accounts*), all amounts standing to the credit of each of the Accounts (other than (i) the Interest Account, (ii) the Liquidity Reserve Account; (iii) all interest accrued on the Accounts, (iv) all amounts standing to the credit of each Asset Swap Account relating to, or in the nature of, interest, (v) the Collateral Enhancement Account, (vi) the Expense Reserve Account, and (vii) the Smoothing Account) shall be transferred to the Payment Account and shall constitute Principal Proceeds on the second Business Day prior to any redemption of the Notes in full, and all amounts standing to the credit of the Interest Account, together with the other amounts not payable into the Principal Account shall be transferred to the Payment Account as Interest Proceeds on the second Business Day prior to any redemption of the Notes in full except (A) Collateral Enhancement Obligation Proceeds shall be applied in accordance with the Collateral Enhancement Obligation Priority of Payments, and (B) amounts standing to the credit of the Unsettled Loans Account, to the extent such amounts are due to be paid to the Initial Sellers pursuant to the Portfolio Sale Agreement, and (C) amounts in the Counterparty Downgrade Collateral Account shall be paid to the Asset Swap Counterparties to the extent they are entitled to such amounts; provided that references to amounts in this paragraph shall be deemed to refer to amounts attributable solely to the EOS Portfolio. Amounts attributable to the SP3 Portfolio, the Class S/B Portfolio and the SP3 Portfolio Sale Proceeds shall be applied as otherwise provided for in these Conditions.

The Investment Manager on behalf of the Issuer (in consultation with the Collateral Administrator) shall maintain, in accordance with the Investment Management Agreement, the Class S/B Portfolio Ledgers in respect of the Principal Account, the Interest Account and any other Account into which amounts attributable to the Class S/B Portfolio are deposited and shall record by way of credit and debit entries against each Class S/B Portfolio Ledger, the receipt and payment respectively of Principal Proceeds, Interest Proceeds and any other amounts attributable to the Class S/B Portfolio deposited in the applicable Account in accordance with these Conditions and the Investment Management Agreement.

Without limiting the foregoing, the Investment Manager shall credit each Class S/B Portfolio Ledger in connection with amounts received by the Issuer and deposited into the applicable Account attributable to the Class S/B Portfolio (and all rights and interests of the Issuer in relation thereto) and shall debit each Class S/B Portfolio Ledger in connection with amounts paid by the Issuer from the applicable Account (other than the Payment Account) to the Payment Account in accordance with Condition 3(l)(viii) (*Payment Account*) and from the Payment Account to the Class S/B Subordinated Noteholders in payment of principal and interest on the Class S/B Subordinated Notes in accordance with Condition 3(l)(viii) (*Payment Account*) and otherwise in accordance with these Conditions, the Investment Management Agreement and the SP3 Forward Sale Agreement. The Investment Manager shall not make any other payments into or out of any Account in respect of any amounts standing to the credit of the Class S/B Portfolio Ledgers.

Notwithstanding any other provisions of these Conditions, the Investment Manager on behalf of the Issuer (in consultation with the Collateral Administrator) shall, in accordance with the SP3 Forward Sale Agreement and the Investment Management Agreement, identify any Principal Proceeds, Interest Proceeds and all other amounts received by the Issuer that are attributable to the SP3 Portfolio (for the avoidance of doubt excluding any SP3 Portfolio Sale Proceeds) and the Collateral Administrator shall cause the Account Bank to pay all such amounts so received by the Issuer to SP3 (and not to the Payment Account) as soon as is reasonably practicable on the day such amounts are received by the Issuer (or if such day is not a Business Day, on the next following Business Day) into the account specified by SP3 (or the SP3 Trustee) in accordance with the SP3 Forward Sale Agreement.

The Investment Manager on behalf of the Issuer (in consultation with the Collateral Administrator) shall maintain in accordance with the Investment Management Agreement, the SP3 Portfolio Ledgers in respect of the Principal Account and the Interest Account and shall record (in consultation with the Collateral Administrator and as notified by the Custodian) by way of credit and debit entries against each SP3 Portfolio Ledger, the receipt and payment respectively of Principal Proceeds, Interest Proceeds and all other amounts attributable to the SP3 Portfolio deposited in the Principal Account and the Interest Account, as applicable (for the avoidance of doubt excluding any SP3 Portfolio Sale Proceeds) and provided that all amounts received by the Issuer in respect of the SP3 Portfolio other than Principal Proceeds shall be deposited in the Interest Account and credited to the SP3 Portfolio Ledger thereof (Principal Proceeds therefrom shall be deposited in the Principal Account and credited to the SP3 Portfolio Ledger thereof). No amounts received by the Issuer in respect of the SP3 Portfolio shall be credited to any Account other than the Principal Account or the Interest Account.

Without limiting the foregoing, the Investment Manager shall credit each SP3 Portfolio Ledger in connection with amounts received by the Issuer and deposited into the Principal Account and the Interest Account, as applicable attributable to the SP3 Portfolio (for the avoidance of doubt excluding any SP3 Portfolio Sale Proceeds) (and all rights and interests of the Issuer in relation thereto) and shall debit each SP3 Portfolio Ledger in connection with amounts paid by or on behalf of the Issuer from the Principal Account and the Interest Account, as applicable, to the account specified by SP3 (or the SP3 Trustee) subject to and in accordance with the SP3 Forward Sale Agreement and in accordance with the timing of such payments set out above (including, without limitation, with respect to the payment to SP3 of any Market Value Make Whole Amount and/or other amounts standing to the credit of the SP3 Trust Account as required under the SP3 Forward Sale Agreement). The Investment Manager shall not make any other payments into or out of any such Account in respect of any amounts standing to the credit of the SP3 Portfolio Ledgers.

Pursuant to the SP3 Forward Sale Agreement, the Issuer has declared a trust in favour of SP3 over all of the Issuer's rights, title and interest in and to the property, assets, rights and benefits described in Condition 4(a)(iii) (*SP3 Collateral*). The security over the SP3 Collateral granted by the Issuer pursuant to the Trust Deed to secure the Issuer's obligations to SP3 under the SP3 Forward Sale Agreement and the other Secured Obligations owed by the Issuer to SP3, shall be without prejudice to such declaration of trust.

Pursuant to the SP3 Forward Sale Agreement, the Issuer has declared a trust in favour of SP3 as sole beneficiary over the SP3 Trust Account and the SP3 Trust Account Amount standing to the credit thereof (and interest thereon), such amount to be retained by the Issuer and applied in accordance with these Conditions and the SP3 Forward Sale Agreement (including in the circumstances described therein, to SP3).

(l) **Payments to and from the Accounts**

(i) **Principal Account**

The Issuer will procure that the following amounts (without double counting) are paid into the Principal Account promptly upon receipt thereof (provided that all amounts received by the Issuer in respect of the SP3 Portfolio that are not Principal Proceeds shall be credited to the Interest Account and the SP3 Portfolio Ledger thereof regardless of whether such amounts constitute Interest Proceeds in respect thereof, and provided further that no amounts received by the Issuer in respect of the SP3 Portfolio shall be credited to any Account other than the Principal Account or the Interest Account):

- (A) all principal payments received in respect of any Collateral Debt Obligation save for any Non-EUR Obligations, including, without limitation:
  - (1) Scheduled and Unscheduled Principal Proceeds;
  - (2) Recoveries on Defaulted Obligations (to the extent that such recoveries do not exceed the outstanding principal amount of such Defaulted Obligation and Purchased Accrued Interest thereon) and any other principal payments with respect to Collateral Debt Obligations in either case to the extent not included in Sale Proceeds;
  - (3) Deferred interest received in respect of (a) any Mezzanine Loan (other than a Defaulted Deferring Mezzanine Loan) or Partial PIK Obligation which the Investment Manager (acting on behalf of the Issuer) has not designated in its discretion to be Interest Proceeds (other than any Purchased Accrued Interest for which it has no discretion) and (b) any Defaulted Deferring Mezzanine Loan but excluding Defaulted Mezzanine Excess Amounts which shall be payable into the Interest Account unless such amounts have been designated for payment to the Principal Account by the Investment Manager (acting on behalf of the Issuer); and
  - (4) any other principal payments with respect to Collateral Debt Obligations (to the extent not included in the Sale Proceeds);
- (B) any scheduled or unscheduled payments of principal proceeds or Sale Proceeds in respect of Special Situation Investment Obligations;
- (C) all Sale Proceeds received in respect of any Collateral Debt Obligation, including any Non-EUR Obligation (as adjusted in the case of Asset Swap Obligations (and any obligation which ceased to be an Asset Swap Obligation as a result of the Issuer entering into a binding commitment to sell such obligation) for any Asset Swap Counterparty Principal Exchange Amounts or Asset Swap Issuer Principal Exchange Amounts relating to such sale which have been or will be paid to or from the Asset Swap Counterparty from or to the Asset Swap Account before, on or after the date of receiving such Sale Proceeds);

- (D) any Asset Swap Counterparty Principal Exchange Amount (other than initial exchange amounts) received from the Asset Swap Account or Asset Swap Replacement Receipt transferred from the Asset Swap Termination Account (to the extent not required to pay any Asset Swap Termination Payment) or any Asset Swap Termination Receipt to the extent permitted to be transferred to the Principal Account in accordance with Condition 3(l)(v) (*Asset Swap Termination Account*);
- (E) cash amounts (representing any excess standing to the credit of each Asset Swap Account which relates to a specific Asset Swap Transaction after and subject to payment in full of all amounts due to be paid to the applicable Asset Swap Counterparty pursuant to such Asset Swap Transaction) transferred from each Asset Swap Account (in accordance with paragraph (4) of Condition 3(l)(vi) (*Asset Swap Account*)) at the discretion of the Investment Manager, acting on behalf of the Issuer, converted into EUR at the applicable Spot Rate;
- (F) all fees and commissions received in connection with the purchase or sale of any Collateral Debt Obligations (save for any Non-EUR Obligations) or Eligible Investments or the work out or restructuring of any Defaulted Obligations or Collateral Debt Obligations (save for any Non-EUR Obligations);
- (G) all Distributions and Sale Proceeds received in respect of Exchanged Equity Securities;
- (H) all Purchased Accrued Interest received in respect of any Collateral Debt Obligation, save for any Non-EUR Obligation;
- (I) any other amounts received in respect of the Collateral (save for any Non-EUR Obligation) which are not required to be paid into another Account (following conversion thereof into EUR to the extent required at the applicable Spot Rate);
- (J) all amounts payable into the Principal Account pursuant to paragraph (C) of the Collateral Enhancement Obligation Priority of Payments;
- (K) all amounts payable to the Issuer from each Counterparty Downgrade Collateral Account upon termination of an Asset Swap Transaction or following an event of default thereunder save to the extent to be applied towards entering into a Replacement Asset Swap Transaction;
- (L) all proceeds received from any additional issuance of Notes after the Closing Date that are not (i) invested in Collateral Debt Obligations or, in the case of the issue proceeds of additional Class S Notes (ii) paid into the Interest Account at the discretion of the Investment Manager (acting on behalf of the Issuer);
- (M) all amounts payable into the Principal Account not included in any other Account pursuant to this Condition 3(l) (*Payments to and from the Accounts*);
- (N) all amounts payable into the Principal Account pursuant to paragraphs (R) and (X) of the Interest Priority of Payments to the extent such amounts are designated by the Investment Manager either for the purchase of Substitute Collateral Debt Obligations or for deposit into the Principal Account;
- (O) any principal payments representing accreted interest received in respect of any Step-Up Coupon Securities, save for any Non-EUR Obligations;
- (P) any of the amounts received by the Issuer referred to in this Condition 3(l)(i) (*Principal Account*) in respect of any Unhedged Collateral Debt Obligation, which shall be converted by the Collateral Administrator into Euro at the Spot Rate of exchange;
- (Q) any payments from the Unsettled Loans Account specified to be made to the Principal Account;



- (R) any amounts from the Expense Reserve Account which were allocated for the payment of upfront costs but which the Investment Manager deems are no longer required to be so applied;
- (S) any amounts to be paid into the Principal Account pursuant to the Principal Priority of Payments; and
- (T) on the Closing Date an amount equal to approximately €400,000.

The Issuer shall procure payment of the following amounts (and shall ensure that payment of no other amount is made, save to the extent otherwise permitted below and save to the extent otherwise specified in these Conditions in relation to the amounts standing to the credit of the Class S/B Portfolio Ledgers and the SP3 Portfolio Ledgers) out of the Principal Account (without double counting):

- (1) on the second Business Day prior to each Payment Date, all Principal Proceeds standing to the credit of the Principal Account to the Payment Account to the extent required for disbursement pursuant to the Principal Priority of Payments, save for (other than on any date on which the Notes are to be redeemed in full) amounts deposited after the end of the related Due Period and, provided that no such payment shall be made to the extent that such amounts are not required to be distributed pursuant to the Principal Priority of Payments on such Payment Date;
- (2) at any time in accordance with the terms of, and to the extent permitted under, the Investment Management Agreement, in the acquisition of Collateral Debt Obligations (including any payments to the Asset Swap Account of Asset Swap Issuer Principal Exchange Amounts representing initial exchange amounts for payment to the relevant Asset Swap Counterparty in relation to the purchase of an Asset Swap Obligation);
- (3) at any time, to credit to the Asset Swap Termination Account the shortfall by which funds in such account are insufficient to make any Asset Swap Termination Payment (save to the extent that it is a Defaulted Asset Swap Termination Payment) or Asset Swap Replacement Payment, provided that any such transfer to the Asset Swap Termination Account to cover shortfalls in Asset Swap Replacement Payments may only be made if the Aggregate Collateral Balance (less an amount equal to any such shortfall in the Asset Swap Replacement Payment to be made, to the extent such amount would otherwise be included in the Aggregate Collateral Balance) is greater than or equal to the Target Par Amount both immediately prior to and after such transfer;
- (4) at any time during the Reinvestment Period, at the discretion of the Investment Manager (acting on behalf of the Issuer), for the purpose of acquiring Special Situation Investment Obligations in accordance with the requirements set forth in the definition of Special Situation Investment Obligation;
- (5) at any time, to credit to the Asset Swap Account any amounts due to any Asset Swap Counterparty (other than in relation to Scheduled Periodic Asset Swap Issuer Payments) to the extent that amounts already in the Asset Swap Account are insufficient for such purpose;
- (6) on any date after the Effective Date Requirements are met (at the discretion of the Investment Manager) to credit to the Interest Account any amounts previously credited to the Principal Account pursuant to paragraph (T) above which have not been applied or committed towards the acquisition of a Collateral Debt Obligation on or prior to such date, subject to the Aggregate Principal Balance being greater than or equal to the Target Par Amount on such date; and

- (7) at any time, to credit to the Unsettled Loans Account, an amount equal to any shortfall by which amounts standing to the credit of such account are insufficient to make payment of the purchase price due from the Issuer to the Initial Sellers in relation to the acquisition of Collateral Debt Obligations pursuant to the Portfolio Sale Agreement.

(ii) **Interest Account**

The Issuer will procure that the following amounts (without double counting) are credited to the Interest Account promptly upon receipt thereof (provided that all amounts received by the Issuer in respect of the SP3 Portfolio that are not Principal Proceeds shall be credited to the Interest Account and the SP3 Portfolio Ledger thereof regardless of whether such amounts constitute Interest Proceeds in respect thereof, such Principal Proceeds being credited to the Principal Account; no amounts received by the Issuer in respect of the SP3 Portfolio shall be credited to any Account other than the Principal Account or the Interest Account):

- (A) all cash payments of interest (other than any Purchased Accrued Interest) in respect of the Collateral Debt Obligations (save for Non- EUR Obligations) including:
- (1) any deferred interest received in respect of any Mezzanine Loan (other than a Defaulted Deferring Mezzanine Loan) or Partial PIK Obligation which the Investment Manager (acting on behalf of the Issuer) has designated in its discretion to be Interest Proceeds;
  - (2) all amounts received by the Issuer by way of gross-up in respect of such interest and in respect of a claim under any applicable double taxation treaty; and
  - (3) any Defaulted Mezzanine Excess Amounts which have not been designated by the Investment Manager (acting on behalf of the Issuer), in its discretion for payment to the Principal Account;
- (B) all amendment and waiver fees, late payment fees, commitment fees, syndication fees and all other fees and commissions received in connection with any Collateral Debt Obligation (save for any Non-EUR Obligation) or Eligible Investment, save for those received upon sale or purchase of any Collateral Debt Obligation (save for any Non-EUR Obligation) or Eligible Investment and to the extent received in respect of any Defaulted Obligation or the work out or restructuring of any Collateral Debt Obligation (save for any Non-EUR Obligation), which fees and commissions shall be paid into the Principal Account and shall constitute Principal Proceeds;
- (C) all accrued interest included in the proceeds of sale of any Collateral Debt Obligation (save for any Non-EUR Obligation) that is designated by the Investment Manager (acting on behalf of the Issuer) as Interest Proceeds, provided that no such designation may be made in respect of:
- (1) any Purchased Accrued Interest; or
  - (2) any interest received in respect of any Mezzanine Loan for so long as it is a Defaulted Deferring Mezzanine Loan (other than Defaulted Mezzanine Excess Amounts which have not been designated for payment to the Principal Account by the Investment Manager (acting on behalf of the Issuer) in its discretion); or
  - (3) proceeds representing accrued interest received in respect of any Defaulted Obligation (other than a Defaulted Deferring Mezzanine Loan) unless and until (x) the principal of such Defaulted Obligation has been repaid in full and (y) any Purchased Accrued Interest in relation to such Defaulted Obligation has been paid;

- (D) all Scheduled Periodic Asset Swap Counterparty Payments received by the Issuer under an Asset Swap Transaction from the Asset Swap Account;
- (E) cash amounts (representing any excess standing to the credit of each Asset Swap Account which relates to a specific Asset Swap Transaction after and subject to payment in full of all amounts due to be paid to the related Asset Swap Counterparty pursuant to such Asset Swap Transaction) transferred from each Asset Swap Account (in accordance with paragraph (4) of Condition 3(j)(vi) (*Asset Swap Account*)) at the discretion of the Investment Manager, acting on behalf of the Issuer, converted into EUR at the applicable Spot Rate, provided that no such transfer into the Interest Account shall be permitted to the extent that the EUR equivalent of the full amount of the outstanding principal amount (plus any Purchased Accrued Interest) of the related Asset Swap Obligation (as of the date of purchase of such Asset Swap Obligation) has not been paid into the Principal Account in accordance with paragraphs (4) or (6) of Condition 3(l)(vi) (*Asset Swap Accounts*);
- (F) at any time, the proceeds of an Investment Manager Advance, to the extent not applied in the acquisition of, or in respect of any exercise of any option or warrant comprised in, one or more Collateral Enhancement Obligations (in accordance with the terms of the Investment Management Agreement);
- (G) all premiums (including prepayment premiums) receivable upon redemption of any Collateral Debt Obligations at maturity or otherwise or upon exercise of any put or call option in respect thereof which is above the outstanding principal amount of any Collateral Debt Obligation; provided that either (1) the Aggregate Collateral Balance is equal to or greater than the Target Par Amount immediately after such payment (with non-euro amounts converted into Euro at the Spot Rate) or (2) the Class B Par Value Ratio is equal to or greater than 168.05 per cent. after giving effect to such payment;
- (H) all proceeds received from any additional issuance of Class S Notes that are not reinvested or retained for reinvestment in Collateral Debt Obligations or paid into the Principal Account;
- (I) all cash payments in the nature of interest received in respect of any Special Situation Investment Obligations;
- (J) recoveries on Defaulted Obligations to the extent that such recoveries exceed the outstanding principal amount of such Defaulted Obligation and Purchased Accrued Interest thereon;
- (K) any of the amounts referred to in this Condition 3(l)(ii) (*Interest Account*) received in relation to an Unhedged Collateral Debt Obligation which shall be converted by the Collateral Administrator into Euro at the Spot Rate of exchange;
- (L) any payments from the Unsettled Loans Account specified to be made to the Interest Account;
- (M) any Smoothing Semi-Annual Interest Amounts and/or Smoothing Annual Interest Amount to be credited from the Smoothing Accounts; and
- (N) any payments from the Principal Account to be made pursuant to paragraph (6) of Condition 3(l)(i) (*Principal Account*).

The Issuer shall procure payment of the following amounts (and shall ensure that payment of no other amount is made, save to the extent otherwise permitted above and save to the extent otherwise specified in these Conditions in relation to amounts standing to the credit of the Class S/B Portfolio Ledgers and the SP3 Portfolio Ledgers) out of the Interest Account (without double counting):

- (1) on the second Business Day prior to each Payment Date, all Interest Proceeds standing to the credit of the Interest Account shall be transferred to the Payment Account for disbursement pursuant to the Interest Priority of Payments save for (other than on any date on which the Notes are to be redeemed in full) amounts deposited after the end of the related Due Period;
- (2) at any time, subject to insufficient amounts being available in the Collateral Enhancement Account for the acquisition or exercise of any Collateral Enhancement Obligation at such time, amounts required by the Issuer or the Investment Manager (acting on behalf of the Issuer for such purpose at such time), to be deposited into the Collateral Enhancement Account, provided that:
  - (x) each Coverage Test and Reinvestment Test is satisfied if recalculated following any such withdrawal; and
  - (y) provided that 1) the amount of funds withdrawn from the Interest Account pursuant to this paragraph (2) in any Due Period, when aggregated with Investment Manager Advances already credited to the Collateral Enhancement Account in such Due Period shall not exceed €500,000 and 2) the amount of funds withdrawn from the Interest Account pursuant to this paragraph (2) at any time since the Closing Date, when aggregated with Investment Manager Advances already credited to the Collateral Enhancement Account at any time since the Closing Date and amounts paid at item (W) in the Interest Priority of Payments on all previous Payment Dates shall not exceed €5,000,000 as a cumulative maximum aggregate total;
- (3) at any time in accordance with the terms of, and to the extent permitted under, the Investment Management Agreement, in the acquisition of Substitute Collateral Debt Obligations to the extent that any such acquisition costs represent accrued interest;
- (4) at any time, funds may be transferred to any Asset Swap Account (to the relevant segregated sub-account thereof) up to an amount equal to any shortfall in the Balance standing to the credit of such Asset Swap Account with respect to any payment obligation by the Issuer pursuant to paragraph (2) of Condition 3(l)(vi) (*Asset Swap Accounts*) at such time;
- (5) at any time during the Reinvestment Period, at the discretion of the Investment Manager (acting on behalf of the Issuer) for the purpose of acquiring Special Situation Investment Obligations in accordance with the requirements set forth in the definition of Special Situation Investment Obligation;
- (6) at any time any amounts which the Issuer is obliged to pay to the Initial Sellers pursuant to the Portfolio Sale Agreement (other than in relation to the purchase price of Collateral Debt Obligations but including amounts to cover the Initial Sellers' funding costs) will be credited to the Unsettled Loans Account to cover any shortfall that would otherwise occur; and
- (7) any Smoothing Semi-Annual Interest Amounts and/or Smoothing Annual Interest Amount to be credited to the Smoothing Accounts.

(iii) **Expense Reserve Account**

The Expense Reserve Account shall comprise an interest bearing account denominated in EUR. The Issuer will procure that the following amounts (without double counting) are credited to the Expense Reserve Account:

- (A) an amount equal to approximately €3,750,000 representing certain proceeds from the issue of the Notes to be applied towards the payment of amounts due and payable by the Issuer in relation to the issuance of the Notes and to meet ongoing expenses of the Issuer during the first Due Period; and

- (B) subject to the Priorities of Payments, on each Payment Date an amount necessary to ensure that the balance of the Expense Reserve Account is equal to the Expense Reserve Required Balance, in accordance with the Priority of Payments.

The Issuer will procure payment from the Expense Reserve Account (without double counting and shall ensure that payment of no other amount is made, save to the extent otherwise permitted below) of:

- (1) on the Second Business Day prior to each Payment Date, payment of the balance of the Expense Reserve Account (including for the avoidance of doubt, all interest accrued thereon) to the Payment Account for disbursement pursuant to the Interest Priority of Payments except amounts identified by the Investment Manager to be allocated towards the payment of upfront costs (subject to the below paragraph);
- (2) (i) certain upfront fees, costs and expenses incurred on or about the Closing Date in connection with the issue of the Notes or the Transaction Documents and anticipated to be payable by the Issuer and (ii) thereafter certain ongoing fees, costs and expenses subject to in respect of Administrative Expenses, prior to the occurrence of an Event of Default the Senior Expenses Cap or subject to in respect of Trustee Fees and Expenses, prior to the occurrence of an Event of Default the Trustee Fee Cap out of the Expense Reserve Account; and
- (3) any amount standing to the credit of the Expense Reserve Account allocated towards the payment of upfront costs but which the Investment Manager deems are no longer required to be so applied shall be paid into the Principal Account.

(iv) **Liquidity Reserve Account**

The Liquidity Reserve Account shall comprise an account denominated in EUR. The Issuer will procure that the following amounts (without double counting) are credited to the Liquidity Reserve Account:

- (A) on the Closing Date an amount equal to €1,500,000; and
- (B) subject to the Priorities of Payments, on each Payment Date an amount necessary to ensure that the balance of the Liquidity Reserve Account is equal to the Liquidity Reserve Required Balance, in accordance with the Priority of Payments.

The Issuer will procure on the second Business Day prior to each Payment Date, payment of the balance of the Liquidity Reserve Account to the Payment Account for disbursement pursuant to the Interest Priority of Payments.

(v) **Asset Swap Termination Account**

The Asset Swap Termination Account shall be divided into individual segregated sub-accounts. There shall be a segregated sub-account in respect of each Asset Swap Transaction (maintained in euro and the currency of the relevant Asset Swap Obligation) and only the payments specified below in respect of the relevant Asset Swap Transaction shall be paid into and/or out of such sub-account.

The Issuer will procure that the following amounts (without double counting and excluding any amounts which are taken into account in the Sale Proceeds of a sold Asset Swap Obligation, or any obligation which ceased to be an Asset Swap Obligation as a result of the Issuer entering into a binding commitment to sell such obligation, to the extent necessary) are paid into the relevant sub- account of the Asset Swap Termination Account promptly upon receipt:

- (A) all Asset Swap Termination Receipts and Asset Swap Replacement Receipts;

- (B) at any time, from the Principal Account, the shortfall by which funds in the Asset Swap Termination Account are otherwise insufficient to make any Asset Swap Termination Payment (save to the extent that it is a Defaulted Asset Swap Termination Payment) or Asset Swap Replacement Payment payable by the Issuer; and
- (C) all amounts to be transferred to the Asset Swap Termination Account from the Counterparty Downgrade Collateral Account.

The Issuer will procure payment of the following amounts (and shall ensure that payment of no other amount is made) out of the Asset Swap Termination Account (without double counting and excluding any amounts which are taken into account in the Sale Proceeds of a sold Asset Swap Obligation, or any obligation which ceased to be an Asset Swap Obligation as a result of the Issuer entering into a binding commitment to sell such obligation):

- (1) at any time, in the case of any Asset Swap Replacement Receipts paid into an Asset Swap Termination Account, in payment of any Asset Swap Termination Payments due and payable to an Asset Swap Counterparty under the Asset Swap Transaction being replaced or, to the extent not required to make such Asset Swap Termination Payment, to the Principal Account;
- (2) at any time, in the case of any Asset Swap Termination Receipts paid into the Asset Swap Termination Account, in payment of any Asset Swap Replacement Payment in accordance with the Investment Management Agreement, and in the event that:
  - (i) the Asset Swap Termination Receipts available in the Asset Swap Termination Account exceed the cost of entering into a Replacement Asset Swap Transaction; or
  - (ii) the Investment Manager (acting on behalf of the Issuer) determines not to replace the Asset Swap Transaction in respect of which such amounts were received and notification is given to Fitch and Rating Agency Confirmation is received in respect of such determination; or
  - (iii) termination of the Asset Swap Transaction (or part thereof) under which such Asset Swap Termination Receipts are payable occurs on or in respect of a Redemption Date; or
  - (iv) termination of the Asset Swap Transaction (or part thereof) under which such Asset Swap Termination Receipts are payable occurs as a result of the Issuer no longer owning such Asset Swap Obligation or part thereof,

in payment of such amounts, or excess amounts in relation to (i) above, to the Principal Account.

(vi) **Asset Swap Accounts**

The Asset Swap Account shall be divided into individual segregated sub-accounts. There shall be a segregated sub-account in respect of each Asset Swap Transaction and only the payments specified below in respect of the relevant Asset Swap Transaction shall be paid into and/or out of such sub-account.

The Issuer will procure that the following amounts (without double counting and excluding any amounts which are taken into account in the Sale Proceeds of a sold Asset Swap Obligation, or any obligation which ceased to be an Asset Swap Obligation as a result of the Issuer entering into a binding commitment to sell such obligation, except for any Asset Swap Counterparty Principal Exchange Amounts relating to such sale which are paid by the Asset Swap Counterparty before, on or after the date of receiving such Sale Proceeds) are credited to the Asset Swap Accounts and shall, on receipt, be deposited in the relevant segregated sub-accounts within the Asset Swap

Account in respect of, and maintained in euro and the currency of, each such individual Asset Swap Obligation:

- (A) all amounts paid to the Issuer in respect of each Asset Swap Obligation;
- (B) any payments from an Asset Swap Counterparty in respect of principal exchange amounts pursuant to an Asset Swap Transaction;
- (C) amounts transferred to the Asset Swap Account from the Interest Account at any time to the extent of any shortfall in the Balance standing to the credit of the Asset Swap Account in respect of any payment required to be made by the Issuer pursuant to (2) below at such time;
- (D) any amounts to be paid to any Asset Swap Counterparty as an initial exchange amount pursuant to an Asset Swap Transaction, (other than in respect of Asset Swap Obligations to be acquired pursuant to the Portfolio Sale Agreement) and credited to the Asset Swap Account from the Principal Account;
- (E) any amounts to be paid to any Asset Swap Counterparty pursuant to an Asset Swap Transaction in respect of Asset Swap Obligations to be acquired from the Initial Sellers pursuant to the Portfolio Sale Agreement, will be credited to the Asset Swap Account from the Unsettled Loans Account;
- (F) all Scheduled Periodic Asset Swap Counterparty Payments received by the Issuer;
- (G) any interest, accrued upon any Asset Swap Counterparty Principal Exchange Amount, credited from the Unsettled Loans Account, which may be applied in making Scheduled Periodic Asset Swap Issuer Payments (pursuant to (2) below); and
- (H) at any time, amounts transferred from the Principal Account pursuant to paragraph (i)(5) (*Principal Account*) above.

The Issuer will procure payment of the following amounts (without double counting and excluding any amounts which are taken into account in the Sale Proceeds of a sold Asset Swap Obligation, or any obligation which ceased to be an Asset Swap Obligation as a result of the Issuer entering into a binding commitment to sell such obligation, except for any Asset Swap Issuer Principal Exchange Amounts relating to such sale which are paid by the Issuer before, on or after the date of receiving such Sale Proceeds) (and shall ensure that payment of no other amount is made, save to the extent otherwise permitted below) out of the relevant sub-account of the Asset Swap Account:

- (1) at any time, to the extent of any Asset Swap Counterparty Principal Exchange Amounts representing initial exchange amounts, received from an Asset Swap Counterparty in the acquisition of the relevant Asset Swap Obligations (excluding those to be purchased from the Initial Sellers pursuant to the Portfolio Sale Agreement);
- (2) Scheduled Periodic Asset Swap Issuer Payments due to each Asset Swap Counterparty pursuant to each Asset Swap Transaction;
- (3) Asset Swap Issuer Principal Exchange Amounts (including initial exchange amounts) due to each Asset Swap Counterparty pursuant to each Asset Swap Transaction;
- (4) cash amounts (representing any excess standing to the credit of the Asset Swap Account after making provision for any amounts to be paid to any Asset Swap Counterparty pursuant to any Asset Swap Transaction) to the Interest Account or the Principal Account at the discretion of the Investment Manager (acting on behalf of the Issuer) following conversion thereof into EUR at the applicable Spot Rate, provided that no such transfer into the Interest Account shall be

permitted to the extent that the EUR equivalent of the full amount of the outstanding principal amount of the related Asset Swap Obligation (as of the date of purchase of such Asset Swap Obligation) has not been paid into the Principal Account in accordance with this paragraph or paragraph (6) below;

- (5) Scheduled Periodic Asset Swap Counterparty Payments to be credited to the Interest Account promptly upon receipt;
- (6) Asset Swap Counterparty Principal Exchange Amounts, not representing initial exchange amounts, to be credited to the Principal Account promptly upon receipt;
- (7) in the payment to the Unsettled Loans Account of any Asset Swap Counterparty Principal Exchange Amounts representing initial exchange amounts received from an Asset Swap Counterparty pursuant to an Asset Swap Transaction which are to be applied in acquiring Asset Swap Obligations from the Initial Sellers pursuant to the Portfolio Sale Agreement; and
- (8) in the payment to the Unsettled Loans Account of any amounts received in respect of an Asset Swap Obligation corresponding to amounts due and payable to the Initial Sellers pursuant to the Portfolio Sale Agreement.

(vii) **Collateral Enhancement Account**

The Issuer will procure that the following amounts (without double counting) are credited to the Collateral Enhancement Account which shall comprise accounts denominated in each currency in which any Collateral Enhancement Obligation is denominated and amounts shall be paid into and out of each such account in accordance with the currency in which they are denominated:

- (A) at any time, all Collateral Enhancement Obligation Proceeds;
- (B) at any time, any amounts withdrawn from the Interest Account pursuant to Condition 3(1)(ii) (*Interest Account*) for the purposes of the acquisition of, or in respect of any exercise of any option or warrant comprised in, one or more Collateral Enhancement Obligations, subject to the limit specified in such paragraph;
- (C) on each Payment Date, all amounts which the Issuer, or the Investment Manager on its behalf, determines at its discretion shall (i) be applied in payment into the Collateral Enhancement Account pursuant to paragraph (W) of the Interest Priority of Payments, subject to the limit specified in such paragraph, or (ii) be retained in the Collateral Enhancement Account pursuant to paragraph (C) of the Collateral Enhancement Obligation Priority of Payments;
- (D) the proceeds of any Investment Management Advance.

The Issuer will procure payment of the following amounts (and shall ensure that payment of no other amount is made, save to the extent otherwise permitted below and save to the extent otherwise specified in these Conditions in relation to amounts standing to the credit of the Class S/B Portfolio Ledgers) out of the Collateral Enhancement Account (without double counting):

- (1) at any time, in the acquisition of, or in respect of any exercise of any option or warrant comprised in, Collateral Enhancement Obligations, in accordance with the terms of the Investment Management Agreement; and
- (2) on the second Business Day prior to each Payment Date, at the discretion of the Investment Manager, acting on behalf of the Issuer, all or part of the Balance standing to the credit of the Collateral Enhancement Account to the Payment Account for distribution on such Payment Date in accordance with the



Collateral Enhancement Obligation Priority of Payments, following, where applicable, conversion into the requisite currency at the applicable Spot Rate.

(viii) **Payment Account**

The Issuer will procure that, on the second Business Day prior to each Payment Date, all amounts standing to the credit of each of the Accounts which are required to be transferred to the Payment Account pursuant to Condition 3(k) (*Accounts*) and Condition 3(l) (*Payments to and from the Accounts*) are so transferred and, on such Payment Date, the Collateral Administrator (acting on the basis of the Payment Date Report) shall, on behalf of the Issuer, instruct the Account Bank to disburse such amounts in accordance with the Priorities of Payments. No amounts shall be transferred to or withdrawn from the Payment Account at any other time or in any other circumstances, save that all interest accrued on the Payment Account shall be credited to the Interest Account and save in accordance with the paragraphs below.

The Issuer shall procure that on the SP3 Issue Date, all SP3 Portfolio Sale Proceeds received by the Issuer in respect of the disposal of the SP3 Portfolio pursuant to the SP3 Forward Sale Agreement in respect of Collateral Debt Obligations denominated in Euro and on the Non-Euro Forward Settlement Date in respect of all SP3 Portfolio Sale Proceeds received by the Issuer denominated in currencies other than Euro (which, for the avoidance of doubt, shall include all SP3 Portfolio Sale Proceeds in respect of the SP3 Portfolio Settled Portion and the SP3 Portfolio Unsettled Portion) are credited to the Payment Account (in each case, other than the SP3 Trust Account Amount which shall be credited to the SP3 Trust Account in accordance with these Conditions, the SP3 Forward Sale Agreement and the Investment Management Agreement). The Collateral Administrator shall, on behalf of the Issuer, instruct the Account Bank to apply from the Payment Account an amount equal to the SP3 Portfolio Sale Proceeds (other than the SP3 Trust Account Amount) (i) on the SP3 Issue Date in payment of (a) all costs, expenses and other liabilities (including legal fees and swap termination payments in respect of asset swaps relating to the Class S/B Portfolio provided that the Collateral Administrator shall have received copies of all invoices in respect of legal fees and confirmation from the Investment Manager as to swap termination payment amounts) incurred by the parties to the Amendment Documents in connection with the transactions contemplated thereby and by the Exchange and Tabulation Agent pursuant to the Exchange Agency Agreement which shall be deducted and applied on such date in accordance with the definition thereof; and (b) the Non-EOS Expenses Prepayment Amount; and (ii) on the Redemption Date, payment of all swap termination payments in respect of asset swaps relating to the SP3 Portfolio (provided that the Collateral Administrator shall have received confirmation from the Investment Manager as to the amount of each such swap termination payment) and thereafter in redemption of the Redemption Percentage of the Principal Amount Outstanding of the Class A Notes and the Class B Notes (plus accrued interest thereon as at the Redemption Date) and thereafter in redemption in part of the Class S/B Subordinated Notes in accordance with Condition 7(i) (*Redemption and Exchange*), in each case without regard to the Priorities of Payments.

The Collateral Administrator shall (in consultation with the Investment Manager), on behalf of the Issuer, on each Class S/B Payment Date following 16 December 2013, cause the Account Bank to disburse Interest Proceeds, Principal Proceeds and all other amounts transferred to the Payment Account and previously received by the Issuer on the second Business Day before such Class S/B Payment Date (i) (together with the SP3 Trust Account Amount to the extent not required to be paid to SP3 and any Surplus Proceeds Amount in accordance with the SP3 Forward Sale Agreement) in respect of any such Principal Proceeds, on a *pro rata* and *pari passu* basis toward redemption of the Class S/B Subordinated Notes; and (ii) in respect of any such Interest Proceeds and all other amounts so transferred to the Payment Account, to the payment of interest on the Class S/B Subordinated Notes in accordance with Condition 6(a)(iii) (*Class S/B Subordinated Notes*) in each case without regard to the Priorities of Payments; provided that only SP3 Portfolio Sale Proceeds (for the avoidance of doubt

excluding the SP3 Trust Account Amount) shall be applied toward such redemption on the Class S/B Payment Date falling on 16 December 2013.

Notwithstanding the preceding paragraph, all Sale Proceeds received by the Issuer in connection with the sale of Participated Portfolio Obligations pursuant to the Investment Management Agreement and the SP3 Forward Sale Agreement, shall be paid by the Investment Manager (on behalf of the Issuer) to SP3 to such account as shall be designated in writing from time to time in accordance with the SP3 Forward Sale Agreement. The Issuer shall pay to SP3 on the SP3 Trust Termination Date any Market Value Make Whole Amount and any other amounts standing to the credit of the SP3 Trust Account required to be paid to SP3 pursuant to the SP3 Forward Sale Agreement (the balance if any, standing to the credit of the SP3 Trust Account, together with Surplus Sale Proceeds to the extent payable to the Issuer by SP3 pursuant to the SP3 Forward Sale Agreement to be paid to the Issuer and applied in redemption of the Class S/B Subordinated Notes on the immediately following Class S/B Payment Date without regard to the Priorities of Payments).

Notwithstanding any other provisions of these Conditions or the Trust Deed, all references herein and therein to the Class S/B Subordinated Notes being redeemed in full or at their Principal Amount Outstanding shall be deemed to be amended to the extent required to ensure that a minimum of €1 principal amount of each Class S/B Subordinated Note remains outstanding at all times and any amounts which are to be applied in redemption of any Class S/B Subordinated Notes which are in excess of the Principal Amount Outstanding thereof minus €1, shall constitute interest payable in respect of such Class S/B Subordinated Notes and shall not be applied in redemption of the Principal Amount Outstanding thereof, provided always however that such €1 principal shall no longer remain Outstanding and the Class S/B Subordinated Notes shall be redeemed in full on the date on which all of the Class S/B Collateral securing the Class S/B Subordinated Notes has been realised and is to be finally distributed to the Class S/B Subordinated Noteholders.

(ix) **Counterparty Downgrade Collateral Accounts**

The Issuer will procure that all Counterparty Downgrade Collateral transferred pursuant to an Asset Swap Transaction shall be deposited in a segregated account (each such segregated Counterparty Downgrade Collateral Account relating to an individual Asset Swap Counterparty (and a single currency)). All Counterparty Downgrade Collateral so deposited shall be held and released pursuant to the terms of the Asset Swap Transaction in respect of which it was deposited.

The Issuer will procure that (without double counting), in respect of any Counterparty Downgrade Collateral, including, without limitation, all moneys received in respect thereof, all dividends and distributions paid or payable thereon, all property paid, distributed, accruing or offered at any time thereon, thereto, or in respect thereof or in substitution therefor and the proceeds of sale, repayment and redemption thereof will be paid into the relevant Counterparty Downgrade Collateral Account.

The Issuer will be obliged to return to the applicable Asset Swap Counterparty all or (in the case of overcollateralization, to the extent of such overcollateralization) part of the amounts credited to the relevant Counterparty Downgrade Collateral Account if the applicable Asset Swap Counterparty is upgraded so that it satisfies the applicable Rating Requirement and it fulfils all of its obligations then outstanding under the applicable Asset Swap Transaction, or if the Issuer (in the determination of the Valuation Agent as defined in and under the credit support annex to the applicable Asset Swap Agreement) becomes over-collateralised in respect of its exposure to the applicable Asset Swap Counterparty in accordance with the terms of the applicable Asset Swap Transaction and, subject to the immediately following paragraph, until all such amounts have been so returned to the applicable Asset Swap Counterparty, no other payment shall be made from the relevant Counterparty Downgrade Collateral Account.

In the event of a payment default in respect of any applicable Asset Swap Transaction(s) by the applicable Asset Swap Counterparty, any amounts standing to the credit of the Counterparty Downgrade Collateral Account equal to the amount due from the applicable Asset Swap Counterparty to the Issuer as a result of such payment default shall be credited to the Asset Swap Termination Account to the extent to be applied towards entering into a Replacement Asset Swap Transaction, and otherwise be credited to the Principal Account.

(x) **Unsettled Loans Account**

The Issuer will procure that the following amounts (without double counting) are credited to the Unsettled Loans Account:

- (A) on the Closing Date, an amount equal to the Unsettled Loans Proceeds;
- (B) any amounts paid by the Initial Sellers to the Issuer which are attributable to principal amounts received on a prepayment in part or in whole of a Collateral Debt Obligation intended to be sold to the Issuer pursuant to the Portfolio Sale Agreement;
- (C) any amounts paid by the Initial Sellers to the Issuer which are attributable to non-principal amounts (to the extent such amounts exceed any amounts corresponding to the Initial Sellers' cost of funds payable by the Issuer to the relevant Initial Seller in respect of a delayed settlement of a Collateral Debt Obligation pursuant to the Portfolio Sale Agreement) received in relation to a Collateral Debt Obligation intended to be sold to the Issuer pursuant to the Portfolio Sale Agreement;
- (D) amounts from the Expense Reserve Account for the purposes of paying any facility agent, or other agent fees, in relation to the transfer of a Collateral Debt Obligation to the Issuer by the Initial Sellers pursuant to the Portfolio Sale Agreement;
- (E) any Asset Swap Counterparty Principal Exchange Amounts representing initial exchange amounts received from an Asset Swap Counterparty pursuant to an Asset Swap Transaction transferred from the Asset Swap Account for the purposes of acquiring the related Asset Swap Obligations from the Initial Sellers pursuant to the Portfolio Sale Agreement;
- (F) payments credited from the Interest Account pursuant to Condition 3(l)(ii)(6) or the Asset Swap Account pursuant to Condition 3(l)(vi)(7); and
- (G) payments credited from the Principal Account at any time for the purpose of making payment of any shortfall in the purchase price due from the Issuer to the Initial Sellers in relation to the acquisition of Collateral Debt Obligations pursuant to the Portfolio Sale Agreement.

The Issuer shall procure the payment of the following amounts (without double counting) standing to the credit of the Unsettled Loans Account on any day (and not in accordance with the Priorities of Payment or for any other purpose except to the extent provided for below):

- (1) towards the purchase of Collateral Debt Obligations, and other payments due to the Initial Sellers, in accordance with the terms of the Portfolio Sale Agreement;
- (2) towards any facility agent, or other agent fees or expenses, in relation to the transfer of a Collateral Debt Obligation to the Issuer by the Initial Sellers pursuant to the Portfolio Sale Agreement;
- (3) any amounts paid by the Initial Sellers to the Issuer which are attributable to principal amounts received on a prepayment in part or in whole of a Collateral

Debt Obligation intended to be sold to the Issuer pursuant to the Portfolio Sale Agreement, will be transferred to the Principal Account;

- (4) any amounts paid by the Initial Sellers to the Issuer which are attributable to non-principal amounts (to the extent such amounts exceed any compensation payable by the Issuer to the relevant Initial Seller in respect of a delayed settlement of a Collateral Debt Obligation pursuant to the Portfolio Sale Agreement) received in relation to a Collateral Debt Obligation intended to be sold to the Issuer pursuant to the Portfolio Sale Agreement, will be transferred to the Interest Account;
- (5) if the Issuer is, pursuant to the Portfolio Sale Agreement, released from its obligation to apply any amount standing to the credit of the Unsettled Loans Account in acquiring Collateral Debt Obligations from the Initial Sellers (as a result of the Issuer having settled all payments due in relation to the purchase of Collateral Debt Obligations, and no longer being obliged to acquire Collateral Debt Obligations from the Initial Sellers pursuant to the Portfolio Sale Agreement), then any such remaining amounts will be transferred to the Principal Account to be invested in Substitute Collateral Debt Obligations;
- (6) in payment to the Asset Swap Account of amounts to be applied towards the payment of any Asset Swap Issuer Principal Exchange Amounts representing initial exchange amounts due to an Asset Swap Counterparty pursuant to an Asset Swap Transaction in relation to the acquisition of the related Asset Swap Obligation from the Initial Sellers pursuant to the Portfolio Sale Agreement; and
- (7) any interest accrued upon any Asset Swap Counterparty Principal Exchange Amount received by the Issuer into the Unsettled Loans Account will be transferred to the Asset Swap Account to be applied towards payment of the related Scheduled Periodic Asset Swap Issuer Payments.

(xi) **Smoothing Account**

The Smoothing Account shall consist of a euro denominated interest bearing account and other interest bearing accounts denominated in such other currencies as the Investment Manager considers necessary and as may be agreed with the Account Bank.

On the Business Day following each Determination Date (save for: (i) a Determination Date following the occurrence of an Event of Default which is continuing; and (ii) the Determination Date immediately prior to any redemption of the Notes in full) the following amounts shall be credited to the Smoothing Account from the Interest Account (without double counting):

- (A) the Smoothing Semi-Annual Interest Amount; and
- (B) the Smoothing Annual Interest Amount.

The Issuer shall procure the payment of the following amounts (without double counting, and shall ensure that payment of no other amount is made) standing to the credit of the Smoothing Account to the Interest Account:

- (1) on the Business Day falling after the Payment Date following the Determination Date on which any Smoothing Semi-Annual Interest Amount was transferred to the Smoothing Account, such Smoothing Semi-Annual Interest Amount; and
- (2) on each Business Day falling after each of the next three Payment Dates following the Determination Date on which any Smoothing Annual Interest Amount was transferred to the Smoothing Account, an amount equal to one third of such Smoothing Annual Interest Amount.

(xii) **SP3 Trust Account**

The Issuer will procure that the SP3 Trust Account Amount shall be deposited in the SP3 Trust Account out of SP3 Portfolio Sale Proceeds received by the Issuer on the SP3 Issue Date in accordance with the SP3 Forward Sale Agreement. The SP3 Trust Account and the SP3 Trust Account Amount standing to the credit thereof (and interest thereon) shall be subject to a declaration of trust by the Issuer in favour of SP3 as sole beneficiary pursuant to the SP3 Forward Sale Agreement.

Subject to and in accordance with the SP3 Forward Sale Agreement and the Investment Management Agreement, all amounts standing to the credit of the SP3 Trust Account and any Surplus Proceeds Amount shall be applied first, to SP3 in an amount equal to the Market Value Make Whole Amount; secondly, to SP3 in respect of the Unredeemed Obligation Purchased Amount of any Unsold Participated Portfolio Obligations (or part thereof); and thirdly, to the Issuer with respect to any amount remaining in the SP3 Trust Account and any remaining Surplus Proceeds Amount, to the Class S/B Noteholders in redemption *pro rata* and *pari passu* of the Class S/B Subordinated Notes on the immediately following Class S/B Payment Date without regard to the Priorities of Payments.

4. **Security**

(a) **Security**

(i) **EOS Collateral**

Pursuant to the Trust Deed, the obligations of the Issuer under the Notes of each Class (other than the Class S/B Subordinated Notes), the Trust Deed, the Collateral Administration and Agency Agreement and the Investment Management Agreement (together with the obligations owed by the Issuer to the other Secured Parties other than SP3) are secured in favour of the Trustee for the benefit of the Secured Parties (other than the Class S/B Subordinated Noteholders and other than SP3) by (where each reference in paragraphs (A) to (I) below to a Collateral Debt Obligation, Exchanged Equity Security, Collateral Enhancement Obligation, Special Situation Investment Obligation or Eligible Investment or related right or interest held by the Issuer shall be deemed to be a reference to rights and interests attributable solely to the EOS Portfolio (including, without limitation, all amounts received by the Issuer standing to the credit of any Account and attributable to the EOS Portfolio and all of the Issuer's rights under each Transaction Document and in respect of each Asset Swap Transaction and Counterparty Downgrade Collateral in each case to the extent attributable to the EOS Portfolio) in accordance with these Conditions, the Trust Deed, the Investment Management Agreement and the Collateral Administration and Agency Agreement):

- (A) an assignment by way of first fixed security of all the Issuer's present and future right, title and interest (and all entitlements or other benefits relating thereto) in respect of all Collateral Debt Obligations, Exchanged Equity Securities, Collateral Enhancement Obligations, Special Situation Investment Obligations and Eligible Investments standing to the credit of each of the Accounts (other than as provided in the Trust Deed) and any other investments, in each case held by the Issuer from time to time (where such rights are contractual rights other than contractual rights the assignment of which would require the consent of a third party and where such contractual rights arise other than under securities), including, without limitation, moneys received in respect thereof, all dividends and distributions paid or payable thereon, all property paid, distributed, accruing or offered at any time on, to or in respect of or in substitution therefor and the proceeds of sale, repayment and redemption thereof;
- (B) a first fixed charge and first priority security interest granted over all the Issuer's present and future right, title and interest (and all entitlements or other benefits relating thereto) in respect of all Collateral Debt Obligations, Exchanged Equity Securities, Collateral Enhancement Obligations, Special

- Situation Investment Obligations and Eligible Investments standing to the credit of each of the Accounts (other than as provided in the Trust Deed) and any other investments, in each case held by the Issuer (where such assets are securities or contractual rights not assigned by way of security pursuant to paragraph (A) above and which are capable of being the subject of a first fixed charge and first priority security interest), including, without limitation, all moneys received in respect thereof, all dividends and distributions paid or payable thereon, all property paid, distributed, accruing or offered at any time on, to or in respect of or in substitution therefor and the proceeds of sale, repayment and redemption thereof;
- (C) a first fixed charge over all present and future rights of the Issuer in respect of each of the Accounts (other than as provided in the Trust Deed) and all moneys from time to time standing to the credit of the Accounts (other than as provided in the Trust Deed) and the debts represented thereby and including, without limitation, all interest accrued and other moneys received in respect thereof;
  - (D) a first fixed charge and first priority security interest (where the applicable assets are securities) over, or an assignment by way of security (where the applicable rights are contractual obligations) of, all present and future rights of the Issuer in respect of any Counterparty Downgrade Collateral standing to the credit of the Counterparty Downgrade Collateral Account including, without limitation, all moneys received in respect thereof, all dividends and distributions paid or payable thereon, all property paid, distributed, accruing or offered at any time on, to or in respect of or in substitution therefor and the proceeds of sale, repayment and redemption thereof and over the Counterparty Downgrade Collateral Account and all moneys from time to time standing to the credit of the Counterparty Downgrade Collateral Account and the debts represented thereby, subject, in each case, to the rights of any Asset Swap Counterparty to require repayment or redelivery of any such Counterparty Downgrade Collateral pursuant to the terms of the applicable Asset Swap Agreement and to any security interest thereover granted in favour of the Trustee for the benefit of such Asset Swap Counterparty pursuant to the applicable Asset Swap Transaction;
  - (E) an assignment by way of security of all the Issuer's present and future rights against the Custodian under the Collateral Administration and Agency Agreement (to the extent it relates to the Custody Account) and a first fixed charge over all of the Issuer's right, title and interest in and to the Custody Account (including each cash account relating to the Custody Account) and any cash held therein and the debts represented thereby;
  - (F) an assignment by way of security of all the Issuer's present and future rights under each Asset Swap Agreement and each Asset Swap Transaction entered into thereunder (including the Issuer's rights under any guarantee or credit support annex entered into pursuant to any Asset Swap Agreement without prejudice to, and after giving effect to, the netting provisions of such Asset Swap Agreement as set out in section 6 of the ISDA Master Agreement constituting such Asset Swap Agreement, provided that such assignment by way of security shall not in any way restrict the release of collateral granted thereunder in whole or in part at any time pursuant to the terms thereof);
  - (G) an assignment by way of security of all the Issuer's present and future rights under the Transaction Documents (other than (a) the Trust Deed, or (b) to the extent otherwise assigned pursuant to the Trust Deed);
  - (H) a first fixed charge over all moneys held from time to time by the Principal Paying Agent and any other Agent for payment of principal, interest or other amounts on the Notes (other than the Class S/B Subordinated Notes) (if any); and

- (I) a floating charge over the whole of the Issuer's undertaking and assets to the extent that such undertaking and assets are not subject to any other security created pursuant to the Trust Deed, excluding (a) any and all assets, property or rights which are located in, or governed by the laws of, Ireland (except for contractual rights or receivables which are assigned or charged to the Trustee pursuant to (A) to (H) above); (b) amounts standing to the credit of the Issuer Irish Account; and (c) all right, title and interest of the Issuer in and to the SP3 Collateral, the Class S/B Collateral and the SP3 Portfolio Sale Proceeds (including the SP3 Trust Account Amount).

(ii) Class S/B Collateral

Pursuant to the Trust Deed, the obligations of the Issuer under the Class S/B Subordinated Notes are secured in favour of the Trustee for the benefit of the Class S/B Subordinated Noteholders by (where each reference in paragraphs (A) to (F) below to a Collateral Debt Obligation, Exchanged Equity Security, Collateral Enhancement Obligation, Special Situation Investment Obligation or Eligible Investment or related right or interest held by the Issuer shall be deemed to be a reference to rights and interests attributable solely to the Class S/B Portfolio (including, without limitation, all amounts received by the Issuer standing to the credit of any Account and attributable to the Class S/B Portfolio and all of the Issuer's rights under each Transaction Document, in each case to the extent attributable to the Class S/B Portfolio) in accordance with these Conditions, the Trust Deed, the Investment Management Agreement and the Collateral Administration and Agency Agreement):

- (A) an assignment by way of first fixed security of all the Issuer's present and future right, title and interest (and all entitlements or other benefits relating thereto) in respect of all Collateral Debt Obligations, Exchanged Equity Securities, Collateral Enhancement Obligations, Special Situation Investment Obligations and Eligible Investments standing to the credit of each of the Accounts (other than as provided in the Trust Deed) and any other investments, in each case held by the Issuer from time to time (where such rights are contractual rights other than contractual rights the assignment of which would require the consent of a third party and where such contractual rights arise other than under securities), including, without limitation, moneys received in respect thereof, all dividends and distributions paid or payable thereon, all property paid, distributed, accruing or offered at any time on, to or in respect of or in substitution therefor and the proceeds of sale, repayment and redemption thereof;
- (B) a first fixed charge and first priority security interest granted over all the Issuer's present and future right, title and interest (and all entitlements or other benefits relating thereto) in respect of all Collateral Debt Obligations, Exchanged Equity Securities, Collateral Enhancement Obligations, Special Situation Investment Obligations and Eligible Investments standing to the credit of each of the Accounts (other than as provided in the Trust Deed) and any other investments, in each case held by the Issuer (where such assets are securities or contractual rights not assigned by way of security pursuant to paragraph (A) above and which are capable of being the subject of a first fixed charge and first priority security interest), including, without limitation, all moneys received in respect thereof, all dividends and distributions paid or payable thereon, all property paid, distributed, accruing or offered at any time on, to or in respect of or in substitution therefor and the proceeds of sale, repayment and redemption thereof;
- (C) a first fixed charge over all present and future rights of the Issuer in respect of each of the Accounts (other than as provided in the Trust Deed) and all moneys from time to time standing to the credit of the Accounts (other than as provided in the Trust Deed) and the debts represented thereby and including, without limitation, all interest accrued and other moneys received in respect thereof;

- (D) an assignment by way of security of all the Issuer's present and future rights against the Custodian under the Collateral Administration and Agency Agreement (to the extent it relates to the Custody Account) and a first fixed charge over all of the Issuer's right, title and interest in and to the Custody Account (including each cash account relating to the Custody Account) and any cash held therein and the debts represented thereby;
- (E) an assignment by way of security of all the Issuer's present and future rights under the Transaction Documents (other than (a) the Trust Deed, or (b) to the extent otherwise assigned pursuant to the Trust Deed); and
- (F) a first fixed charge over all moneys held from time to time by the Principal Paying Agent and any other Agent for payment of principal, interest or other amounts on the Class S/B Subordinated Notes (if any).

(iii) SP3 Collateral

Pursuant to the Trust Deed, the obligations of the Issuer under the SP3 Forward Sale Agreement and the other Transaction Documents (as applicable) are secured in favour of the Trustee for the benefit of SP3 with effect from the applicable Forward Settlement Date by (where each reference in paragraphs (A) to (E) below to a Collateral Debt Obligation or related right or interest held by the Issuer shall be deemed to be a reference to rights and interests attributable solely to the SP3 Portfolio (including, without limitation, all amounts received by the Issuer standing to the credit of any Account attributable to the SP3 Portfolio and all of the Issuer's rights under each Transaction Document, in each case to the extent attributable to the SP3 Portfolio, but for the avoidance of doubt excluding the SP3 Portfolio Sale Proceeds, which shall be subject to the security granted pursuant to the Trust Deed and described in Condition 4(iv) (*SP3 Portfolio Sale Proceeds*)) in accordance with these Conditions, the SP3 Forward Sale Agreement, the Trust Deed, the Investment Management Agreement, the Collateral Administration and Agency Agreement and the other Transaction Documents (as applicable)):

- (A) an assignment by way of first fixed security of all the Issuer's present and future right, title and interest (and all entitlements or other benefits relating thereto) in respect of all Collateral Debt Obligations in each case held by the Issuer from time to time (where such rights are contractual rights other than contractual rights the assignment of which would require the consent of a third party and where such contractual rights arise other than under securities), including, without limitation, all moneys received in respect thereof, all dividends and distributions paid or payable thereon, all property paid, distributed, accruing or offered at any time on, to or in respect of or in substitution therefor and the proceeds of sale, repayment and redemption thereof;
- (B) a first fixed charge and first priority security interest granted over all the Issuer's present and future right, title and interest (and all entitlements or other benefits relating thereto) in respect of all Collateral Debt Obligations (where such assets are securities or contractual rights not assigned by way of security pursuant to paragraph (A) above and which are capable of being the subject of a first fixed charge and first priority security interest), including, without limitation, all moneys received in respect thereof, all dividends and distributions paid or payable thereon, all property paid, distributed, accruing or offered at any time on, to or in respect of or in substitution therefor and the proceeds of sale, repayment and redemption thereof;
- (C) a first fixed charge over all present and future rights of the Issuer in respect of each of the Accounts and the SP3 Trust Account (without prejudice to the declaration of trust in favour of SP3 pursuant to the SP3 Forward Sale Agreement) (other than as provided in the Trust Deed) and all moneys from time to time standing to the credit of the Accounts and the SP3 Trust Account (without prejudice to the declaration of trust in favour of SP3 pursuant to the



SP3 Forward Sale Agreement) (other than as provided in the Trust Deed) and the debts represented thereby and including, without limitation, all interest accrued and other moneys received in respect thereof;

- (D) an assignment by way of security of all the Issuer's present and future rights against the Custodian under the Collateral Administration and Agency Agreement (to the extent it relates to the Custody Account) and a first fixed charge over all of the Issuer's right, title and interest in and to the Custody Account (including each cash account relating to the Custody Account) and any cash held therein and the debts represented thereby; and
- (E) an assignment by way of security of all the Issuer's present and future rights under the Transaction Documents (other than (a) the Trust Deed, or (b) to the extent otherwise assigned pursuant to the Trust Deed).

Pursuant to the Trust Deed, if, for any reason, the purported assignment by way of security of, and/or the grant of first fixed charge over, the property, assets, rights and/or benefits described above is found to be ineffective in respect of any such property, assets, rights and/or benefits (together, the "**Affected Collateral**"), the Issuer shall hold the benefit of the Affected Collateral and any sums received in respect thereof or any security interest, guarantee or indemnity or undertaking of whatever nature given to secure such Affected Collateral (together, the "**Trust Collateral**") on trust for the Trustee and shall (i) account to the Trustee for or otherwise apply all sums received in respect of such Trust Collateral as the Trustee may direct; (ii) exercise any rights it may have in respect of the Trust Collateral at the direction of the Trustee and (iii) at its own cost take such action and execute such documents as the Trustee may in its sole discretion require. The Trustee has no responsibility for the value, sufficiency or enforceability of any of the Collateral or security created in respect thereof. Pursuant to the SP3 Forward Sale Agreement, the Issuer has declared a trust in favour of SP3 as sole beneficiary over all of the Issuer's rights, title and interest in and to the property, assets, rights and benefits described in Condition 4(a)(iii) (*SP3 Collateral*) (the "**SP3 Trust**"). The trust described in this paragraph and declared pursuant to the Trust Deed is without prejudice to the terms and operation of the SP3 Trust.

(iv) SP3 Portfolio Sale Proceeds

Pursuant to the Trust Deed, the obligations of the Issuer to pay the SP3 Portfolio Sale Proceeds (excluding the SP3 Trust Account Amount, the Non-EOS Expenses Prepayment Amount and net of certain other costs, expenses and liabilities as specified in these Conditions) to the Class A Noteholders, the Class B Noteholders and the Class S/B Subordinated Noteholders on the Redemption Date in accordance with Condition 7(i) (*Redemption and Exchange*), are secured in favour of the Trustee for the benefit of such Noteholders by a first fixed charge over all present and future rights of the Issuer in respect of all moneys representing SP3 Portfolio Sale Proceeds (excluding the SP3 Trust Account Amount, the Non-EOS Expenses Prepayment Amount and net of certain other costs, expenses and liabilities in accordance with these Conditions paid out of such proceeds on the SP3 Issue Date and/or the Redemption Date) and standing to the credit of the Payment Account and the debts represented thereby.

All deeds, documents, assignments, instruments, bonds, notes, negotiable instruments, papers and any other instruments comprising, evidencing, representing and/or transferring the applicable Portfolio and capable of being held by the Custodian will be deposited with or held by or on behalf of the Custodian until the security over such obligations is irrevocably discharged in accordance with the provisions of the Trust Deed. The Custodian shall at all times be a financial institution satisfying the Rating Requirement applicable thereto (or whose obligations are guaranteed by an entity satisfying the Rating Requirement applicable thereto) which has the necessary regulatory capacity and licences to perform the services required by the Custodian. In the event that the ratings of the Custodian are downgraded to below the Rating Requirement or withdrawn, the Issuer shall use reasonable endeavours to procure that a replacement Custodian with the Rating Requirement and who is acceptable to the

Trustee is appointed in accordance with the provisions of the Collateral Administration and Agency Agreement.

Pursuant to the terms of the Trust Deed, the Trustee is exempted from any liability in respect of any loss or theft of the Collateral, from any obligation to insure the Collateral and from any claim arising from the fact that the Collateral is held in a clearing system or in safe custody by the Custodian, a bank or other custodian. The Trustee has no responsibility for ensuring that the Custodian satisfies the Rating Requirement applicable to it or, in the event of its failure to satisfy such Rating Requirement, to procure the appointment of a replacement Custodian. The Trustee has no responsibility for the management of the EOS Portfolio and/or the Class S/B Portfolio by the Investment Manager or to supervise the administration of the EOS Portfolio and/or the Class S/B Portfolio by the Collateral Administrator or any other party and is entitled to rely on the certificates or notices of any relevant party without further enquiry. The Trust Deed also provides that the Trustee shall accept without investigation, requisition or objection such right, benefit, title and interest, if any, as the Issuer may have in and to any of the Collateral and is not bound to make any investigation into the same or into the Collateral in any respect.

Pursuant to the Euroclear Pledge Agreement, the Issuer has also created in favour of the Trustee for the benefit of the Secured Parties a Belgian law pledge over the Collateral Debt Obligations, Collateral Enhancement Obligations, Exchanged Equity Securities and Eligible Investments from time to time held by the Custodian on behalf of the Issuer in Euroclear.

**(b) Application of Proceeds upon Enforcement**

The Trust Deed provides that following the delivery of an Acceleration Notice the net proceeds of realisation of, or enforcement with respect to, the security over the Collateral (other than the security over the SP3 Collateral, the Class S/B Collateral and the SP3 Portfolio Sale Proceeds granted by the Issuer pursuant to the Trust Deed and described in Condition 4(ii) (*Class S/B Collateral*), Condition 4(iii) (*SP3 Collateral*) and Condition 4(iv) (*SP3 Portfolio Sale Proceeds*)) constituted by the Trust Deed shall be applied in accordance with the Post-Acceleration Priority of Payments set out in Condition 3(c)(iv) (*Post-Acceleration Priority of Payments*).

The Trust Deed provides that following the delivery of an Acceleration Notice the proceeds of realisation of, or enforcement with respect to the security over, the Collateral comprising the Class S/B Collateral granted by the Issuer pursuant to the Trust Deed and described in Condition 4(ii) (*Class S/B Collateral*) shall be applied (after application toward payment of, first, the Trustee Fees and Expenses and, secondly, all fees and expenses of the Agents in connection with such enforcement) in redemption on a *pro rata* and *pari passu* basis of the Class S/B Subordinated Notes without regard to the Post-Acceleration Priority of Payments.

The Trust Deed provides that neither the delivery of an Acceleration Notice nor the taking of any Enforcement Action by the Trustee in connection with the security granted by the Issuer over the EOS Collateral or the Class S/B Collateral or the SP3 Portfolio Sale Proceeds pursuant to the Trust Deed and described in Condition 4(ii) (*Class S/B Collateral*), Condition 4(i) (*EOS Collateral*) and Condition 4(iv) (*SP3 Portfolio Sale Proceeds*) shall affect the rights of SP3 or the SP3 Trustee against the Issuer pursuant to the SP3 Forward Sale Agreement or the rights of the Trustee on behalf of SP3 to enforce the security granted by the Issuer over the SP3 Collateral pursuant to the Trust Deed following an SP3 Event of Default.

The Trust Deed provides that following delivery of an Acceleration Notice the proceeds of realisation of, or enforcement with respect to the security over, the SP3 Portfolio Sale Proceeds (for the avoidance of doubt excluding the SP3 Trust Account Amount) granted by the Issuer pursuant to the Trust Deed and described in Condition 4(iv) (*SP3 Portfolio Sale Proceeds*) shall be distributed (after application toward payment of, first, the Trustee Fees and Expenses and, secondly, all fees and expenses of the Agents in connection with such enforcement) firstly to the Class A Noteholders on a *pro rata* and *pari passu* basis in an amount not exceeding the Redemption Percentage of the Principal Amount Outstanding

thereof (plus accrued interest thereon) in accordance with Condition 7(i) (*Redemption and Exchange*), secondly to the Class B Noteholders on a *pro rata* and *pari passu* basis in an amount not exceeding the Redemption Percentage of the Principal Amount Outstanding thereof (plus accrued interest thereon) in accordance with Condition 7(i) (*Redemption and Exchange*) and thirdly, any remaining proceeds to the Class S/B Subordinated Noteholders in redemption of the Class S/B Subordinated Notes on a *pro rata* and *pari passu* basis.

(c) **Limited Recourse**

The obligations of the Issuer to pay amounts due and payable in respect of the Notes and to the other Secured Parties at any time shall be limited to the proceeds available at such time to make such payments in accordance with the Priorities of Payments and otherwise in accordance with these Conditions and any payments which are permitted to be made on a day other than a Payment Date (excluding amounts which the Issuer is contractually bound to pay to a third party). If the net proceeds of realisation of the security constituted by the Trust Deed over the relevant Collateral, upon enforcement thereof in accordance with Condition 11 (*Enforcement*) and the provisions of the Trust Deed are less than the aggregate amount payable in such circumstances by the Issuer in respect of the Notes and to the other Secured Parties secured by such Collateral (such negative amount being referred to herein as a "shortfall"), the obligations of the Issuer in respect of the Notes of each Class and its obligations to the other Secured Parties, in each case secured by such Collateral, in such circumstances will be limited to such net proceeds, which shall be applied in accordance with the Post-Acceleration Priority of Payment and/or otherwise in accordance with these Conditions. In such circumstances, the other assets (including the Issuer Irish Account) of the Issuer will not be available for payment of such shortfall which, in the case of the enforcement of the security over the EOS Collateral, shall be borne by the Class A Noteholders, the Class B Noteholders, the Class S Noteholders, and the other Secured Parties (other than the Class S/B Subordinated Noteholders and SP3) in accordance with the Post-Acceleration Priority of Payments and, in the case of the enforcement of the security over the Class S/B Collateral or the SP3 Collateral, otherwise in accordance with these Conditions, where applicable, applied in reverse order of priority. The rights of the Secured Parties to receive any further amounts in respect of such obligations shall be extinguished and none of the Noteholders of each Class or the other Secured Parties may take any further action to recover such amounts. None of the Noteholders of any Class, the Trustee or the other Secured Parties (nor any other person acting on behalf of any of them) shall be entitled at any time to institute against the Issuer or its directors, officers, successors or assigns, or join in any institution against the Issuer of, any bankruptcy, reorganisation, arrangement, insolvency, winding-up, examinership or liquidation proceedings or other proceedings under any applicable bankruptcy or similar law in connection with any obligations of the Issuer relating to the Notes of any Class, the Trust Deed or otherwise owed to the Secured Parties, save for lodging a claim in the liquidation of the Issuer which is initiated by another non-affiliated party or taking proceedings to obtain a declaration as to the obligations of the Issuer.

None of the Trustee, the Arranger, the Initial Sellers, the Investment Manager, the Collateral Administrator, the Principal Paying Agent, any other Paying Agent, the Registrar, the Account Bank, the Custodian, the Asset Swap Counterparties, SP3 or the Administrator has any obligation to any Noteholder of any Class for payment of any amount by the Issuer in respect of the Notes of any Class.

(d) **Acquisition and Sale of Portfolio**

The Investment Manager is required to manage the EOS Portfolio and the Class S/B Portfolio and to act in specific circumstances in relation to such Portfolios on behalf of the Issuer pursuant to the terms of, and subject to the parameters set out in, the Investment Management Agreement and subject to the overall supervision and control of the Issuer. The duties of the Investment Manager with respect to such Portfolios include (amongst others):

- (i) the purchase of Collateral Debt Obligations pursuant to the Portfolio Sale Agreement;
- (ii) the investment of amounts standing to the credit of the Accounts in Eligible Investments;

- (iii) the sale of certain of the Collateral Debt Obligations and the reinvestment of Principal Proceeds received in Substitute Collateral Debt Obligations in accordance with the criteria set out in the Investment Management Agreement; and
- (iv) the management of the currency hedging strategy (in respect of the EOS Portfolio only).

The Investment Manager is also required to manage the sale and sub-participation of the SP3 Portfolio by the Issuer to SP3 pursuant to the Investment Management Agreement, such sale to occur on the SP3 Issue Date (or for applicable Non-EUR Obligations, the Non-Euro Forward Settlement Date) pursuant to the SP3 Forward Sale Agreement. The Investment Manager is required to monitor the Collateral Debt Obligations with a view to seeking to determine whether any Collateral Debt Obligation has converted into, or been exchanged for an Exchanged Equity Security or Defaulted Obligation, provided that, if it fails to do so, it will not have any liability to the Issuer except by reason of acts or omissions constituting bad faith, wilful misconduct or negligence in the performance of its obligations. No Noteholder shall have any recourse against any of the Issuer, the Investment Manager, the Arranger, the Initial Sellers, the Collateral Administrator, the Account Bank, the Custodian, the Asset Swap Counterparties, the Principal Paying Agent, any other Paying Agent, the Registrar, the Transfer Agents, any Paying Agent or the Trustee for any loss suffered as a result of such failure.

Under the Investment Management Agreement, the holders of the Class S Notes and the Controlling Class have certain rights in respect of the removal of the Investment Manager and appointment of a replacement Investment Manager.

(e) **Exercise of Rights in Respect of the Portfolio**

Pursuant to the Investment Management Agreement, the Issuer authorises the Investment Manager, prior to enforcement of the security over the Collateral (other than the SP3 Collateral), to exercise all rights and remedies of the Issuer in its capacity as a holder of, or person beneficially entitled to, the Portfolio (other than the SP3 Portfolio). In particular, the Investment Manager is authorised, subject to any specific direction given by the Issuer, to attend and vote at any meeting of holders of, or other persons interested or participating in, or entitled to the rights or benefits (or a part thereof) under, the Portfolio (other than the SP3 Portfolio) and to give any consent, waiver, indulgence, time or notification, make any declaration or agree any composition, compounding or other similar arrangement with respect to any obligations forming part of the Portfolio (other than the SP3 Portfolio).

(f) **Information Regarding the Collateral (other than the SP3 Collateral)**

The Issuer shall procure that a copy of each Monthly Report and any Payment Date Report is posted on a secured website at <https://sf.citidirect.com> and such reports are made available on such website to each Noteholder of each Class (who has provided a written request to the Collateral Administrator for access to such reports along with evidence that such Noteholder is a beneficial holder of the Notes), the Trustee, the Arranger, the Investment Manager and each Rating Agency. The Investment Manager (on behalf of the Issuer) will inform the Noteholders, the Trustee, the Arranger, the Collateral Administrator and the Rating Agencies of the occurrence of the Effective Date.

5. **Covenants of and Restrictions on the Issuer**

(a) **Covenants of the Issuer**

Unless otherwise provided and as more fully described in the Trust Deed, the Issuer covenants to the Trustee on behalf of the holders of the Notes that, for so long as any Note remains Outstanding, the Issuer will:

- (i) take such steps as are reasonable to enforce all its rights:
  - (A) under the Trust Deed;

- (B) in respect of the Collateral (other than the SP3 Collateral);
  - (C) under the Collateral Administration and Agency Agreement;
  - (D) under the Investment Management Agreement;
  - (E) under the Administration Agreement;
  - (F) under the Collateral Acquisition Agreements;
  - (G) under the Asset Swap Agreements;
  - (H) under the Portfolio Sale Agreement;
  - (I) under the Euroclear Pledge Agreement (in relation to Collateral Debt Obligations, Collateral Enhancement Obligations, Exchanged Equity Securities and Eligible Investments held in Euroclear); and
  - (J) the SP3 Forward Sale Agreement;
- (ii) comply with its obligations under the Notes, the Trust Deed, the Collateral Administration and Agency Agreement, the Investment Management Agreement and each other Transaction Document to which it is a party;
  - (iii) keep proper books of account in accordance with its obligations under the laws of Ireland (such books to be maintained at the Issuer's registered office) and allow the Trustee and any person appointed by the Trustee, to whom the Issuer shall have no reasonable objection, access to the books of account of the Issuer at all reasonable times during normal business hours and shall send to any such person on request or, if so stipulated, at specified intervals, copies thereof and other supporting documents relating thereto as such person may specify;
  - (iv) at all times maintain its tax residence outside the United Kingdom and the United States and will not establish a branch, agency, permanent establishment (other than the appointment of the Investment Manager pursuant to the Investment Management Agreement and the Collateral Administrator pursuant to the Collateral Administration and Agency Agreement and the process agent pursuant to the process agent appointment letter) or place of business or register as a company in the United Kingdom or the United States;
  - (v) pay its debts generally as they fall due for payment;
  - (vi) do all such things as are necessary to maintain its corporate existence;
  - (vii) use its best endeavours to obtain and maintain the listing on the Stock Exchange of the outstanding Notes of each Class (other than the Class S/B Subordinated Notes). If, however, it is unable to do so, having used such endeavours, or if the maintenance of such listings are agreed by the Trustee to be unduly onerous and the Trustee is satisfied that the interests of the holders of the Outstanding Notes (other than the holders of the Class S/B Subordinated Notes) would not thereby be materially prejudiced, the Issuer will instead use all reasonable endeavours promptly to obtain and thereafter to maintain a listing for such Notes (other than the Class S/B Subordinated Notes) on such other stock exchange(s) as it may (with the approval of the Trustee) decide or failing such decision as the Trustee may reasonably determine;
  - (viii) supply such information to the Rating Agencies as they may reasonably request;
  - (ix) at all times use all reasonable efforts to minimise taxes and any other costs arising in connection with its activities;

- (x) ensure that its "centre of main interests" (as that term is referred to in article 3(1) of Council Regulation (EC) No. 1346/2000 on Insolvency Proceedings) and its tax residence is and remains at all times in Ireland;
- (xi) not cause the Issuer to be engaged, or be deemed to be engaged, in a trade or business in the United States or otherwise subject the Issuer to U.S. federal income tax on a net income basis; and
- (xii) use its best endeavours to maintain the rating of the outstanding Rated Notes of each Class, and in the event that a rating is withdrawn to obtain a rating from another rating agency in place of the withdrawn rating.

(b) **Restrictions on the Issuer**

As more fully described in the Trust Deed, for so long as any of the Notes remain Outstanding, save as contemplated in the Transaction Documents, the Issuer covenants to the holders of such Outstanding Notes that (to the extent applicable) it will not, without the prior written consent of the Trustee:

- (i) sell, factor, discount, transfer, assign, lend or otherwise dispose of any of its right, title or interest in or to the Collateral (other than the SP3 Collateral), other than in accordance with the Investment Management Agreement or these Conditions, nor will it create or permit to be outstanding any mortgage, pledge, lien, charge, encumbrance or other security interest over the Collateral (other than the SP3 Collateral) except in accordance with the Trust Deed, the Euroclear Pledge Agreement or these Conditions;
- (ii) sell, factor, discount, transfer, assign, lend or otherwise dispose of, nor create or permit to be outstanding any mortgage, pledge, lien, charge, encumbrance or other security interest over, any of its other property or assets or any part thereof or interest therein other than in accordance with the Trust Deed or these Conditions;
- (iii) engage in any business other than:
  - (A) acquiring and holding any property, assets or rights that are capable of being effectively charged in favour of the Trustee or that are capable of being held on trust by the Issuer in favour of the Trustee under the Trust Deed;
  - (B) issuing and performing its obligations under the Notes;
  - (C) entering into, exercising its rights and performing its obligations under or enforcing its rights under the Trust Deed, the Collateral Administration and Agency Agreement, the Investment Management Agreement and each other Transaction Document to which it is a party, as applicable; or
  - (D) performing any act incidental to or necessary in connection with any of the above;
- (iv) amend any term or condition of the Notes of any Class (save in accordance with these Conditions of the Notes and the Trust Deed);
- (v) agree to any amendment to any provision of, or grant any waiver or consent under the Trust Deed, the Collateral Administration and Agency Agreement, the Investment Management Agreement or any other Transaction Document to which it is a party, other than in accordance with the provisions of the relevant Transaction Document(s);
- (vi) incur any indebtedness for borrowed money, other than in respect of:
  - (A) the Notes (including the issuance of Additional Notes pursuant to Condition 17 (*Additional Issuances*)) or any document entered into in connection with the Notes or the sale thereof or any Additional Notes or the sale thereof; or
  - (B) as otherwise permitted pursuant to the Trust Deed;

- (vii) amend its constitutional documents;
- (viii) have any subsidiaries or establish any offices, branches or other "establishments" (as that term is used in article 2(h) of Council Regulation (EC) No. 1346/2000 on Insolvency Proceedings) anywhere in the world except as permitted by the Transaction Documents and subject to notification to Fitch and Rating Agency Confirmation;
- (ix) have any employees (for the avoidance of doubt the Directors of the Issuer do not constitute employees);
- (x) enter into any reconstruction, amalgamation, merger or consolidation;
- (xi) convey or transfer all or a substantial part of its properties or assets (in one or a series of transactions) to any person, otherwise than as contemplated in these Conditions;
- (xii) issue any shares (other than such shares as are in issue as at the Closing Date) nor redeem or purchase any of its issued share capital, nor declare or pay any dividends;
- (xiii) enter into any material agreement or contract with any Person (other than an agreement on customary market terms, an agreement with other creditors, a committee of creditors and/or facility agent and/or security agent in connection with the restructuring of a Collateral Debt Obligation, which terms, in each case, do not contain the provisions below) unless such contract or agreement contains "limited recourse" provisions and such Person agrees that, prior to the date that is one year and one day after all the related obligations of the Issuer have been paid in full (or, if longer, the applicable preference period under applicable insolvency law), such Person shall not take any action or institute any proceeding against the Issuer under any insolvency law applicable to the Issuer or which would reasonably be likely to cause the Issuer to be subject to or seek protection of, any such insolvency law; provided that such Person shall be permitted to become a party to and to participate in any proceeding or action under any such insolvency law that is initiated by any other Person other than one of its Affiliates;
- (xiv) otherwise than as contemplated in the Transaction Documents, release from or terminate the appointment of the Trustee under the Trust Deed, the Collateral Administrator, the Custodian or the Account Bank under the Collateral Administration and Agency Agreement, the Investment Manager under the Investment Management Agreement or any Asset Swap Counterparty under any Asset Swap Agreement or the guarantor under any Asset Swap Agreement (including, in each case, any transactions entered into thereunder) or, in each case, from any executory obligation thereunder;
- (xv) enter into any lease in respect of, or own, premises; or
- (xvi) agree to any amendment or restructuring of the terms of a Collateral Debt Obligation which would cause it to become subject to withholding under Sections 1471 or 1472 of the US Internal Revenue Code of 1986, as amended, as introduced by the Hiring Incentives to Restore Employment Act of 2010.

## 6. **Interest**

### (a) **Accrual of interest**

- (i) Class A Notes, Class B Notes and Class S Preferred Notes

The Class A Notes, the Class B Notes and the Class S Preferred Notes each bear interest from (and including) the Closing Date and such interest will be payable quarterly (or, in the case of interest accrued during the initial Interest Period, for the period from (and including) the Closing Date to (but excluding) the Payment Date falling on or about 15 February 2011) in arrear on each Payment Date.

(ii) **Class S Subordinated Notes**

Payments will be made on the Class S Subordinated Notes to the extent funds are available in accordance with paragraph (Y) of Condition 3(c)(i) (*Interest Priority of Payments*), paragraph (J) of Condition 3(c)(ii) (*Principal Priority of Payments*), paragraph (D) of Condition 3(c)(iii) (*Collateral Enhancement Obligation Priority of Payments*) and paragraph (Q) of Condition 3(c)(iv) (*Post- Acceleration Priority of Payments*) (as applicable) on each Payment Date and shall continue to be payable in accordance with this Condition 6 (*Interest*) notwithstanding redemption in full of any Class S Subordinated Note at its applicable Redemption Price. In the event that the aggregate of income and gains earned by the Issuer during an accounting period exceeds the costs and expenses accrued for that period, such excess shall accrue as interest on the Class S Subordinated Notes and (for the avoidance of doubt) shall only be payable on any Payment Date pursuant to the aforementioned paragraphs of the Priorities of Payments on such Payment Date following payment in full of all amounts payable in priority thereto. Notwithstanding any other provisions of the Conditions or the Trust Deed, all references herein and therein to the Class S Subordinated Notes being redeemed in full or at their Principal Amount Outstanding shall be deemed to be amended to the extent required to ensure that a minimum of €1 principal amount of each Class S Subordinated Note remains outstanding at all times and any amounts which are to be applied in redemption of any Class S Subordinated Notes which are in excess of the Principal Amount Outstanding thereof minus €1, shall constitute interest payable in respect of such Class S Subordinated Notes and shall not be applied in redemption of the Principal Amount Outstanding thereof, provided always however that such €1 principal shall no longer remain Outstanding and the Class S Subordinated Notes shall be redeemed in full on the date on which all of the Collateral securing the Class S Subordinated Notes has been realised and is to be finally distributed to the Noteholders.

(iii) **Class S/B Subordinated Notes**

Payments of interest on the Class S/B Subordinated Notes shall be made on each Class S/B Payment Date (other than the Redemption Date under Condition 7(i) (*Redemption and Exchange*)) in an amount equal to the Class S/B Interest Available Funds standing to the credit of the applicable Class S/B Portfolio Ledgers on the second Business Day prior to the relevant Class S/B Payment Date and transferred to the Payment Account for payment on such date in accordance with these Conditions (and without regard to the Priorities of Payments). Notwithstanding any other provisions of these Conditions or the Trust Deed, all references herein and therein to the Class S/B Subordinated Notes being redeemed in full or at their Principal Amount Outstanding shall be deemed to be amended to the extent required to ensure that a minimum of €1 principal amount of each Class S/B Subordinated Note remains outstanding at all times and any amounts which are to be applied in redemption of any Class S/B Subordinated Notes which are in excess of the Principal Amount Outstanding thereof minus €1, shall constitute interest payable in respect of such Class S/B Subordinated Notes and shall not be applied in redemption of the Principal Amount Outstanding thereof, provided always however that such €1 principal shall no longer remain Outstanding and the Class S/B Subordinated Notes shall be redeemed in full on the date on which all of the Class S/B Collateral securing the Class S/B Subordinated Notes has been realised and is to be finally distributed to the Class S/B Subordinated Noteholders.

(b) **Cessation of Interest Accrual**

(i) **Class A Notes, Class B Notes and Class S Preferred Notes**

Each Class A Note, Class B Note and Class S Preferred Note will cease to bear interest from the due date for redemption unless, in each case, payment of principal is improperly withheld or refused. In such event, it shall continue to bear interest in accordance with this Condition 6 (both before and after judgment) until whichever is the earlier of (A) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder and (B) the day following seven



days after the Trustee or the Principal Paying Agent, as applicable, has notified the Noteholders of such Class of Notes in accordance with Condition 16 (Notices) of receipt of all sums due in respect of all the Notes of such Class up to that seventh day (except to the extent that there is failure in the subsequent payment to the relevant holders under these Conditions).

(ii) **Class S Subordinated Notes**

Payments on the Class S Subordinated Notes will cease to be payable in respect of each Class S Subordinated Note upon the date that all of the EOS Collateral has been realised and no Interest Proceeds, Principal Proceeds or Collateral Enhancement Obligation Proceeds remain available for distribution in accordance with the Priorities of Payments.

(c) **Deferral of Interest**

(i) **Deferred Interest**

For so long as any of the Class A Notes remain Outstanding, the Issuer shall only be obliged to pay any Interest Amount payable in respect of the Class B Notes or the Class S Preferred Notes, in full on any Payment Date to the extent that there are Interest Proceeds or Principal Proceeds available for payment thereof in accordance with the Priorities of Payments.

In the case of the Class B Notes, for so long as any of the Class A Notes remain Outstanding, an amount of interest equal to any shortfall in payment of the Interest Amount which would, but for the first paragraph of this Condition 6(c)(i) (*Deferred Interest*) otherwise be due and payable in respect of any of the Class B Notes on any Payment Date (each such amount, together with amounts deferred from any prior Payment Date which remain outstanding, being referred to as "**Deferred Interest**") will not be due and payable on such Payment Date, but will be deferred until the next Payment Date upon which the Issuer has sufficient funds to pay such amount in accordance with the Priorities of Payment, and will accrue interest at the rate of interest applicable to the Class B Notes, and the failure to pay such Deferred Interest to the holders of the Class B Notes will not be an Event of Default until the Maturity Date (whereupon all Deferred Interest on the Class B Notes shall then become immediately due and payable), provided always however that if the Class B Notes are the then Controlling Class, Interest Amounts will no longer be able to be deferred on the Class B Notes (without prejudice to pre-existing Deferred Interest on the Class B Notes which will be deferred until the Issuer has sufficient funds) and failure to pay any Interest Amount due and payable thereon within five Business Days of the Payment Date in full will constitute an Event of Default.

In the case of the Class S Preferred Notes, an amount of interest equal to any shortfall in payment of the Interest Amount which would, but for the first paragraph of this Condition 6(c)(i) (*Deferred Interest*) otherwise be due and payable in respect of any of the Class S Preferred Notes on any Payment Date (each such amount, together with amounts deferred from any prior Payment Date which remain outstanding, being referred to as "**Deferred Interest**") will not be due and payable on such Payment Date, but will be deferred until the next Payment Date upon which the Issuer has sufficient funds to pay such amount in accordance with the Priorities of Payment, and will accrue interest at the rate of interest applicable to the Class S Preferred Notes, and the failure to pay such Deferred Interest to the holders of the Class S Preferred Notes will not be an Event of Default until the Maturity Date (whereupon all Deferred Interest on the Class S Preferred Notes shall then become immediately due and payable).

Interest will cease to accrue on each Note, or in the case of a partial repayment, on such part, from the date of repayment or the respective Maturity Date unless payment of principal is improperly withheld or unless default is otherwise made with respect to such payments of principal. Deferred Interest shall not be included in the Principal

Amount Outstanding of any Note for the purposes of determining any voting rights in respect thereof or applicable quorum at any meeting of Noteholders.

For the avoidance of doubt, a failure by the Issuer to pay amounts to the Class S Subordinated Notes due to it having insufficient funds, in accordance with the Priorities of Payments, will not be an Event of Default.

(ii) **Non-payment of Interest**

Following redemption in full of the Class A Notes, non-payment of interest (excluding for the avoidance of doubt Deferred Interest but including interest on such Deferred Interest for the relevant Interest Period) on the Class B Notes shall constitute an Event of Default following expiry of a five Business Days' grace period pursuant to Condition 10(a)(i) (*Non-payment of interest*).

(d) **Payment of Deferred Interest**

Deferred Interest in respect of any Class B Note and Class S Preferred Note shall only become payable by the Issuer in accordance with the Priorities of Payments and to the extent that amounts are available to make such payment. For as long as the Class B Notes and/or (as applicable) the Class S Preferred Notes, are listed on the Stock Exchange, amounts of Deferred Interest shall be notified to the Stock Exchange as described in Condition 6(g) (Publication of Floating Rates of Interest, Interest Amounts and Deferred Interest) below.

(e) **Floating Rate of Interest**

(i) **Floating Rate of Interest**

The rate of interest from time to time in respect of the Class A Notes (the "**Class A Floating Rate of Interest**"), the Class B Notes (the "**Class B Floating Rate of Interest**") and the Class S Preferred Notes (the "**Class S Preferred Floating Rate of Interest**"), will be determined by the Calculation Agent on the following basis:

(A) On the second Business Day before the beginning of each Interest Period (each, an "**Interest Determination Date**"), the Calculation Agent will determine the offered rate applicable to three month Euro deposits (or in the case of the initial Interest Period, a straight-line interpolation of the offered rate for 5 month and 6 month Euro deposits) as at 11.00 a.m. (London time) on the Interest Determination Date in question. Such offered rate will be that which appears on the relevant display designated as Reuters page EURIBOR01 (or such other page or service as may replace it for the purpose of displaying EURIBOR rates). The Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class S Preferred Floating Rate of Interest (as applicable), for such Interest Period shall be the aggregate of the Applicable Margin (as defined in this Condition below) and the rate which so appears, all as determined by the Calculation Agent.

(B) If the offered rate so appearing is replaced by the corresponding rates of more than one bank then paragraph (A) shall be applied, with any necessary consequential changes, to the arithmetic mean (rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (with 0.000005 being rounded upwards)) of the rates (being at least two) which so appear, as determined by the Calculation Agent. If for any other reason such offered rate does not so appear, or if the relevant page is unavailable, the Calculation Agent will request each of four major banks in the Euro-zone interbank market acting in each case through its principal Euro-zone office (the "**Reference Banks**") to provide the Calculation Agent with its offered quotation to leading banks for Euro deposits in the Euro-zone interbank market for a period of three months (or (a) in the case of the initial Interest Period, a straight-line interpolation of the offered rate for 5 month and 6 month Euro deposits and (b) in the case of the Interest Period immediately prior to the Maturity Date or Redemption Date of

the Notes, a linear interpolation of Euro deposits for such period as shall be appropriate) as at 11.00 a.m. (London time); on the Interest Determination Date in question. The Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class S Preferred Floating Rate of Interest for such Interest Period shall be the aggregate of the Applicable Margin (if any) and the arithmetic mean, in each case, (rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (with 0.000005 being rounded upwards)) of such quotations (or of such of them, being at least two, as are so provided), all as determined by the Calculation Agent.

(C) If on any Interest Determination Date one only or none of the Reference Banks provides such quotation, the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class S Preferred Floating Rate of Interest, respectively, for the next Interest Period shall be the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class S Preferred Floating Rate of Interest, in each case in effect as at the immediately preceding Interest Period.

(D) Where:

"**Applicable Margin**" means:

- (1) in the case of the Class A Notes: 1.10 per cent. per annum;
- (2) in the case of the Class B Notes: 1.50 per cent. per annum; and
- (3) in the case of the Class S Preferred Notes: 5.00 per cent. per annum.

(ii) **Determination of Floating Rate of Interest and Calculation of Interest Amount**

The Calculation Agent (upon notification to and in consultation with the Collateral Administrator if so required) will, as soon as practicable after 11.00 a.m. (London time) on each Interest Determination Date, but in no event later than the second Business Day after such date, determine the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class S Preferred Floating Rate of Interest, and calculate the interest amount payable in respect of each Class A Note, Class B Note and Class S Preferred Note for the relevant Interest Period. The amount of interest which shall include interest accrued on any Deferred Interest (the "**Interest Amount**") payable in respect of each Rated Note and the Class S Preferred Notes shall be calculated by applying the Class A Floating Rate of Interest in the case of the Class A Notes, the Class B Floating Rate of Interest in the case of the Class B Notes and the Class S Preferred Floating Rate of Interest in the case of the Class S Preferred Notes, respectively, to the Principal Amount Outstanding of such Note (plus any Deferred Interest on such Note), multiplying the product by the actual number of days in the Interest Period concerned, divided by 360 and rounding the resultant figure to the nearest €0.01 (€0.005 being rounded upwards).

(f) **Reference Banks and Calculation Agent**

The Issuer will procure that, so long as any Class A Note, Class B Note or Class S Preferred Note remains Outstanding:

- (i) a Calculation Agent shall be appointed and maintained for the purposes of determining the interest rate and interest amount payable in respect of each Class A Note, Class B Note and Class S Preferred Note; and
- (ii) in the event that the Class A Floating Rate of Interest, the Class B Floating Rate of Interest and the Class S Preferred Floating Rate of Interest, are to be calculated by Reference Banks pursuant to paragraph (B) of Condition 6(e)(i) (*Floating Rate of Interest*), that the number of Reference Banks required pursuant to such paragraph (B) are selected.

If the Calculation Agent is unable or unwilling to continue to act as the Calculation Agent for the purpose of calculating interest hereunder or fails duly to establish the Class A Floating Rate of Interest, the Class B Floating Rate of Interest or the Class S Preferred Floating Rate of Interest for any Interest Period, or to calculate the Interest Amount on any Class of Notes, the Issuer shall (with the prior approval of the Trustee) appoint some other leading bank to act as such in its place. The Calculation Agent may not resign its duties without a successor (approved by the Trustee) having been so selected.

(g) **Publication of Floating Rates of Interest, Interest Amounts and Deferred Interest**

The Calculation Agent (on behalf of the Issuer) will cause the Class A Floating Rate of Interest, the Class B Floating Rate of Interest, the Class S Floating Rate of Interest the Interest Amounts payable in respect of each Class of Notes, the amount of any Deferred Interest due but not paid on any Class of Notes for each Interest Period and Payment Date and the Principal Amount Outstanding of each Class of Notes as of the applicable Payment Date to be notified to the Issuer, the Registrar, the Principal Paying Agent, the Paying Agents, the other Agents, the Trustee, the Collateral Administrator and the Investment Manager and, for so long as any Notes are listed on the Stock Exchange, the Stock Exchange as soon as possible after their determination but in no event later than the fourth Business Day thereafter, and the Principal Paying Agent shall cause each such rate, amount and date to be notified to the Noteholders of each Class in accordance with Condition 16 (*Notices*) as soon as possible following notification to the Principal Paying Agent but in no event later than the third Business Day after such notification. The Interest Amounts in respect of each Class of Notes or the Payment Date in respect of any Class of Notes so published may subsequently be amended (or appropriate alternative arrangements made with the consent of the Trustee by way of adjustment) without notice in the event of an extension or shortening of the Interest Period. If any of the Notes become due and payable under Condition 10 (*Events of Default*), interest shall nevertheless continue to be calculated as previously by the Calculation Agent in accordance with this Condition but no publication of the applicable Interest Amounts shall be made unless the Trustee so determines.

(h) **Determination or Calculation by Trustee**

If the Calculation Agent does not at any time for any reason so calculate and/or publish the Class A Floating Rate of Interest, the Class B Floating Rate of Interest or the Class S Preferred Floating Rate of Interest or any Interest Amounts or Deferred Interest for an Interest Period, the Trustee (or a person appointed by it at the cost of the Issuer for the purpose) shall do so and such determination or calculation shall be deemed to have been made by the Calculation Agent and shall be binding on the Noteholders. In doing so, the Trustee, or such person appointed by it, shall apply the foregoing provisions of this Condition, with any necessary consequential amendments, to the extent that, in its opinion, it can do so, and in all other respects it shall do so in such manner as it shall deem fair and reasonable in all the circumstances and reliance on such persons as it has appointed for such purpose. The Trustee shall have no liability to any person in connection with any determination or calculation (including with regard to the timelines thereof) it is required to make or that is made by another person appointed by it pursuant to this Condition 6(h)).

(i) **Notifications, etc. to be Final**

All notifications, opinions, determinations, certificates, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this Condition, whether by the Reference Banks (or any of them), the Calculation Agent or the Trustee, will (in the absence of manifest error) be binding on the Issuer, the Reference Banks, the Calculation Agent, the Trustee, the Registrar, the Principal Paying Agent, the Paying Agents and all Noteholders and no liability to the Issuer or the Noteholders of any Class shall attach to the Reference Banks, the Calculation Agent or the Trustee in connection with the exercise or non-exercise by them of their powers, duties and discretions under this Condition 6(i)).

7. **Redemption**

(a) **Final Redemption**

Save to the extent previously redeemed or cancelled, the Notes of each Class will be redeemed on the Maturity Date of such Notes. In the case of a redemption pursuant to this Condition 7(a), subject to Condition 3(c)(ii) (*Principal Priority of Payments*), the Rated Notes and Class S Preferred Notes will be redeemed at their Principal Amount Outstanding and the Class S Subordinated Notes will be redeemed at the amount equal to their pro rata share of amounts to be applied towards such redemption pursuant to the Priorities of Payment. The Class S/B Subordinated Notes will be redeemed at the amount equal to their *pro rata* share of amounts attributable to the Class S/B Portfolio to be applied towards such redemption upon liquidation thereof (net of any Trustee Fees and Expenses and fees and expenses of the Agents in connection with such liquidation) on the Maturity Date without regard to the Priorities of Payments. Notes may not be redeemed or cancelled other than in accordance with this Condition 7 (*Redemption*) and Clause 4 (*Cancellation of Certificates and Records*) of the Trust Deed.

(b) **Redemption at the Option of the Class S Noteholders**

(A) Subject to the provisions of Condition 7(g) (*Terms and Mechanics of Redemption at the Option of the Class S Noteholders or due to the occurrence of a Note Tax Event*), the Rated Notes of each Class shall be redeemed by the Issuer, in whole but not in part, at the applicable Redemption Prices (including any Make Whole Amount if applicable) from the proceeds of liquidation or realisation of the Collateral (or, if the Class S Notes are not to be redeemed in full on the same date, such portion of the Collateral as the Investment Manager on behalf of the Issuer in its discretion considers appropriate, provided that an amount of the Collateral, the liquidation and/or realisation proceeds of which (together with the amounts referred to in paragraphs (B) and (C) of the definition of Expected Net Proceeds) are at least equal to the Redemption Threshold Amount will be liquidated and/or realised):

- (x) on any Payment Date falling on 15 February, 15 May, 15 August or 15 November (subject to adjustment for non-Business Days in accordance with the definition of "Payment Date") in any year after expiry of the Non-Call Period; or
- (y) on any Payment Date falling on 15 February, 15 May, 15 August or 15 November (subject to adjustment for non-Business Days in accordance with the definition of "Payment Date") in any year on or after the occurrence of a Collateral Tax Event,

in each case by the Class S Noteholders acting by Ordinary Resolution (as evidenced by duly completed Redemption Notices) in accordance with the procedures described in paragraph (B) below.

In addition, the Class S Notes shall be redeemable by the Issuer in whole at their Redemption Price from the proceeds of liquidation or realisation of the Collateral either (1) on the same Redemption Date as all of the other Classes of Notes to be redeemed in whole in accordance with the foregoing if so specified in the Redemption Notices or (2) on the date determined in accordance with paragraph (B) below. In connection with any such redemption in whole of the Rated Notes on any Redemption Date, if the Class S Notes are not redeemed in full on such Redemption Date pursuant to the Redemption Notices referred to above, then the Class S Notes will be redeemed in part on such Redemption Date by application of Principal Proceeds (if any) applied pursuant to the Principal Priority of Payments after redemption in full of the Rated Notes and the payment of any other prior ranking amounts.

(B) If the Class S Notes are not to be redeemed on the same Redemption Date as all of the Rated Notes pursuant to sub-paragraph (A) above, then such Notes shall be redeemed by the Issuer, in whole but not in part, on the earlier of (i) the Maturity Date, and (ii) the Redemption Date specified at the request in writing of the holders of at least 66 $\frac{2}{3}$ % per cent. of the aggregate principal amount of the Class S Notes Outstanding (as evidenced by duly completed.

Redemption Notices in accordance with the procedures described in Condition 7(g) (*Terms and Mechanics of Redemption at the Option of the Class S Noteholders or due to the occurrence of a Note Tax Event*) below, which may be any Payment Date during the Class S Notes Redemption Period.

Redemption of the Class S Notes pursuant to this paragraph (B) shall be made at the applicable Redemption Price and be made from the proceeds of liquidation or realisation of the remaining Collateral. The Issuer shall procure that notice of such redemption, including the applicable Redemption Date, shall be given to the Noteholders in accordance with Condition 16 (*Notices*).

"Class S Notes Redemption Period" means the period starting on and including the Business Day following the date on which the Rated Notes are redeemed pursuant to Condition 7(b)(A) and ending on the Maturity Date.

Provided that, for the avoidance of doubt, no holder of any Class S/B Subordinated Notes issued pursuant to Condition 19 (*Class S/B Subordinated Notes*) shall have any rights pursuant to this Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) and each reference herein to "Collateral" shall be deemed to be a reference solely to the EOS Collateral.

(c) **Redemption upon Breach of Coverage Tests or Reinvestment Tests**

(i) **Class A Coverage Tests**

Following the Closing Date, if any of the Class A Coverage Tests is not met on any Determination Date, Interest Proceeds and thereafter Principal Proceeds will be applied in redemption of the Class A Notes, on the related Payment Date in accordance with and subject to the Priorities of Payments (including payment of all prior ranking amounts) until each such Class A Coverage Test is satisfied if recalculated following such redemption.

(ii) **Class B Coverage Tests**

Following the Closing Date, if either of the Class B Coverage Tests is not met on any Determination Date, Interest Proceeds and thereafter Principal Proceeds will be applied in repayment of the Class A Notes and the Class B Notes (including Deferred Interest thereon), on the related Payment Date in accordance with and subject to the Priorities of Payments (including payment of all prior ranking amounts) and the Note Payment Sequence until each such Class B Coverage Test is satisfied if recalculated following such redemption.

(iii) **Reinvestment Tests**

If on any Payment Date during the Reinvestment Period either Reinvestment Test is not satisfied on the related Determination Date, then, on such Payment Date, Interest Proceeds may be applied, at the discretion of the Investment Manager, in accordance with and subject to the Interest Priority of Payments (including payment of all prior ranking amounts) towards redemption of the Rated Notes (including Deferred Interest thereon) in accordance with the Note Payment Sequence and to the extent of the Required Diversion Amount not paid to the Principal Account for the purchase of Substitute Collateral Debt Obligations.

(d) **Special Redemption**

Principal payments on the Notes (other than the Class S/B Subordinated Notes) shall be made in accordance with the Principal Priority of Payments if, at any time during the Reinvestment Period, the Investment Manager (acting on behalf of the Issuer) is unable, by the first Determination Date falling at least 90 days after receipt of any Principal Proceeds (or of transfer into the Principal Account in relation to amounts from the Unsettled Loans Account) or such shorter period as the Investment Manager may determine in its absolute discretion, to enter into a binding commitment to acquire Substitute Collateral Debt Obligations that are

deemed appropriate by the Investment Manager (acting on behalf of the Issuer) in its discretion which meet the Eligibility Criteria and the Reinvestment Criteria, in sufficient amounts to permit the investment or reinvestment of all such amounts within such period (a "**Special Redemption**"). On the subsequent Payment Date (a "Special Redemption Date"), such amounts to the extent not applied towards paying higher ranking items in the Principal Priority of Payments on such Payment Date (the "**Special Redemption Amount**") will be applied in redemption of the Notes and Deferred Interest thereon in accordance with the Note Payment Sequence (in respect of the Rated Notes).

(e) **Redemption Following Expiry of the Reinvestment Period**

Following expiry of the Reinvestment Period, the Issuer shall, on each Payment Date occurring thereafter, apply Principal Proceeds in redemption of the Notes (other than the Class S/B Subordinated Notes) at their applicable Redemption Prices in accordance with the Note Payment Sequence (in respect of the Rated Notes) and subject to the Priorities of Payments.

(f) **Redemption following Note Tax Event**

Upon the occurrence of a Note Tax Event, the Issuer shall, subject to and in accordance with the terms of the Trust Deed, use all reasonable efforts to change the territory in which it is resident for tax purposes to another jurisdiction which, at the time of such change, would not give rise to a Note Tax Event. Upon the earlier of (a) the date upon which the Issuer notifies (or procures the notification of) the Noteholders that it is not able to effect such change of residence and (b) the date which is 90 days from the date upon which the Issuer first becomes aware of such Note Tax Event (provided that such 90 day period shall be extended by a further 90 days in the event that during the former period the Issuer has notified (or procured the notification of) the Noteholders that, based on advice received by it, it expects that it shall have changed its place of residence by the end of the latter 90 day period), either of the Controlling Class (if payments on the Notes of the Controlling Class are affected by a Note Tax Event) or the Class S Noteholders (if payments on the Class S Notes are affected by a Note Tax Event) (each such Class acting by Extraordinary Resolution) may elect that the Notes of each Class are redeemed, in whole but not in part, on any Payment Date thereafter falling on 15 February, 15 May, 15 August or 15 November in any year (subject to adjustment for non-Business Days in accordance with the definition of "Payment Date"), at their respective Redemption Prices in accordance with the Priorities of Payments, in which case the Issuer shall so redeem the Notes on such terms, provided that such redemption of the Notes, whether pursuant to the exercise of such option by the Controlling Class or the Class S Noteholders, shall take place in accordance with the procedures and conditions set out in Condition 7(g) (*Terms and Mechanics of Redemption at the Option of the Class S Noteholders or due to the occurrence of a Note Tax Event*).

Provided that, for the avoidance of doubt, no holder of any Class S/B Subordinated Notes issued pursuant to Condition 19 (*Class S/B Subordinated Notes*) shall have any rights pursuant to this Condition 7(f) (*Redemption following Note Tax Event*) and references herein to the "Notes" shall be deemed to exclude the Class S/B Subordinated Notes.

(g) **Terms and Mechanics of Redemption at the Option of the Class S Noteholders or due to the occurrence of a Note Tax Event**

(i) **Terms and Conditions of Redemption at the Option of the Class S Noteholders or due to the occurrence of a Note Tax Event**

Redemption under Conditions 7(b) (*Redemption at the Option of the Class S Noteholders*) and 7(f) (*Redemption following Note Tax Event*) shall be subject to the establishment of a reasonable reserve as determined by the Investment Manager on behalf of the Issuer following consultation with the Collateral Administrator for all administrative and other fees and expenses which would be payable in such circumstances under the Priorities of Payments prior to the payment of principal on the Notes of each Class. The Issuer shall procure that notice of such redemption, including the applicable Redemption Date, shall be given to the Noteholders in accordance with Condition 16 (*Notices*) and to Moody's and Fitch. The Investment Manager and the

Collateral Administrator (each acting on behalf of the Issuer) shall have no liability to any person in connection with the adequacy, determination or establishment of any reserve made by it pursuant to this Condition 7(g)(i) (*Terms and Conditions of Redemption at the Option of the Class S Noteholders or due to the occurrence of a Note Tax Event*).

Redemption under Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) other than pursuant to the occurrence of a Collateral Tax Event shall prior to and including the Payment Date falling in May 2014 be subject to the payment of an additional Make Whole Amount (as included in the Redemption Price) to the Rated Noteholders.

Following receipt of notice from the Issuer or, as the case may be, of confirmation from the Registrar or the Principal Paying Agent of receipt of a direction from the Class S Noteholders or Controlling Class (as applicable) acting by Extraordinary Resolution to exercise any right of optional redemption pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) or Condition 7(f) (*Redemption following Note Tax Event*) only, the Collateral Administrator (in consultation with the Investment Manager) shall, as soon as practicable, and in any event not later than 17 Business Days prior to the scheduled Redemption Date (the "**Redemption Determination Date**") calculate the Redemption Threshold Amount. The Investment Manager or any of its Affiliates, or any account managed by the Investment Manager or its Affiliates will be permitted to purchase Collateral Debt Obligations in the Portfolio where the Class S Noteholders or Controlling Class (as applicable) exercise their right of early redemption pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) or Condition 7(f) (*Redemption following Note Tax Event*).

The Rated Notes shall not be optionally redeemed pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) or Condition 7(f) (*Redemption following Note Tax Event*) above unless not less than seven nor more than 15 Business Days before the scheduled Redemption Date two Authorised Officers of the Issuer shall have certified to the Trustee (which shall be entitled to rely on such certificate without further enquiry or liability for so relying) in a form satisfactory to the Trustee that the Expected Net Proceeds from:

- (i) the entry into a binding agreement or agreements for the sale of the Portfolio with:
  - (A) one or more financial institutions (which term shall include for the avoidance of doubt any entity or institution which has issued or is to issue notes secured on a portfolio of collateral loan or debt securities) which (or whose guarantor under such obligations) has a short-term senior unsecured credit rating from Moody's of "P-1" and an issuer default rating from Fitch of "F1+", or, if no such short-term rating or issuer default rating is available from Moody's or Fitch respectively, has a long-term senior unsecured credit rating from Moody's of at least "Aa2" and, as the case may be, Fitch of "AA", or if neither such rating is available from such Rating Agency, in respect of which notification is given to Fitch and Rating Agency Confirmation has been received; and/or
  - (B) subject in each case to Rating Agency Confirmation, one or more funds or other investment vehicles established for the purpose of acquiring assets similar to the Portfolio,

in each case with settlement dates on or prior to two Business Days immediately preceding the scheduled Redemption Date; and/or

- (ii) the liquidation proceeds of the Portfolio (calculated as provided below) which shall be held by or on behalf of the Issuer in immediately available funds not



later than two Business Days immediately prior to the scheduled Redemption Date, will equal or exceed the applicable Redemption Threshold Amount.

The "**Expected Net Proceeds**" resulting from any such proposed (i) entry into a binding agreement with a financial institution, fund or investment vehicle or (ii) liquidation of the Portfolio shall be the sum of:

- (A) in respect of each Collateral Debt Obligation (or other asset) in the Portfolio, one of the following:
  - (1) in the case of entry into a binding agreement with an entity satisfying the requirements described above, the sale price receivable in respect thereof; and
  - (2) otherwise:
    - (x) the Market Value thereof if such Collateral Debt Obligation (or other asset in the Portfolio) is to be sold on the Business Day of the certification of any such Expected Net Proceeds; or otherwise
    - (y) the percentage of the Market Value thereof set out in the applicable column of the table below based upon the period of time between the certification of such Expected Net Proceeds and the expected date of sale of such Collateral Debt Obligation (or other asset in the Portfolio).

For purposes of this determination only, the "Market Value" of the Collateral Debt Obligations (or other asset in the Portfolio) shall be the Investment Manager's estimate thereof (expressed as a Euro amount) based upon its reasonable commercial judgment;

- (B) the sum of the Balances of the Accounts (excluding amounts payable to any Asset Swap Counterparty from the Counterparty Downgrade Collateral Account and to the Initial Sellers from the Unsettled Loans Account and any other amounts to the extent payable to any entity other than the Issuer); and
- (C) amounts scheduled to be received under any Asset Swap Transaction prior to the Redemption Date.

#### **Collateral Type**

<b>Number of Business Days between Certification and Expected Sale</b>	<b>1 to 2</b>	<b>3 to 5</b>	<b>6 to 15</b>
Collateral Debt Obligations (other than with Market Value of less than 90% of their Principal Balance)	93%	92%	88%
Collateral Debt Obligations with a Market Value of less than 90% of their Principal Balance	80%	73%	60%

#### **(ii) Mechanics of Redemption**

Following calculation by the Collateral Administrator (in consultation with the Investment Manager) of the applicable Redemption Price, the Collateral Administrator shall notify the Issuer, the Trustee, the Investment Manager, the Principal Paying Agent and the Registrar, whereupon the Principal Paying Agent shall notify the Noteholders (in accordance with Condition 16 (*Notices*)) of such amounts.

Any exercise of a right of optional redemption pursuant to the option referred to in Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) or Condition 7(f) (*Redemption following Note Tax Event*) shall be effected by delivery to the Principal Paying Agent by the requisite amount of Class S Noteholders or Controlling Class

Noteholders (as applicable) of the Notes held thereby together with duly completed Redemption Notices not more than 40 nor less than 20 Business Days prior to the applicable Redemption Date. No Redemption Notice and Class S Note or Controlling Class Note so delivered may be withdrawn without the prior consent of the Issuer. The Principal Paying Agent shall on the expiration of the 20 Business Day period provide a summary of the Redemption Notices received by such date to each of the Issuer, the Trustee, the Collateral Administrator, any other Paying Agent, the Registrar and the Investment Manager.

Following a redemption of the Rated Notes pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) or Condition 7(f) (*Redemption following Note Tax Event*) (in circumstances in which the Class S Notes have not been redeemed on the same Redemption Date), such Definitive Certificates representing the Class S Notes shall be returned by the Principal Paying Agent to the Class S Noteholders.

The Investment Manager shall notify the Issuer, the Trustee, the Collateral Administrator, each Asset Swap Counterparty, the Principal Paying Agent and the Registrar, whereupon the Principal Paying Agent shall notify the Noteholders (in accordance with Condition 16 (*Notices*)), upon satisfaction of any of the conditions set out in paragraph (ii) above whereupon the Investment Manager shall arrange for liquidation and/or realisation of the Portfolio on behalf of the Issuer in accordance with the Investment Management Agreement in relation to a redemption of any Notes pursuant to Condition 7(b) (*Redemption at the Option of the Class S Noteholders*) or Condition 7(f) (*Redemption following Note Tax Event*). The Issuer shall deposit, or cause to be deposited, the funds required for an optional redemption of the Notes in accordance with this Condition 7(g) into the Payment Account on or before the Business Day prior to the applicable Redemption Date. Principal Proceeds and Interest Proceeds received in connection with such redemption shall be payable in accordance with Condition 3(c) (*Priorities of Payments*).

Provided that each reference to "Portfolio" or "Collateral" for the purposes of this Condition 7(g) (*Terms and Mechanics of Redemption at the Option of the Class S Noteholders due to the occurrence of a Note Tax Event*) shall be deemed to refer solely to the EOS Portfolio or, as the case may be, the EOS Collateral and each reference herein to the "Notes" shall be deemed to exclude the Class S/B Subordinated Notes.

(h) **Redemption upon Effective Date Rating Event**

On each Payment Date following the occurrence of an Effective Date Rating Event which is continuing, the Rated Notes (and Deferred Interest on the Class B Notes) shall be redeemed in accordance with the Note Payment Sequence out of Interest Proceeds subject to the Priorities of Payments, until redeemed in full or, if earlier, to the extent necessary to cause such Effective Date Rating Event to cease to be continuing.

(i) **Redemption and Exchange**

Subject to and in accordance with the procedures described below, elsewhere in these Conditions and in the Exchange Offer (as defined below), the Rated Notes shall be redeemed in part by the Issuer at the request of any holder of Class S Subordinated Notes and Class S Preferred Notes (as evidenced by a duly delivered Exchange and Consent Acceptance Instruction) on 16 December 2013 (the "**Redemption Date**") (and subject to prior Rating Agency Confirmation in respect thereof).

If the Issuer shall have received duly delivered Exchange and Consent Acceptance Instructions from holders of Class S Subordinated Notes and Class S Preferred Notes by 7 November 2013 (the "**Expiration Deadline**"), a percentage of each Collateral Debt Obligation held by or on behalf of the Issuer (other than any Collateral Debt Obligation contained in the Class S/B Portfolio) on the Business Day immediately preceding the SP3 Issue Date and equal to the applicable Redemption Percentage (as defined below) shall be sold by the Investment Manager to SP3 pursuant to the SP3 Forward Sale Agreement on the SP3 Issue Date and a percentage of the aggregate Principal Amount Outstanding of Class A Notes and Class B

Notes equal to the percentage that the aggregate Principal Amount Outstanding of Class S Subordinated Notes and Class S Preferred Notes in respect of which Exchange and Consent Acceptance Instructions have been received represents of the aggregate Principal Amount Outstanding of all Class S Subordinated Notes and Class S Preferred Notes as at the Approval Deadline (the "**Redemption Percentage**") shall be redeemed on the Redemption Date out of such SP3 Portfolio Sale Proceeds (for the avoidance of doubt excluding the SP3 Trust Account Amount and the Non-EOS Expenses Prepayment Amount and net of certain other costs and expenses excluded from the security granted by the Issuer over the SP3 Portfolio Sale Proceeds pursuant to the Trust Deed) applied in accordance with Condition 1.1(f)(viii) (*Payment Account*).

The principal amount outstanding of each Class S Subordinated Note and Class S Preferred Note in respect of which an Exchange and Consent Acceptance Instruction has been received as described above shall be exchanged for an equivalent principal amount (plus accrued interest on the applicable Class S Preferred Note as at the SP3 Issue Date) of Class S/B Subordinated Notes on the SP3 Issue Date issued in accordance with Condition 19 (*Class S/B Subordinated Notes*) and the terms of the exchange offer contained in a notice to the Noteholders dated on or about 25 October 2013 (the "**Exchange Offer**"). Each such Class S/B Subordinated Note shall be subject to the terms and conditions set out in Condition 19 (*Class S/B Subordinated Notes*) and elsewhere in these Conditions including with respect to redemption in part out of SP3 Portfolio Sale Proceeds (excluding the SP3 Trust Account Amount, the Non-EOS Expenses Prepayment Amount and net of certain other costs and expenses referred to above) on the Redemption Date and on each Class S/B Payment Date thereafter out of Principal Proceeds attributable to the Class S/B Portfolio received by the Issuer and the SP3 Trust Account Amount to the extent not required to be paid to SP3 in accordance with the SP3 Forward Sale Agreement and any Surplus Proceeds Amount in each case payable by SP3 to the Issuer pursuant to the SP3 Forward Sale Agreement.

The Investment Manager shall arrange on behalf of the Issuer for the sale of the SP3 Portfolio to SP3 in accordance with the SP3 Forward Sale Agreement. The SP3 Portfolio so purchased on the SP3 Issue Date (or the Non-Euro Forward Settlement Date in respect of Non-EUR Obligations) by SP3 shall comprise the SP3 Portfolio Settled Portion and the SP3 Portfolio Unsettled Portion.

The Issuer shall deposit, or cause to be deposited, the funds required for redemption in part of the Rated Notes and the Class S/B Subordinated Notes described above, into the Payment Account on or before the Redemption Date being all SP3 Portfolio Sale Proceeds (other than the SP3 Trust Account Amount) which (net of (i) costs, expenses and liabilities (including legal fees and swap termination payments in respect of asset swaps relating to the SP3 Portfolio and the Class S/B Portfolio) incurred by the parties to the Amendment Documents in connection with the transactions contemplated thereby and by the Exchange and Tabulation Agent pursuant to the Exchange Agency Agreement and paid by the Issuer on the SP3 Issue Date (or the Redemption Date in respect of swap termination payments relating to the SP3 Portfolio); and (ii) the Non-EOS Expenses Prepayment Amount) shall be applied by the Issuer (or the Collateral Administrator on behalf of the Issuer) to redeem in full the Redemption Percentage of the Principal Amount Outstanding of the Class A Notes and the Class B Notes (plus accrued interest thereon as at the Redemption Date) on the Redemption Date and thereafter to redeem in part the Class S/B Subordinated Notes on the Redemption Date as described above. Each Class S Preferred Note and Class S Subordinated Note the subject of an Exchange and Consent Acceptance Instruction pursuant to this Condition 7(i) (*Redemption and Exchange*) and the terms of the Exchange Offer, shall, following exchange for Class S/B Subordinated Notes on the SP3 Issue Date as described above, be cancelled forthwith such that no amount in respect thereof shall remain Outstanding following such exchange.

Notwithstanding any other provisions of these Conditions or the Trust Deed, all references herein and therein to the Class S/B Subordinated Notes being redeemed in full or at their Principal Amount Outstanding shall be deemed to be amended to the extent required to ensure that a minimum of €1 principal amount of each Class S/B Subordinated Note remains outstanding at all times and any amounts which are to be applied in redemption of any Class S/B Subordinated Notes which are in excess of the Principal Amount Outstanding thereof minus €1, shall constitute interest payable in respect of such Class S/B Subordinated Notes

and shall not be applied in redemption of the Principal Amount Outstanding thereof, provided always however that such €1 principal shall no longer remain Outstanding and the Class S/B Subordinated Notes shall be redeemed in full on the date on which all of the Class S/B Collateral securing the Class S/B Subordinated Notes has been realised and is to be finally distributed to the Class S/B Subordinated Noteholders.

For the avoidance of doubt, the failure to effect an exchange and redemption hereunder and in accordance with the terms of the Exchange Offer (including, without limitation, due to the non-occurrence of the SP3 Issue Date), shall not constitute an Event of Default and no Noteholder shall have any claim against the Issuer, the Trustee, the Investment Manager or any other Secured Party in connection with such failure.

(j) **Redemption**

All Notes in respect of which any notice of redemption is given shall be redeemed on the Redemption Date at their applicable Redemption Prices and to the extent specified in such notice and in accordance with the requirements of this Condition 7.

(k) **Other Provisions relating to the Redemption of Class S Subordinated Notes**

Notwithstanding any other provision of the Conditions of the Notes or the Trust Deed, all references herein and therein to any Class S Subordinated Notes being redeemed in full or at their Principal Amount Outstanding, shall be deemed to be amended to the extent required to ensure that a minimum of €1 principal amount of the Class S Subordinated Notes remains Outstanding at all times and any amounts which are to be applied in redemption of such Notes pursuant hereto which are in excess of the Principal Amount Outstanding thereof minus €1, shall constitute interest payable in respect of such Notes and shall not be applied in redemption of the Principal Amount Outstanding thereof, provided always however that such a minimum of €1 shall no longer remain Outstanding and the Class S Subordinated Notes shall be redeemed in full on the date on which all of the EOS Collateral securing the Notes has been realised and is to be finally distributed to the Noteholders.

(l) **Cancellation**

All Notes redeemed in full by the Issuer will be cancelled and may not be reissued or resold.

(m) **Notice of Redemption**

The Issuer shall procure that notice of any redemption in accordance with this Condition 7 is given to the Trustee and the Noteholders in accordance with Condition 16 (*Notices*) and promptly in writing to the Rating Agencies and, for so long as the Notes are listed on the Stock Exchange, the Stock Exchange.

(n) **Purchase**

The Issuer may not purchase any Notes.

(o) **Redemptions Sequential**

Subject to Condition 7(i) (*Redemption and Exchange*), all redemptions of Notes (other than the Class S/B Subordinated Notes) shall be made on a sequential basis in accordance with the Priorities of Payments and, in respect of the Rated Notes, the Note Payment Sequence.

8. **Payments**

(a) **Method of Payment**

Payments of principal upon final redemption in respect of each Note will be made against presentation and surrender (or, in the case of part payment only, endorsement) of such Note at the specified office of the Principal Paying Agent. Payments of interest on each Note and, prior to redemption in full thereof, principal in respect of each Note will be made to the holder (or to the first named of joint holders) of the Note appearing on the Register at the close of

business on the Record Date. Each payment shall be made by wire transfer in immediately available funds on the due date to an account in the relevant currency maintained by the payee with a bank. Each holder shall deliver a request therefor to the Principal Paying Agent and the Registrar specifying the banking institution and account number to which such payments are to be transferred (with any other appropriate information necessary to enable the Principal Paying Agent to transmit such payment and to ensure proper credit to such holder's account). A record of each payment made will be maintained by the Principal Paying Agent in accordance with its customary procedures, and such record shall be prima facie evidence that the payment in question has been made. The Issuer and the Principal Paying Agent shall be fully protected in relying upon any such request in making payments on the Notes, and any payment transmitted in accordance with such request shall be deemed to have been made upon transmission thereof to the banking institution identified in such request.

(b) **Payments**

All payments are subject in all cases to any applicable fiscal or other laws, regulations and directives, but without prejudice to the provisions of Condition 9 (*Taxation*). No commissions or expenses shall be charged to the Noteholders in respect of such payments.

(c) **Payments on Business Days**

Where payment is to be made by transfer to an account, payment instructions (for value on the due date, or, if the due date is not a Business Day, for value on the next succeeding Business Day) will be initiated (i) (in the case of payments of principal and interest payable on redemption) on the later of the due date for payment and the day on which the relevant Note is surrendered (or, in the case of part payment only, endorsed) at the specified office of the Principal Paying Agent and (ii) (in the case of payments of interest payable other than on redemption) on the due date for payment. A Noteholder shall not be entitled to any interest or other payment in respect of any delay in payment resulting from the due date for a payment not being a Business Day.

(d) **Registrar, Paying Agents and Transfer Agents**

The names of the initial Registrar, Principal Paying Agent and Transfer Agents and their initial specified offices are set out in the Collateral Administration and Agency Agreement. The Issuer reserves the right at any time, with the prior written approval of the Trustee, to vary or terminate the appointment of the Registrar, the Principal Paying Agent and any Transfer Agent and appoint additional or other Agents, provided that it will maintain (i) a Principal Paying Agent, (ii) a Registrar, (iii) Transfer Agents having specified offices in at least two major European cities approved by the Trustee and (iii) a paying agent in an EU Member State that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive, in each case, as approved by the Trustee and shall procure that it shall at all times maintain a Calculation Agent, Custodian, Account Bank, Investment Manager and Collateral Administrator. Notice of any change in any Agent or their specified offices or in the Investment Manager or Collateral Administrator will promptly be given to the Noteholders by the Issuer in accordance with Condition 16 (*Notices*).

9. **Taxation**

All payments of principal and interest in respect of the Notes shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or within Ireland, or any other jurisdiction, or any political sub-division or any authority therein or thereof having power to tax, unless such withholding or deduction is required by law. For the avoidance of doubt, the Issuer shall not be required to gross up any payments made to Noteholders of any Class and shall withhold or deduct from any such payments any amounts on account of tax where so required by law or any relevant taxing authority. Any such withholding or deduction shall not constitute an Event of Default under Condition 10(a) (*Events of Default*).

Subject as provided below, if the Issuer satisfies the Trustee that it has or will on the occasion of the next payment due in respect of the Notes of any Class become obliged by law to withhold or account for tax so that it would be unable to make payment of the full amount that would otherwise be due but for the imposition of such tax, the Issuer (with the consent of the Trustee and save as provided below) shall use all reasonable endeavours to arrange for the substitution of a company incorporated in another jurisdiction approved by the Trustee as the principal obligor under the Notes of such Class, or to change its tax residence to another jurisdiction approved by the Trustee, subject to notification being given to Fitch and receipt by the Issuer and/or the Trustee of Rating Agency Confirmation in relation to such change, and subject to confirmation from leading tax counsel in such other jurisdiction so approved by the Trustee that such a substitute and/or change in tax residence would be effective in eliminating such an imposition of tax.

Notwithstanding the above, if any taxes referred to in this Condition 9 arise:

- (a) due to the connection of any Noteholder with the jurisdiction imposing, levying, collecting, withholding or assessing the tax otherwise than by reason only of the holding of any Note or receiving principal or interest in respect thereof; or
- (b) by reason of the failure by the relevant Noteholder to comply with any applicable procedures required to establish non-residence or other similar claim for exemption from such tax; or
- (c) in respect of a payment made or secured for the immediate benefit of an individual or a non-corporate entity which is required to be made pursuant to European Council Directive 2003/48/EC on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive or any arrangement entered into between the Member States and certain third countries and territories in connection with the Directive; or
- (d) as a result of presentation for payment by or on behalf of a Noteholder who would have been able to avoid such withholding or deduction by presenting the relevant Note to another Transfer Agent in a Member State of the European Union,

the requirement to substitute the Issuer as a principal obligor and/or change its residence for taxation purposes shall not apply.

#### 10. **Events of Default**

##### (a) **Events of Default**

The occurrence of any of the following events shall constitute an "Event of Default":

##### (i) **Non-payment of interest**

the Issuer fails to pay any interest in respect of any Class A Notes when the same becomes due and payable or, following redemption and payment in full of the Class A Notes, the Issuer fails to pay any interest in respect of any Class B Note (excluding for the avoidance of doubt Deferred Interest but including interest on such Deferred Interest for the relevant Interest Period) when the same becomes due and payable (save, in each case, as the result of any deduction therefrom or the imposition of withholding thereon in the circumstances described in Condition 9 (*Taxation*)) and provided that any such failure to pay such interest in such circumstances continues for a period of at least five Business Days;

##### (ii) **Non-payment of principal**

the Issuer fails to pay any principal when the same becomes due and payable on any Rated Note on any Redemption Date, provided that any such failure to pay such principal in such circumstances continues for a period of at least five Business Days;

(iii) **Default under Priorities of Payments**

other than a failure already referred to in paragraphs (i) and (ii) above, the Issuer fails on any Payment Date to disburse amounts available in the Payment Account in accordance with the Priorities of Payments, which failure continues for a period of five Business Days;

(iv) **Failure of the Par Value Event of Default Test**

there is a breach of the Par Value Event of Default Test.

(v) **Breach of Other Obligations**

the Issuer does not perform or comply with any other of its covenants, warranties or other agreements of the Issuer under the Notes, the Trust Deed, the Collateral Administration and Agency Agreement, the Investment Management Agreement or any other Transaction Document (other than a covenant, warranty or other agreement a default in the performance or breach of which is dealt with elsewhere in this Condition 10(a) (*Events of Default*)) and other than the failure to meet any Collateral Quality Test, Percentage Limitation, Coverage Test or Reinvestment Test), or any representation, warranty or statement of the Issuer made in the Trust Deed, Investment Management Agreement or any other Transaction Document or in any certificate or other writing delivered pursuant thereto or in connection therewith was untrue in any material respect when the same shall have been made, and the continuation of such default, breach or failure for a period of 30 days after notice thereof shall have been given by registered or certified mail or overnight courier, to the Issuer by the Trustee specifying such default, breach or failure and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder, except for any such default, breach or failure which has not had and is not expected by the Trustee to have a material adverse effect on any Class of Noteholders;

(vi) **Insolvency Proceedings**

proceedings are initiated against the Issuer under any applicable liquidation, insolvency, bankruptcy, examination, composition, reorganisation or other similar laws (together, "**Insolvency Law**"), or a receiver, trustee, administrator, custodian, conservator, examiner, liquidator or other similar official (a "Receiver") is appointed in relation to the Issuer or in relation to the whole or any substantial part of the undertaking or assets of the Issuer and in any of the foregoing cases, except in relation to the appointment of a Receiver, is not discharged within 30 days; or the Issuer is, or initiates or consents to judicial proceedings relating to itself under any applicable Insolvency Law, or seeks the appointment of a Receiver, or makes a conveyance or assignment for the benefit of its creditors generally or otherwise becomes subject to any reorganisation or amalgamation (other than on terms previously approved in writing by the Trustee);

(vii) **Illegality**

it is or will become unlawful for the Issuer to perform or comply with any one or more of its obligations under the Notes; or

(viii) **Investment Company Act**

the Issuer or the pool of EOS Collateral or Class S/B Collateral becomes required to register as an "Investment Company" under the Investment Company Act.

(b) **Acceleration**

- (i) If an Event of Default occurs and is continuing, the Trustee may, at its discretion and shall, at the request of the Controlling Class acting by Extraordinary Resolution, (subject to the Trustee being indemnified and/or secured to its satisfaction against all liabilities, proceedings, claims and demands to which it may thereby become liable and

all costs, charges and expenses which may be incurred by it in connection therewith) give notice (an "**Acceleration Notice**") to the Issuer that all the Notes are to be immediately due and payable, provided that in the case of an Event of Default under Condition 10(a)(i) (Non-payment of interest) due to non-payment of interest (excluding Deferred Interest) in respect of the Controlling Class on any Payment Date, the Trustee may not give notice to the Issuer that all the Notes are to be immediately due and payable unless instructed to do so by an Extraordinary Resolution of the Controlling Class.

- (ii) Upon any such notice being given to the Issuer in accordance with Condition 10(b)(i) (Acceleration), all of the Notes shall immediately become due and repayable at their applicable Redemption Prices.

(c) **Curing of Default**

At any time after a notice of acceleration of maturity of the Notes has been made following the occurrence of an Event of Default and prior to enforcement of the security pursuant to Condition 11 (*Enforcement*), the Trustee may and shall if requested by the Controlling Class acting by Extraordinary Resolution (and subject, in each case, to the Trustee being indemnified and/or secured to its satisfaction against all liabilities, proceedings, claims and demands to which it may thereby become liable and all costs, charges and expenses which may be incurred by it in connection therewith) rescind and annul such notice of acceleration under paragraph (b)(i) above or under paragraph (b)(ii) above and its consequences if:

- (i) the Issuer has paid or deposited with the Trustee a sum sufficient to pay:
  - (A) all overdue payments of interest and principal on the Notes (other than the Class S Notes and the Class S/B Subordinated Notes);
  - (B) all due but unpaid taxes owing by the Issuer, as certified by two Authorised Officers of the Issuer to the Trustee;
  - (C) all unpaid Administrative Expenses and Trustee Fees and Expenses;
  - (D) all amounts due and payable under any Asset Swap Transaction;
  - (E) all amounts due and payable under the Portfolio Sale Agreement; and
- (ii) the Trustee has determined that all Events of Default, other than the non- payment of the interest in respect of, or principal of, the Notes that have become due solely as a result of the acceleration thereof under paragraph (b) above due to such Events of Default, have been cured or waived.

Any previous rescission and annulment of a notice of acceleration or automatic acceleration pursuant to this paragraph (c) shall not prevent the subsequent acceleration of the Notes by the Trustee, at its discretion or, as subsequently requested to accelerate the Notes in accordance with paragraph (b)(i) above, or in accordance with paragraph (b)(ii) above.

(d) **Restriction on Acceleration of Notes**

No acceleration of the Notes shall be permitted pursuant to this Condition 10 by any Class of Noteholders, other than the Controlling Class as provided in Condition 10(b) (*Acceleration*).

(e) **Notification and Confirmation of No Default**

The Issuer shall promptly notify the Trustee, the Investment Manager, the Agents, the Noteholders, the Rating Agencies, the Initial Sellers, each Asset Swap Counterparty, SP3 and the SP3 Trustee upon becoming aware of the occurrence of an Event of Default and shall also promptly notify SP3 and the SP3 Trustee upon becoming aware of the occurrence of an SP3 Event of Default. The Trust Deed contains provision for the Issuer to provide written confirmation to the Trustee and the Rating Agencies on an annual basis that no Event of Default has occurred and that no condition, event or act has occurred which, with the lapse of



time and/or the issue, making or giving of any notice, certification, declaration and/or request and/or the taking of any similar action and/or the fulfilment of any similar condition could constitute an Event of Default and that no other matter which is required (pursuant thereto) to be brought to the Trustee's attention has occurred.

11. **Enforcement**

(A) **EOS Collateral, Class S/B Collateral and SP3 Portfolio Sale Proceeds**

This Condition 11(A) shall be read and construed as being applicable solely to enforcement with respect to security over the EOS Collateral, the Class S/B Collateral and the SP3 Portfolio Sale Proceeds (for the avoidance of doubt excluding the SP3 Trust Account Amount and all other amounts of SP3 Portfolio Sale Proceeds not subject to the security granted by the Issuer pursuant to the Trust Deed) and any action taken by the Trustee or other party hereunder to enforce such security in any manner permitted by the Trust Deed and applicable law shall not affect the security granted by the Issuer to the Trustee pursuant to the Trust Deed and described in Condition 4(a)(iii) (*SP3 Collateral*), the rights of SP3, the SP3 Trustee or the Trustee (acting on behalf of SP3) against the Issuer under each of the SP3 Forward Sale Agreement, the Trust Deed, these Conditions and the other Transaction Documents (as applicable), or the right of SP3, the SP3 Trustee or the Trustee (acting on behalf of SP3) to enforce (by any method permitted by the Trust Deed and applicable law) the security granted by the Issuer over the SP3 Collateral in favour of the Trustee for the benefit of SP3 following the occurrence of an SP3 Event of Default.

(a) **Security Becoming Enforceable**

Subject as provided in paragraph (b) below, the security constituted under the Trust Deed over the EOS Collateral, the Class S/B Collateral and the SP3 Portfolio Sale Proceeds (and if applicable, the Euroclear Pledge Agreement over the Class S/B Collateral and/or the EOS Collateral, as applicable) shall become enforceable upon an acceleration of the maturity of any of the Notes pursuant to Condition 10 (*Events of Default*).

(b) **Enforcement**

At any time after the Notes become due and payable and the security under the Trust Deed (and the Euroclear Pledge Agreement) becomes enforceable, the Trustee may, at its discretion and shall if so directed by the Controlling Class acting by Extraordinary Resolution, (subject, in each case, to being indemnified and/or secured and/or prefunded to its satisfaction) institute such proceedings against the Issuer as it may think fit to enforce the terms of the Trust Deed and the Notes and pursuant and subject to the terms of the Trust Deed and the Notes, realise and/or otherwise liquidate or sell the EOS Collateral, the Class S/B Collateral and/or apply the SP3 Portfolio Sale Proceeds in whole or in part and/or take such action as may be permitted under applicable laws against any Obligor in respect of such Collateral and/or take any other action to enforce the security over such Collateral (such actions together, "**Enforcement Actions**"), in each case without any liability as to the consequence of any action (including with respect to the SP3 Collateral) and without having regard (save to the extent provided in Condition 14(e) (*Entitlement of the Trustee and Conflicts of Interest*)) to the effect of such action on individual Noteholders of such Class or any other Secured Party (including SP3) provided, however, that:

- (i) consent of the Controlling Class, acting by Extraordinary Resolution to the taking of Enforcement Action is received;
- (ii) the Trustee shall not be bound to institute any Enforcement Action or take any other action unless it is directed by the Controlling Class acting by Extraordinary Resolution at such time and, in each case, the Trustee is indemnified and/or secured to its satisfaction against all liabilities, proceedings, claims and demands to which it may thereby become liable and all costs, charges and expenses which may be incurred by it in connection therewith. Following redemption and payment in full of the Class A Notes and the Class B Notes, the Trustee shall (provided it is indemnified and/or secured to its satisfaction against all liabilities, proceedings, claims and demands to

which it may thereby become liable and all costs, charges and expenses which may be incurred by it in connection therewith), if so directed, act upon the directions of the Class S Notes acting by Extraordinary Resolution;

- (iii) the net proceeds of enforcement of the security over the EOS Collateral shall be credited to the Payment Account or such other account as the Trustee may direct and shall be distributed in accordance with the Priorities of Payments; the proceeds of enforcement of the security granted in favour of the Trustee for the benefit of the Class S/B Subordinated Noteholders over the Class S/B Collateral in accordance with the Trust Deed shall be applied (after application toward payment of, first, the Trustee Fees and Expenses and, secondly, all fees and expenses of the Agents in connection with such enforcement) solely in redemption of the Class S/B Subordinated Notes on a *pro rata* and *pari passu* basis in accordance with Condition 3(k) (*Accounts*) and without regard to the Priorities of Payments; and the net proceeds of enforcement of the security over the SP3 Portfolio Sale Proceeds (for the avoidance of doubt excluding the SP3 Trust Account Amount and all other amounts of the SP3 Portfolio Sale Proceeds not subject to the security granted by the Issuer pursuant to the Trust Deed) shall be distributed (after application toward payment of, first, the Trustee Fees and Expenses and, secondly, all fees and expenses of the Agents in connection with such enforcement) first, to the Class A Noteholders on a *pro rata* and *pari passu* basis in an amount not exceeding the Redemption Percentage of the Principal Amount Outstanding thereof (plus accrued interest) in accordance with Condition 7(i) (*Redemption and Exchange*), secondly, to the Class B Noteholders on a *pro rata* and *pari passu* basis in an amount not exceeding the Redemption Percentage of the Principal Amount Outstanding thereof in accordance with Condition 7(i) (*Redemption and Exchange*) and thirdly, any remaining proceeds to the Class S/B Subordinated Noteholders in redemption of the Class S/B Subordinated Notes on a *pari passu* basis.

(c) **Only Trustee to Act**

Only the Trustee may pursue the remedies available under the Trust Deed to enforce the rights of the Noteholders or of any of the other Secured Parties under the Trust Deed and the Notes and no Noteholder or other Secured Party may proceed directly against the Issuer or any of its assets unless the Trustee, having become bound to proceed in accordance with the terms of the Trust Deed (and the Euroclear Pledge Agreement), fails or neglects to do so within a reasonable period after having received notice of such failure and such failure or neglect continues for at least 30 days following receipt of such notice by the Trustee. Any proceeds received by a Noteholder or other Secured Party pursuant to any such proceedings brought by a Noteholder or other Secured Party shall be paid promptly following receipt thereof to the Trustee for application pursuant to the terms hereof. After realisation of the security which has become enforceable and distribution of the net proceeds in accordance with the Priorities of Payments (or as otherwise required pursuant to these Conditions or the Trust Deed), no Noteholder or other Secured Party may take any further steps against the Issuer to recover any sum still unpaid in respect of the Notes or the Issuer's obligations to such Secured Party and all claims against the Issuer to recover any sum still unpaid in respect of the Notes or the Issuer's obligations to such Secured Party and all claims against the Issuer in respect of such sums unpaid shall be extinguished. In particular, none of the Trustee, any Noteholder or any other Secured Party shall be entitled in respect thereof to petition or take any other step for the winding-up of the Issuer except to the extent permitted under the Trust Deed.

(d) **Purchase of Collateral by Noteholders**

Upon any sale of any part of the Collateral (for the avoidance of doubt other than the SP3 Collateral) following the occurrence of an Event of Default, whether made under the power of sale under the Trust Deed or by virtue of judicial proceedings, any Noteholder may (but shall not be obliged to) bid for and purchase the Collateral (for the avoidance of doubt other than the SP3 Collateral) or any part thereof and, upon compliance with the terms of sale, may hold, retain, possess or dispose of such property in its or their own absolute right without accountability. In addition, any purchaser in any such sale which is a Noteholder may deliver Notes held by it in place of payment of the purchase price for such Collateral (for the avoidance of doubt other than the SP3 Collateral) where the amount payable to such

Noteholder in respect of such Notes pursuant to the Priorities of Payments (or otherwise in accordance with these Conditions) taking into account the proceeds of such sale is equal to or exceeds the purchase moneys so payable and where the Issuer would have funds to pay the amount payable to such Noteholder.

**(B) SP3 Collateral**

This Condition 11(B) shall be read and construed as being applicable solely to enforcement with respect to security over the SP3 Collateral and any enforcement action taken by SP3 (or the SP3 Trustee) or the Trustee (on behalf of SP3) with respect to such security in any manner permitted by the Trust Deed and applicable law shall not affect the security granted by the Issuer to the Trustee pursuant to the Trust Deed and described in Condition 4(a)(i) (*EOS Collateral*), Condition 4(a)(ii) (*Class S/B Collateral*) and Condition 4(a)(iv) (*SP3 Portfolio Sale Proceeds*), the rights of any of the Noteholders or Secured Parties (other than SP3) or the Trustee (acting on their behalf), against the Issuer to enforce (by any method permitted by the Trust Deed and applicable law) such security or any other rights of the Trustee or the Secured Parties (other than SP3) under the Transaction Documents with respect to the EOS Collateral, the Class S/B Collateral or the SP3 Portfolio Sale Proceeds.

**(a) Security Becoming Enforceable**

Subject as provided in paragraph (b) below, the security constituted under the Trust Deed over the SP3 Collateral shall become enforceable upon the occurrence of an SP3 Event of Default that is continuing; provided that the Trustee shall have no duty to enquire as to whether or not an SP3 Event of Default has occurred and shall be entitled to assume that no SP3 Event of Default has occurred unless it has received written notice thereof pursuant to the Trust Deed.

**(b) Enforcement**

At any time after the security under the Trust Deed over the SP3 Collateral has become enforceable, the Trustee may, at its discretion, and shall if so directed in writing by or on behalf of SP3 (or the SP3 Trustee on behalf of SP3) subject, in each case, to being indemnified and/or prefunded and/or secured to its satisfaction, institute such proceedings against the Issuer as it may think fit to enforce the terms of the Trust Deed, the SP3 Forward Sale Agreement and the other Transaction Documents (as applicable) and pursuant and subject to the terms of the Trust Deed, realise and/or otherwise liquidate or sell the SP3 Collateral in whole or in part and/or take such action as may be permitted under applicable laws against any Obligor in respect of the SP3 Collateral and/or take any other action to enforce the security over the SP3 Collateral, in each case without any liability as to the consequences of any action and without having regard to the effect of such action on Noteholders or any other Secured Party or on the EOS Collateral, the Class S/B Collateral or the SP3 Portfolio Sale Proceeds (excluding the SP3 Trust Account Amount) and provided that any net proceeds of enforcement of the security over the SP3 Collateral shall be credited to such account as SP3 (or the SP3 Trustee on behalf of SP3) may direct in writing and shall be distributed as directed in writing by SP3 (or the SP3 Trustee on behalf of SP3) (after application toward payment of, first, the Trustee Fees and Expenses and, secondly, all fees and expenses of the Agents in connection with such enforcement).

**(c) Only Trustee to Act**

Only the Trustee may pursue the remedies available under the Trust Deed to enforce the rights of SP3 thereunder and neither SP3 nor the SP3 Trustee may proceed directly against the Issuer or any of its assets unless the Trustee, having become bound to proceed in accordance with the terms of the Trust Deed, fails or neglects to do so within a reasonable period of time after having received notice of such failure and such failure or neglect continues for at least 30 days following receipt of such notice by the Trustee. Any proceeds received by SP3 or the SP3 Trustee pursuant to any such proceedings brought by SP3 or the SP3 Trustee shall be paid promptly following receipt thereof to the Trustee for application pursuant to the terms hereof. After realisation of the security which has become enforceable and, if applicable, distribution of the net proceeds to SP3 in accordance with the Trust Deed, neither SP3 nor the SP3 Trustee may take any further steps against the Issuer to recover any sums still unpaid in respect of

obligations owed by the Issuer to SP3 pursuant to the SP3 Forward Sale Agreement and all claims against the Issuer to recover any sum still unpaid in respect of such obligations and all claims against the Issuer in respect of such sums unpaid shall be extinguished. In particular, neither of the Trustee nor SP3 (nor the SP3 Trustee) shall be entitled in respect thereof to petition or take any other step for the winding up of the Issuer except to the extent permitted under the Trust Deed.

(d) **Declaration of Trust**

Pursuant to the SP3 Forward Sale Agreement, the Issuer has declared a trust in favour of SP3 as sole beneficiary over all of the Issuer's right, title and interest in and to the SP3 Portfolio and all entitlements and benefits relating thereto. The security granted by the Issuer pursuant to the Trust Deed to secure the Issuer's obligations to SP3 under the SP3 Forward Sale Agreement and the other Secured Obligations owed by the Issuer to SP3, shall be without prejudice to such declaration of trust.

12. **Prescription**

Claims in respect of principal and interest payable on redemption in full of the relevant Notes will become void unless presentation for payment is made as required by Condition 7 (Redemption) within a period of five years, in the case of interest, and ten years, in the case of principal, from the appropriate Record Date.

13. **Replacement of Notes**

If any Note is lost, stolen, mutilated, defaced or destroyed it may be replaced at the specified office of the Registrar, subject in each case to all applicable laws and the Stock Exchange requirements, upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence, security, indemnity and otherwise as the Issuer may require (provided that the requirement is reasonable in the light of prevailing market practice). Mutilated or defaced Notes must be surrendered before replacements will be issued.

14. **Meetings of Noteholders, Modification, Waiver and Substitution**

(a) **Provisions in Trust Deed**

The Trust Deed contains provisions for convening meetings of the Noteholders (and of passing Written Resolutions) to consider matters affecting the interests of the Noteholders including, without limitation, modifying or waiving certain of the provisions of these Conditions and the substitution of the Issuer in certain circumstances. The provisions in this Condition 14 are descriptive of the detailed provisions of the Trust Deed.

(b) **Decisions and Meetings of Noteholders**

(i) **General**

Decisions shall be taken by Noteholders by way of Ordinary Resolution or Extraordinary Resolution, in each case, either acting together or, to the extent specified in any applicable Transaction Document, as a Class of Noteholders acting independently (for the avoidance of doubt excluding any decisions insofar as they relate to the SP3 Collateral and/or the SP3 Portfolio in respect of which the prior written consent of SP3 shall be required). Such Resolutions can be effected either at a duly convened meeting of the applicable Noteholders or by the applicable Noteholders resolving in writing, in each case, in at least the minimum percentages specified in the table "Minimum Percentage Voting Requirements" in paragraph (iii) below. Meetings of the Noteholders may be convened by the Issuer or the Trustee and shall be convened by the Issuer or the Trustee upon request by Noteholders holding not less than 10 per cent. of the aggregate Principal Amount Outstanding of the relevant Class, subject to certain conditions including minimum notice periods.

The Trustee may, in its discretion, but shall not be obliged to (and excluding from any such discretion matters relating to the SP3 Collateral and/or the SP3 Portfolio),

determine that any proposed Ordinary Resolution or Extraordinary Resolution affects only the holders of one or more Classes of Notes, in which event the required quorum and minimum percentage voting requirements of such Ordinary Resolution or Extraordinary Resolution may be determined by reference only to the holders of that Class or those Classes of Notes and not the holders of any other Notes, as set forth in the tables below.

The Class S Notes will be treated as a single class for quorum and voting purposes without distinction between Class S Preferred Notes and Class S Subordinated Notes.

(ii) **Quorum**

The quorum required for any meeting convened to consider an Ordinary Resolution or Extraordinary Resolution, in each case, of all the Noteholders or of a specified Class of Noteholders, or at any adjourned meeting to consider such a Resolution, shall be as set out in the relevant column and row corresponding to the type of resolution in the table "Quorum Requirements" below.

**Quorum Requirements**

**Type of Resolution**

Extraordinary Resolution of the Noteholders (or a certain Class or Classes only)

Ordinary Resolution of all the Noteholders (or the Class A Noteholders only or a certain Class or Classes only)

Extraordinary Resolution of the Controlling Class for the purposes of a request to the Trustee pursuant to Condition 10(b)(i) and for the purposes of giving any instruction to the Trustee pursuant to the proviso to Condition 10(b)(i) (*Acceleration*)

**Any meeting other than a meeting adjourned for want of quorum**

One or more persons holding or representing not less than 66⅔% per cent. of the aggregate of the Principal Amount Outstanding of each Class (or a certain Class or Classes only)

One or more persons holding or representing not less than 50 per cent. of the aggregate of the Principal Amount Outstanding of each Class of Notes (or the relevant Class or Classes only)

One or more persons holding or representing not less than 75 per cent. of the aggregate of the Controlling Class

**Meeting previously adjourned for want of quorum**

One or more persons holding or representing any Notes (or the relevant Class or Classes only, if applicable) regardless of the aggregate Principal Amount Outstanding of each Class of Notes so held or represented

One or more persons holding or representing any Notes (or of the relevant Class or Classes only, if applicable) regardless of the aggregate Principal Amount Outstanding of each Class of Notes so held or represented

One or more persons holding or representing not less than 25 per cent. of the aggregate of the Controlling Class

The Trust Deed does not contain any provision for higher quorums in any circumstances.

(iii) **Minimum Voting Rights**

Set out in the table "Minimum Percentage Voting Requirements" below are the minimum percentages required to pass the Resolutions specified in such table which, (A) in the event that such Resolution is being considered at a duly convened meeting of

Noteholders shall be determined by reference to the percentage which the aggregate Principal Amount Outstanding of Notes held or represented by any person or persons entitled to vote in favour of such Resolution represents of the aggregate Principal Amount Outstanding of all applicable Notes which are represented at such meeting and are entitled to be voted or, (B) in the case of any Written Resolution, shall be determined by reference to the percentage which the aggregate Principal Amount Outstanding of the Notes entitled to be voted in respect of such Resolution which are voted in favour thereof represent of the aggregate Principal Amount Outstanding of all the Notes entitled to vote in respect of such Written Resolution.

### **Minimum Percentage Voting Requirements**

<b>Type of Resolution</b>	<b>Per cent.</b>
Extraordinary Resolution of (i) all Noteholders (or a certain Class or Classes only) and (ii) of the Controlling Class for the purposes of a request to the Trustee pursuant to Condition 10(b)(i) and for the purposes of giving any instruction to the Trustee pursuant to the proviso to Condition 10(b)(i) ( <i>Acceleration</i> ))	
Ordinary Resolution of all Noteholders (or of the Class A Notes only or of a certain Class or Classes only)	
At least 66⅔ per cent. of the votes cast	
More than 50 per cent. of the votes cast	

(iv) **Written Resolutions**

A Written Resolution shall for all purposes be as valid and effective as a Resolution passed at a meeting of Noteholders of the relevant Class. Any Written Resolution may be contained in one document or in several documents in like form each signed by or on behalf of one or more of the relevant Noteholders and the date of such Written Resolution shall be the date on which the latest such document is signed.

(v) **Relationship Between Classes**

In relation to each Class of Notes:

- (A) no Extraordinary Resolution relating to those matters specified in Condition 14(b)(vi) (*Extraordinary Resolution*) that is passed by the holders of one Class of Notes shall be effective unless it is sanctioned by an Extraordinary Resolution of the holders of each of the other Classes of Notes (to the extent that there are outstanding Notes in each such other Classes);
- (B) no Extraordinary Resolution or Ordinary Resolution to approve any matter (other than relating to those matters specified in Condition 14(b)(vi) (*Extraordinary Resolution*) or where expressly permitted by these Conditions) shall be effective unless it is sanctioned by an Extraordinary Resolution or an Ordinary Resolution, as applicable, of the holders of each of the Classes of Notes ranking senior to such Class (to the extent that there are outstanding Notes ranking senior to such Class) unless the Trustee considers that none of the holders of each of the Classes of Notes ranking senior to such Class would be materially prejudiced by the absence of such sanction; and
- (C) any resolution passed at a meeting of Noteholders of one or more Classes of Notes duly convened and held in accordance with the Trust Deed shall be binding upon all Noteholders of such Class or Classes, whether or not present at such Meeting and whether or not voting and, except in the case of a meeting relating to those matters specified in Condition 14(b)(vi) (*Extraordinary Resolution*), any resolution passed at a meeting of the holders of the Controlling

Class duly convened and held as aforesaid shall also be binding upon the holders of all the other Classes of Notes.

(vi) **Extraordinary Resolution**

Any Resolution to sanction any of the following items (in each case other than with respect to matters relating to the SP3 Collateral and/or the SP3 Portfolio) will be required to be passed by an Extraordinary Resolution which, in the case of any modifications to the Investment Management Agreement (other than as contemplated in Condition 14(c) (*Modification and Waiver*)) shall be an Extraordinary Resolution of each Class:

- (A) the exchange or substitution for the Notes of a Class, or the conversion of the Notes of a Class into, shares, bonds or other obligations or securities of the Issuer or any other entity;
- (B) the amendment to any date fixed for payment of principal or of interest on the Notes of any Class;
- (C) the modification of any of the provisions of the Trust Deed which would directly and adversely affect the calculation of the amount of any payment of interest or principal on any Note;
- (D) the adjustment of the outstanding principal amount of the Notes Outstanding of the relevant Class;
- (E) a change in the currency of payment of the Notes of a Class;
- (F) any change in the Priorities of Payments of any payment items (including modification of interest or principal payable on the Notes) in the Priorities of Payments;
- (G) any change or amendment to Conditions 3(k) (*Accounts*) and 3(l) (*Payments to and from the Accounts*);
- (H) the modification of the provisions concerning the quorum required at any meeting of Noteholders or the minimum percentage required to pass an Extraordinary Resolution or any other provision of these Conditions which requires the written consent of the holders of a requisite principal amount of the Notes of any Class Outstanding;
- (I) any modification of any Transaction Document having a material adverse effect on the security over the Collateral (other than the SP3 Collateral and/or the SP3 Portfolio) constituted by the Trust Deed;
- (J) any item requiring approval by Extraordinary Resolution pursuant to these Conditions or any Transaction Document; and
- (K) any modification of this Condition 14(b) (*Decisions and Meetings of Noteholders*).

(c) **Modification and Waiver**

The Trust Deed and the Investment Management Agreement both provide that, without the consent of the Noteholders, the Issuer may amend, modify, supplement and/or waive the relevant provisions of the Trust Deed and/or any other Transaction Documents (subject to the consent of the other parties thereto and subject, in respect of any such amendment, modification, supplement or waiver relating to the SP3 Collateral, to the consent of SP3) (as applicable), subject to the prior written consent of the Trustee, for any of the following purposes:

- (i) to add to the covenants of the Issuer for the benefit of the Noteholders or to surrender any right or power in the Trust Deed or the Investment Management Agreement (as applicable) conferred upon the Issuer;
- (ii) to charge, convey, transfer, assign, mortgage or pledge any property to or with the Trustee;
- (iii) to correct or amplify the description of any property at any time subject to the security of the Trust Deed, or to better assure, convey and confirm unto the Trustee any property subject or required to be subject to the security of the Trust Deed (including, without limitation, any and all actions necessary or desirable as a result of changes in law or regulations) or subject to the security of the Trust Deed any additional property;
- (iv) to evidence and provide for the acceptance of appointment under the Trust Deed by a successor Trustee subject to and in accordance with the terms of the Trust Deed and to add to or change any of the provisions of the Trust Deed as shall be necessary to facilitate the administration of the trusts under the Trust Deed by more than one Trustee, pursuant to the requirements of the relevant provisions of the Trust Deed;
- (v) to make such changes as shall be necessary or advisable in order for the Notes of each Class to be (or to remain) listed on the Stock Exchange or any other exchange;
- (vi) save as contemplated in paragraph (d) (Substitution) below, to take any action advisable to prevent the Issuer from becoming subject to withholding or other taxes, fees or assessments;
- (vii) to take any action advisable to prevent the Issuer from being treated as resident in the UK for UK tax purposes or as trading in the UK for UK tax purposes or as subject to UK value added tax in respect of any Investment Management Fees;
- (viii) to take any action advisable to prevent the Issuer from being treated as engaged in a United States trade or business or otherwise be subject to United States federal, state or local income tax on a net income basis;
- (ix) to enter into any additional agreements not expressly prohibited by the Trust Deed or the Investment Management Agreement (as applicable), which in the opinion of the Trustee are not materially prejudicial to the interests of the Noteholders of any Class; and
- (x) to make any other modification of any of the provisions of the Trust Deed, or any other Transaction Document which, in the opinion of the Trustee, is of a formal, minor or technical nature or is made to correct a manifest error or an error which is, in the opinion of the Trustee, required to conform the provisions of such Transaction Document to the disclosure contained in the Prospectus.

Any such modification, authorisation or waiver shall be binding on all Noteholders and shall be notified to the Rating Agencies and the Noteholders as soon as practicable in accordance with Condition 16 (*Notices*).

Under no circumstances shall the Trustee be required to give such consent on less than 21 days' notice and the Trustee shall be entitled to (a) obtain such advice and/or opinions in connection with giving such consent as it sees fit and (b) be indemnified and/or secured to its satisfaction in respect of all of its costs, liabilities and expenses in obtaining such advice and/or opinions. Any such fees and/or charges incurred by the Trustee in connection with such advice and/or opinions shall be for the account of the Issuer and shall not, in any circumstances, be subject to the Trustee Fee Cap.

(d) **Substitution**

The Trust Deed contains provisions permitting the Trustee to agree, subject to such amendment of the Trust Deed and such other conditions as the Trustee may require (without the consent of the Noteholders of any Class), to the substitution of any other company in place



of the Issuer, or of any previous substituted company, as principal debtor under the Trust Deed and the Notes of each Class, if required for taxation purposes. In the case of such a substitution the Trustee may agree, without the consent of the Noteholders, but subject to notification being given to Fitch and receipt by the Issuer and/or the Trustee of Rating Agency Confirmation (subject to receipt of such information and/or opinions as the Rating Agency may require), to a change of the law governing the Notes and/or the Trust Deed, provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Noteholders of any Class. Any substitution agreed by the Trustee pursuant to this Condition 14(d) (*Substitution*) shall be binding on the Noteholders, and shall be notified by the Issuer to the Noteholders as soon as practicable in accordance with Condition 16 (*Notices*).

The Trustee may, subject to the satisfaction of certain conditions, including notification being given to Fitch and receipt by the Issuer and/or the Trustee of Rating Agency Confirmation, agree to a change in the place of residence of the Issuer for taxation purposes without the consent of the Noteholders of any Class, provided the Issuer does all such things as the Trustee may reasonably require in order that such change in the place of residence of the Issuer for taxation purposes is fully effective and complies with such other requirements which are in the interests of the Noteholders as it may reasonably direct.

The Issuer shall procure that, so long as any Notes are listed on the Stock Exchange any material amendments or modifications to the Conditions of the Notes, the Trust Deed or such other conditions made pursuant to Condition 14 (*Meetings of Noteholders, Modification, Waiver and Substitution*) shall be notified to the Stock Exchange.

Nothing in this Condition 14(d) (*Substitution*) shall entitle the Trustee to effect any substitution of the Issuer for any other company to the extent that such substitution would affect the Secured Obligations owed by the Issuer to SP3 or the security granted by the Issuer in respect thereof over the SP3 Collateral or the trust declared by the Issuer in favour of SP3 pursuant to the SP3 Forward Sale Agreement, in each case without the prior written consent of SP3.

**(e) Entitlement of the Trustee and Conflicts of Interest**

In connection with the exercise of its trusts, powers, duties and discretions (including but not limited to those referred to in this Condition 14(e) but excluding any such trusts, powers, duties and discretions in so far as they relate to the SP3 Collateral), the Trustee shall have regard to the interests of each Class of Noteholders as a Class and shall not have regard to the consequences of such exercise for individual Noteholders of such Class and the Trustee shall not be entitled to require, nor shall any Noteholder be entitled to claim, from the Issuer, the Trustee or any other person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders.

The Trust Deed provides that in the event of any conflict of interest between the holders of the Class A Notes, the Class B Notes, the Class S Notes and the Class S/B Subordinated Notes, the interests of the holders of the Controlling Class will prevail. If the holders of the Controlling Class do not have an interest in the outcome of the conflict, the Trustee shall give priority to the interests of (i) the Class A Noteholders over the Class B Noteholders, the Class S Noteholders and the Class S/B Subordinated Noteholders, (ii) the Class B Noteholders over the Class S Noteholders and the Class S/B Subordinated Noteholders and (iii) the Class S Noteholders over the Class S/B Subordinated Noteholders. In the event that the Trustee shall receive conflicting or inconsistent requests from two or more groups of holders of such Class, each representing less than the majority by principal amount of such Class, the Trustee shall give priority to the group which holds the greater amount of Notes Outstanding of such Class. The Trust Deed provides further that the Trustee, having been indemnified and/or secured to its satisfaction, will act upon the directions of the holders of the Controlling Class (or other Class given priority as described in this paragraph) in such circumstances, and shall not be obliged to consider the interests of and is exempted from any liability to the holders of any other Class of Notes.

In addition, the Trust Deed provides that in the event of any conflict of interest between the Noteholders and any other Secured Party (other than SP3 in respect of the rights, title and

interest in and to the SP3 Collateral and/or the SP3 Portfolio in which case the interests of SP3 shall prevail), the interests of the Noteholders will prevail.

(f) **Bond Insurance**

Any holder or beneficial owner of any Class A Note may elect to acquire bond insurance, a surety bond, a credit default swap or similar credit enhancement supporting the payment of principal and/or interest on such Class A Note on terms and conditions acceptable to such holder or beneficial owner and at the sole expense of such holder or beneficial owner.

15. **Indemnification of the Trustee**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility in certain circumstances, including provisions relieving it from instituting proceedings to enforce repayment or to enforce the security constituted by or pursuant to the Trust Deed, unless indemnified and/or secured and/or prefunded to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer and any entity related to the Issuer without accounting for any profit. The Trustee is exempted from any liability in respect of any loss, sale, disposal, reduction in value or theft of the Collateral and the SP3 Portfolio Sale Proceeds from any obligation to insure, or to monitor the provisions of any insurance arrangements in respect of, the Collateral and the SP3 Portfolio Sale Proceeds (for the avoidance of doubt, under the Trust Deed the Trustee is under no such obligation) and from any claim arising from the fact that the Collateral and the SP3 Portfolio Sale Proceeds is held by the Custodian or is otherwise held in safe custody by a bank or other custodian. The Trustee shall not be responsible for the performance by the Custodian or any Agent of any of its duties under the Collateral Administration and Agency Agreement or for the performance by the Investment Manager of any of its duties under the Investment Management Agreement, for the performance by the Collateral Administrator of its duties under the Collateral Administration and Agency Agreement or for the performance by any other person appointed by the Issuer in relation to the Notes. The Trustee shall not have any responsibility for the administration, sufficiency, adequacy, management or operation of the Collateral or the SP3 Portfolio Sale Proceeds including the request by the Investment Manager to release any of the Collateral or the SP3 Portfolio Sale Proceeds (or, additionally, in respect of the SP3 Collateral, a request to release by SP3 or the SP3 Trustee) from time to time.

The Trust Deed contains provisions for the retirement of the Trustee and the removal of the Trustee by Extraordinary Resolutions of both the Controlling Class and the Class S Noteholders, but no such retirement or removal shall become effective until a successor trustee is appointed.

16. **Notices**

Notices to Noteholders will be valid if posted to the address of such Noteholder appearing in the Register at the time of publication of such notice by pre-paid, first class mail (or any other manner approved by the Trustee which may be by electronic transmission) and (for so long as the Notes are listed on the Stock Exchange and the rules of the Stock Exchange so require) shall be sent to the Companies Announcements Office of the Stock Exchange. Any such notice shall be deemed to have been given three days (in the case of inland mail) or seven days (in the case of overseas mail) after the date of despatch thereof to the Noteholders.

The Trustee shall be at liberty to sanction some other method of giving notice to the Noteholders (or a category of them) if, in its opinion, such other method is reasonable having regard to market practice then prevailing and to the rules or guidelines, as applicable, of the stock exchange on which the Notes are then listed and provided that notice of such other method is given to the Noteholders in such manner as the Trustee shall require.

17. **Additional Issuances**

- (a) The Issuer may from time to time, by written notice to the Trustee at least 30 days prior to the proposed date of issue and subject to the approval of the Controlling Class acting by Ordinary Resolution, create and issue further Class A Notes, Class B Notes and Class S Notes having

the same terms and conditions as existing Classes of Notes (subject as provided below) and which shall be consolidated and form a single class with the Outstanding Notes of such Class (unless otherwise provided), and will use the proceeds of sale thereof to purchase Substitute Collateral Debt Obligations (for the EOS Portfolio) and, if applicable, enter into additional Asset Swap Transactions in connection with the Issuer's issuance of, and making payments on, the Notes (other than the Class S/B Subordinated Notes) and ownership of and disposition of the Collateral Debt Obligations, provided that two Authorised Officers of the Issuer confirm in writing to the Trustee that the following conditions are met:

- (i) such additional issuances may not exceed 25 per cent. in the aggregate of the original principal amounts of each applicable Class of Notes (other than the Class S/B Subordinated Notes);
  - (ii) such Additional Notes must be issued for a cash sale price and the net proceeds invested in Collateral Debt Obligations or deposited in the Principal Account;
  - (iii) such Additional Notes must be of each Class of Notes (other than the Class S/B Subordinated Notes) and issued in a proportionate amount among the Classes so that the respective proportions of aggregate principal amount of such Classes of Notes existing immediately prior to such additional issuance remain unchanged following such additional issuance (save with respect to Class S Notes as described in paragraph (b) below);
  - (iv) the terms (other than the date of issuance, the issue price and the date from which interest will accrue) of such Notes must be identical to the terms of the previously issued Notes of the applicable Class of Notes;
  - (v) the ratings on each Class of Notes (other than the Class S/B Subordinated Notes) must at such time be no lower than the original ratings assigned on the Closing Date;
  - (vi) the Issuer must have given notification to the Rating Agencies (a copy of which must be provided to the Trustee) in respect of such additional issuances;
  - (vii) the holders of the relevant Class of Notes in respect of which further Notes are issued, shall have been notified in writing 30 days prior to such issuance and shall have been afforded the opportunity to purchase additional Notes of the relevant Class in an amount not to exceed the percentage of the relevant Class of Notes each holder held immediately prior to the issuance (the "**Anti-Dilution Percentage**") of such additional Class of Notes and on the same terms offered to investors generally;
  - (viii) (so long as the existing Notes of the Class of Notes to be issued are listed on the Stock Exchange) the additional Notes of such class to be issued are in accordance with the requirements of the Stock Exchange and are listed on the Stock Exchange (for so long as the guidelines of the Stock Exchange so requires); and
  - (ix) such additional issuances are in accordance with all applicable laws including, without limitation, the securities and banking laws and regulations of Ireland.
- (b) In addition to the requirements in (a) above, the Issuer may issue and sell additional Class S Notes (without issuing Notes of any other Class) provided that:
- (i) the subordination terms of such Class S Notes are identical to the terms of the previously issued Class S Notes;
  - (ii) the scheduled maturity date of such Class S Notes is not prior to the Maturity Date of the previously issued Class S Notes;
  - (iii) the terms (other than the date of issuance, the issue price and the date from which interest will accrue) of such Class S Notes must be identical to the terms of the previously issued Class S Notes;

- (iv) such additional Class S Notes are issued for a cash sale price (the net proceeds to be (i) invested in Collateral Debt Obligations or (ii) paid into the Interest Account, or the Principal Account (at the discretion of the Investment Manager) and used to make payments on any Payment Date in accordance with the Priorities of Payments);
- (v) the holders of the Class S Notes shall have been notified in writing 30 days prior to such issuance and shall have been afforded the opportunity to purchase additional Class S Notes in an amount not to exceed the Anti-Dilution Percentage of such additional Class S Notes and on the same terms offered to investors generally;
- (vi) such additional issuance is in accordance with all applicable laws including, without limitation, the securities and banking laws and regulations of Ireland; and
- (vii) the split of such Class S Notes between Class S Preferred Notes and Class S Subordinated Notes will be as determined by the Investment Manager prior to such issuance, subject to the approval of the Class S Noteholders by way of Extraordinary Resolution.

References in these Conditions to the "Notes" include (unless the context requires otherwise) any other notes issued pursuant to this Condition 17 (*Additional Issuances*) and forming a single series with the relevant Class of Notes. Any further securities forming a single series with Notes constituted by the Trust Deed or any deed supplemental to it shall, and any other securities shall subject to the aforementioned Conditions, be constituted by a deed supplemental to the Trust Deed.

#### 18. **Class S Notes Transfers**

Any transfer of Class S Notes, in whole or in part, must be a simultaneous transfer by the relevant holder of the same percentage of its holding of Class S Preferred Notes as the percentage transferred of its holding of Class S Subordinated Notes and vice versa, and must be made to the same transferee. Any transfer made in breach of this Condition will be null and void.

#### 19. **Class S/B Subordinated Notes**

The Issuer shall issue, on the SP3 Issue Date and in accordance with the Trust Deed and the terms of the Exchange Offer, Class S/B Subordinated Notes to each holder of Class S Notes who delivers a valid Exchange and Consent Acceptance Instruction accepting the Exchange Offer in accordance with Condition 7(i) (*Redemption and Exchange*) (each such holder to receive a principal amount of Class S/B Subordinated Notes equivalent to the principal amount outstanding of Class S Subordinated Notes and Class S Preferred Notes (plus interest accrued on any Class S Preferred Notes as at the SP3 Issue Date) held by them on such date and in respect of which a valid Exchange and Consent Acceptance Instruction has been delivered in accordance with the Exchange Offer and Condition 7(i) (*Redemption and Exchange*)).

#### 20. **Third Party Rights**

No person shall have any right to enforce any term or condition of the Note under the Contracts (Rights of Third Parties) Act 1999 except that SP3 and the SP3 Trustee may enforce as against the Issuer or, as the case may be, the Trustee the provisions of these Terms and Conditions that correspond to the provisions of the Trust Deed specified in clause 30 (*Contracts (Rights of Third Parties) Act 1999*) thereof, subject to the proviso specified therein.

#### 21. **Governing Law**

##### (a) **Governing Law**

The Trust Deed and the Notes of each Class and all non-contractual obligations arising from or in connection with them are governed by and shall be construed in accordance with English law.

(b) **Jurisdiction**

The courts of England are to have exclusive jurisdiction to settle any Dispute or Proceedings. The Issuer has in the Trust Deed irrevocably submitted to the jurisdiction of such courts and waives any objection to Proceedings in any such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of each of the Noteholders and the Trustee and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

(c) **Agent for Service of Process**

The Issuer appoints TMF Corporate Services Limited, as its agent in England to receive service of process in any Proceedings in England based on any of the Notes. If for any reason the Issuer does not have such agent in England, it will promptly appoint a substitute process agent and notify the Trustee and the Noteholders of such appointment. Nothing herein shall affect the right to service of process in any other manner permitted by law.

## FORM OF THE CLASS S/B SUBORDINATED NOTES

### Initial Issue of Notes

The Class S/B Subordinated Notes were issued in registered form (each a "**Class S/B Subordinated Registered Note**") which will be represented by a global note certificate (the "**Class S/B Subordinated Global Certificate**"). Each Class S/B Subordinated Note represented by a Class S/B Subordinated Global Certificate will be deposited on or about the SP3 Issue Date with, and registered in the name of, a common depositary for Euroclear and/or Clearstream, Luxembourg.

Except in the limited circumstances described below, owners of beneficial interests in the Class S/B Subordinated Global Certificate will not be entitled to receive physical delivery of certificated Class S/B Subordinated Notes. The Class S/B Subordinated Notes are not issuable in bearer form.

### Amendments to Terms and Conditions

The Class S/B Subordinated Global Certificate contains provisions that apply to the Class S/B Subordinated Notes that they represent, some of which modify the effect of the Terms and Conditions of the Class S/B Subordinated Notes in definitive form (See "*Terms and Conditions of the Notes*"). The following is a summary of those provisions:

- *Payments:* Payments of principal and interest in respect of Class S/B Subordinated Notes represented by the Class S/B Subordinated Global Certificate will be made to the person named on the Register as at the relevant Record Date and, if no further payments are due to be made in respect of the relevant Class S/B Subordinated Notes, against presentation and surrender of the Class S/B Subordinated Global Certificate to or to the order of the Principal Paying Agent or such Transfer Agent as shall have been notified to the relevant Class S/B Subordinated Noteholders for such purpose. On each occasion on which a payment of interest (unless the Class S/B Subordinated Notes represented thereby do not bear interest) or principal is made in respect of the Class S/B Subordinated Global Certificate, the Registrar shall note the same in the Register and cause the aggregate principal amount of the Class S/B Subordinated Notes represented by the Class S/B Subordinated Global Certificate to be decreased accordingly.
- *Notices:* So long as any Class S/B Subordinated Notes are represented by the Class S/B Subordinated Global Certificate and the Class S/B Subordinated Global Certificate is deposited with the Common Safekeeper or a common depositary, notices to Noteholders may be given by delivery of the relevant notice to Euroclear and Clearstream, Luxembourg for communication by it to entitled account holders in substitution for delivery thereof as required by the Terms and Conditions of such Class S/B Subordinated Notes provided that such notice is also made to the Companies Announcements Office of the Stock Exchange for so long as the Class S/B Subordinated Notes are listed on the Stock Exchange and the rules of the Stock Exchange so require.
- *Prescription:* Claims against the Issuer in respect of principal and interest on the Class S/B Subordinated Notes while the Class S/B Subordinated Notes are represented by the Class S/B Subordinated Global Certificate will become void unless presented for payment within a period of five years (in the case of interest) and 10 years (in the case of principal) from the date on which any payment first becomes due.
- *Meetings:* The holder of the Class S/B Subordinated Global Certificate will be treated as being two persons for the purposes of any quorum requirements of, or the right to demand a poll at, a meeting of Class S/B Subordinated Noteholders and, at any such meeting, as having one vote in respect of each €1,000 of principal amount of Class S/B Subordinated Notes for which the Class S/B Subordinated Global Certificate may be exchanged.
- *Trustee's Powers:* In considering the interests of Class S/B Subordinated Noteholders while the Class S/B Subordinated Global Certificates are held on behalf of a clearing system, the Trustee may (but is not obliged to) have regard to any information provided to it by such clearing system or its operator as to the identity (either individually or by category) of its account holders with entitlements to the Class S/B Subordinated Global Certificate and may

consider such interests as if such account holders were the holders of the Class S/B Subordinated Global Certificate.

- *Cancellation:* Cancellation of any Class S/B Subordinated Note required by the Terms and Conditions of the Class S/B Subordinated Notes to be cancelled will be effected by reduction in the principal amount of the Class S/B Subordinated Notes on the Register, with a corresponding notation made on the Class S/B Subordinated Global Certificate.
- *Clearing System Accountholders:* In relation to any Class S/B Subordinated Notes represented by the Class S/B Subordinated Global Certificate, references in the Conditions of the Notes to "**Class S/B Subordinated Noteholder**" are references to the person in whose name the Class S/B Subordinated Global Certificate is for the time being registered in the Register which in the case of the Class S/B Subordinated Global Certificate which is held by or on behalf of a depositary or a common depositary or a common safekeeper for Euroclear and/or Clearstream, Luxembourg, will be that depositary or common depositary or common safekeeper or a nominee for that depositary or common depositary or common safekeeper.
- *Payment Record Date:* Each payment in respect of the Class S/B Subordinated Global Certificate will be made to the person shown as the Holder in the Register at the close of business (in the relevant clearing system) on the Clearing System Business Day before the due date for such payment (the "**Record Date**") where "**Clearing System Business Day**" means a day on which each clearing system for which the Class S/B Subordinated Global Certificate is being held is open for business.

#### **Exchange for Definitive Certificates**

The Class S/B Subordinated Global Certificate will be exchangeable, free of charge to the holder, on or after its Exchange Date (as defined below), in whole but not in part, for Definitive Certificates if:

- (a) either Euroclear or Clearstream, Luxembourg is closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or announces an intention permanently to cease business and no alternative clearing system satisfactory to the Trustee is available; or
- (b) the Issuer has or will on the occasion of the next payment due in respect of the Notes of any Class become obliged to withhold or account for tax so that it would be unable to make payment of the full amount then due provided that the Issuer would not be obliged to make such withholding or accounting for tax in the event of the Class S/B Subordinated Global Certificate being exchanged for Definitive Certificates and a certificate to such effect signed by two Directors of the Issuer is given to the Trustee.

The Registrar will not register the transfer of, or exchange of interests in, the Class S/B Subordinated Global Certificate for Definitive Certificates during the period from (but excluding) the Record Date to (and including) the date for any payment of principal or interest in respect of the Class S/B Subordinated Notes.

**"Exchange Date"** means a day falling not less than 30 days after that on which the notice requiring exchange is given and on which banks are open for business in the city in which the specified office of the Registrar is located.

*Delivery:* In such circumstances, the Class S/B Subordinated Global Certificate shall be exchanged in full for Definitive Certificates and the Issuer will, at the cost of the Issuer (but against such indemnity as the Registrar or any relevant Transfer Agent may require in respect of any tax or other duty of whatever nature which may be levied or imposed in connection with such exchange), cause sufficient Definitive Certificates to be executed and delivered to the Registrar for completion, authentication and dispatch to the relevant Noteholders. A person having an interest in the Class S/B Subordinated Global Certificate must provide the Registrar with a written order containing instructions and such other information as the Issuer and the Registrar may require to complete, execute and deliver such Definitive Certificates.

*Legends:* The holder of a Definitive Certificate may transfer the Class S/B Subordinated Notes represented thereby in whole or in part in the applicable minimum denomination by surrendering it at the specified office of the Registrar or any Transfer Agent, together with the completed form of transfer thereon. Upon the transfer, exchange or replacement of a Definitive Certificate, any legends or restrictions set forth therein are required to be complied with at all times.



## BOOK-ENTRY CLEARANCE PROCEDURES

The information set out below has been obtained from sources that the Issuer believes to be reliable, but prospective investors are advised to make their own enquiries as to such procedures. In particular, such information is subject to any change in or interpretation of the rules, regulations and procedures of Euroclear or Clearstream, Luxembourg (together, the "**Clearing Systems**") currently in effect and investors wishing to use the facilities of any of the Clearing Systems are therefore advised to confirm the continued applicability of the rules, regulations and procedures of the relevant Clearing System. None of the Issuer, the Trustee, the Collateral Administrator or any Agent party to the Collateral Administration and Agency Agreement (or any Affiliate of any of the above, or any person by whom any of the above is controlled for the purposes of the Securities Act), will have any responsibility for the performance by the Clearing Systems or their respective direct or indirect participants or accountholders of their respective obligations under the rules and procedures governing their operations or for the sufficiency for any purpose of the arrangements described below.

### **Euroclear, Clearstream, Luxembourg**

Custodial and depository links have been established between Euroclear and Clearstream, Luxembourg to facilitate the initial issue of the Class S/B Subordinated Notes and cross-market transfers of the Class S/B Subordinated Notes associated with secondary market trading. (See "*Settlement and Transfer of Class S/B Subordinated Notes*" below).

***Euroclear and Clearstream, Luxembourg:*** Euroclear and Clearstream, Luxembourg each hold securities for their customers and facilitate the clearance and settlement of securities transactions through electronic book-entry transfer between their respective accountholders. Indirect access to Euroclear and Clearstream, Luxembourg is available to other institutions which clear through or maintain a custodial relationship with an accountholder of either system. Euroclear and Clearstream, Luxembourg provide various services including safekeeping, administration, clearance and settlement of internationally-traded securities and securities lending and borrowing. Euroclear and Clearstream, Luxembourg also deal with domestic securities markets in several countries through established depository and custodial relationships. Euroclear and Clearstream, Luxembourg have established an electronic bridge between their two systems across which their respective customers may settle trades with each other. Their customers are worldwide financial institutions including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations. Investors may hold their interests in a Global Note directly through Euroclear or Clearstream, Luxembourg if they are accountholders ("**Direct Participants**") or indirectly ("**Indirect Participants**"; and Indirect Participants, together with Direct Participants, "**Participants**") through organisations which are accountholders therein.

### **Book-Entry Ownership**

***Euroclear and Clearstream, Luxembourg:*** The Class S/B Subordinated Global Certificate has an ISIN and a Common Code and is registered in the name of a nominee for, and deposited with a common depository on behalf of, Euroclear and Clearstream, Luxembourg.

### **Payments and Relationship of Participants with Clearing Systems**

***General:*** Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a Note represented by the Class S/B Subordinated Global Certificate must look solely to Euroclear or Clearstream, Luxembourg (as the case may be) for his share of each payment made by the Issuer to the holder of the Class S/B Subordinated Global Certificate and in relation to all other rights arising under the Class S/B Subordinated Global Certificate, subject to and in accordance with the respective rules and procedures of Euroclear or Clearstream, Luxembourg. The Issuer expects that, upon receipt of any payment in respect of Class S/B Subordinated Notes represented by the Class S/B Subordinated Global Certificate, the common depository by whom such Class S/B Subordinated Note is held, or nominee in whose name it is registered, will immediately credit the relevant Participants' or accountholders' accounts in the relevant Clearing System with payments in amounts proportionate to their respective beneficial interests in the principal amount of the Class S/B Subordinated Global Certificate as shown on the records of the relevant Clearing System or its nominee. The Issuer also expects that payments by Direct Participants in any Clearing System to owners of beneficial interests in the Class S/B Subordinated Global Certificate held through such Direct Participants in any Clearing

System will be governed by standing instructions and customary practices. Save as aforesaid, such persons shall have no claim directly against the Issuer in respect of payments due on the Class S/B Subordinated Notes for so long as the Class S/B Subordinated Notes are represented by the Class S/B Subordinated Global Certificate and the obligations of the Issuer will be discharged by payment to the registered holder of the Class S/B Subordinated Global Certificate in respect of each amount so paid. None of the Issuer, the Trustee or any Agent will have any responsibility or liability for any aspect of the records relating to or payments made on account of ownership interests in the Class S/B Subordinated Global Certificate or for maintaining, supervising or reviewing any records relating to such ownership interests.

#### **Settlement and Transfer of Notes**

**General:** Subject to the rules and procedures of each applicable Clearing System, purchases of Class S/B Subordinated Notes held within a Clearing System must be made by or through Direct Participants, which will receive a credit for such Class S/B Subordinated Notes on the Clearing System's records. The ownership interest of each actual purchaser of each such Class S/B Subordinated Note (the "**Beneficial Owner**") will in turn be recorded on the Direct Participant's or Indirect Participant's records. Beneficial Owners will not receive written confirmation from any Clearing System of their purchase, but Beneficial Owners are expected to receive written confirmation providing details of the transaction, as well as periodic statements of their holdings, from the Direct Participant or Indirect Participant through which such Beneficial Owner entered into the transaction. Transfers of ownership interests in Notes held within the Clearing System will be effected by entries made on the books of Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in such Class S/B Subordinated Notes unless and until interests in the Class S/B Subordinated Global Certificate held within a Clearing System is exchanged for Definitive Certificates.

No Clearing System has knowledge of the actual Beneficial Owners of the Class S/B Subordinated Notes held within such Clearing System and their records will reflect only the identity of the Direct Participants to whose accounts such Class S/B Subordinated Notes are credited, which may or may not be the Beneficial Owners. The Participants will remain responsible for keeping account of their holdings on behalf of their customers. Conveyance of notices and other communications by the Clearing Systems to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

**Trading between Euroclear and/or Clearstream, Luxembourg Participants:** Secondary market sales of book entry interests in the Class S/B Subordinated Notes held through Euroclear or Clearstream, Luxembourg to purchasers of book entry interests in the Class S/B Subordinated Notes held through Euroclear or Clearstream, Luxembourg will be conducted in accordance with the normal rules and operating procedures of Euroclear and Clearstream, Luxembourg and will be settled using the procedures applicable to conventional Eurobonds.

**Pre-issue Trades Settlement:** It is expected that delivery of the Class S/B Subordinated Notes will be made against payment therefor on the SP3 Issue Date, which could be more than three Business Days following the date of pricing. Settlement procedures in various jurisdictions will vary. Purchasers of the Class S/B Subordinated Notes may be affected by such local settlement practices and purchasers of the Class S/B Subordinated Notes who wish to trade the Class S/B Subordinated Notes between the date of pricing and the SP3 Issue Date should consult their own adviser.

## DESCRIPTION OF THE ISSUER

### General

The Issuer was incorporated in Ireland as a private company with limited liability on 29 June 2010, with registration number 486122 under the name of ICG EOS Loan Fund I Limited, under the Companies Acts 1963-2009 (as amended) of Ireland.

The registered office of the Issuer is at 2nd Floor, Beaux Lane House, Mercer Street Lower, Dublin 2. The telephone number of the Issuer is +353 1 697 3200. The authorised share capital of the Issuer is EUR 100,000 divided into

100,000 ordinary shares of par value EUR 1 each (the "**Shares**"). The Issuer has issued 1 Share, which is fully paid and is held on trust by Maples Fiduciary Services (Ireland) Limited (formerly MFD Limited (Dublin Branch)) (the "**Share Trustee**") under the terms of a declaration of trust (the "**Declaration of Trust**") dated 9 August 2010, under which the Share Trustee holds the Shares on trust for charity. The Share Trustee has no beneficial interest in and derives no benefit (other than any fees for acting as Share Trustee) from its holding of the Shares. The Share Trustee will apply any income derived from the Issuer solely for the above purposes.

The Issuer has been established as a special purpose vehicle. The principal activities of the Issuer are the issuance of financial instruments, the acquisition of financial assets and the entering into of other legally binding arrangements.

### Directors and Company Secretary

The Directors of the Issuer are Padraic Doherty and Julian Dunphy. The Company Secretary is MFD Secretaries Limited.

The business address of the Directors is 2nd Floor, Beaux Lane House, Mercer Street Lower, Dublin 2.

Maples Fiduciary Services (Ireland) Limited (formerly MFD Limited (Dublin Branch)) is the Administrator of the Issuer. Its duties include the provision of certain administrative, accounting and related services. The appointment of the Administrator may be terminated forthwith if the Administrator commits any material breach of the Administration Agreement between the Issuer and the Administrator, is unable to pay its debts as they fall due or becomes subject to insolvency or other related proceedings. The Administrator may retire upon 90 days' written notice subject to the appointment of an alternative administrator on similar terms to the existing Administrator. The business address of the Administrator is 2nd Floor, Beaux Lane House, Mercer Street Lower, Dublin 2.

The Directors are employees of the Administrator.

### Financial Statements

Audited financial statements will be prepared by the Issuer on an annual basis. The Issuer will not prepare interim financial statements.

Each year, a copy of the audited profit and loss account and balance sheet of the Issuer together with the report of the Directors and the auditors thereon is required to be filed in the Irish Companies Registration Office within 28 days of the annual return date of the Issuer and is available for inspection. The profit and loss account and the balance sheet can be obtained free of charge from the specified office of the Irish Listing Agent. The Issuer must hold an annual general meeting in each calendar year (except that its first annual general meeting may be held at any time within 18 months of its incorporation) and the gap between its annual general meetings must not exceed 15 months.

The auditors of the Issuer are Deloitte & Touche of Deloitte & Touche House, Earlsfort Terrace, Dublin 2, Ireland who are chartered accountants and are members of the Institute of Chartered Accountants in Ireland and are qualified to practice as auditors in Ireland.

## **DESCRIPTION OF THE INVESTMENT MANAGER**

### **Intermediate Capital Managers Limited**

#### **General**

Intermediate Capital Managers Limited ("**ICM**"), a wholly-owned subsidiary of Intermediate Capital Group PLC ("**ICG**"), will act as the investment manager to the Issuer pursuant to the Investment Management Agreement. ICM was incorporated on 12 December 1988. ICM's registered address is 100 St Paul's Churchyard, London EC4M 8BU.

ICM is regulated by the Financial Conduct Authority for the conduct of investment business in the United Kingdom.

In addition to acting as the Investment Manager to the Issuer, ICM has, since September 1999, acted as the investment manager or adviser to Eurocredit Opportunities I PLC; Eurocredit Opportunities Parallel Funding I Limited; Eurocredit CDO I, B.V.; Eurocredit CDO II, B.V.; Eurocredit CDO III, B.V.; Eurocredit CDO IV, B.V.; Eurocredit V PLC; Eurocredit CDO VI PLC; Eurocredit CDO VII plc; Eurocredit CDO VIII Limited; Eurocredit Investment Fund 1 PLC; Eurocredit Investment Fund 2 PLC; Confluent 1 Limited; St. Paul's CLO I B.V.; St. Paul's CLO II Limited; St. Paul's CLO III Limited; Promus I B.V.; Promus II B.V.; Intermediate Finance I plc and Intermediate Finance II plc, as well as a number of mezzanine and other funds.

### **Intermediate Capital Group PLC**

ICG is a specialist asset manager providing private debt, mezzanine finance, leveraged credit and minority equity managing over €12.9bn of assets in third party funds and proprietary capital. As of 31 March 2013 ICG had a total of 161 employees, 86 of whom were investment professionals or directors. Its experienced investment team operates from a head office in London with strong local networks in Paris, Madrid, Stockholm, Frankfurt, Amsterdam, Hong Kong, Sydney, New York, and Singapore. It is listed on the London Stock Exchange and is a member of the FTSE 250 and is regulated by the UK Financial Conduct Authority.

Further information is available at [www.icgplc.com](http://www.icgplc.com).

### **Services Agreement between ICM and ICG**

In order to enable ICM to perform its obligations under the Investment Management Agreement, ICM has entered into a services agreement with ICG, under which ICG agrees to make available to ICM the key senior personnel, and to provide to ICM the administrative services, including the services of ICG's Global Investment Committee, the members of which are the Managing Directors of ICG (information about whom is given below), which ICM requires to carry out its obligations under the Investment Management Agreement.

#### **Christophe Evain**

Christophe Evain is the Chief Executive of ICG plc. He joined ICG in June 1994 and was instrumental in establishing ICG's business activities in the U.S., France and Asia. Prior to ICG, Christophe was at Banque de Gestion Privée in Paris, where he worked as an assistant director in the Acquisition Finance group. Prior to this, Christophe worked for Credit Lyonnais and National Westminster Bank in the U.S. and Paris, in their Corporate Banking and Structured Finance groups, respectively. Christophe is a graduate of Paris-Dauphine University.

#### **Philip Keller**

Philip Keller joined ICG in October 2006 and is the Finance Director of ICG. Philip is responsible for ICG's finance function and infrastructure teams. Prior to joining ICG, Philip held finance directorship positions at GlaxoSmithkline (1995-1997) and Johnson&Johnson (1998-2000) and, from 2000 until 2006, was Finance Director at ERM, a global environmental consultancy business and previous investee company of ICG. Philip is a graduate of Durham University and a qualified Chartered Accountant.

**Benoit Durteste**

Benoit Durteste is Head of European Mezzanine and a Fund Manager for ICG Recovery Fund 2008 and Fund V. He joined ICG in September 2002 from Swiss Re where he worked as a managing director in the Structured Finance division in London. Prior to Swiss Re, Benoit worked in the Leveraged Finance division of BNP Paribas for six years and as a CFO of a GECC portfolio company for GE Capital in London. Benoit is a graduate of the Ecole Supérieure de Commerce de Paris.

## DESCRIPTION OF THE CLASS S/B PORTFOLIO

*Terms used and not otherwise defined herein shall have the meaning given to them in Condition 1 (Definitions) of the Terms and Conditions of the Notes.*

### Introduction

Pursuant to the Investment Management Agreement, the Investment Manager is required to manage the Class S/B Portfolio on behalf of the Issuer and to carry out the duties and functions described below. In addition, the Collateral Administrator is required to perform certain calculations in relation to the Portfolio on behalf of the Issuer, in each case to the extent and in accordance with the information provided to it by, amongst others, the Investment Manager.

### Exchange Offer and Class S/B Portfolio

Pursuant to the Transaction Documents and in connection with the Exchange Offer, the Class S/B Portfolio is segregated from the EOS Portfolio and will be applied solely in payment of interest and further redemption of the Class S/B Subordinated Notes on Class S/B Payment Dates in accordance with the Conditions.

### *Due Diligence and Eligibility Criteria*

The Investment Manager has confirmed that (i) due diligence has been carried out on the Collateral Debt Obligations in the Class S/B Portfolio and (ii) subject to its standard of care, the portfolio of Collateral Debt Obligations in the Class S/B Portfolio complies with the Eligibility Criteria. The Class S/B Portfolio comprises approximately €71,000,000 such Collateral Debt Obligations by Aggregate Principal Balance.

### Eligibility Criteria

Each Collateral Debt Obligation in the Class S/B Portfolio must, as at the Collateral Determination Date in respect of the Initial Collateral Debt Obligations, and otherwise at the time of the Investment Manager entering into a binding commitment to acquire such obligation on behalf of the Issuer, satisfy the following "**Eligibility Criteria**":

- (a) it is a Senior Secured Obligation, a High Yield Bond, a Second Lien Loan, a Senior Unsecured Obligation or a Mezzanine Loan;
- (b) it is either (i) denominated in EUR, or (ii) is denominated in a Qualifying Currency and, in each case, is not convertible into or payable in any other currency and in the case of any Non-EUR Obligation (a) it satisfies the definition of "Unhedged Collateral Debt Obligation" and after taking into account such acquisition, it complies with paragraph (i) of the Percentage Limitations, or (b) the Investment Manager, following the obtaining of a quote from a prospective Asset Swap Counterparty, enters as soon as practicable (but not more than five Business Days) after entering into a binding commitment to purchase such Collateral Debt Obligation, into an Asset Swap Transaction to become effective (including the initial exchange thereunder) on or before the settlement date of such Collateral Debt Obligation at the Investment Manager's discretion to hedge such Collateral Debt Obligation with one or more Asset Swap Counterparties satisfying the applicable Rating Requirement;
- (c) it is an obligation of an Obligor (i) incorporated in or (ii) having its principal place of business or significant operations in, a Qualifying Country (or otherwise in respect of which notification has been given to Fitch and Rating Agency Confirmation has been obtained at the time of acquisition of such obligation);
- (d) it is not a Defaulted Obligation or a Current Pay Obligation;
- (e) it has not been called for, and is not subject to a pending, redemption;
- (f) it is not the subject of an offer of exchange, conversion or tender by its issuer, for cash, securities or any other type of consideration (other than for an obligation which is an eligible

Collateral Debt Obligation meeting the Reinvestment Criteria (treating such offer as if it were a sale to the Issuer));

- (g) it is capable of being sold, novated or assigned to the Issuer, in accordance with the provisions of the relevant Collateral Debt Obligation without any breach of applicable selling or transfer restrictions or of any legal or contractual provisions;
- (h) it is an obligation in respect of which, following acquisition thereof by the Issuer by the selected method of transfer (i) payments will not be subject to withholding tax imposed by any jurisdiction including where this is pursuant to the operation of an applicable tax treaty subject to the completeness of any procedural formalities or (ii) where payments are subject to withholding tax, the Obligor is required to make "gross-up" payments to the Issuer that cover the full amount of any such withholding on an after-tax basis;
- (i) it has a minimum issuer default rating of at least CCC by Fitch and a minimum rating of at least Caa3 by Moody's;
- (j) other than in the case of a Step-Up Coupon Security (with respect to which paragraph (a) of the definition of Step-Up Coupon Security applies), it is an obligation that pays interest no less frequently than annually;
- (k) it is not an obligation in respect of which interest payments are scheduled to decrease (although interest payments may decrease due to unscheduled events such as a decrease of the index relating to a floating rate Collateral Debt Obligation, the change from a default rate of interest to a non-default rate, an improvement in the Obligor's financial condition or as a result of the satisfaction of contractual conditions set out in the relevant documentation for such obligation);
- (l) it is not an obligation in relation to which any requirement to provide future advances or other payments to the relevant Obligor or any other person will arise;
- (m) it is not a Revolving Obligation, or a Delayed Drawdown Obligation or a PIK Obligation;
- (n) it is not convertible into equity by anyone other than the Issuer and is not Margin Stock;
- (o) it is not a lease;
- (p) it is not a Structured Finance Security;
- (q) unless it is a High Yield Bond or a loan evidenced by a note or in the form of a note, it is not a debt security;
- (r) its acquisition by the Issuer will not result in the imposition of stamp duty or stamp duty reserve tax or any similar tax payable by the Issuer, unless it is included for all purposes as constituting part of the purchase price of such obligation;
- (s) it is not a security whose repayment is subject to substantial non-credit related risk or to the non-occurrence of certain catastrophes or which is a catastrophe bond or a market value collateralised debt obligation;
- (t) it must require the unanimous consent of all lenders (or in respect of High Yield Bonds whatever level of consent from investors is the then market standard) to the Obligor thereunder for any change in the principal repayment profile or interest applicable on such obligation, for the avoidance of doubt, excluding any changes originally envisaged in the loan documentation (or note documentation, if applicable);
- (u) it will not result in the imposition of any present or future, actual or contingent, monetary liabilities or obligations of the Issuer other than those (i) which may arise at its option; or (ii) which are fully collateralised; or (iii) which are owed to the agent bank in relation to the performance of its duties under a syndicated Senior Obligation, Second Lien Loan or Mezzanine Loan; or (iv) which may arise as a result of an undertaking to participate in a financial restructuring of a Senior Obligation, Second Lien Loan or Mezzanine Loan where

such undertaking is contingent upon the redemption in full of such Senior Obligation, Second Lien Loan or Mezzanine Loan on or before the time by which the Issuer is obliged to enter into the restructured Senior Obligation Second Lien Loan or Mezzanine Loan and where the restructured Senior Obligation, Second Lien Loan or Mezzanine Loan satisfies the Eligibility Criteria and for the avoidance of doubt, the Issuer is not liable to pay any amounts in respect of a restructured Senior Obligation, Second Lien Loan or Mezzanine Loan, **provided that**, in respect of paragraph (iv) only, that the imposition of any present or future, actual or contingent, monetary liabilities or obligations of the Issuer following such restructuring shall not exceed the redemption amounts from such restructured Senior Obligation, Second Lien Loan or Mezzanine Loan;

- (v) it is not an obligation whose acquisition by the Issuer will cause the Issuer to be deemed to have participated in primary loan origination in the United States;
- (w) it is not a Synthetic Security;
- (x) it is not a Participation;
- (y) it is not a security issued or managed by the Investment Manager or any of its Affiliates;
- (z) upon acquisition, both (i) the Collateral Debt Obligation is capable of being, and will be, the subject of a first fixed charge or first priority security interest or other arrangement having a similar commercial effect in favour of the Trustee for the benefit of the Secured Parties pursuant to the Trust Deed or the Euroclear Pledge Agreement (or any deed or document supplemental thereto) and (ii) (subject to (i) above) the Issuer (or the Investment Manager on behalf of the Issuer) has notified the Trustee in the event that any Collateral Debt Obligation that is a bond is not held through Euroclear and has taken such action as the Trustee may require to effect such security interest;
- (aa) if the Aggregate Collateral Balance at the time of the Investment Manager entering into a binding commitment to purchase such Collateral Debt Obligation is less than the Target Par Amount, it is not an Unhedged Collateral Debt Obligation. For such purposes the Principal Balance of the Unhedged Collateral Debt Obligations will be the outstanding principal amount thereof without implementation of any haircut pursuant to paragraph (f) of the definition of "Principal Balance";
- (bb) it has a Stated Maturity that is not later than the Maturity Date;
- (cc) it provides for a fixed amount of principal (less any prepayments or amortization payments received thereon) payable at maturity;
- (dd) it is not a Zero-Coupon Security;
- (ee) it is an obligation the acquisition of which is governed by the laws of an EU member state; and
- (ff) it is not an obligation subject to withholding under Sections 1471 or 1472 of the U.S. Internal Revenue Code of 1986, as amended, as introduced by the Hiring Incentives to Restore Employment Act of 2010.

The subsequent failure of any Collateral Debt Obligation to satisfy any of the Eligibility Criteria shall not prevent any obligation which would otherwise be a Collateral Debt Obligation from being a Collateral Debt Obligation so long as such obligation satisfied the Eligibility Criteria when the Issuer or the Investment Manager (on behalf of the Issuer) entered into a binding agreement to purchase such obligation.

**"Delayed Drawdown Obligation"** means an obligation that (a) requires one or more future advances to the borrower under the underlying instruments relating thereto, (b) specifies a maximum amount that can be borrowed on one or more fixed borrowing dates, and (c) does not permit the re-borrowing of any amount previously repaid; but any such obligation will be a Delayed Drawdown Obligation only until all commitments to make advances to the relevant Obligor expire or are terminated or reduced to zero.



**"Margin Stock"** means margin stock or "margin security" within the meaning of Regulations T, U and X of the Board of Governors of the Federal Reserve System of the United States (or any successor) as now and from time to time in effect.

**"Partial PIK Obligation"** means a loan, obligation or security on which the interest, in accordance with its Underlying Instrument, is permitted to be partly paid in cash and partly deferred, or paid by the issuance of additional loans, obligations or securities identical to such loan, obligation or security or through additions to the principal amount thereof (any references to the outstanding principal amount of a Partial PIK Obligation will exclude any such amount to the extent attributable to capitalised interest).

**"Participation"** means any interests in loans acquired indirectly by way of participation or sub-participation.

**"PIK Obligation"** means any loan, obligation or security, the terms of which permit the deferral of the payment of all interest in cash thereon through additions to the principal amount thereof for a specified period in the future or for the remainder of its life or by capitalising interest due on such security as principal but excluding Mezzanine Loans and Partial PIK Obligations.

**"Revolving Obligation"** means any loan, including, without limitation, revolving loans, funded and unfunded portions of revolving credit lines and letter of credit guarantee and bonding facilities, unfunded commitments under specific facilities and other similar loans and investments and which, pursuant to the terms of its underlying instruments may require one or more future advances to be made to the borrower or payments under counter indemnities to funding or issuing lenders; but any such obligation will be a Revolving Obligation only until all commitments to make advances to the relevant Obligor expire or are terminated or reduced to zero.

**"Structured Finance Security"** means any debt security which is secured directly by, or represents the ownership of, a pool of consumer receivables, auto loans, auto leases, equipment leases, home or commercial mortgages, corporate debt or sovereign debt obligations or similar assets, including, without limitation, collateralised bond obligations, collateralised loan obligations or any similar security, but not including any Synthetic Security.

**"Synthetic Security"** means any credit default swap transaction, credit-linked note, security issued by a trust or similar vehicle or other investment, the returns on which are linked to the credit and/or price performance of a reference obligation (either individually or collectively pursuant to a credit default swap index), but which may provide for a different maturity, payment dates, interest rate, credit exposure or other credit or non-credit related characteristics than such reference obligation.

### **Management of the Class S/B Portfolio**

The Issuer (or the Investment Manager on behalf of the Issuer) may sell any Collateral Debt Obligation contained in the Class S/B Portfolio at any time. The Issuer (or the Investment Manager acting on behalf of the Issuer) shall cause the Sale Proceeds received in respect thereof to be deposited into the Principal Account, credited to the applicable Class S/B Portfolio Ledger and applied in accordance with the Conditions in redemption of Class S/B Subordinated Note principal without regard to the Priorities of Payments on the immediately following Class S/B Payment Date.

The Investment Manager in consultation with the Collateral Administrator and on behalf of the Issuer shall maintain the Class S/B Portfolio Ledgers in respect of the Principal Account, the Interest Account and any other Account into which receipts attributable to the Class S/B Portfolio may be deposited pursuant to the Conditions and the Transaction Documents and record by way of credit and debit entries in relation to each such ledger the receipt and payment respectively of Principal Proceeds, Interest Proceeds and any other amounts attributable to the Class S/B Portfolio deposited in any of the Accounts in accordance with the Conditions and the Transaction Documents.

## DESCRIPTION OF THE INVESTMENT MANAGEMENT AGREEMENT

### *Introduction*

The Issuer has appointed Intermediate Capital Managers Limited to provide investment management services pursuant to the Investment Management Agreement.

The Issuer has, in the Investment Management Agreement, delegated to the Investment Manager the discretion to select and manage the Portfolio. Pursuant to the Investment Management Agreement, the Issuer will delegate authority to the Investment Manager to carry out certain of its functions in relation to the Portfolio without the requirement for specific approval by the Issuer.

The Investment Manager is also required to monitor the Collateral Debt Obligations with a view to seeking to determine whether any Collateral Debt Obligation has become a Credit Impaired Obligation or a Defaulted Obligation, **provided that**, if it fails to do so, except by reason of acts constituting bad faith, wilful misconduct or negligence in the making of the representations or the performance of its obligations under the Investment Management Agreement, no Noteholder shall have any recourse against any of the Issuer, the Investment Manager, the Collateral Administrator, the Custodian, any other Agent or the Trustee for any loss suffered as a result of such failure.

### *Standard of Care*

The Investment Manager will, except as otherwise expressly provided for by the Investment Management Agreement, perform its obligations in good faith and with reasonable care (a) using a degree of skill and diligence which is at least equal to that which the Investment Manager exercises with respect to comparable assets that it manages for its clients having similar investment objectives and restrictions and (b) subject to (a) above, in a manner consistent with the customary standards, policies and procedures followed by institutional managers of recognised standing relating to assets of the nature and character of those comprised in the Portfolio.

### *Fees*

As compensation for the performance of its obligations under the Investment Management Agreement, the Investment Manager will receive from the Issuer the Senior Investment Management Fee. The Investment Manager may, at its discretion, waive or defer payment of the Senior Investment Management Fee, as described below. For the avoidance of doubt, where the Investment Manager has waived any Senior Investment Management Fee, the Investment Manager shall not have any right subsequently to be paid the waived fee.

The Investment Management Agreement also provides that the Investment Manager (and/or, at its direction, an Affiliate of the Investment Manager) will receive from the Issuer the Subordinated Investment Management Fee. The Investment Manager may, at its discretion, waive or defer payment of the Subordinated Investment Management Fee, as described below. For the avoidance of doubt, where the Investment Manager has waived any Subordinated Investment Management Fee, the Investment Manager shall not have any right subsequently to be paid such waived fee.

If amounts distributable on any Payment Date in accordance with the Priorities of Payments are insufficient to pay the Senior Investment Management Fee in full or if the Investment Manager so elects in its discretion, then a portion of the Senior Investment Management Fee equal to the shortfall will be deferred and will be payable on subsequent Payment Dates on which funds are available therefor according to the Priorities of Payments.

If amounts distributable on any Payment Date in accordance with the Priorities of Payments are insufficient to pay the Subordinated Investment Management Fee in full or if the Investment Manager so elects in its discretion, then a portion of the Subordinated Investment Management Fee equal to the shortfall will be deferred and will be payable on subsequent Payment Dates on which funds are available therefor according to the Priorities of Payments.

## **Termination and Resignation**

### ***Removal for Cause***

The Investment Manager may be removed for cause at any time upon ten days' prior written notice to the Investment Manager by the Issuer at its own discretion or by the Trustee (if so directed by an Extraordinary Resolution of either (A) the Controlling Class, notwithstanding any conflicting directions provided by the Class S Noteholders or (B) the Class S Noteholders, notwithstanding any conflicting directions provided by the Controlling Class **provided that** for the purposes of making any such determination, Notes owned by or on behalf of the Investment Manager and/or one or more Affiliates thereof and/or any account for which the Investment Manager or any Affiliate thereof acts as investment adviser or manager and for which the Investment Manager or such Affiliate has discretionary authority shall be disregarded and be deemed not to be outstanding). For the purposes of the Investment Management Agreement, "cause" means (a) certain Basic Termination Events (as defined in the Investment Management Agreement) applying to the Investment Manager, including, amongst others (i) failure by the Investment Manager to make, when due, any payment to be made by it under the Investment Management Agreement if such failure is not remedied on or before the tenth day after written notice of such failure, (ii) failure by the Investment Manager to comply with or perform any material agreement or obligation (other than a payment obligation) to be complied with or performed in accordance with the Investment Management Agreement and such failure (if remediable) is not remedied on or before the thirtieth day after written notice of such failure, (iii) a representation made or deemed to have been made by the Investment Manager proves to have been incorrect or misleading in any material respect when made or deemed to have been made, (iv) the Investment Manager consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another Person and at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee Person fails to assume all of the obligations of the Investment Manager, (v) the bankruptcy or insolvency of the Investment Manager and (vi) if, due to the adoption of, or any change in, any applicable law, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction, it becomes unlawful (other than as a result of a breach of its obligations to maintain authorisations) for the Investment Manager to perform any obligation (contingent or otherwise) which such party has under the Investment Management Agreement, and (b) certain Investment Manager Termination Events (as defined in the Investment Management Agreement), including (i) the Investment Manager or any of its senior executive officers being convicted by a court of competent jurisdiction of any action that constitutes fraud or criminal activity whilst carrying out their investment management activities, and (ii) a default in the payment of principal of or interest on the Notes (or amounts due to other Secured Creditors) when due and payable resulting from or caused by a breach by the Investment Manager of its duties under the Investment Management Agreement, which breach or default is not cured within any applicable grace period.

### ***Removal for Tax Reasons***

The Investment Manager may also be removed at the option of the Issuer upon 30 days' prior written notice given by the Issuer, if at any time the appointment of the Investment Manager under the Investment Management Agreement or the appointment by the Investment Manager of an agent would or would likely cause the Issuer to be subject to United Kingdom corporation tax by virtue of causing the Issuer to be carrying on a trade in the United Kingdom through a United Kingdom permanent establishment in the opinion of senior UK tax counsel, provided that (i) no such removal will be effective for a period of 45 days after the Investment Manager becomes aware of such circumstance, unless the Investment Manager consents in writing to such removal, (ii) no such removal will be effective until a substitute investment manager is appointed in accordance with the terms of the Investment Management Agreement, and (iii) notwithstanding (i) and (ii) above, the Investment Manager may be removed with immediate effect if, as a consequence of the Issuer becoming subject to United Kingdom tax, the Issuer becomes liable to indemnify the Investment Manager against any UK corporation tax or any interest thereon which is imposed on the Investment Manager under section 970 of the Corporation Tax Act 2010, pursuant to the terms of the Investment Management Agreement.

### ***Automatic Termination of the Investment Management Agreement***

The Investment Management Agreement will automatically terminate upon the earlier to occur of (a) the payment in full of the Notes and the termination of the Trust Deed in accordance with its terms and

(b) the liquidation of the Collateral and the final distribution of the proceeds of such liquidation as provided in the Trust Deed, and the Euroclear Pledge Agreement, if applicable.

#### ***Termination at Election of the Investment Manager***

The Investment Manager may terminate the Investment Management Agreement by giving 10 days' written notice to the Issuer on the occurrence (and subject to the continuance) of a Basic Termination Event (as defined in the Investment Management Agreement) in respect of the Issuer.

#### ***Resignation***

The Investment Manager may resign upon 45 days' (or such shorter notice as is acceptable to the Issuer and the Trustee) prior written notice to the Issuer.

#### ***Substitute Investment Manager***

Notwithstanding any of the foregoing (except in the event that the Investment Manager's appointment is terminated due to it causing or being likely to cause the Issuer to be subject to United Kingdom corporation tax and as a consequence the Issuer becoming liable to indemnify the Investment Manager, as detailed in the Investment Management Agreement), no resignation or removal of the Investment Manager or termination at the election of the Investment Manager, in each case, shall be effective until such time as a substitute investment manager has accepted such appointment in writing and the Rating Agencies have been notified in writing.

Upon any such removal, resignation or termination of the Investment Manager while any of the Notes are outstanding, the Issuer shall appoint a substitute investment manager which is an established institution which: (a) has demonstrated an ability to professionally and competently perform duties similar to those falling to be performed by the Investment Manager and with a substantially similar (or better) level of expertise, (b) is legally qualified and has the regulatory capacity to act as manager under the Investment Management Agreement and as a matter of Irish law as successor to the Investment Manager in the assumption of all of the responsibilities, duties and obligations of the Investment Manager thereunder, (c) will perform its duties under the Investment Management Agreement without causing adverse tax consequences to the Issuer or any holder of the Class S Notes, and (d) following the removal of the Investment Manager due to the occurrence of a Basic Termination Event or an Investment Manager Termination Event (as defined in the Investment Management Agreement), is not an Affiliate of the Investment Manager; **provided that**, such successor may be an Affiliate of the Investment Manager in cases where the Basic Termination Event occurred as a result of (x) certain merger or consolidation events relating to the Investment Manager or (y) a change in law making it unlawful for the Investment Manager to perform its obligations under the Investment Management Agreement. The Issuer shall appoint any substitute investment manager that satisfies the foregoing tests and is approved by the holders of the Class S Notes, acting by Ordinary Resolution, **provided that** the holders of the Controlling Class, acting by Ordinary Resolution, do not reject the appointment of such substitute investment manager within 30 days of such appointment.

Where the holders of the Class S Notes and/or the Controlling Class shall have disapproved (within the 30 day time limit) of a proposed successor put forward by the Issuer, the Issuer may, in its own discretion, within 30 days of such disapproval by the holders of the Class S Notes and/or the Controlling Class, propose another successor Investment Manager. Upon (i) the holders of the Class S Notes and/or the Controlling Class having disapproved a second proposed successor put forward by the Issuer or (ii) the Issuer having not proposed a successor Investment Manager within the initial 30 day period set forth above or within the second 30 day period set forth above, the holders of the Controlling Class of Notes, acting by Extraordinary Resolution, will be entitled to direct the Issuer to appoint a successor Investment Manager, subject to the requirements relating to any successor Investment Manager referred to in parts (a), (b), (c) and (d) above having been satisfied.

For the avoidance of doubt, for the purpose of making any such determination as described above, Notes owned by or on behalf of the Investment Manager and/or one or more Affiliates thereof and/or any account for which the Investment Manager or any Affiliate thereof acts as investment adviser or manager and for which the Investment Manager or such Affiliate has discretionary authority shall be counted in a vote of the holders of the relevant Class of Notes in accordance with the Conditions of the Notes.

If within four months after the date of written notice of removal, resignation or termination is received by the Investment Manager or Issuer, respectively, a successor investment manager has not been appointed, the Investment Manager may petition a court of competent jurisdiction to make such appointment which appointment shall be final.

The Senior Investment Management Fee and the Subordinated Investment Management Fee may be adjusted at the discretion of the Issuer (with the consent of the Trustee, notification being given to Fitch and Rating Agency Confirmation and an Extraordinary Resolution of each of the Controlling Class and the Class S Noteholders) in the event of a replacement or substitute investment manager being appointed in place of the Investment Manager.

#### ***Delegation by Investment Manager***

The Investment Manager may perform any and all of its duties and exercise its rights and powers by or through any one or more agents, including any of its Affiliates, selected by the Investment Manager in accordance with the standard of care to which it is subject under the Investment Management Agreement, subject to the Investment Manager ensuring that any such agent is subject to no less a standard of care. For the avoidance of doubt, notwithstanding any use by the Investment Manager of an agent, the Investment Manager will not be released from any of its obligations under the Investment Management Agreement nor from any liabilities it would otherwise have thereunder.

#### ***Exchange of Class S Notes for Class S/B Subordinated Notes by the Investment Manager***

The Investment Manager or one or more of its Affiliates (including funds managed by the Investment Manager or one or more of its Affiliates) exchanged the Class S Notes held by it (or by one or more of them) on the SP3 Issue Date for Class S/B Subordinated Notes pursuant to Condition 7(i) (*Redemption and Exchange*) and the Exchange Offer. Pursuant to such Condition and the terms of the Exchange Offer, holders were issued with Class S/B Subordinated Notes on the SP3 Issue Date in aggregate principal amount corresponding to the aggregate principal amount outstanding of Class S Notes (plus accrued interest in respect of Class S Preferred Notes so exchanged) held by them on such date and offered for exchange pursuant to the Exchange Offer.

#### ***Amendments Affecting the Investment Manager***

The Issuer has agreed in the Investment Management Agreement that it will not permit any amendment to the Notes, the Trust Deed, or any other Transaction Document that affects the obligation, rights or interests of the Investment Manager under the Investment Management Agreement or any other Transaction Document including, without limitation, the amount or priority of any fees or other amounts payable to the Investment Manager, to become effective unless the Investment Manager has been given prior written notice of such amendment and has consented thereto in writing.

## DESCRIPTION OF THE COLLATERAL ADMINISTRATOR

Virtus Group LP ("**Virtus**") is a limited partnership a limited partnership incorporated under the laws of Texas and having its operating office at 25 Canada Square, Level 33, London E14 5LQ.

Virtus provides fixed-income collateral administration services and data on structured and non-structured transactions across a broad spectrum of investment vehicles, including collateralised loan obligations (CLOs), Total Returns Swaps (TRS), hedge and private equity funds and separately managed accounts. Virtus also provides solutions for fixed-income asset managers looking to outsource their Middle Office requirements. For administrative services requiring a trustee or custodian function, such as CLOs, Virtus has partnered with Citibank Agency & Trust to offer a seamless and holistic administrative package.

Established in 2005 and now with offices in Houston, Austin, London, New York and Shanghai, Virtus is one of the industry's leading CLO Collateral Administrators. Virtus administers over 8,000 loan facilities with total assets under administration over US\$135bn billion across 200 portfolios and 75 managers.

## **TERMINATION OF APPOINTMENT OF COLLATERAL ADMINISTRATOR**

### *Removal Without Cause*

Pursuant to the Collateral Administration and Agency Agreement, the Collateral Administrator may be removed without cause at any time upon 45 calendar days' prior written notice by the Issuer or the Trustee (subject to it being indemnified and/or secured to its satisfaction) acting upon the directions of the holders of the Controlling Class acting by Extraordinary Resolution.

### *Removal With Cause*

Pursuant to the Collateral Administration and Agency Agreement, the Collateral Administrator may be removed with cause by the Issuer or the Trustee (subject to it being indemnified and/or secured to its satisfaction) acting upon the directions of both the holders of the Controlling Class and the Class S Noteholders each acting by Extraordinary Resolution upon written notice to the Collateral Administrator copied to the Issuer or Trustee (as applicable) and the Investment Manager upon not less than 10 calendar days prior written notice. For the purposes of determining "Cause" with respect to the termination of the Collateral Administrator's appointment, such term shall mean any one of the following events:

- (a) the Collateral Administrator shall default in the performance of any of its material duties under the Collateral Administration and Agency Agreement and shall not cure such default within 30 calendar days of the occurrence of such default (or, if such default cannot be cured in such time, shall not give within such 30 calendar days period such assurance of cure as shall be reasonably satisfactory to the Issuer, the Trustee and the Investment Manager); or
- (b) if at any time the Collateral Administrator shall be adjudged bankrupt or insolvent, or shall file a voluntary petition in bankruptcy or make an assignment for the benefit of its creditors or consent to the appointment of a receiver or similar official of all or any substantial part of its property, or if a receiver of it or of all or any substantial part of its property shall be appointed, or if any public officer shall take charge or control of the Collateral Administrator or of its property or affairs, for the purpose of rehabilitation, conservation or liquidation, or a resolution is passed or an order made for the winding up of the Collateral Administrator, the Issuer may, with the prior written approval of the Trustee, terminate the appointment of the Collateral Administrator forthwith upon giving written notice.

If any of the events specified in paragraph (b) above shall occur, the Collateral Administrator shall give written notice thereof to the Issuer, the Trustee and the Investment Manager upon the Collateral Administrator becoming aware of the happening of such event.

### *Resignation of the Collateral Administrator*

The Collateral Administrator may resign by 45 calendar days' written notice to the Issuer, the Trustee and the Investment Manager.

No removal or resignation of the Collateral Administrator shall be effective until the date as of which a successor Collateral Administrator reasonably acceptable to the Issuer, the Trustee and the Investment Manager shall have agreed in writing to assume all of the Collateral Administrator's duties and obligations pursuant to the Collateral Administration and Agency Agreement.

Upon the removal or resignation of the Collateral Administrator, the Investment Manager on behalf of the Issuer shall use its best efforts to appoint a successor Collateral Administrator, provided, however, that if by the time 20 calendar days prior to the expiration of the notice of resignation of the Collateral Administrator, the Investment Manager on behalf of the Issuer has not appointed a successor to the Collateral Administrator, the Collateral Administrator may itself appoint a successor Collateral Administrator reasonably acceptable to the Issuer, the Trustee and the Investment Manager.

## DESCRIPTION OF THE REPORTS

### Monthly Reports

The Collateral Administrator, not later than the 8th calendar day of each month (save in respect of any month for which a Payment Date Report has been prepared) (or if such day is not a Business Day, the immediately following Business Day) commencing October 2010 on behalf, and at the expense, of the Issuer and in consultation with the Investment Manager, shall compile and make available via a secured website at <https://sf.citidirect.com> to Noteholders by way of a unique password which may be obtained by Noteholders from the Collateral Administrator (subject to the receipt by the Collateral Administrator of confirmation that it is a holder of a beneficial interest in any Notes), the Issuer, the Trustee, the Investment Manager, each Paying Agent (where such reports will be available to the public upon request) and each Rating Agency, a monthly report (each a "**Monthly Report**", together the "**Monthly Reports**"), which shall contain, without limitation, the information set out below with respect to the Portfolio, determined as of the last Business Day of each month (or, when such day is not a Business Day, the next following Business Day) by the Collateral Administrator in consultation with the Investment Manager. The Subordinated Monthly Report shall also contain a commentary provided by the Investment Manager with respect to the Portfolio. The Monthly Reports will only include information on Collateral Debt Obligations which have settled and not information in respect of Collateral Debt Obligations in relation to which a binding commitment to acquire by the Issuer has been entered into but which have not yet settled.

### Portfolio

- (a) the Aggregate Principal Balance of the Collateral Debt Obligations;
- (b) subject to any confidentiality obligations binding on the Issuer, in respect of each Collateral Debt Obligation, its Principal Balance, annual interest rate, frequency of interest payments, whether it capitalises interest, its seniority in the capital structure, Stated Maturity, Obligor, Obligor's principal place of business and significant operations (determined on the same basis as for paragraph (c) of the Eligibility Criteria), location of assets, location of security, Fitch Rating, Moody's Rating and any other public rating (other than any confidential credit estimate or shadow rating), its Fitch industry category and Moody's industrial classification group;
- (c) subject to any confidentiality obligations binding on the Issuer, in respect of each Collateral Enhancement Obligation, Special Situation Investment Obligation and Exchanged Equity Security (to the extent applicable), its outstanding principal amount, annual interest rate, Stated Maturity and Obligor, details of the type of instrument it represents and details of any amounts payable thereunder or other rights accruing pursuant thereto;
- (d) subject to any confidentiality obligations, or law restricting the disclosure of such information, binding on the Issuer, the number, identity and, if applicable, Principal Balance of, respectively, any Collateral Debt Obligations (indicating whether such is a Defaulted Obligation, Credit Impaired Obligation or Unhedged Collateral Debt Obligation), Collateral Enhancement Obligations, Special Situation Investment Obligations or Exchanged Equity Securities that were released for sale or other disposition (specifying the reason for such sale or other disposition and the section in the Investment Management Agreement pursuant to which such sale or other disposition was made), the Aggregate Principal Balances of Collateral Debt Obligations released for sale or other disposition at the Investment Manager's discretion (expressed as a percentage of the Aggregate Collateral Balance and measured at the date of determination of the last Monthly Report) and the sale price thereof and identity of any of the purchasers thereof (if any) that are Affiliated with the Investment Manager;
- (e) subject to any confidentiality obligations binding on the Issuer, the purchase or sale price of each Substitute Collateral Debt Obligation (other than Alternative Obligations), Eligible Investment, Special Situation Investment Obligation and Collateral Enhancement Obligation acquired by the Issuer and in which the Issuer has granted a security interest to the Trustee, and each Collateral Debt Obligation, Eligible Investment and Collateral Enhancement Obligation sold by the Issuer since the date of determination of the last Monthly Report and, if provided with such information by the Investment Manager or the Issuer, the identity of the



purchasers or sellers thereof, if any, that are Affiliated with the Issuer or the Investment Manager;

- (f) subject to any confidentiality obligations binding on the Issuer, the identity of each Collateral Debt Obligation which became a Defaulted Obligation or in respect of which an Exchanged Equity Security has been received since the date of determination of the last Monthly Report and the identity and Principal Balance of each Caa/CCC Obligation;
- (g) the Aggregate Principal Balance of Collateral Debt Obligations which were upgraded or downgraded since the most recent Monthly Report and of which the Collateral Administrator or the Investment Manager has actual knowledge;
- (h) the approximate aggregate Market Value as provided by the Investment Manager of, respectively, the Collateral Debt Obligations, Exchange Equity Securities, Special Situation Investment Obligations and the Collateral Enhancement Obligations as of the preceding month end, and on an individual as opposed to aggregate basis, of each Defaulted Obligation, Current Pay Obligation and Caa/CCC Obligation;
- (i) in respect of each Collateral Debt Obligation, its Fitch Rating and Moody's Rating (other than any confidential credit estimate or shadow rating) as at (i) the date of acquisition; (ii) the date of the previous Monthly Report; and (iii) the date of the current Monthly Report;
- (j) the Aggregate Principal Balance and identity of Collateral Debt Obligations that were previously Special Situation Investment Obligations;
- (k) the Aggregate Principal Balance of Unhedged Collateral Debt Obligations;
- (l) the Aggregate Principal Balance of Discount Obligations;
- (m) the aggregate principal amount outstanding of all Credit Enhancement Obligations, if necessary converted into euro at the Spot Rate;
- (n) the aggregate principal amount outstanding of all Special Situation Investment Obligations, if necessary converted into euro at the Spot Rate;
- (o) subject to any confidentiality obligations binding on the Issuer, the number, identity and, if applicable, Principal Balance of Restructured Obligations and the extent to which each Restructured Obligation satisfies the Eligibility Criteria; and
- (p) subject to any confidentiality obligations binding on the Issuer, the number, identity and, if applicable, Principal Balance of Unhedged Collateral Debt Obligations.

#### ***Accounts***

- (a) the Balances standing to the credit of each of the Accounts and the amount of any monies redirected to any Special Situation Investment Obligations or Collateral Enhancement Obligations; and
- (b) the purchase price, principal amount, redemption price, annual interest rate, maturity date and Obligor under each Eligible Investment purchased from funds in the Accounts.

#### ***Asset Swap Transactions***

- (a) the outstanding notional amount as defined in the applicable Asset Swap Transaction;
- (b) the amount scheduled to be received and paid by the Issuer in respect of each Asset Swap Transaction on or about the next Payment Date;
- (c) the identity of each Asset Swap Counterparty;

***Coverage Tests, Collateral Quality Tests, Reinvestment Tests and Par Value Event of Default Test***

- (a) a statement as to whether each of the Class A Par Value Test, the Class B Par Value Test, the First Reinvestment Test and the Second Reinvestment Test is satisfied and details of the relevant ratios and calculations;
- (b) a statement as to whether each of the Class A Interest Coverage Test and the Class B Interest Coverage Test is satisfied and details of the relevant Interest Coverage Ratios;
- (c) the Portfolio Weighted Average Life and a statement as to whether the Weighted Average Life Test is satisfied, for each of Moody's and Fitch;
- (d) the Weighted Average Spread and a statement as to whether the Minimum Weighted Average Spread Test is satisfied, for each of Moody's and Fitch;
- (e) the Fitch Weighted Average Rating Factor and the Moody's Weighted Average Rating Factor and a statement as to whether each Maximum Weighted Average Rating Factor Test is satisfied;
- (f) the Fitch Weighted Average Recovery Rate and the Weighted Average Moody's Recovery Rate and a statement as to whether each Minimum Weighted Average Recovery Rate Test is satisfied;
- (g) so long as any Notes rated by Moody's are Outstanding, the Diversity Score and a statement as to whether the Moody's Minimum Diversity Test is satisfied;
- (h) a statement identifying any Collateral Debt Obligation in respect of which the Investment Manager has made its own determination of "Market Value" (pursuant to the definition thereof) for the purposes of any of the Coverage Tests; and
- (i) a statement detailing compliance with, and the details of the relevant ratios and calculations in respect of, the Par Value Event of Default Test.

***Percentage Limitations***

In respect of each Percentage Limitation, a statement as to whether such test is satisfied and, if not satisfied, the reason therefor.

***Payment Date Report***

The Collateral Administrator, on behalf, and at the expense, of the Issuer and in consultation with the Investment Manager, shall render an accounting report (the "**Payment Date Report**"), prepared and determined as of each Determination Date, and make available via a secured website at <https://sf.citidirect.com> to Noteholders by way of a unique password which may be obtained by Noteholders from the Collateral Administrator (subject to the receipt by the Collateral Administrator of confirmation that it is a holder of a beneficial interest in any Notes), the Issuer, the Trustee, the Investment Manager, each Paying Agent (where such reports will be available to the public upon request) and each Rating Agency, such report not later than 10.00 a.m. on the second Business Day before the relevant Payment Date. The Collateral Administrator, in the name and at the expense of the Issuer, shall notify the Stock Exchange of the Principal Amount Outstanding of each Class of Notes after giving effect to the principal payments, if any, on the next Payment Date. The Payment Date Reports will only include information on Collateral Debt Obligations which have settled and not information in respect of Collateral Debt Obligations in relation to which a binding commitment to acquire by the Issuer has been entered into but which have not yet settled. The Payment Date Report shall contain the following information:

***Portfolio***

- (a) the Aggregate Principal Balance of the Collateral Debt Obligations as of the close of business on such Determination Date, after giving effect to (A) Principal Proceeds received on the Collateral Debt Obligations with respect to the related Due Period and the reinvestment of

such Principal Proceeds in Substitute Collateral Debt Obligations during such Due Period and (B) the disposal of any Collateral Debt Obligations during such Due Period;

- (b) the information required pursuant to "*Monthly Reports - Portfolio*" above.

**Notes**

- (a) the Principal Amount Outstanding of the Notes of each Class and such aggregate amount as a percentage of the original aggregate Principal Amount Outstanding of the Notes of such Class at the beginning of the Interest Period, the amount of principal payments to be made on the Notes of each Class on the related Payment Date, and the aggregate amount of the Notes of each Class Outstanding and such aggregate amount as a percentage of the original aggregate amount of the Notes of such Class Outstanding after giving effect to the principal payments, if any, on the next Payment Date;
- (b) the interest payable in respect of each Class of Notes (as applicable), including the amount of any Deferred Interest (and interest thereon) payable on the related Payment Date (in the aggregate and by Class);
- (c) the amount of any Deferred Interest then outstanding; and
- (d) EURIBOR for the related Interest Period and the Floating Rate of Interest applicable to each Class of Rated Notes during the related Interest Period.

**Payment Date Payments**

- (a) the amounts payable pursuant to the Interest Priority of Payments, the Principal Priority of Payments, the Collateral Enhancement Obligation Proceeds Priority of Payments and, if applicable, the Post-Acceleration Priority of Payments (as applicable), on an itemised basis; and
- (b) the Trustee Fees and Expenses and Administrative Expenses payable on the related Payment Date or in the Due Period falling prior to such Payment Date, in each case, on an itemised basis.

**Accounts**

- (a) the Balance standing to the credit of the Interest Account at the end of the related Due Period;
- (b) the Balance standing to the credit of the Principal Account at the end of the related Due Period;
- (c) the Balance standing to the credit of the Collateral Enhancement Account at the end of the related Due Period;
- (d) the amounts payable from the Interest Account (through a transfer to the Payment Account) pursuant to the Priorities of Payments on such Payment Date;
- (e) the amounts payable from the Principal Account (through a transfer to the Payment Account) pursuant to the Priorities of Payments on such Payment Date;
- (f) the amounts payable from any other Accounts (through a transfer to the Payment Account) pursuant to the Priorities of Payments on such Payment Date, together with details of whether such amounts constitute Interest Proceeds or Principal Proceeds;
- (g) the amount of Collateral Enhancement Obligation Proceeds to be paid pursuant to the Collateral Enhancement Obligations Proceeds Priority of Payment on such Payment Date and the Balance standing to the credit of the Collateral Enhancement Account on such Payment Date after taking into account such payment;
- (h) the Balance standing to the credit of each of the other Accounts at the end of the related Due Period;

- (i) the purchase price, principal amount, annual interest rate, maturity date of and Obligor of each Eligible Investment purchased from funds in the Accounts; and
- (j) the aggregate amount invested in Special Situation Investment Obligations at the end of the related Due Period.

***Coverage Tests, Collateral Quality Tests, Reinvestment Tests and Par Value Event of Default Test***

The information required pursuant to "*Monthly Reports - Coverage Tests, Collateral Quality Tests, Reinvestment Tests and Par Value Event of Default Test*" above.

***Percentage Limitations***

The information required pursuant to "*Monthly Reports - Percentage Limitations*" above.

***Asset Swap Transactions***

The information required pursuant to "*Monthly Reports - Asset Swap Transactions*" above.

***Class S Noteholder Report***

The Collateral Administrator, on behalf, and at the expense, of the Issuer and in consultation with the Investment Manager, shall provide a report (the "**Class S Noteholder Report**"), with information determined as of each Determination Date (except as specified otherwise below), and delivered to the Trustee, the Investment Manager and the Issuer on the same date so provided for the Payment Date Report. The Collateral Administrator shall, in addition, make available a copy of the Class S Noteholder Report to any holder of Class S Notes upon written request therefor in the form set out in the Collateral Administration and Agency Agreement certifying that it is a holder of Class S Notes no later than the related Payment Date. All Class S Noteholder Reports shall be mailed from outside the United States. The Class S Noteholder Report shall contain the following information:

***Portfolio***

- (a) the approximate aggregate Market Value of, respectively, the Collateral Debt Obligations, the Exchanged Equity Securities, the Collateral Enhancement Obligations and the Special Situation Investment Obligations as of the preceding month end;
- (b) subject to any confidentiality obligations binding on the Issuer, the identity of each Collateral Debt Obligation that became a Defaulted Obligation or that experienced a rating change since the last such report;
- (c) the Aggregate Principal Balance of the Collateral Debt Obligations, as of the close of business on such Determination Date, after giving effect to (A) Principal Proceeds received on the Collateral Debt Obligations with respect to the related Due Period and the reinvestment of such Principal Proceeds in Substitute Collateral Debt Obligations during such Due Period and (B) the disposal of any Collateral Debt Obligations during such Due Period;
- (d) the Principal Amount Outstanding of the Notes of each Class as a Euro figure and as a percentage of the original Principal Amount Outstanding of the Notes of such Class at the beginning of the Due Period, the amount of principal payments to be made on the Notes of each Class on the related Payment Date, the Principal Amount Outstanding of the Notes of each Class as a Euro figure and as a percentage of the original Amount Outstanding of the Notes of such Class, in each case after giving effect to the principal payments, if any, on such Payment Date;
- (e) the Principal Proceeds received during the related Due Period;
- (f) the Interest Proceeds received during the related Due Period;
- (g) the Collateral Enhancement Obligation Proceeds received during the related Due Period;
- (h) subject to any confidentiality obligations binding on the Issuer, a list of the Collateral Debt Obligations, indicating the Principal Balance, annual interest rate, Stated Maturity, Fitch

industry category, Moody's industrial classification group, the Moody's Rating and, if applicable, the Fitch Rating (but excluding any confidential credit estimates or shadow ratings in relation thereto); and

- (i) subject to any confidentiality obligations binding on the Issuer, the identity of any Collateral Debt Obligations that were released for sale or other disposition, indicating whether such Collateral Debt Obligation is a Defaulted Obligation or a Credit Impaired Obligation and pursuant to which clause of the Investment Management Agreement such Collateral Debt Obligation was sold or disposed of.

### ***Payments***

The amounts payable on the related Payment Date in respect of each item set out in the Interest Priority of Payments, the Principal Priority of Payments and the Collateral Enhancement Obligation Proceeds Priority of Payments.

### ***Class A Notes and Class B Notes***

- (a) the Interest Amount payable in respect of the Class A Notes and Class B Notes on the next Payment Date; and
- (b) EURIBOR for the related Interest Period and the Floating Rate of Interest applicable to each Class of Rated Notes during the related Interest Period.

### ***Coverage Tests***

The results of each of the Coverage Tests as of the close of business on the related Measurement Date and as at the end of each purchase, sale or other disposition of Collateral Debt Obligations since the last report.

Nothing in any of the foregoing shall oblige the Issuer or the Investment Manager to disclose, whether directly or indirectly, any information held under an obligation of confidentiality.

### ***Miscellaneous***

Each report shall state that it is for the purposes of information only, that certain information included in the report is estimated, approximated or projected and that it is provided without any representations or warranties as to the accuracy or completeness thereof and that none of the Collateral Administrator, the Trustee, the Issuer or the Investment Manager will have any liability for estimates, approximations or projections contained therein.

In addition, the Collateral Administrator may, pursuant to the Collateral Administration and Agency Agreement, provide the Issuer with such other information in its actual possession in relation to the Portfolio which is not already supplied to the Issuer by any of the parties to the Transaction Documents nor in any of the Monthly Reports, Payment Date Reports nor Class S Noteholder Reports, as the Issuer may reasonably request, in order for it to satisfy any obligations which may arise to make certain filings of information with any governmental body or agency.

The Collateral Administrator shall also, if required by the Issuer, provide to the Issuer such data (in addition to the Monthly Reports and the Payment Date Reports) as the Issuer may require for the purpose of preparing a supplemental report for the purposes of compliance with the minimum reporting requirements of the German Investment Tax Act (*Investmentsteuergesetz*), to the extent that the Collateral Administrator is in possession of such information as a result of its duties pursuant to producing the Monthly Reports.

## TAX CONSIDERATIONS

### 1. General

Purchasers of Class S/B Subordinated Notes may be required to pay stamp taxes and other charges in accordance with the laws and practices of the country of purchase in addition to the issue price of each Class S/B Subordinated Note.

Potential purchasers who are in any doubt about their tax position on purchase, ownership, transfer or exercise of any Class S/B Subordinated Note should consult their own tax advisers.

**In particular, no representation is made as to the manner in which payments under the Class S/B Subordinated Notes would be characterised by any relevant taxing authority.**

Potential investors should be aware that the relevant fiscal rules or their interpretation may change, possibly with retrospective effect, and that this summary is not exhaustive. This summary does not constitute legal or tax advice or a guarantee to any potential investor of the tax consequences of investing in the Notes.

### 2. Ireland Taxation

The following is a summary based on the laws and practices currently in force in Ireland regarding the tax position of investors beneficially owning their Class S/B Subordinated Notes and should be treated with appropriate caution. Particular rules may apply to certain classes of taxpayers holding Class S/B Subordinated Notes. The summary does not constitute tax or legal advice and the comments below are of a general nature only. Prospective investors in the Class S/B Subordinated Notes should consult their professional advisers on the tax implications of the purchase, holding, redemption or sale of the Class S/B Subordinated Notes and the receipt of interest thereon under the laws of their country of residence, citizenship or domicile.

#### *Withholding Tax*

In general, tax at the standard rate of income tax (currently 20 per cent.), is required to be withheld from payments of Irish source interest. However, an exemption from withholding on interest payments exists under Section 64 of the Taxes Consolidation Act, 1997 (the "**1997 Act**") for certain securities ("**quoted Eurobonds**") issued by a body corporate (such as the Issuer) which are interest bearing and quoted on a recognised stock exchange (which would include the Irish Stock Exchange).

Any interest paid on such quoted Eurobonds can be paid free of withholding tax provided:

- (a) the person by or through whom the payment is made is not in Ireland; or
- (b) the payment is made by or through a person in Ireland, and either:
  - (i) the quoted Eurobond is held in a clearing system recognised by the Irish Revenue Commissioners (Euroclear and Clearstream, Luxembourg are so recognised), or
  - (ii) the person who is the beneficial owner of the quoted Eurobond and who is beneficially entitled to the interest is not resident in Ireland and has made a declaration to a relevant person (such as an Irish paying agent) in the prescribed form.

So long as the Class S/B Subordinated Notes are quoted on a recognised stock exchange and are held in Euroclear or Clearstream, Luxembourg, interest on the Class S/B Subordinated Notes can be paid by the Issuer and any paying agent acting on behalf of the Issuer without any withholding or deduction for or on account of Irish income tax.

If, for any reason, the quoted Eurobond exemption referred to above does not or ceases to apply, the Issuer can still pay interest on the Class S/B Subordinated Notes free of withholding tax provided it is a qualifying company within the meaning of Section 110 of the 1997 Act (a "**Qualifying Company**") and provided the interest is paid to a person resident in a "relevant

territory" (i.e., a member state of the European Union (other than Ireland) or in a country with which Ireland has a double taxation agreement). For this purpose, residence is determined by reference to the law of the country in which the recipient claims to be resident. This exemption from withholding tax will not apply, however, if the interest is paid to a company in connection with a trade or business carried on by it through a branch or agency located in Ireland.

In certain circumstances, Irish tax will be required to be withheld at the standard rate from interest on any quoted Eurobond, where such interest is collected by a bank or other agent in Ireland on behalf of any Class S/B Subordinated Noteholder who is Irish resident.

#### *Taxation of Noteholders*

Notwithstanding that a Class S/B Subordinated Noteholder may receive interest on the Class S/B Subordinated Notes free of withholding tax, the Class S/B Subordinated Noteholder may still be liable to pay Irish income tax (including Universal Social Charge ("USC") and levies). Interest paid on the Notes may have an Irish source and therefore be within the charge to Irish income tax (including USC) and levies. Ireland operates a self assessment system in respect of income tax and any person, including a person who is neither resident nor ordinarily resident in Ireland, with Irish source income comes within its scope.

However, interest on the Class S/B Subordinated Notes will be exempt from Irish income tax if the recipient of the interest is resident in a relevant territory provided either (i) the Class S/B Subordinated Notes are quoted Eurobonds and are exempt from withholding tax as set out above (ii) in the event of the Notes not being or ceasing to be quoted Eurobonds exempt from withholding tax, if the Issuer is a qualifying company within the meaning of section 110 of the 1997 Act, or (iii) if the Issuer has ceased to be a qualifying company, the recipient of the interest is a company and the jurisdiction concerned imposes a tax that generally applies to interest receivable in that jurisdiction by companies from sources outside that jurisdiction.

In addition, provided that the Class S/B Subordinated Notes are quoted Eurobonds and are exempt from withholding tax as set out above, the interest on the Class S/B Subordinated Notes will be exempt from Irish income tax if the recipient of the interest is (i) a company under the control, directly or indirectly, of persons who by virtue of the law of a relevant territory are resident in that country and that person or persons are not themselves under the control whether directly or indirectly of a person who is not resident in such a country, or (ii) a company, the principal class of shares of such company, or another company of which the recipient company is a 75% subsidiary, is substantially and regularly traded on one or more recognised stock exchanges in Ireland or a relevant territory or a stock exchange approved by the Irish Minister for Finance.

Notwithstanding these exemptions from income tax, a corporate recipient that carries on a trade in Ireland through a branch or agency in respect of which the Class S/B Subordinated Notes are held or attributed, may have a liability to Irish corporation tax on the interest.

Noteholders receiving interest on the Class S/B Subordinated Notes which does not fall within any of the above exemptions may be liable to Irish income tax on such interest. However, individual taxation advice should be sought in this regard.

#### *Capital Gains Tax*

A holder of Class S/B Subordinated Notes will be subject to Irish tax on capital gains on a disposal of Class S/B Subordinated Notes unless such holder is neither resident nor ordinarily resident in Ireland and does not carry on a trade in Ireland through a branch or agency in respect of which the Class S/B Subordinated Notes are used or held.

#### *Capital Acquisitions Tax*

A gift or inheritance comprising of Class S/B Subordinated Notes will be within the charge to capital acquisitions tax if either (i) the disponent or the donee/successor in relation to the gift or inheritance is resident or ordinarily resident in Ireland (or, in certain circumstances, if the disponent is domiciled in Ireland irrespective of his residence or that of the donee/successor) or

(ii) if the Class S/B Subordinated Notes are regarded as property situate in Ireland. Bearer notes are generally regarded as situated where they are physically located at any particular time and registered notes are generally regarded as situated where the principal register of noteholders is maintained or is required to be maintained, but the Class S/B Subordinated Notes may be regarded as situated in Ireland regardless of their physical location or the location of the register as they secure a debt due by an Irish resident debtor and they may be secured over Irish property. Accordingly, if such Class S/B Subordinated Notes are comprised in a gift or inheritance, the gift or inheritance may be within the charge to tax regardless of the residence status of the disponent or the donee/successor.

#### *Stamp Duty*

On the basis of an exemption provided for in section 85(2)(c) to the Stamp Duties Consolidation Act 1999, provided the money raised on the issue of the Class S/B Subordinated Notes is used in the course of the Issuer's business, stamp duty or similar tax is imposed in Ireland on the issue, transfer or redemption of the Class S/B Subordinated Notes whether they are represented by the Class S/B Subordinated Global Certificate or Definitive Certificates.

#### *FATCA*

On 21 December 2012, the Governments of Ireland and the United States signed the Ireland IGA. This agreement will significantly increase the amount of tax information automatically exchanged between Ireland and the United States. It provides for the automatic reporting and exchange of information in relation to accounts held in Irish "financial institutions" by U.S. persons, and the reciprocal exchange of information regarding U.S. financial accounts held by Irish residents. It is likely that the Issuer will be subject to these rules.

The agreement provides that Irish financial institutions will report to the Irish Revenues Commissioners in respect of U.S. account-holders and, in exchange, U.S. financial institutions will be required to report to the U.S. Internal Revenue Service in respect of any Irish-resident account-holders. The two tax authorities will then automatically exchange this information on an annual basis. The Irish legislation implementing the agreement has not been finalised and a number of matters remain uncertain.

The Issuer shall be entitled to require each Class S/B Subordinated Noteholder to provide any information regarding their tax status, identity or residency in order to satisfy any reporting requirements which the Issuer may have as a result of the Ireland IGA or any legislation promulgated in connection with the agreement and investors will be deemed, by their subscription for or holding of the Class S/B Subordinated Notes to have authorised the automatic disclosure of such information by the Issuer or any other person to the relevant tax authorities.

### **3. United Kingdom Taxation**

The following is a summary of the United Kingdom withholding taxation treatment at the date hereof in relation to payments of principal and interest in respect of the Class S/B Subordinated Notes. It is based on current law and the practice of Her Majesty's Revenue and Customs ("HMRC"), which may be subject to change, sometimes with retrospective effect. The comments do not deal with other United Kingdom tax aspects of acquiring, holding or disposing of Class S/B Subordinated Notes. The comments relate only to the position of persons who are absolute beneficial owners of the Class S/B Subordinated Notes. The following is a general guide for information purposes and should be treated with appropriate caution. It is not intended as tax advice and it does not purport to describe all of the tax considerations that may be relevant to a Class S/B Subordinated Noteholder. Class S/B Subordinated Noteholders who are in any doubt as to their tax position should consult their professional advisers. Class S/B Subordinated Noteholders who may be liable to taxation in jurisdictions other than the United Kingdom in respect of their acquisition, holding or disposal of the Class S/B Subordinated Notes are particularly advised to consult their professional advisers as to whether they are so liable (and if so under the laws of which jurisdictions), since the following comments relate only to certain United Kingdom taxation aspects of payments in respect of the Notes. In particular, Class S/B Subordinated Noteholders should be aware



that they may be liable to taxation under the laws of other jurisdictions in relation to payments in respect of the Class S/B Subordinated Notes even if such payments may be made without withholding or deduction for or on account of taxation under the laws of the United Kingdom.

#### *UK Withholding Tax on Interest Payments by the Issuer*

Interest on Class S/B Subordinated Notes may be paid by the Issuer without withholding or deduction for or on account of United Kingdom income tax except in circumstances where such interest has a United Kingdom source. The location of the source of a payment is a complex matter. It is necessary to have regard to case law and HMRC practice. Case law has established that in determining the source of interest, all relevant factors must be taken into account. HMRC has indicated that the most important factors in determining the source of a payment are those which influence where a creditor would sue for payment, and has stated that the place where the Issuer does business, and the place where its assets are located, are the most important factors in this regard; however, HMRC has also indicated that, depending on the circumstances, other relevant factors may include the place where the interest and principal are payable, the method of payment, the governing law of the Class S/B Subordinated Notes and the competent jurisdiction for any legal action, the location of any security for the Issuer's obligations under the Class S/B Subordinated Notes, and similar factors relating to any guarantee.

Interest which has a United Kingdom source ("**UK interest**") may be paid by the Issuer without withholding or deduction for or on account of United Kingdom income tax if the Notes in respect of which the UK interest is paid constitute "quoted Eurobonds". Notes which carry a right to interest will constitute quoted Eurobonds provided they are and continue to be listed on a recognised stock exchange. Notes will be "listed on a recognised stock exchange" for this purpose if they are admitted to trading on an exchange designated as a recognised stock exchange by an order made by the Commissioners for HMRC and either they are included in the United Kingdom official list (within the meaning of Part 6 of the Financial Services and Markets Act 2000) or they are officially listed, in accordance with provisions corresponding to those generally applicable in European Economic Area states, in a country outside the United Kingdom in which there is a recognised stock exchange.

The Irish Stock Exchange is a recognised stock exchange. The Issuer's understanding of current HMRC practice is that Class S/B Subordinated Notes which are officially listed and admitted to trading on the Global Exchange Market of the Irish Stock Exchange may be regarded as "listed on a recognised stock exchange" for these purposes.

#### *Provision of Information*

Noteholders should note that HMRC can obtain information from: a person who receives (or is entitled to receive) a payment derived from Class S/B Subordinated Notes; a person who makes such a payment (received from, or paid on behalf of another person); a person by or through whom interest on Class S/B Subordinated Notes is paid or credited; a person who effects or is a party to transactions in Class S/B Subordinated Notes on behalf of others; registrars or administrators in respect of such transactions; and each registered or inscribed holder of Class S/B Subordinated Notes.

The information HMRC can obtain includes: details of the beneficial owner of Class S/B Subordinated Notes; details of the person for whom Class C/B Subordinated Notes are held, or the persons to whom the payment is to be made (and, if more than one, their respective interests); information and documents relating to transactions in Class S/B Subordinated Notes; and, in relation to interest paid or credited on money received or retained in the United Kingdom, the identity of the security under which interest is paid. HMRC is generally not able to obtain information (under its power relating solely to interest) about a payment of interest to (or a receipt for) a person that is not an individual. This limitation does not apply to HMRC's power to obtain information about payments derived from securities, so HMRC could still obtain information from persons who are not individuals in respect of the Class S/B Subordinated Notes.

These provisions will apply whether or not interest on Class S/B Subordinated Notes has been paid subject to withholding or deduction for or on account of United Kingdom income tax and whether or not Class S/B Subordinated Noteholders are resident in the United Kingdom for United Kingdom taxation purposes. In certain circumstances, the details provided to HMRC may be passed by HMRC to the tax authorities of certain other jurisdictions.

The provisions referred to above may also apply, in certain circumstances, to payments made on redemption of any Class S/B Subordinated Notes which constitute "deeply discounted securities" for the purposes of the Income Tax (Trading and Other Income) Act 2005 (although in this regard HMRC has indicated that it will not generally exercise its power to obtain information in relation to such payments paid before 6 April 2014).

#### *Other Rules Relating to United Kingdom Withholding Tax*

Where interest has been paid under deduction of United Kingdom income tax, Noteholders who are not resident in the United Kingdom may be able to recover all or part of the tax deducted if there is an appropriate provision in any applicable double taxation treaty.

The references to "interest" in this United Kingdom Taxation Section mean "interest" as understood in United Kingdom tax law. The statements in this United Kingdom Taxation Section do not take any account of any different definitions of "interest" or "principal" which may prevail under any other law or which may be created by the terms and conditions of the Class S/B Subordinated Notes or any related documentation. Noteholders should seek their own professional advice as regards the withholding tax treatment of any payment on the Class S/B Subordinated Notes which does not constitute "interest" or "principal" as those terms are understood in United Kingdom tax law.

The above description of the United Kingdom withholding tax position assumes that there will be no substitution of the Issuer of the Class S/B Subordinated Notes and does not consider the tax consequences of any such substitution.

#### **4. EU Directive on the Taxation of Savings Income**

The Council of the European Union has adopted a directive regarding the taxation of interest income known as the "European Union Directive on the Taxation of Savings Income (Directive 2003/48/EC)".

Ireland has implemented the directive into national law. Any Irish paying agent making an interest payment on behalf of the Issuer to an individual, and certain residual entities defined in the 1997 Act, resident in another EU Member State and certain associated and dependent territories of a Member State will have to provide details of the payment to the Irish Revenue Commissioners who in turn will provide such information to the competent authorities of the state or territory of residence of the individual or residual entity concerned.

The Issuer, or the Portfolio Manager on behalf of the Issuer, or the Transfer Agent shall be entitled to require the Class S/B Subordinated Noteholders to provide any information regarding their tax status, identity or residency in order to satisfy the disclosure requirements in Directive 2003/48/EC and Class S/B Subordinated Noteholders will be deemed by their subscription for or purchase of Notes to have authorised the automatic disclosure of such information by the Issuer, Portfolio Manager, Transfer Agent or any other person to the relevant tax authorities.

## **ALLOTMENT OF CLASS S/B SUBORDINATED NOTES**

Pursuant to the Exchange Offer, the Class S Subordinated Notes and Class S Preferred Notes held by those Class S Subordinated Noteholders and Class S Preferred Noteholders who elected to have their Class S Subordinated Notes and Class S Preferred Notes exchanged for Class S/B Subordinated Notes on the SP3 Issue Date have exchanged for Class S/B Subordinated Notes.

No action has been or will be taken by the Issuer that would permit a public offering of the Class S/B Subordinated Notes or possession or distribution of these Listing Particulars or any offering material in relation to the Class S/B Subordinated Notes in any jurisdiction where action for the purpose is required. No offers, sales or deliveries of any Class S/B Subordinated Notes, or distribution of these Listing Particulars or any offering material relating to the Class S/B Subordinated Notes, may be made in or from any jurisdiction, except in circumstances which will result in compliance with any applicable laws and regulations and will not impose any obligations on the Issuer.

### **United States**

Each holder of the Class S/B Subordinated Notes has acknowledged that:

- (a) the Class S/B Subordinated Notes have not been and are not expected to be registered under the Securities Act, or the securities laws of any state of the United States and the Issuer has not registered and does not intend to register as an investment company under the Investment Company Act in reliance on the exclusion provided in Section 3(c)(7) thereof;
- (b) it is not a U.S. Person; and
- (c) neither it nor its Affiliates, nor any persons acting on its or their behalf, have engaged or will engage in (i) any form of general solicitation or general advertising or (ii) any directed selling efforts (as that term is defined in Regulation S), in each case with respect to the Class S/B Subordinated Notes and it, its Affiliates and all persons acting on its or their behalf have complied and will comply with the offering restrictions requirements of Regulation S.

The Class S/B Subordinated Notes may not be reoffered, resold, pledged, exchanged or otherwise transferred except in transactions exempt from or not subject to the registration requirements of, the Securities Act and any other applicable securities laws. By its purchase of the Class S/B Subordinated Notes, each purchaser will be deemed to have represented and warranted that it is a non U.S. Person located outside of the United States.

These Listing Particulars have been prepared by the Issuer for use in connection with the offer and sale of the Class S/B Subordinated Notes and for the listing of the Class S/B Subordinated Notes on the Stock Exchange. The Issuer reserves the right to reject any offer to purchase, in whole or in part, for any reason, or to sell less than the principal amount of Class S/B Subordinated Notes which may be offered. These Listing Particulars do not constitute an offer to any person in the United States or to any U.S. Person. Distribution of these Listing Particulars to any such U.S. Person or to any person within the United States, other than in accordance with the procedures described above is unauthorised and any disclosure of any of its contents, without the prior written consent of the Issuer, is prohibited.

### **United Kingdom**

Each holder of the Class S/B Subordinated Notes has represented and agreed that:

- (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (“FSMA”) received by it in connection with the issue or sale of the Notes in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer; and
- (b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes, from or otherwise involving the United Kingdom.

## **Ireland**

Each holder of the Class S/B Subordinated Notes has represented to and agreed with the Issuer that:

- (i) to the extent applicable, it will not underwrite the issue or placement of the Class S/B Subordinated Notes otherwise than in conformity with the provisions of the Irish European Communities (Markets in Financial Instruments) Regulations 2007 (Nos. 1 to 3) including, without limitation, Regulations 7 and 152 thereof or any codes of conduct issued in connection therewith, and the provisions of the Investor Compensation Act 1998;
- (ii) it will not underwrite the issue or placement of the Class S/B Subordinated Notes, otherwise than in conformity with the provisions of the Irish Central Banks Acts 1942 to 2013 (as amended) and any codes of conduct rules made under Section 117(1) of the Central Bank Act 1989;
- (iii) it will not underwrite the issue or placement of, or otherwise act in Ireland in respect of the Class S/B Subordinated Notes otherwise than in conformity with the provisions of the Prospectus (Directive 2003/71/EC) Regulations 2005 (as amended), the Irish Companies Act 1963-2013 and any rules issued under Section 51 of the Irish Investment Funds, Companies and Miscellaneous Provisions Act 2005, by the Central Bank; and
- (iv) it will not underwrite the issue or placement of, or otherwise act in Ireland in respect of the Class S/B Subordinated Notes, otherwise than in conformity with the provisions of the Market Abuse (Directive 2003/6/EC) Regulations 2005 (as amended) and any rules issued under Section 34 of the Irish Investment Funds, Companies and Miscellaneous Provisions Act 2005 by the Central Bank.

## **General**

Each purchaser of the Class S/B Subordinated Notes must comply with all applicable laws and regulation in force in each jurisdiction in which it purchases, offers or sells such Class S/B Subordinated Notes must obtain consent, approval or permission required for the purchase, offer or sale by it of such Class S/B Subordinated Notes under the laws and regulations in force in any jurisdictions to which it is subject or in which it makes such purchases, offers or sales, and none of the Issuer, the Investment Manager (or any of their Affiliates), the Trustee, any Agent or the Collateral Administrator specified herein shall have any responsibility therefor.

The Class S/B Subordinated Notes are subject to restrictions on transferability and resale and may not be transferred or resold except as permitted under applicable securities laws. Investors should be aware that they may require to bear the financial risks of this investment for an indefinite period of time.

## **GENERAL INFORMATION**

### **Clearing Systems**

The Class S/B Subordinated Notes of each Class have been accepted for clearance through Euroclear and Clearstream, Luxembourg. The Common Code and International Securities Identification Number ("ISIN") for the Class S/B Subordinated Notes are as follows:

<b>Class S/B Subordinated Notes</b>	099230657	XS0992306570
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### **Listing**

Application has been made to the Stock Exchange for the Notes to be admitted to the Official List and to trading on its Global Exchange Market. There can be no assurance that any such listing will be maintained. The estimated cost of applications for admission to the Official List and admission to trading is EUR 3,041.20.

### **Consents and Authorisations**

The Issuer has obtained all necessary consents, approvals and authorisations in Ireland (if any) in connection with the issue and performance of the Class S/B Subordinated Notes. The issue of the Class S/B Subordinated Notes was authorised by resolution of the board of directors of the Issuer passed on 21 October 2013.

### **No Significant or Material Change**

There has been no material adverse change in the financial position or prospects of the Issuer since 31 December 2012.

### **No Litigation**

The Issuer is not involved, and has not been involved, in any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer is aware) which may have or have had since the date of its incorporation a significant effect on the Issuer's financial position.

### **Accounts**

The 2011 and 2012 annual audited accounts are incorporated by reference herein.

So long as any Class S/B Subordinated Note remains outstanding, copies of the most recent annual audited financial statements of the Issuer can be obtained at the specified offices of the Principal Paying Agent during normal business hours. The annual accounts of the Issuer will be audited. The Issuer will not prepare interim financial statements.

The Trust Deed requires the Issuer to provide written confirmation to the Trustee on an annual basis and otherwise promptly on request that no Event of Default or Potential Event of Default (as defined in the Trust Deed) or other matter which is required to be brought to the Trustee's attention has occurred.

### **Documents Available**

Copies of the following documents may be inspected in electronic format (and, in the case of each of (h) to (j) below, will be available for collection free of charge) at the registered office of Issuer during usual business hours on any weekday (Saturdays, Sundays and public holidays excepted) for the life of these Listing Particulars.

- (a) the Certificate of Incorporation and Articles of Association of the Issuer;
- (b) the Subscription Agreement;
- (c) the Trust Deed (which includes the form of each Note of each Class);
- (d) the Collateral Administration and Agency Agreement;

- (e) the Investment Management Agreement;
- (f) the Portfolio Sale Agreement;
- (g) each Asset Swap Agreement;
- (h) each Monthly Report;
- (i) each Payment Date Report;
- (j) each Class S Noteholder Report;
- (k) the Euroclear Pledge Agreement;
- (l) the Forward Sale Agreement;
- (m) any available financial statements of the Issuer.

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**REGISTERED OFFICE OF THE ISSUER**

**ICG EOS Loan Fund I Limited**

2nd Floor  
Beaux Lane House  
Mercer Street Lower  
Dublin 2  
Ireland

**INVESTMENT MANAGER**

**Intermediate Capital Managers Limited**

Juxon House  
100 St. Paul's Churchyard  
London EC4M 8BU  
United Kingdom

**TRUSTEE**

**Citicorp Trustee Company Limited**

Citigroup Centre  
Canada Square  
Canary Wharf  
London E14 5LB

**COLLATERAL ADMINISTRATOR**

**Virtus Group L.P.**

25 Canada Square  
Level 33  
London E14 5LQ

**PRINCIPAL PAYING AGENT,  
CALCULATION AGENT AND TRANSFER  
AGENT**

**Citibank, N.A., London Branch**

Citigroup Centre  
Canada Square  
Canary Wharf  
London E14 5LB

**REGISTRAR**

**Citigroup Global Markets Deutschland AG**

Reuterweg 16  
60323 Frankfurt  
Germany

**ACCOUNT BANK AND CUSTODIAN**

**BNP Paribas Securities Services S.C.A. London Branch**

55 Moorgate  
London  
EC2R 6PA

**LEGAL ADVISERS**

*To the Trustee and Collateral Administrator as to English Law*

**Fried, Frank, Harris, Shriver & Jacobson**

**(London) LLP**

99 City Road  
London  
EC1Y 1AX

*To the Investment Manager as to English Law*

**Ashurst LLP**

Broadwalk House  
5 Appold Street  
London EC2A 2HA

*To the Issuer as to Irish Law*

**Maples and Calder**

75 St. Stephen's Green  
Dublin 2  
Ireland

**LISTING AGENT**

Maples and Calder  
75 St. Stephen's Green  
Dublin 2  
Ireland